SEPTEMBER 2026

EDITION N°31

European Studies Review

The Rise of Prediction Markets
And the EU's Fragmented Response

Turkey
The EU's Conditional Return in 2021

Rare Earths
The Europe-Africa Reciprocal Resource Curse

ISSN 2953-0377

European Studies Review Edition 31 - September 2026

European Studies Review is a peer-reviewed journal which involves students and recent graduates in publishing opinion pieces and research articles regarding European affairs. Run by students and recent graduates, European Studies Review is composed of a team of enthusiastic and passionate young people across Europe.

The views and opinions expressed in the articles are those of the authors and do not necessarily align with ESR or its editorial team.

Table of Contents

A Patchwork of Prohibition: The EU's Fragmented Response to the Rise of Prediction Markets

Joel Hames[1]

Introduction

In April 2026, a weather sensor at the edge of Charles de Gaulle airport in Paris recorded two implausible late-evening spikes. The temperature rose from a steady 18 degrees Celsius to 21 degrees Celsius.[2] Given the series of heatwaves Europe to which Europe has been subjected in the summer of 2026, these readings may seem innocuous at first. However, the weather sensor readings triggered roughly $34,000 USD in payouts on the website Polymarket. Polymarket is one in a collection of decentralised prediction market platforms that allow users to place bets on the outcomes of real-world events using cryptocurrency. Operating in a similar way to conventional sports betting platforms and providers, users trade on a variety of global topics, ranging from political elections, macroeconomics, pop culture trends, international news, and notably, local weather patterns. On this occasion, and again on 15 April 2026, users on the Polymarket platform wagered that Paris's peak daily temperature would reach 21 degrees Celsius. Polymarket itself put the likelihood of this occurring at odds of barely one per cent.[3] This is now the subject of a criminal investigation, with French investigators now examining whether the sensor was tampered with. Météo-France (the French national weather service) has filed a formal complaint for interference with an automated data-processing system, and there is suggestion that the temperature readings registered by the sensor were artificially generated using a hairdryer or a lighter.[4]

[1] Joel Hames is a pupil barrister and accredited mediator undertaking pupillage at the Bar of Northern Ireland.
[2] Amaya Nichole, "$34,000 from a Hairdryer? Police Are Investigating a Weather Sensor Hack at a Major Airport Linked to Crypto Bets," *Inc.*, April 24, 2026, https://www.inc.com/amaya-nichole/34000-from-a-hairdryer-police-are-investigating-a-weather-sensor-hack-at-a-major-airport-linked-to-crypto-bets/91335836.
[3] Nichole, "$34,000 from a Hairdryer?"; Lawrence Bonk, "Someone Allegedly Used a Hairdryer to Rig Polymarket Weather Bets," *Engadget*, April 23, 2026, https://www.engadget.com/big-tech/someone-allegedly-used-a-hairdryer-to-rig-polymarket-weather-bets-155312411.html.
[4] Nichole, "$34,000 from a Hairdryer?" The identity of the person responsible, and whether a hairdryer was in

So-called ‘prediction markets’ have grown exponentially, both in terms of user and transaction volume. Platforms such as Kalshi and Polymarket alone processed close to $12 billion USD in combined monthly volume as of December 2025.[5] So far, these prediction markets, while being the subject of much commentary, have evaded any regulation at the European Union (EU) level. Instead, these markets are regulated in a patchwork manner by the municipal laws of Member States. This article argues that the EU's response to prediction markets has so far been reactive and mismatched to the range of concerns these markets raise. Drawing particularly, although not exclusively, on Paul Oudin’s recently published functional framework, it argues that exogenous informed trading, endogenous trading, and retail participation are distinct regulatory problems that call for distinct instruments.[6] Further, this piece contends that while the EU *has* addressed one of the concerns identified in Oudin’s framework, the Charles de Gaulle incident acutely illustrates the extent of the neglect in respect of the EU’s attempt to address the other areas.

A Patchwork of Prohibition

Legislative action to regulate prediction markets has proceeded state by state, with regulations almost exclusively introduced through gambling legislation. For example Switzerland's gambling regulator added Polymarket to its ‘blocklist’ in November 2024.[7] France's National Gambling Authority (ANJ) followed weeks later, ruling that Polymarket was likely offering an unlicensed gambling service and securing the platform's agreement to geo-block French IP addresses.[8] Belgium's Gaming Commission banned the platform outright in January 2025.[9] Poland and Portugal followed suit during 2025 and early 2026, the latter compelling internet service providers to enforce a nationwide block.[10] Spain opened sanction proceedings against both Kalshi and Polymarket in May 2026, blocking each site as a precautionary measure pending its finding that they were operating

fact used, remain unconfirmed as of writing and should be treated as reported allegation rather than established fact.

5 David Yaffe-Bellany, "All Bets Are On: The Rise of Prediction Markets," *New York Times*, January 19, 2026.

6 Paul Oudin, "A Functional Analysis of Prediction Market Regulation," SSRN, July 4, 2026, https://ssrn.com/abstract=7053718.

7 Gespa (Swiss Federal Gaming Board), "Access Blocking," accessed August 9, 2026, https://www.gespa.ch/en/fighting-illegal-gambling/access-blocking; International Association of Gaming Regulators, "Prediction Markets: Global Approaches to an Emerging Challenge," accessed August 9, 2026, https://iagr.org.

8 Autorité Nationale des Jeux [National Gaming Authority] (ANJ), "Suite à l’intervention de l’ANJ, le site POLYMARKET ne propose plus ses services sur le territoire français," [Following the intervention of the ANJ, the POLYMARKET website no longer offers its services in French territory.] accessed August 9, 2026, https://anj.fr; Code de la sécurité intérieure [French Homeland Security Code], art. L320-1.

9 Commission des Jeux de Hasard, "Liste des sites de jeux de hasard illégaux bloqués par la CJH," [Gambling Commission, "List of illegal gambling websites blocked by the BGC”] accessed August 9, 2026, https://www.gamingcommission.be.

10 Alexandra Pankratyeva, "Prediction Markets Regulation in Europe: Legal Tracker 2026," *European Gaming,* May 21, 2026, https://europeangaming.eu/portal/latest-news/2026/05/21/204906/prediction-markets-regulation-in-europe-legal-tracker-2026/.

without a gambling licence.[11] Clearly, then, there is an element of pan-European consensus of the effect, impact, and need for regulation of prediction market platforms.

Until recently, this fragmented approach distinctly lacked a European dimension. That was, until 17 June 2026. Nine national gambling regulators (Belgium, France, Germany, Italy, the Netherlands, Poland, Portugal, Spain and Switzerland) announced a coordinated enforcement initiative against unlicensed prediction market platforms, which was timed deliberately to coincide with the opening of the 2026 World Cup.[12] These developments are further evidence of this regulatory appetite, and a step towards greater coordination; however, it must be said that there is still a lack of pan-European regulatory coherence. This coordinated regulation has charted its path through existing gambling and licensing laws at the municipal level. This presupposes that prediction markets can, should, and are amenable to regulation within the current framework of gambling laws. The states, listed above, treat prediction markets as materially and functionally the same as other traditional gambling platforms, rather than as a product whose different functions may call for different regulatory tools and approaches. The presupposition of prediction markets being a new incarnation of conventional gambling platforms overlooks the lack of integrity of a prediction market platform's resolution process, as well as the officials and insiders whose trades might distort the very events being wagered on.

Reinterpreting the Retail Investor

The emergent orthodox conception of prediction markets as gambling providers has begun to thaw. Recently, this changing understanding has culminated in the European Securities and Markets Authority (ESMA) issuing a public statement that held that event contracts with a binary payout structure may qualify as financial instruments under the Markets in Financial Instruments Directive (MiFID II), and that where they do satisfy that requirement, they fall within the EU-wide ban on marketing, distributing or selling binary options to retail clients.[13] The MiFID II directive pierces mere commercial labels, looking to the end product instead: a product structured as a fixed payout for a 'yes,' and nothing for a 'no,' remains a derivative whatever its provider chooses to call it.[14] In effect, the ESMA statement extends a prohibition to prediction market services that allow users to bet on event contracts. In fact, it suggests that 'users' shouldn't be understood as users at all, but rather 'retail investors' and that prediction market platforms are not gambling sites but 'investment brokers' of sorts. [15]

[11] Pankratyeva, "Prediction Markets Regulation in Europe"; Isai Alexei, "Europe's Prediction Market Crackdown Could Redefine the Future of Kalshi and Polymarket," *Crypto Economy*, July 8, 2026, https://crypto-economy.com/europe-prediction-market-crackdown-kalshi-polymarket/.
[12] Kathryn Evans, "Nine European Regulators Coordinate Crackdown against Prediction Markets," *iGaming Business*, June 18, 2026, https://igamingbusiness.com/prediction-markets/nine-european-regulators-coordinate-crackdown-unlicensed-prediction-markets/.
[13] European Securities and Markets Authority (ESMA), P*ublic Statement on the Application of the National Product Intervention Measures on Binary Options to Event Contracts*, ESMA35-243228190-8148, July 3, 2026, https://www.esma.europa.eu/sites/default/files/2026-07/ESMA35-243228190-8148_Public_Statement_on_the_application_of_the_national_product_intervention_measures_on_binary_options_to_event_contracts.pdf.
[14] Alexei, "Europe's Prediction Market Crackdown."
[15] ESMA Decision (EU) 2018/795 of 22 May 2018 on Binary Options, 2018 OJ L136/31.

Legal scholar Paul Oudin's framework is helpful in understanding how the prediction market users make, or even actively influence, 'predictions' and events. Oudin's central contribution is to divide prediction-market users according to what their particular trade has to do with the event on which they are betting. The first category is the *"exogenous informed trader."*[16] This is someone who possesses better information about an event than the average person but has no ability to influence its outcome. Oudin uses the example of a virologist betting on the spread of a disease as an illustration.[17] For Oudin, these traders are an important justification for permitting the continued operation of the platforms. By putting their private information into the market, they help move contract prices towards a more accurate estimate of the likelihood that an event will occur. The resulting price signal can then be used by everyone else, including people who have never traded on the market themselves. In this sense, the information generated by prediction markets could be considered a public good.[18]

The second category Oudin identifies is the endogenous trader. These are traders who can themselves affect the outcome on which they are betting, such as a political candidate betting on their own election.[19] The problem here is not that the trader possesses better information, but that the trade may give them a financial incentive to make the event happen, or conversely prevent it from happening, in order to secure a profit. Oudin describes these as *"feedback effects".*[20] Seeing the bet itself creates an incentive for the trader to influence the very event on which the bet depends. This was seen in the April weather sensor events.

The third category is the retail user. These traders have neither a significant informational advantage nor any meaningful ability to influence the event. They therefore resemble ordinary consumers in betting or gambling markets. Their decisions may be driven by familiar biases, limited information, or an appetite for risk, making consumer protection a more relevant concern than the preservation of information advantages.[21]

These categorical distinctions are important to understand when seeking to regulate prediction markets. For Oudin, these different categories of 'user/trader' require different regulatory approaches.[22] Exogenous informed trading should generally be permitted, because it is the mechanism through which prediction markets collect and reveal information. Prohibiting such trading may make markets less informative and more volatile rather than safer. In contrast, endogenous trading may need to be restricted where a trader can use a bet to create an incentive to influence the underlying event. Oudin considers platform self-regulation particularly important here, although regulatory rules may also be appropriate where the trader is a public official or otherwise

---

[16] Oudin, "Functional Analysis," sec. 2.2.
[17] Oudin, "Functional Analysis," sec. 2.1.
[18] *ibid.*, sec. 2.2.
[19] *ibid.*, sec. 3.1.
[20] *ibid.*, sec. 3, citing Bond, Edmans, and Goldstein, "Anatomy of an Experimental Political Stock Market," American Economic Review 82 (1992): 1142.
[21] *ibid.*, sec. 3.2.
[22] *ibid.*, introduction, 7.

occupies a position of public trust.[23] Retail users, meanwhile, present a more conventional consumer-protection problem and may justify safeguards similar to those used in other high-risk or gambling-like markets.

While consumer protections are a key concern, there is also a fourth concern: the integrity of the market itself. Prediction market prices can only provide useful information if they are not artificially distorted. Manipulation can therefore undermine the very informational function that gives prediction markets their social value. Similarly, users must be able to rely on a clear and predictable process for determining whether a contract ultimately pays out. Given the weather sensor example in the introduction, prediction markets are particularly susceptible to manipulation. If the outcome of a contract can itself be manipulated or resolved unpredictably, the market becomes less useful both as a source of information and as a means of managing risk.

Market Manipulation and Integrity

The Paris weather sensor debacle is perhaps the clearest illustration of what neither the national gambling frameworks nor the ESMA is capable of addressing. Oudin treats market manipulation as the one prediction market harm that should attract regulatory attention without qualification.[24] On conventional securities markets, this concern is met by a dedicated market-abuse regime; in the EU, the Market Abuse Regulation.[25] That Regulation, however, was not drafted with prediction markets (and their malleability) in mind, and until ESMA's July statement, the plurality of event contracts sat outside the definition of 'financial instrument' that triggers ESMA oversight. Even in instances where a contract does qualify, a weather station beside a runway is not the kind of 'inside information' the Regulation was built to police. The interference in that instance resulted in a $34,000 USD payout. This has only been addressed through the ordinary French criminal law concerning unauthorised access to an automated data-processing system. This is clearly an *ad hoc* solution, which exists by coincidence rather than design.[26]

The weather sensor manipulation, and the subsequent Météo-France complaint, was cited by the ANJ in July 2026 when they compelled a full block of Polymarket's homepage in France.[27] While in one sense, this has addressed governmental concerns about market integrity, it has done so by using the blunt instrument of prohibition. The ANJ has no mechanism for asking whether a particular contract was resolved on the basis of a genuine weather event or a hairdryer. A parallel gap exists around endogenous trading. Kalshi's own rulebook prohibits trading by anyone with *"the ability to exert any influence"* over a contract's underlying event, a restriction considerably broader than anything a

[23] *ibid.*, conclusion, 28-29
[24] Oudin, "Functional Analysis," sec. 2.2.
[25] Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on Market Abuse (Market Abuse Regulation), OJ L173/1.
[26] Nichole, "$34,000 from a Hairdryer?"
[27] "France Orders ISPs to Block Polymarket in Escalating Regulatory Push," *Blockhead*, July 20, 2026, https://www.blockhead.co/2026/07/20/france-orders-isps-to-block-polymarket-in-escalating-regulatory-push/.

public regulator has attempted.[28] Yet neither the EU nor any individual Member State (so far as one has researched) has enacted anything resembling the executive orders several US states have issued barring civil servants and office-holders from betting on outcomes within their own control.[29] As per Oudin's writing, this is precisely the sort of concern, specific to a defined class of person and a particular conflict of interest, that sector-specific professional rules are best placed to address, rather than gambling law or financial regulation stretched beyond their natural scope.[30]

There are structural reasons to expect this gap to persist. Gambling regulation remains under the purview of EU Member States, and the Court of Justice of the European Union (CJEU) has long afforded Member States a wide discretion to restrict gambling activity in pursuit of public order and consumer protection aims, provided restrictions are applied consistently.[31] This creates a significant obstacle to any attempt to harmonise prediction-market regulation at the EU level. Given that gambling remains principally a matter for the Member States, a broad EU regime would need to justify why action at Union level is necessary rather than leaving the matter to national authorities. That difficulty does not arise in quite the same way for ESMA's narrower intervention, because ESMA is acting within an existing EU financial-services framework and addressing the classification and sale of products that already fall, where applicable, within the scope of MiFID II. The EU can intervene relatively easily where prediction markets can be characterised as financial products, but its route is much less straightforward in regulating the wider market in which those products operate. It may also be the case, as Oudin argues, that the informational benefits of these markets are genuinely cross-border public goods that no single state has full incentive to protect on its own.[32] An argument that, if anything, applies with greater force inside a single market of EU Member States than to any one of them as a sole actor.

Conclusion

On a European level, prediction markets are regulated in two divergent ways. National gambling authorities, with increasing coordination, determine whether these platforms may operate at all and whether they comply with the relevant licensing legislation. On the other hand, ESMA determines, separately, whether their products may be sold to ordinary consumers. Between these two regulatory approaches, however, lies an unaddressed space. What remains largely unaddressed is whether the price at which a contract settles can actually be trusted, and whether the people trading on it are merely betting on the future or possess an ability to influence it.

[28] KalshiEX LLC, Rulebook, version 1.28, rule 5.17(z), cited in Oudin, "Functional Analysis."
[29] Illinois, Executive Order 2026-04; California, Executive Order N-4-26; New York, Executive Order No. 60 (April 2, 2026); cited in Oudin, "Functional Analysis."
[30] Oudin, "Functional Analysis," sec. 3.1.
[31] Case C-243/01, *Gambelli*, 2003 ECR I-13031; Joined Cases C-338/04, C-359/04, and C-360/04, *Placanica*, 2007 ECR I-1891.
[32] Oudin, "Functional Analysis," sec. 2.2.

The Paris weather sensor incident highlights this problem in a concrete way, albeit in a somewhat trivial manner. The prediction markets can be compromised by someone who is able to change the evidence on which the outcome depends, be that through fraudulent means as in this case. Yet neither the national gambling framework nor ESMA's current approach is designed specifically to deal with that problem. A more coherent European response would therefore need to distinguish between the different functions and risks of prediction markets rather than treating them simply as another form of gambling or, at the other extreme, as another form of financial product.

The EU is presented with a choice with respect to prediction markets. It can continue to regulate prediction markets through municipal gambling restrictions and piecemeal financial intervention, or it can recognise them as a distinct regulatory problem. This would, in all likelihood, come about through the supplementation of existing rules directed to market integrity, reliable resolution, and conflicts of interest. The Paris weather sensor incident demonstrates why a market designed to predict events is only as valuable as the integrity of the process by which those events are measured and resolved. Until that gap is addressed, Brussels will regulate the market around the prediction, rather than the prediction itself.

The Europe-Africa Reciprocal Resource Curse and France's Emerging Rare Earth Strategy

Théodore Bogaty[1]

Introduction

On May 11-12, 2026, France and Kenya co-hosted a summit in Nairobi titled "Africa Forward: Africa-France Partnership for Innovation and Growth," the first such summit co-chaired with an English-speaking African country. Coming nearly a decade after President Macron's 2017 Ouagadougou speech pledging the end of Françafrique, the summit's goal was to serve as an important milestone in the search for a renewed France-Africa doctrine. Moving from inherited dependencies to genuine, mutually consented partnerships, it could potentially serve as the long-awaited formula to finally ground this key relationship on fair, and therefore sustainable, footing for the critical decades ahead. This is all the more pressing in an increasingly assertive post-colonial world, in which a French disengagement from Africa still appears neither morally desirable nor politically viable, as historical responsibilities and shared interests remain strong.

During the summit, Macron announced €23 billion in combined investment in critical areas including energy, digital, and AI, framed the relationship not as a "*one-sided agenda from Europe that looks at Africa as a continent it should be helping, but a partnership between equals*."[2] He further cemented this momentum by inviting Kenya's President William Ruto to the following month's G7 summit, where he committed to advocate for a first-loss guarantee mechanism to de-risk African investment.

[1] Théodore Bogaty is a Master of Science in Foreign Service candidate at Georgetown University's Walsh School of Foreign Service. He holds concurrent Bachelor's degrees in International Economics and Philosophy at Université PSL. His work focuses on geoeconomics and global security, with particular attention to foreign policy, economic security, and strategic competition. He pursues this work through independent publications as well as his monthly contributions as an early-career fellow within the Helsinki Geoeconomics Society.

[2] Emmanuel Macron, "Speech by the President of the French Republic during the Opening Plenary of the Africa Forward Summit," Élysée, May 12, 2026, https://www.elysee.fr/en/emmanuel-macron/2026/05/12/africa-forward-summit-in-kenya-day-two.

Yet this vision of a clean break invites scrutiny: post-coloniality remains ambiguous in its ambition to wipe the slate clean and enter a new era, as though all historical debts could truly be settled. The "resource curse," a form of *paradox of plenty*, is an enduring consequence of the colonial dynamics Macron is seeking to leave behind. It aims to capture the political, institutional, social, and economic distortions through which resource abundance fails to translate into broadly shared, sovereign, and sustainable development—locking many African resource-rich nations into underdevelopment.

This paper argues that the resource curse does not stop at the resource-endowed and historically exploited side of this paradigm. At the same time, the other side of this relationship—bearing the historical responsibility of building this structure in the very first place—is shaped by a different but connected logic: not a paradox of plenty, but a *paradox of perceived scarcity*.[3] Over time, both sides become trapped in a double resource curse: one is deprived of the conditions necessary to convert resource endowment into value that is both domestically controlled and broadly shared, rather than externally imposed and narrowly captured, while the other locks itself into patterns of structural dependency through externalised supply chains, short-term value extraction, and political complacency. In the long run, both become structurally weakened in a global economy shaped by more powerful actors capable of weaponising these persistent dependencies.

This paper focuses on one dimension of this broader challenge: rare earth elements (REEs), and more particularly neodymium supply chains. It argues that France should not approach Africa merely as an alternative source of raw rare earth inputs, but as a strategic partner in building a coordinated and more balanced rare earth value chain beyond Chinese dominance. France should position itself as a reliable partner for countries seeking a way out of the present "resource curse," first and foremost by engaging with them on an equal footing and offering the conditions necessary to escape it.

In December 2024, France and Nigeria signed a Memorandum of Understanding (MoU) on critical minerals, including REEs, covering joint extraction and processing projects, public-private co-financing, skills transfer, and a commitment to sustainable and environmentally responsible operating practices.[4] This paper explores how France can help build a sustainable, win-win partnership with Nigeria on neodymium supply chains. If pursued with the right priorities and translated into concrete action, this framework could also offer guidance for future partnerships between European and African nations across critical mineral supply chains.

[3] This perception translated into concrete institutional arrangements, leading European powers to construct what Sudhir Chella Rajan calls "extraversion relationships" with local elites. Cf. Sudhir Chella Rajan, "Poor Little Rich Countries: Another Look at the 'Resource Curse,'" *Environmental Politics* 20, no. 5 (2011): 617-32, https://doi.org/10.1080/09644016.2011.608530.

[4] Dele Alake, Nigeria's Minister of Solid Minerals Development, "I am pleased to share that Nigeria and France have reached an agreement to develop joint projects aimed at promoting and diversifying the critical minerals value chain within the solid minerals sector of both our countries," X, December 1, 2024, https://x.com/AlakeDele/status/1863227930479837621. The full text of the MoU is not public.

The Sector and the Strategic Challenges

Neodymium is a REE primarily used in the production of NdFeB (neodymium-iron-boron) permanent magnets, which are among the strongest magnets currently available and are essential to a wide range of strategic industries. These span electric vehicle motors, wind turbines, many consumer electronics like smartphones, headphones, or hard drives, as well as defence technologies from radar systems to satellite communications. As the energy transition accelerates, demand for neodymium is expected to grow significantly—by as much as 48% by 2050.[5] Between 2025 and 2030 alone, it is projected to grow at a compound annual growth rate (CAGR) of 6.7%, thereby driving investment in rare earth extraction, processing, and refining facilities.[6]

<u>Neodymium and the Strategic Stakes of Supply Dependence</u>

Considering its importance, the market for neodymium is highly concentrated. Industry estimates suggest that China produces about 80% of the world's supply, followed by Australia, the United States, and Myanmar.[7] In 2025, the Asia Pacific market accounted for 91.7% of the revenue share.[8] This concentration in a few countries leads to geopolitical and trade-related risks, especially with China,[9] prompting the European Parliament to adopt a resolution in July 2025 deeming China's export controls unjustified and intentionally coercive.[10] This growing insistence on reciprocity was reaffirmed at the highest political level in August 2026, when European Commission President Ursula von der Leyen, addressing French business leaders, noted that Europe's dependence on Chinese raw materials exceeds 80% overall and surpasses 90% for rare earths specifically. For example, as pointed out by senior European Commission officials in December 2025, "*the EU uses 20,000 tonnes of permanent magnets, a year of which 17,000 to 18,000 come from China, creating an unbalanced and high-risk trade relationship*."[11]

A recent development may alter this balance of power: further rare earth deposits have been identified in Africa. Nigeria, in particular, holds one of the continent's largest

[5] International Energy Forum, "What Is Neodymium's Role in the Energy Transition?," July 17, 2024, https://www.ief.org/news/what-is-neodymiums-role-in-the-energy-transition.
[6] Grand View Research, "Neodymium Market (2025-2030): Size, Share & Trends Analysis Report," accessed April 23, 2026, https://www.grandviewresearch.com/industry-analysis/neodymium-market-report.
[7] Bob Brewer, "Rare Earth Minerals, and China's Global Dominance," *Braumiller Law Group*, June 9, 2025, https://www.braumillerlaw.com/rare-earth-minerals-and-chinas-global-dominance/.
[8] Grand View Research, "Asia Pacific Neodymium Market Size & Outlook, 2026-2033," accessed August 28, 2026, https://www.grandviewresearch.com/horizon/outlook/neodymium-market/asia-pacific.
[9] As George Riddell, a senior adviser at Flint Global, put it: "China has not just got the capacity to weaponise its trade but shown it has the willingness to do so." Quoted in Lisa O'Carroll, "Freedom from China? The Mine at the Centre of Europe's Push for Rare Earth Metals," *The Guardian,* January 10, 2026, https://www.theguardian.com/environment/2026/jan/10/china-mine-europe-rare-earth-metals-swedish-producer.
[10] Marcin Szczepański, "China's Rare-Earth Export Restrictions," European Parliamentary Research Service, European Parliament, November 24, 2025, https://epthinktank.eu/2025/11/24/chinas-rare-earth-export-restrictions/.
[11] O'Carroll, "Freedom from China?," January 10, 2026.

monazite concentrations, estimated at 6 million tonnes across nine states.[12] Rich in commercially significant levels of neodymium, praseodymium, cerium, and lanthanum, these deposits are bound to attract strong interest—either from China, eager to consolidate its quasi-monopoly, or from other powers seeking to de-risk from it.

For France, just like for the broader European community, the current assessment is straightforward: "*despite identification of several deposits around the continent, and some rare earth refineries including Solvay in France, there are no operational rare earth mines in Europe.*"[13] Yet the greatest challenge the EU faces in reducing its dependence on China for REEs goes far beyond the mining stage alone. It lies in the extent to which China's quasi-monopoly extends across the entire supply chain. This reality, true for most critical minerals and metals, has gradually led European policymakers to recognise the unsustainability of relying on raw materials imports from South America, Africa, and Australia—a dependency inherited from the EU's closure of much of its mining and primary processing industries in the 1970s and 1980s, as the bloc shifted toward higher-value downstream manufacturing instead. This structural disconnection has since proven to be both unstable and inefficient.

<u>The Environmental Costs of Supply Security</u>

The model Europe has historically relied on, based on outsourcing and import dependency, does not extend only to the extraction and processing of critical resources. It also represents an externalisation of the pollution, hardship, and conditions of human security associated with these processes. The global neodymium supply chain is highly threatened by the environmental impacts associated with the mining and processing of REEs. Once extracted, ore is crushed, ground, and separated from other rare earths through the application of various chemical agents. Conventional mining is highly energy-intensive and generates hazardous and often radioactive waste *"that threatens ecosystem integrity and human health."*[14] As such, some African nations have turned away from the European partners that historically imposed these costs on them, opening the door for other external powers, such as China or the United States, to secure preferential access to their supply chains instead, often replicating the very same extractive dynamic.

In this context, France's emphasis on recycling and more efficient magnet production matters not only because it limits the very environmental and human costs described above, but also because it aligns the public interest with the incentives the private sector actually follows, as such processes could "*lead to cost savings and secure supply chains, further expanding the market potential.*"[15]

[12] Rare Earth Mining Editor, "Nigeria Rare Earth: Monazite Reserves & Processing Outlook," *Rare Earth Mining News*, May 27, 2026, https://rare-earth-mining.com/nigeria-rare-earth/.
[13] O'Carroll, "Freedom from China?," January 10, 2026.
[14] Yong-He Han et al., "Environmental Impacts of Rare Earth Elements Mining and Strategies for Sustainable Management: A Comprehensive Review," *Journal of Hazardous Materials* 500 (December 2025): 140400, https://doi.org/10.1016/j.jhazmat.2025.140400.
[15] Grand View Research, "Neodymium Market (2025-2030)."

Case Studies in Europe and the French Approach

France’s Domestic Industrial Build-Out

France has recently intensified its efforts to de-risk from China across critical minerals and rare earth supply chains by building on both existing industrial assets and new refining projects. It already hosts a major rare earth separation facility in La Rochelle, operated by the Belgium-based company Solvay. In March 2024, Solvay and Carester, a French clean-tech company focused on rare earth supply chains, signed an MoU to cooperate on rare earth separation and circular value chains, combining Solvay’s separation know-how with Carester’s recycling and process expertise.[16] At the same time, France has moved to expand its domestic separation and refining capacity through Carester’s Caremag project in Lacq, which is designed to recycle permanent magnets and process mining concentrates into rare earth oxides. The facility is expected to recycle 2,000 tonnes of magnets and separate 5,000 tonnes of heavy rare earth concentrates from mining, while also producing around 800 tonnes per year of light rare earth oxides, including neodymium and praseodymium.[17]

Beyond national support through France Relance and France 2030, the project has also attracted major European investment, including from the UK-based Less Common Metals (LCM), which plans to invest €110 million in a neighbouring facility to process Caremag’s rare earth oxides into metals and alloys.[18] More recently, USA Rare Earth, which now owns LCM and has since taken a stake in Carester, announced an additional €175 million investment at Lacq by 2030 to expand production capacity in metals, alloys, and permanent magnets.[19] This investment was explicitly aligned with parallel arrangements involving the U.S. Department of Commerce, signalling that the France-U.S. axis on Lacq is deepening into a sustained industrial partnership rather than a one-off announcement.[20] Together, these developments illustrate the gradual emergence of Lacq as a European “magnet valley.” The area hosts an integrated downstream value chain: from Caremag’s production of rare earth oxides, to LCM’s metallisation and alloy-making activities, and ultimately to the manufacturing of permanent magnets, a critical component for electric vehicles, wind turbines, and advanced defence systems. Lacq is thus more than an industrial success story: it represents Europe attempting to resolve its own half of the

---

[16] Carester, “Carester and Solvay Sign a Memorandum of Understanding to Create a Strategic Partnership,” press release, March 8, 2024, https://www.carester.fr/en/carester-and-solvay-sign-a-memorandum-of-understanding-to-create-a-strategic-partnership/.

[17] Carester, “Caremag, a Subsidiary of Carester, Has Secured €216 Million in Financing to Build Its Rare Earth Recycling and Refining Facility in France,” press release, March 17, 2025, https://www.carester.fr/en/caremag-launch/.

[18] Eric Onstad, “UK rare earths company to build plant in France,” *Reuters*, May 29, 2025, https://www.reuters.com/sustainability/climate-energy/uk-rare-earths-company-build-plant-france-2025-05-29/.

[19] Adam Whittaker, “USA Rare Earth Plans Roughly $200 Million Investment in France,” *The Wall Street Journal*, June 1, 2026, https://www.wsj.com/business/usa-rare-earth-plans-roughly-200-million-investment-in-france-ccc2a581.

[20] USA Rare Earth, Inc., “USA Rare Earth Expands Commitment to France with Plans for Additional Investment in the French Rare Earth Ecosystem,” press release, June 1, 2026, https://investors.usare.com/news-releases/news-release-details/usa-rare-earth-expands-commitment-france-plans-additional.

reciprocal curse—converting a supply chain it had long outsourced and taken for granted into one it can control and be accountable for.

EU Coordination and Regulatory Framework

For France and the broader European community, the objective remains to move Europe closer to self-sufficiency in meeting the growing demand of the electric vehicle, wind energy, and electronics sectors. The EU has also introduced funding and preferential-support mechanisms for such initiatives, notably through the Critical Raw Materials Act (CRMA), which explicitly promotes partnerships with reliable third countries and value-chain creation in partner countries, while targeting 10% domestic extraction, 40% processing, and 25% recycling of its strategic minerals by 2030. To operationalise these targets, the CRMA also introduced a "Strategic Projects" designation, granting selected mining, processing, and recycling initiatives fast-tracked permitting and easier access to financing. As of June 2026, 60 such projects had been approved, 47 within the EU and 13 globally, including five in non-EU Europe and Kazakhstan, and four in Africa.[21] In this sense, the CRMA marks a significant admission: that decades of treating raw materials as someone else's problem to solve has itself been a form of the *scarcity paradox* this paper describes—one now being corrected through a coordinated effort to reclaim agency over the value chain, whether through domestic capacity or structured partnerships abroad.

Indeed, each country has strong potential to contribute at different stages of the global supply chain, whether because of its geological endowment, its historical accumulation of know-how and human expertise, or the differing levels of interest shown by financial and private actors. For instance, Nordic upstream potential —such as Sweden's LKAB deposits in Kiruna, which contain 17 REEs including neodymium and praseodymium— and French refining, recycling, and processing capacities appear highly complementary, emerging as a strategic lever "*by combining world-class geosciences, a modernised regulatory framework, and advanced refining capabilities.*"[22] Especially when it comes to REEs, mining alone does not create strategic autonomy if processing and refining capacity is elsewhere.

The logic of differentiated, complementary contributions across the value chain, treated as a shared, incremental undertaking, is what should guide France's approach to critical mineral partnerships in Africa. Just as Nordic upstream potential and French refining capacity mutually reinforce one another within the EU framework, Nigeria's geological endowment in light REEs and France's separation and processing expertise represent a comparable opportunity for cross-continental complementarity. The following case

[21] European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, "Strategic projects under the CRMA – Selected strategic projects," accessed June 2026, https://single-market-economy.ec.europa.eu/sectors/raw-materials/areas-specific-interest/critical-raw-materials/strategic-projects-under-crma/selected-projects_en, as compiled in Transatlantic Barometer, "Critical Minerals – Comparison Tool," Bertelsmann Foundation, updated June 2026, https://www.transatlanticbarometer.org/compare?regions=eu, us&topics=critical-minerals.
[22] Klara Theot, "France and Nordics Cooperation on Rare Earths," *Business France*, February 18, 2026, https://world.businessfrance.fr/nordic/france-and-nordics-cooperation-on-rare-earths/.

studies illustrate both the risks and the conditions under which such a partnership could actually work.

Comparative Lessons from Africa

If Europe’s task is to reclaim value it once outsourced, Africa’s is the mirror image: converting resource abundance into value that is domestically controlled and broadly shared, rather than externally captured. The following case studies—Zimbabwe’s coercive approach, Niger’s rupture, Botswana’s negotiated credibility—test the conditions under which that conversion actually succeeds.

Zimbabwe: Local Value Addition as a Sovereignty Strategy

Zimbabwe recently implemented policies to push for more local value addition by restricting raw ore and lithium exports, following the government’s February 2026 ban and its broader Vision 2030.[23] The country uses the bargaining power and influence it gained as one of the chokepoints of the global lithium supply chain, accounting for nearly 10% of global production in 2025,[24] as a policy tool to push investors toward domestic processing rather than simple extraction. It aims to turn the substantial foreign investment it has attracted since 2021, particularly from China, into a sustainable gain for the country’s growth and local communities. But for this strategy to work, the country needs the infrastructure required to launch large-scale projects and reassure investors. Otherwise, it risks having to grant *ad hoc* exceptions to certain firms—such as the recent export quotas given to two Chinese companies—thereby simply replacing one set of dependencies with another. This tension has already materialised: with the concentrate export ban set to take full effect on January 1, 2027, only one of three planned domestic sulphate processing plants, Prospect Lithium Zimbabwe’s $400 million facility at Arcadia, was operational as of August 2026, while Sinomine’s $500 million plant at Bikita and Yahua’s facility at Kamativi remained under construction.[25] Facing this capacity gap, producers have formally requested a six-month extension, and Harare’s response, expected around a bilateral meeting with Zambia in November 2026, will be a key test of whether the country holds firm on its beneficiation timeline or grants further exceptions.[26]

Zimbabwe’s gap between beneficiation ambition and processing capacity captures the paradox precisely: abundance without domestic control still leaves value and leverage elsewhere.

---

[23] “Zimbabwe Imposes Ban on Exports of All Raw Minerals and Lithium Concentrate,” Al Jazeera, February 25, 2026, https://www.aljazeera.com/news/2026/2/25/zimbabwe-imposes-ban-on-exports-of-all-raw-minerals-and-lithium-concentrate.

[24] U.S. Geological Survey, “Lithium,” in *Mineral Commodity Summaries 2026* (Reston, VA: U.S. Geological Survey, February 2026), https://pubs.usgs.gov/periodicals/mcs2026/mcs2026-lithium.pdf.

[25] Energy News Network, “Zimbabwe Lithium Concentrate Ban Takes Effect in January with One Sulphate Plant Complete,” August 23, 2026, https://energy-news-network.com/industry-news/zimbabwe-lithium-concentrate-ban-january-deadline/.

[26] “Zimbabwe Producers Push for Beneficiation Deadline Extension as November Livingstone Meeting Looms,” Shanghai Metals Market, August 24, 2026, https://news.metal.com/newscontent/104076523-smm-news-zimbabwe-producers-push-for-beneficiation-deadline-extension-as-november-livingstone-meeting-looms.

Niger: Renegotiation, Rupture, and the Limits of Resource Nationalism

Niger, for its part, offers a relevant example of an attempt to regain power over price-setting and other contract conditions from a former colonial power. Through the French group Orano (formerly Areva), France historically relied on Niger and favourable exploitation conditions for around 10-25% of its imported natural uranium, with dependence peaking at around 34% in 2020 and 2021.[27] After the July 2023 coup, the military authorities denounced several cooperation arrangements with France and escalated their confrontation with Orano, eventually nationalising the company's Somaïr subsidiary in June 2025. Yet the junta—which largely "*rests on its anti-French rhetoric*"[28]—has since struggled to "*find a way out of an impasse over the stockpile of uranium it seized from the French company Orano,*"[29] amounting to roughly 150,000 tonnes. An international tribunal barred any sale of the stockpile without Orano's consent in September 2025,[30] a ruling Niger defied months later when a convoy of roughly 1,000 tonnes—valued at around $240 million by industry experts—left the Arlit mine, bound for the port of Lomé, Togo, for transfer to a Russian bulk carrier, according to French government sources.[31] Orano responded by filing criminal complaints in France and warning off potential buyers, insurers, and transit countries, leaving the material logistically and legally fraught to move. The shipment became stuck at Niamey's airport instead, while the Russian vessel waiting off Lomé eventually departed empty.[32] The stockpile remained immobile months later, an Islamic State Sahel Province attack on the base narrowly missing it in late January 2026.[33] As one analysis put it in April 2026, "*by every conventional understanding of territorial sovereignty, this asset is Niger's to do with as it pleases. [...] And yet the uranium has gone nowhere.*"[34]

In February 2026, junta leader Abdourahamane Tiani ended up offering to return 95,000 tonnes of that stockpile, corresponding to Orano's 63.4% pre-nationalisation share, while

[27] Assma Maad, "How Dependent Is France on Niger's Uranium?" *Le Monde*, August 4, 2023, updated August 7, 2023, https://www.lemonde.fr/en/les-decodeurs/article/2023/08/04/how-dependent-is-france-on-niger-s-uranium_6080772_8.html?srsltid=AfmBOoqLeHvTPf86RxsJh5xnoc4VSO_Jl2Jh3Q9uymRbZYsO5YXvjqF8.
[28] Adal Rhoubeid and Maureen Farrell, "How a Crisis Over a Stockpile of Uranium Created an Opening for US Reengagement in Niger," *Atlantic Council*, March 3, 2026, https://www.atlanticcouncil.org/dispatches/how-a-crisis-over-a-stockpile-of-uranium-created-an-opening-for-us-reengagement-in-niger/.
[29] Adal Houbeid and Maureen Farrell, "How a Crisis over a Stockpile of Uranium Created an Opening for US Reengagement in Niger," *Atlantic Council,* March 3, 2026, https://www.atlanticcouncil.org/blogs/dispatches/how-a-crisis-over-a-stockpile-of-uranium-created-an-opening-for-us-reengagement-in-niger/.
[30] Orano, "The ICSID Arbitral Tribunal Opposes the Sale by the State of Niger of Uranium Produced by SOMAÏR," press release, September 26, 2025, https://www.orano.group/en/news/news-group/2025/september/the-icsid-arbitral-tribunal-opposes-the-sale-by-the-state-of-niger-of-uranium-produced-by-somair.
[31] Liselotte Mas and Benjamin Roger, "How a Uranium Supply Coveted by Russia Ended Up in Limbo in Niger," *Le Monde*, January 16, 2026, https://www.lemonde.fr/en/le-monde-africa/article/2026/01/16/how-a-uranium-supply-coveted-by-russia-ended-up-in-limbo-in-niger_6749504_124.html?srsltid=AfmBOoqJtCDIsJzEoKYTBpxLE52uGzCJoH0I-XVMY8e0zyt-D1koEprL.
[32] Raphael Parens and Steven M. Radil, "Why Niger Can Seize Uranium but Cannot Sell It," *Foreign Policy Research Institute*, April 27, 2026, https://www.fpri.org/article/2026/04/why-niger-can-seize-uranium-but-cannot-sell-it/.
[33] "Islamic State Assault on Niger Airport Tests Military Rulers," *International Crisis Group*, February 3, 2026, https://www.crisisgroup.org/anb/africa/niger/islamic-state-assault-niger-airport-tests-military-rulers.
[34] Parens and Radil, "Why Niger Can Seize Uranium but Cannot Sell It."

insisting that "*everything produced afterwards is Nigerien, and it will remain Nigerien*."[35] Niger has meanwhile diversified toward other partners, signing a MoU with Russia's Rosatom, renegotiating more favourable terms with Australia's Atomic Eagle, and retaining Canada's Global Atomic on its Dasa project. Yet this repositioning has come alongside, not instead of, the legal exposure, security risk, and reputational cost generated by the break with France itself. Sovereignty over the asset, without the commercial and institutional capacity to monetise it, resolves only half the curse, and risks simply trading one external dependency for another.

<u>Botswana: Institutional Restraint and Resource Governance</u>

Botswana combines relatively limited electoral competition with a "*strong formal and informal system of checks and balances,*"[36] precisely the kind of constraint identified as crucial to limiting the embezzlement of public resources for private gain and corruption.[37] Indeed, these formal and informal, written and unwritten institutions—deeply embedded in the country's political and business culture, and reinforced by civil society—allow for diffuse rent flows and "*positive backward and forward linkages between natural resource exploitation and the rest of the economy*."[38] As a result, Botswana outperformed all other "*at risk*" countries in total growth in non-oil, gas, and mineral traded GDP between 1980 and 2000.[39] This institutional strength also translated into concrete renegotiation capacity: in 2006, Gaborone secured the relocation of De Beers' Diamond Trading Company from London to Botswana, bringing diamond sorting, valuing, and marketing operations onshore after decades of exclusively offshore processing. This instance highlights how sustained institutional credibility, rather than rupture, can also deliver beneficiation gains, in contrast to Zimbabwe's more coercive approach.[40]

Taken together, these two moments—diffuse rent linkages and negotiated beneficiation—suggest that Botswana's institutional capacity is not incidental to this paper's argument but a precondition for it: co-developed, balanced value chains presuppose a partner able to convert resource rents into durable negotiating leverage, something Niger's rupture-driven trajectory has struggled to achieve. France has built strong political and economic ties with Botswana, especially in the resources sector through strong regulatory cooperation on diamonds, as highlighted in a recent op-ed published by President Duma Boko in *La Tribune*.[41] Orano is now eyeing Botswana's

[35] Kamailoudini Tagba and Katarina Höije, "Niger Ready to Return Orano-Produced Uranium after Mine Takeover," *Bloomberg News*, February 14, 2026, https://www.mining.com/web/niger-ready-to-return-orano-produced-uranium-after-mine-takeover/.
[36] Paul Stevens and Evelyn Dietsche, "Resource Curse: An Analysis of Causes, Experiences and Possible Ways Forward," *Energy Policy* 36, no. 1 (2008): 61, https://doi.org/10.1016/j.enpol.2007.10.003.
[37] Paul Collier and Anke Hoeffler, "Testing the Neocon Agenda: Democracy in Resource-Rich Societies" (Department of Economics, University of Oxford, November 2007).
[38] Stevens and Dietsche, "Resource Curse," 58.
[39] Stevens, Paul J. "'Resource Curse' and How to Avoid It." *The Journal of Energy and Development* 31, no. 1 (Autumn 2005): 5. https://www.jstor.org/stable/24812676.
[40] David Sebudubudu, "Wealth Sharing for Conflict Prevention and Economic Growth: Botswana Case Study of Natural Resource Utilization for Peace and Development" (Washington, DC: World Bank, December 2011), https://openknowledge.worldbank.org/entities/publication/22f46165-116b-5373-b6b0-69c4714801ba.
[41] Duma Boko, "Le Botswana, la France et la Question de la Valeur," *La Tribune*, April 7, 2026, https://www.

uranium reserves, estimated at around 800,000 tonnes, and this growing interest can be read as not only a defensive hedge after the Niger setback, but also a test of whether the win-win framework advocated here for Nigeria can actually be built with a partner already equipped for equal-footing negotiation.

Conclusion

This differentiated, win-win framework of cooperation can be read as a way to extend the lessons of Europe's emerging rare earth strategy to African partners, beginning with Nigeria on light REEs. What matters is not simply the diversification of supply, but the shift from purely extractive relationships toward co-developed value chains, balanced political partnerships, stronger European coordination, and more environmentally sustainable operating conditions. Rather than treating African countries as alternative sources of raw inputs, France and Europe face the deeper challenge of building long-term partnerships capable of generating shared value, resilience, and strategic autonomy on both sides.

This paper's approach to the resource curse in Africa-Europe relations does not erase the asymmetry of responsibility. The historical burden still lies with those who built and sustained this extractive architecture in the first place. Yet the outcome is that both sides now face a shared vulnerability: both can be outmanoeuvred by more powerful actors on the international scene. This creates a new common ground—not one based on equivalence, but on the recognition that the old model must change for all. From this perspective, neodymium and rare earths should not become another object of competition, stockpiling, and short-term resource capture. They should instead serve as an opportunity to rethink the terms of Africa-Europe cooperation, beginning with a long-term France-Nigeria partnership based on co-development, value creation, and strategic coordination.

latribune.fr/article/idees/44628497098764/opinion-le-botswana-la-france-et-la-question-de-la-valeur.

Reversible Engagement: The EU's Conditional Return to Turkey in 2021

Valentina Orbacchi[1]

Introduction

In late 2020, relations between the European Union and Turkey were marked by renewed confrontation caused by disputes over maritime activity in the Eastern Mediterranean, Cyprus and Varosha, alongside broader concerns about Turkish regional policy and the deterioration of fundamental rights. This context prompted repeated warnings and opened discussions on restrictive measures. Yet only a few months later, in spring 2021, EU institutions began promoting a more positive agenda with Ankara and cooperation was proposed despite the fact that the underlying schisms remained unresolved.

This situation raises an important question: *how did EU institutions construct the move from confrontation to re-engagement as coherent and legitimate despite the persistence of unresolved disagreements with Turkey?* To address this puzzle, this article analyses a corpus of 12 official EU texts published between September 2020 and June 2021. Drawing on a post-structuralist understanding of discourse,[2] the article treats official texts not as descriptions of policy, but as part of the process through which renewed engagement was justified and organised. The analysis specifically examines recurring expressions associated with Turkey's strategic importance, the proposed positive agenda, conditionality and the possibility of withdrawing cooperation.

The analysis shows that the shift did not result from a new recognition of Turkey's strategic importance, which persisted across the confrontation and re-engagement

[1] Valentina Orbacchi is an Italian researcher specialising in European external relations, international politics and political discourse. She holds master's degrees in International Relations from the University of Westminster and in Language, Society and Communication from the University of Bologna. Her research interests include EU–Turkey relations, discourse analysis and the governance of the EU's relations with third countries.

[2] Michel Foucault, *The Archaeology of Knowledge*, trans. A. M. Sheridan Smith, 2nd ed. (London: Routledge, 2002), https://doi.org/10.4324/9780203604168

phases. Instead, what changed was the mode through which the EU-Turkey relations were governed: cooperation and pressure were increasingly organised as reversible and adjustable responses rather than fixed alternatives.

Understanding how the EU governed this phase of EU-Turkey relations matters beyond the specific case study because it can shed light more broadly on how the EU manages relations with strategically important third countries despite persistent political and normative disagreement.

From Confrontation to Re-Engagement

This article analyses an episode in EU–Turkey relations characterised by tensions in the Eastern Mediterranean during the second half of 2020. This escalation was caused by Turkish exploration and drilling activities in maritime areas claimed by Greece and Cyprus, together with wider disagreements over the delimitation of exclusive economic zones. EU institutions repeatedly expressed solidarity with Greece and Cyprus and demanded that Turkey cease unilateral activities and resolve maritime disputes through dialogue and in accordance with international law.[3]

In October, the European Council voiced its disapproval of Turkey's "provocative actions", which included further exploratory activities in the Eastern Mediterranean.[4] Tensions were further compounded by Turkey's actions in Varosha, continuing disagreements over Cyprus and increasingly confrontational rhetoric between Ankara, EU institutions and Member States. In December, the European Council reaffirmed its support for the existing restrictive measures and requested further consideration of the instruments available to the Union.[5] EU-Turkey relations were dominated by the possibility of implementing extensive political and economic pressure.

The situation began to change towards the end of 2020 and in the first months of 2021. Turkey withdrew the research vessel *Oruç Reis*, drilling activity was discontinued, and direct talks between Greece and Turkey resumed.[6] Preparations also began for the UN-

[3] European Council, "European Council Conclusions on External Relations," October 1, 2020, https://www.consilium.europa.eu/en/press/press-releases/2020/10/01/european-council-conclusions-on-external-relations-1-october-2020/; Council of the European Union, "Statement of the EU Foreign Ministers on the Situation in the Eastern Mediterranean," May 15, 2020, https://www.consilium.europa.eu/en/press/press-releases/2020/05/15/statement-of-the-eu-foreign-ministers-on-the-situation-in-the-eastern-mediterranean/

[4] European Council, "European Council Conclusions, 15–16 October 2020," October 16, 2020, https://www.consilium.europa.eu/en/press/press-releases/2020/10/16/european-council-conclusions-15-16-october-2020/

[5] European Council, "European Council Conclusions, 10–11 December 2020," December 11, 2020, https://www.consilium.europa.eu/en/press/press-releases/2020/12/11/european-council-conclusions-10-11-december-2020/; Council of the European Union, "Sanctions Regime against Illegal Drilling Activities in the Eastern Mediterranean Extended by One Year," November 6, 2020, https://www.consilium.europa.eu/en/press/press-releases/2020/11/06/sanctions-regime-against-illegal-drilling-activities-in-the-eastern-mediterranean-extended-by-one-year/

[6] European Commission and High Representative of the Union for Foreign Affairs and Security Policy, "Joint Communication to the European Council: State of Play of EU–Turkey Political, Economic and Trade Relations," JOIN(2021) 8 final/2 (Brussels, March 22, 2021), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021JC0008

sponsored discussions on Cyprus.[7] These developments did not resolve the maritime or political disputes, but they reduced the immediate intensity of the confrontation. In March 2021, the de-escalation was formally welcomed by the EU in an attempt to rebuild dialogue with Ankara.

The reduction in tensions did not amount to substantive convergence. The Commission and High Representative's March 2021 assessment continued to identify maritime disputes, the Cyprus issue, divergent positions on regional conflicts and democratic backsliding in Turkey as sources of tension affecting EU–Turkey relations.[8]

In May 2021, even during the diplomatic reopening, the European Parliament described EU–Turkey relations as being at a historic low and warned that accession negotiations should be suspended unless Turkey's negative trajectory was reversed. At the same time, recognition of Turkey's regional importance and role as a migration partner persisted.[9]

The 2021 transition to re-engagement therefore followed a reduction in tensions rather than the resolution of the disputes that caused the confrontation. This coexistence of renewed cooperation and unresolved disagreement provides the empirical basis for the article's central question. The corpus analysis that follows examines how official EU discourse represented and organised this unexpected shift, rendering the movement from pressure to renewed engagement coherent and politically defensible.

Corpus and Methods

This article examines a purpose-built corpus of 12 official EU texts published between September 2020 and June 2021. The texts cover the period from the escalation of tensions in the Eastern Mediterranean to the consolidation of renewed engagement with Turkey. The corpus contains approximately 37,000 words and includes European Council conclusions and statements, European Parliament resolutions, European Commission and High Representative reports and communications, and speeches by the President of the European Council. Documents were included when they addressed EU–Turkey relations directly and contained a substantive institutional assessment of confrontation, cooperation or the conditions governing the EU-Turkey relations. A complete list of the documents, including their dates, institutional authors and document types, is provided in the accompanying footnote.[10] Because the corpus brings together texts produced by

[7] European External Action Service, "Turkey: Remarks by High Representative/Vice-President Josep Borrell ahead of His Meeting with Minister of Foreign Affairs Mevlüt Çavuşoğlu," January 21, 2021, https://www.eeas.europa.eu/eeas/turkey-remarks-high-representativevice-president-josep-borrell-ahead-his-meeting-minister-foreign_en?

[8] European Commission and High Representative of the Union for Foreign Affairs and Security Policy, "Joint Communication to the European Council: State of Play of EU–Turkey Political, Economic and Trade Relations," JOIN(2021) 8 final/2, March 22, 2021, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021JC0008

[9] European Parliament, "Resolution of 19 May 2021 on the 2019–2020 Commission Reports on Turkey," May 19, 2021, https://www.europarl.europa.eu/doceo/document/TA-9-2021-0243_EN.html?; European Parliament, "EU–Turkey Relations Are at a Historic Low Point, Say MEPs," May 19, 2021, https://www.europarl.europa.eu/news/en/press-room/20210517IPR04118/eu-turkey-relations-are-at-a-historic-low-point-say-meps

[10] Corpus documents: (1) European Parliament, 17 September 2020, resolution, Preparation of the Special European Council, Focusing on the Dangerous Escalation and the Role of Turkey in the Eastern Mediterranean;

institutions with different political roles, institutional differences were also considered when interpreting recurring patterns.

For analytical purposes, the corpus was divided into two chronological subcorpora. The confrontation phase comprises six texts published between September and December 2020. During this timeframe, the EU debate focused mainly on maritime activities, Cyprus, Varosha and the use of restrictive measures. The re-engagement phase consists of six texts published between March and June 2021, when EU institutions began promoting a more positive agenda for cooperation after the reduction of tensions. This division allows for an examination of both continuity and change in the language used across the episode.

The texts were analysed in Sketch Engine[11] using wordlists, word sketches, and phrase, lemma and word-form concordance searches. Wordlists and word sketches identified recurrent semantic fields and expressions, while concordance lines were examined in context and across phases. Frequencies were used to establish presence and distribution rather than statistically meaningful differences, combining limited quantitative comparison with qualitative interpretation.

Analysis

The Persistence of Turkey's Strategic Importance

The initial wordlist showed the prominence of vocabulary associated with both cooperation and political disagreement, including *rights*, *Cyprus*, *cooperation* and *dialogue*. Frequency alone cannot establish how these terms function, but it provides an initial map of the corpus. Word sketches were subsequently used to examine their lexical environments in greater detail. The word sketch for *right* connected it to expressions such as *human rights* and *fundamental rights*. Verbs including *ignore*, *violate* and *challenge* associated rights with non-compliance and deterioration, while *protect* and *reaffirm* reflected the standards invoked by EU institutions when evaluating Turkey's conduct. Similarly, the lexical environment of *Cyprus* included terms such as *problem* and *issue*,

(2) European Council, 1 October 2020, conclusions, European Council Conclusions on External Relations; (3) European Commission, 6 October 2020, Commission Staff Working Document, Turkey 2020 Report; (4) European Council, 16 October 2020, conclusions, European Council Conclusions, 15–16 October 2020; (5) European Parliament, 26 November 2020, resolution, Escalating Tensions in Varosha Following the Illegal Actions by Turkey and the Urgent Need for the Resumption of Talks; (6) European Council, 11 December 2020, conclusions, European Council Conclusions, 10–11 December 2020; (7) European Commission and High Representative of the Union for Foreign Affairs and Security Policy, 22 March 2021, Joint Communication, State of Play of EU–Turkey Political, Economic and Trade Relations; (8) Members of the European Council, 25 March 2021, statement, Statement of the Members of the European Council; (9) Charles Michel, President of the European Council, 6 April 2021, press remarks, Remarks by President Charles Michel after His Meeting in Ankara with President Recep Tayyip Erdoğan; (10) Charles Michel, President of the European Council, 26 April 2021, plenary report/speech, Report by President Charles Michel to the European Parliament Plenary Session; (11) European Parliament, 19 May 2021, resolution, Resolution on the 2019–2020 Commission Reports on Turkey; and (12) European Council, 24 June 2021, conclusions, European Council Conclusions on External Relations.

[11] Adam Kilgarriff et al., "The Sketch Engine: Ten Years On," *Lexicography* 1 (2014): 7–36, https://doi.org/10.1007/s40607-014-0009-9

presenting it as a continuing source of disagreement. A contrasting orientation appeared around *cooperation* and *dialogue*. *Cooperation* occurred alongside verbs such as *enhance*, *develop*, *envisage*, *pursue* and *strengthen*, while *dialogue* was associated with *pursue*, *foster*, *restart*, *initiate* and *mediate*. Official discourse therefore contained both persistent criticism and an active orientation towards cooperation.

These whole-corpus patterns remain preliminary: they cannot establish whether the two orientations coexist across phases or explain how renewed cooperation was made compatible with unresolved disagreement. One possible explanation is that Turkey's continuing strategic importance provided the basis through which renewed engagement could be legitimised. To examine this hypothesis, a phrase concordance query was conducted for *strategic interest*. The expression occurred nine times across seven documents, with four occurrences in the confrontation subcorpus and five in the re-engagement subcorpus. Given differences in institutional composition between the two subcorpora, these figures are not interpreted as evidence of equivalent frequency across phases. Their significance lies instead in demonstrating that the expression was present on both sides of the transition.

The wider contexts of these specific occurrences reveal an important continuity across the two phases. In the December 2020 European Council conclusions, strategic valuation appeared at a moment of pronounced confrontation. The document first described Turkey's actions as "*unilateral actions and provocations*" and noted the continuation of provocative activities in the Eastern Mediterranean. Yet immediately afterwards, the European Council reaffirmed the EU's "*strategic interest in the development of a cooperative and mutually beneficial relationship with Turkey*" and kept the offer of a positive agenda on the table, conditional on Turkey's conduct. This was accompanied, in the following paragraph, by consideration of additional restrictive measures. It follows that strategic interest already coexisted with criticism and pressure before the diplomatic reopening of 2021.[12]

The March 2021 Commission–High Representative's Joint Communication echoes this formulation rather than introducing a new strategic rationale for cooperation. Its introduction explicitly recalls that Turkey had engaged in provocations, but the EU nevertheless retained a strategic interest in a cooperative and mutually beneficial relationship. The document then describes the political relationship as having deteriorated substantially, including over the Eastern Mediterranean, Cyprus, regional conflicts and fundamental rights. What changes in March is therefore not the recognition of Turkey's strategic value, which persisted across both phases, but the terms under which cooperation is proposed by the EU. After describing the recent de-escalation as positive but "*fragile*", the Communication proposes areas of cooperation within a

[12] European Council, "European Council Conclusions, 10–11 December 2020," EUCO 22/20, December 11, 2020, https://www.consilium.europa.eu/media/47296/1011-12-20-euco-conclusions-en.pdf

"*progressive, proportionate and reversible approach*", conditional on Turkey sustaining its constructive efforts.[13]

The same configuration appears in Charles Michel's April 2021 remarks in Ankara. Michel again presented a mutually beneficial relationship with Turkey as a strategic interest, while simultaneously expressing "*deep worries*" over the rule of law and fundamental rights and acknowledging continuing foreign-policy differences. He nevertheless presented a more positive agenda based on economic cooperation, migration and mobility, explicitly describing engagement as "*progressive, proportional and reversible*". He concluded by placing the two positions side by side: the EU had a strategic interest in a cooperative relationship with Turkey while remaining determined to defend its interests and promote its values.[14]

Taken together, these texts indicate that strategic interest alone cannot account for how the shift towards re-engagement was legitimised. The strategic value attributed to cooperation with Turkey was already articulated during the confrontation phase and remained present afterwards. The more significant change lies in the form assigned to cooperation: by spring 2021, engagement was increasingly presented as progressive, conditional and reversible. The present analysis therefore turns to reversibility as a defining feature of the framework through which renewed cooperation was made compatible with continuing disagreement.

<u>The Emergence of Reversible Engagement</u>

If strategic interest did not distinguish confrontation from re-engagement, the next question concerns how the renewed cooperation itself was formulated. A concordance query for the exact expression *positive agenda* returned seven occurrences across four documents, all in the re-engagement phase. While variants of the positive-agenda formulation had already appeared during the confrontation phase, the exact expression became recurrent in the texts accompanying re-engagement. More significant than its frequency was the language surrounding it. As summarised in Table 1, the agenda was repeatedly presented as dependent on Turkey's conduct: it was to be launched "*provided that"* certain conditions were met, described as "*dependent on progress"*, and elsewhere made "*contingent upon"* further developments. In one occurrence, the positive agenda was explicitly characterised as "*phased", "proportionate and reversible"* and subject to subsequent review. This suggests that the diplomatic opening was constructed not as an unconditional restoration of cooperation, but as an adjustable process.

[13] European Commission and High Representative of the Union for Foreign Affairs and Security Policy, "Joint Communication to the European Council: State of Play of EU–Turkey Political, Economic and Trade Relations," JOIN(2021) 8 final/2, March 22, 2021, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021JC0008

[14] Charles Michel, "Remarks by President Charles Michel after His Meeting in Ankara with President Recep Tayyip Erdoğan," April 6, 2021, https://www.consilium.europa.eu/en/press/press-releases/2021/04/06/remarks-by-president-charles-michel-after-his-meeting-in-ankara-with-president-recep-tayyip-erdogan/

Concordance pattern	Discursive function
provided that Turkey sustains constructive efforts	Makes engagement conditional on future conduct
dependent on progress	Links cooperation to measurable developments
contingent upon developments in Turkey's behaviour	Frames cooperation as non-automatic
phased, proportionate and reversible	Defines engagement as gradual, calibrated and withdrawable
subject to a review in June	Makes continuation dependent on reassessment

Table 1: Author's concordance analysis using Sketch Engine.

These patterns are consistent with the well-established role of conditionality in EU external action. Existing literature generally understands conditionality as linking benefits or rewards to compliance with specified conditions,[15] while scholarship on EU–Turkey relations has already identified the coexistence of a conditional positive agenda and the threat of restrictive measures.[16] The analysis therefore takes the established coexistence of incentives and pressure as its starting point and asks how this combination was organised once re-engagement began to take shape. The recurring appearance of *reversible* in the language surrounding the positive agenda provides a basis for examining this question more closely.

The word-form concordance query for *reversible* identified seven occurrences across five documents, all within the re-engagement phase. It emerged that during the re-engagement phase, the EU proposed a "*progressive* or *phased, proportionate and reversible*" approach to cooperation. The recurrence of these formulations or closely related ones across different institutional texts suggests that reversibility became a characteristic way of defining the terms of renewed engagement with Turkey.

Particularly significant is that two occurrences of *reversible* in the March Joint Communication refer not to engagement alone but to possible EU countermeasures, including "*scalable yet reversible restrictive measures*". While this formulation of reversible countermeasures is confined to that document, it extends the significance of reversibility beyond the conditional positive agenda itself. Existing accounts have already

[15] Frank Schimmelfennig and Ulrich Sedelmeier, "Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe," *Journal of European Public Policy* 11, no. 4 (2004): 661–679, especially 670; Frank Schimmelfennig and Ulrich Sedelmeier, "The Europeanization of Eastern Europe: The External Incentives Model Revisited," *Journal of European Public Policy* 27, no. 6 (2020): 814–833.
[16] Ebru Turhan and Wolfgang Wessels, "The European Council as a Key Driver of EU–Turkey Relations: Central Functions, Internal Dynamics, and Evolving Preferences," in *EU–Turkey Relations: Theories, Institutions, and Policies*, ed. Wulf Reiners and Ebru Turhan (Cham: Palgrave Macmillan, 2021), 185–217, especially 204.

identified the coexistence of incentives and pressure in EU–Turkey relations;[17] the corpus shows that, in this formulation, *both* sides of that repertoire were presented as adjustable over time. Cooperation could be expanded or withdrawn, while restrictive measures could be scaled up or reversed. The resulting framework was therefore not merely conditional but dynamically calibrated: neither engagement nor pressure constituted a fixed endpoint. Reversibility thus rendered renewed engagement compatible with continuing disagreement. Cooperation could proceed without requiring the EU to represent the relationship as normalised or its underlying disputes as resolved.

Conclusion

This study has shown that the 2021 EU shift towards re-engagement with Turkey did not result from a new recognition of the country's strategic importance. Strategic valuation persisted across both confrontation and re-engagement; what changed was the way in which cooperation and pressure were organised. The shift was presented neither as a diplomatic reset nor as an abandonment of pressure. Instead, re-engagement was organised around a logic of reversibility: cooperation could be opened or expanded in selected areas while remaining dependent on Turkey's conduct and subject to reassessment or even withdrawal.

The findings also point to broader implications for EU external governance. Reversible engagement may provide flexibility with strategically important third countries by allowing cooperation without full political convergence, but it may also reduce predictability because its scope and durability remain provisional. Its operation may also be uneven across policy fields: areas regarded as operationally necessary for the EU, for instance, migration cooperation, may be less susceptible to withdrawal than more discretionary forms of political cooperation.

The 2021 episode may also have longer-term relevance. The 2023 Commission–High Representative's Joint Communication explicitly builds on the 2021 framework and maintains a progressive, proportionate and reversible approach towards Turkey.[18] Its recurrent use suggests that this vocabulary acquired some durability in EU policy towards Turkey.

This article's findings nevertheless remain exploratory. The current analysis draws on a purpose-built corpus of 12 texts covering a single episode and combines documents produced by institutions with different political roles. It cannot therefore establish that reversible engagement constitutes a uniform pattern across EU institutions or external relations more broadly. The persistence of the terminology beyond 2021 instead provides a reason for further research into how this logic develops over time, varies across institutions and policy domains, and whether comparable forms of reversible engagement appear in the EU's relations with other strategically important third countries.

[17] Turhan and Wessels, "The European Council as a Key Driver of EU–Turkey Relations," 204.
[18] European Commission and High Representative of the Union for Foreign Affairs and Security Policy, "Joint Communication to the European Council: State of Play of EU–Türkiye Political, Economic and Trade Relations," JOIN(2023) 50 final (Brussels, November 29, 2023), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023JC0050

Filed, Not Launched: Europe And The First Infrastructure Of Cislunar Space

Moritz Hieronymi[1]

Introduction

The cislunar contest is usually framed as a race for resources and territory: water ice, Lagrange points and strategic outposts. This framing is misleading. Ice is abundant throughout the solar system, transporting it from the Moon to Earth makes little economic sense, and Article II of the Outer Space Treaty prohibits any State from claiming sovereign territory on a celestial body. Europe has not fallen behind in that race so much as attended to the wrong one.

The more consequential contest concerns infrastructure, specifically the communication and navigation standards on which every lunar mission of the next three decades will depend. In October 2027, the World Radiocommunication Conference (WRC) meets in Shanghai and will make the first regulatory decision specifically addressing operations on a celestial body: which radio frequency bands may be used for links on the lunar surface and between the surface and orbit. The technical studies that will shape that decision are already underway in Working Party 7B of the ITU Radiocommunication Sector (ITU-R).[2]

Europe operates on a different timetable. The European Union's next Multiannual Financial Framework (MFF) takes effect in 2028. The Shanghai conference sits a year earlier. Shaping the outcome in Shanghai depends on regulatory coordination rather than new expenditure. Europe is present at the ITU, but too often as a collection of national experts

[1] Moritz Hieronymi, Dipl.-Iur. (EUV), LL.M. (BIT), is a PhD Candidate in Outer Space Law at Beijing Institute of Technology (PRC) and in International Law at European University Viadrina (Germany). His research focuses on international space governance, frequency regulation and cislunar infrastructure policy.

[2] ITU, Resolution 680 (WRC-23), giving rise to WRC-27 agenda item 1.15 on possible new or modified space research service (space-to-space) allocations for lunar surface links and lunar orbit-to-surface links; ITU, Resolution 813 (WRC-23), setting the full agenda. WRC-27 convenes in Shanghai from 18 October to 12 November 2027.

without a binding mandate from Brussels or ESA's Ministerial Council. The rules will close before the money opens.

This article argues that Europe already possesses the instruments needed to shape the emerging lunar communications regime and should deploy them before the study cycle closes. Doing so requires coordinated European proposals, a stronger licensing framework, an international coalition around the Shielded Zone of the Moon, greater emphasis on governance within Artemis, and early action on the optical communications layer, which currently falls outside the ITU regime. Sovereignty in this domain will not be launched. It will be filed, and in part it will not be filed at all.

The Object Of The Competition

Working Party 7B is studying candidate bands across the UHF, S, C, X, and Ka bands for lunar surface links and relay.[3] The regulatory architecture rarely features in political discussions, yet its logic will shape the operational environment for decades. Under Article 11 of the ITU Radio Regulations, a frequency assignment secures a priority date through a filing, a formal advance publication submitted to the ITU's Radiocommunication Bureau. That priority must be brought into use within seven years, or the filing lapses and the priority reverts.[4] The resulting "use it or lose it" regime rewards early administrative action alongside technical readiness. Once an assignment has been brought into use, later entrants seeking the same or adjacent bands must coordinate with the priority holder. That obligation runs in one direction only, giving the first mover a *de facto* veto over subsequent missions.

This explains the significance of China's filings for roughly 200,000 satellites, even though most remain unbuilt.[5] These filings serve as regulatory placeholders, reserving priority positions across large portions of the spectrum and forcing later systems to coordinate around them. Europe has filed comparatively little in the cislunar services sector, and its national administrations often lack the specialised spectrum staff needed to keep pace with the ITU study cycles. Europe possesses the relevant technical expertise, but has yet to translate it into comparable administrative capacity and strategic positioning.

At the same time, the United States is advancing LunaNet, a joint US-ESA-Japanese architecture for lunar communications and navigation that will define the standards and protocols governing how missions communicate with one another and with Earth. China is building the International Lunar Research Station (ILRS)[6]. Frequency allocations made now will shape this environment for decades because every modem and antenna must be

[3] ITU, Resolution 680 (WRC-23), listing the ranges under study, including 2400–2690 MHz, 7190–7235 MHz and 8450–8500 MHz, with certain UHF sub-bands limited to use outside the Shielded Zone of the Moon; NASA, *Ka-Band LunaNet Spectrum*, NTRS 20240011047 (2024).
[4] ITU, Radio Regulations, 2024 edn, Art. 11, No. 11.44.
[5] Andrew Jones, "China Files ITU Paperwork for Megaconstellations Totaling Nearly 200,000 Satellites," *SpaceNews*, January 12, 2026, https://spacenews.com/china-files-itu-paperwork-for-megaconstellations/.
[6] NASA, ESA and JAXA, *LunaNet Interoperability Specification*; CNSA and Roscosmos, *International Lunar Research Station (ILRS) Guide for Partnership* (Beijing/Moscow, 2021).

designed around the bands in which it operates. Regulatory choices propagate into hardware, procurement and interoperability long after the conference that produced them. Washington and Beijing have already begun positioning themselves within this emerging architecture, whereas Europe has yet to develop an equivalent strategy.

The Rules Close Before The Money Opens

Europe's immediate constraint arises from timing. The 2028–2034 Multiannual Financial Framework will be agreed in 2027 and enter into force the following year. [7]The regulatory timetable nevertheless leaves Europe with three instruments that can be deployed before new budgetary resources become available.

1) The launch. A filing lapses unless the assignment is brought into use within seven years,[8] making deployment an essential complement to regulatory action. Lunar Pathfinder is manifested for late 2026, and Moonlight is scheduled before the end of the decade.[9] A European relay operating around the time of the conference would convert a regulatory claim into operational practice.

2) The vote. Europe can convert institutional fragmentation into negotiating weight. ITU votes belong to national administrations rather than agencies: Washington holds one, Beijing holds one, and CEPT coordinates forty-six.[10] Those votes acquire significance through the regional process that precedes a World Radiocommunication Conference. Positions crystallise within the six regional telecommunication organisations: CEPT for Europe, ATU[11] for Africa, CITEL[12] for the Americas, APT[13] for Asia-Pacific, ASMG[14] for the Arab States and RCC[15] for the Commonwealth of Independent States. CEPT's Conference Preparatory

[7] Council agreement on the MFF 2028–2034 is expected during 2027, with entry into force on 1 January 2028; the next conference after Shanghai is WRC-31. See European Commission, *A Vision for the European Space Economy*, COM(2025) 336, June 25, 2025. Exploration subscriptions at the ESA Ministerial Council 2025 fell materially short of the Director General's proposal.

[8] ITU, Radio Regulations, Art. 11, No. 11.44.

[9] Lunar Pathfinder is manifested on Firefly Aerospace, *Blue Ghost Mission 2 Manifest* (Cedar Park, TX, 2026), launch no earlier than late 2026; ESA, *Moonlight Programme* (Paris, 2024–2026), targeting initial services from 2028. A slip beyond the conference would weaken but not extinguish the argument: the No. 11.44 clock runs seven years from the filing.

[10] CEPT, Conference Preparatory Group, *Agenda for WRC-27 and European Common Proposal Procedures* (Copenhagen, 2025). CEPT counts forty-six member administrations. Under the ITU Constitution the vote belongs to administrations, not to intergovernmental agencies, which is why ESA cannot substitute for national regulators in ITU-R.

[11] ATU: African Telecommunications Union; comprises 51 member administrations and serves as the regional coordinating body for Africa within the ITU framework. Headquartered in Nairobi, it is a specialised agency of the African Union.

[12] CITEL: Inter-American Telecommunication Commission; comprises 35 member administrations (under the Organisation of American States) and coordinates spectrum and telecommunications policies for the Americas, including the United States, Canada, and Latin American States.

[13] APT: Asia-Pacific Telecommunity; comprises 38 member administrations and coordinates telecommunications policy and spectrum positions for the Asia-Pacific region. It is based in Bangkok and was established in 1979.

[14] ASMG: Arab Spectrum Management Group; comprises 22 member administrations and coordinates spectrum management positions for the Arab States at the ITU. It operates under the umbrella of the Arab League's ministerial councils for ICT.

[15] RCC: Regional Commonwealth in the Field of Communications; comprises 12 member administrations (the Commonwealth of Independent States) and coordinates regional positions on telecommunications and

Group can produce European Common Proposals that commit signatory administrations to a unified stance. This mechanism translates national regulatory interests into a coherent technical-political position. Forty-six administrations supporting a common proposal would constitute a bloc that other regional coalitions would have to accommodate. Activating that capacity requires political coordination before negotiations reach Shanghai.

3) The far side. The Radio Regulations protect the lunar far side, the quietest radio environment within reach, and the only place beyond Earth covered by a named protective regime.[16] South Africa, host to the mid-frequency component of the Square Kilometre Array, has a direct scientific interest in preserving that environment. Brazil and Nigeria have a broader interest in preventing early movers from determining the rules governing newly accessible orbital domains. Brazil, through its Agência Espacial Brasileira, has a long history of active ITU participation. The 1976 Bogotá Declaration, which Brazil co-signed, challenged the first-come, first-served logic governing geostationary orbit. Nigeria, through NASRDA, operates Earth observation satellites and has articulated ambitions for independent space capabilities.[17]

For both countries, lunar spectrum governance has implications beyond the Moon. Rules established for the first sustained communications infrastructure on another celestial body may influence later approaches to Mars and other domains. A coalition built around the Shielded Zone would combine European regulatory capacity with scientific and strategic interests shared by states outside the principal US-China competition. Such a coalition would be politically difficult, particularly because many of the administrations involved have more immediate spectrum priorities, but the underlying alignment of interests already exists.

What Europe Should Do

Allocations are shaped during the study cycle long before delegates arrive on the conference floor. Europe should pursue five concrete measures.

First, the CEPT Conference Preparatory Group should establish a cislunar spectrum task force by December 2026, staffed by five to ten specialists seconded from national regulators. Its immediate objective should be to table European Common Proposals for agenda item 1.15 by the second quarter of 2027.

Second, Europe needs a coherent licensing base. Article VI of the Outer Space Treaty requires national authorisation of private space activities.[18] Luxembourg already possesses

frequency regulation. It is based in Moscow.

[16] ITU, Radio Regulations, Art. 22, Section V (Nos. 22.22–22.25).

[17] National Space Research and Development Agency – Nigeria's national space agency, established in 1999 and operating under the Federal Ministry of Science and Technology. It operates Nigeria's satellite fleet and has articulated a clear ambition for independent space capabilities.

[18] Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, 610 UNTS 205, Art. VI; Luxembourg, Law of 20 July 2017 on the Exploration and Use of Space Resources (Luxembourg City, 2017). Germany has no national space act; the Federal Cabinet

a framework, whereas most European states do not. Germany adopted key points for a future space law in 2024, but still has no legislation in force. The Commission should press for greater coordination among national frameworks, and ESA should be mandated to prepare filings on behalf of participating administrations.

Third, Europe should turn the protection of the Shielded Zone into a coalition initiative. A proposal co-sponsored with South Africa, Brazil and Nigeria would combine strengthened protection with verification support from the EU Satellite Centre. The same infrastructure would help close Europe's existing gap in cislunar space situational awareness.[19]

Fourth, Europe should reweight its contribution to Artemis towards governance. Europe currently supplies the Service Module in exchange for astronaut seats. Those seats carry political and symbolic value, yet they provide little structural influence over the communications architecture on which future missions will depend. A future contribution should seek co-chairmanship of the LunaNet interoperability working group and parity on its steering board.

The precedent is Galileo. Europe secured its position in global navigation by controlling an independent signal specification rather than by attempting to outcompete GPS on cost or coverage. Galileo's frequencies remained compatible with GPS but structurally independent, and their deliberate overlap compelled the United States to negotiate formal co-equal recognition in 2004. The same principle can inform Europe's role in LunaNet. Co-developing interoperability specifications would give European industry a role in determining signal formats and frequency-sharing rules that future systems must accommodate. That influence would endure through technical standards and procurement cycles long after individual Artemis missions have ended.[20]

Finally, Europe should place optical communications on the international agenda. WRC-27 agenda item 1.15 concerns radio bands, and the Radio Regulations define radio waves as electromagnetic waves below 3000 GHz.[21] Both LunaNet and ESA's Moonlight programme plan to use free-space optical links for high-bandwidth data backhaul between the lunar surface, orbit and Earth. These links operate at frequencies far above that threshold and fall outside the Radio Regulations.

The regulatory consequences are significant. There is no equivalent requirement to publish orbital parameters for coordination, no established procedure for resolving beam conflicts, and no comprehensive lunar optical protocol. Neither the ITU nor CCSDS has

adopted key points for a future *Weltraumgesetz* in September 2024, with drafting reported under way in 2026.

[19] European Space Policy Institute, *Towards a Safe and Sustainable Cislunar Space: Policy Priorities for European Engagement,* ESPI Report 96 (Vienna, 2025), on Europe's cislunar tracking gap.

[20] NASA, ESA and JAXA, *LunaNet Interoperability Specification.* The precedent is Galileo, where co-ownership of the signal specification, rather than participation in a US-governed programme, secured Europe's standards position.

[21] ITU, Radio Regulations, Nos. 1.5 and 1.6; ITU, Resolution 955 (WRC-07), which put procedures for free-space optical links before WRC-12, which agreed to no change and suppressed the Resolution.

published a lunar optical standard, and the coordination procedures of Article 9 do not apply.[22] In practice, technical conventions emerge through deployment before any international governance framework addresses them.

NASA has already demonstrated optical links through the Lunar Laser Communication Demonstration (LLCD) and the Laser Communications Relay Demonstration (LCRD), and ESA is incorporating optical capacity into Moonlight.[23] Early operators will influence acquisition, tracking, and pointing protocols, data encoding formats, beaconing practices, and safety procedures. Later entrants will have little practical choice but to design around conventions established by the first systems in operation.

Europe is unusually well-positioned to raise this issue because it is already building that optical layer through commercial partners and participating in the wider international architecture. It should sponsor a new Resolution for WRC-31 requesting an ITU study of the regulatory implications of lunar optical communications. The proposal requires little more than a mandate. It would position Europe to shape the governance framework for the medium that will carry most future lunar data traffic. The optical layer will carry most future lunar data traffic, and it is the one part of the architecture that Shanghai will not discuss.

Conclusion

If Europe takes no action, 2027 passes without a visible incident. The consequences emerge gradually as European operators begin designing missions around frequency assignments and technical standards established by others. A scientific lander, commercial relay or future base module faces Article 9 coordination with existing US or Chinese systems for bands in which those systems hold priority.[24]

That coordination involves delay, restrictions or technical conditions imposed to protect incumbent assignments. European missions are pushed towards less suitable frequencies or required to procure equipment compatible with US- or Chinese-defined interfaces. European manufacturers then design around foreign standards, reversing the strategic logic that underpinned Galileo. Once those dependencies enter hardware specifications and procurement cycles for the 2030s, changing them becomes considerably more difficult.

Europe cannot match the United States in expenditure or China in deployment scale. It does not need to. It can arrive in Shanghai with forty-six coordinated administrations, an operational presence in lunar orbit, international partners and a coherent set of proposals. In an infrastructure regime still being written, that is enough to shape the rules before they become constraints.

[22] ITU, Radio Regulations, Art. 9 (coordination procedure).
[23] NASA, *Lunar Laser Communication Demonstration (LLCD)* and *Laser Communications Relay Demonstration (LCRD)* mission archives; ESA, *Moonlight Programme* documentation (Paris, 2024–2026).
[24] ITU, Radio Regulations, Art. 9.

From Personality to Property:
The Copyrighted Self

Joanne Wilson[1]

Introduction

In recent years, Artificial Intelligence (AI) has gained traction, and its content has flooded social media platforms. Studies show that roughly 35 percent of newly published websites were AI-generated or AI-assisted.[2] Furthermore, the multiplication of AI tools has rendered the creation of AI-generated content accessible to most. In response to this, there have been growing concerns over the rapid expansion of generative AI and deepfake technologies. In fact, artists and performers have been drawing attention to these concerns, especially knowing that music streaming services such as Deezer have shown that 13.4 million AI-generated songs were detected in 2025. [3]

Artists increasingly see their work used without consent to train generative AI systems while individuals face greater risks of having their image, voice, or likeness reproduced through non-consensual replicas: deepfakes.[4] These are videos, images and audio creating hyperrealistic digital representations overlaying the traits of an individual to another's whilst preserving the essential features and distinctive features of the first.[5] This technology relies on pre-existing data to generate new content. It therefore raises significant questions regarding personal autonomy and control over one's identity.

[1] Master's student in Comparative International Business Law at the University of Galway (NUIG). During the 2025-2026 academic year, she has been awarded her LLM with First class honours. With research interests in intellectual property law and emerging technologies, her master's dissertation, entitled "Substitution in disguise: music, generative AI and the current limitations of US and EU copyright law," examined the challenges generative AI poses to existing copyright frameworks. She intends to pursue doctoral research in this field of study.
[2] Joanas Dolezal, Sawood Alam, Mark Graham, Marty Bohacek, 'The impact of AI generated text on the internet' (2026): 1, arXiv:2604.26965v1.
[3] Khouwes Maribel, 'Deezer Launches Free AI Music Detector for Playlists,' *Deezer Newsroom*, June 17, 2026, https://newsroom-deezer.com/2026/06/check-ai-generated-music-in-playlists-with-deezer-detector/.
[4] Landgericht [LG] München I [Regional Court Munich I], (May 14, 2026), Case No. 42 O 763/25, para. 267 (Ger.).
[5] European Parliamentary Research Service, *Children and Deepfakes*, Briefing, PE 775.855 (2025): 2, https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/775855/EPRS_BRI(2025)775855_EN.pdf.

These tools are now readily available and deepfakes can now be generated with limited digital skills, resulting in the general public struggling to distinguish between synthetic and authentic media. [6]It is now entirely possible to convincingly replicate one's likeness, including one's voice. For instance, in 2023, a band named Breezer used AI tools to recreate the vocals of Liam Gallagher, lead singer of the band Oasis, for their album *AISIS*. [7]

Though the recent transparency rules of the European AI Act focused on ensuring the safety and fundamental rights of EU citizens, legislation on one's likeness is still sparse.[8] The legal challenges related to the protection of individuals are particularly acute in relation to non-patrimonial rights, such as personality rights and publicity rights, whose conceptual foundations and legal scope vary considerably across jurisdictions.

Therefore, the following question needs to be addressed: in the age of deepfakes and democratisation of generative AI, to what extent can personality rights and publicity rights, as understood today, be used to enable individuals to reclaim control over their likeness?

To answer this, this paper adopts a doctrinal methodology, analysing personality rights in civil law jurisdictions, particularly France and Germany, alongside publicity rights in the common law jurisdictions. Against this backdrop, the corresponding loss of control individuals face regarding the exercise of their likeness demonstrates how recent Danish reforms may serve as a model for strengthening legal protections against the growing struggle of AI-generated content for artists and individuals alike. From the November 2025 'Reddit nude-scene' case from the Danish Frederiksberg District Court to the new legislative amendments protecting an individual's likeness, Denmark emphasises the importance of personal integrity, drawing on copyright's moral rights tradition.[9]

To examine these shortcomings, a comparative analysis of legislation, case law, and legal scholarship is necessary. Focusing on the differing interpretations of personality rights, publicity rights and equivalent remedies, this methodology facilitates an assessment of publicity rights and equivalent remedies, thereby addressing the extent to which these rights enable individuals to reclaim control over their likeness.

Personality Rights: The Many Faces of a Heterogeneous Doctrine

Considered either an intellectual property right or a separate legal concept, personality rights are generally understood as the rights afforded to an individual to protect their personality as a virtue of privacy.[10] Many jurisdictions in the EU that adopt specific legislation

[6] *Ibid*., 2-3.
[7] "Breezer, 'AISIS - The Lost Tapes / Vol.1' (In Style of Oasis / Liam Gallagher - Al Mixtape/Album)" Youtube, April 14, 2023, https://www.youtube.com/watch?v=whB21dr2Hlc.
[8] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act), OJ L, 2024/1689, 12.7.2024, art. 1.
[9] "Convicted in historical case concerning sharing of nude scenes," *Rights alliance*, November 10, 2025, https://rettighedsalliancen.com/convicted-in-historical-case-concerning-sharing-of-nude-scenes/.
[10] Sri Sudharsan, "AI and Personality Rights: Legal Implications," International Journal of Law Management and Humanities 6, no. 6 (2023) : 2278-2286.

protecting one's image often associate this concept with Article 8 of the European Convention on Human Rights (ECHR), targeting the right to privacy.[11] For instance, Article 9 of the French Civil Code created a *"right to one's image"* (*droit à l'image*), which forbids the unconsented use of someone's image.[12] The existence of such a right is justified by the necessity to protect one's private life, thus directly relating French image rights to the right to privacy.[13]

Nevertheless, the right to privacy approach is not universally adopted across Europe. Some jurisdictions have adopted a hybrid nature to the protection of personality rights, drawing closer to the functioning of copyright rather than operating in a distinct manner. For instance, Germany has adopted a dual-natured approach to personality rights which consists in the protection of patrimonial and non-partimonial interests.[14] This means that both pecuniary (or financial) interests and personal well-being, dignity, and body, which are not linked to an economic value, are protected.

The nature of the German approach stems from two major cases: the Bismarck case of 1889 enabling the creation of a general right to personality, and the Marlene Dietrich decision from which its dual nature stems.[15] The Dietrich case favoured the inclusion of a specific provision aiming at personality rights (*Kunsturhebergesetz*) in the German Artistic Copyright Act of 1907, which created a compensation system that can be compared to mechanisms protecting intellectual property rights.[16] This point of view thus enabled the protection of one's image as a commodity and emphasised the importance of human dignity.

Where the concept of image rights has been consecrated in national jurisdictions in relation to Article 8 of the ECHR, there still are conflicting opinions as to which concept should prevail: the core copyright principle of freedom of expression or consent. The French supreme court (*cour de cassation*) has considered that an actress, plaintiff to the case, could not prevent the use and publication of a picture in an art book when she had consented to a nude photograph to be taken by the defendant.[17] The court held that as she had agreed for her picture to be taken, she had also consented for it to be published and publicly exhibited.[18] More recently, though, a case with similar facts judged by the Paris High Court did not consider consenting to a picture being taken as consent for it to be published[19]. This decision was taken despite the claimant arguing on the grounds of Article 10 of the European Convention on Human Rights protecting freedom of expression, thus showcasing the difficulty of striking a balance between both concepts.

[11] *Ibid.*
[12] Code civil [C. civ.] [Civil Code] art. 9 (Fr.).
[13] Sudharsan, "AI and Personality Rights: Legal Implications," 2279.
[14] Tatiana Synodinou, "Image Right and Copyright Law in Europe: Divergence and Convergences," *Laws* 3, no.2, (2014): 181–207, https://doi.org/10.3390/laws3020181.
[15] *Ibid.*; Bundesgerichtshof (BGH), December 1, 1999, BGHZ 143, 1 (Marlene Dietrich).
[16] Kunsturhebergesetz (KUG) [German Act on Copyright in Works of Art and Photography], § 22.
[17] Cass. 1e civ., Mar. 20, 2007, 06-10.305 (Fr.).
[18] *Ibid.*
[19] TGI Paris, Jan. 10, 2013, 11-23.637 (Fr.).

Publicity Rights: A Property-Motivated Right

Common law jurisdictions often do not include specific frameworks referring to personality rights, but rather depend on the notion of rights to publicity to protect one's traits. Publicity rights can be referred to as a means to protect personal names, nicknames, stage and pen names, or pictures enabling the identification of a human being.[20] The use of one's image can be exploited in three distinct manners when considering the right to publicity, but all must be made public: media use, promotions and advertising, and merchandising.[21] The concept of publicity rights was first adopted in the United States, where it was developed in 1953 in a case involving the licensing of baseball players' names and images for the use of baseball cards[22]. This concept in the U.S. is closely linked to a person's commercial value, working similarly to a patrimonial right.[23]

Though the objective of protecting marketable value has been unanimously accepted, the concept of publicity rights makes for an inconsistent and sometimes conflicting application.[24] Legal uncertainty arises from the significant differences in the interpretation and application of publicity rights across states and courts. Some states have adopted a narrow approach by only protecting the use of one's name or likeness in advertising. [25]Others have codified the Restatement approach. This approach inscribes the right of action when there is use of one's name or likeness in all cases, either private or public.[26] The opinions in courts also differ on the way liability must be determined. To limit this issue, some courts have adopted an analysis drawing from the copyright fair use defence, more specifically the transformative use doctrine.[27] This doctrine relies on the analysis of whether the use of the original work was used to create new expressions with a further purpose which does not substitute the original work.[28] Other courts have adopted a balanced approach, analysing the parties' interest weighed against the principle of freedom of expression.[29]

In the United Kingdom, there has not been any inclusion of publicity rights. In fact, these rights have not been dedicated lest it become a threat to freedom of expression.[30] Consequently, the protection of an individual's image is constructed through the combined use of torts and statutes.[31] The 'passing off' tort, adopted by the *Perry v Truefitt* case, is used in specific cases of misrepresentation of a celebrity's image. Its most common use

[20] Gillian Black, "Publicity and Image Rights in Scots Law," *Edinburgh Law Review* 14, no. 3 (2010): 368.
[21] *Ibid*., 366.
[22] *Haelan Laboratories, Inc. v. Topps Chewing Gum*, Inc., 202 F.2d 866 (2d Cir. 1953).
[23] Alex Wyman, "Defining the modern right of publicity," *Texas Review of Entertainment and Sports Law* 15, no. 167 (2014) 167-176.
[24] *Ibid*.
[25] *Ibid*.
[26] Restatement (Second) of Torts §652C, cmt. b (1977).
[27] *Comedy III Prods., Inc. v. Gary Saderup, Inc*., 25 Cal. 4th 387 (2001).
[28] BJ Ard, "Copyright's Latent Space: Generative AI and the Limits of Fair Use," *Cornell Law Review* no. 110 (2025): 509, https://ssrn.com/abstract=4630085.
[29] *CBC Distribution v. Major League Baseball Advanced Media,* 505 F.3d 818, 823 (8th Cir. 2007).
[30] Synodinou, "Image Right and Copyright Law in Europe: Divergence and Convergences", 286.
[31] *Ibid.*

tackles the misrepresentation of one's goods or services by another.[32] This can therefore be a remedy in cases where celebrities have defended their right to publicity. This tort has also been applied in cases of celebrity merchandising. The use of the passing off tort is justified by the fact that a celebrity's traits have commercial value, drawing closer to the U.S.' use of publicity rights.[33]

Defamation or malicious falsehood may bring relief to individuals who have seen their image used without consent. For instance, in the case of unauthorised endorsements, defamation could be argued if the advertisement is contrary to the attributes of the individual, derogatory to their image, or harmful to their reputation.[34]

In the specific case of performers, additional protection was adopted in 1925 thanks to the UK Dramatic and Music Performers Protection Act.[35] This gave performers a recourse option against the exploitation of their performances before the adoption of copyright provisions on performances. This was especially useful at the time of the introduction of new technologies such as gramophones and radio which could record and redistribute performances.[36] However, with the rise of generative AI and deepfakes, the core condition of existing unconsented recordings cannot apply.[37] AI is able to entirely reproduce one's likeness without directly recording the artist performing the output. This would fall outside of the scope of the Act and outside the protection of the international treaty on the protection of copyright, the Berne Convention.

The online sphere is becoming increasingly polluted by AI-generated content, and jurisdictions seem to be misaligned as to how to protect individuals. This study shows that the EU, U.S., and UK have a common trait: the lack of consideration of new technologies, thus putting individuals' ability to protect their likenesses at risk.

Personality Rights as a Subset to Copyright to Protect One's Likeness

In order to adapt to this change, Denmark has proposed an amendment creating a specific moral right to protect image rights, thus combining personality rights with intellectual property rights. The amendment would grant exclusive rights to individuals over their body, facial features, and voice with the aim of improving its citizens' recourses against AI-generated deepfakes through copyright law. [38]

As currently written, the amendment would offer general protection against realistic, di-

[32] *Perry v. Truefitt*, 6 Beav. 66 (1842) (UK); Sudharsan, "AI and Personality Rights: Legal Implications," 2279.
[33] *Ibid.*
[34] Hayley Stallard, "The rights of publicity in the United Kingdom," *Loyola of Los Angeles Entertainment Law Journal* no. 18 (1998): 573, https://digitalcommons.lmu.edu/elr/vol18/iss3/7.
[35] Dramatic and Musical Performers' Protection Act 1925, c. 46 (UK).
[36] Rory Lyttle, "Are US Publicity Rights the Way Forward in Protecting Artists' Vocal Likeness from Generative AI in the UK?," *Leeds Student Law and Criminal Justice Review* 6 (2026): 45-80.
[37] Dramatic and Musical Performers' Protection Act 1958.
[38] European Parliamentary Research Service, *The Danish Approach to Copyright and Deepfakes: A Model for the EU?*, At a Glance Briefing, PE 782.611 (January 2026), https://www.europarl.europa.eu/thinktank/en/document/EPRS_ATA(2026)782611.

gitally generated imitations of individuals and performers extending 50 years post-mortem–drawing close to the function of copyright.[39] Copyright is traditionally attributed to the author of an original artistic work, and does not extend to the person represented within the creation. The amendment would not constitute copyright protection in the *stricto sensu*, but would base the protection of one's image on the grounds of copyright's moral rights.

Some have highlighted that although the objective of this legislation is to enhance enforcement on the relevant Digital Service Act procedures for non-authorised imitations, deepfakes are already prohibited under several legal provisions.[40] The Danish criminal code prohibits identity theft and, separately, the Danish Marketing Practice Act protects against unauthorised commercial use of personal images.[41]

The functioning of the Danish amendment can be understood comparably to countries that have applied a unified approach of image rights. Currently, Denmark is deprived of specific provisions targeting the protection of individuals' right to publication. The Danish approach is novel in the sense that, contrary to Germany's protection of image rights, this legal provision would directly aim at protecting one's image through the prism of copyright law.

The Danish amendment on the Act on copyright has received divergent responses across the European Union. In the field of AI-generated deepfakes, many Member States have supported the Danish point of view. This has been demonstrated in Member States' reactions following the Council of the European Union's Declaration on the necessity of culture and media as a safeguard for our European democracies.[42] In fact, the document affirmed that AI-generated or manipulated materials are "*creating uncertainty about authorship, intellectual property and accountability*" and followed this statement by highlighting the importance of "*protecting the integrity of cultural expression and the personal characteristics*" of European citizens.[43]

Conclusion

Although other countries have expressed interest in adopting a similar provision, the current legislation relating to the protection of individuals and artists against deepfakes across Member States of the European Union and overseas needs to be reevaluated.[44] This

[39] *Ibid.*
[40] *Ibid.*
[41] Bekendtgørelse af straffeloven [Criminal Code] § 264 e (Den.); European Parliamentary Research Service, *The Danish Approach to Copyright and Deepfakes: A Model for the EU?*, At a Glance Briefing, PE 782.611 (January 2026), https://www.europarl.europa.eu/thinktank/en/document/EPRS_ATA(2026)782611.
[42] Council of the European Union (Danish Presidency), *Declaration on the Necessity of Culture and Media as a Safeguard for Our European Democracies, informal ministerial meeting declaration*, November 4, 2025, https://danish-presidency.consilium.europa.eu/media/vxjfaazq/declaration-on-the-necessity-of-culture-and-media.pdf.
[43] *Ibid.*
[44] Ministry of Culture Denmark, "Kulturministeren vil udbrede deepfake-lov til resten af Europa" [Culture Minister to Extend Deepfake Law to the Rest of Europe], press release, July 16, 2025, https://kum.dk/aktuelt/nyheder/kulturministeren-vil-udbrede-deepfake-lov-til-resten-af-europa.

would, however, require a unified project across the European Union in the definition of image rights to adopt such a reform. This would raise significant harmonisation challenges which may render the adoption of a unified approach at an EU level considerably difficult. Albeit essential for an effective recourse against the misuse of one's likeness through deepfakes, if applied uniformly to the EU, this tool may be assimilated with a publication ban, therefore interfering with the core principle upon which copyright is based: freedom of expression. This would consequently further deepen the opposition of image rights and copyright. Thus, the impact of the Danish amendment, once adopted, may remain limited to national borders.

The online sphere is becoming increasingly polluted by AI generated content. Today, in the European Union, the most common approach to the protection of one's likeness relies on the use of tools such as criminal codes, GDPR's right to erasure, or the Digital Services Act providing protection for personal data.[45] The Danish initiative on creating a specific moral right to protect image rights would fully combine image rights with intellectual property rights. In an increasingly AI-driven society, the proposed amendment would provide individuals with supplemental grounds to assert and enforce the protection of their likeness.

[45] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation), art. 17; Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and Amending Directive 2000/31/EC (Digital Services Act), Official Journal of the European Union L 277 (2022): 1–102.

Information Without Control:
Space Surveillance at Ceuta and Melilla

J. Luigi M. Kunz Saponaro[1]

Introduction

Border securitisation increasingly depends on surveillance-based measures, including space-enabled forms of observation. Security-linked concerns are driving numerous countries to fortify their borders. Irregular migration is frequently invoked to justify the construction and reinforcement of physical border barriers.

This increasing securitisation can be clearly observed in Ceuta and Melilla, the two autonomous cities of Spain. Located on the northern shores of Africa, they constitute the only land borders in Africa belonging not only to Spain but also to the European Union (EU). Combined, their border fences extend for 20.8 kilometers and consist of several layers of barriers.[2]

To maximise border control, the EU has engaged in externalisation practices, meaning that it has handed over duties connected to the control of its external limits to third countries. Morocco is a key partner in this system around Ceuta and Melilla. This cooperation has made Moroccan border enforcement an important component of the broader management of Ceuta's and Melilla's borders.[3] The May 2021 and July 2026 crises illustrate

[1] J. Luigi M. Kunz Saponaro is a 29-year old PhD candidate at Universidad Carlos III de Madrid, focusing on geopolitics, security studies, and international relations. He previously worked as a trainee at the Spanish Ministry of Foreign Affairs. He holds master's degrees in Geopolitics and Strategic Studies from UC3M and in Security, Defence, and Geostrategy from UDIMA, as well as a bachelor's degree in European Studies from Maastricht University.

[2] Costica Dumbrava, *Walls and Fences at EU Borders*, EPRS Briefing PE 733.692 (Brussels: European Parliamentary Research Service, October 2022), 3, https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733692/EPRS_BRI(2022)733692_EN.pdf.

[3] Xavier Ferrer-Gallardo and Lorenzo Gabrielli, "The Fenced Off Cities of Ceuta and Melilla: Mediterranean Nodes of Migrant (Im)Mobility," in *Migrations in the Mediterranean*, ed. Ricard Zapata-Barrero and Ibrahim Awad (Cham: Springer, 2024), 290–91, 295, https://doi.org/10.1007/978-3-031-42264-5_17.

how developments on the Moroccan side can rapidly generate pressure at the border. [4]

Against this background, Spain has increasingly modernised its border infrastructure. Beyond the physical fence system, sensors and cameras form part of the core of border-control practices adopted in Ceuta and Melilla. A significant trend in these practices is the growing importance given to the development of space-related tools. Satellites operate alongside terrestrial and other surveillance technologies.

The existence of space-based observations, however, does not demonstrate *per se* that Spain has become less dependent on Morocco. Hence, this article analyses whether improved observation changes Spain's capacity to manage the border independently. To address this query, the following research question is used throughout this paper: What kind of autonomy can space-enabled situational awareness provide at Ceuta and Melilla? The central argument of this research is that space-enabled awareness may reduce Spain's dependence on Morocco for information without eliminating its dependence on Moroccan enforcement action within Moroccan territory and the political cooperation required to sustain it.

The analysis distinguishes between informational, operational, and strategic autonomy. It conducts a qualitative analysis and policy assessment based on publicly available Spanish and EU institutional documents, satellite-operator publications, and academic literature. Since detailed tasking and operational information is not publicly available, the article assesses documented capabilities and institutional constraints rather than the specific operations. It first develops the autonomy framework. Then it examines Spanish and EU capabilities. Finally, it considers why improved information may fail to translate into independent control.

From The Fortified Line To Layered Awareness

In Ceuta and Melilla, the first fortifications introduced around the cities to diminish irregular migration were fences in the 1990s. Since then, the fence system has continued to be improved through the addition of more layers of barriers running parallel to one another. However, regardless of the efforts undertaken by the Spanish government and co-funded by the European Union, physical obstacles have never proved sufficient to achieve the goal of preventing irregular crossings into Spain's Autonomous Cities.[5]

The physical components of fortified borders, in general, present a number of shortcomings. First, studies show that fences may redirect rather than prevent irregular migration.[6] For example, the reinforcement of controls around Ceuta and Melilla following the

[4] See European Parliament, "European Parliament Resolution of 10 June 2021 on the Breach of the UN Convention on the Rights of the Child and the Use of Minors by the Moroccan Authorities in the Migratory Crisis in Ceuta (2021/2747(RSP))," P9_TA(2021)0289, June 10, 2021, https://www.europarl.europa.eu/doceo/document/TA-9-2021-0289_EN.pdf; Presidencia del Gobierno, "Referencia del Consejo de Ministros," September 1, 2026, https://www.lamoncloa.gob.es/consejodeministros/referencias/Paginas/2026/20260901-referencia-rueda-de-prensa-ministros.aspx.

[5] Dumbrava, *Walls and Fences at EU Borders*, 2–3.

[6] Nazli Avdan, Andrew S. Rosenberg, and Christopher F. Gelpi, "Where There's a Will, There's a Way: Border Walls

2005 border crisis contributed to the displacement of routes towards the Canary Islands.[7] Nonetheless, as new ways of crossing terrestrial barriers emerge, Ceuta and Melilla remain important routes since they avoid the risks associated with longer sea crossings.[8] This temporary diversion underscores the reduced effectiveness of physical barriers. Their reinforcement may thus alter routes without eliminating migratory pressure, contributing to an expensive and recurring effort by Spain and the EU.

It is because of these deficiencies that border surveillance has expanded beyond terrestrial infrastructure to incorporate space-based capabilities. In fact, the physical aspect of terrestrial borders represents only one of the many constituents that make up border management tactics applied at Ceuta and Melilla. Contemporary border management in Spain is based on terrestrial sensors, patrols, aircrafts, drones, databases, maritime systems, intelligence relationships, and satellites that operate alongside and above the physical barriers.[9] All of these apparatuses depend on each other to maximise the efficiency of the border infrastructure. The constant evolution of these elements forms part of the Spanish security strategy.

To assess the political effects of space-based observations, this article treats surveillance as a chain of technological capability. This chain consists of access and tasking, collection, downlink, processing, analysis, fusion with other information, and dissemination to decision-makers. Together, these stages can allow Spanish authorities to take timely and lawful action, capable of producing a political effect. A failure or delay at any stage can be a major issue as it prevents available information from influencing on-ground border management efforts.

It is through this chain that this article differentiates between three forms of autonomy for analytical purposes. First, informational autonomy refers to Spain's capacity to obtain as well as assess relevant information without relying primarily on Moroccan reporting. This form of autonomy corresponds to the information-producing stages of the surveillance chain, extending from access and tasking through dissemination. Second, operational autonomy concerns the ability to transform that specific information into timely action by means of appropriate institutions, personnel, assets, and legal authority. It therefore corresponds to the chain's subsequent conversion of available information into action. Finally, strategic autonomy means that Spain can pursue its border security goal even when third countries with which it cooperates, such as Morocco, refuse to cooperate or attempt to exert political pressure. In other words, it does not correspond to a discrete stage of the chain. It instead concerns whether the overall surveillance-to-action capacity

and Refugees," *Journal of Peace Research* 62, no. 2 (March 2025): 375–89, https://doi.org/10.1177/00223433231200918.

[7] Ruben Andersson, "Europe's Failed 'Fight' against Irregular Migration: Ethnographic Notes on a Counterproductive Industry," *Journal of Ethnic and Migration Studies* 42, no. 7 (2016): 1062, https://doi.org/10.1080/1369183X.2016.1139446.

[8] Ferrer-Gallardo and Gabrielli, "Fenced Off Cities," 291–92.

[9] Ministerio del Interior, "La Guardia Civil interceptó a más de 9.600 inmigrantes irregulares en 2016," February 3, 2017. https://www.interior.gob.es/opencms/es/detalle/articulo/La-Guardia-Civil-intercepto-a-mas-de-9.600-inmigrantes-irregulares-en-2016/.

enables Spain to pursue those objectives when Moroccan cooperation is withheld.

Improvements in the earlier, information-producing stages of the chain can, therefore, strengthen Spain's already substantial informational autonomy without necessarily producing greater operational or strategic autonomy. This differentiation is important because it separates the informational value of space-enabled observation from Spain's independent capacity to act. This particular relationship is assessed in the following section. The three forms of autonomy and the criteria used to assess them are summarised in *Table 1*.

Form of autonomy and assessment question	**Contribution of space-enabled surveillance**	**Remaining limitation**
Informational autonomy: Can Spain obtain and verify relevant information without relying primarily on Morocco?	Improves verification; Extends geographical reach; Enhances early warning systems.	Observation is not continuous; Tasking and processing can cause delays; Spain remains partly dependent on EU and commercial services for supplementary satellite imagery and operational information.
Operational autonomy: Can Spain convert available information into lawful action within a reduced amount of time?	Provides early warning and supports the mobilisation of resources needed to reduce stress along the borders.	Action broadly depends on available assets and legal authority; Spain has no legal authority to take preventive action within Moroccan territory.
Strategic autonomy: Can Spain pursue its border-security objectives when Moroccan cooperation declines or is withheld?	Diminishes uncertainty and reinforces Spanish preparedness.	Space surveillance cannot replace Moroccan territorial enforcement or political cooperation.

Table 1. Analytical framework for assessing space-enabled autonomy at Ceuta and Melilla. Source: Author's elaboration.

Space-Enabled Surveillance: Capabilities and Autonomy

Spain has access to two principal satellite support systems that can support the management of Ceuta's and Melilla's borders. On the one hand, there is the national PAZ Earth-observation capability.[10] On the other hand, Spain can access space-enabled border-

[10] Instituto Nacional de Técnica Aeroespacial (INTA), *PAZ Mission Scientific Exploitation: Announcement of Opportunity—Launch of PAZ Science Phase*, ref. PAZ/INTA/CALVAL/AO/001, issue 1.0 (February 11, 2019), 3–4, https://www.inta.es/export/sites/default/.galleries/Paz-Ciencia-Descarga/PAZ-INTA-CALVAL-AO-001_PAZ_Science_en.pdf; European Border and Coast Guard Agency (Frontex), "Copernicus Programme," January 15, 2019, https://www.frontex.europa.eu/what-we-do/copernicus-programme.

surveillance products provided through EU services and commercial providers.[11] PAZ uses Synthetic Aperture Radar (SAR), while EU and commercial services can draw on both radar and optical imagery.[12] SAR is an active sensor that emits microwave signals that are reflected by the Earth and received at data-interpretation centres. This measurement allows authorities to produce and receive imagery depicting specific zones in areas surrounding the Autonomous Cities' border region. This represents a useful tool for Spain as it provides information on the area of interest during the day, at night, and even when clouds are present.[13] In terms of the analytical framework, this capability primarily strengthens informational autonomy by expanding Spain's capacity to obtain information independently of Moroccan reporting.

At a national level, Spain's space-surveillance project has only one active PAZ satellite in orbit, operated by Hisdesat. This is an important limitation since, as a satellite in low Earth orbit, PAZ cannot remain continuously positioned over Ceuta and Melilla. Observation instead depends on available orbital passes and tasked acquisitions. Moreover, obtaining information from this satellite can also be tedious. This is the case as its deployment depends on an authorised tasking request which must be assigned sufficient priority.[14] The data must be downlinked, processed, interpreted, and delivered to the relevant authority. These stages can constrain PAZ's contribution to immediate warning, meaning that PAZ should be understood as a complementary source of awareness instead of a system capable of providing continuous border surveillance. These limitations constrain informational autonomy in terms of continuity and timeliness and may also reduce the operational value of the information when rapid action is required.

Because PAZ alone cannot provide continuous coverage, Spain supplements its national capabilities with support offered through EU and commercial services. At EU level, Copernicus Border Surveillance services, managed by Frontex, provide Earth-observation-derived information on the EU's external borders and pre-frontier areas through the EUROSUR framework. These services are able to combine Earth-observation data, including radar and optical imagery, with other sources to produce operational information.[15] That information can be shared through EUROSUR, the framework used by Member States and Frontex to exchange information and situational pictures, meaning compiled operational representations of developments at external borders and in pre-frontier areas.[16]

[11] European Border and Coast Guard Agency (Frontex), "Copernicus Programme"; European Border and Coast Guard Agency (Frontex), https://www.frontex.europa.eu/what-we-do/copernicus-programme [Accessed September 1, 2026].
[12] Hisdesat Servicios Estratégicos, S.A., *PAZ Image Product Guide*, issue 1.1 (June 26, 2019), 7–11, https://www.hisdesat.es/wp-content/uploads/2019/10/PAZ-HDS-GUI-001-PAZ-Image-Product-Guide-issue-1.1-.pdf; European Commission, Commission Implementing Decision (EU) 2018/620 of April 20, 2018 on the Technical Specifications for the Copernicus Service Component Pursuant to Regulation (EU) No. 377/2014 of the European Parliament and of the Council, *Official Journal of the European Union* L 102 (April 23, 2018), annex VII, 48–50, https://eur-lex.europa.eu/eli/dec_impl/2018/620/oj/eng.
[13] Hisdesat Servicios Estratégicos, *PAZ Image Product Guide*, 7–11.
[14] Hisdesat Servicios Estratégicos, *PAZ Image Product Guide*, 7–11; Frontex, "Copernicus Programme."
[15] Frontex, "Copernicus Programme."
[16] Jorrit J. Rijpma and Mathias Vermeulen, "EUROSUR: Saving Lives or Building Borders?," *European Security* 24,

These services reinforce Spain's informational capacity, while its reliance on them also limits the extent to which that capacity can be considered fully national and independent. Having access to the EU-level space services is important, yet Spain's reliance on European procedures and commercial providers means that its informational autonomy is not absolute. Timely and independent dissemination of information retrieved through space-observation practices therefore remains constrained. At the same time, greater national satellite capacity would primarily address this informational limitation. This does not mean that it would resolve the operational or strategic constraints associated with Spain's dependence on Moroccan enforcement. This distinction remains relevant even with the two additional PAZ-2 satellites planned for launch by 2031.[17]

Therefore, the added value of satellite Earth observation must be assessed in relation to the extensive surveillance infrastructure that is already operating around Ceuta and Melilla. Satellite imagery has the potential to extend observation into pre-frontier areas and increase verification and early warning capacities. Still, it does not replace the on-the-ground knowledge produced by terrestrial, aerial, or human sources used by Spain. These sources can provide more continuous, locally focused contextual information while satellite observation is constrained by orbital coverage and processing requirements. Its principal contribution is to help Spanish authorities to prepare for possible pressure at the border. For example, satellite imagery of pre-frontier areas could reveal unusual movements of vehicles or other large-scale activity along routes towards Ceuta or Melilla, allowing authorities to cross-check this information with terrestrial or aerial sources and reposition personnel and other assets before pressure reaches the border. Thus, its clearest contribution is to informational autonomy. Whether this additional information also produces greater operational or strategic autonomy depends on Spain's capacity to convert awareness into action.

From Improved Information To Autonomy

Informational autonomy concerns independent knowledge. Spain already possesses a substantial degree of informational autonomy because it can obtain and assess relevant information without relying primarily on Morocco. Space-enabled observation may reinforce this autonomy by improving verification, geographical reach, and early warning systems. This gain remains, nonetheless, incremental since existing terrestrial, aerial, and human sources may already provide much of the information which Spanish authorities need to prepare a response. [18]

Operational autonomy concerns the ability to transform available information into timely action. Spain can use satellite imagery to strengthen its early-warning system and reposition assets in Ceuta and Melilla. In doing so, it improves readiness for situations of stress.

no. 3 (2015): 454–72, https://doi.org/10.1080/09662839.2015.1028190.

[17] Ministerio de Defensa, "El INTA, referente del desarrollo tecnológico satelital y de drones," February 24, 2025, https://www.defensa.gob.es/gabinete/notasPrensa/2025/02/DGC-250224-visita-inta.html.

[18] Ministerio del Interior, *Programa Nacional del Fondo de Seguridad Interior para España,* version 3.3 (December 12, 2018), 9–10, https://www.interior.gob.es/opencms/pdf/servicios-al-ciudadano/Fondo-de-seguridad-interior/Programa-Nacional-del-Fondo-de-Seguridad-Interior-para-Espana.pdf.

However, even with increased use of satellite observation, Spain cannot take unilateral action to prevent movements on Moroccan territory, nor can it stop people before they reach the border. For this reason, it is possible to argue that jurisdiction epitomises the central limitation on Spain's capacity to translate improved awareness into preventive action.

Strategic autonomy concerns Spain's ability to pursue its border security objectives when Moroccan cooperation declines or is withheld. The May 2021 and July 2026 crises provide particularly clear tests: a reduction in enforcement on the Moroccan side coincided with the arrival of thousands of people in Ceuta, while Spain could reinforce its response within the enclave but could not prevent movements taking place on Moroccan territory.[19] These cases illustrate where the surveillance-to-action chain reaches its principal limit. If Moroccan leverage derived primarily from controlling information, satellite observation could substantially reduce Spanish dependence. Instead, insofar as that leverage derives from Morocco's discretion over enforcement within its own territory, greater informational autonomy does not translate into equivalent strategic autonomy.

Overall, Spain may already possess sufficient situational awareness to anticipate crises such as those that occurred in 2021 and 2026. The central problem is the inability to act accordingly. Space surveillance allows Spain to anticipate such situations more independently and prepare for them more effectively.[20] It cannot, however, substitute for preventive actions that only Moroccan authorities can undertake on Moroccan territory. Investment in space-observation assets represents, therefore, a positive step towards improving prediction and preparedness. It remains, nonetheless, an improvement that does not constitute a turning point in Spain's capacity to act more autonomously in response to developments that take place beyond its border.

Conclusion

Spanish and EU satellite capabilities are being expanded to improve situational awareness and early warning in border management. Their principal contribution is to help authorities to anticipate and prepare for possible pressures along the bloc's external borders, including at Ceuta and Melilla.

This article asked: What kind of autonomy can space-enabled situational awareness provide at Ceuta and Melilla? The analysis finds that Spain already possesses substantial informational autonomy through its existing surveillance and information-gathering capabilities, while space-enabled awareness further reinforces that autonomy by extending geographic reach and early warning capacity. This improvement, however, does not re-

[19] See European Parliament, "European Parliament Resolution of 10 June 2021"; Ministerio del Interior, "Comunicado sobre la situación en la ciudad autónoma de Ceuta," July 30, 2026, https://www.interior.gob.es/opencms/es/detalle/articulo/Comunicado-sobre-la-situacion-en-la-ciudad-autonoma-de-Ceuta/.
[20] Presidencia del Gobierno, "Pedro Sánchez reitera que se emplearán 'todos los recursos del Estado' para garantizar la seguridad en Ceuta y condena la 'violación y el ataque a la integridad territorial' de España," July 31, 2026, https://www.lamoncloa.gob.es/presidente/actividades/paginas/2026/310726-sanchez-reunion-coordinacion-ceuta.aspx.

move other forms of dependence. Spain will continue to rely on Moroccan territorial action and political cooperation to prevent movements before they reach the border. For this reason, its operational and strategic dependence on Morocco is likely to persist in the medium and long term.

The case presented in this paper is not evidence that space surveillance is ineffective. Instead, it demonstrates that increased informational autonomy does not necessarily translate into greater operational or strategic autonomy. Satellite-linked power becomes strategically meaningful only when information can be converted into lawful and effective action on the ground. Further research should assess how satellite-derived information is integrated into Spanish border operations and whether it materially improves the timing and quality of preparedness.

When Borders Remember: Institutional Learning under the EU Migration Pact

Estéfany Rocha Monteiro[1]

Introduction

A border authority can record a person twice. First, it captures fingerprints, identity data and the route of arrival. Later, after an alleged pushback or unlawful detention, another institution records the complaint. The European migration system has become highly capable of producing both kinds of records. The more difficult institutional question is whether information about a violation changes the routines that made it possible. Without such a feedback loop, monitoring can document wrongful practices while leaving the conditions for their repetition intact.

This question has acquired immediate importance. The European Union's (EU) New Pact on Migration and Asylum entered into force on 12 June 2026, after two years of national preparation. Shortly before that date, the European Commission reported substantial progress in establishing screening and border procedures, while at the same time identifying the operationalisation of legal safeguards, including fundamental rights monitoring, as unfinished work.[2]

Article 10 of the Screening Regulation now requires every Member State to provide an independent mechanism that monitors compliance with EU law and international law during screening. The mechanism must address substantiated allegations, trigger

[1] Estéfany Rocha Monteiro is a Brazilian lawyer and researcher completing an LL.M./MAS in Transitional Justice, Human Rights and the Rule of Law at the Geneva Academy of International Humanitarian Law and Human Rights. Her research focuses on international human rights law, institutional reform, migration and asylum, and guarantees of non-recurrence. She is the author of "*Maximum protection for refugees: a possible paradigma in international law?*" (Lumen Juris, 2025).
[2] European Commission, "Commission Reports on Progress in Implementing Pact on Migration and Asylum," May 8, 2026, https://home-affairs.ec.europa.eu/news/commission-reports-progress-implementing-pact-migration-and-asylum-2026-05-08_en.

investigations where necessary and follow their progress. It may conduct random and unannounced checks, access relevant locations, people and documents, and issue annual recommendations. The Asylum Procedure Regulation extends an equivalent model to asylum border procedures.[3]

These provisions create an important architecture of visibility. Their preventive value, however, will depend on what happens after a violation has been identified. A mechanism can inspect, document and recommend, while the authority concerned continues to reproduce the same practice through unchanged routines, information systems and professional incentives. Monitoring then produces knowledge without institutional memory.

This article proposes that the new mechanisms should be understood through the logic of guarantees of non-recurrence: measures intended to reduce the risk that violations recur by changing the laws, institutions, practices and relationships that enabled them. The analogy is methodological rather than categorical: ordinary border administration and societies emerging from mass violence belong to different legal and historical settings. The field of non-recurrence nevertheless offers a precise question that is relevant to both: how does knowledge of harm become durable institutional change?

A separate limitation concerns causality. Guarantees of non-recurrence do not establish a simple causal relationship between institutional reform and future compliance. As Davidovic shows, the concept has broadened to encompass a wide range of legal and institutional reforms, even though it remains difficult to determine when and under what conditions those reforms actually reduce the risk of recurrence.[4] I therefore use non-recurrence here as a diagnostic framework: not to assume that reform prevents repetition, but to ask whether knowledge of harm is translated into changes in the institutional conditions that made repetition possible.[5]

The Pact's Promise of Prevention

Article 10 establishes minimum requirements rather than a uniform European model. Each Member State must provide an independent mechanism able to monitor compliance, deal effectively with substantiated allegations, carry out on-the-spot and random or unannounced checks, and access relevant locations, individuals and documents. The Asylum Procedure Regulation extends the same monitoring requirement

[3] Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 Establishing a Common Procedure for International Protection in the Union, art. 43(4), OJ L 2024/1348, May 22, 2024; Regulation (EU) 2024/1356 of the European Parliament and of the Council of 14 May 2024 Introducing the Screening of Third-Country Nationals at the External Borders, art. 10, OJ L 2024/1356, May 22, 2024.
[4] Maja Davidovic, "The Law of 'Never Again': Transitional Justice and the Transformation of the Norm of Non-Recurrence," *International Journal of Transitional Justice* 15, no. 2 (2021): 386–406, https://doi.org/10.1093/ijtj/ijab011.
[5] Naomi Roht-Arriaza, "Measures of Non-Repetition in Transitional Justice: The Missing Link?," in *From Transitional to Transformative Justice*, ed. Paul Gready and Simon Robins (Cambridge: Cambridge University Press, 2019), 105–30, https://doi.org/10.1017/9781316676028.005.

to asylum border procedures.[6] The Regulation nonetheless leaves the institutional form and much of the operational design to national law. The European Union Agency for Fundamental Rights (FRA)'s guidance therefore becomes important at the implementation stage, recommending access to files, registers, videos and electronic systems, confidential communication with affected people, and working links with disciplinary bodies and prosecutors.[7]

The design reflects a sound premise: external scrutiny can reduce the risk of violations before judicial remedies become necessary. It can also preserve evidence and strengthen investigations when prevention fails. The Agency accordingly describes independent monitoring as both preventive and capable of increasing public trust.[8]

That large national discretion has produced uneven implementation of the Screening Regulation and the Asylum Procedure Regulation. FRA reported in July 2026 that most Member States had completed, or were close to completing, the legal arrangements for designating their monitoring mechanisms, usually by assigning the task to existing statutory human rights bodies. Yet most mechanisms were still establishing their *modus operandi*; some expected to begin monitoring only in 2027 because of staffing and resource constraints, while recurring concerns included access to information and locations, common standards, methodology and training.[9]

Recent scholarship helps explain why the concrete architecture of these mechanisms matters. Goldner Lang argues that their effectiveness depends not simply on formal establishment, but on mandate, independence, access to information, methodology and follow-up.[10] Rijpma situates border monitoring within a broader shift from enforcement towards compliance management and argues that monitoring and evaluation can complement, but cannot replace, enforcement where systemic administrative practices breach fundamental rights.[11] Read together, these analyses locate the implementation problem in what follows observation: whether information generated by monitoring acquires consequences within the institutions whose conduct it scrutinises.

---

[6] Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 Establishing a Common Procedure for International Protection in the Union, art. 43(4), OJ L 2024/1348, May 22, 2024; Regulation (EU) 2024/1356 of the European Parliament and of the Council of 14 May 2024 Introducing the Screening of Third-Country Nationals at the External Borders, art. 10, OJ L 2024/1356, May 22, 2024, https://eur-lex.europa.eu/eli/reg/2024/1348/oj/eng.

[7] European Union Agency for Fundamental Rights, *Monitoring Fundamental Rights during Screening and the Asylum Border Procedure: A Guide on National Independent Mechanisms*, 2024 ed. (Luxembourg: Publications Office of the European Union, 2024), 7–10, https://fra.europa.eu/sites/default/files/fra_uploads/fra-2024-independent-border-monitoring-mechanisms_en.pdf.

[8] European Union Agency for Fundamental Rights, *Monitoring Fundamental Rights during Screening and the Asylum Border Procedure*, 2–3

[9] European Union Agency for Fundamental Rights, "Migration and Fundamental Rights Bulletin – 2/2026," July 21, 2026, sec. 3.1, https://fra.europa.eu/en/publication/2026/migration-bulletin-2-2026.

[10] Iris Goldner Lang, "National Independent Monitoring Mechanisms for Fundamental Rights Compliance at the EU's External Borders," *European Papers* 9, no. 3 (2024): 1216–27, https://doi.org/10.15166/2499-8249/806.

[11] Jorrit J. Rijpma, "Watching the Guards: Ensuring Compliance with Fundamental Rights at the External Borders," *European Law Journal* 30, nos. 1–2 (2024): 74–86, https://doi.org/10.1111/eulj.12500.

This question becomes more acute because monitoring operates within procedures that themselves create identifiable fundamental-rights risks. Corcodel focuses particularly on the prospect that the screening framework may produce systematic deprivation of liberty at the border while delaying the procedural guarantees that ordinarily accompany asylum or return procedures.[12] Apatzidou identifies related concerns within asylum border procedures, including accelerated decision-making, restricted practical access to legal assistance, short appeal periods, the absence of automatic suspensive effect in border-procedure appeals and the possibility that the fiction of non-entry will routinise detention or other restrictions on freedom of movement[13]. Monitoring therefore operates in an environment where repeated harm may result from individual conduct, but may also be embedded in the design and routine operation of the procedure itself.

Recent European experience shows why these preventive and trust-building functions depend on the concrete operation of monitoring. In *A.R.E. v Greece*, the European Court of Human Rights found strong indications of a systematic practice of pushbacks from the Evros region to Türkiye. The applicant had been returned without an assessment of the specific risks she faced and without consideration of her request for international protection. The Court found violations concerning the principle of non-refoulement, informal detention and the absence of an effective remedy. The judgment also relied on the convergence of reports produced by national and international institutions. Separate testimonies and observations, when read together, enabled the Court to identify a broader pattern rather than treat the allegation as an isolated event.[14]

The episode illustrates the value of institutional aggregation. A violation at a border often appears as an isolated encounter between an official and a person whose presence may be brief, precarious and poorly documented. Pattern recognition depends on an institution capable of connecting locations, shifts, units, procedures and accounts over time. Monitoring provides the conditions for that connection.

It also reveals the limits of documentation standing alone. The Council of Europe Commissioner for Human Rights observed in 2025 that internal investigations in Greece rarely followed allegations involving coastguards and that completed inquiries consistently cleared the personnel concerned. The Commissioner recorded shortcomings in witness examination and evidence gathering, as well as continuing accountability gaps across national and European institutions.[15] A system can therefore accumulate reports while remaining organisationally unchanged. The capacity to recognise a pattern matters

[12] Veronica Corcodel, "Fundamental Rights Challenges and the Pre-Entry Screening Procedure under the New Pact on Migration and Asylum," in *FutureLaw*, vol. 5, ed. Fábio da Silva Veiga and Paulo de Brito (Porto: Instituto Iberoamericano de Estudos Jurídicos, 2024), 51–60, https://doi.org/10.62140/VC512024.

[13] Vasiliki Apatzidou, "Bordering Asylum: Examining the EU's Border Procedures under the Asylum Procedures Regulation (EU) 2024/1348," *International Journal of Refugee Law* 37, no. 2 (2025): 201–18, https://doi.org/10.1093/ijrl/eeaf014.

[14] *A.R.E. v. Greece*, no. 15783/21 (European Court of Human Rights, January 7, 2025), https://hudoc.echr.coe.int/eng?i=001-240242.

[15] Council of Europe Commissioner for Human Rights, *Memorandum on Migration and Border Control Following the Commissioner's Visit to Greece from 3 to 7 February 2025*, CommHR(2025)10, May 6, 2025, paras. 18–23, https://rm.coe.int/memorandum-on-greece-on-migration-and-border-control-following-visit-t/1680b5a661.

only if that knowledge can subsequently travel into the routines, decisions and institutional conditions that allowed the pattern to emerge.

From Monitoring to Institutional Memory

Guarantees of non-recurrence are the explicitly forward-looking dimension of redress. They treat prevention as more than a promise of future compliance. The concept asks whether institutions have altered the structures, practices and relationships that made violations possible. United Nations work on non-recurrence consequently places institutional reform, civilian oversight, accountability and public trust within the same preventive frame.[16]

Applied to the Pact, this perspective shifts the central measure of success. The relevant question becomes larger than whether a monitoring body exists, has visited facilities or has published a report. The measure is whether its findings travel through the border system and modify the conditions under which future decisions are made. To that end, four elements are particularly important.

First, the mechanism needs a systemic memory. Complaints, observations and investigation outcomes should be recorded in a form that allows comparison across time and place. This requires common categories for the type of procedure, authority involved, vulnerability identified, evidence available, referral made and remedial action adopted. Personal data must remain protected, while anonymised pattern analysis should be sufficiently detailed to show whether an incident reflects a recurring practice. The challenge is to preserve the human meaning of a complaint while making repetition institutionally legible.

The Agency's guidance already supports this direction. It recommends systems for recording allegations, receiving information from victims, witnesses and other informed actors, and following investigations. The next step is to ensure that Member States and European bodies can compare findings without flattening national differences. Shared minimum indicators could distinguish an individual case, a repeated operational failure and a structural risk.[17]

Second, findings need an institutional route. A recommendation addressed generally to a ministry may carry moral and political weight, but prevention requires an identifiable chain of translation. Each substantiated pattern should be connected to the authority able to change the relevant rule, instruction, staffing decision, training module or digital workflow. A finding concerning access to asylum, for example, may require revised operating procedures, new language guidance, supervisory review and changes to the way encounters are entered into national systems.

[16] United Nations Human Rights Council, Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, Pablo de Greiff, A/HRC/30/42, September 7, 2015, paras. 24–25, 108–110, https://docs.un.org/en/A/HRC/30/42.
[17] European Union Agency for Fundamental Rights, Monitoring Fundamental Rights, 10–11.

This translation also needs time limits and reasons. The competent authority should identify the action adopted, the official responsible and the date for review. Where it declines a recommendation, it should provide a public explanation compatible with the protection of personal and operational information. Such a response converts annual recommendations from commentary on administration into part of administration itself.

Third, institutional learning requires protected participation. The people on the move who undergo screening possess knowledge that official records may omit: whether an asylum request was understood, how instructions were communicated, where phones or documents were taken, and which informal practices accompanied a formal procedure. Their participation improves both the factual quality and legitimacy of monitoring.

Access to the monitoring mechanism must be designed around the realities of the border. Confidential interviews, independent interpretation, accessible complaint channels and safeguards against retaliation are essential. Cooperation with civil society and migrant-led organisations can also reveal patterns that short visits miss. Article 10 permits the involvement of relevant non-governmental and international organisations, while FRA recommends that monitoring bodies incorporate third-party information and maintain working relationships with them. Participation here is a source of institutional knowledge, rather than a ceremonial consultation after conclusions have already been reached.[18]

Fourth, learning needs consequences across levels of governance. Article 10 requires the Commission to take national findings into account when assessing the effective application of the Charter in connection with European Union funding. FRA further recommends that findings inform Schengen evaluations, Frontex vulnerability assessments, monitoring by the European Union Agency for Asylum and committees responsible for the conditionality of migration and border funds. These links could turn a local observation into a wider correction.[19]

The current framework still leaves part of that pathway discretionary. Article 10 authorises annual recommendations but does not establish a detailed procedure requiring national authorities to respond to each recommendation and document its implementation.[20] Since the earlier academic analyses of the mechanisms, however, coordination has advanced. FRA reported in July 2026 that it had developed a common monitoring methodology and begun piloting it with national mechanisms, while the final recommendations from Croatia's pre-Pact mechanism stressed the importance of proper and visible follow-up to monitoring findings.[21] These developments improve methodological convergence, but they do not yet create a common EU procedure for

[18] European Union Agency for Fundamental Rights, Monitoring Fundamental Rights, 15–17.
[19] European Union Agency for Fundamental Rights, Monitoring Fundamental Rights, 14–16; Regulation (EU) 2024/1356, art. 10(2).
[20] Iris Goldner Lang, "National Independent Monitoring Mechanisms for Fundamental Rights Compliance at the EU's External Borders," *European Papers* 9, no. 3 (2024): 1224–27, https://doi.org/10.15166/2499-8249/806.
[21] European Union Agency for Fundamental Rights, "Migration and Fundamental Rights Bulletin – 2/2026," July 21, 2026, sec. 3.1, https://fra.europa.eu/en/publication/2026/migration-bulletin-2-2026.

tracing what happens after a finding is issued. A next step would therefore be a European follow-up framework, developed through cooperation among the Commission, FRA and national mechanisms, setting minimum requirements for assigning responsibility, recording responses, publishing progress and escalating persistent failures.

A Test for the First Years of Implementation

The Pact's first evaluation cycle should therefore examine institutional movement alongside formal readiness. Four questions can guide that assessment.

Has the monitoring mechanism identified recurrent patterns across individual incidents? Have those findings altered operational functions, including procedures, supervision, vetting or training? Do information systems record the facts needed to detect recurrence and trace remedial action? Can affected people and trusted organisations access the mechanism safely, and are their submissions systematically recorded and incorporated into pattern analysis and follow-up?

These questions also clarify the relationship between monitoring and investigation. Criminal and disciplinary proceedings determine individual responsibility under their respective standards. Monitoring performs an additional task: it asks what the institution must change even where individual responsibility remains unresolved. A narrow evidentiary outcome in one case should therefore remain compatible with broader preventive action when converging information reveals an operational risk.

The distinction matters in light of *A.R.E*. and *G.R.J. v Greece.* In both cases, the Court found strong indications of a systematic pushback practice. The second application was declared inadmissible because the applicant had not provided sufficient prima facie evidence of his own presence and removal on the dates alleged. Individual proof and structural learning answer different questions. A monitoring system capable of holding both levels together can respect legal standards of attribution while responding to credible patterns before another person carries the full burden of proving another violation.[22]

The Commission's 2026 strategy presents the Pact as an effort to combine strong borders, fair procedures and fundamental rights, supported by expanding digital and intelligence-led capacities.[23] That combination makes institutional memory especially urgent. Border authorities will possess increasingly sophisticated tools for identifying people, movements and risks. The rights architecture deserves an equivalent capacity to identify repeated harm, trace the response and verify change.

Conclusion: When a Border Remembers

[22] G.R.J. v. Greece (dec.), no. 15067/21 (European Court of Human Rights, December 3, 2024), https://hudoc.echr.coe.int/eng?i=001-240283.
[23] European Commission, European Asylum and Migration Management Strategy, COM(2026) 45 final, January 29, 2026, 10–12, https://home-affairs.ec.europa.eu/document/download/ce0d294e-5dd9-4e2a-bf68-53d9d16fc95a_en.

The independent monitoring mechanisms are among the Pact's most promising safeguards. Their contribution will reach beyond the number of inspections completed or recommendations issued. They can give the European border system a memory of its own effects.

Institutional memory differs from an archive. An archive preserves what happened. A learning institution allows that knowledge to shape what happens next. At the border, this means that a testimony can alter an instruction, a repeated complaint can trigger supervision, an investigation can revise training, and a national finding can influence European funding and evaluation.

The Pact entered into application with extensive systems for identifying and directing the people who arrive. Its legitimacy will also depend on whether it can identify and redirect its own failures. A border remembers when the account of one person changes the conditions faced by the next.

Bosnia and Herzegovina's EU Accession:
Testing the Limits of Integration

Ivan Vieira Pistelli[1]

Introduction

The renewed geopolitical relevance of European Union (EU) enlargement has transformed the Western Balkans into a critical strategic hotspot. Nowhere is this more evident than in Bosnia and Herzegovina, where the institutional landscape remains deeply marked by its history of ethnic conflicts and sustained international interventions. The country's complex socio-political fabric, marked by entrenched ethnic divisions, has significantly shaped its governmental structures and policy-making processes.

The constitutional setup of the 1995 Dayton Peace Agreement, which ended the Bosnian war, created a highly fragmented administrative reality with three presidents, two entities, and one foreign overseer vested with sweeping powers to impose legislation and unilaterally remove officials. Today, Bosnia is caught in a geopolitical impasse, exacerbated by disputes between the EU, the United States, and Russia over the future shape of that very oversight. In June 2026, Washington and Brussels failed to agree on a successor to outgoing High Representative Christian Schmidt, with the US embassy publicly blaming "*European indecision*" for the impasse and signalling that it might reconsider its role in the country altogether.[2]

Bosnia's institutional fragility is compounded by domestic contestation of the state's own legitimacy. The Former President of Republika Srpska, one of the two political entities, has

[1] Ivan Vieira Pistelli holds a Master's in Politics and Policy Analysis from Bocconi University. He has previous work experience with public governance assessments for EU candidate countries at the OECD SIGMA programme and completed a traineeship at the European Commission.
[2] "Europe and US on Collision Course over Next High Representative for Bosnia," *The Guardian*, June 30, 2026, https://www.theguardian.com/world/2026/jun/30/europe-us-high-representative-for-bosnia.

repeatedly threatened secession and labelled Bosnia as a "*failed state*," a characterisation that highlights the depth of the country's institutional paralysis.[3] The intricate constitutional power sharing arrangements render any meaningful legislation virtually unattainable without the involvement of the High Representative. The resulting gridlock not only undermines the functioning of the Bosnian state but also impedes any progress towards EU integration.

While a decentralised state structure is not, in itself, incompatible with EU standards, Bosnia must substantially reform its institutions to effectively participate in EU decision-making and to fully implement and enforce the *acquis communautaire*. The Copenhagen criteria and the EU's broader enlargement conditionality serve as critical screening, commitment, and disciplining mechanisms, which ensure alignment with EU standards before and after accession. However, these mechanisms have elicited limited response by policymakers in Sarajevo, despite two decades of formal alignment commitments.

This article argues that Bosnia's EU membership conditionality must be disaggregated into Entity-level requirements, since the unique constitutional setup renders substantial reform delivery dependent on Entity consent. The argument proceeds in three steps. It first examines the institutional bottlenecks that hinder legislative progress and compliance with the *acquis*. It then analyses how this domestic paralysis translates into geopolitical vulnerability, inviting external actors to exploit Bosnia's institutional vacuum. Finally, based on the diagnosis, the article proposes a set of political compromises the EU could pursue to break the deadlock while avoiding the flaws of the gradual-integration proposals under consideration.

The Institutional Obstacles to European Integration

Bosnia's institutional paralysis is heightened by a deep and enduring ethnopolitical cleavage. For instance, attitudes towards EU membership remain polarised along ethnic lines. Although seven in ten Bosnians support EU membership, 83% of citizens in the Bosniak and Croat Federation support membership, compared with 46% in Serb-majority Republika Srpska.[4] The pattern is even starker regarding NATO, which 57% of citizens support overall, a figure that masks an almost complete ethnic split, with 84% of Bosniaks and Croats in favour against just 9% of Serbs.[5]

---

[3] "Bosnia's Serb Leader Dodik Unveils Plans to Dismantle 'Failed' Country," *France24*, October 22, 2021, https://www.france24.com/en/live-news/20211022-bosnia-s-serb-leader-dodik-unveils-plans-to-dismantle-failed-country.

[4] Direkcija za evropske integracije, "Članstvo BiH u EU podržava 69,9 % građana BiH," July 2025, Retrieved from: https://www.dei.gov.ba/bs/clanstvo-bih-u-eu-podrzava-699-gradana-bih.

[5] International Republican Institute, "Western Balkans Regional Poll, May–July 2025," https://www.iri.org/resources/western-balkans-regional-poll-may-july-2025/.

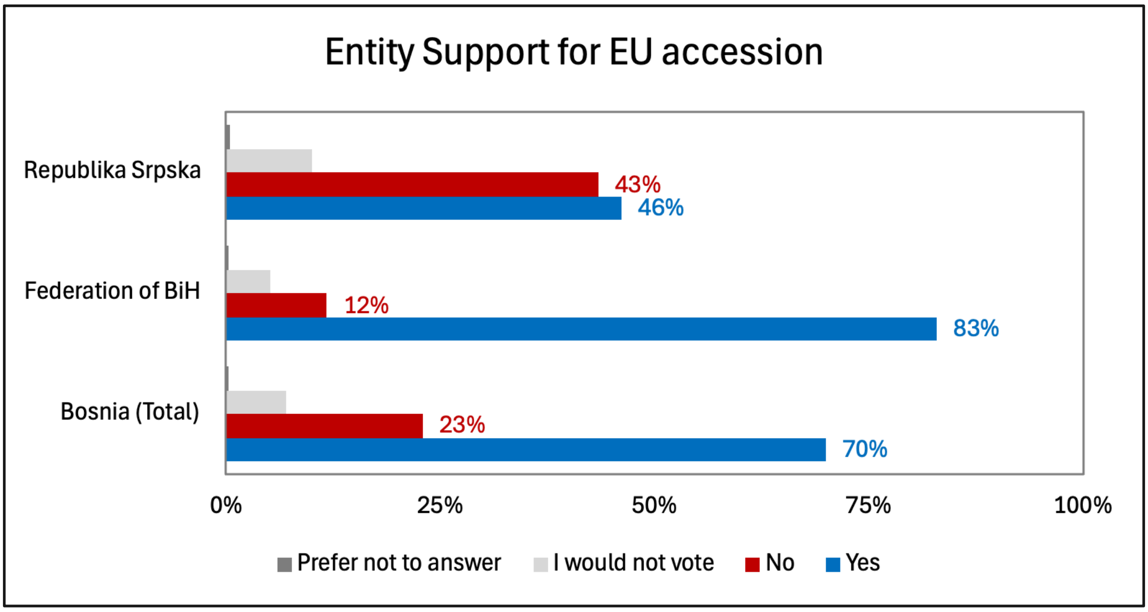

Figure 1: Public opinion on citizens' attitudes towards EU membership and the process of integration into the European Union. Source: Direkcija za evropske integracije. Retrieved from: https://www.dei.gov.ba/bs/clanstvo-bih-u-eu-podrzava-699-gradana-bih.

This ethnically fractured public opinion sits atop an accession process that is, by design, demanding. The process of European integration involves several steps and begins with a formal application to the European Commission, followed by a screening process assessing the candidate's readiness against the Copenhagen criteria (stable democratic institutions, the rule of law, a functioning market economy and administrative capacity to implement EU legislation). Once the European Council unanimously agrees to open negotiations, the process advances through an intergovernmental conference involving ministers and ambassadors from both sides, followed by chapter-by-chapter negotiations across policy areas of the *acquis*, each requiring the candidate to demonstrate its capacity to adopt and enforce the corresponding EU rules.[6]

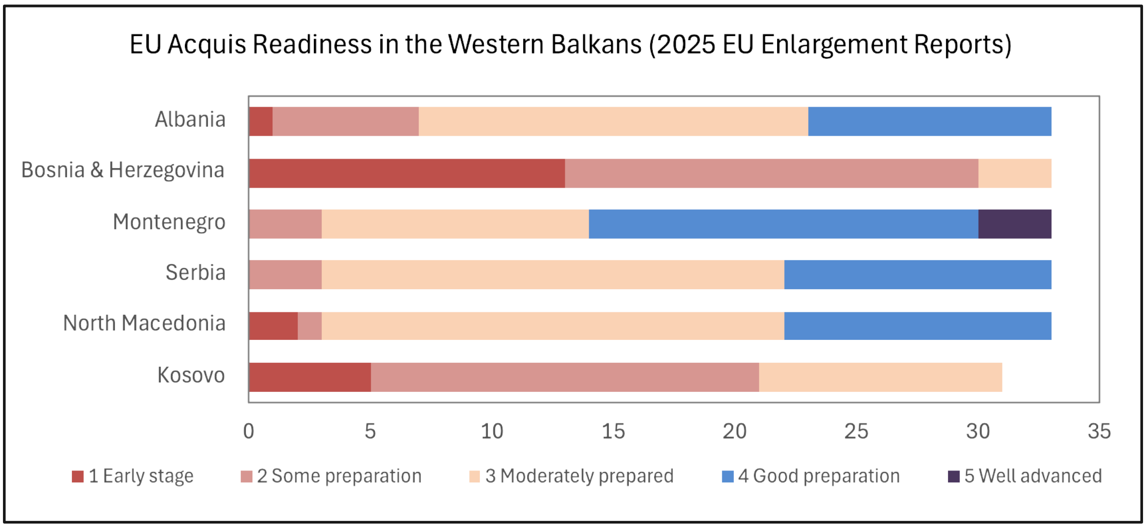

Figure 2: EU Acquis Readiness in the Western Balkans. Source: European Commission, 2025 Communication on EU Enlargement Policy, 2025, https://enlargement.ec.europa.eu/enlargement-policy/strategy-and-reports_en.

[6] European Commission, "Steps towards Joining," Report 2023.

Bosnia's institutional weakness makes this already demanding process particularly difficult. Authorities in Republika Srpska have repeatedly suspended Serb participation in the Presidency, the Council of Ministers and the Parliamentary Assembly, rendering state-level institutions inoperative for months at a time. To illustrate the central government's inability to enact laws effectively, between 2018 and 2022, only one-third of proposed legislation received final approval in the bicameral Parliamentary Assembly of Bosnia and Herzegovina[7]. This figure represents an average approval of less than six laws per year, a strikingly lower rate than in neighbouring EU aspirant countries. Furthermore, according to the European Commission's 2025 Bosnia and Herzegovina Report, of the 33 *acquis* chapters, 13 remain at an early stage and 17 show only some preparation. None has reached "*good preparation*" or beyond, leaving Bosnia the least prepared candidate in the Western Balkans as of 2026.[8]

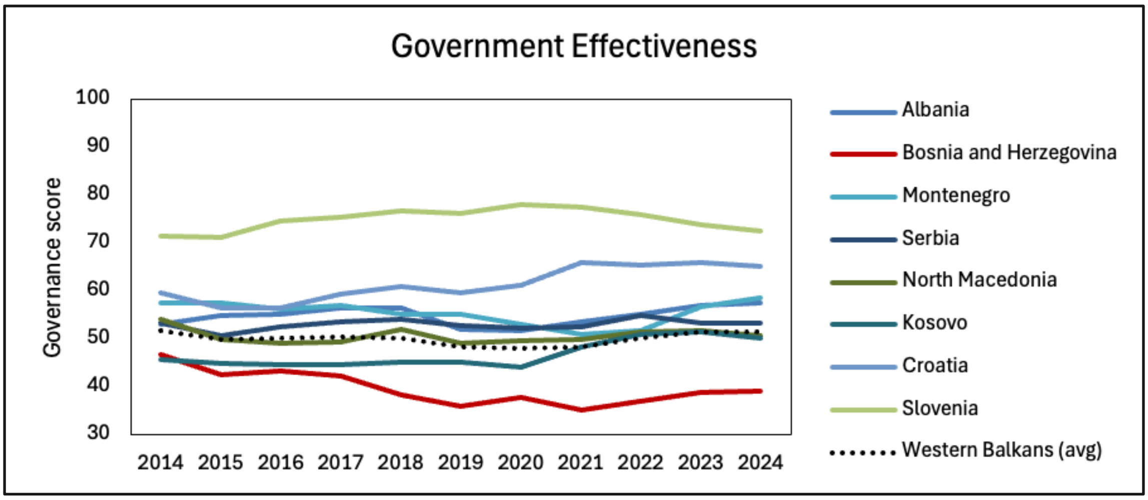

Figure 3: Worldwide Governance Indicators for Western Balkan Candidates. Source: World Bank, Worldwide Governance Indicators, 2025, https://www.worldbank.org/en/publication/worldwide-governance-indicators/interactive-data-access.

Beyond the hard legislation of the *acquis*, the EU also weighs the fundamentals of justice, democracy, and anti-corruption delivery, where Bosnia's shortcomings raise further concerns. As measured by the World Bank's Government Effectiveness indicator, Bosnia's performance is notably inferior to that of its regional counterparts, lagging behind even war-affected Ukraine and matching countries such as Tajikistan and Ethiopia. More troubling still, while neighbouring Western Balkan candidates have marginally improved their scores since 2014, Bosnia's indicator has deteriorated over the same period.[9] This deterioration is consistent with assessments documenting largely unimplemented public

[7] Tunyan, B. and K. Goetz (2024), "Parliaments and evidence-based lawmaking in the Western Balkans: A comparative analysis of parliamentary rules, procedures and practice," SIGMA Papers, No. 68, OECD Publishing, Paris, https://doi.org/10.1787/e95bebb9-en.

[8] European Commission, "Bosnia and Herzegovina 2025 Report," 21, https://enlargement.ec.europa.eu/bosnia-and-herzegovina-report-2025_en.

[9] World Bank, "Worldwide Governance Indicators," accessed August 17, 2026, https://www.worldbank.org/en/publication/worldwide-governance-indicators/interactive-data-access.

administration reforms,[10] an increasingly unsatisfactory response to systemic corruption, and growing signs of state capture at all levels of government.[11]

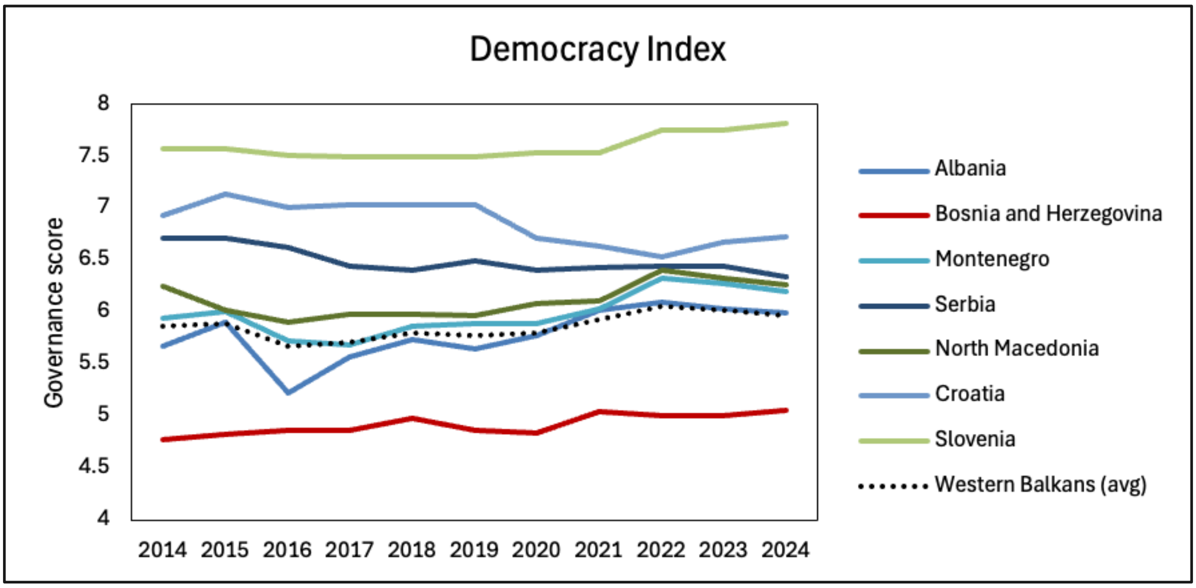

Figure 4: Democracy Index Trajectory in Bosnia and Herzegovina (2006 to 2024). Source: Economist Intelligence Unit, Democracy Index 2024, via Our World in Data, 2024, https://ourworldindata.org/grapher/democracy-index-eiu.

Additionally, Bosnia is classified as a hybrid regime and consistently ranks near the bottom in Europe for democratic institutional quality, ahead of only Russia and Belarus.[12] Despite limited progress since 2014, Bosnia would represent the EU's most fragile democracy upon accession. The democratic backsliding is most pronounced in Republika Srpska, where the European Commission has documented "*systematic attacks on the legal and constitutional order*" by the entity's authorities, attacks that corrode the very fundamentals the EU is unwilling to overlook.[13]

Taken together, these indicators converge on the same constraint. Administrative effectiveness and democratic performance have weakened, independent institutions remain fragile, and key governance reforms have largely stalled, illustrating how Sarajevo's formal commitments have produced little actual delivery. It is this same paralysis, once transposed onto the geopolitical stage, that turns institutional weakness into strategic vulnerability.

[10] OECD SIGMA Monitoring Reports, "Public Administration in Bosnia and Herzegovina 2024", 10, https://doi.org/10.1787/969426b5-en.
[11] European Commission, "Bosnia and Herzegovina 2025 Report," 5, https://enlargement.ec.europa.eu/bosnia-and-herzegovina-report-2025_en
[12] Economist Intelligence Unit, "Democracy Index, 2006–2024," https://ourworldindata.org/grapher/democracy-index-eiu
[13] European Commission, "Bosnia and Herzegovina 2025 Report," 19, https://enlargement.ec.europa.eu/bosnia-and-herzegovina-report-2025_en.

The Geopolitical Exploitation of the Institutional Vacuum

Once domestic political institutions are paralysed, foreign influence through investment and patronage networks become a geopolitical instrument for external powers seeking a foothold within the EU's own borders. The insufficient legislative activity, rising ethnoreligious rhetoric and unresolved constitutional clashes constitute a structural vulnerability that external actors can exploit. As long as the central government in Sarajevo continues to fail in delivering basic policy advancement, ethnonationalist local leaders will continue to search for alternative sources of political and financial backing, whether through investment from the Gulf countries or China, bypassing EU-aligned procurement standards, or through Russian diplomatic support for Republika Srpska's separatist rhetoric[14]. These alternatives come with fewer, if any, governance conditions attached. Institutional capture in Bosnia therefore may occur through the purposefully maintained dysfunctional *status quo* that stalls alignment with the EU *acquis* and Euro-Atlantic integration.

Russia provides a clear illustration of this dynamic by instrumentalizing the constitutional veto power of Republika Srpska to disrupt state-level cohesion. By offering diplomatic support at the UN Security Council and granting energy concessions, Moscow enables Banja Luka to block Bosnia's alignment with the EU sanctions regime and distance itself from European foreign policy initiatives. In exchange for low-cost political backing, Moscow effectively secures a permanent geopolitical veto within state decision-making formats, freezing the country's Euro-Atlantic trajectory without incurring significant financial or political costs.

Bosnia's political fragility is further aggravated by a demographic crisis that leaves the state ever less capable of generating the reformist coalition the EU accession process requires. The fertility rate, well below the EU average, stands at 1.2, its median age is approaching 46, and the country has lost roughly a third of its population since 1991.[15] The migration of young, educated professionals out of the country, those most likely to demand EU-aligned reform, hollows out precisely the constituency that could push the country's political class towards compliance, leaving it open to the ethnonationalist and externally patronised political elites.[16] Demography functions as a force multiplier for geopolitical exploitation, in which population depletion shrinks the domestic reform constituency, lowering the political cost for local elites to perpetuate the structural paralysis that external sponsors require.

---

[14] Anna Caprile & Branislav Stanicek, "Russia and the Western Balkans: Geopolitical Confrontation, Economic Influence and Political Interference," Briefing, European Parliamentary Research Service, April 18, 2023, https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/747096/EPRS_BRI(2023)747096_EN.pdf.

[15] Hannah Ritchie (2026) - "Population and Demography" Published online at OurWorldinData.org. https://ourworldindata.org/profile/population-demography/bosnia-and-herzegovina.

[16] United Nations, Department of Economic and Social Affairs, Population Division, World Population Prospects 2024.

Strategic Recommendations for a Targeted Accession Plan

The most prominent recent attempt to address this deadlock is the "*gradual integration*" model advanced by France and Germany and endorsed at the June 2026 EU-Western Balkans summit in Montenegro. Under what became known as the "*Tivat proposal*," the mechanism would grant candidate countries earlier access to the single market and EU programmes, along with limited participation, without voting rights, in Council and Parliament formats, before the completion of all *acquis* chapters.[17]

Theoretical models of phased accession offer a valuable framework for assessing how candidate states respond to staged incentives.[18] Political economy research demonstrates that accession prospects drive liberalising reforms through a mix of intrinsic motivations, such as democratic consolidation, and extrinsic rewards, including capital transfers and market integration. In particular, formal phased-accession models identify two critical dynamics: a temporal effect, in which reform momentum in net-recipient states decays once material transfers begin, and a spatial effect, in which this deceleration intensifies during prolonged negotiation timelines. Bosnia fits this vulnerable profile precisely.

Applied to Bosnia, this logic exposes the central weakness of such "*second tier*" membership proposed by the "*Tivat model.*" Granting Sarajevo market integration and institutional stature before resolving its internal political dysfunction would eliminate the leverage necessary to enforce politically costly reforms. Early Council visibility secures a symbolic inclusion but depletes Brussels of its leverage over core EU institutional and legal standards. With public sentiment sharply polarised between the Federation and Republika Srpska, a non-voting seat in Brussels provides obstructionist actors an international stage to amplify ethnonationalist rhetoric instead of compelling domestic compromise.

A viable and more effective compromise must separate institutional visibility from economic integration. Brussels should offer a political platform, including observer status in Council working groups and structured ministerial dialogue, as unconditional, confidence-building measures. But single market participation and EU Growth Plan disbursements must remain strictly contingent on verified progress. This separation would retain core EU leverage while signalling to Bosnian constituents that European integration remains active. Simultaneously, conditionality must operate at the entity level. Because institutional obstruction originates disproportionately from Republika Srpska, indexing financial disbursements and market access to entity-specific compliance

[17] Germany and France, "A New Momentum for Enlargement" (non-paper presented ahead of the EU–Western Balkans Summit, Tivat, June 5, 2026).
[18] Iordanis Konstantinidis and Yannis Karagiannis, "Conditionality, Carrots, and Phased Integration: The Political Economy of EU Enlargement," Journal of European Public Policy 27, no. 4 (2020): 542-563, https://doi.org/10.1080/13501763.2020.1712456.

prevents Banja Luka from *de facto* paralysing progress across the central level institutions.

Lastly, resolving the issue concerning the succession in the Office of the High Representative must be treated as a precondition for any staged framework. The EU, the United States, and all relevant stakeholders must appoint a High Representative with a defined mandate to systematically phase out the Office's executive prerogatives, alongside a clear reform timeline. Ending indefinite executive intervention removes a primary rhetorical target that ethnonationalist elites exploit to justify domestic stagnation.

Modernising the accession framework along these lines is a geopolitical imperative. An enlargement policy rewarding visibility without delivery would reward local elites who have a stake in the status quo without demanding European accountability. Conversely, a framework that conditions tangible benefits on entity-specific, fundamentals-first progress would empower a reformist coalition the EU must foster, while denying Russia and other foreign actors the institutional vacuum their influence currently depends on.

Conclusion

Although meeting the technical standards of the acquis is a baseline requirement, Bosnia's real obstacles are domestic and geopolitical, with a constitutional setup that incentivises obstruction and an environment that fosters paralysis. The country’s institutional bottlenecks, as shown by its insufficient legislative output, weak governance indicators, and democratic backsliding, are the structural conditions that allow external actors, from Russia’s diplomatic patronage of Republika Srpska to competing Euro-Atlantic visions for the Office of the High Representative’s future, to transform domestic dysfunction into geopolitical leverage. The 2026 “Tivat proposal” risks entrenching such a dynamic by granting Bosnia institutional visibility ahead of reform delivery.

A more sustainable path forward requires the EU to separate diplomatic gestures from tangible incentives, tying concrete benefits directly to entity-level progress on fundamental reforms and, in Bosnia’s specific case, resolve its own internal and transatlantic disagreements over the High Representative’s mandate before extending further institutional access. Without Brussels’ enlargement policy recalibration, enlargement will only perpetuate Bosnia’s structural deadlock, leaving the nation exposed to a geopolitical power vacuum which EU membership was meant to end.

Brussels in Reverse: How EU Simplification Is Reshaping Its Own Rulebook

Eka Vardiashvili[1]

Introduction

For over a decade, Brussels did not just regulate its own market, it set the rules for everyone else's. The General Data Protection Regulation (GDPR) became a template for legislators around the world.[2] The Artificial Intelligence Act was presented as the world's first comprehensive AI regulatory framework, a model that governments elsewhere watched closely as they developed their own rules.[3] Scholars gave this phenomenon a name: the "Brussels Effect", the idea that the EU's sheer market size allows it to export its regulatory standards far beyond its borders, with companies worldwide often finding it easier to comply with European rules than to build separate systems for the European market.[4]

In 2026, the European Union has begun devoting significant political energy to revising parts of the regulatory model it spent years building.[5] Under the banner of

[1] Eka Vardiashvili is currently completing an LL.M. in Private Law at Ivane Javakhishvili Tbilisi State University, having previously graduated with a Bachelor of Law with Summa Cum Laude honours. She studied for one academic semester each at the University of Lille (France) and the University of A Coruña (Spain). She is particularly interested in business law, commercial dispute resolution and digitalisation.

[2] Anu Bradford, "The Brussels Effect," *Northwestern University Law Review* 107, no. 1 (2012): 1-68; Anu Bradford, The Brussels Effect: How the European Union Rules the World (New York: Oxford University Press, 2020).

[3] Council of the European Union, "Artificial Intelligence Act: Council Gives Final Green Light to the First Worldwide Rules on AI," press release, May 21, 2024, https://www.consilium.europa.eu/en/press/press-releases/2024/05/21/artificial-intelligence-ai-act-council-gives-final-green-light-to-the-first-worldwide-rules-on-ai/; Charlotte Siegmann and Markus Anderljung, "The Brussels Effect and Artificial Intelligence: How EU Regulation Will Impact the Global AI Market" (Centre for the Governance of AI, August 2022).

[4] Anu Bradford, "The Brussels Effect," *Northwestern University Law Review* 107, no. 1 (2012): 1-68.

[5] European Commission, "Simplification," https://commission.europa.eu/law/law-making-process/better-regulation/simplification-implementation-and-enforcement/simplification_en, accessed August 20, 2026; Council of the European Union, "Council Signs Off Simplification of Sustainability Reporting and Due Diligence Requirements to Boost EU Competitiveness," February 24, 2026, https://www.consilium.europa.eu/en/press/

"simplification," Brussels has narrowed the scope of some of its most significant recent business regulations, postponed implementation deadlines and reduced the compliance burden imposed on companies.[6] These reforms signal a broader shift in how the EU balances regulatory ambition against business competitiveness and raise a difficult question for every country still working to align its laws with the European standard: what happens when the standard itself begins to change? This article examines what is actually being rolled back and why, before turning to what the shift means both for the states still negotiating entry into the Union and for the future of the Brussels Effect itself.

What Is Being Rolled Back?

The clearest example is the "Omnibus I" package, which received final approval from the Council in February 2026.[7] It substantially narrows two flagship pieces of European corporate regulation. The scale of the change becomes clearer when the original and revised thresholds are compared. Under the original Corporate Sustainability Due Diligence Directive (CS3D) framework, the obligations were due to apply in stages beginning in 2027. The first stage covered companies with more than 5000 employees and €1.5 billion in net worldwide turnover. The threshold was then due to fall to 3000 employees and €900 million in 2028, and to 1000 employees and €450 million in 2029.[8] The revised framework takes a different approach. Rather than gradually bringing smaller companies into the regime, it retains the 2029 threshold of more than 5000 employees and €1.5 billion in turnover.[9] The practical effect is substantial: a large part of the population that would eventually have been covered under the original timetable will no longer fall within the directive.

A similar change occurred with the Corporate Sustainability Reporting Directive (CSRD). The original framework was designed to extend sustainability reporting to a much wider

press-releases/2026/02/24/council-signs-off-simplification-of-sustainability-reporting-and-due-diligence-requirements-to-boost-eu-competitiveness/.

6 Council of the European Union, "Council Signs Off Simplification of Sustainability Reporting and Due Diligence Requirements to Boost EU Competitiveness," February 24, 2026, https://www.consilium.europa.eu/en/press/press-releases/2026/02/24/council-signs-off-simplification-of-sustainability-reporting-and-due-diligence-requirements-to-boost-eu-competitiveness/pdf/; Council of the European Union, "Artificial Intelligence: Council Gives Final Green Light to Simplify and Streamline Rules," June 29, 2026, https://www.consilium.europa.eu/en/press/press-releases/2026/06/29/artificial-intelligence-council-gives-final-green-light-to-simplify-and-streamline-rules/; European Commission, "Commission Adopts Revised Sustainability Reporting Standards," July 3, 2026, https://finance.ec.europa.eu/news/commission-adopts-revised-sustainability-reporting-standards-2026-07-03_en.

7 Council of the European Union, "Council Signs Off Simplification of Sustainability Reporting and Due Diligence Requirements to Boost EU Competitiveness," February 24, 2026, https://www.consilium.europa.eu/en/press/press-releases/2026/02/24/council-signs-off-simplification-of-sustainability-reporting-and-due-diligence-requirements-to-boost-eu-competitiveness/pdf/.

8 Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859, Official Journal of the European Union L, 2024/1760, July 5, 2024 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401760.

9 Directive (EU) 2026/470 of the European Parliament and of the Council of 24 February 2026 amending Directives 2006/43/EC, 2013/34/EU, (EU) 2022/2464 and (EU) 2024/1760 as regards certain corporate sustainability reporting requirements and certain corporate sustainability due diligence requirements, Official Journal of the European Union L, 2026/470, February 26, 2026, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202600470.

group of companies over several stages.[10] The Omnibus amendment subsequently raised the entry threshold sharply. Mandatory reporting is now limited to undertakings with more than 1000 employees and more than €450 million in net turnover, while listed SMEs have been removed from the directive's scope rather than merely having their inclusion delayed.[11] Many companies that would eventually have fallen within the CSRD's original, broader scope will therefore remain outside the mandatory reporting regime.

The change is not merely a matter of postponing compliance. It alters who is subject to the rules in the first place. According to legal analysis by the Commonwealth Climate and Law Initiative, the CSRD's fully phased-in scope would have reached approximately 50000 companies worldwide. Under the Omnibus I thresholds, roughly 42000 of these companies have fallen out of scope entirely, representing approximately 84 per cent of the original population.[12] Meanwhile, industry estimates suggest that the CS3D's scope has been reduced by a comparable margin, by roughly 70 per cent.[13]

The simplification extends beyond the scope of the legislation itself. In July 2026, the European Commission (the Commission) adopted revised European Sustainability Reporting Standards, subject to scrutiny by the European Parliament and Council, that cut the number of mandatory data points by more than 60% and the total number of data points by more than 70%. The Commission estimates that the revised standards could reduce reporting costs by more than 30% per company.[14] The result is a regulatory framework that still requires sustainability reporting from companies within its substantially narrowed scope, but does so through a significantly lighter set of obligations.

A parallel development has emerged in digital regulation. The EU's AI simplification package, given final approval in June 2026, postponed the application of key high-risk AI requirements to 2 December 2027 for standalone high-risk systems and 2 August 2028 for high-risk systems embedded in products.[15] These measures do not amount to

[10] Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No. 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting, Official Journal of the European Union L 322, December 16, 2022, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022L2464.

[11] Directive (EU) 2026/470 of the European Parliament and of the Council of 24 February 2026 amending Directives 2006/43/EC, 2013/34/EU, (EU) 2022/2464 and (EU) 2024/1760 as regards certain corporate sustainability reporting requirements and certain corporate sustainability due diligence requirements, Official Journal of the European Union L, 2026/470, February 26, 2026, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202600470.

[12] Sarah Hill-Smith, "CSRD Reporting Post-Omnibus I: What Directors Need to Know in 2026," *Commonwealth Climate and Law Initiative*, January 8, 2026, https://commonwealthclimatelaw.org/publication/csrd-reporting-post-omnibus-i-what-directors-need-to-know-in-2026/.

[13] Daniel Thomson et al., "Omnibus I - The European Union Concludes CSDDD and CSRD Reforms," Clifford Chance, February 24, 2026, https://www.cliffordchance.com/insights/resources/blogs/business-and-human-rights-insights/2026/02/omnibus-i-the-european-union-concludes-csddd-and-csrd-reforms.html.

[14] European Commission, Directorate-General for Financial Stability, Financial Services and Capital Markets Union, "Commission Adopts Revised Sustainability Reporting Standards," July 3, 2026, https://finance.ec.europa.eu/news/commission-adopts-revised-sustainability-reporting-standards-2026-07-03_en.

[15] Council of the European Union, "Artificial Intelligence: Council Gives Final Green Light to Simplify and Streamline Rules," June 29, 2026, https://www.consilium.europa.eu/en/press/press-releases/2026/06/29/

abandoning the AI Act; rather, they demonstrate the same emerging preference for delayed implementation, reduced duplication and more targeted compliance obligations.

Each change can be justified as an attempt to reduce regulatory complexity. However, their combined effect points to something more significant. The EU is moving beyond adjustments to individual rules and reconsidering the scale, timing and distribution of the regulatory burdens that characterised its previous approach to business regulation.[16]

Why Now: The Politics Behind the Reversal

The principal driver of this shift has been competitiveness. Two influential reports, Mario Draghi's assessment of European competitiveness and Enrico Letta's report on the future of the Single Market, warned that regulatory fragmentation, administrative burdens and barriers within the European market were weakening the position of European businesses relative to their US and Chinese competitors.[17] Their arguments arrived at a moment when Europe was already confronting a widening technological and investment gap in areas such as artificial intelligence, digital technologies and clean technology.[18] EU leaders responded with the Budapest Declaration of November 2024, which called for a "simplification revolution" and committed to reducing administrative burdens, particularly for small and medium-sized enterprises.[19] The Commission has since set a target of reducing recurring administrative costs by €37.5 billion by the end of its 2024-2029 mandate. Half of the proposals in its 2026 Work Programme are simplification proposals.[20]

The resulting policy tension is unresolved. Business groups have welcomed the changes, arguing that earlier regulatory frameworks placed disproportionate burdens on companies that lacked the resources of large multinationals and that excessive

artificial-intelligence-council-gives-final-green-light-to-simplify-and-streamline-rules/.

16 Council of the European Union, "Council Signs Off Simplification of Sustainability Reporting and Due Diligence Requirements to Boost EU Competitiveness," February 24, 2026, https://www.consilium.europa.eu/en/press/press-releases/2026/02/24/council-signs-off-simplification-of-sustainability-reporting-and-due-diligence-requirements-to-boost-eu-competitiveness/pdf/; European Commission, "Commission Adopts Revised Sustainability Reporting Standards," July 3, 2026, https://finance.ec.europa.eu/news/commission-adopts-revised-sustainability-reporting-standards-2026-07-03_en.

17 Mario Draghi, *The Future of European Competitiveness: Part A, A Competitiveness Strategy for Europe* (European Commission, September 2024); Enrico Letta, *Much More Than a Market: Speed, Security, Solidarity. Empowering the Single Market to Deliver a Sustainable Future and Prosperity for All EU Citizens* (European Commission, April 2024).

18 Mario Draghi, *The Future of European Competitiveness: Part A, A Competitiveness Strategy for Europe* (European Commission, September 2024); European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Competitiveness Compass for the EU, COM(2025) 30 final, January 29, 2025, https://eur-lex.europa.eu/legal-content/en/txt/pdf/?uri=celex:52025dc0030.

19 European Council, "Budapest Declaration on the New European Competitiveness Deal," November 8, 2024, https://www.consilium.europa.eu/en/press/press-releases/2024/11/08/the-budapest-declaration/.

20 European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Commission Work Programme 2026: Europe's Independence Moment, COM(2025) 870 final, October 21, 2025, https://ec.europa.eu/transparency/documents-register/detail?ref=com(2025)870&lang=en; European Commission, "Simplification," accessed August 20, 2026.

compliance costs could undermine investment and innovation.[21] Critics, however, warn that reducing the scope of sustainability and digital regulation may come at the expense of accountability. Narrowing the reach of the CS3D, for example, leaves fewer companies subject to mandatory due-diligence obligations,[22] while delays and simplifications in AI regulation raise questions about whether regulatory protections will keep pace with technological deployment.[23] Both sides have a coherent case. Since the GDPR's adoption in 2016, the EU has adopted a succession of major regulatory instruments affecting businesses, including the Digital Markets Act and Digital Services Act in 2022, the CSRD the same year, and the CS3D and AI Act in 2024. The scale of this regulatory activity is also significant: the Draghi report estimated that around 13000 EU acts were adopted between 2019 and 2024, noting an increase in legislative, delegated and implementing acts compared with the previous five-year period.[24]

The View From the Waiting Room

The shift lands awkwardly for the EU's nine candidate countries, whose accession processes are at very different stages.[25] Accession requires candidate countries to progressively align their legislation and institutions with the EU *acquis*, while alignment with that *acquis* is monitored throughout the accession process.[26] That creates a risk of regulatory over-alignment. A candidate country that moves quickly may end up with rules that are stricter than those currently required within the EU itself. This is particularly relevant where domestic legislation is drafted by closely following an earlier version of EU legislation. The problem, therefore, is not that the regulatory target moves. It is the direction in which it is now moving.

A candidate-country government choosing to model its legislation on the original CS3D, with its broader scope and lower applicability thresholds, could therefore impose requirements on domestic companies that are stricter than those currently applicable to

---

[21] BusinessEurope, "1st EU Omnibus: A Positive Step towards Making It Easier to Do Business in Europe," press release, February 26, 2025, https://www.businesseurope.eu/publications/1st-eu-omnibus-a-positive-step-towards-making-it-easier-to-do-business-in-europe/.

[22] European Coalition for Corporate Justice, "Preliminary Legal Analysis - From Ambition to Erosion: How Omnibus I Rolls back the CSDDD," February 24, 2026, https://corporatejustice.org/publications/preliminary-legal-analysis-from-ambition-to-erosion-how-omnibus-i-rolls-back-the-csddd/; ClientEarth, "Sustainability Due Diligence after the Omnibus: Legal Implications for the CSDDD," February 24, 2026, https://www.clientearth.org/latest/documents/sustainability-due-diligence-after-the-omnibus-legal-implications-for-the-csddd/.

[23] European Digital Rights (EDRi), "AI Omnibus Deal: EU Lawmakers Should Reject a Rollback of AI Safeguards," June 11, 2026, https://edri.org/our-work/ai-omnibus-deal-eu-lawmakers-should-reject-a-rollback-of-ai-safeguards/.

[24] Mario Draghi, *The Future of European Competitiveness: Part B, In-Depth Analysis and Recommendations* (European Commission, September 2024), 318. https://commission.europa.eu/document/download/ec1409c1-d4b4-4882-8bdd-3519f86bbb92_en?filename=The+future+of+European+competitiveness_+In-depth+analysis+and+recommendations_0.pdf.

[25] Council of the European Union, "Enlargement," https://www.consilium.europa.eu/en/topics/eu-enlargement/, accessed August 19, 2026.

[26] Council of the European Union, "How EU Enlargement Works," accessed August 20, 2026, https://www.consilium.europa.eu/en/policies/how-enlargement-works/; Council of the European Union, "Enlargement: EU and Moldova Reach a Milestone in Accession Talks with Opening of the First Negotiation Cluster," June 15, 2026, https://www.consilium.europa.eu/en/press/press-releases/2026/06/15/enlargement-eu-and-moldova-reach-a-milestone-in-accession-talks-with-opening-of-the-first-negotiation-cluster/.

companies within the EU.[27] Legislators face a difficult choice. They can approximate their law to the EU framework as it existed when their reform process began, accepting the risk of becoming more heavily regulated than the Union itself. Alternatively, they can attempt to anticipate where EU legislation is heading, but this creates a different form of uncertainty by aligning with a future regulatory model before it has become part of the *acquis*. Neither option is straightforward. For businesses, this uncertainty matters because investment decisions are shaped by both regulatory requirements and the predictability and stability of the regulatory environment.[28]

The problem is complicated by the fact that candidate countries do not all move through the accession process at the same pace. Ukraine and Moldova have advanced rapidly in their European integration efforts, while other candidates have experienced slower or more uneven progress in their accession processes.[29] Because accession negotiations may extend over many years, EU legislation may change after it has already been incorporated into domestic law, requiring candidates to revisit their laws as the *acquis* evolves. As a result, the EU's changing regulatory philosophy matters throughout the accession process, not only at the point of eventual membership. The question is whether candidate countries can determine which version of the *acquis* they should be aligning with, as the Union itself continues to redefine the balance between regulation and competitiveness. The issue becomes even more concrete in the case of Georgia. In March 2024, the Service for Accounting, Reporting and Auditing Standards described the implementation of the EU's new sustainability reporting requirements as a "complex issue" and proposed introducing CSRD-style requirements for certain large enterprises and public-interest entities from 2027.[30] Yet only two years later, the EU itself had moved towards a narrower CSRD framework.

The problem is not entirely new. Previous enlargements show that candidate countries have never aligned with a completely static *acquis*. The EU's legal framework continued to develop during accession negotiations, requiring candidates to adapt their reform programmes as the Union's own rules evolved, a dynamic the literature on the 1990s

[27] European Parliament and Council, "Directive (EU) 2024/1760 of 13 June 2024 on Corporate Sustainability Due Diligence and Amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859," Official Journal of the European Union L 1760 (July 5, 2024), art. 2; European Parliament and Council, "Directive (EU) 2026/470 of 24 February 2026 Amending Directives (EU) 2022/2464 and (EU) 2024/1760 as Regards Certain Corporate Sustainability Reporting and Due Diligence Requirements," *Official Journal of the European Union* L 470 (February 26, 2026), art. 1.

[28] Organisation for Economic Co-operation and Development, OECD Regulatory Policy Outlook 2025 (Paris: OECD Publishing, 2025); Nicholas Bloom, "The Impact of Uncertainty Shocks," *Econometrica* 77, no. 3 (2009): 623 - 685 (on the general relationship between regulatory and economic uncertainty and investment behaviour).

[29] Council of the European Union, "EU and Ukraine Open First Accession Negotiations Cluster," June 15, 2026, https://www.consilium.europa.eu/en/press/press-releases/2026/06/15/eu-and-ukraine-open-first-accession-negotiations-cluster/; Council of the European Union, "Enlargement: EU and Moldova Reach a Milestone in Accession Talks with Opening of the First Negotiation Cluster," June 15, 2026, https://www.consilium.europa.eu/en/press/press-releases/2026/06/15/enlargement-eu-and-moldova-reach-a-milestone-in-accession-talks-with-opening-of-the-first-negotiation-cluster/.

[30] Service for Accounting, Reporting and Auditing Supervision (SARAS), "SARAS Publishes Information on the Implementation of the New EU Corporate Sustainability Reporting Requirements in Georgia," March 21, 2024, https://saras.gov.ge/en/News/Detail/2691.

enlargement round described as a "moving target."[31] The fifth enlargement provides a particularly clear example:[32] Central and Eastern European candidates were undertaking extensive domestic reforms while the *acquis* itself continued to develop, including through the Maastricht and Amsterdam Treaties, as the Union's own legal and political framework evolved. During earlier enlargement rounds, candidates primarily risked falling behind an expanding *acquis*.[33] Under the current simplification agenda, the risk is different. Candidates that align early with recently adopted EU legislation may instead move beyond the requirements ultimately applicable within the Union itself. The EU has developed mechanisms for managing divergence in timing, most notably transitional arrangements, which allow candidates to negotiate when and how particular *acquis* requirements will be implemented.[34] These mechanisms have primarily been used to manage differences in the timing and conditions of compliance with an evolving *acquis*.[35] Whether they adequately address the inverse problem, where candidates may have already legislated beyond a subsequently narrowed EU standard, is less clear.

If this problem is not managed carefully, its consequences extend beyond the technical question of legal alignment. Changes to EU standards may require businesses in candidate countries to adjust to domestic rules that have only recently been introduced or amended, creating additional compliance costs and uncertainty. Public administrations may also have to devote limited administrative resources to revising legislation, updating guidance and adapting enforcement arrangements as the relevant EU framework changes.[36] For candidate countries with more constrained administrative capacity, repeated adjustments may complicate the implementation of reforms and make long-term regulatory planning more difficult.[37] The result is not simply a risk of legal divergence, but a risk that the costs of regulatory alignment increase precisely because the regulatory target remains in motion.

[31] Renata Stawarska, "EU Enlargement from the Polish Perspective," *Journal of European Public Policy* 6(5) (1999), https://www.tandfonline.com/doi/epdf/10.1080/135017699343405?needAccess=true ; Mišík, Matúš, and Monika Brusenbauch Meislová, 2025, "20th Anniversary of the EU Eastern Enlargement: Stocktaking of the Membership Experience, Challenges, and Opportunities." *Journal of Contemporary European Studies* 33 (2): 313–23, https://www.tandfonline.com/doi/full/10.1080/14782804.2025.2491407?scroll=top&needAccess=true#abstract

[32] Mark A. Pollack, "Europe United? The Impact of the EU's Eastern Enlargement, Five Years On," *European View* 8 (2009), https://journals.sagepub.com/doi/10.1007/s12290-009-0100-z.

[33] OECD, "Enlargement of the European Union: An Analysis of the Negotiations for Countries of the Western Balkans," SIGMA Papers, No. 37 (Paris: OECD Publishing, 2007), https://www.oecd.org/content/dam/oecd/en/publications/reports/2007/01/enlargement-of-the-european-union_g17a1df0/5kml60qztg21-en.pdf.

[34] Vladimir Međak and Aljoša Race, Handbook on the Negotiations for the Accession of the Republic of Moldova to the European Union (Chișinău: Editura ARC, 2024), https://www.eeas.europa.eu/sites/default/files/documents/2024/Handbook%20for%20Negotiations_ENG_fin.pdf.

[35] European Commission, "Towards the Enlarged Union: Strategy Paper and Report of the European Commission on the Progress towards Accession by Each of the Candidate Countries," COM(2002) 700 final, October 9, 2002, https://www.europarl.europa.eu/registre/docs_autres_institutions/commission_europeenne/com/2002/0700/COM_COM(2002)0700_EN.pdf.

[36] Organisation for Economic Co-operation and Development, OECD Regulatory Policy Outlook 2025 (Paris: OECD Publishing, 2025).

[37] OECD, Public Administration in the Western Balkans 2024: Regional Overview of Assessments against the Principles of Public Administration, SIGMA Monitoring Reports, (Paris: OECD Publishing, 2025) https://doi.org/10.1787/1ec4c18f-en.

The EU's approach in the Western Balkans provides one example of how the reform process can be structured and sequenced. Under the Reform and Growth Facility, reforms are organised through country-specific Reform Agendas that identify qualitative and quantitative steps, timelines and payment conditions, with financial support linked to the implementation of agreed reforms.[38] This framework does not eliminate the underlying problem of an evolving *acquis*, but it shows an attempt to sequence reform commitments over time rather than treating alignment as a one-off exercise. Sequencing, monitoring and conditionality of this kind can help manage the practical difficulties of implementing EU-related reforms in a changing regulatory environment.

There may also be broader consequences for the perceived credibility of the accession process. Where domestic legislation is presented as necessary for alignment with the EU and is subsequently revised because the corresponding EU framework has changed, governments may face difficulties explaining why businesses and other domestic actors incurred the costs of complying with the earlier standard. Repeated instances of this kind could make the accession process appear less predictable and, over time, contribute to scepticism about the direction and consistency of EU-related reforms. This risk is particularly relevant where regulatory changes at EU level are driven by considerations, such as competitiveness or administrative burden, that may not correspond directly to the domestic circumstances in candidate countries.

A Different Kind of Brussels Effect

The more difficult question is what this means for the Brussels Effect itself. Bradford's account is useful here, because it shows that market size alone was never the whole story.[39] The effect depends on market size, but also on regulatory capacity, regulatory stringency, and whether firms find it cheaper to run one global standard than to maintain separate standards across jurisdictions. Simplification does not necessarily mean that the Brussels Effect is disappearing. The reforms may reduce the number of companies directly subject to EU rules, but firms with significant operations in the EU will still have strong incentives to comply with the remaining framework.

There is also a second possibility. Simpler regulation may sometimes be easier to export. A multinational company may prefer to apply one relatively simple standard across its operations rather than maintain different compliance systems for different markets.[40] If the EU framework remains sufficiently influential, reducing compliance costs could make adoption outside the EU more attractive rather than less.[41]

38 Regulation (EU) 2024/1449 of the European Parliament and of the Council of 14 May 2024 On Establishing the Reform and Growth Facility for the Western Balkans, Official Journal of the European Union L, 2024/1449, May 25, 2024, https://eur-lex.europa.eu/eli/reg/2024/1449/oj/eng; Council of the European Union, “Reform and Growth Facility for the Western Balkans Adopted,” press release, May 7, 2024, https://www.consilium.europa.eu/en/press/press-releases/2024/05/07/reform-and-growth-facility-for-the-western-balkans-adopted/.

39 Anu Bradford, “The Brussels Effect,” *Northwestern University Law Review* 107, no. 1 (2012): 1-68.

40 Guido Guarino, “The Brussels Effect Is Fading Away,” *Shaping Europe*, 10 March, 2026, https://shapingeurope.eu/the-brussels-effect-is-fading-away/.

41 Ana Rubio, “Why Do We Need Simpler Rules?” BBVA, August 18, 2025, https://www.bbva.com/en/economy-

This suggests that the Brussels Effect should not be assessed only by looking at how demanding EU rules are. Scope matters, but so do compliance costs and regulatory stability. A narrower, predictable, and relatively easy-to-implement rule may travel further than a more demanding one that companies find costly to reproduce outside the EU.

The debate over artificial intelligence regulation provides a useful illustration of this dynamic because the EU framework is still evolving. As discussed above, the EU's AI simplification package extended the application of key high-risk AI requirements to December 2027 and August 2028, while also simplifying aspects of the framework and its implementation.[42] Yet research published in July 2026 by the Thomson Reuters Foundation, based on data from its AI Company Data Initiative, found that 47% of companies citing the AI Act in their disclosures were headquartered outside the EU.[43] The study identifies this as evidence that the AI Act is already influencing corporate governance beyond the EU, with EU-based customers incorporating AI Act provisions into Requests for Proposal (RFPs), due diligence and contracts. The fact that companies are already referring to the AI Act in their governance disclosures, even though some of its high-risk requirements will not apply until 2027 and 2028 and the framework is still being adjusted, suggests that EU regulatory influence can extend beyond the Union before the relevant rules have been fully settled. This supports the broader argument above: the influence of EU regulation may depend not only on the stringency of its requirements, but also on whether businesses have a sufficiently clear and stable framework around which to organise their compliance.

The current reforms therefore raise a slightly different question from the one usually associated with the Brussels Effect. The issue is no longer simply whether EU regulation is stringent enough to influence foreign firms. It is whether the EU can retain that influence while making its regulatory framework cheaper and more predictable to follow.

Conclusion

Whether the current wave of simplification proves to be a temporary correction or the beginning of a more lasting transformation remains an open question. The Commission, for its part, maintains that the simplification agenda is intended to reduce unnecessary regulatory burdens without abandoning the underlying objectives of EU regulation, and frames the reforms primarily in terms of proportionality, scope and implementation rather than a retreat from regulatory ambition.[44] Critics see something closer to a

and-finance/why-do-we-need-simpler-rules/.

[42] Council of the European Union, "Artificial Intelligence: Council Gives Final Green Light to Simplify and Streamline Rules," June 29, 2026, https://www.consilium.europa.eu/en/press/press-releases/2026/06/29/artificial-intelligence-council-gives-final-green-light-to-simplify-and-streamline-rules/.

[43] Thomson Reuters Foundation, The Global Impact of the EU AI Act, based on AI Company Data Initiative (AICDI), July 28, 2026, https://www.trust.org/2026/07/28/new-report-reveals-extent-eu-ai-act-influence/.

[44] European Commission, "Simplification," accessed August 20, 2026; European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Commission Work Programme 2025: Moving Forward Together: A Bolder, Simpler, Faster Union, COM(2025) 45 final, February 11, 2025.

structural retreat, driven by competitiveness concerns that risk weakening protections the EU spent years establishing.[45] The evidence may ultimately support neither interpretation in its pure form. What is clear is that the regulatory target has begun to move.

For countries still seeking to join the Union, that may be the most consequential change of all. The question has become which European regulatory standard they should be trying to reach and whether it will still exist by the time they arrive.

[45] European Coalition for Corporate Justice (ECCJ), "Preliminary Legal Analysis - From Ambition to Erosion: How Omnibus I Rolls back the CSDDD," February 24, 2026; European Digital Rights (EDRi), "AI Omnibus Deal: EU Lawmakers Should Reject a Rollback of AI Safeguards," June 11, 2026.

SCHUMAN INSIGHTS

Photo by Avinash Kumar on Unsplash

Old-Age Cash Transfers in India and the Netherlands: Indexation and the European Union's Minimum-Income Standard

Dev Dhar Dubey[1]

Introduction

India pays its poorest older citizens ₹200 a month. The figure is not tied to any statutory or administrative measure of subsistence; it is what the Union Government fixed in 2007[2], when the central contribution under the old-age pension was raised from ₹75, and nothing in Indian law has since obliged anyone to revisit it. Asked in the Lok Sabha in March 2025 when the amount would next be revised,[3] the Minister of State for Rural Development replied that the scheme guidelines prescribe no timeline for revision at all.[4] The subject of this article is therefore not simply the low

[1] Dev Dhar Dubey is a Senior Research Fellow and PhD Candidate at National Law University Delhi, India. He was also a member of the drafting team of Indian Labour Codes at the Ministry of Labour, Government of India. His research addresses Indian labour law codification, social security and comparative regulatory analysis. Contact: dev10dubey@gmail.com, LinkedIn: www.linkedin.com/in/dev-dubey-4b0974267

[2] Government of India, Ministry of Rural Development, Department of Rural Development. *Implementation of Schemes under NSAP*. (Lok Sabha, Unstarred Question No. 1159, November 11, 2025).

[3] Government of India, Ministry of Rural Development, Department of Rural Development. *Indira Gandhi National Old Age Pension Scheme.* Lok Sabha, Unstarred Question No. 2937, 18 Mar. 2025

[4] The Wire Staff, "Union Govt Shifts Responsibility of Revising Pension, Beneficiary List Under NSAP to States," *The Wire*, February 16, 2026, https://thewire.in/government/union-govt-shifts-responsibility-of-revising-pension-beneficiary-list-under-nsap-to-states.

nominal value of the benefit, but the institutional and legal framework that determines whether, and by what mechanism, that value can be revised.

Adequacy, benchmarking, indexation, and legal enforceability are the four terms that recur throughout the analysis and are not interchangeable. Adequacy asks whether a transfer meets a person's needs. Benchmarking asks whether the transfer is fixed by reference to any external standard at all, independent of how generous that standard is. Indexation asks whether a benchmarked transfer is adjusted as the standard moves. Legal enforceability asks whether a beneficiary, or any public authority, can compel the state to honour the benchmark.

India's old-age transfer fails at the benchmarking stage: it has no external referent, so questions of indexation and enforceability do not yet arise for it. The Dutch scheme illustrates indexation, automatic adjustment of a benefit by reference to a statutory benchmark, while the European Union's 2023 Recommendation provides for benchmarking. In the EU context, this operates as a weaker form of accountability: it requires a transparent methodology and justification of the chosen level, without making the benchmark itself legally enforceable. The comparison that follows is accordingly not a comparison of amounts, nor a proposal that India adopt the Dutch Algemene Ouderdomswet (the General Old Age Pensions Act) as an institutional model. It examines the narrower and more transferable question of what legal architecture can require a state to link an old-age transfer to a stated standard and revisit it as that standard changes.

'Old-age cash transfers' is used here to cover both the Indian scheme, a means-tested, non-contributory payment restricted to households below the poverty line, and the Dutch pension, a universal, residence-based entitlement paid without a means test. The two are not equivalent policy instruments, and no claim to the contrary is made; what they share, and what the comparison isolates, is the presence or absence of a legal mechanism governing how the amount is set and revised.

Comparative literature on old-age income protection commonly evaluates differences through benefit levels, replacement rates, pension wealth, coverage and adequacy.[5] That literature is valuable for establishing differences in outcomes and benefit levels, but comparatively less attention has been paid to the institutional mechanisms through which benefit levels are determined and adjusted. This article shifts the comparison from the level of the benefit to the legal mechanism that determines and revises it. Drawn at the level of mechanism, particularly the mechanism by which benefit levels are determined and periodically adjusted, they become instructive. The operative feature of that

[5] Organisation for Economic Co-operation and Development, *Pensions at a Glance* Asia/Pacific 2024 (Paris: OECD Publishing, 2024), https://doi.org/10.1787/d4146d12-en.

scheme is not its generosity.[6] It is that the benefit is linked to the statutory minimum wage and adjusted every January and July according to the prescribed mechanism, rather than requiring a separate political decision each time. The article accordingly uses the comparative analysis to develop proposals for legal reform of India's old-age transfer framework.

The Council of the European Union asked Member States to do something comparable, in a considerably weaker register, when it recommended in January 2023 that minimum income be set through a transparent and robust methodology, reviewed and adjusted to maintain its adequacy, and brought to an adequate level by 2030 at the latest.[7] The amount of India's NSAP old-age transfer is not tied to any legally prescribed external benchmark.

The argument advanced here is that India's old-age income deficit is sustained by an absence of legal architecture: no benchmark ties the transfer to any external standard, and no obligation compels its periodic revision. This does not require, and the article does not claim, that fiscal capacity is irrelevant to the deficit. The article claims only that the absence of legal architecture is a distinct and independently remediable cause. The remedy urged by the Standing Committee on Rural Development and the Comptroller and Auditor General, namely raising the amount by executive decision, would leave that cause untouched because it does not alter the mechanism by which the amount is set. What distinguishes the Dutch scheme is not that it pays more; it is that it has made the level of payment a function of a legal formula rather than a discretionary decision. The European Union's Recommendation, more modestly, directs a Member State only to justify its figure against a stated standard, without compelling any particular level. India's transfer answers to neither requirement.

The Indian Scheme: A Number Without a Referent

The Indira Gandhi National Old Age Pension Scheme reaches 22.1 million people aged sixty and above, and the eligibility is restricted to those who belong to households below the poverty line. The Union contributes ₹200 a month to those aged sixty to seventy-nine and ₹500 to those aged eighty and above.[8] It is a component

[6] Sociale Verzekeringsbank, "AOW Pension Amounts," https://www.svb.nl/en/aow-pension/aow-pension-rates/aow-pension-rates [Accessed August 10, 2026]; "AOW per 1 juli 2026 omhoog: bruto en netto bedragen bekend," Langer Thuis in Huis, July 2, 2026, https://langerthuisinhuis.nl/aow-1-juli-2026-omhoog-minimumloon-stijgt/.
[7] Council of the European Union, Council Recommendation of 30 January 2023 on Adequate Minimum Income Ensuring Active Inclusion, 2023/C 41/01, Official Journal of the European Union C 41 (February 3, 2023): 1–12, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=oj%3AJOC_2023_041_R_0001; Council of the European Union, "Council Adopts Recommendation on Adequate Minimum Income," press release 50/23, January 30, 2023, https://www.consilium.europa.eu/en/press/press-releases/2023/01/30/council-adopts-recommendation-on-adequate-minimum-income/.
[8] Press Information Bureau, Government of India, "National Social Assistance Programme: Strengthening India's Social Security Framework through Inclusive Assistance," https://static.pib.gov.in/WriteReadData/specificdocs/documents/2025/nov/doc2025117686801.pdf [Accessed August 10, 2026].

of the National Social Assistance Programme, administered by the Ministry of Rural Development, and it is a scheme rather than a statute. The eligibility criteria and amount are determined through executive decisions and may be revised, altered, or discontinued without a statutory obligation governing the timing or basis of such changes. The practical consequence is that beneficiaries have no legally prescribed basis on which to require periodic revision of the amount, leaving the adequacy of the transfer dependent on executive policy rather than a predetermined legal standard. The Programme traces its authority to Article 41 of the Constitution, which directs the State, within the limits of its economic capacity, to make effective provision for public assistance in old age, a Directive Principle of State Policy, which is not judicially enforceable under the Constitution.[9]

Frozen Since 2007

The ₹200 rate has not moved since 2007. The ₹500 rate for those above eighty was introduced in the 2011-12 revision, which remains the last occasion on which any pension rate under the Programme was altered. In May 2026, an evaluation commissioned by the Ministry of Rural Development itself, and conducted across 6,000 beneficiaries in 600 *gram panchayats* in ten States, reported that, using 2012 as the CPI base, prices had risen by 91 per cent by 2024, while average annual inflation of about five per cent over 2010–2024 had significantly eroded the real value of the transfer. Based on this increase, the pension amount should have proportionately risen from ₹200 and ₹500 to ₹382 and ₹955, respectively.[10]

The same study found that between eighty-one and eighty-four percent of the transfer is spent on food and medicine, and that only 13.3 percent of the transfer amount is left with the recipients to either save any part of it or to spend the same on other needs. The same study further reports that more than eighty-nine percent believe the Government should contribute more. Its principal recommendation is that the fixed amount be replaced by a National Floor Pension linked to the Consumer Price Index and periodically adjusted to the cost of living.

That recommendation is not new. The Comptroller and Auditor General, in a performance audit of 2023, recorded four separate reports of the Standing Committee on Rural Development pressing for an increase, and recorded the Department's reply that it was unable to revise the amount due to fiscal constraints.[11]

[9] Constitution of India, art. 41; Academy of Management Studies, *Impact Assessment and Evaluation of the National Social Assistance Programme* (New Delhi: Department of Rural Development, Ministry of Rural Development, Government of India, 2026), 1, https://www.dord.gov.in/static/uploads/2026/05/2caa23517623f55bf4bc5521b2d3da5c.pdf. On the constitutional standing of the entitlement, the Ministry's evaluators record Prabhat Pathak's submission that an adequate old-age pension is an economic right implicit in, though not codified as, a fundamental right.

[10] Academy of Management Studies, *Impact Assessment and Evaluation*, 1. The survey covered 6,000 beneficiaries across 600 gram panchayats in Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Haryana, Jammu and Kashmir, Tamil Nadu, Telangana, and Uttar Pradesh.

[11] "Reetika Khera, "Lifeline for Crores of Elderly, But Ignored by the Centre, the NSAP Is a Pension Scheme of

The ₹200 amount is not supported by a statutory benchmark against which its adequacy can be assessed or its revision determined. It is not fixed to an arbitrary amount on the statute books, nor is there a periodic mandatory review process, or an indexation mechanism linked to changes in the cost of living or wage levels. Consequently, the legal framework does not prescribe a point at which the adequacy of the amount must be assessed or revised. The amount therefore remains a nominal figure without a legally prescribed benchmark for determining its adequacy or adjustment.

A Coverage Cap Tied to Outdated Demographic Data

The same absence of a current referent does not apply to the coverage cap. Central assistance is released against a State Cap, a ceiling on beneficiaries for each State and Union Territory and that ceiling is still derived from the population recorded in the Census of 2001 and the poverty ratio estimated by the erstwhile Planning Commission.[12] India's population aged sixty and above stood at 149 million in 2022 and is projected to reach 347 million, or 20.8 per cent of the population, by 2050; those above eighty are expected to grow by 279 per cent over the same period. More than forty per cent of older Indians fall within the poorest wealth quintile and 18.7 per cent report no income at all.[13] Because the cap remains fixed in absolute numbers and is not periodically revised to reflect changes in the eligible population, the benchmarks underlying it no longer correspond to current demographic conditions.

The scheme currently has a centrally determined ceiling of 22.1 million beneficiaries. As India's elderly population has grown substantially since then, the fixed ceiling has become increasingly disconnected from the contemporary population requiring old-age assistance. The problem, therefore, is not simply the number of beneficiaries covered, but the use of an outdated demographic denominator to determine the number the Union is prepared to support.

Three consequences follow, and they are worth separating. First, the Union has ceased to be the principal payer: between 2017 and 2021 it allocated ₹344.32 billion to the Programme while the States and Union Territories allocated ₹1.09573 trillion, covering an additional 18.2 million beneficiaries from their own resources. Second, because the States have filled the gap independently, the top-up now ranges from ₹50 to ₹5,700 a month, so that what an older Indian receives depends less on her need than on the State in which she has

Delays," The Wire, May 12, 2024, https://m.thewire.in/article/government/national-social-assistance-programme-nsap-central-scheme; Comptroller and Auditor General of India*, Report No. 10 of 2023 (Performance Audit of the National Social Assistance Programme).*

[12] Academy of Management Studies, *Impact Assessment and Evaluation*, 3–4.

[13] United Nations Population Fund India, "India Ageing, Elderly to Make Up 20% of Population by 2050: UNFPA Report," September 27, 2023, https://india.unfpa.org/en/news/india-ageing-elderly-make-20-population-2050-unfpa-report; United Nations Population Fund India and International Institute for Population Sciences, *India Ageing Report 2023: Caring for Our Elders—Institutional Responses* (New Delhi: UNFPA India, 2023).

aged.[14] Third, the available allocation figures indicate the limited fiscal scale of the Programme, but they do not establish whether fiscal constraints explain the failure to revise the pension amount. The entire Programme was allocated ₹96.52 billion for 2025–26 against a nominal gross domestic product of ₹346.36 trillion, less than 0.03 per cent of national output.[15] Doubling the transfer would therefore cost approximately 0.03 per cent of GDP, whatever the political or budgetary reasons for the Programme's non-revision may be. Those reasons are not the subject of this article; what can be said with confidence is that no legal provision requires the amount to be revisited, and none has been. It is unconstrained by law, i.e., the amount is not subject to a legally prescribed revision mechanism.

The Dutch Answer: Indexation as Obligation

The Dutch state pension is instructive precisely because its design decisions run opposite to India's on the three relevant dimensions: the basis of entitlement, the mechanism of adjustment, and the legal status of the resulting figure. Entitlement under the Algemene Ouderdomswet turns on residence rather than contribution: two per cent of the full pension accrues for each year of residence or insurance in the Netherlands between the age of fifteen and the pension age, which stands at sixty-seven and is itself linked to life expectancy.[16] There is no poverty test, no household means assessment, and no list from which a claimant must first be identified by a local body. A person who has resided in the country for fifty years receives the full pension, regardless of her other sources of income or assets.

The relation between indexation and adequacy can be best illustrated by contrasting the two concepts. Indexation refers to a method of maintaining the "value" of benefits against a specified index, such as the Consumer Price Index or average earnings. It does not in itself address the question of whether the benefit in its initial form is adequate, or whether the underlying index represents an appropriate level of income.

In the context of the present paper, indexation therefore has procedural rather than substantive value. It guards against the erosion of an existing benefit relative to the benchmark to which it is indexed, regardless of whether the benchmark or the resulting benefit is adequate in normative or legal terms. The indexation mechanism in the Dutch scheme, which maintains the

[14] Academy of Management Studies, *Impact Assessment and Evaluation*, 1, 3; Press Information Bureau, "National Social Assistance Programme." The Union figure is the allocation recorded in the 2023 audit for 2017–21; the State figure is the corresponding allocation by States and Union Territories over the same period.
[15] National Statistics Office, *Press Note on Provisional Estimates of Annual GDP for 2025–26 and Quarterly Estimates for Q4 of 2025–26* (New Delhi: Ministry of Statistics and Programme Implementation, June 5, 2026), https://www.mospi.gov.in/uploads/latestReleases/latest_release_1780655857536_5ac01869-ca4a-422d-b7a7-57b81da60932_Press_Note_on_GDP_Estimates_for_Q4_2025-26_and_PE_FY_2025-26_R.pdf. The ratio uses the central allocation alone; State outlays are excluded because they are fixed by no national norm.
[16] "Abi Carter, "AOW Pension in the Netherlands," *IamExpat*, December 24, 2025, https://www.iamexpat.nl/expat-info/pensions-retirement-age-netherlands/aow-pension.

relation of pensions with the minimum wage, can be seen as a primary example of these two contrasting principles.

The consequence for adequacy is structural rather than discretionary. Because the benefit is tied to the statutory minimum wage and recalculated in January and July, its real value is somewhat maintained by the operation of a formula and not by a decision to protect it. While this ensures that the value transferred moves at least in line with the minimum wage, it is not an independent guarantor that value moves in line with cost-of-living pressures, because the mandated minimum wage could in itself lag inflation and then require policy action to be increased. What this does guarantee is that, at worst, the value erodes, but it does so with an explicit policy failure in not increasing the minimum pension benefit. When the minimum wage rose in mid-2026, the single person's gross entitlement moved from €1,637.57 to €1,662.16.[17] No separate political decision or revised budgetary estimate was required for the adjustment to take effect. The question that repeatedly arises in Indian social assistance, whether the benefit should be raised, does not arise in the Dutch scheme in the same way. The benefit is not a fixed amount awaiting periodic political revision; it is a function of a statutory benchmark.

This is not a claim that the Dutch model is without limitations. Residence-based accrual results in lower entitlements for persons with shorter periods of residence: a person who arrives at fifty and retires at sixty-seven would accrue only about a third of the full pension. The resulting shortfall may, depending on circumstances, be addressed through a means-tested supplement. This observation is more specific and more transferable than the others. India does not need to copy the Dutch institutional example. It is the underlying legal principle that is transferable: benefit can be fixed in relation to objective external indicators and adjusted automatically at prescribed intervals. Rather than requiring case-by-case decisions on whether to increase the benefit, a legal provision can specify the circumstances in which the amount must be adjusted.

EU Council Recommendation

The European instrument worth borrowing is accordingly not the Dutch pension but the 2023 Council Recommendation, which is soft law and is criticised as such: the European Anti-Poverty Network objected at adoption that it neither binds Member States nor specifies the age from which adequate income must be available.[18] This limitation does not affect its relevance to the present analysis, which concerns its use of a transparent methodology and an external standard for determining and reviewing minimum-income levels. What the Recommendation does, even without binding force, is create political expecta-

[17] Sociale Verzekeringsbank, "AOW Pension Amounts."
[18] European Anti-Poverty Network, "Minimum Income Council Recommendation: Not Enough To Fight Poverty," March 15, 2023, https://www.eapn.eu/minimum-income-council-recommendation-not-enough-to-fight-poverty/.

tions for a Member State to state the methodology by which it arrived at a number, and to defend that number against a stated standard. The ₹200 amount is not subject to a legally prescribed benchmark against which it must be periodically assessed or revised.

What the Comparison Can and Cannot Settle

At the level of aggregates, the two systems are not comparable. Pension expenditure in the European Union amounted to 12.3 per cent of GDP in 2023,[19] whereas India's entire non-contributory social assistance programme costs only around 0.03 per cent of the GDP. The expenditure and poverty indicators differ substantially between the two systems. In the European Union, people aged sixty-five and over record the lowest risk of poverty or social exclusion of any age group, at 18.8 per cent, whereas in India old age is among the stronger predictors of destitution.[20] The comparison is not intended to suggest that the two systems are directly comparable in scale or design. Rather, the figures are presented to illustrate the extent of the difference in the resources devoted to old-age income protection and the resulting poverty indicators.

The obvious objection is therefore that the comparison yields nothing an Indian policymaker can directly adopt. India's workforce remains overwhelmingly informal, which limits the comparability of a European minimum-income floor with the Indian context. A residence-based demogrant may likewise be difficult to replicate in a State with a much smaller fiscal base per capita than the Dutch. India may also face administrative challenges in verifying the long-term residential histories required to operate a residence-based system of the Dutch model.

The objection accurately points out the degree of comparison intended, yet this doesn't challenge the more focused lesson. There is no need for India to exactly follow the Dutch system of retirement benefits; India could benefit from the portable lesson of providing benefits, not rigidly connected, to legislatively determined standards and linking their re-adjustment to programmed time frame intervals. Indexation is not costly to legislate; its significance lies in the fiscal commitment it creates by making future adjustments a matter of legal obligation rather than political discretion. The AOW came into force in 1957, but indexation was developed in the Netherlands a few years later, with pensions becoming pegged to the minimum wage as of 1980.[21] Hence, the legal instrument developed alongside the evolution of the Dutch social security system rather

[19] Eurostat, "Social Protection Statistics—Pension Expenditure and Pension Beneficiaries," *Statistics Explained*, March 2026, https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Social_protection_statistics_-_pension_expenditure_and_pension_beneficiaries.

[20] Eurostat, "Living Conditions in Europe—Poverty and Social Exclusion," *Statistics Explained*, April 2025, https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Living_conditions_in_Europe_-_poverty_and_social_exclusion.

[21] Statistics Netherlands (CBS), "De Wet minimumloon en minimumvakantiebijslag." *Centraal Bureau voor de Statistiek*, December 12, 2025, www.cbs.nl

than being solely a consequence of the Netherlands' high level of national income. This, again, linked the pension amount to a statutory minimum wage benchmark, so that subsequent adjustments to the benchmark level automatically reflected in the pension amount through the adjustment mechanism. What India lacks is not merely a higher nominal amount, but rather, a legal instrument that makes the pension amount accountable to a fixed benchmark and requires its revision when the benchmark moves.

Nor is that instrument foreign to Indian law. The Code on Social Security, 2020, in force since 21 November 2025, requires the Central Government to frame and notify welfare schemes for unorganised workers on matters including old age protection.[22] The obligation is real, but it is an obligation to make schemes rather than an obligation to make them adequate: the Code prescribes no floor, no reference standard and no periodicity of revision, and the National Social Assistance Programme sits outside the Code altogether, administered by a different ministry, the Ministry of Rural Development. The codification exercise that consolidated twenty-nine labour enactments thus left the country's largest old-age cash transfer exactly where it found it—revocable, unindexed and extra-statutory. Official estimates that social security coverage rose from about nineteen per cent of the workforce in 2015 to more than sixty-four per cent in 2025 measure enrolment, which is a different thing from entitlement and a very different thing from adequacy.[23]

Conclusion

The need to reconsider the level of India's old-age pension has been made repeatedly by the Standing Committee on Rural Development, by the Comptroller and Auditor General, and most recently by the Ministry of Rural Development's own evaluators. It is also insufficient. On an assumed annual inflation rate of 5 per cent, a pension raised from ₹200 to ₹1,000 in 2027 would gradually lose purchasing power in the absence of an indexation mechanism.

What follows practically is a change of legal instrument, modelled on the more modest European Union recommendation rather than the comprehensive Dutch pension, and not merely a change of amount. The Consumer Price Index linkage recommended by the Ministry's evaluators should be enacted as a statutory benchmark with a stated periodicity of revision, rather than left as an internal recommendation; the beneficiary ceiling should be severed from the Census of 2001 and tied to a current demographic denominator; and the floor, once fixed, belongs in the Code on Social Security rather than in guidelines a department may decline to revise. The appropriate level of expenditure is a separate question. The legal deficiency identified here is the absence of a benchmark and a mechanism for periodic adjust-

[22] *Code on Social Security,* 2020 (India), No. 36 of 2020, s. 109(1), https://www.indiacode.nic.in/bitstream/123456789/16823/1/aA2020-36.pdf.
[23] "Four Labour Codes Come into Force from Today, Reforming 29 Existing Laws," *DD News*, November 21, 2025, https://ddnews.gov.in/en/centre-implements-four-labour-codes-overhauling-29-existing-laws/.

ment, which can be addressed irrespective of the level of expenditure ultimately considered appropriate.

The analysis has two limitations. First, whether a statutory floor would survive contact with Indian federal finance, given that the States already pay several times what the Union does, is an empirical matter on which the Dutch experience offers nothing. Second, whether justiciability would follow from statutory form, whether an indexed floor in a Code would be enforced where Article 41 has not been, is a question about Indian courts rather than about pension design. These uncertainties do not affect the central finding of this analysis: the absence of a legally prescribed benchmark and periodic adjustment mechanism is a distinct deficiency in the design of India's old-age transfer.

EU4U

Semiconductor Supply Chains and the EU Chips Act: A Case of the Magdeburg Project

Chaitanya Deshpande[1]

Introduction

Semiconductors are increasingly becoming critical in international politics, driving diverse fields from artificial intelligence to automated cars. Semiconductor supply chains are fragmented. The Accenture report states that each segment of the semiconductor value chain has, on average, 25 countries involved in the direct supply chain and 23 countries involved in supporting market functions.[2] This fragmented supply chain creates space for weaponisation and controlled disruptions by deploying sanctions, tariffs, and export controls.[3]

This weaponisation directly impacts the European Union and its Member States. In this context, the European Union (EU) is navigating the 'security of supply' for semiconductors, critical for its twin transition goals–green and digital. The European Commission has stated that semiconductors are of significant geostrategic interest and are at the core of the global technological race.[4] The EU has a comparative advantage as the Nether-

[1] Chaitanya Deshpande is a PhD Scholar at Centre for European Studies, School of International Studies, Jawaharal Nehru University, New Delhi. His research focuses on geopolitics of energy and technology policy.

[2] Syed Alam, Timothy Chu, Shrikant Lohakare, and Shungo Saito, "Globality and Complexity of the Semiconductor Ecosystem" (*Accenture and Global Semiconductor Alliance*, 2020), 8, https://www.gsaglobal.org/wp-content/uploads/2020/02/GSA-Accenture-Globality-and-Complexity-of-the-Semiconductor-Ecosystem.pdf.

[3] Ishanya Sharma, *"US-China Tech Rivalry: The Geopolitics of Semiconductors",* Manohar Parrikar Institute for Defence Studies and Analyses, August 29, 2025, https://idsa.in/publisher/issuebrief/us-china-tech-rivalry-the-geopolitics-of-semiconductors.

[4] European Commission, REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a framework of measures for strengthening Europe's semiconductor ecosystem (Chips Act), COM(2022) 46, 2022/0032 (COD), February 8,2022, https://eur-lex.europa.eu/resource.html?uri=cellar:ca05000a-89d4-11ec-8c40-01aa75ed71a1.0001.02/DOC_1&format=PDF.

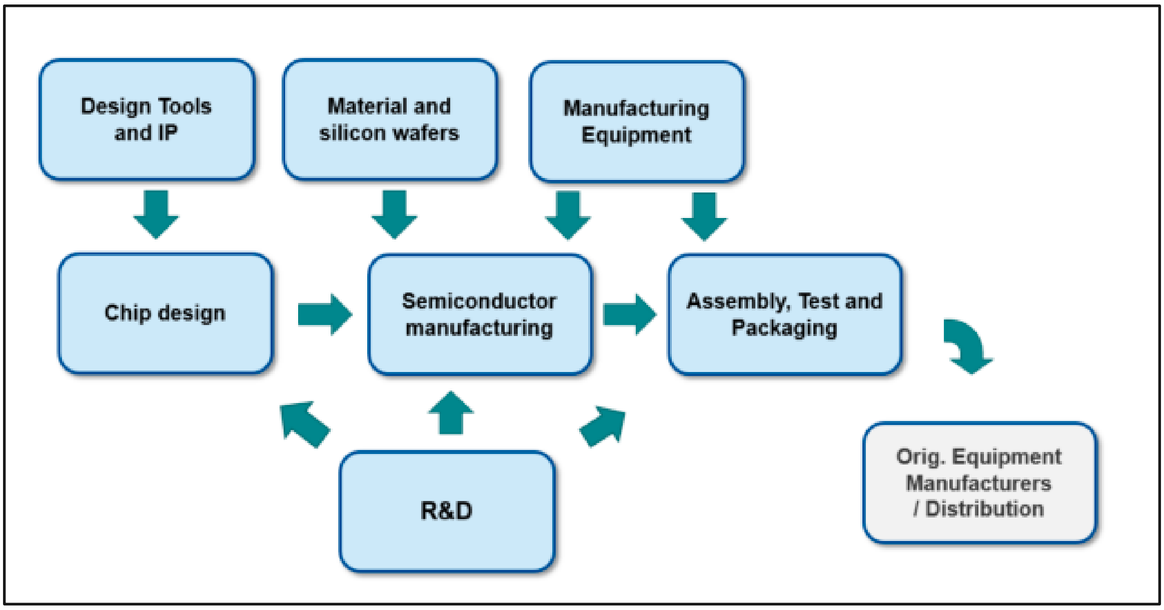

Figure 1: The Semiconductor Value Chain Source: European Chips Act- Staff Working Document

lands-based Advanced Semi-conductor Materials Lithography (ASML) is the only firm in the world that produces extreme ultraviolet (UV) lithography machines necessary for advanced chips. However, the EU shares only 10 per cent of total semiconductor production. In the EU semiconductor value chain, nearly 80 per cent of suppliers are located outside the EU.[5] This reflects the EU's vulnerability to outside dependence. The debate about strategic autonomy and technological sovereignty emerges from this vulnerability.

The EU's Chips Act, enacted in September 2023, aims to reduce this vulnerability. It aims to strengthen the semiconductor production capacity in the EU. The Act aims to increase the global market share of the EU in semiconductors from the current 10 per cent to 20 per cent by 2030, by investing more than 43 billion Euros by 2030.[6] The EU is attempting to create a favourable policy atmosphere for the production of semiconductors.

However, Intel's two planned projects at Magdeburg in Germany and their subsequent closure indicate key bottlenecks in the EU's Chips Act. Intel announced in March 2022 that it would be building two projects in Magdeburg in the state of Saxony in Germany,[7] aimed at strengthening the EU's strategic autonomy by producing advanced semiconductors at scale. The initial project cost was 17 billion Euros. In a revised agreement in 2023,

[5] Ilaria Cerutti and Michela Nardo, *Semiconductors in the EU* (Publications Office of the European Union, 2023), https://publications.jrc.ec.europa.eu/repository/handle/JRC133850.
[6] European Commission, "EU Budget Bolsters Europe's Technological Leadership: European Chips Act," accessed July 14, 2026, https://commission.europa.eu/strategy-and-policy/eu-budget/motion/focus/eu-budget-bolsters-europes-technological-leadership-european-chips-act_en.
[7] Supantha Mukherjee, Foon Yun Chee, Jane Lee, "Intel Picks Sites for EU Chip Factories Amid Prolonged Supply Crunch", *Reuters*, March 15, 2022, https://www.reuters.com/technology/intel-picks-sites-eu-chip-factories-amid-prolonged-supply-crunch-2022-03-15/.

the German government agreed to provide 9.9 billion Euros as a subsidy to these projects with the approval of the European Commission.[8.] However, amidst uncertainty, ongoing cost-cutting measures and reduced market demand in July 2025, the project was closed due to over-investment without demand and a cost-cutting programme.[9]

The cancellation of the project raises a broader question about the operationalisation of strategic autonomy through the Chips Act: to what extent can the Chips Act translate ambitions of strategic autonomy into sustainable, scalable semiconductor production? In this context, the paper critically examines the implementation of the EU's Chips Act through Intel's Magdeburg project. Subsequently, it assesses the impact of the Act's implementation on the EU's strategic autonomy in the semiconductor technology domain. It argues that strategic autonomy cannot be an isolated function of legal or regulatory frameworks but requires proper implementation along with favourable market conditions. The cancellation of the Magdeburg project hence revealed the gap between the ambitions of strategic autonomy and the actual scalable semiconductor production in the EU.

Strategic Autonomy of the EU

European Parliament's Think Tank defines the EU's Strategic Autonomy as the capacity of the EU to act autonomously–without being dependent on other countries in strategically important policy areas.[10] Another similar yet different concept of Open Strategic Autonomy (OSA)—the need for an open economy while reducing certain dependencies—has gained salience in recent years.

The dependencies on certain technologies were the priority focus areas. The Commission President, Ursula von der Leyen, declared in 2019 that it is not too late to achieve technological sovereignty in some critical areas.[11] As for semiconductors, the President, in her 2021 State of the Union address, held that "We depend on state-of-the-art chips manufactured in Asia. This is not just a matter of our competitiveness. This is also a matter of tech sovereignty."[12] The European Parliament (2021), in its Strategy on Critical Minerals, noted that no discussion on Open Strategic Autonomy in global affairs can be considered satisfactory if it ig-

[8] Pat Brans, "Europe's Chips Act Stumbles Over Its Own Rigidity," *EE Times*, September 17, 2024, https://www.eetimes.com/europes-chips-act-stumbles-over-its-own-rigidity/.

[9] Chris Gatt, "Intel Cancels Multi-Billion Euro Chip Factory in Germany," *Brussels Signal,* April 24, 2025, https://brusselssignal.eu/2025/07/intel-cancels-multi-billion-euro-chip-factory-in-germany/.

[10] Mario Damen, "EU strategic autonomy 2013-2023: From concept to capacity", *European Parliament Research Service* (EPRS, 2022), https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2022)733589

[11] Ursula von der Leyen, *Political Guidelines for the Next European Commission 2019–2024: A Union That Strives for More,* 2019, 13, https://commission.europa.eu/document/download/063d44e9-04ed-4033-acf9-639ecb187e87_en?filename=political-guidelines-next-commission_en.pdf

[12] European Commission, "2021 State of the Union Address by President von der Leyen," *European Commission Press Corner*, September 15, 2021, 4, https://ec.europa.eu/commission/presscorner/api/files/document/print/en/speech_21_4701/SPEECH_21_4701_EN.pdf

nores supply chain issues.[13] Glencross (2024) argues that post-2019, when a new College of Commissioners was appointed, two developments drove the concerns for security of supply and strategic independence for critical technologies.[14] One was COVID-19, which disrupted global supply chains. The other was the USA's sanctions on Russia and restrictions on Chinese semiconductor imports through legal instruments. Therefore, the debate around strategic autonomy spans from digital sovereignty to technological sovereignty.

Semiconductor Governance in the EU

The EU first engaged with the issue of semiconductors with its Raw Materials Initiative in 2008, noting that fundamental changes in the global markets are threatening the competitiveness of the European industry.[15] The Raw Materials Initiative identified 14 critical raw materials in 2011, which included items related to the semiconductor industry. [16]

In 2020, the European Initiative on Processor and Semiconductor Technologies was declared. It aimed at "expanding industrial presence across the supply chain to address key technological, security and societal challenges."[17] The European Commission in 2023 highlighted that chips are central to the modern digital economy and at the centre of strong geopolitical interests.[18]

Supporters of integration of European values and semiconductor governance hold that semiconductors are presented and governed as the technology upon which future progress depends; they are the technology on which other values, such as security and sustainability, depend.[19] Monsees (2025) argues that semiconductors in the EU are governed as a core technology infrastructure.[20] The governance paradigm reflects the contrast between the quest for digital sovereignty and global interdependence in semiconductor supply chains.

[13] Andrew Glencross, "The Geopolitics of Supply Chains: EU Efforts to Ensure Security of Supply," *Global Policy*, 15(4): 729–739, 732, May 7,2024 htps://onlinelibrary.wiley.com/doi/full/10.1111/1758-5899.13388.

[14] Andrew Glencross, "The Geopolitics of Supply Chains: EU Efforts to Ensure Security of Supply," *Global Policy,* 15(4): 729–739, May 7,2024 htps://onlinelibrary.wiley.com/doi/full/10.1111/1758-5899.13388.

[15] Commission of the European Communities, Communication from the Commission to the European Parliament and the Council, *The Raw Materials Initiative- Meeting Our Critical Needs for Growth and Jobs in Europe*, COM(2008) 699 final, November 4, 2008, 2, https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0699:FIN:en:PDF

[16] European Commission, "Critical Raw Materials," accessed September 5, 2026, https://single-market-economy.ec.europa.eu/sectors/raw-materials/areas-specific-interest/critical-raw-materials_en

[17] European Commission, Declaration: A European Initiative on Processors and Semiconductor Technologies, December 7, 2020, 1, https://digital-strategy.ec.europa.eu/en/library/joint-declaration-processors-and-semiconductor-technologies

[18] European Commission, "European Chips Act – Questions and Answers," *European Commission Press Corner*, November 29, 2023, https://ec.europa.eu/commission/presscorner/detail/en/qanda_23_4519.

[19] Timo Siedl and Luuk Schmitz, 2023, "Moving on to Not Fall behind? Technological Sovereignty and the "Geo-Dirigiste" Turn in EU Industrial Policy," *Journal of European Public Policy* 31 (8): 2147–2174. August 24, 2023, https://www.tandfonline.com/doi/full/10.1080/13501763.2023.2248204.

[20] Linda Monsees, "The paradox of semiconductors—EU governance between sovereignty and interdependence," *Cambridge Review of International Affairs*, 38:1, 3-21, September 27,2024, https://www.tandfonline.com/doi/full/10.1080/09557571.2024.2405915.

The existing literature has analysed the concepts of Open Strategic Autonomy and semiconductor governance in the EU. It has also focused on the EU Chips Act from a policy perspective. However, the interlinkage of the implementation of the Chips Act with the EU's strategic autonomy has been underexplored. Also, there has been no explicit case study on how the EU Chips Act influences a particular semiconductor project. This paper aims to fill the gap by examining the implications of the EU Chips Act for the EU's strategic autonomy, using the case of Intel's Magdeburg project and its subsequent closure. The next two sections on the Chips Act and the Magdeburg project, respectively, analyse these implications.

Results

EU's Chips Act and Strategic Autonomy

The post-pandemic period experienced increasing demand for digital devices and services, leading to increased demand for semiconductors. The demand exceeded production in the EU Member States. Other issues, such as less investment by the EU-headquartered producers in capital expenditure, increasing cost and complexity in establishing production plants, and continuous technological evolution, also necessitated the pan-EU legal framework for semiconductors.[21]

In this context, the EU Chips Act Regulation entered into force in September 2023. The Regulation included various package measures based on three pillars: Pillar I - Chips for Europe, addressing research, innovation, and infrastructure gaps; Pillar II - Security of Supply, addressing financing and investment gaps; Pillar III - Monitoring for crisis mechanisms and addressing concerns during emergencies. The Act created policy infrastructure through new mechanisms, such as the Union-level Semiconductor Board as an overarching body for the three pillars and the Chips Fund.

Through this framework, the Chips Act tried to address the concerns about strategic autonomy in semiconductors by strengthening internal capacity to produce them. Some of the stated objectives of the Act were: "to ensure the conditions necessary for the competitiveness and innovation capacity of the Union…to strengthen the Union-wide semiconductor ecosystem with pooled knowledge, expertise, resources and common strengths…to improve the functioning of the internal market by laying down a uniform Union legal framework…to innovate and provide security of supply in the field of semiconductor technologies with a view to increasing robustness to counter disruptions."[22] Strategic autonomy is thus to be achieved by increasing production and reducing external dependencevis-à-

[21] European Commission, *European Chips Act: Staff Working Document*, SWD(2022) 147 final, May 12, 2022, https://digital-strategy.ec.europa.eu/en/library/european-chips-act-staff-working-document.

[22] European Parliament and Council of the European Union, "Regulation (EU) 2023/1781 of the European Parliament and of the Council of 13 September 2023 Establishing a Framework of Measures for Strengthening Europe's Semiconductor Ecosystem and Amending Regulation (EU) 2021/694 (Chips Act)", *(Official Journal of the European Union)*, September 13, 2023, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?ur=CELEX:32023R1781

vis reducing vulnerability of Fragmented supply chains and weaponisation.

The challenge before the Chips Act and related policy formulations is to translate these objectives into real production. Since the production of semiconductors is undertaken primarily by private firms, the EU's role is to create the ecosystem for strategic autonomy that facilitates investment and ensures sustainable commercial production.

Magdeburg Project and the EU's Strategic Autonomy

Intel, one of the largest semiconductor companies in the world, based in the USA, announced in March 2022 that it would be building two projects in Magdeburg in the state of Saxony, in the eastern part of Germany.[23] This was just after the introduction of proposals for the EU Chips Act in February 2022.[24] The project was closely aligned with the EU's goal of strategic autonomy by producing advanced semiconductors at scale and achieving production targets set by the EU Chips Act.

Intel itself connected the project with the EU goals. While announcing the project, Intel issued a statement noting that: "Intel will continue to bring its most advanced technology to the continent, helping the EU create a next-generation European chip ecosystem and addressing the need for a more balanced and resilient supply chain (...) the investments are

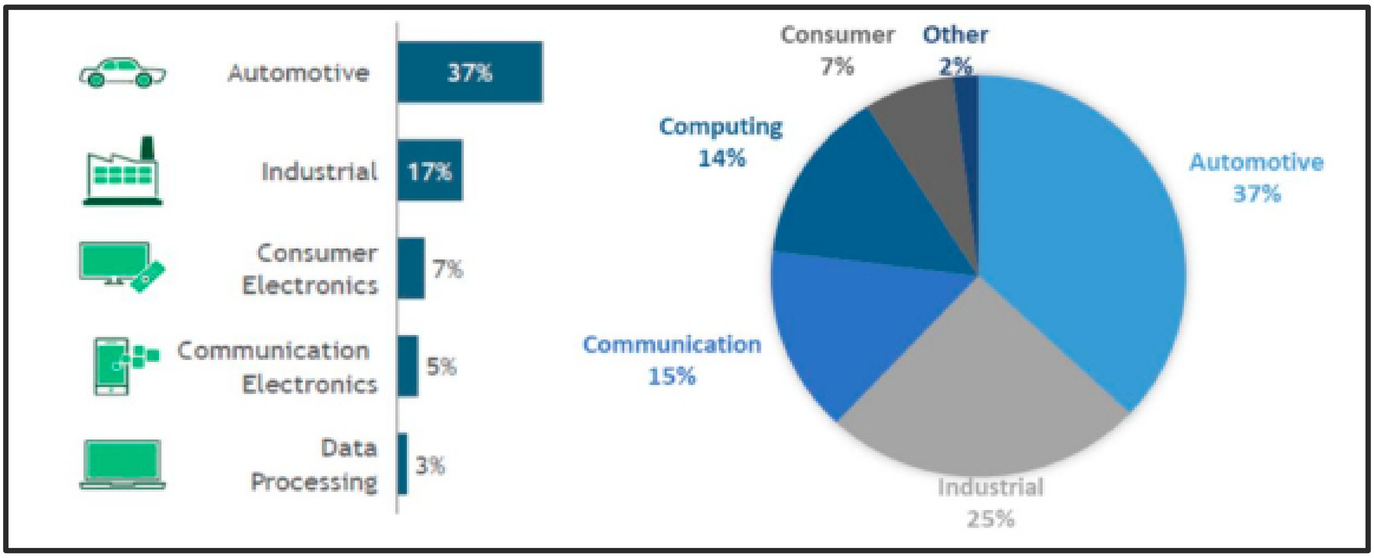

Figure 2: European share of semiconductor market segments and demand by end market Source: EU Chips Act- Staff Working Document

[23] Supantha Mukherjee, Foon Yun Chee, Jane Lee, "Intel Picks Sites for EU Chip Factories Amid Prolonged Supply Crunch," *Reuters*, March 15, 2022, https://www.reuters.com/technology/intel-picks-sites-eu-chip-factories-amid-prolonged-supply-crunch-2022-03-15/.

[24] EU Law Live, "European Court of Auditors Publishes Report on EU's Strategy for Microchips," *EU Law Live*, 30 April 2025.https://eulawlive.com/european-court-of-auditors-publishes-report-on-eus-strategy-for-microchips/.

to support the EU Chips Act aim that Europe shall account for one fifth of theglobal semiconductor production by 2030."[25] Along with Magdeburg, Intel's facilities in Ireland and Poland were also intended to contribute to semiconductor manufacturing.[26]

However, Intel's declaration of closure in Magdeburg, along with its withdrawal from Poland, was a shock to the EU Chips Act and its plans for the EU's strategic autonomy. The project was unique to Europe, advancing the production of microchips of 2 nm.[27] Intel also announced its withdrawal from the planned projects in Poland, creating more concerns.

However, the cancellation of Intel's projects was also a reality check for the EU's strategic autonomy ambitions. State aid has worked to a limited extent, though the German government has tried to approach other semiconductor producers. The legal complexities create delays in the approval process. The EU only funds Research and Development and pilot lines, while Member States are expected to drive investments from global giants. Subsidies have to be authorised by the EU Commission, as they shall not violate the Competition Law. The aim of advancing production, hence, suffers a setback because of the complexities involved.

The key bottleneck is also the post-cancellation redirection of the funds. Once the project is cancelled, the funds cannot be easily transferred to another similar project. New subsidy packages have to be designed in a way that does not violate EU laws.[28] The whole approval process has to be started again, leading to further delays, loss of competitive advantage, and an increasing financial burden. In comparison with the US Chips Act, the EU Chips Act emphasises more accountability than adaptability. Macroeconomic cycles move faster than the EU's approval of subsidies, disincentivising companies to produce. All of this implies that the strategic autonomy of semiconductors cannot be created only through legal frameworks. Rather, it has to be viewed along with complementary micro-procedures to ease and encourage semiconductor production.

It also implies that the Chips Act attracts investments from large foreign firms. However, the catch lies in the implementation, which can undermine strategic autonomy by delaying actual production. Such investments can prove fragile, as these companies invest according to larger market cycles, booms, and busts. The subsidies need to be provided according to market demand. Technological stra-

[25] Intel Corporation, "What Intel Plans to Bring to Magdeburg and Europe", Press Release, August 22, 2023, 1,https://download.intel.com/newsroom/2023/geos/Germany/20230822_Factsheet_2_Magdeburg_EN.pdf.
[26] Intel Corporation, "Intel and German Government Agree on Increased Scope for Wafer Fab," June 19,2023, https://www.intc.com/news-events/press-releases/detail/1628/intel-german-government-agree-on-increased-scope-for-wafer.
[27] Pat Brans, "Intel's Retreat Shifts Europe Semiconductor Reality," *EE Times*, October 13, 2025, https://www.eetimes.com/intel-retreat-shifts-europe-semiconductor-reality/
[28] Pat Brans, "Intel's Retreat Shifts Europe Semiconductor Reality," *EE Times*, October 13, 2025, https://www.eetimes.com/intel-retreat-shifts-europe-semiconductor-reality/

tegic autonomy has to go hand in hand with market conditions.

The withdrawal of Intel from Magdeburg serves as a reality check for the EU's targets for semiconductors by 2030 and for achieving strategic autonomy. The European Court of Auditors (2025) noted, "Given the current level of investment in the manufacturing capacity, the strategy is very unlikely to be sufficient to achieve by 2030 the target of the very ambitious Digital Decade target of increasing the 20 per cent EU share by market value chain by revenue."[29] This implies that the Chips Act in its present form and implementation wouldn't suffice to achieve strategic autonomy and de-risking from global supply chains. The industry response to the implementation of the Chips Act shows that the market realities are far more complex than the political narratives around sovereignty and strategic autonomy.[30]

The current debate about the Chips Act 2.0 reflects these realities. The proposal for the Chips Act 2.0 asks for a clear focus on critical areas like edge AI,[31] where European companies can have an advantage. The preferences for strategic objectives favour resilience and technological leadership in the critical global value chains. Such demands often place strategic autonomy or technological sovereignty implicitly rather than explicitly. For example, the Semicon Coalition of 27 Member States called for three strategic objectives in the revised act: prosperity, indispensability, and resilience rather than sovereignty or strategic autonomy.[32]

Conclusion

The debate about strategic autonomy in the semiconductor supply chains started with the COVID-19 pandemic. The Chips Act indicates that it was a crisis response measure rather than a long-term strategy for strategic autonomy. The implementation of the Act had many bottlenecks, both structural and practical. The Magdeburg projects by Intel were initially thought of as a success of the conducive policy atmosphere generated by the EU Chips Act. Germany, as a Member State of the EU and the largest industrial hub in Europe, rolled out the plan for the single largest subsidy for Intel's project, following the Chips Act. However, many factors, including Intel's internal issues and delays in approval from the EU side, created constraints on the process of speedy and effective implementation of the pro-

[29] European Court of Auditors, *Special Report 12/2025: The EU's Strategy for Microchips*, April 24,2025, https://www.eca.europa.eu/en/publications?ref=sr-2025-12.

[30] Jonas Gobert, "Position Paper on the European Chips indispensability Act and ECA Consultation," *ZVEI*, November 25, 2025.https://www.zvei.org/fileadmin/user_upload/Presse_und_Medien/Publikationen/2025/Dezember/20251201_ECA_2/ZVEI_Positionpaper_on_ECA_2.0_EC_Consultation_2025_11_25.pdf

[31] European Commission, "Proposal for a Regulation of the European Parliament and of the Council on a Framework of Measures for Strengthening the Union's Semiconductor Ecosystem, Repealing Regulation (EU) 2023/1781 (Chips Act 2.0)", June 3, 2026, 60, https://digital-strategy.ec.europa.eu/en/library/proposal-chips-act-20

[32] European Commission, "Semicon Coalition Calls for Reinforced Chips Act," Shaping Europe's Digital Future, September 29, 2025, https://digital-strategy.ec.europa.eu/en/news/semicon-coalition-calls-reinforced-chips-act

ject, leading to the subsequent closure of the project.

The case of the Magdeburg project highlights the challenges of combining legal and policy frameworks with ambitious goals like strategic autonomy. The market economy and its realities often act cyclically, impacting such normative objectives. Although the Chips Act has facilitated significant investments from many companies, the production of semiconductors remains a challenge. Strategic Autonomy to secure semiconductor supply chains for the EU remains a distant objective. The debate around the Chips Act 2.0 reflects the change by complementing strategic autonomy with an emphasis on resilience and technological leadership in innovation.

European Studies Review

Est. 2020

ISSN 2953-0377

September 2026 Edition 31