Croatian Presidency of the European Union in 2020

Policy paper

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Six months prior to the European elections, the amplification of anti-immigrant sentiment all the way to sheer verbal and physical acts of hatred is taking hold across the EU’s streets, social network and political campaigns. This is evidenced by the recent political turmoil over a non-binding UN Global Compact for Safe, Orderly and Regular Migration, the so called “Marrakech Agreement”. Originally it was rejected only by the Trump administration, whose position is now joined by several EU member states - Hungary, Poland, Austria, Czechia, and Bulgaria. Just like in the case of so called “Istanbul convention”, the scenario of overthrowing multilateral human rights initiatives through social media hysteria fuelled by fake news and hate speech, followed by sudden opt-outs, is emerging as a new and powerful tactic of illiberal political leaders and their allies from the radical right across the EU, whose intention is to shatter and reshape shared European values. At the same time, it seems that mainstream political parties lack the capacity to address the ordinary people’s growing sense of socio-economic and cultural insecurity, political neglect and alienation from the EU’s decision-making processes, experienced by millions of European citizens who will either refuse to vote or support anti-establishment political parties in the May elections for the European parliament.

The gloomy atmosphere of migrant scapegoating, authoritarian strongmen politics and declining rule of law is often compared to the late 1930’s which paved the way for fascist and Nazi terror across the continent and the entire world. Yet, in times featured by fear, it is more important than ever to engage with the European politics from the value-based perspective, taking full account of the underlying dynamics, such as growing socio-economic inequalities, widespread corruption, devastated professional journalism, shrinking civic space and rampant dissolution of multilateralism and political consensus-building. It is more important than ever to find strength to step out of the prevailing sense of depression and despair and to look at specific opportunities for action on part of European citizens who are deeply concerned about this acute crisis of the European values and are ready to protect and renew the core idea of the European Union as a community of equal, free and safe people committed to lasting peace. Namely, each crisis, as it shakes and shatters the status quo, also brings about a rare possibility for substantial, constructive change.

One such clear opportunity is the upcoming European presidency, shared between Romania, Finland and Croatia, taking place over the next 18 months starting on 1 January 2019, critical for the (de)normalisation of illiberal, authoritarian, nationalist, protectionist and fear-driven EU. During that period, as the new political landscape will be shaped after the elections, the Council of the EU will play a pivotal role in protecting or dissolving the European values. Its presiding members, through a trio, can leave a historic mark in this respect, depending on whether and how they will address the fundamental problem of value-based discords among member states which are preventing the EU to undertake institutional reforms and bold political decisions about EU’s long-term future, both of which are at a stand-by due to the perpetual crisis thinking and ideological fragmentation. The Council should play a crucial in drawing a clear line between those who uphold and promote shared European values and those who actively work to undermine them, promising to bring about a loose, interest based association of culturally and politically homogenous societies in which critical voices are silenced and the rule of law is corrupted to serve the mighty.
This policy paper is meant to serve as a “policy assistant” to all European active citizens who feel that it is time to act now and challenge the future EU presidency to live up to its historic responsibility. Hopefully it will also be useful to all civic and political activists preparing for the European elections who understand that the critical deliberative struggle against fascisation of Europe has already started. The paper provides a background overview of the key policy issues highly relevant for the upcoming presidency trio of the EU in the period from January 2019 until the end of June 2020, made up of Romania, Finland and Croatia. It is primarily addressing the civil society stakeholders, including activists, trade-unionists, business representatives, journalists and academics, in the three countries making up the trio, as well as their respective European peer networks. The paper’s intention is to enrich a discussion on common advocacy action in different policy areas, hopefully contributing to a more effective impact of the European civil society as a whole on the next EU presidency, taking place at a time when the renewal of citizens’ trust in the EU’s democratic profile, its cohesion and ability to make value-based decisions is more needed than ever.

The paper has a modular structure, providing background information and key critical perspectives related to the most immediate political issues that the upcoming trio will have to deal with, such as the 2019 European elections and beyond, post-Brexit Europe, the new multiyear EU Budget and the pressing energy security issues. Furthermore, the paper provides an overview of the current state of play of the European values protection, European democratic governance, European digital agenda and the EU enlargement with special focus on the Western Balkans. These four issues have been selected as particularly important for systemic protection of shared European values which is meaningless unless it translates into political accountability and citizens’ trust and engagement in democratic processes. Digital agenda is included due to its outstanding relevance for the shaping of the European democratic political culture, which is currently severely challenged by the uninhibited dissemination of rage, fear and lies on social networks, which at the same time disrupt personal privacy and crucial democratic processes. As viewed from its Croatian periphery, EU’s enlargement strategy should be oriented towards the protection of European values. EU leaders must acknowledge the serious security threat of re-normalisation of semi-autocratic governance model in the Western Balkans, coupled with religious radicalisation, which can be easily taken advantage of by political actors within and beyond Europe who wish to profit from its dissonance, fragmentation and inability to act on the global political stage.

Having in mind the Union currently has no ability to conceive or manage institutional reform processes civil society organisations should focus their attention on safeguarding the environment conducive for a vibrant engagement and watchdog role of civil society. Shrinking civic space should be examined in the light of rule of law deterioration which takes place primarily in new member states in Eastern Europe. Since power shifts may take place in the Parliament following the elections, the role of the Council in safeguarding shared European values will be of utmost importance. It will be up to the Council to take full use of Article 7 procedure which promises to remove voting rights of member states which systematically and continuously undermine EU’s values, especially the rule of law. Activists across the board should support other rule of law conditionalities currently being developed in the EU, primarily
the one related to the EU budget. It has been proposed member states which do not meet requirement of a sound financial system would be cut off European funds as to protect EU’s financial interests. In addition, activists should push for development of a robust rule of law monitoring tool with concrete and precise indicators such as those proposed by the EP’s LIBE Committee and to be enforced by an inter-institutional agreement (EU Pact for Democracy, Rule of Law and Fundamental Rights).

EU must adjust its policies so they more successfully mitigate negative effects of declining levels of rule of law in member states which primarily takes form of destabilisation of independent oversight institutions, attack on civil liberties and fundamental rights (especially rights of minorities, women, LGBTQ individuals and refugees), attack on university and press freedoms (through acquisitions of media outlets), rampant use of politically incorrect speech, inflammatory speech and hate speech. In light of this all future rule of law conditionality mechanism should go well above and beyond covering merely the functioning of independent judicial institutions. Shrinking of civic space, attacks on critical voices and narrowing in on minority rights are all early indicators of authoritarian government tendencies and should be encompassed by any rule of law monitoring instrument to be developed.

Right-wing populists come to power by offering their voters a simplistic worldview in which a virtuous people stand against the corrupt and distant political elite. However, once in power, right wing populists dismantle checks and balances and thus facilitate corruption, clientelism and favouritism by public bodies. Having in mind declining levels of citizens trust it is not understandable why EU completely gave up on periodic anticorruption reporting of its member states (and its institutions). EU must develop a robust anticorruption monitoring mechanism that will meet the demands of European citizens which have grown intolerant of numerous ethics, integrity and conflict of interest scandals of the Brussels bubble and national governments. If adoption of shared European values is a key goal, perhaps the conditionality mechanisms should primarily be coupled by an anticorruption narrative, since it would echo more loudly in heads and minds of European citizens in comparison to a narrative focusing on rule of law, good governance or human rights. Additional European funds should be distributed via intermediary organisations to national activists and journalists, which are often the first ones who feel the weight of the authoritarian government.

Negative externalities of social networks on our health, on our societies and on our democracies cannot be ignored any longer. Social networks are in a need of a serious, careful and encompassing regulation that would mitigate at least some of the recognised risks: hate speech, inflammatory speech, racism, xenophobia, fake news, non-attributed political adds, dark posts (only visible to the consumer), non-transparent financing of election campaigns, personal data processing, privacy, teen depression, addiction, etc.

EU institutions must focus their immediate attention to public policies which can bring concrete and tangible benefits to European citizens who are currently experience sense of insecurity and exclusion. The European Pillar of Social Rights still seems to function more as a declaratory, rather than an actual goal of EU policies. EU is yet to grasp opportunities stemming from the transition towards a low-carbon economy, which is currently recognised more like an unwilling obligation than a chance for deep transformation of the European economy, and consequently its geostrategic relations, which are currently shaped by its dependency on fossil fuels imports. Despite a multitude of policy documents related to immigration and asylum, the EU is practically left without a politically viable strategy of managing long-term
migration flows. Instead, the EU has practically deprived itself of the chance for a long-term, sustainable strategy of addressing global migration flows, caused by the heavy and complex legacy of colonisation, wars, exploitation of natural resources and consequent climate disruptions which will characterise the entire 21st century.

True commitment of the EU to the Sustainable Development Agenda 2030, backed by full adherence to the principles of the rule of law and participatory democracy, seems like the only viable avenue out of the current state of political fragmentation and short-sighted troubleshooting. In the year when we celebrate 70th anniversary of the Universal Declaration of Human Rights, created upon horrors of the WW2, and at the same time fear for our own democratic future, it is our shared civic responsibility across the Union to push the European leaders, starting with the new presidency and the European elections, to take that road to true equality, freedom and safety for all citizens of Europe and the world. Namely, this key shift of the political perspective will not happen on its own.

The content of the present policy paper created in a transparent and participative process. This is because GONG and CROSOL (Croatian Platform for International Solidarity) started a public consultation on the “Priorities of the Presidency of the European Union 2019-2020” with the aim to detect crucial topics and issues pertinent to the democratic and sustainable development of the EU jointly and to join forces for increasing the influence of the civil society and active citizens on the presidency and priorities of the Croatian, Romanian and Finnish governments.

To raise public awareness and to check how institutions are preparing for the upcoming presidency, GONG, CROSOL and the Foundation SOLIDARNA organised an international conference in Zagreb on the presidency of the EU and the protection of European values, during which extracts of the present paper were presented.

Both processes – the public consultation and the international conference – contributed to completing the present paper, which was updated with latest pieces of information in mid-November 2018. We kindly thank everyone who has recognised the importance of this topic.
Why Does EU Presidency Matter?
What is EU Presidency?

The Council of the European Union, often referred to as the Council, is one of the three fundamental institutions of the European Union, representing the common interests of the member states. The Council is not to be confused with the European Council, which is a separate EU institution that is composed of the leaders of all member states and the president of the European Commission, and is led by the president elected by the European Council itself. The Council meets in 10 different configurations depending on the policy area discussed. Each configuration is composed of 27 ministers from each member state, administrating policies in question. In that way, the Council of the European Union, together with the European Council, represents the main institution in which the national governments interact, discuss and make decisions on the legislation and policies of the EU. Besides sharing legislative responsibilities with the European Parliament in responding to legislative and budget proposals by the European Commission, the Council is the main decision-making body tasked with coordinating policies among the member states (for instance through the adoption of frameworks, guidelines or recommendations) and addressing potential intergovernmental issues. Furthermore, it possesses the jurisdiction over formation and implementation of the EU security and foreign policy.

The Presidency of the Council of the European Union has been a function of the Council since its establishment in 1958 as a part of the European Economic Community and it was organised as a six-month rotating presidency among the original members. However, the presidency as we know today was defined by the Treaty of Lisbon in 2009 that introduced various changes in order to increase the continuity and coordination in the Council under the pressure of the growing European community. At the same time, it is often argued that these changes limited and diminished the influence and the power of the presidency. Some of the crucial changes that influenced the presidency were the separation of the European Council, now led by the newly introduced long-term president (Donald Tusk), transfer of jurisdiction over the foreign policy and security issues from the presidency to the High Representative of the Union for Foreign Affairs and Security Policy, and introduction of trio presidencies in order to smooth the transition between the presidencies and improve coordination and continuity.

Each country is presiding for the period of six months, but its leadership is viewed as a part of the trio the country belongs to. Three consecutive countries presiding form a trio, and are expected to agree on the common long-term goals and priority issues, and are tasked with cooperating on the common agenda that is to serve as a basis of each individual programme. Since most issues and proposals demand more time than six months to be resolved, such grouping is supposed to ensure a period of 18 months (or three presidencies) to work on a certain issue uninterruptedly and ensure a higher level of continuity. Additionally, trio presidencies are also supposed to create an environment where small and inexperienced countries receive support and advice from more experienced trio partners.

Despite described changes to the institution of the presidency, the main tasks have remained the same: the presiding country represents the Council in relation to other institutions of the EU and its main task is planning and leading the meetings in the Council and its preparatory bodies. In other words, ministers of the presiding country organise
and facilitate a discussion between all member states’ ministers to reach agreement and coordinate the common interests and actions. The presidency creates and acts upon a predetermined agenda and prioritised issues in a way to ensure continuity. The agenda is expected to take into consideration the ongoing issues that past presidencies did not manage to resolve and the urgent current affairs, as well as to be based upon the common agenda and topics determined by the trio presidency.

Accordingly, a member state is expected to undertake several roles while presiding over the Council: (1) the role of administrator through the preparation and organisation of the formal and informal meetings as well as filling and distributing accompanying documentation and agendas, 2) the role of coordinator of working relations between the Council and other EU institutions, 3) the role of agenda-shaper of its six-month presidency programme, 4) the role of the mediator during the negotiations between country ministers to reach agreement and find acceptable compromises, 5) the role of Council representative externally to international actors and internally to other EU institutions.

Does the EU Presidency Matter?

It is often debated whether the holding of the presidency truly benefits the member state and helps it in promotion of its national interests or primarily poses an administrative, diplomatic and financial strain. One of the main arguments on the political and negotiating power gain from holding the Council presidency is its principal role of setting the Council meetings’ agenda. Through setting the agenda or planning and facilitating the meetings, the presidency can try to pace the negotiations to its advantage while rushing or postponing a discussion or decision on a certain topic, and gains an opportunity to frame and time introduced issues - all of which can influence the negotiation process. In this way, the presiding country can push the issues that resonate with its national interest. The presidency also offers the member state increased visibility in international media as well as among the other member states and European institutions. This creates a more fertile ground for potential partnerships and negotiations with various international actors. For instance, when preparing for the presidency, the Bulgarian Government planned “over 200 political and cultural events on the territory of Bulgaria with over 200 000 visitors expected.” Furthermore, the presidency provides the member state with deeper insight and more specific information on open issues under negotiations, including particular member states’ interests and attitudes on specific topics. This may be seen as an increase in power resources and as providing additional opportunities for new partnerships and collaborations of national interests.

However, critiques of the presidency institution mainly claim how extensive financial and administrative costs that presidency imposes do not justify such a limited advantage in negotiating power. While the presiding member state has the role of agenda setting, that role is limited as the state has little influence over outcomes of the meetings or duration of decision-making. Also, deciding on the topics and priorities of the presidency is limited as well since it is strongly expected to continue the unresolved issues of the inherited agenda and the issues introduced by the European Council. The six-month tenure may seem as a
too short period to achieve true accomplishments and changes of the national interest, or even establish legitimacy and trust among other member states. Other critiques rest on the extensive financial and administrative resources required for the presidency as well as a high level of expertise and capabilities of administrative officials and policy-makers. It is expected that the presidency cost be covered by the respective member state – in case of smaller countries like Slovakia, Malta, Finland and Croatia that are estimated at 70 million EUR. EU funding can be used for the staff training and preparations, as is the case in Croatia.

When discussing the political profitability of presidency for the presiding member state, special focus is often put on the small and new member states and the question of whether the presidency can provide an opportunity to countries with usually weak negotiation power and influence for a temporal advantage to pursue their national interests. While high administrative and financial costs often pose a heavier pressure on the smaller member states, the new member states confront a problem of a lack of experienced administrative officials competent to successfully fulfil organisational tasks, and a lack of experience in bargaining for policy demands or a lack of previously established relationships.

So what does the presidency really mean for the presiding state? While there are truly extensive financial, administrative and expertise demands and costs, and the jurisdiction over the agenda setting and decision-making process might not be influential enough to change the meetings’ outcome, the presidency can use its influence to accelerate the process and a resolution of the agenda topics of its interest and postpone discussion of other ones. Furthermore, the presiding member state, especially a smaller one with usually weaker influence in the negotiation process, enjoys higher visibility and international affirmation as well as a stronger influence on the negotiation process than in comparison to its normal membership position.1

What Makes a Successful EU Presidency?

Due to the complexity of the institution of the presidency as well as its dependence on the affairs and dynamic intergovernmental relationships in the European context, it is not easy to produce a clear recipe for a ‘successful’ presidency. The success evaluation has to take into consideration the limited authority of the presidency as well as the restrictive time-frame, and focus on realistic expectations. Therefore, when answering the question of what makes an EU presidency successful, it is useful to consider reports of the past presidencies and highlight the main areas of praise or criticism.

The most obvious indicator of the successful presidency is the **ability to close files and achieve agreement on the agenda’s topics**. Due to the time and influence limitations of the presidency, it is unrealistic to expect a successful closure of all topics. Therefore, a successful presidency may be one that reached complete closure of only one topic on the agenda but also if it achieved a significant development and improvement in that policy area. For instance, Estonia’s presidency is being remembered as one that brought attention to the **digital market** and achieved a significant shift in the area of digitalisation policies while some other programme goals remained unanswered.²

While Estonia achieved improvement in the area of its national interest, Malta is **praised for reaching political consensus** in an area member states had limited interest in, but which remained unsuccessfully resolved by previous presidencies. During negotiations that ended in consensus regarding organic food policy and changes to the Common Agricultural Policy, Malta preserved a more neutral role of facilitator, gained praise for a **successful mediation** and success on resolving this hot topic, as well as leverage and legitimacy for further negotiation processes on other topics.³

**Responsiveness to crucial political and economic events** and interests in contrast to an exclusive focus on issues of domestic importance is also seen as an important capability of a successful presidency. Accordingly, the **Slovakian presidency received critique** for hijacking the EU agenda with its domestic political problems without sufficiently tackling the unforeseen issues of migratory pressures and political affairs.

**Mastering technical, administrative and diplomatic responsibilities proved to be an important criterion for a successful presidency.** High demands on resources and chairs’ and civil servants’ expertise proved to be a special task for smaller, especially newer EU members, and encompasses both the ability to handle bureaucratic demands as well as to facilitate negotiations and lobbying in order to reach an agreement. For instance, despite an overall positive assessment of the Slovenian presidency, it received critiques regarding its capacity for coalition building and lobbying as well as “a lack of soft knowledge among Slovenian officials and weak coordination among policy agents.”⁴ For small and new member states such as Croatia, ensuring adequate logistical, administrative and diplomatic capacities represents a serious challenge but also a maturity test in the eyes of other member states. **For instance, as estimated by the Croatian Government, when presiding, Croatia will be responsible for organizing 1400 meetings at different levels in Brussels, around 20 meetings and conferences at the ministerial level and 200-250 technical meetings taking place in Croatia, as well as at least one EU leaders’ Summit – which it has already been announced will focus on EU-Western Balkans relations.**

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² [https://www.politico.eu/article/maltas-eu-presidency-how-did-it-go/](https://www.politico.eu/article/maltas-eu-presidency-how-did-it-go/).


⁴ Svetličič i Cerjak, “Small Countries’ EU Council Presidency and the Realisation of Their National Interests: The Case of Slovenia”.
Since the main strength of the presidency comes from the national government of the presiding member state - its political stability, as well credibility in international eyes play an important role in the success of the presidency. A strong example of how the government instability and domestic problems can significantly undermine the success of the presidency is the Czech presidency, criticised for a “failure to provide a stable leadership” due to the fall of the Czech government in 2009, during its tenure in the Council.5

Setting EU Presidency Priorities

Lastly, when preparing the political agenda of priorities during the presidency, it is crucial to understand the wider European context of relevant topics present in the on-going political discussion, unresolved by previous presidencies. The EU political agenda for 2018 focuses on the following key issues: illegal migration, Brexit, cyber security and disinformation, youth empowerment resources, rising inequalities, counter-terrorism, the new Multi-annual financial framework and the budget expectations, Eurozone and the European Monetary fund, the question of voter turn-out in European elections and quality of representation, Polish and Hungarian actions against the principles of the rule of law, political upsurge of radical far-wing parties, disintegration of countries in the Middle East, and migrant integration.

The contemporary trio presidency of Estonia, Bulgaria and Austria's joint programme focuses on the following five topics: jobs, growth and competitiveness, empowering and protecting EU citizens, a forward-looking climate policy, freedom, security and justice, and improving the global influence of the EU.6 Accordingly, Estonia's priorities were an open and innovative European economy, a safe Europe secure from terrorism and organised crime while tackling the migration crisis, a digital Europe and the free movement of data and an inclusive and sustainable Europe concerning labour mobility, equal opportunities, social inclusion and sustainable environment.7 The Bulgarian presidency prioritised digital economy, security and migration policies, economic and social empowerment of youth, as well as connectivity and collaboration with the Western Balkans.8

The current Austrian presidency, currently in position, formed its agenda under the slogan “A Europe that protects” and prioritised a protective role of the EU in three areas: security and illegal migration, prosperity and competitiveness through digitalisation, and stability in the European neighbourhood concerning the Western Balkans.9

The upcoming Romanian-Finnish-Croatian presidency trio is expected to build upon the unresolved open issues of the previous presidencies while introducing new topics of European importance. However, this trio’s official programme is not yet available as it is expected to be presented to the Council in November 2018. The inter-governmental articulation of the trio’s programme, which is being agreed upon through a series of inter-ministerial meetings, must take into account the individual countries’ priorities, the past trio’s programme and the actual European political context.

Romania, the first one to preside from January 1, 2019, has presented its priority agenda, listed as four “topics of special interest” elaborated in specific issues:

1. Converging Europe: growth, cohesion, competitiveness, connectivity, with a focus on issues of sustainable development, reduction of disparities, convergence, employment and social rights; innovation and digitalisation; connectivity and markets

2. A safer Europe, with a focus on issues of strengthening internal security-border management, Schengen, cyber security; and future of the common area of freedom, security and justice

3. Europe, a stronger global actor, with a focus on issues of Common Security and Defence Policy and the efficiency of EU external action; consistency of EU policy in its neighbourhood; and honouring of international commitments

4. Europe of Common Values with focus on issues of solidarity, cohesion, equal opportunities and social justice; democracy, freedom and respect for human dignity; and combating racism, xenophobia, anti-Semitism, intolerance and populism.

The Romanian Government has taken an inclusive approach to non-state actors and civil society in preparing for the EU Presidency. An intersectoral consultation platform was set up named EURO 2018 Forum, bringing together government officials and policy officers, academics, civil society representatives and social partners, organised into thematic working groups in line with the ten configurations of the Council. The working groups have been exploring the specific issues to be addressed during the Romanian presidency. Prior to its formation, civil society organisations have held their sectoral consultations to define their advocacy priorities in respect of the prospective Government priority agenda. Inter-sectoral collaboration on the policy preparations for the presidency is not only a clear sign of the Government’s openness, but also a smart move of mobilizing the much needed policy expertise and ensuring buy-in from key stakeholders as well as their policy expertise.

So, far, the Croatian Government has provided general programme orientation of the upcoming presidency in the first half of 2020, after Romania and Finland. Trio consultations have been underway since January 2018 and it is expected that in autumn 2018, the agenda setting will be intensified to be completed by December 2018. It is expected that the Croatian presidency will focus on economic growth, employment and social inclusion, European security, energy and transport connectivity and EU enlargement in the Western Balkans. Croatia has already announced the hosting of the EU-Western Balkan Summit in Zagreb in the first half of 2020. In July 2018, the Croatian Government has adopted a formal decision which positions the EU presidency as an activity of special state interest, treated as a priority within the state administration. By a subsequent decision, the Government set up the EU presidency preparation bodies, which will include the Governance Council for the Croatian EU Presidency preparations, in charge of strategic decisions, adoption of preparation and implementation guidelines and oversight over the entire process. The Council will be chaired by the Prime Minister and engage top Government officials as well as the Croatian Permanent Representative to the EU and the Liaison Officer for the European Parliament, while all preparations will be coordinated by the Ministry of Foreign and European Affairs through the Inter-ministerial Coordination, supported by a common Secretariat. It remains to be seen how the Croatian Government intends to ensure structured consultations and participation of the Croatian Parliament Committee on European Affairs, as well as active contribution of the social partners and civil society in the EU presidency preparations – an important factor of successful presidency of the EU’s newest and one of the smallest EU member states.
Key Sources and Further Reading


**Issue in a Nutshell**

Multiyear Financial Framework (MFF) is a strategic budgetary planning instrument introduced at the level of EU in 2006 when the European Parliament, EU Council and Commission signed an Inter-institutional Agreement on Budgetary Discipline and Sound Financial Management. It endeavours to provide a stable budgetary perspective for a cycle of seven financial years, which is made up of 98% of its own resources that are not allowed to exceed 1.20% of the EU’s gross national income (GNI). As highlighted by the Commission, “the MFF allows the EU to carry out common policies over a period that is long enough to make them effective and to complement national budgets, by funding policies with an European value added.” The MFF lays down the maximum annual amounts (ceilings) which the EU may spend in five different categories of expenditures (headings). The EU’s actual annual budget usually remains below the MFF expenditure ceilings for the sake of flexibility in light of unforeseen circumstances. The MFF is part of a comprehensive package which also comprises the EU own resources and a set of sector-specific legislations defining the conditions of eligibility and the criteria for the allocation of funds for each EU spending programme.

The preparations of MFF usually last for 2-3 years and are entrusted to the European Commission which proposed the draft MFF 2021-27 in early May 2018 under the motto “A Modern Budget for a Union that Protects, Empowers and Defends” for discussion and negotiations to the Parliament and the Council. So far, negotiations at the Council level have not started. The European Council traditionally gives guidance to the Council of the EU on the MFF negotiations with the European Parliament. Proposed by the European Commission, the regulation laying down the MFF must be adopted by the Council by unanimity after obtaining the consent of the European Parliament. In case MFF is not adopted in by December 31, 2020, the annual budgetary allocations for the forthcoming year will be based on the past MFF with maximum 2% annual increase to account for inflation. Yet, a „no deal” on MFF severely complicates EU financial affairs as no multi-year spending can be approved.

The Commission proposed a slight overall increase in the EU budget 2021-27 to 1.135 billion EUR (1.11% of the EU 27 total GNI), compared to 1.087 billion EUR of the 2014-20 budget (1.03% of the EU 27 total GNI). The new total budget includes the European Development Fund, which was treated as a separate budget in the past MFF. This level of commitments translates into 1.105 billion EUR (1.08% of GNI) in payments. Hence, the Commission proposes a slight increase in the member states’ financial commitments. The Commission justifies the proposed budget size with the need for timely investment into the EU’s post 2020 priorities, espoused in Juncker’s State of the Union Speech in 2016 and the Future of Europe debate he initiated. The top investment priorities, where budgetary increases are proposed include research and innovation, young people, the digital economy, climate and environment, border management, security and defence, external action. The Commission advocates for an approach with focus on the European added value in respect to national budgets, that is on investments where EU can have broader impact, such as R&D, border protection and large infrastructural projects supporting digital transformation of the entire EU.
The Commission proposes streamlining, re-grouping and greater flexibility of the EU’s spending programmes, to make them more efficient in terms of administration. In that context, the Commission proposes 5% reduction in funding for the Common Agricultural Policy and Cohesion Policy that is the EU structural funds, claiming that they will be modernised, less costly and also serving the new priorities such as migration management. This proposal has been heavily criticised by the European Trade Union Federation in its Position on the European Commission’s Budget for 2021-27 which claims that real decrease of Cohesion policy funding is 10% and has no justification considering the vast regional asymmetries and social inequalities across the EU. ETUC opposes a potential double cut in the European Social Fund Plus (ESF+) which was one of the end results of scrapping the existing 23.1% minimum share of Cohesion Policy Funding which has to be spent by the Member States in ESF+ projects. ETUC calls for overall increase 30% of allocation within Cohesion Policy budget for ESF+, the main future mechanism for funding the European Pillar of Social Rights, the much awaited (and promoted) new policy tool that should put Social Europe back on track.

In the scope of budget modernisation, the Commission is proposing a new Justice, Rights and Values Fund, simplifying the existing programmes in this field. The fund comprises the Rights and Values, and Justice programmes. The Fund has a proposed budget allocation of 947 million EUR over the seven years, 642 million EUR for the Rights and Values programme and 305 million EUR for the Justice programme. The overall allocation is roughly equivalent to the previous period budget allocation. The Fund will support the activities of a number of actors in the field of rights and values such as NGOs, equality bodies, public administrations, judicial networks or universities. As stated by the Commission, protecting European values is more important than ever today when European societies face extremism, radicalism and division, hence "creating opportunities for engagement and democratic participation in political and civil society are essential tasks for the future EU budget".

Source: European Commission
In addition, the Commission has proposed a special provision outside MFF regulation - “Regulation on the protection of the Union’s budget in case of generalised deficiencies as regards the rule of law in the Member States”. Its intention is to „protect the financial interest of the Union” by ensuring that the beneficiary countries respect “a sound financial management and the Rule of Law”. If a member state breaches these principles, it will be deprived of access to EU funding as to assure “financial interests of the Union are protected.” The provision, if enacted, would enable the Commission to assess whether solid systems of checks and balances in place in a certain member state that can guarantee public accountability and scrutiny of EU funds. The decision - as to whether a generalised deficiency in the rule of law risks affecting the financial interests of the EU - would be proposed by the Commission and adopted by the Council through reversed qualified majority voting. This means that the Commission’s proposal is deemed to be adopted by the Council unless it decides by qualified majority to reject the Commission’s proposal. The new Commission’s proposal is very similar to the existing system of the MFF 2014-20’s ex-ante conditionality, yet with a stronger legal standing. It is not as ambitious as desired by human rights proponents, since it cannot „punish” a country that diverges in its policies on migration or minorities, but it does provide a safeguarding mechanism in respect to the very fundamental issues such as independence of the judiciary and audit institutions.

According to Breugel Institute’s assessment of the Commission’s MFF proposal, presented at the EESC Conference „The MFF post 2020 Framework: Challenges and Opportunities”, it can serve as a good basis for subsequent negotiations, yet with many unclear details and deficiencies requiring improvements. On the positive side, the MFF proposal is strongly focused on the provision of public goods benefiting the entire community, across national borders. This is a legitimate justification for the budgetary increase, especially in light of increased concerns about the security of the EU borders, as well as new challenges and threats, such as digitalisation and cyber security. The MFF proposal is also commended for its flexibility tools such as relocations between headings and years, possible re-programming at mid-term, and programme reserves. The decrease in CAP and Cohesion Policy budgets are assessed as logical, in light of the much needed reforms of both programs in the direction of their simplification and result orientation. Commission’s intention to engage in comprehensive CAP reform and its intention to raise the national contributions are considered positive steps towards greater ownership of CAP and responsibility for its results.

New financial conditionality related to the respect of the rule of law is welcome, as its full application on all EU member states will enhance overall, much needed monitoring of the rule of law in member states. Nevertheless, Breugel Institute calls for a much broader approach to the rule of law - a regular analysis of all EU Member States, similar to the EU’s fiscal surveillance and the Macroeconomic Imbalances Procedure (MIP). This proposal is somewhat similar in its envisioned institutional weight to the EP’s proposal of a binding Pact on Democracy, Rule of Law and Fundamental Rights operating through a Semester and serving as a basis for inter-institutional surveillance and action towards compliance with the European values. Any rule of law monitoring mechanism should be formally linked with the MFF regulation.

On the negative side, Breugel Institute finds the budget format too complex and inadequately transparent since it does not provide comparisons with the past MFF in a coherent manner. CAP focus on direct subsidies of farmers is found ineffective, while allocation for EEAS is
found too timid considering the external opportunities and threats that EU faces globally. The proposed reform delivery tool to foster structural reforms is viewed as too weak in terms of incentives provided to member states to really engage in structural reforms, in line with the European semester recommendations, whose actual implementation is dropping.

In its comment „EU budget – Hope and Hazards for Social Spending“, Social Platform, the largest European CSO network in the social sector recognises the Commission’s intention to concentrate resources and mainstream instruments into new integrated programmes, including ‘Investing in people, social cohesion and European values’, which lays the basis for the future European Social Fund (ESF+). Social Platform finds the MFF proposal of ESF+ aligned with the European Pillar of Social Rights while also mentioning the EU’s contribution to achieving the Sustainable Development Goals (SDGs). Social Platform is positive about the envisaged share of 27% of total cohesion expenditure for ESF+, yet it is concerned about 7% total decrease of cohesion funding. There are no details at this point about actual translation of the Social Pillar principles into investment priorities, which will be disclosed once proposed sectoral programmes, including ESF+ regulations are published to accompany MFF.

In respect to MFF and climate action, in an Open Letter a broad coalition of business associations, civil society and think tanks has urged Commission President to make the future EU budget “fully compatible” with the Paris agreement and the EU’s sustainable development goals. A letter calls on Juncker to “significantly increase” the current 20% climate action share of the EU budget and to ensure that EU funds add to member states’ efforts to achieve the 2030 and 2050 climate objectives. Wendel Trio, director of Climate Action Network (CAN) Europe, said: “A credible EU budget must address the common and long-term challenges Europeans are faced with: climate change is one of them. Higher European climate and energy targets for 2030, particularly in less developed regions, will only be met if they are supported by a 40% climate action spending target and if all fossil fuel subsidies are phased out.” CAN Europe’s position on 40% of climate action share of the new MFF climate may not be politically unrealistic. As pointed out in the open letter, on March 22, 2018 Conference on Sustainable Finance, Juncker stressed that the EU must go further towards aligning financial flows with climate objectives. At the same event, French President Emmanuel Macron called for the next EU budget to earmark 40% of its spending for climate action and the ecological transition.

**Current Challenges**

The Commission’s timeline related to MFF covers the period until the next European elections, scheduled for May 23-26, 2019. In the meantime, a number of debates will be held at the Council and the Parliament level. Most importantly, on May 9, 2019, EU leaders’ summit will be held in Sibiu Romania where the EU leaders are expected to adopt the new Leaders’ Agenda, proposed by the European Council’s President which might impact the negotiations on budgetary priorities of the next MFF. Leader’s Agenda provides political guidance for the EU over the next two years. European elections and the consequent change of the Commission (the new one must be appointed on November 1, 2019), it is not realistic to expect that the MFF 2021-27 will be adopted any sooner than late 2019, i.e. during the Finnish presidency, or even
later, during 2020.

The final outcome of Brexit negotiations are an important factor in shaping MFF 2021-27, due to the expected drop in the EU’s own sources of roughly 13 billion EUR per year, contributing to around 13% of annual EU budget. Another issue is the potential downsizing of the EU administration where the Commission advocates for current staffing level and retaining of the existent UK staff. Even though the Commission has accounted for this budget hole by proposing an increase of contributions of EU27 member states (a rise from 1.03 to 1.11 % of economic output), as well as through an increase in its own revenues through taxes, it is not certain how the new Parliament and the new Commission, upon the 2019 elections, will approach the revenue issue and the current proposal of the Commission to increase the overall EU budget in order to maximise its developmental and security impact. In case the EP’s structure changes significantly in favour of Euro-sceptic MEPs, it is likely that the political requests for a smaller and more restrictive EU budget will become much more vocal and influential.

It should be also taken into account that only a month after the appointment of the new Commission, a new president of the European Council will be appointed (December 1, 2019), which means that a possible change in the political approach to MFF can be expected also at the EU Council level. In case Donald Tusk’s position is taken over by Mark Rutte, current Dutch Prime Minister (as indicated by Brussels-based media and political rumours), it is highly likely that the new president of the EU Council will push for a smaller, “modernised” budget that reflects the downsizing of the EU after Brexit. This is namely, the critical position recently taken by the „Frugal Four“ - the Netherlands, Sweden, Austria and Denmark as a reaction to Juncker’s MFF proposal of May 2, 2018. In such case, it is likely that the new Commission will be requested to propose an entirely new MFF proposal, based on much lower revenue. That will in turn mean that MFF negotiations and its final adoption may extend all the way until the very final legal deadline of December 31, 2020.

**EU Presidency 2020 Relevance**

Moderating negotiations on MFF at the Council level as well as triilogue process with the European Parliament, in close cooperation with the President of the European Council is the principal responsibility of the presiding member states of the upcoming trio. In light of the finalisation of Brexit deal next March, the new two-year Leaders’ Agenda that the President of the European Council will present at the May Sibiu Summit, followed up by the European Elections and the institutional interregnum of six months, adoption of MFF within the mandate of this Commission is highly unlikely. Rather, it is expected that the Finnish and Croatian presidencies will have their “hands full” with MFF negotiations and consequent adoption of the accompanying regulation providing a basis for a broad range of sectoral programmes and horizontal priorities, such as climate action mainstreaming. This will surely reflect upon the overall diplomatic capacity of the upcoming EU Presidencies, probably leaving less room for their own policy initiatives in the peak negotiation periods.
Political conflicts are expected around the actual size of the budget and the member’s states financial commitments beyond UK’s exit from the UK. It is also expected that the proposed European Values Instrument, providing a financial boost for human rights defenders EU-wide, as well as new rule-of-law conditionality for access to the EU structural funds will be faced with criticism from the member states that are taking a systemic illiberal turn (Poland and Hungary), increasingly express hostility towards protection of minorities and migrants (Austria and Italy) or are generally suspicious of any increase in the overall EU budget and the Commissions’ new funding programmes.

Key Concerns from Civil Society Perspective

The new MFF poses civil society organisations with several long-awaited opportunities to strengthen the value base of Europe, its global commitment to climate action and its citizens’ security and well-being in Europe and globally through the new European budget. Yet, the final outcome is highly uncertain and contingent on political relations, especially upon the upcoming European elections. At the same time, the new budget reflects a deep and powerful move towards security as the core concern of the European policy-makers, who claim to be speaking on behalf of their voters and citizens. This makes sense, of course, in light of the rising needs for social protection due to the most recent economic crisis amplified by austerity measures which have weakened social protection networks. In parallel, labour market liberalisation initiatives continue to grow and are extending into the new policy area of digitalisation. Ideological divides are deepening across the continent, and fear of the “Other” is being fiercely sparked by irresponsible, unprofessional and even malicious media and extremist social media campaigns launched by various anti-democratic extremist groups ranging from ISIL Jihadists to white supremacists and Christian fundamentalists.

Globally, EU is facing an era when it represents a global refuge from death, suffering and humiliation for millions of people worldwide destined to draught, hunger, poverty, violence, war and loss of hope. This is the time when EU must finally prove it can live up to its own values and standards. It has become evident since the refugee influx in autumn 2015 that EU does not possess moral strength and governance capacity to ensure that every refugee gets a shelter and that every person in need of asylum can apply for it anywhere on the continent. This very basic principle of solidarity with victims of war and violence has been violated so many times over the past four years of this Commission and bluntly disregarded by EU leaders, Organ in particular. It comes as no surprise that security of borders is the centrepiece of the new MFF investment package – an investment that no political actors can challenge at this moment, since it reflects the consensus at the EU leaders’ level that border protection is the Union’s priority, at expense of the people’s loves and the Union’s values. On top of its moral and legal unacceptability, this position is also very short-sighted as it does not account for the long-term projections of global migration dynamics by the end of the
century, greatly pushed by climate change and resource related conflicts, which show that no border will be able to stop people running away from misery. **Instead of border protection and migration control, the EU should turn towards life protection and achievement of the global Sustainable Development Goals - where global migration flows are understood and addressed in the context of global development inequalities and climate change** - if it wants to act in line with its values and long-term security as public interest. Chances for that in this MFF cycle are very slim.

International development organisations have warned against the strong linkages between the EU’s international development budget and migration mitigation, which in practice means prevention of further refugee and migrant movements towards Europe. As reported by POLITICO, in the new MFF the Commission plans to merge 12 existing funding streams into one — the 89.2 billion EUR Neighbourhood, Development and International Cooperation Instrument. Funds will be heavily focused on regions that include countries of origin or transit countries for migrants heading to Europe. Sub-Saharan Africa will be allocated 32 billion EUR, for example, and Asia and the Pacific merely 10 billion EUR. In its proposal, the Commission says that 10% of the new instrument is to be dedicated to “addressing the root causes of irregular migration and forced displacement and to supporting migration management. From CONCORD’s viewpoint, unproven investment schemes and migration control will overshadow the EU’s commitments to promote human rights, sustainable development and the fight against poverty (which is actually not explicitly mentioned about the objectives of the new fund). Oxfam has warned that development cooperation can help tackle the root causes of forced displacement, yet it is not a tool that can or should stop people from moving. “The EU risks eroding its role as a responsible global player with a new foreign policy budget that aims to appease member states who want to be tough on immigration. In principle, an increase in spending for external action should be good news. But not if this money is used for inward-looking policies on migration and security, rather than long-term sustainable development which benefits all people. “Civil society organisations are also concerned that a focus on migration diverts aid from regions in dire need, such as those exposed to hunger and draught.

The new MFF must provide a clear and adequate financial base for the implementation of the European Pillar of Social Rights. Full roll-out and adequate funding of this new European social policy agenda is critical for the gradual renewal of the European social welfare state, in the format most appropriate for the 21st century social and economic conditions and threats posed on citizens’ social and economic rights and well-being. Raising a level of social security, quality of employment and social inclusion is also critical for preventing escalation of frustration in the form of hatred towards minority groups, which is typical in conditions of deep social and economic deprivation and sense of insecurity. For that reason, it is important to strengthen the pressure on the EU member states to keep their commitments made to the European Pillar of Social Rights in MFF, regardless of the forthcoming changes in the European political landscape. A fixed share of cohesion policy of 30% for the Social Pillar-related measures is a useful guarantee of adequate funding. At the same time, it is important to ensure that the proposed funding conditionality in respect to the scope of implementation of the European Semester Country Specific Recommendations (further in text CSR) does not negatively affect country’s capacity to implement Social Pillar, especially in light of the weak links between CSRs and the social indicators. This concern is shared by ETUC, EESC, trade unions and civil society demand deep and consistent integration of the Social Scoreboard
into the European semester and the EU budgetary process. In parallel, EESC advocates for the introduction of the Golden rule for public investment with a social objective which would enable greater budgetary flexibility, such as exemptions to the public debt calculations for budgetary expenditures that directly enable the implementation of the Social Pillar priorities. This is highly relevant for the poorer EU member states, such as Croatia and Romania, which lag behind the EU average in respect to social indicators. In political practice, attention paid to socio-economic inequalities as the key problem tackled by the European Pillar of Social Rights should translate into systematic collection, monitoring and use of social indicators across the full spectrum of political decisions – from macroeconomic planning, via national pension systems to multilevel programming of the European social fund. This is the fundamental prerequisite for the renewal of the EU as social Europe.

For civil society organisations it is also critical that prospective programming of ESF+ and other EU structural funds retains the existing code of conduct and partnership principle recognising the key role of civil society in ensuring synergies and high social impact across local communities and that full adherence to the horizontal principles of the funding programmes should be thoroughly monitored for the purpose of EU values protection. Trade unions and civil society organisations are natural allies in advocating for the MFF that enables fully functional European Pillar of Social Rights.

**New MFF must provide new, effective and coherent financial conditionality mechanisms for protection of European values.** In this respect, the proposed rule-of-law-conditionality that might lead to suspension of EU funds is considered a welcome step, yet insufficient on its own. Still, it is in the interest of European human rights defenders that the proposal regulation „survives“ political changes related to the European elections and gets support from the Council and the future EP. Namely, the proposed regulation looks at systemic deficiencies in the rule of law, while specific country policies remain below the radar. What is lacking is robust, comprehensive monitoring of all key aspects of the rule of law as a prerequisite for any form of financial conditionality. Such system needs to be devised to service various policy areas of the EU and provide a valid, evidence based ground for common, coherent action.

The proposed reform of the DG JUST programmes related to protection of the rule of law and fundamental rights are welcome, especially in respect to proposed streamlining and much more explicit focus on fundamental rights protection. Yet the total allocated amount does not reflect the declared political commitment as it, also, does not differ greatly from the past allocations through individual programmes. Still, improvements are possible in fund administration, through networks of independent philanthropic organisations, enabling stronger positive impact on autonomy, resilience and sustainability of local CSOs and media, which are usually on the frontline of human rights protection. It is also important to make sure too general eligibility criteria do not enable the anti-democratic CSOs, such as those opposing reproductive and LGBTIQ rights under the pretext of „protecting traditional way of life and rights of the religious majority“ to access EU funding despite their discriminatory intentions. European CSOs continue to lobby for a flexible and adequately funded mechanism that responds to the realities of people at risk of human rights violations in local communities.

The DG Justice’s re-designed funding programme Justice, Rights and Values Fund does not meet the expectations of the European civil society actors who have strongly advocated for a new European Value Instrument, endorsed by the European Parliament, serving as an emergency and resilience fund for human rights defenders across the EU. The greatest
concerns are that the proposed Justice, Rights and Values Fund does not provide additional funding for European values protection nor does it create new opportunities for more responsive funding in light of specific threats, which would require provision of multi-year operational grants and grant distribution through an independent network of intermediaries. As stressed by the Liberties Platform, money will only be available for helping to implement EU law and policy, rather than to defend rights and democracy more broadly. In addition, the total earmarked funding is actually 50 million EUR less than the previous programmes that have been merged and is less than a half than the 2 billion EUR demanded by the civil society groups as an equivalent investment into domestic value protection in respect to the EU’s international funding for the rule of law and democracy. It is not clear whether the mention of indirect financial management is intended to allow the Commission to establish a means of re-granting through an intermediary in a similar way to fund operators under the NGO programme of EEA/Norway Grants, as was suggested in Liberties’ policy paper. It is also not clear if the Commission will extend operational grants to local CSOs, beyond the current practice of distribution of mostly project/action grants, with operational grants reserved to European CSO networks only. Namely, short-term project funding has very limited impact on sustainability and responsiveness capacities of CSOs and in unstable and challenging political context, focusing on pre-defined project activities can even hinder activists’ ad hoc advocacy capabilities. European civil society networks supported by the EESC will continue to advocate for a more appropriate – flexible, sustained and social impact oriented - funding mechanisms for CSOs and European value protection, which can actually make a difference in light of the rising extremism and populism across the EU.

It is also important to envision strong oversight mechanisms over the policy coherence principle, i.e. the gaps between national policies implemented and the country EU funding programme priorities. In situations where national governments espouse or incite hatred towards women, while they at the same time the horizontal principle of gender equality is embedded in EU funds they receive, such more policy specific monitoring of congruence and discrepancy could be easily integrated into the mandates of the programme monitoring bodies which include civil society organisations and social partners. Intersectoral monitoring should also be systematically applied as an oversight mechanism to all EU funded reform initiatives that target judiciary and public administration sectors, instrumental for systematic protection of the rule of law and fight against corruption.

The new MFF must be in service of the EU’s commitment to the Paris Climate Agreement and ensure maximum sustainability and climate mainstreaming in all budgetary areas and public policies. Its share for climate action should be 40%, to meet the Paris Agreement obligations. More investment into climate action and environmental protection is the key message of European environmental activists to the EU policy-makers, as stated by Markus Trilling, from Climate Action Network (CAN) Europe: “Member States should worry less about the timeline than about the European Commission’s inconsistent level of climate action aspirations featured in its funding proposals. The Council and the European Parliament must make up for this and ensure that the EU budget becomes fully compatible with the Paris Agreement, setting ambitious and binding climate action targets aiming at a 40% quota and excluding all support to fossil fuels.”

From CAN’s viewpoint, the post-2020 MFF is critically important to deliver the long-term climate goals of the EU, including the 2030 climate and energy targets and the
80%-95% GHG reduction by 2050. The European Commission proposes to increase the climate mainstreaming across all EU programmes from current 20% to 25% for the EU budget 2021-27 which are distributed among the relevant programmes and their respective shares on the total climate action and climate action mainstreaming. In its in-depth assessment of the Commission’s MFF proposal, CAN concludes that the success of the intended increase in budgetary allocation for climate action depends on the quality of the upcoming legislation which should „settle ambitious quantitative climate action targets, provide for guidelines and criteria that ensure climate and environment protection and exclude fossil fuel support and ensure the integration of EU funded plans and projects into national and cross-border energy infrastructure and mobility plans, with view to achieving Paris agreement objectives.” All of these tasks are directly relevant for the upcoming European presidencies during and beyond the adoption of MFF.

Key Sources and Further Reading


European Commission, MFF Q&A

Council of the EU, Shaping EU expenditure: the multiannual financial framework

European Parliament, Resolution on the need to establish a European values instrument to support civil society organisations which promote fundamental values within the European Union at local and national level, April 19, 2018. 2018/2619(RSP)

European Parliament, In Depth Study for the Parliamentary BUDG Committee „How the EU Budget has developed in changed in the last 10 years”, prepared by Dr Giacomo Benedetto.
Finalising Brexit
The process of the United Kingdom’s withdrawal from the EU, triggered by the June 26, 2016 referendum vote for the country’s exit from the Union - Brexit, is expected to be completed by March 29, 2019, i.e. two years after the activation of Article 50 of the Lisbon Treaty, which sets the basic rules for a member state’s „divorce” from the Union. The negotiation process started on June 19, 2017 and has so far progressed towards the completion of the first phase of negotiations on the three most immediate issues, related to rights of UK and EU citizens, financial settlement and the Northern Ireland-EU border regime. The past year of negotiations has been focused on defining the transition period for negotiating the post-Brexit process and new institutional and economic arrangements between the EU and UK. Both sides remain firm on committing to the original deadline of March 29, 2019 for completing the exit process, yet the probability of a no-deal exit, however small, seems to have been growing rapidly over the recent months, due to the multiple disagreements on the key issue of the UK’s future positioning in regards to the EU’s single market and common trade policies.

For the EU, which has so far stood united on Brexit, despite members’ particular concerns, the core principles, set out in the Negotiation Guidelines adopted by the Council on April 29, 2017, concern the level playing-field without „cherry-picking”, mutual responsibility, „a single package” approach to negotiations accompanied by transparency and sincere cooperation, during negotiations and upon reaching a withdrawal agreement. The EU’s blunt position on the indivisibility of the Union’s four freedoms, as well as the interdependence of rights and obligations in the context of single market membership is a key factor in the dynamic and possible outcomes of Brexit negotiations.

It should be noted that Brexit negotiations have been unique from the transparency perspective. Unlike most EU negotiations, mostly on trade agreements, where secrecy was usually the preferred approach, in the case of Brexit, the Commission has opted for proactive disclosure of all key negotiation documents, media outreach by chief negotiators through joint press conferences and numerous stakeholder meetings. Chief Negotiator Barnier has mandated pre-registration in the Transparency Register as a prerequisite for any stakeholder meetings. While these actions stem from the lessons learned from the highly contested TTIP negotiations, they are also politically motivated, as EU seems to view higher transparency as a bargaining tool. As highlighted by the UK’s Institute for Government, the EU wants to be able to control the public narrative around Brexit, mobilise public support for its positions and use data on the social and economic impact of Brexit to its advantage. EU Ombudsman Emily O’Reilly has been pushing the Council and the Commission to ensure maximum transparency, considering the importance of post-Brexit arrangements for all the UK and EU citizens directly affected. O’Reilly has criticised the Commission for a lack of published information on preparatory meetings, where „nuts and bolts” are discussed, but has stressed that the EU has so far performed far better than the UK Government. The UK Department for Exiting the EU, led until recently by David Davis, has also been criticised by Unearthed, Greenpeace UK’s journalism project, as the least responsive Government department with respect to an official analysis of FOI requests and secrecy around Brexit-related data and post-Brexit talks.
On December 8, 2017 a provisional deal was closed and presented in the negotiators’ Joint Report to the EU and the UK. It was followed by the Draft Withdrawal Agreement of March 19, 2018 which includes the agreed legal text for the implementation period, citizens’ rights, and the financial settlement, as well as a significant number of other articles. The UK and EU negotiating teams are aiming to finalise the entire Withdrawal Agreement by October.

The following are the key points of the UK’s withdrawal agreed so far:

- Three million EU citizens living in the UK and a million UK citizens in the EU will see their rights to live, work and study protected. The agreement includes reunification rights for UK residents’ relatives who do not live in the UK in the future and the possibility for EU citizens to remain in the UK without permanent residency upon the UK’s exit from the EU. Yet, the lack of registration criteria for these rights and the „expiry date” on EU citizens’ access to the ECJ have been criticised by the EU citizens’ rights campaign „3 million”. The UK Government is urged to organise an efficient residency registration process for EU citizens to prevent their loss of rights.

- Financial settlement principles have been agreed upon, including budget contributions during a two-year transition period after March 2019. The exact amount is unknown, yet it is estimated at 35-39 million pounds by the UK Treasury, with concerns that it may be much higher.

- The UK will be able to negotiate, sign and ratify its own trade deals during the transition period and still be party to existing EU trade deals with other countries. The UK’s fishing catch share will be guaranteed during transition, but the UK will effectively remain part of the Common Fisheries Policy, yet without a direct say in its rules, until the end of 2020.

- Most importantly, Northern Ireland will effectively stay in parts of the single market and the customs union in the absence of other solutions to avoid a hard border with...
Reaching a soft solution to the management of the Northern Irish border and the customs and single market regime is of utmost importance for the Good Friday Peace Process.

The draft Withdrawal agreement also defines the transition period - starting on March 29, 2019 and ending on December 31, 2020, which will require intense diplomatic and political activity in designing new mechanisms of close collaboration and active partnership between the EU and the UK – the common goal repeatedly highlighted by both negotiating parties.

The European Parliament has been closely following the Brexit negotiations and providing inputs through a series of resolutions, including the March 14, 2018 Resolution on the framework of the future EU-UK relations, which proposes that future relations be regulated by a comprehensive association framework agreement covering four main pillars: (1) trade and economic relations (FTA), (2) internal security, (3) cooperation in foreign policy and defence and (4) thematic cooperation, such as international development, research and education, and environmental protection. The agreement should ensure both stability and flexibility of future relations, guaranteed by an elaborate and efficient governance and dispute resolution mechanism. The Parliament has reiterated its support for the EU’s negotiation mandate and its core principles, as well as for the special attention paid to protection of citizen’s rights.

On June 20, 2018, the UK Parliament adopted the EU Withdrawal Act, which provides for repealing the European Communities Act 1972, and for Parliamentary approval of the withdrawal agreement being negotiated between the UK and the EU. The Act enables the transposition of directly-applicable already-existing EU law into UK law (with some exceptions, including the European Charter of Fundamental Rights) through a new category of domestic law for the EU law that the UK will retain. The UK Government acquires restricted powers to adapt and repeal laws that are no longer relevant. The Parliament is mandated with the power to approve the final terms of the withdrawal agreement prior to its finalisation and adoption at the Government level. By January 29, 2019, the UK Government must present to the Parliament its final decision on how to proceed if the negotiations have not reached agreement. At that time, the probability of either a „no-deal” exit, or extension of the Brexit negotiation period, will be much more clear.

Current Challenges

The UK Government, led by Conservative PM Theresa May, published a White Paper on Brexit in mid-July 2018, known as the Chequers’ Deal, which is the basis for the final cycle of negotiations with the EU which are starting in August 2018. The so-called Chequers Deal stirred fierce criticism of its “soft approach” from the Conservative party’s Brexit supporters, which resulted in the resignation of Chief Negotiator Davis (replaced in the meantime by Dominic Raab) and Foreign Secretary Boris Johnson. The initial reactions from the EU Chief Negotiator were also decidedly negative, but for the opposite reason – the UK’s proposal of a “facilitated customs arrangement” has been rejected in line with the “no cherry-picking”
principle set in the negotiation guidelines. Barnier stressed: “The EU cannot - and will not - delegate the application of its customs policy and rules, VAT and excise duty collection to a non-member, who would not be subject to the EU’s governance structures.” The final round of negotiations is currently viewed as highly challenging due to the conflicting understandings of the UK’s future participation in the Union’s single market and trade policy.

It is still uncertain whether the UK will actually leave the EU by the end of March 2019, with or without a deal on future relations. Namely, according to Article 50 of the Lisbon Treaty, the parties can agree upon an extended period of negotiations over the member state’s withdrawal conditions and process. At the same time, the position of the EU, as stated in the negotiation guidelines, is that EU wants to end the Brexit negotiations and complete the withdrawal process prior to the May 2019 EP elections. In the UK, the Government is obliged be clear about the probability of a “no-deal” Brexit by the end of January 2019. It is under pressure from different sides to proceed swiftly to the final exit deal and then move on to bilateral trade negotiations. In the meantime, criticism of continued compliance with EU rules on fisheries and other sectors is growing. Considering the pressures, it is expected that both the EU and the UK Government are motivated to reach a final exit agreement and respect the original deadline, which would mean that the UK will no longer be an EU member as of March 29, 2019.

Still, uncertainties and anxieties are rising, as evidenced by repeated calls from different institutions to upgrade preparedness for all scenarios, including the most dreaded “no-deal” Brexit, where the transitional period would not apply, leading to a highly probable legal, logistical and market havoc. In July, 2018 the Commission issued a Communication, “Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019”, outlining different scenarios and possible preparation measures. Even in the best case scenario of a Brexit deal closed by March 30, 2018, the post-Brexit transitional period should ensure the timely agreement, adoption and ratification of a comprehensive bilateral agreement on the future relationship, which should apply as of January 1, 2021. Time is running out for all – this is the main point of consensus across the Brexit lines of division and negotiation.

EU Presidency 2020 Relevance

Considering the complexity of the current negotiations and the challenging agenda of the Brexit transition period 2019-20, every upcoming European presidency, as evidenced by Austria just recently, will have to invest considerable diplomatic and political efforts in ensuring that post-Brexit negotiations continue in a dynamic and productive manner.

Finland’s, Croatia’s and Germany’s presidencies will cover the peak transition period, after the UK’s exit from the EU. It is expected that a number of open issues from the past negotiation phases will remain open. Negotiating a comprehensive agreement on relations between the EU27 and the UK (or a series of sectoral and thematic agreements) will be a major upcoming task. In parallel, the transition period will require an array of operational decisions related to the implementation of the reached agreements. Finally, close monitoring of the impact of
Brexit on the most sensitive issues of citizens’ rights and business operations will demand special attention from the presidency. It remains to be seen whether the coordination of the Council’s Brexit working group, currently entrusted to the General Secretariat, will be taken up by the presiding member states once the UK leaves the EU. In any case, the upcoming Trio needs to prepare for a considerable investment of expertise, diplomacy and political alertness in making sure that the post-Brexit process moves on in a smooth, transparent and thorough manner.

**Key Concerns from the Civil Society Perspective**

The key concern of various human rights civil society groups across the UK and Europe is the potential degradation of the achieved level of rights and freedoms of the people that might occur due to Brexit. Particular concerns have been raised by representatives of various professions, such as fishermen, farmers’ organisations and trade unions, all of which focus on the burden that will be borne by the ordinary people, with the least power to decide on the actual outcome of the Brexit “divorce” process between the UK and the EU.

For UK-based human rights groups, it is of critical importance that the final Brexit agreement guarantees the UK’s compliance with the rights protected in EU law, including the European Charter for Fundamental Rights, which would otherwise be removed from the UK law. The UK government’s promises that the same scope of rights would be ensured by domestic legislation has not appeased human rights activists.

Human Rights Watch has recently expressed concerns about the negative effects of a no-deal Brexit on the human rights of both UK and EU citizens, especially their residential rights, access to justice through the EU Charter of Fundamental Rights, as well as economic disruptions that could occur due to legal impasses and uncertainty. A risk of a spike in hate crime in the UK after Brexit has been detected by a UK police monitoring study. Just like after the Brexit referendum, it is expected that social divisions and tensions will rise, fuelled by short-term hardship caused by regulatory market disruption. Amnesty International has been vocal (and even criticised for its alleged bias) about its negative assessment of Brexit’s impact on human rights protection for UK citizens and EU citizens living in the UK.

Finally, for civil society actors across Europe it is of vital importance that all processes related to the negotiations, implementation and monitoring of the future EU-UK relations take place under full public scrutiny with equal access for non-state stakeholders, where special attention is paid to the effective institutional protection of citizens’ rights. Considering the depth and density of interpersonal, social and economic interconnectedness of UK and EU citizens, future relations should be guided by people’s well-being and potential for fruitful collaboration based on reciprocity and mutual respect for common values and standards.
Key Sources and Further Reading

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POLITICO, https://www.politico.eu/section/brexit/
The Guardian, https://www.theguardian.com/politics/eu-referendum
Observer, https://euobserver.com/uk-referendum
Revisions of the European election model is an omnipresent topic in all debates dealing with EU’s institutional reform processes, especially those trying to grapple with the EU’s infamous democratic deficit. Despite ambitious plans and ideas circulating, actual regulatory changes to be introduced in 2019 European elections present merely a modest step forward. The Council and the Parliament have both agreed on changes to the rules governing European elections. The Parliament will give its consent on the whole package, once it has been translated into official languages. The new rules introduce changes that will make the election process more accessible to EU citizens – internet voting is allowed, while EU citizens will be able to vote from non-EU countries. These innovations are merely options at disposal of member states, which have to additionally translate to national legal framework in order for them to take effect. New rules reaffirm the existing approach to regulating European elections – most important decisions on the election model fall under the competences of each individual member state. It does not come as a surprise that introduction of the mandatory threshold of votes was only narrowly approved by the Council.

Two of the most ambitious election innovations put forth by MEPs in 2015 have not been included in the new rules – Spitzenkandidat system and transnational lists. In the Spitzenkandidat system each European party chooses a lead candidate and the “winner” is appointed as the Commission President. Reasoning behind such a proposal is that this would increase democratic legitimacy and accountability of the European Commission. Even though the Commission has tremendous powers and weight in the European political system, it is more than other institution afflicted by the democratic deficit syndrome, arising from the sui generis set-up of the European political regime. Initial step in the appointment procedure of the European Commission is European Council putting forth a nominee for the Commission President, especially taking into account election results. Even though in 2014 the Spitzenkandidat process was used to select Jean Claude-Juncker, EPP’s Spitzenkandidat, as the nominee for the Commission president, the Council sent a clear message there should be no expectations that the Council will abide by this principle in the 2019 elections. It is clear the Council wished to retain its role as a deal-maker in the Commission appointment process rather than having a merely symbolic and/or procedural role.

Idea of transnational lists was first introduced back in 1998 by then vice-president of the European parliament Georgios Anastassopoulos, but it was the last attempt of the Parliament (initiated in 2015) which came closest to actually being adopted and thus creating a new category of MEPs. Brexit presented an opportunity for innovations in the European election process and the set-up of the European Parliament – namely, the introduction of transnational election lists and dealing away with the proportionality issues between the population size and the number of parliamentary seats assigned to each member state.

The proponents of transnational lists argued it would help build a new, truly European constituency and thus help curb populism by creating a common European identity, but there were also those who considered populists would be the ones who gain most from such an electoral model. In addition, smaller European countries expressed concerns that the transnational lists would only help Germany and France gain more political weight within
the EU framework. Concerns were also raised on the capabilities of the member states to introduce and adopt new legislation in time for the European elections in 2019. Spearheading this idea was (or rather is) Emmanuel Macron, who believes this could bolster interest and voter turnout in EU elections, but also help bring about a shared European identity. At the end of all negotiations, EP only opted to curb existing disproportionality in representation, by using just some of the now available UK seats. Spain and France will gain 5, Italy and Netherlands 3 and Ireland 2 new seats in the European Parliament. Nine countries will gain 1 additional seat – Poland, Romania, Sweden, Austria, Denmark, Slovakia, Finland, Croatia and Estonia.

While European election results seem more unforeseeable than ever, it is expected that right-wing populist parties offering a cocktail of anti-elitism, anti-immigration, anti-liberalism and anti-EU sentiment will gain foot in the Parliament. This would inevitably create shifts in politics and policy dynamics on EU level while the risk of decision-making paralysis would increase significantly. Political actors who want to block business as usual in Brussels are expected to gain ground not only in the Parliament, but also in the Council. Large number of general/parliamentary elections will take place in the remainder of 2018 and throughout 2019. Many member states will have general/parliamentary elections which will directly affect the composition of the Council (Sweden, Denmark, Greece, Finland, Luxembourg, Latvia, Estonia, Portugal, and Poland). Additionally, in some countries presidential elections (Ireland, Croatia, Latvia, Lithuania, Romania, and Slovakia) and local/federal elections (Belgium, Bulgaria, Denmark, Netherlands, Czech Republic, Greece, Ireland, Bavaria, Spain, Northern Ireland) will also take place. These influence national policy and politics dynamics and thus might have a spill-over effect on the Council’s agenda. Mainstream political actors must ensure and safeguard integrity, accountability, stability, predictability and effectiveness of EU institutions, regardless of the fact that taking part in crucial decision-making processes are those eager to prove the European project is a failure.

Current Challenges

Recent global developments indicate we have entered into a new phase of politics, in which there are two systemic risks to any election process – money and the Internet. State and non-state actors have started using social networks as a means of taking active part in shaping narratives on societal issues in foreign countries as an effort to sow discord and division in the population and thus spark political instability. There have been well documented instances of authoritarian regimes financially backing political and civic voices with authoritarian political agendas (dependence of judiciary, declining rule of law, human rights violations, attack on media, shrinking civic space, assault on women’s reproductive rights, sex education, and critical thinking skills). There are well documented reasons why the EU should worry about channelled EU funds being used to buy independent media outlets in member states.
Only once we acknowledge that technology has disrupted our democracies, we can start treating it as a policy problem and develop concrete measures that deal away with recognised unwanted consequences. When it comes to election processes these unwanted consequences are found in abundance. Even though social networks have become perhaps the most important segment of political campaigning, they still enable non-transparent financing of political campaigns and non-attributed political marketing which are both incompatible with the rule of law and liberal democracy principles. Algorithms for search engines and news feeds have a systemic flaw which may be the most important sole factor explaining the virality of fake-news and conspiracy theories, as well as rise in use of hate and inflammatory speech.

EU Presidency 2020 Relevance

It is expected that the Commission will be appointed in the second half of 2019 and begin its mandate on November 1, 2019. It will be of upmost importance that the negotiations on the formation of the new Commission stay out of hands of malicious political actors who seek to gain political benefits if the EU seems to be caught up in political disarray. In all efforts aimed at influencing and changing EU’s agenda and policies, main EU institutions must safeguard core European principles and values. Tectonic political shifts will happen if the European People’s Party redefines its identity and actually adopts hard-line identity politics and polices and extends its tolerance of deterioration of the rule of law, declining levels of freedom of media, shrinking of civil space and systemic corruption. Such a change, boldly promoted by Fidesz (EPP) President Orban, would spill over to crucial political EU institutions and thus further propagate political instability and electoral volatility, diminishing EU’s capability to act as a relevant global actor and its capacity for efficient resource allocation and development within the EU.

While the European Council and the Parliament jointly provide orientations and general political priorities, it is the President of the EC who at the beginning of the term sets out political priorities for the Commission. Based on these guidelines submitted by the President, each department of the Commission develops a sector-specific five-year strategy plan. Due to its strong influence on the overall legislative and policy agenda of the EU, the position of the President of the European Commission is likely to remain the single most important political function in the EU. At the beginning of the term, the Commission will additionally start a wide consultation processes on policy proposals and initiatives in EC’s political priorities and strategic plans, in which both the Council and the Parliament will take an active part. This may present a risk for programmes of the specific Council presidencies, since significant resources at disposal of the Council will have to be steered towards absorbing this additional consultation and decision-making process, which follows every European election.

Considering the importance of the European elections in developing European democratic governance and citizens’ trust in the political process, as well as its political significance, all Trio members are in the position to encourage EU institutions to reflect on 2019 European elections. The Council can initiate creation or independently develop a report on held
elections, focusing on vulnerabilities of the election process and possible threats to democratic processes in the EU. Break down in the rule of law resulting in captured independent monitoring institutions, non-attributed political campaigning on social media, weaponised use of social media by foreign states and non-state actors, rampant hate and inflammatory speech, flood of fake news and conspiracy theories in search results and news feeds, foreign funds associated with hostile countries being channelled through private and quasi-public foundations, violation of data protection norms by social networks and search engines – these are all serious and valid risks which may present a grave threat to democratic principles and processes and thus need the utmost attention. Citizens’ further loss of faith in elections would present a final step in Europe’s path from a liberal democracy towards authoritarian regime (or how they have dubbed it - illiberal Christian democracy).

Key Concerns from Civil Society Perspective

While it is quite positive that increased public scrutiny and interest by public bodies have pushed big tech companies in changing their policies and thus mediating negative impacts they have on democratic culture and crucial democratic processes, this is not a viable long-term approach. Decision-makers must acknowledge the important role technology, the Internet and data processing have on everyday lives of EU citizens, elections included. Undesired negative social impacts arising from disruption of democratic processes must be detected and adequately mitigated. The immediate task at hand is to regulate strictly political marketing and promotion conducted by election actors and political campaigns and marketing conducted by non-election actors. Additionally, possibility of conducting a political marketing campaign targeting voters via social media, which at the same times remains completely hidden from the public, must be brought down to zero (so called “dark posts” seen only by targeted persons. Instead of completely relying on self-regulation by big tech companies, EU should adopt an approach of combining both regulation and self-regulation. Such an approach should be applied to regulating election and political campaigning on social media.

Current European Commission has showed almost no interest in enhancing EU’s anti-corruption policy (including integrity of the election process) and if this would be case with the newly appointed Commission, the Council must be ready to take a more proactive, if not the leading role in shaping EU anticorruption agenda. Safeguarding European democratic process from undue and non-transparent influences and developing strategic and operational plans to combat systemic corruption in member states where principles of division of power and checks and balances are being dismantled will be expected from the new Parliament and Commission.
These elections will serve as a relevance test for S&D, a soul-searching quest for EPP, business as usual for the greens and liberals, and a tremendous opportunity for the radical authoritarian anti-elitist traditionalists. While there is little chance of these fringe political actors working jointly and coherently within a single right-wing radical political platform, they all share a common goal also seen at same time as their crucial political tool – to disrupt business as usual in Brussels. It should be remembered that it is the legal responsibility of EU institutions to defend the rule of law and respect for basic human dignity of each European citizen and person living in the EU, in line with the landmark ruling of the EU Court of Justice which reaffirms the notion that rule of law is an EU citizen right (member states do not have to uphold European Arrest Warrants from countries where an independent judicial system is under attack).

**Key Sources and Further Reading**


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Protecting European Values
Issue in a Nutshell

The founding documents of the EU clearly define it as a supranational community where common values and common goals of peace, security and well-being of its citizens are shared and enabled by the Union’s economic, legal and social mechanisms. According to Article 2 of the Lisbon Treaty the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and human rights, including the rights of persons belonging to minorities. EU’s values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail. The EU’s main goal, according to Article 3 of the Treaty, is the promotion of peace, its values and the well-being of its peoples. The European Charter of Fundamental Rights specifies European citizens’ rights and the responsibility of the Union and its members to protect them by “putting the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice”. Sustainable development and free movement of people, goods, capital and services are treated as integral elements of the Union’s peace mission. According to the Charter, the Union should strive to preserve its common values while respecting the diversity of cultures, traditions, national identities and political institutions of member states.

In practice, however, it is becoming evident that European values are not internalised and upheld as an identity marker across the Union, which is particularly clear in respect to refugee protection. The refugee and migrant influx in the second half of 2015 and the first half of 2016 disclosed a harsh division between two visions of Europe - as a continent of solidarity and hope, upheld by millions of European citizens who shared their homes, food and money with refugees, but also as a continent of borders and exclusion, which seems to have prevailed among the European politicians as well, unfortunately, numerous citizens driven by fear who have gradually turned towards protection of European borders as the primary objective of the EU’s immigration and asylum policy and also their political programmes. The aftermath of the Greek economic crisis and the so-called refugee crisis, as they were managed by the EU, have unveiled a lack of solidarity with the people directly affected – be it by unemployment and poverty or loss of home and war. Despite a multitude of policy documents related to immigration and asylum, the EU is practically left without a politically viable strategy of managing long-term migration flows. Instead, the EU has practically deprived itself of the chance for a long-term, sustainable strategy of addressing global migration flows, caused by the heavy and complex legacy of colonisation, wars, exploitation of natural resources and consequent climate disruptions which will characterised the entire 21st century. Instead, the EU has opted for a quick, fix of entrusting authoritarian and heavily militarised Turkey to keep the millions of refugees from Syria and Iraq outside the EU’s borders. In the manner of “outsourcing” the EU has delegated its responsibility to protect refugees to Turkey, which is being paid for that “service” by the EU, which enables the EU to circumvent its obligations defined by international humanitarian law. The EU’s policy towards the Balkan countries is yet another related concern for it encourages concentration of refugees in countries of scarce infrastructural and material resources, where social and political environment is highly vulnerable to populist and nationalist assaults, resulting in police brutality and public hostility towards the refugees. In practice, the EU’s closed door policy which disables safe entry for refugees has contributed to the rise in human trafficking, incidents and deaths taking place in the Mediterranean and the EU’s outer borders.
In parallel, respect for the rule of law and fundamental rights is waning across the EU. Recent political and social developments indicate rising authoritarian tendencies (Poland and Hungary in the first place), growing hostility towards immigrants, and minorities (ethnic, sexual, racial, ideological), suspicion towards EU governance structures and established political parties, patriarchal and Christian fundamentalist backlash against the very concept of gender equality and accompanying sexual and reproductive health and rights, where women and LGBTQI people are the primary targets. Systemic undermining of judicial independence as well as women’s reproductive health undertaken by the Polish Government and blatant promotion of illiberal concept of democracy by the Hungarian prime minister are the most visible signs of a much more widespread member states’ intentional and conscious diversion from the European value base. The new Italian and Austrian governments are openly promoting an anti-immigration agenda. In a number of countries, the radical and clerical right is mobilizing citizens through anti-gender and anti-LGBTIQ popular initiatives, while militant white supremacist groups perform violent acts of hatred across the continent.

Right-wing populism is changing the political and social landscape of Europe – all the way from Sweden to Greece. At present, one fifth of European voters give their trust to openly anti-democratic political options, while more than a half of European citizens consider the appearance of new populist parties beneficial, in light of their distrust of the traditional political parties. The right-wing populists are primarily focused on weakening the centre-right political parties, by pushing them towards the extreme right. Their big victory over the concept of Europe of Solidarity is the drastic change of Germany’s Christian Democratic Chancellor’s position on refugees, which is likely to result in further militarisation of European borders, regardless of Schengen. Namely, over the past two years, Merkel was forced to give up on her pledge to protect the lives of persecuted people in view of for Germany’s historical responsibility, due to the electoral results and growing political pressures from her Bavarian political partner CSU and the extreme right AFD. European far right populists act mostly in national spaces, yet under the shared pretext of protecting national sovereignty and European Christian identity from immigration, globalisation and moral decadence. They operate along the same tactical lines of deliberate simplification of political problems, mobilisation of fear and hatred against alleged culprits for moral and social decay and irresponsible use of political, legal and media tools. They take full advantage of the wild terrain of unregulated social network communication, which has proven to be a distinctive factor in the global resurgence of populist politics, fuelled by the licence to lie, threaten, spy, and hate online. Their actions manifest themselves in an array of initiatives undertaken within and outside political institutions, with the common aim to undermine the pluralistic and tolerant nature of European societies and the liberal-democratic character of European political systems, and thus hinder the EU's sustainable development and its positioning on the global geopolitical stage.

The upcoming European elections are likely to bring more right-wing populists into the European policy arena, which in turn strengthens their political positions at home and their transnational networking capacities. They will be lavishly assisted by “The Movement” foundation launched by Steve Bannon, the US political and media entrepreneur and self-proclaimed ideologue of the globalized right wing populist movement, with the objective of forming a “Super group” of European Euro-sceptic far-right populists, making up 30% of the new European Parliament. It has also become known that right-wing politicians, social movements, and their media outlets are getting financial support both from political and
economic right-wing powerhouses both in the US and Russia. These political developments are finally starting to resonate with the geostrategic understanding of threats posed to the EU, whose unity seems to be an attractive target for those who aim at the dissolution of its core values as well as its global decision-making power.

The EU is not adequately equipped to fight for its own values, even though some of its leaders are eventually becoming aware of the urgency and value of this fight. The problem originally highlighted by human rights activists facing outbursts of hatred on the ground, is eventually being picked up by the political leaders, primarily French President Macron and Commission President Juncker, but only after its cumbersome political effects on national elections and institutions have become palpable. There is no political initiative underway to formulate a common position on protection of European values, which would send a strong political message that any new form of fascism is a direct threat to the European values and most importantly to European peace and security.

The most important political action taken by EU leaders to protect European values was the unprecedented launching of proceedings under Article 7 of the Lisbon Treaty against Poland by the Commission on December 20, 2017. It took two years of structured dialogue with Polish authorities on the critical issue of diminishing judicial independence to get to this point. Despite frustrations with the slow and convoluted decision-making process, even getting as far as activating this so far unthinkable “nuclear option” should be marked as the Commission’s success in mobilizing the EU’s collective political will to act against systemic disrespect for European values by a member state. In March 2014, the European Commission adopted a new Framework for addressing systemic threats to the Rule of Law in any of the EU’s 28 Member States. It establishes a “pre-Article 7 procedure” allowing the Commission to enter into a dialogue with the Member State concerned to prevent the escalation of systemic threats to the rule of law. The procedure includes three stages: (1) the Commission’s assessment and rule of law opinion, based on an alert about a systemic threat to the rule of law; (2) the Commission’s public recommendation and regular contact with the Member State concerned; (3) follow-up, including monitoring of the implementation of the recommendation. Its effectiveness is, however, in question, and improvements at all stages of the procedure have been proposed. However, the Council seems to be reluctant to establish a more stringent procedure.

As reported by the Commission, at the General Affairs Council hearing on Poland on June 26, 2018, in the context of the Article 7 procedure, no indication was given by the Polish authorities of any forthcoming measures to address the Commission’s outstanding concerns. On July 2, 2018 the European Commission launched an infringement procedure by sending a Letter of Formal Notice to Poland regarding the Polish Supreme Court Law with allegations that the enacted measures undermine the principle of judicial independence, including the irremovability of judges, and that thereby Poland has failed to fulfil its obligations under Article 19(1) of the Treaty on the European Union in conjunction with Article 47 of the EU Charter of Fundamental Rights. In the meantime, the Polish Government seems to have become aware of the risk of rule-of-law-related financial sanctions in the upcoming EU Budget 2021-27 and has only recently began to show some signs of responsiveness to the Commission’s concerns. It is unlikely that enough Council votes will be collected to sanction Poland, whose like-minded peer Hungary has already announced that it will veto any such decision. Yet, increased political will at the level of the Commission (following the European Parliament and
paying close attention to the will and sensitivities of EU leaders), has definitely restored at least some trust in European values, especially among Polish citizens whose civic and human rights are being systemically violated. A line has been crossed – a member state has been formally condemned by the EU for breaching European values.

The Commission’s proposal of the rule-of-law conditionality in the new EU budget 2021-27 might resonate with practical financial interests of member states and hence represent a more politically feasible disciplinary measure than the activation of Article 7. The proposed “Regulation on the protection of the Union’s budget in case of generalised deficiencies as regards the rule of law in the Member States” intends to „protect the financial interest of the Union”, by ensuring that the beneficiary countries respect “sound financial management and the Rule of Law.” If a member state breaches these principles, it will be deprived of access to EU funding so that the “financial interests of the Union are protected.” The provision, if enacted, would enable the Commission to assess whether solid systems of checks and balances are in place in a certain member state that can guarantee public accountability and scrutiny of EU funds. In this sense, the new Commission’s proposal is very similar to the existing system of the MFF 2014-20’s ex-ante conditionality. It is not as ambitious as expected by proponents of the rule-of-law, since it cannot „punish” a country that diverges in its policies on women’s rights, migration, minorities, civil society and media but it does provide a safeguarding mechanism with respect to the very fundamental issues such as independence of the judiciary and audit institutions. In this respect, the proposed rule-of-law conditionality that might lead to suspension of EU funds is considered a welcome step, yet insufficient on its own. Namely, the proposed regulation looks at systemic deficiencies in the rule of law, while specific country policies and their impact on fundamental rights remain below the radar. At the same time, it is imperative that the financial disciplinary measures targeting governments that break the rule of law do not backlash against local watchdog organisations and independent media. That requires a fund disbursement back-up option, through the EU’s central programmes or independent intermediaries.

Current Challenges

Mapping deficiencies in the EU’s current approach to value protection is the very first step in devising a more effective response. Articles 258-260 of the Treaty on the Foundation of the European Union (TFEU; Rome Treaty) grant the Commission the power to initiate an infringement action against a Member State which has failed to comply with its EU obligations, while Article 7 of the TEU gives the Council the power to sanction any Member State found guilty of a serious and persistent breach of EU values. These mechanisms to enforce the Union’s values are generally considered extremely hard to use politically due to the high thresholds required for a decision to be reached in the Council, member states’ reluctance to take action against each other, and for having little or no legal implications. While this Commission has finally managed to „break the ice” around activation of the disciplinary tools embedded in the Treaties, the next Commission will face new challenges, such as the current EP’s push for disciplining the Hungarian illiberal government’s attacks on civil society and its universities.
The key prerequisite for a more coherent, responsive and effective action within the EU on protection of European values is a robust, comprehensive and politically unbiased monitoring mechanism of the state of European values (rule of law included) in all member states, matched by an array of financial disciplinary instruments, enabled by the Multiyear Financial Framework and accompanying regulation. Despite several attempts to pilot it, there is no effective rule of law monitoring mechanism in place. In December 2014 the Council decided to hold an annual dialogue on the 'rule of law' in member states, yet it is no more than an open-ended conversation with no feedback or recommendations reached.

Such proposal has been made by the European Parliament in 2016 in the form of an inter-institutional EU Pact for Democracy, Rule of Law and Fundamental Rights (DRF), accompanied by arrangements facilitating the cooperation within Article 7 framework – so far with no follow-up action on the part of the Commission. The proposed Pact is a part of the LIBE Report and includes a scoreboard, an annual inter-parliamentary debate, and arrangements for resolving possible risks and breaches and for the activation of the preventative or corrective arms of Article 7. It has been strongly endorsed by the European Economic and Social Committee. That mechanism should, among other things, examine aspects such as legality, the hierarchy of norms, legal certainty, equality, non-discrimination, free access to justice and due process, prevention of abuse of law and arbitrariness on the part of public authorities, separation of powers, respect and protection for political pluralism, minorities and social and sexual diversity, respect for freedom of expression and of the press, with a view to identifying current shortcomings and calling for them to be remedied. The Parliament proposes launching an inter-institutional democracy, rule of law and fundamental rights semester, to include the Commission framework, the Council’s annual dialogue and the inter-parliamentary debate.

The DG Justice’s re-designed funding programme, the Justice, Rights and Values Fund does not meet the expectations of the European civil society actors who have strongly advocated for a new European Value Instrument, endorsed by the European Parliament, serving as an emergency and resilience fund for human rights defenders across the EU. The proposed reform of the DG JUST tends towards streamlining and a much more explicit focus on fundamental rights protection. The Fund has a proposed budget allocation of 947 million EUR over the seven years, 642 million EUR for the Rights and Values programme and 305 million EUR for the Justice programme. As stressed by the Liberties Platform, money will only be available for helping to implement EU law and policy, rather than to defend rights and democracy more broadly. The total earmarked funding is actually 50 million EUR less than the previous programmes that have been merged and is less than half the 2 billion EUR demanded by the civil society groups as an equivalent investment into domestic value protection with respect to the EU’s international funding for the rule of law and democracy. It is not clear whether the mention of indirect financial management was intended to allow the Commission to establish a means of re-granting through an intermediary in a similar way to fund operators under the NGO programme of EEA/Norway Grants, as was suggested in Liberties’ policy paper. It is also important to make sure general eligibility criteria are clearly defined in order to prevent anti-democratic CSOs (such as those opposing reproductive and LGBTIQ rights under the pretext of „protecting traditional way of life and rights of the religious majority”) accessing EU funding. During the upcoming negotiations on the new EU Budget 2021-27 (MFF and accompanying regulation), the European CSO networks will continue to lobby for a flexible and adequately funded European value protection mechanism that
responds to the realities of people at risk of human rights violation throughout the Union's local communities and online media space.

The key challenge that remains unanswered is the burning problem of the poor state of the media in EU member states. The media are rapidly deteriorating in quality, due to the free-market approach to media, contrary to the strategic approach to media as the key provider of public information - understood as a public good in the context of digital society. Chronic under-financing from public sources paralleled with rampant commercialisation and plummeting advertising revenue due to the speedy growth of social networks, has greatly depleted the media’s capacity to help citizens and decision-makers make sense of their realities with credible and critical information and viewpoints. It is imperative that support for independent journalism, media freedoms and media literacy be systematically integrated in all future EU programming with the goal of protecting European values. It is high time that a separate fund, administered fully independently from any political structures, be established to provide strategic funding support to European media.

It is imperative that the Commission steps up its pioneering policy development quest for a smart model of “taming” the social and political harm generated by the social media. Evidence is mounting on online violence, hate speech, fake news, and abuse of private data for commercial and political behavioural modification attempts, obscure financing by foreign powers and interest groups, facilitation of organised crime, and terrorism. In January 2018, the Commission set up a high level expert working group on fake news and online disinformation (HLEG) which issued a Report with best practices and recommendation how to proceed in regulating this complex and controversial matter. Warning against simplistic solutions that can trigger unwanted censorship, the multi-dimensional approach recommended by the HLEG focuses on the following five pillars of action:

1. Enhance transparency of online news, involving an adequate and privacy-compliant sharing of data about the systems that enable their circulation online;

2. Promote media and information literacy to counter disinformation and help users navigate the digital media environment;

3. Develop tools for empowering users and journalists to tackle disinformation and foster a positive engagement with fast-evolving information technologies;

4. Safeguard the diversity and sustainability of the European news media ecosystem, and

5. Promote continued research on the impact of disinformation in Europe to evaluate the measures taken by different actors and constantly adjust the necessary responses.

Follow-up action rests with the new Commission – it is an open question whether the current level of concern for the rise of online hate speech and disinformation, expressed by the Parliament will survive the 2019 elections - dreaded for their populist potential boosted by social media propaganda and foreign financing.

All of these challenges in ensuring practical protection of European values through actual EU policies and funding programmes will be relevant over the upcoming EU presidencies, which will need to focus their diplomatic and expert capacities on facilitating the complex and multi-layered inter-institutional regulatory process.
All of the current challenges faced by the EU in ensuring practical protection of European values through its policies and funding programmes will be relevant over the upcoming EU presidencies. The new Trio 2019-20 will need to focus its diplomatic and expert capacities on facilitating the complex and multi-layered inter-institutional regulatory process of adopting and implementing the new Multi-year Financial Framework. Even though messing with member states’ “internal affairs” is the most unpopular topic on the Council’s agenda, the Article 7 procedure well underway against Poland and the EP’s May 2017 Resolution on Hungary are a reality now, and the presiding member of the Council will need to put effort into these sensitive inter-governmental decision-making processes, where an array of other economic and political interests shape alliances and the EU’s ultimate political will to protect European values.

The new Commission is expected to act upon the recommended five-pillar agenda to fight against fake news and online disinformation presented in the Report of the High level expert working group on fake news and online disinformation (HLEG). The future DG JUST will have to implement the streamlined Justice, Rights and Values Fund. The Commission and the Council will eventually have to act or formally react upon the European Parliament’s call for the conclusion of an inter-institutional EU Pact for Democracy, Rule of Law and Fundamental Rights, which would introduce systematic monitoring of the state of European values in the member states, as a basis for political, financial and legal disciplinary measures and new EU programmes in support of its value base.

For any change to take place, it is imperative that the next Trio takes up the Protection of European values as one of its political priorities. Romania’s future Presidency has already highlighted European values as one of the four topics of its special interest, with a focus on (1) solidarity, cohesion, equal opportunities and social justice, (2) democracy, freedom and respect for human dignity and (3) combating racism, xenophobia, anti-Semitism, intolerance and populism. It is in the interest of the forthcoming Trio, connecting Europe’s North to its South-East, to guide the Council towards maximum impact of the new rule-of-law initiatives in different policy areas, which is only possible if a strategic agenda for the protection and revival of European values is formulated at the political level. The forthcoming strategizing process at the Council and Commission levels, starting with the Sibiu Summit in May 2019 and lasting well into the first year of the new Commission, will provide space for such a political project – on an equal footing, in terms of importance, with the recent attempt to revive Social Europe through the European Pillar of Social Rights. The fresh cycle of cooperation between EU institutions is a valuable opportunity to launch the debate about the conclusion of the EU Pact for Democracy, Rule of Law and Fundamental Rights, as proposed by the EP with strong backing from the EESC and European CSO networks.

The 2019-20 Trio could initiate a process of setting the European values agenda at a thematic European Values Summit, which would bring together EU leaders with independent journalists, civil society activists, religious leaders, and academics to renew the common commitment and conceptual approach to the protection of values as an ultimate question of Europe’s peace and security and its political legitimacy.
flagship initiatives on protection of European values to build trust in the feasibility of any positive change beyond protracted infringement procedures.

Key Concerns from the Civil Society Perspective

For the effectiveness of EU support for civil society to increase, more efficient disbursement mechanisms are much needed - as proposed by the European Economic and Social Committee in its opinion Financing of Civil Society Organisations by the EU. The opinion warns against the negative trends of shrinking civic space in different EU member states due to authoritarian government tendencies as well as a rising hostility towards human rights-based civic activism, disseminated through controlled media outlets and social networks by right-wing populist groups and movements. In parallel, public grant administration is getting ever stricter, also under the pretext of anti-terrorist financial surveillance, while public financing is shrinking as a consequence of more restrictive public budgeting as a reaction to the most recent economic crisis. EU funding intervention is instrumental for ensuring the survival, revival and endurance of European civil society, without which Europe is just an empty vessel for legitimating the post-democratic structure of the political elite, featured by systemic clientelism and regulatory capture.

In the European Economic Social Committee’s opinion, a political and legal framework should be put in place at the European and national levels to nurture the development of European civil society, whose activities are an integral part of values anchored in fundamental rights. The following actions, among others, have been proposed by EESC to the EU institutions to enhance resilience and sustainability of CSOs as vital catalyst for active European citizenship:

1. Resumption of discussions on a statute for European associations and a statute for European foundations;
2. Implementation of Article 11 of the TEU on structured dialogue with civil society;
3. Establishment of an EU Ombudsman for civic space freedom;
4. New tax incentives at the EU and member state levels on private donations and removal of obstacles for cross-border philanthropy;
5. Establishment of the new European fund for democracy, human rights and values within the EU (this fund would pursue the same objectives as the European Instrument for Democracy and Human Rights), to be equipped with an ambitious budget, directly open to CSOs across Europe and managed independently, similarly to the European Endowment for Democracy (the EU’s independent grant-making organisation for fostering democracy in the European Neighbourhood and beyond, with a Board of Governors consisting of representatives of member-states, the Parliament and civil society);
6. Introduction of operating grants and multiannual financing, of critical importance for ensuring the sustainability, autonomy and social responsiveness of CSOs;

7. Increased funding for Europe for Citizens and Erasmus Plus programmes with a demonstrated impact on participatory democracy and mobility;

8. Monitoring the implementation of the code of conduct on partnership with civil society within the Structural Funds;

9. Extended scope of structural funds’ technical assistance provisions to boost capacity-building for CSO; and

10. Simplified re-granting procedures and varied financial arrangements aimed at outreach to grassroots and marginalised groups.

The next EU budget should strongly reflect EU’s commitment to the protection of its own values. Considering the political uncertainties ahead, European civil society organisations continue to lobby for a value oriented EU budget 2021-27, which truly supports the protection of fundamental rights and the rule of law, social and economic well-being and equalities, refugee integration and the EU’s commitments to the Sustainable Development Goals agenda – climate action, fight against poverty and gender equality both at home and worldwide. Environmentalist CSOs, united around the Climate Action Network Europe, are strongly lobbying the Commission and EU leaders for the 40% climate action share, in comparison to the current Commission’s proposal of 20%, climate mainstreaming of all EU’s programmes and strategic reduction of fossil-fuel financing in the new EU budget 2021-27. International development and migrant rights CSOs are alarmed about the securitisation of the EU’s foreign aid policy, evidenced by unquestionable political support for huge increases in the EU’s border management and defence budgets and the creeping immigration mitigation conditioning of the international development support provided to poor, conflict-stricken countries. The EESC, ETUC and Social Platform are advocating for a full and financially viable implementation of the European Pillar of Social Rights through a fixed 30% share in the overall Cohesion policy for the ESF+ Programme and political focus on European social policy as key for reducing growing socio-economic inequalities which is in turn fuel sense of insecurity and may lead to social hostilities, and even extremism.
Sources and Further Reading


Bloomberg – How the Populist Right is Redrawing the Map of Europe, https://www.bloomberg.com/graphics/2017-europe-populist-right/


European Democratic Governance
European governance, as defined in the Commission’s 2001 White Paper is founded on principles of transparency, accountability, policy coherence and coordination, openness and inclusiveness, ensuring EU’s efficiency, effectiveness as well as citizen’s trust in EU institutions.

Transparency relates to internal workings of the EU institutions as well as their role in overseeing high compliance with good governance standards of the member states and joint policy processes. Accountability relates to institutional rules that enable oversight and promote culture of responsibility for public resources. The fight against corruption is the key policy tool for ensuring that democratic governance is not chronically violated by persons and interest groups with access to political power, and in turn devalued by the citizens.

Policy coherence and coordination relate to the institutional capacities at different levels of EU policy-making and implementation, to conceive, devise and deliver efficient and effective policy solutions that make sense in light of diverse needs, interests and concerns of the Union’s member states and its citizens. They are instrumental for EU’s multi-level governance system.

Openness and inclusivity require systematic, diversified and responsive communication infrastructure that enables the citizens’ informed participation in the public sphere and decision-making processes, with special attention paid to inclusion of the least powerful social groups, hence shifting the political system closer to the ideal of participatory democracy. Autonomous and vibrant civic space where citizens can engage freely in their community and the public sphere through an informed debate supported by independent media (and civic education), is a prerequisite of democratic governance, just as it reflects the citizens’ confidence in the system and their ability to exercise their civic rights and freedoms.

According to the March 2017 Special Eurobarometer Designing Europe’s Future, prepared for by the Commission within the scope of the Future of Europe debate, every second citizen trusts EU institutions (47%), only four in ten citizens (40%) trust their national governments, while half of citizens (52%) trust their justice and legal systems. According to the 2017 Special Eurobarometer on Corruption, it is evident that European citizens view corruptions as common problem and still do not feel safe in reporting it. Over two thirds (68%) of Europeans think that corruption is widespread in their country and a large majority (79%) agrees that the links between business and politics in their country lead to corruption. Close to three-quarters (73%) say that there is corruption in the national public institutions and that the measures against corruption are inadequate. A huge task remains ahead for the EU leaders to ensure that the EU functions as a trustworthy space of democratic governance focused on citizens’ well-being. This is a critical point of the EU’s political legitimacy, which will be further contended by populists in the context of European elections.

Despite the lively European political and public debate over the past decade, institutional reforms of the EU are currently being halted by pressing political circumstances and internal divisions and are unlikely to result in comprehensive political action, ambitious enough to foresee treaty changes, as asserted by the Carnegie Europe’s research fellow Stefan Lehne.
in his policy brief on absence of reforms in EU. “Whereas in the early years of European integration reforms were about tearing down obstacles and opening up opportunities, they are now about defending the achievements of earlier decades and keeping the populist demons at bay.”

At present, the EU is not in a position to envision and implement meaningful reforms, oriented towards further integration, because its current focus is fixed on preserving past achievements under attack by populists, and dealing with perceived pressing threats related to the eurozone, migrations, trade, political and military defence issues. Its internal political cohesion is very low, meaning that bolder and broader reform initiatives requiring political unanimity are very likely to be turned down at the Council level, even if promoted by the most prominent European leaders like Macron whose Grand Plan for Europe, accompanied by a new round of public debates, encompasses a number of integrationist reforms – ranging from ambitious climate action and fossil fuel reduction strategy, large partnership-based investments in Africa, to joint military “rapid response force”, a common defence budget, a common asylum system and an EU border force, Eurozone’s own budget, a single corporate tax and finance minister.

At the same time, across Europe authoritarian strongmen and new populist contenders are set to weaken independence of autonomous institutions protecting human rights and basic dignity of every EU citizen, while they also paint a public target on the backs of journalists and researchers, watchdog organisations and activists, experts and academia, in an effort to remove plurality from European societies and European concept of democracy. Such rulers build around themselves a clientelistic network of actors who support their increasingly authoritarian style, demeanour, methods and actions, and who are eager to capture state institutions, for the benefit of their personal and/or particularistic interests. Captured resources are used to widen and deepen the capture network, and are thus, in turn, also used to enforce personal dominion over public institutions, policies and resources. The undermining of independence of judicial, prosecutorial and oversight bodies, as well as independent media and watchdog organisations, opens door for systemic corruption.

In the current political context, institutional reforms are being perceived as too risky by EU leaders and politicians - a complex and cumbersome process that might require treaty change, which can easily backfire in the form of anti-EU referenda, fuelled by right-wing populists. This results in slow progress in political discussions and actual decision-making on most crucial and controversial issues for the future of European integration and its strategic global position. This is the reason, according to Lehne, why Juncker’s enthusiastically announced „Future of Europe Debate” has not yielded any specific political agreement, nor has it directly informed current political debates on the future EU budget.

The following overview provides a brief insight into key issues on the EU policy agenda related to the current state and debated reforms of the EU’s democratic governance, presented from the perspective of the European civil society actors who fear that the EU is still not ready to take the key steps forward, even though its enemies are taking advantage of its governance weaknesses.
Transparency, Accountability and Fight against Corruption

The current Commission has failed the expectations of transparency activists Europe-wide when it did not pick up the ball thrown by the past Commission’s Vice-President Redding who stood behind the first and so far the last EU Anti-Corruption Report. Despite reassurances from Vice-President Timmermans, the report never materialised, presumably because of pressure from individual member states and/or the Council, under the excuse of streamlining governance processes. The EU’s Anti-Corruption Report, produced by the Commission in 2014, offered credible comparative analysis on corruption prevention and corruption suppression activities conducted in member states as well as mapping detected corruptive and unethical practices. The lack of such a follow-up report clearly indicates the Commission has given up on formulating a strategically oriented, meaningful and effective EU anti-corruption policy.

In the meantime, the situation with corruption in EU has worsened – two national governments lost confidence due to corruption scandals (Spain and Croatia), the lives of investigative journalists are ended in a brutal fashion in mafia style executions, efforts to remove entire pieces of national anti-corruption legislations have been thwarted by mass public protest, undermining the independence of the judicial branch of the government has become a favourite pastime for corrupt politicians practicing strongmen politics, a member of a European royal family was jailed for fraud, once European leaders now serve as board members in oil and bank companies. Not all European citizens who share a common picture of the European political elite, as working behind closed doors in cahoots with corporate interest and at the expance of public interest, vote for populist parties; but populist, anti-elitist and anti-establishment messages will echo loudly in their hearts and minds if prevention and suppression of corruption remains a priority low on the European agenda. Continued lack of a bold and broad action from EU institutions in the anti-corruption area will help cynicism take root in European societies and fuel populist rhetoric on hypocrisy of the political elite. Absence of more meaningful activities from the Commission and the Parliament relating to anti-corruption is baffling, having in mind it feeds into the simplistic populist picture of European politics – European institutions and the European elite look the other way when it comes to corruption, because they are corrupt themselves. It is high time that EU leaders embrace the potential of robust anti-corruption policy in rebuilding the European project and citizens’ trust in its feasibility.
Civic Space and Participatory Democracy

Civic space is a fundamental feature of European societies with long and diverse history of communal and collective action. It manifests as a dynamic and self-organised public sphere where citizens have freedom, safety and power to take initiative and engage in their social and political community matters in an array of forms, anchored in the search for an open public debate and the capabilities of every citizen to make informed decisions and actions aimed at greater public good and well-being for all. **An open, plural and dynamic civic space is a central feature of democratic societies because it allows citizens to be an active part of the political sphere beyond elections. It also encourages governments to be transparent and accountable.** Freedoms of expression, media and media pluralism, association and assembly are the heart of the European civic rights and are enshrined in the European Convention on Human Rights, the EU Charter of Fundamental Rights and the EU Treaties. **Article 11 of the Lisbon Treaty provides strong legal basis for systematic integration of citizen engagement in the EU’s policy making process, as one the key practices of the rule of law, enshrined in Article 2 and enforced by Article 7 of the Treaty.** According to Article 11, the EU institutions shall enable citizens and representative associations take part in policy debates in all EU competency areas through “an open, transparent and regular dialogue with representative associations and civil society”. The Commission is obliged to carry out broad public consultations on its policy proposals and respond to the European Citizens Initiative, i.e. a collective petition of at least one million European citizens from a significant number of member states to “submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties”.

In practice, however, **civic space is deteriorating across the continent**, as evidenced by the Civic Space Watch platform set up by the European Civic Forum. Civic rights violations are increasingly accompanied by sheer violence and oppression. **Reproductive rights protesters being arrested in Spain.** In Slovakia, an investigative journalist and his fiancée were assassinated, most likely by mafia tied with corrupt politicians. **Refugee rights activists are being smeared, attacked and even punished in Italy and along the Mediterranean Sea, but also in the recipient countries like Norway, Sweden, UK and the Netherlands.** Instead of cherishing its own citizens for their acts of solidarity with people fleeing from wars and affected with extreme poverty, the EU is contributing to the criminalisation of solidarity, one of its core values, undertaken by the security agencies of its member states, closely tied with Frontex and in parallel with populist anti-immigration social media and political campaigns. In Hungary, the Government has undertaken a political and legal campaign against the autonomy of watchdog CSOs that protect and advocate for liberal-democratic values, going as far as introducing a register of foreign-funded CSOs under special government surveillance and labelling them as enemies of the Hungarian people (the usual authoritarian pet word for civil rights activists). **In Poland, activists and artists are demonised and silenced by catholic fundamentalists permeating both civil society and government structures, while LGBTIQ activists in Romania are being physically attacked not only for marching in PRIDE, but for showing Cannes-awarded art films in public libraries.**
Behind these most visible, severe forms of violation of core civic freedoms and European values, there lies an inert, fragmented, under-regulated yet over-administered institutional framework for upholding civic rights and supporting civil society organisations. The June 2018 report “Civic Space in Europe 2017”, prepared by Civil Society Europe presents the current state of affairs in EU, EEA and candidate countries, with special focus on government measures that disable and enable active citizenship. The picture shows great asymmetries between the West of Europe and its South and East in civil society organisations’ assessment of actual respect of fundamental freedoms and degree of pessimism about future prospects. Among factors that raised concern about the shrinking of civic space is the decline of rule of law and transparency, and the emergence of forms of managed participation in countries traditionally supportive of civil society. Also worrying are the rise of right-wing populism and the normalisation of hate speech, which act as informal barriers and discourages people, especially those belonging to vulnerable groups, from joining the public debate. Neoliberal policies, austerity, and lack of understanding of the specificity of civil society are also source of anxiety.

Civil Society Europe Report calls for the European institutions to act more proactively on the shrinking civic space by playing a greater role in upholding democratic principles and setting guidelines to ensure an enabling environment for civil society. The shrinking of civic space should be viewed in the wider context of dissolution of European values in the political actions of EU member states, as is the case with the recent Resolution of the European Parliament calling for activation of Article 7(1) procedure against Hungary due to its crackdown on civil society, strongly advocated by the Liberties Platform and other European civil society networks. Hence, any new conditionalities related to the EU’s protection of the rule of law through its new budget, should directly relate to the protection of civic space in Europe.

Current Challenges

The EU must step up its strategic focus on its future, yet its capacities to do so remain constrained by the election-triggered political leadership changes, populist political ambitions to disturb and reshape the common value base and the deep fragmentations among EU leaders. As pointed out by the Carnegie Europe Fellow Stefan Lehne, the prospective European elections pose a populist threat, but also an incentive to reclaim the public narrative on the prosperous future of Europe, as an achievable common goal, embedded in the shared values of rule of law, fundamental freedoms, democracy and solidarity: „The campaign for the European Parliament elections in spring 2019 will see an unprecedented mobilisation of nationalist and EU-sceptical political forces, which could amount to the toughest political challenge ever to the integration process. If the supporters of European integration have nothing to counter this onslaught but the promise of continuing to muddle through, the outcome of this contest could be very uncertain. There is therefore a need for genuine in-depth reflection about the longer-term orientation of the EU. Although it might not rapidly translate into treaty reforms, it could give the European Parliament election campaign the necessary substance and focus“.
Under the assumption that pro-democratic political actors committed to improving EU democratic governance and open up opportunities for the EU’s common future manage to mobilise adequate voter support, the new Commission will be tasked with continuing and amplifying its efforts towards greater transparency, lower corruption and enhanced citizen participation in the European governance.

**Transparency, Accountability and Fight against Corruption**

The Commission must resume anti-corruption reporting and develop a coherent anti-corruption strategy and spearhead the EU’s anticorruption policy, which includes preventing and combating corruption, in member-states and EU institutions respectively. This will also help create public fora in which new anti-corruption measures and policies could be discussed or developed and feed them into the anti-corruption policy formulation processes. Currently, anti-corruption has low visibility and relevance, as it has been embedded in the European Semester process (the EU’s main economic policy dialogue with member states). Corruption is sporadically mentioned in European Semester country reports and Country Specific Recommendations, but especially lacking is an informed detailed comparative analysis on corruption phenomena and the relevant legislative framework in member states. Currently, the European Semester can by no means represent a substitute for the EU Anti-Corruption Report. Both Commission and the Parliament must increase efforts to tame corruption and unethical behaviour of political and business elites in member states, the Brussels bubble and tax havens around the world.

The EU must reach a political decision and hastily work on inclusion of EU institutions in Council of Europe’s GRECO mechanism for monitoring corruption prevention and suppression activities and actions of governments and independent (judicial) institutions. Any country which becomes a party to the Council of Europe’s Criminal Law Convention on Corruption automatically accedes to GRECO (Group of States against Corruption) – Council’s anti-corruption monitoring body in charge of conducting evaluations of anticorruption policies in each participating country, and providing specific legislative, institutional and practical recommendations. Even though the Lisbon Treaty opens the possibility of EU becoming a party to any conventions of the Council of Europe, EU institutions do not participate in GRECO evaluation since EU has not become a party to the Criminal Law Convention on Corruption. The Commission is using the argument of examining tenuous legal intricacies arising from the Lisbon Treaty which may have hidden legal obstacles preventing EU institutions from participation in GRECO evaluations. The Council must seek reassurances in the negotiating process on the formation of the Commission, that the EU’s accession to GRECO (and other CoE conventions) will be a top priority for the new mandate of the Commission. Apart from their immediate inclusion in GRECO evaluations, EU institutions must also be encompassed by any future EU anti-corruption reporting and thus make-up for the crucial omission of the first EU Anti-Corruption Report. Sporadic recommendations and mentions of corruption in assessments of member states within the European Semester simply do not suffice. Corruption
is a complex problem that needs to be tackled in a complex way – using national and international instruments, continuously developing and applying policy innovations, engaging experts, activist and academia and always keeping in focus clearly defined strategic goals. A starting point for this would be to actually have an anti-corruption report, i.e. a prerequisite for an actual anticorruption policy.

EU institutions should give full political support to European Public Prosecutor’s Office (EPPO) as a newly formed EU institution which yet needs to demonstrate its competences to investigate, prosecute and bring to judgement crimes against the EU’s financial interests (fraud, corruption, cross-border VAT fraud and similar). Since consensus among member states could not be reached, the institution was established within the enhanced cooperation procedure. At present EPPO binds 22 member states, while five of them (Poland, Denmark, Hungary, Sweden and Ireland) remain out of this innovative cooperation mechanism, with opportunity to join any time (expect for Denmark bound by a strict opt-out from the Area of Freedom, Security and Justice). EPPO was established since national authorities had no competences to prosecute criminal activities outside their border and because existing EU institutions (such as OLAF, Europol, Eurojust) had no prosecution competences at all. EPPO infrastructure will have two levels of operations - European level consisting of European Chief Prosecutor and a college of 21 deputies (one from each participating member-state) and national level consisting of European Delegated Prosecutors who serve as both domestic prosecutor and EPPO prosecutor (also one in each participating member state). EPPO will have competences to independently initiate investigations as well as take over a case from national authorities. Once EPPO goes operational (in 2020-21), investigative journalists and academics will have a new independent authority with competences and resources to tackle EU funds related fraud and other crimes against EU’s financial interest. EPPO, unfortunately, does not have competences to prosecute any other type of cross-border crime (which do fall under mandates of other complementary EU bodies – EUROPOL, EUROJUST).

Civic Space and Participatory Democracy

The EU should strategically strengthen its mechanisms for protection of civic space, as part of its unequivocal political commitment to the protection of European values. It should be recognised that the protection of civic space can trigger disciplinary mechanisms with respect to a member state’s compliance with its value basis, Articles 2 and 11 of the Lisbon Treaty in particular, as well as the EU Charter of Fundamental Rights, which explicitly recognises not only freedom of association, assembly and expression but also media freedom and media pluralism among the fundamental freedoms. The European Commission should revisit its infringement procedures in order to better equip itself for the protection of European fundamental rights and freedoms. An interesting proposal has been made by the Open Society Foundation European Policy Institute in the commissioned study by professor De Schutter, exploring a number of new practices that could be introduced to strengthen the use of infringement proceedings as a fundamental rights enforcement tool, including incentives that the member states could be given to better comply with fundamental rights in the implementation of EU law.
The future EU budget and financial EU rules and funding priorities should contribute to supporting the development of a vibrant, independent and democratic civil society. This is why European civil society networks, backed by the current European Parliament and the European Economic Social Committee are advocating for strong rule-of-law conditionality mechanisms, increased funding and streamlined, more responsive grant making mechanisms in the scope of the current preparation of the Multiannual Financial Framework (MFF) and accompanying regulation. In parallel, the Commission has been requested to make further legislative steps on the European Parliament’s proposal of the Pact on Democracy, Rule of Law and Fundamental Rights, also taking into account the prospective process of negotiating the new Inter-institutional Agreement (IIA).

The European Digital Agenda should fully support further democratisation of EU institutions, which should start building a common e-participation infrastructure, based on a common vision. Otherwise, according to the study, Prospects for e-democracy in Europe, commissioned by the European Parliamentary Research Service Scientific Foresight Unit, the EU will remain an opaque jungle to the average citizen, as EU’s current digital governance solutions greatly mirror the weakness and complexity of its bureaucratic structures. In addition to this strategic shift in designing the EU’s digital sphere for civic participation, the study proposes that the Commission explore special value added for strengthened democratic governance by digital experiments in participatory budgeting, monitoring of member states’ positions on Council decisions, expanded civic engagement of MEPs and exploration of ICT crowdsourcing of policy ideas for the Commission. The field of digital innovations for democratic governance is ripe with ideas stemming from academic community and civil society, which wait to be picked by the next Commission.

At the EU member states’ level, Civil Society Europe calls for stronger engagement of EU institutions in supporting national and local institutional and civil society efforts to uphold EU’s fundamental rights, through citizens’ rights public awareness campaigns, formal Council and Commission working groups on civic space and democracy, a special EU coordinator for civic space and democracy and transparent, strategic funding for fundamental rights protection, support to active European citizenship and cross-sectoral collaboration engaging civil society. It is of critical importance that freedom of media and media pluralism be comprehensively integrated in all future EU legal and funding actions which enable the protection of European values and civic space.

All of these next steps of the existent policy initiatives are highly contingent on the political outcomes of the 2019 European elections, where right-wing populists are expected to gain force in opposing progressive policy proposals in support of European values’ protection. It is yet to be seen how the current deterioration of European values, which also includes the shrinking of civic space, will be addressed by EU leaders in the new Leader Agenda, as well as the Strategic agenda 2019-24 of the European Council at the May 2019 Sibiu Summit, under the Romanian Presidency. The new Commission’s Work Programme expected in October 2019 will also be shaped by the outcome of the European elections and the political agenda of the new Commission President. If significant restructuring of the Parliament takes place, weakening its current liberal orientation, pro-democratic European civil society may lose its strongest political ally in advocating for the political will to protect European civic space. In such context, the proactive role of EU Ombudsman will become even more important.
EU Presidency 2020 Relevance

Over the upcoming two transition years during which the EU institutions will enter a new decision-making cycle (from May 2019 European elections until the enactment of the new EU budget in 2021), there is no institutional reform process on the horizon, other than the very process of preparing the new EU budget 2021-27. The Multiannual Financial Framework process provides the only valuable opportunity, however indirect, incremental and partial, to pursue the integration-oriented EU public investment programmes, such as climate action, R&D, border management and mobility. At the same time MFF can be used as a rule of law conditionality tool, as proposed by the current Commission. Yet, as pointed out by Lehne, "the method of pragmatic incremental adjustment embodied by the MFF process might well be the only way forward in the short term but might not be sufficient to re-establish the legitimacy of the EU in the eyes of large parts of the European public."

The political debate at the informal EU Leaders’ Sibiu Summit on the Strategic Agenda 2019-24, to be proposed by the European Council President Tusk in addition to the new Leader Agenda, should provide insight into the current state of the common reformist will and ambition at the very top level of EU decision-making.

Countries presiding over the Council are, therefore, in the position to take an active role in shaping the Council’s strategic approach and actual measures aimed at enhancing transparency of the Council’s work. Current negotiations and prospective adoption of the new Inter-institutional agreement on Transparency Register between the three key EU institutions may require the Council to step up its transparency efforts, in case the current pressure from the European Parliament and transparency activists, also echoed in the Position of the Commission, result in the adoption of common, higher standards, towards which the Council is traditionally very sceptical. Namely, both the Parliament and the Commission have already upgraded their transparency norms and thus can take a higher moral ground in respect to the Council. The future EU Presidency trio might be in position to steer a small, yet historical transparency reform of the Council’s working procedures. This would not only be a matter of compliance with IIA, but a matter of responding to the EU Ombudsman’s criticisms and recommendations and mitigating the serious reputation risk of the Council being widely viewed as the most opaque of all EU institutions, far removed from the European citizens.

A proactive EU Presidency taking transparency and anti-corruption seriously, as demanded by the transparency activists, might also play pivotal role in getting all Permanent Representations to subscribe to Transparency Register obligations on a voluntary basis, in light of their high exposure to corporate lobbying and corruption risks, even though they are not obliged to comply with IIA standards. A highly transparent EU decision-making process should be viewed as a strategic goal for the smaller member states in protecting their national interests. They should thus fully support and initiate efforts aimed at increasing transparency, especially at Council level.
With the Parliament always pushing for and Commission always side-stepping the development of a robust EU anti-corruption policy, the position of the Council on these issues could turn decisively. The 2020 Presidency trio should strive to affirm EU’s renewed commitment to anti-corruption, either as a stand-alone programme priority, or as an integral component of the priority focus on protection of European values. The Council is in a position to spearhead efforts in numerous areas, such as the ratification of the Council of Europe’s Criminal Law Convention on Corruption and immediate inclusion of EU institutions in GRECO evaluations, continuation of EU’s anti-corruption reporting, full implementation of an ambitious IIA on Transparency Register and integration of anti-corruption into systematic rule of law monitoring, and conditionality mechanisms being developed within the MFF framework or applied on the basis of Article 7 and Article 11.

At the same time, the prospective EU Presidency will need to grapple with the reality that there are those in the decision-making seats at the Council who wish to shatter and reorder European values and the European concept of vision of the EU as a culturally monolithic, self-protective and illiberal alliance of states, fearful of the globalised future that awaits us. In light of this, anti-corruption must be considered an integral part of any EU’s rule of law compliance mechanism as one of its tools and performance indicators. Certain member states’ underperformance in the area of anti-corruption should be considered in the context of violation of European core values, defined and upheld in Articles 2 and 7 of the Lisbon Treaty. Financial conditionalities related to the respect of the rule of law proposed in the context of the new MFF should also encompass systemic corruption, which is closely related to the decline of the rule of law and rise of authoritarian governments, as seems to be the case with Hungary’s leader Orban. Accordingly, the shrinking of civil space and capture of media should be considered relevant indicators for applying any Rule of Law instrument currently at hand (Article 7 procedure), as well as any other which will soon be developed (for example, within the MFF framework). Fierce reactions to such proposals by the Hungarian Government only corroborate their disciplinary potential.

The upcoming EU presidencies should pay close attention to the political conditions surrounding the establishment of the new European Public Prosecutor Office, expected to become fully operational even during the 2020 presidencies of the Council. Since five member states will not take part in the EPPO framework, it will be important to make sure the EPPO’s mandate and institutional development is not hindered by the minority of the countries opposed to the idea of a stronger EU oversight over its member states with respect to potential fraud involving EU funds.

Special attention should be paid to the protection of civic space in the context of the articulation of the common Presidency Agenda (due in December 2018), where European value protection has been proposed as the Romanian Presidency’s topic of special interest. A strategic approach to protection of the shrinking civic space both in the EU and its external action should be developed in close cooperation with civil society organisations and all three EU institutions. As proposed by the Parliament, this should include a transparent mechanism for monitoring democracy, fundamental rights, and the rule of law, to be applied both in all EU member states and at the level of EU institutions, as well as in the accession countries, used as a basis for further oversight measures. The EU strategy on civic space protection and promotion should also include actions to implement Article 11 of the TEU, which states that the EU institutions have an obligation to engage with citizens and their representative
associations. The three EU institutions should adopt an (inter-institutional) agreement to put proper mechanisms in place for structured dialogue with civil society.

It is of outmost importance that the new Trio restores trust in participatory democracy and youth engagement in decision-making processes - from the local to the European level. The new Trio should pay special attention to the youth participation in the policy-making processes by means of the Structured dialogue method which is supposed to undergo redesign in that period. The most recent 6th cycle of the Structured dialogue with youth resulted in Youth Goals, which represent the vision of the European youth and what they want to see achieved in 11 areas. A strong incentive on part of the new Trio at the Council level for the implementation of the Youth Goals would be a step in the right direction, in case the EU really wants to show that it values the voice of 50 000 young people who took part in the process and that it directs its political decisions towards the wellbeing of its young generations.

Key Concerns from Civil Society Perspective

Widespread and long-established trends of declining citizens’ trust in political and state actors has finally spilled over to the political arena, also contributing to political instability and election volatility. Scholars, activists and journalists have all provided their advice to mainstream parties on how to tackle the populist insurgence. In focus of all these recommendations is transparency and accountability innovation, where digital solutions play a big role, robust enough to combat the persisting perception of politicians being a distant elite whose decision are steered by undue influence and political corruption.

In such an unfavourable political context, the EU’s meek approach to anti-corruption seems like an unnecessary and potentially extremely costly luxury. It may be ironical that anti-establishment politicians, who call out the mainstream political elite for moral and political corruption, are actually those who are actively working on dismantling checks and balances and independence of oversight institutions to safeguard growth of their personal, criminally acquired, wealth. However, it is even more ironical that the EU leaders do not grasp the power of the populist anti-corruption sentiment in mobilising citizens against the perceived corrupt elite, which will in turn enable authoritarian leaders to weaken and take over public institutions which should control power abuse. Anti-corruption is such powerful policy frame that it can greatly promote the populist interests, just as it can stir up public support for the broader agenda of protecting rule of law and European values. That is why transparency activists are very concerned about the positioning of the anti-corruption debate in the upcoming European elections, with fear that it will be hijacked by the populists.

Continuously safeguarding and upgrading transparency, integrity and accountability of decision-making processes should be set as one of the main goals of the European anti-corruption agenda and one of the highest EU priorities. While the future of lobbying in the EU will be decided by the on-going negotiations on the IA and the Transparency Register.
additional efforts will be necessary to reach a higher level of decision-making transparency in crucial EU institutions.

Current levels of transparency of Council’s work need to improve and have been a target of criticism by European transparency and anti-corruption activists, and the EU Ombudsman, too.

Even though Parliament upgraded its integrity norms, current solutions on allowances and side-jobs are not satisfactory, as shown by TI EU reports.

EU institutions, especially the Council and the Commission, are often the target of freedom of information strategic litigation, since not enough information are proactively published and since many decision-making processes are, in principle, closed to the public.

The Commission has adopted a new Code of conduct upgrading numerous transparency and integrity norms, however, high doubts loom over effectiveness of a model lacking independent oversight body.

Levels of transparency of decision-making process in member states could be also greatly enhanced as indicated by Access Info Europe report.

Regarding the Future of Europe debate and the strategic decisions ahead, which are inextricable from democratic governance reforms, European civil society is united in its claim that the future of Europe and its democratic governance should be anchored in the multi-dimensional concept of sustainability, vital for the very survival of the mankind and the planet. Scenario 6 – Sustainable Europe for its Citizens, backed by 250 civil society organisations from across Europe proposes an alternative vision of EU’s future, with respect to the five scenarios developed and debated through Junker’s Commission’s White Paper on the Future of Europe. In this scenario, sustainability sits firmly at the heart of the European project as the EU27 commits to prioritise the interests of citizens, in the EU and beyond, with a special focus on delivering the 2030 Agenda for Sustainable Development Goals and full implementation of the Paris Climate Agreement. In this scenario, Europe will have a strong focus on Europe’s core social values democracy and participation, social justice, solidarity and sustainability, respect for the rule of law and human rights, both within Europe and around the globe.

The Scenario envisions democratic governance reforms, starting with understanding of better regulation as regulation that is focused on ensuring policy coherence for sustainable development and on enforcement of high standards for jobs, health, safety, and the environment, delivering tangible benefits to all citizens. Application of the policy coherence principle will enable sustainability mainstreaming in the EU’s regulatory and budgeting process, where the EU’s budget or Multiannual Financial Framework is viewed as a key sustainability mainstreaming policy tool. The Scenario also proposes institutional reforms that will enable vibrant participatory democracy and citizens’ engagement in policy-making process and more effective oversight of the members’ compliance with EU sustainability standards. Common focus on sustainability as EU’s global commitment might indeed serve as a bridge over the troubled waters of colliding visions of Europe’s future, in case the reality of rampant climate change is indeed understood and accepted as the common responsibility of all citizens, member states, and EU institutions.
Key Sources and Further Reading


Civic Space Watch – Monitoring Civic Space in Europe, [https://civicspacewatch.eu/](https://civicspacewatch.eu/)


Liberties Platform – „Analysis of the Commission’s Proposal for a Rights and Values Programme“, [https://d4n3btxmr8c9.cloudfront.net/files/bGvl4K/Liberties_Israel_20180619.pdf](https://d4n3btxmr8c9.cloudfront.net/files/bGvl4K/Liberties_Israel_20180619.pdf)


Digital Single Market
The Digital Single Market is one of the most ambitious regulatory initiatives of the EU. It refers to the strategy of the European Commission to ensure access to online activities for individuals and businesses under conditions of fair competition, consumer and data protection, removing geo-blocking, and copyright issues. The intended policy should establish a common system of lean horizontal regulations on technology and digital environment that could boost growth and development of digital economy, now managed by 28 different individual national legal frameworks. The process is spearheaded by the Commission which wants to unlock online business opportunities by bringing down existing regulatory barriers. As estimated by the Commission, a fully functioning single digital market could bring as much as 415 billion EUR annually and also provide thousands of well-paying jobs to European citizens.

Currently, the Commission has placed 35 legislative initiatives on the table, and thus paved the way for active participation of the Council and the Parliament in the adoption and implementation of very ambitious single digital market agenda. Some of the legislative initiatives have already been finalised, among which some are more technical (such as portability of digital content across the EU, purchased or subscribed to by European citizens), while others are a game-changer (such as the end of roaming charges or release of 700MHz band paving way for 5G services). If the proclaimed goals are reached, they could have a tangible positive effect on the quality of lives of European citizens. Single digital market aims to boost e-commerce by tackling geo-blocking and cross border parcel delivery issues, modernise copyright and e-privacy rules, update EU audio-visual rules (promoting European film as well), enhance capacities to deal with cyber-attacks, unlock the potential of European data economy by allowing free flow of non-personal data, provide fast internet for everyone (connectivity for a European gigabit society).

However, even though the EU had taken a global lead in tackling negative effects of the untamed and unregulated IT sector by placing citizens’ rights in prime focus (as was the case with GDPR), it has faltered on this trajectory and succumbed to the influence of the IT corporate interest. Public consultations and the legislative process on the single digital market run in parallel and often separately from the policy solutions that are being adopted, which tend to pop-up unexpectedly and are ascribed to undue corporate influence. For example, EU copyright debate has been side-tracked by Commission’s and rapporteur Voss’s pushing for censorship machines which sparked the viral #savethememe campaign and strong opposition in the Parliament. In another example, privacy activists fear Council’s approach to regulating e-privacy threatens to dismantle the just established GDPR legal framework. Rather than improving solutions on the table, privacy activists are forced to completely shut down proposals they see as unacceptable and dangerous. Decision-making process are being side-tracked by such toxic proposals, which in addition, contribute to declining levels of trust among citizens who already perceive corporate influence on European decision-making and policy-formulation processes as undue.

Access to internet is in the process of becoming a human right, with member states’ courts’ rulings defining it as a right belonging to all citizens. In Europe, Finland is walking the talk – it aims to grant all citizens access to 100 Mbit/s connection. If access to internet has
become instrumental and crucial for freedom of speech, access to information, business, communication, personal development, political assembly, political marketing, public advocacy, education, etc., this should be reflected in EU’s approach to countries which shut down internet or use technology to dismantle rights of their citizens. It should be explored whether embassies of EU member states could offer free and safe access to internet to non-EU citizens who seek it.

Social networks and online platforms will also be regulated within the Digital single market legislative initiative. However, these interventions will boil down to obligations for manual removal of online speech and fake news from their platforms. Enough evidence exists this will not do away with all negative effects these networks have on our lives, our health, our societies and our democracies. Current approach of the EU ignores abundant evidence on grave risks associated with social networks and online platforms which were designed to make us addicted, mentally distorted and politically polarised. The EU’s approach will simply not suffice – introducing obligations such as removal of most viral and visible hate speech and fake news through a mix of regulation and self-regulation, will not change the current business model and will not do away with recognised negative effects. In addition, even though GDPR sent shockwaves through EU IT industry and forced numerous companies to readjust their business practices, global IT giants have decided to ignore GDPR and its most basic obligations thus showing disdain towards this pioneering regulation. For instance, WhatsApp, Facebook, Instagram and Google android all have “forced consent” in place, denying access to service to all those who wish not to provide consent, which is violation of one of most basic GDPR principles. There are different approaches that can be applied to listed problems – treating social networks as public health problem, creation of a European digital border, establishing an independent GDPR audit institution for global tech giants.

In January 2018, the Commission set up a high level expert working group on fake news and online disinformation (HLEG) which issued a Report with best practices and recommendation how to proceed in regulating this complex and controversial matter. Warning against simplistic solutions that can trigger unwanted censorship, the multi-dimensional approach recommended by the HLEG focuses on the following five pillars of action:

1. Enhance transparency of online news;
2. Promote media and information literacy;
3. Develop tools for empowering users and journalists to tackle disinformation;
4. Safeguard the diversity and sustainability of the European news media ecosystem, and
5. Promote continued research on the impact of disinformation in Europe.
As right-wing populists rise across Europe, not only the Single Digital Market initiative, but also the EU policy formulation and decision-making process as a whole are in jeopardy. The 2019 European elections may bring about a new large political minority in the European Parliament, which will be eager to prove that the European project is an unfortunate and unsustainable adventure of European nations. Their inclusion in decision-making process might result in a self-fulfilling prophecy of the EU’s inability to get a grip on societal, economic and political problems across Europe. Having this in mind, it would be prudent for all EU institutions to speed-up current ongoing decision-making processes, prior to the May elections, especially those as encompassing and relevant as the Single digital market.

New rules on privacy (Proposal for a Regulation on Privacy and Electronic Communications), seeking to create a single data market for all non-personal information, have raised grave concerns on the part of privacy activists. Even though their goal is to allow for free flow of non-personal data only among companies and across borders, privacy activists fear numerous risks will be introduced and that current legal framework established by the General Data Protection Regulation will be circumvented. Since privacy regulations are more detailed and encompassing than GDPR when it comes to electronic communication, competent authorities will revert to privacy rules rather than GDPR regulation.

The Parliament is yet to adopt its position in the delicate debate and decision-making on copyright reform which aims to make copyright rules suitable for a well-functioning Digital single market. The main objective of Article 11 of the proposed rules is to allow content creators and other rights holders to negotiate with online services and content distributors how their work is used and shared online. This would mean that online platforms are responsible for all content published by users and therefore have to implement viable technical measures to protect copyright-protected content. While the Commission claims this will not affect online freedoms and that memes and snippets will not be banned, all eyes are pointed towards a new technical solution that has to be implemented to abide by the new copyright rules. The critics have dubbed these technical solutions “censorship machines” (Article 13) as they will have algorithms that detect copyright-protected materials and automatically stop them from being uploaded. Critical voices are loud since it is already recognised such technical solutions have failed to deliver what they promised. The public debate on the issue is overburdened by differing opinions on the actual effects of the new regulation. An example of this is Wikimedia’s latest public reaction warning that the new rules threaten the vibrant free web, while at the same time, the Commission states online platforms such as Wikimedia will not be affected at all.

Social networks are close to becoming a Gordian Knot of human civilisation, seemingly impossible to untie. We keep ignoring the fact that social networks have introduced a completely new type of economy - attention economy. Online networks are purposefully designed in an addictive way, to keep users online as long as possible. A growing number of people involved in developing the social network infrastructure have publicly raised concerns fearing for future of democracy and our societies. Decision makers and the wider public seem incapable of recognising that social networks are a mental health risk and that they present...
a clear and present danger for democracy and democratic processes. Our news feeds and video suggestions are continuously been tweaked to push towards content that will stir our emotions and keep us online longer, pushing us to Internet’s darkest corners. It is now evident that social networks are set up this way: they amplify fake news, inflammatory speech, chauvinism, xenophobia, historical revisionism, trolling, bullying, political incorrectness, etc. Admitting that the problem exists is the very first step in solving it. Zuckerberg recently stated that protecting democracy is an arms race, hiding the fact that Facebook itself has become weaponised by non-state and foreign state actors. Unless we see a serious change in the Facebook’s, Google’s and YouTube’s business model, there is little hope they will produce results other than those we witness today. Manual removal of fake Russian accounts and fake news is merely pointless swimming against an immense current. If alarm bells raised by people who built this infrastructure are not enough, a red flag for all of us should be the fact that Silicon Valley parents do not let their kids use phones, fearing effects technology has on their kids’ psychological and social development. Negative impact of social networks on democratic culture and democratic processes has also been publicly recognised by Facebook. Bertelsmann Foundation started an encompassing project mapping out effects of technology on democracy – Disrupting Democracy, which echoes such concerns. The current business model of online platforms which is based on spying of its users will not change unless their users create pressure, but for this to happen, the population at large must be introduced to the intricacies of the infrastructure behind the networks they use.

A bold step in the right direction would be to create a European digital border, intended to stop companies and services which do not fully comply with EU standards. This could place Europe at the centre of creation of new services and technologies which are fully compatible with human rights in the digital arena and protect EU citizens from governments that spy on its people, and people around the world. Just recently US, UK, Canada, Australia and New Zealand have asked for a back-door to all encrypted technology. The possibility of establishing an independent body with relevant competences to audit data-driven companies with a large market share, in coordination with the European Data Protection Board, should be explored. GDPR has numerous issues when it comes to implementation, but one of the most relevant are limited capacities of national authorities to tackle IT companies and online networks which operate throughout Europe and globally. The main task of this authority would be to conduct independent audits of large IT corporations, which still have not aligned with some of the most basic GDPR principles (like consent).

EU Presidency 2020 Relevance

Single digital market is an encompassing and ambitious regulatory initiative and is therefore difficult to predict decision-making processes that will be on-going during the upcoming 2019-20 presidency trio held by Romania, Finland and Croatia. In May 2017, the Commission issued a Communication on the Mid-Term review on the implementation of the Digital Single Market Strategy highlighting three areas in which further EU action is needed: data economy, cybersecurity and online platforms (i.e. social networks). While proposals in these three areas have been placed on the negotiating table, they are yet to be adopted. Prior to
2020 presidencies, the Council is expected to finish negotiations on new privacy rules, adopt its general approach and initiate negotiations with the Commission and the Parliament. The future Council presidencies should take into consideration that the current proposals of the Council on privacy are heavily criticised by privacy activists and that this will be amplified if current proposals find their way in the Council’s general approach.

A latecomer to the Single digital market initiative is artificial intelligence. Pushed by global trends of investments in artificial intelligence and individual member states policies, in spring 2018 the Commission and member states committed to seize the opportunities stemming from further development in this field. The Commission issued a Communication Artificial Intelligence for Europe, presenting their view on the EU’s approach to AI: being ahead of technological developments and encouraging uptake by the public and private sectors; prepare for socio-economic changes brought about by AI; ensure an appropriate ethical and legal framework. Willingness to jointly participate in a single European endeavour aimed at AI development is also evident in the EU Declaration on Cooperation on Artificial Intelligence, which was adopted by a large number of member states on the last Digital Day (10/04/2018). It is, therefore foreseeable, that further regulation and funding for AI will be on the decision-making agenda during the 2019-20 Presidency Trio. Having in mind that the EU’s interest in AI has been heightened due to global trends in AI investments, it is expected this will be one of few policies that can bring more cohesion to the EU in the turbulent times following 2019 elections.

The proposed European policies on social networks are merely a remedy for bad symptoms, but not a cure for the disease. European civil servants, experts and politicians refuse or fail to see the full spectrum of the social networks’ negative externalities impacting individuals, societies and politics. While much can be concluded from correlations between rising levels of depression and increasing use of social media (especially among the teenage population), recent studies indicate that use of social networks has direct negative impact on mental health. Social networks are purposefully designed to be addictive and have brought about new business model of so-called attention economy anchored in internet structure shaped around the demands of an advertising economy. Engineers developing the hidden infrastructure of social media have adopted leading scientific insights into how to create an addictive product through short-term, dopamine-driven feedback loops. In addition to being addictive and unhealthy, they produce negative societal and political externalities. As social network algorithms amplify negativity they serve as a vehicle for spreading political incorrectness, inflammatory speech and hate speech, all of which exacerbates political polarisation. These algorithms also serve users news that are like-worthy, attention grabbing, fake and radical rather than objective, relevant or true. They create filter bubbles that increase radicalisation of views and thus impact negatively on election processes and public debates by making them toxic and volatile. The sense of urgency should be heightened due to numerous successful attempts by foreign state and non-state actors to maliciously use these features of the hidden infrastructure of social networks.

Having in mind the negative political and societal trends across the EU, which at the same time bring uncertainty to the viability of the European project it is imperative that the Council pushes for an enhanced approach to taming the social and political harm generated by the social media. It is an open question whether the current level of concern for the rise of online hate speech and disinformation, expressed by the Parliament will survive the 2019 elections.
- dreaded for their populist potential boosted by social media propaganda and foreign financing. These negative externalities cannot be ignored any more. A single presidency programme, willing to open this much needed debate might be a push in the right direction. Due to its track record on digital issues, Finland is in a position to start this debate, but also concrete decision-making processes that would entertain more robust and more innovative approaches in this arena. Finland should examine the possibility of pushing for a new innovative approach to regulating social networks, by treating them both as a health risk and a risk to democracy. New obligations for social platforms should be explored, such as duty to inform its users on addictiveness of their product, or an obligation to periodically remind users of how much time they remain engaged/online (since their model is based on attention disruption). Having in mind developments in its national policies (access to broadband internet as right), Finland is also the best suitable candidate for elevating the proposal that EU embassies offer free and safe internet access to non-EU citizens living in countries where governments shut down internet and thus violate numerous human and political rights. Adoption of listed proposals would give European IT and technology companies (like Nokia) an unprecedented edge over IT giants which currently dominate the digital globe. On the whole, regulating social networks in a way that can protect European citizens and democracy is the ultimate challenge that the EU institutions must address in the upcoming years, especially having in mind Europe’s turbulent political context.

Key Concerns from Civil Society Perspective

European activists have raised concerns regarding numerous policy proposals which are currently on the table and were the loudest on the new privacy rules on free flow of non-personal data and copyright rules. European Digital Rights Initiative is keeping a close eye on decision-making processes and is providing detailed policy analysis on numerous issues. They have raised concerns in respect to numerous risks arising from current proposals on establishing single European data economy.

EDRI insists metadata for electronic communications should be regarded as sensitive personal data (similar to categories listed in Article 9 of the GDPR). The Council’s proposal significantly expands the processing of metadata without consent in respect to the Commission’s proposal and the proposed actions presented in the report issued by the Committee on Civil Liberties, Justice and Home Affairs (LIBE). The Council’s text foresees that electronic service providers will also be allowed to process metadata not directly related to billing purposes, since they can include such provisions on this in contracts with end-users. In addition, the Council has introduced processing of metadata without consent for scientific purposes and research. Activists claim this will create new risks for users since large amounts of metadata will be retained and accessible to law enforcement and vulnerable to data breaches. EDRI also claims that the Council’s amendments may open way for bypassing GDPR consent provisions when it comes to tracking cookies, introducing possibility of forcing users to choose between paid access that respects privacy choices and free access conditioned by consent to being profiled and tracked.
While hate speech and fake news on online networks are still on the EU’s to-do-list, copyright rules will aim to introduce full liability of platforms for every piece of content hosted at their servers, primarily in relation to copyright protected content. EDRI claims such a proposal actually makes censorship machines a necessity. It is also expected that the US based companies will lead the effort in provision of this service, thus making European companies less competitive and dependent on services from across the Atlantic. The infamous Article 13 of the copyright proposal (amended by JURI Committee) foresees a world in which algorithms decide what can be uploaded, thus endangering one of most basic human rights practised in the digital environment – free speech. This has sparked a viral #savethememe online campaign since upload filters might bring an end to one of most favourite and practised form of satirical expression on the internet.

Privacy and technology developments in the EU could contribute heavily to its economic and democratic development. The world is possibly on the verge of a new renascence in which relations between right to hide in the digital environment and use of technology to track users could be redefined. The EU has already taken a global lead with GDPR, setting a golden standard when it comes to personal data protection. European digital arena could become a fortress of digital freedoms, security and privacy. At the same time, if European leaders do not act swiftly and boldly in all relevant problem areas, the EU could also fall victim to the predatory global trends, where privacy too is being turned into highly profitable commodity and tool for political manipulation.

Key Sources and Further Reading


European Energy Security and Sustainability
Stated policy objectives of the EU endorse the approach to energy security within the wider context of sustainability, understood both as the global vision as well as EU’s international political commitment towards the achievement of the global Sustainable Development Goals. Hence, the EU has committed to coherent implementation of the 2030 Agenda for Sustainable Development which translates into EU’s commitments in a wide array of EU policies, among which energy is of paramount importance and complexity. As described by the European Commission, “the Energy Union strategy pursues energy security & efficiency, integrated energy market and decarbonisation of the economy. Following the 2020 energy and climate package, the EU has set further targets: the 2030 climate and energy framework foresees 40% reduction of greenhouse gas emissions, at least a 27% renewables share in the EU’s energy mix, and at least 27% increase of energy efficiency.” In the scope of the European development policy energy sectors in developing countries should be strengthened by the EU in line with their role of “key factors of sustainable growth”. The EU takes part in the Energy Community bringing together neighbouring countries in South East Europe, the Black Sea region and beyond to create an integrated pan-European energy market. Through the Global Climate Change Alliance Plus (GCCA+) programme, the EU helps vulnerable places to tackle climate change, including support in the energy sector. Through the Sustainable Energy for All initiative, the EU has committed to ensuring access to sustainable energy services to 500 million people in developing countries by 2030. Covenant of Mayors for climate and energy, the world’s biggest urban climate and energy initiative, brings together local and regional authorities voluntary committing to implement climate and energy targets. At the same time, the reality of EU’s actual state of energy policy seems to be in wide discord with the EU’s strategic vision, due to EU’s overreliance on imported energy sources, prevalence of fossil fuels and dependency on geopolitical relations with Russia.

Not a single one of the 28 EU members can currently produce enough energy to meet its needs. Eurostat data for 2016 show that there is no more EU member states that are net exporters of energy. The EU satisfies the majority of its energy needs with energy obtained from nuclear power plants (28.7%) and renewable sources (27.9%). The remainder of the production comes from solid fuels (17.5%) and crude oil (9.8%).

Trends show that a greater part of the production of primary energy sources is falling; in comparison to 2006, an increase in production was only observed in renewable energy sources, with a seemingly impressive 66.5%. However, that is not enough to neutralise the effect of the reduction in the production of the remaining energy sources within the period: natural gas (-41.2%), crude oil (-39%) and solid fuels (-30.8%). In the same ten-year period, production of energy in nuclear plants has fallen by 15.2%, primarily due to the denuclearisation initiated in Germany following the disaster in Fukushima, in Japan. That same year, 2006, Denmark was the only net exporter of energy among EU member states, but since 2013, Danes too have been forced to meet their needs with imported energy.

The described trend has made the EU highly dependent on importing energy, not only economically, but also politically. Eurostat data show that EU member states obtain 30.2% of the needed solid fuels, 31.9% of crude oil and 39.9% of natural gas from Russia. Thus, the
The key threat to the safety of the EU’s energy supply lay precisely in the fact that nearly all energy imports are met through relations with a narrow circle of partner countries. Data for 2016 show that more than three quarters of the gas imported by the EU comes from Russia, Norway or Algeria; more than two thirds of solid fuels are imported from Russia, Columbia or Australia; more than half the necessary crude oil is imported by the EU from Russia, Norway or Iraq. The largest energy partner in all aspects of fossil fuel import is the Russian Federation, which makes the EU exceptionally dependent on Vladimir Putin’s regime, which is in the habit of utilising the resources administered by state companies as instruments for obtaining geopolitical influence.

The European Commission has sought to distance itself from a dependent relationship with Russia by diversifying energy sources, which was especially pronounced in the natural gas sector, by stimulating the construction of LNG (liquefied natural gas) terminals. The problem here lies in the fact that American liquefied natural gas is some 20-30% more expensive than the gas supplied through gas pipelines from Russia, owing to which less than a quarter of the total capacity of European LNG terminals was used between 2012 and 2018.

At the same time, the increasing market competitiveness of renewable energy sources is unjustifiably neglected, although the newest research shows that solar and wind energy will become cheaper than fossil fuels as soon as by 2020. Insisting on natural gas as a key “transition” fuel has not waned despite relevant scientific research showing that it is a very dangerous polluter, whose perceived environmental acceptability is primarily the result of lobbying efforts worth around a hundred million Euro a year.

Current Challenges

The approaching energy challenges for the EU can most easily be divided into two areas: environmental protection and geopolitics. Environmental challenges, which, due to their urgency, should represent the primary cause of concern for European and global leaders, have already partly reached the public consciousness. With the Paris climate agreement, the greater part of the world has agreed to limit global temperature rises to at least 2 degrees Celsius above the average temperatures common to the pre-industrial era. However, simultaneously, the increased occurrence of extreme weather events, as well as the recent scientific research on previously unrecorded dangerous consequences of climate change, suggest that this measure will not nearly suffice to achieve the preservation of stable conditions for life on Earth. Meanwhile, the position of the United States government on climate change has taken a radical turn with regard to climate change, which is why it is precisely the European Union that is expected to adopt scientific arguments pointing to the destructiveness of climate change and taking over the leading role in the global climate action policy. In so doing, it would be important to reach a high level of consensus and trust among EU countries in order to avoid the green energy transition turning into a market race among the members, dividing the Union into the winners and losers of a new energy order.
The geopolitical challenges in European energy policy, and thus also the obstacles to the construction of the planned Energy union, primarily concern the relationship with Russia, the largest exporter of energy to Europe. Putin’s regime has actively strengthened its role in the European market: two new gas pipelines are being built, Nord Stream 2 and TurkStream. Nord Stream 2 turned out to be especially controversial, being the pipeline that would connect Germany to Russia through the Baltic Sea, circumventing Ukraine, whose economy will thus be weakened by the loss of transit fees. The EU member states’ position on Nord Stream 2 is rather poorly harmonised: while some of the countries have no significant objections to the new gas pipeline, there are those who have warned that it is a security risk and a direct threat to the Energy union.

Concern is caused by the Putin regime’s tendency to use Russian energy giants, especially Gazprom, not as actors in the free market, but as geopolitical levers of power. It is precisely the inevitable future transition towards renewable energy that imposes itself as the key reason for the Russian aggressive attempt to expand and consolidate its own sphere of interest. Considering that the Russian economy is largely dependent on fossil fuel exports, it is logical that the Russian authorities are using the existing resources with a view to the future preservation of its current, or strengthening its future position as the key European gas supplier. Such efforts on Putin’s part, viewed in the context of other forms of Russian agency such as disinformation and propaganda through the media and social networks, or involvement in building the capacities of right-wing populist and extremist political groups throughout the EU, has led the authors of a recent report published by the European Council on Foreign Relations to assert that Putin’s authoritarian state is openly at war with its European counterparts, a war that will decide on the norms of behaviour and international conduct, including the EU as well.

In this context, the French president Macron’s pro-European integrationist initiative in the form of a Grand plan for Europe, where a prominent place is reserved for a call for joint EU action on climate change, is of special political importance. Macron’s position, which tallies with demands by European climate experts and activists, is especially relevant for the current process of adopting the new European budget for the period 2021-27. The majority of member states are certain to primarily consider their own medium-term interests, contingent on energy dependence on fossil fuels. Despite Macron’s persuasiveness and ambition (greatly facilitated by the fact that France does not depend on importing Russian energy sources, but on its own nuclear energy production), European leaders’ strategic decision-making on real and permanent energy security for Europe is unlikely to be painless.
EU Presidency 2020 Relevance

Considering its crucial significance and the multitude of challenges, it is likely that the subject of energy security, largely by means of supply chain diversification, will remain topical over the course of the next EU presidency, until 2020. Statistical data show an upwards trend in fossil fuel imports, primarily from Russia, without any indication that this might change in the upcoming period. The available data show that the production of natural gas within the EU in the coming years, and especially after 2025, will significantly decrease, which implies increasing needs for additional energy, that can be obtained through import or alternative natural sources of production.

The EU needs to ultimately face the political, economic, and environmental threats that arise from its dependence on imported fossil fuels, in the context of extreme concern on the part of the global political and expert community about the rapid deterioration of the global climate, and the imperative of the fastest possible transition towards a low carbon economy. Since Croatia, as a member of the upcoming EU Trio Presidency, has its own experience with the LNG terminal construction project (although European funds have been secured, no potential leaseholders have shown interest), whose outcome is still highly uncertain, there will be space for a more serious political discussion on the overall profitability of using gas as a transition fuel. If building the LNG terminal is not economically viable (due to there being no interest in the more expensive American gas), and increased dependence on importing gas from Russia is a geopolitically unacceptable option, the most logical solution for the future of EU energy supply security inevitably lies in a more rapid turn towards clean and available renewable energy sources such as solar and wind farms.

A strategic and uncompromising orientation towards renewable energy sources is an opportunity for the EU, motivated by the increasingly deleterious impact of climate change and an ambition to achieve full energy independence, to take a leading position in the inevitable stage of transition towards a shift towards renewable energy sources, facilitated by developing technology. Technological development is already ensuring the market competitiveness not only of decentralised means of energy supply from solar panels, but also of fossil fuel-independent means of transport, such as electric cars. Maintaining stability on the European continent cannot however be achieved solely through transition towards renewable energy sources.

Any solution that were to assume future energy self-sustainability of the EU must take into consideration the significance of Russia’s economic dependence on the markets where it sells surplus fossil fuels. Trade in fossil fuels makes up nearly half of Russian exports and provides around half of Russian budget revenues. The absence of a larger part of the revenue Russia has derived from trading with EU members would leave a strong mark on the Russian economy and nearly certainly imply a serious destabilisation of global geopolitical relations. In view of the documented cases of “state capture” by means of Russian capital, where a not insignificant role is often played by Russian energy giants, the instability thus caused would have the potential to spill over inside EU borders. Any solution directed towards the EU’s full energy independence should therefore be formulated through negotiating efforts that would also consider the Kremlin’s position and assume that future
economic cooperation between the EU and Russia would continue across other economic sectors.

Having in mind the fact that leading negotiations on large energy projects is arranged at the level of heads of state, the presiding members are key actors in steering the Council towards the desired energy policy turn. The recent upturn in interest in climate action on the part of heads EU states is commendable – in one of its recent conclusions, the Council requested the Commission to draft a long-term strategy to reduce greenhouse gases by spring 2019. However, heads of states and the Council itself, whose work they can directly influence, as well as other EU institutions, will need to invest additional effort to finally move climate action in the EU from incremental shifts in the renewable energy industry towards transformative action that filter through all sectors of the economy and the European society as a whole. The recently published data according to which for two consecutive years, the EU has seen increases in emissions rather than reductions, also points to the need for a forceful turn.

Key Concerns from the Civil Society Perspective

The EU’s professed commitment to developing renewable energy technology and the transition towards full reliance on the renewable energy sources is drastically at odds with its real energy policy and energy projects that are currently in various phases of development. As gas has become not only a strategic energy supply, but also an extremely important geopolitical factor, civil society organisations have grown seriously worried as regards the amount of energy, resources and political capital being invested in Russian-gas solutions, as opposed to those invested in an energy-sustainable and independent EU. The concern is all the greater as it has become obvious that the goal of building a new geopolitical position for Russia, as planned, is to be realised through targeted action focused on increasing political instability in Western liberal democracies. The authoritarian Russia has used information campaigns on social networks, hidden financing of radical and extremist political and social actors, as well as leverage wielded by Russian banks and energy firms, in order to turn the strengths of liberal democracy (freedom of speech, free and fair elections, freedom of association and protest, media freedom) into its weaknesses. This also serves to spread the idea that one of the answers to the modern challenges of globalisation is to construct authoritarian regimes, which would engender a new geopolitical order within which Russia would find it easier to realise its foreign policy goals. As stated above, building an energy profile independent of Russia will require negotiations offering Russia some other form of economic and political cooperation, taking into consideration Russia’s viewpoints and its position as a global actor.
Climate policy should be framed by increasing eco-sufficiency, energy efficiency and in overall decreasing energy consumption at EU27 level, thus continuing with divestment and decoupling of CO2 emissions from economic activities and preparing the EU for post-growth reality. That primarily refers to many Eastern European countries that fall behind the EU2030 and the Paris agreement targets and still have most carbon intensive GDP’s. Decarbonisation of energy and transport sector at the EU27 level is of utmost importance in order to reach 1.5°C degree economy, thus taking advantage the falling costs of renewables. EU should remove any obstacles for cities and municipalities to undertake more courageous climate policies and continue to strengthen their capacities to produce and generate renewable energy, thus surpassing the slowness of national governments. Accordingly, European Commission should consider substantial move toward allowing energy decentralisation and localisation of energy production through democratisation of governance structures. Additionally, for transition to clean and democratically managed energy EC should provide funding schemes to establish and build public infrastructure for purpose of support to 1.5°C degree economy. Therefore, ongoing or new processes of remunicipalisation of public energy companies should be stimulated and not prevented by reducing policy choices (such as with the Bolkenstein directive). Cities, cooperatives and non-state actors should be allowed to act toward 1.5°C degree economy and full decarbonisation of energy production.

While for the moment EC considers gas as the transition fuel to increase energy security, this strategy should be abandoned as soon as possible by relying on underdeveloped and unused potential of decentralised production of renewables. Since particularly in some Eastern Europe countries planning documents fall short on horizontal integration of climate considerations, neglecting obligatory requirements, serious revision of current strategy is needed to increase public support in these countries toward transition to renewables. Only clean energy development, with strong social and environmental components, can be sustainable and secure energy for the European citizens. Particularly Eastern European countries which still ignore EU climate targets and continue with dirty and expensive energy mix, should be further encouraged to undertake clean energy transition. Available EU funds supporting clean energy transition should be part of the long-term carbon reduction strategies while at the same time no new investments should be supported that might have detrimental impact on CO2 emission targets. EIA and SEA procedures should therefore be reviewed with more scrutiny in relation to these criteria, but also respecting local democracy and conditions for sustainability at targeted areas. Available EU funds and financial programmes should therefore be redirected toward creation of new infrastructure that would support maintenance of mitigation impacts through new systems of smart energy distribution and energy management, and which can easily be replicated across Europe.

The new draft EU 2021-27 budget has strengthen climate activists’ perception that the EU has made insufficient efforts towards a full transition towards renewable energy sources. In the draft budget, the commission has treated climate action as a horizontal goal of all EU programmes, for which a quarter of the total budget was earmarked. Climate Action Network Europe (CAN) claims that, for the EU budget to comply with the Paris Agreement, the total EU budget allocation for climate action should increase from 25% to 40%. CAN Europe has highlighted that without such an increase, the EU will be unable to realise the energy and climate policy goals for 2030, nor the aimed-for reduction in greenhouse gas emissions of as much as 80-95% by 2050. The state of urgency and obligation to act immediately, linked to the Paris agreement, but also its genesis itself, simply cannot be deducted from the way
overall results of the European energy policy are being conceived and displayed. **As long as large energy projects tied to fossil fuels are brokered at the level of heads of state, and their implementation proceeds without delay, the European transition towards renewable energy sources will have to pass through a forest of open procurement calls, subsidy models, regulations, public policies and strategic documents.**

### Key Sources and Further Reading


The Kremlin Playbook, [https://www.csis.org/analysis/kremlin-playbook](https://www.csis.org/analysis/kremlin-playbook)


EU Enlargement in the Western Balkans
Gradual yet permanent enlargement of the EU has been one of its strategic directions since the signing of the Treaty of Rome in 1957 by the initial cluster of six countries - Germany, France, Italy, Belgium, the Netherlands and Luxembourg. Today, thanks to the six waves of accession, the Union is made of 27 countries, after Croatia’s accession in 2013 and UK’s Brexit referendum vote on leaving the EU in 2016. Enlargement is historically viewed as a vehicle for enhancing the Union’s and its members’ economic strength and prosperity of its citizens, democratic development, geostrategic stability, and global political positioning.

As defined in Article 49 the Lisbon Treaty, the EU can be joined by “any European State which respects the values referred to in Article 2 and is committed to promoting them”. Hence, EU accession is supposed to be a value-driven process engaging all EU institutions and all member states. The Copenhagen Criteria, adopted in 1993, set the main political and economic requirements for a valid EU membership application, which form the basis for period assessments of progress, engaging all EU institutions and requiring unanimity of all member states. If the country is sufficiently advanced in fulfilling the Copenhagen criteria, accession negotiations start leading to multi-year, structured process of transposition and implementation of the body of the EU law. When this process is completed, an accession treaties drawn up and signed by the candidate country and the EU member states. Yet, the country can join the EU only once this treaty has been formally approved by the European Parliament and ratified by the candidate country and all the existing Member States. The European Commission financially supports the aspiring countries’ reform processes through the Instrument for Pre-accession Assistance (IPA), in the amount of 11.5 billion EUR for the 2007-13 period (IPA I), followed by 11.7 billion EUR for the 2014–20 period (IPA II). The current Commission’s proposal of the new Multiyear Financial Framework envisages 13% increase for IPA III funding in the amount of 14.4 billion EUR.

At present, there are five countries with candidate status - Turkey (applied in 1987), Macedonia (applied in 2004), Montenegro (applied in 2008), Albania (applied in 2009), and Serbia (applied in 2009). All except Albania and Macedonia have started accession negotiations. Potential candidates include Kosovo and Bosnia and Herzegovina. The accession process is progressing at different speeds, where Serbia and Montenegro are the most advanced, while Turkey is at a chronic stand-still.
The following is a brief overview of the current state of play of the EU enlargement:

**Serbia** opened negotiations with the EU in January 2014 and has since opened 14 out of 35 negotiation chapters, among which the key conditionalities relate to Chapter 23 (Justice and Fundamental Rights), Chapter 24 (Justice, Freedom and Security) and Chapter 35 (Other Issues). Latter Chapter is requiring Serbia to settle its border disputes with Croatia and B-H and, most importantly, to engage in negotiations with Kosovo resulting in a legally binding bilateral agreement on Serbia-Kosovo future relations.

Montenegro opened negotiations in 2012 and has since opened 31 out of 33 chapters out of which 3 were provisionally closed. Yet, the key challenges of insufficient progress in the area of rule of law and anti-corruption remain, as well as political concerns about the actual entry date in respect to the dynamics of EU negotiations and Serbia.

**Kosovo** signed a Stabilisation and Association Agreement (SAA) with the EU in 2013, yet further progress is conditioned by the fact that Kosovo’s independence is not recognised by five EU member states and the outcome of the peace negotiations with Serbia which are underway.

**B-H** submitted a formal membership application in 2016, yet it is still struggling to submit answers to the Commissions’ Questionnaire on the state of a full spectrum of its legislation in respect to the acquis and to show progress on fight against corruption. The country’s complex constitutional structure and deep ethnic and political divisions within and between the two entities (Federation of B-H and Republic Srpska), inherited from the post-war Dayton Agreement, still seem like insurmountable obstacles on Bosnia’s road to the EU, greatly due to a lack of the Union’s weak and inconsistent conditionalities and a lack of strategic vision on how to deal with the deep structural deficiencies of the B-H political and constitutional set-up.

**Macedonia** might open negotiations with the EU in June 2019, after a decade of stagnation, due to Greece’s veto over the country’s name dispute and the former authoritarian, corrupt and nationalist Government of Gruevski. This crucial step has been conditioned by its
anti-corruption performance and, most importantly, by successful ratification of the agreement reached by the Prime ministers Zaev and Tsipras on its future name (Republic of Northern Macedonia) in the national parliaments and by the accompanying referendum to be held in Macedonia. Moreover the opening of negotiations depends on the political climate in the EU immediately upon the EU elections.

Albania, too, seems to be making faster progress and might also open negotiations in June 2019, pending on steps taken in fight against corruption and organised crime and improvements of the rule of law.

Turkey opened negotiations in 2005 and has since opened 16 chapters. Continued concerns about the state of the rule of law and human rights protection have escalated over the past two years, after the Erdogan’s Government crackdown on the military and the judiciary and upon the July 2016 failed coup d’etat and have resulted in the European Council’s statement from June 26, 2018 that the negotiations have come to the standstill, with no foreseen opening or closing of the negotiation chapters and no further efforts towards EU-Turkey Customs Union. In its complex relations with Turkey, EU is bound by its dependence on Turkey’s will and capacity to contain the migration flow towards Europe, by hosting 3.5 million Syrian refugees including those that have been denied asylum in the EU. This controversial political deal made in March 2016 in the form of the EU-Turkey Statement, accompanied by an Action Plan and EU funding support of 6 billion EUR through the EU Refugee Facility in Turkey.

Despite demonstrable success of the European integration process over the past six decades, which has greatly mitigated the Cold War divisions between the Western and Eastern Europe with the 2004 and 2007 accession of the great majority of former socialist countries, the present decade has, until very recently, been featured by growing “enlargement fatigue”, primarily displayed by the so called old Western member states, anxious about the political and economic cost of further expansion of the EU. Key concerns relate to the vast and lasting asymmetries in socio-economic development and quality of democratic governance across the EU, coupled with a series of Union’s internal and external challenges and centrifugal political trends, such as the 2008 economic crisis, follow by the Greek debt crisis, Brexit, terrorist attacks, insurgence of right-wing populism and growing influx of refugee and migrants which peaked in Autumn 2015 and disclosed deep internal divisions, lack of solidarity among member states, and EU’s inability to implement a common asylum and migration policy.

On a positive note, since 2017, EU enlargement in the Western Balkans has managed to surface on the EU political agenda, greatly due to the geostrategic realities of intensified migration flows through the Balkan Route and the necessity of close cooperation with non-EU countries and rising political and economic influence of Russia, China as well as Turkey on its immediate Balkan neighbourhood. Any foreign investments in the region fall on the ripe ground featured by an array of long term developmental challenges - socio-economic problems, poverty, political clientelism and corruption, latent inter-ethnic conflicts, fuelled by incomplete transitional justice process, weak democratic governance, worrying trends of rising authoritarianism, and religious and ethnic extremism.

In his State of the Union speech in September 2017, the Commission President Juncker affirmed EU enlargement policy focused on the Western Balkans as a critical tool for ensuring EU’s political stability, in light of the rising security threats on its borders: “If we want more stability in our neighbourhood, then we need to offer a credible enlargement prospect to the
countries of the Western Balkans.* Highlighting the utmost priority given to the rule of law, justice, fundamental rights, and regional cooperation as key accession conditionalities, he explicitly ruled out Turkey’s EU membership in any near future, as “Turkey has been taking giant strides away from the European Union for some time”. While he reiterated the EU’s firm position that no country would be ready to join by 2019, he signalled possible enlargement in the years to follow.

In February 2018, the Commission presented its new enlargement strategy and, for the first time, set 2025 as an indicative year of Serbia’s and Montenegro’s accession. As highlighted in the overview prepared by the European Parliament’s Research Service, the strategy comes at a time of growing attention to the Western Balkans and aims to breathe life into the enlargement process, by renewing EU engagement and launching a series of specific initiatives designed to bring tangible benefits to citizens. The strategy acknowledges the Western Balkans as a part of Europe that shares history, cultural heritage, challenges and opportunities with the EU, and also the same future.

The Commission’s new enlargement strategy focuses on three main areas of immediate action: (1) the rule of law; (2) market economy, and (3) reconciliation and bilateral dispute settlement. While these reflect the Commission’s retained focus on “fundamentals first”, promoted since 2014, the new strategy is explicit about ‘clear elements of state capture’, ‘links with organised crime and corruption at all levels of government and administration’ and political control of the media. As none of the six of the Western Balkan countries is considered a functioning market economy, the second area includes addressing structural weaknesses, low competitiveness and high unemployment. The third area of action the strategy calls for unequivocal commitment to overcoming the legacy of the past through reconciliation, and the adoption of definitive binding solutions to all bilateral disputes prior to accession. The strategy reiterates the caution about the Union’s readiness for enlargement, stating that the Union must be stronger and more solid before it can be bigger. The novelty in this respect is the Commission’s call for more effective mechanisms of ensuring compliance with the rule of law within the Union by the new members through accession treaties, to be proposed by the Commission in October 2018. This point is critical for ensuring that the EU itself remains credible partner in the enlargement process, where it insist upon the respect of the rule of law, which is systemically violated in several of its own member states. Namely, The EU’s position can be seen as hypocritical when strongly pushing for rule of law in candidate countries and new member states, while at the same time it seems to be lacking competence and will to deal with declining rule of law in the current member states.

The positive shift in the political will is reflected in several new initiatives that aim to make the enlargement process more real, tangible and time-bound. The 2018 enlargement strategy is accompanied by the Action Plan in Support of the Transformation of Western Balkans and the launch of six “flagship initiatives” focusing on areas of „common interest” - rule of law, security and migration, socio-economic development, transport and energy connectivity, regional digital agenda, reconciliation and good neighbourly relations, which should be undertaken in the 2018-20 period. In April 2018, the Commission issued another strategy paper on EU enlargement policy, where it made stock of the progress made by the enlargement countries, based on their annual progress reports. As highlighted out by CEPS, the strategy makes three important points: (1) due to serious backsliding on rule of law and fundamental freedoms, the negotiations with Turkey remain blocked; (2) there is positive news for Macedonia and Albania
with a recommendation that June 2019 be set as a date for opening accession negotiations, and (3) poor state of democracy and the rule of law and increased levels of corruption throughout the region are recognised as critical challenges both for the countries concerned in overcoming these systemic weaknesses that are inextricable from the current power relations, and for the EU which should ensure more effective enforcement mechanisms.

The Bulgarian Presidency in the first half of 2018 made a remarkable effort to strengthen the Union’s political commitment to the EU enlargement and the Western Balkans, chosen as one of Bulgaria’s four programme priorities and approached from a more pragmatic, regional standpoint of focusing on tangible improvements in connectivity and quality of life, affirming EU enlargement as the best geostrategic choice for Western Balkans countries, as opposed to focusing on conditionalities and deadlines. Bulgaria’s key political achievement was the EU-Western Balkans Summit held in Sofia on May 17, 2018, the first of its kind in 15 years since Thessaloniki Summit opened the enlargement perspective for the entire Balkan region. While the Summit disclosed significant differences among the member states’ views on the future EU membership of the Western Balkans countries – ranging from strong proponents like Austria and Bulgaria, to much more cautious attitudes of France and Germany, all the way to Spain’s boycott of the Summit due to its strong opposition to Kosovo’s acknowledgement as a potential candidate country. Still, it managed to focus the EU leaders’ attention to the region and its importance for the European security agenda.

The Sofia Summit resulted in the adoption of a declaration (Final Declaration accompanied by the Sofia Priority Agenda) outlining priority actions to be supported by the EU in the areas of (1) rule of law and good governance, (2) security and migration cooperation, (3) common security policy and defence, (4) socio-economic development with special focus on youth, (5) connectivity (digital, transport, energy and education), and (6) reconciliation and good neighbourly relations. Some of the more innovative and practical initiatives that might resonate well across the region include trial monitoring in the field of serious corruption and organised crime, new funding support to independent media and civil society through the European Endowment for Democracy, renewed action plan on illicit fire-arms control, enhanced regional cooperation on new hybrid threats, doubling Erasmus Plus funding for the region, stepping up efforts to implement Regional Economic Area (especially in respect to trade and recognition of qualifications), the launch of the regional Digital Agenda that would also strive to lower roaming costs and further support the creation of a single regulatory space and effective energy market reform process under the Energy Community Treaty as well as Regulatory Electricity Market. Strong focus is also put on the new connectivity projects through the Western Balkans Investment Framework, such as the Blue Highway (Albania-Montenegro), the Highway of Peace (Nis-Pristina) and the reconstruction of the regional railways and their integration into the European network.

At the June 26, 2018 meeting of the General Affairs Council (GAC - the Council formation responsible enlargement) a tentative timeframe of June 2019 was set for potential opening of negotiations with Macedonia and Albania, which is yet another indicator of renewed political will to engage with the Western Balkans. For Macedonia, the key conditionality is the successful ratification of the bilateral agreement with Greece settling the long-term country name dispute in June 2018 at the prime-ministerial level. This deal, instrumental for de-blocking the Macedonian accession process on the part of Greece was fiercely attacked by nationalist extremists in both Macedonia and Greece. The final outcome, which also requires
the popular referendum approval in Macedonia, is still uncertain and will definitely provoke additional political turmoil on both countries during autumn 2018. For Macedonia and Albania, demonstrated progress in the area of rule of law, anti-corruption, and fight against organised crime continue to represent the key challenges, under scrutiny of the EU. The date-setting seems to have taken into account the risk factor of May 2019 European elections and the preceding campaign, expected to burst in populist outcries against the very concept of open Europe, enlargement to the Balkans included. Yet, it is not clear how the election results will actually impact the political will of the EU leaders to open negotiations with Macedonia and Albania – the move of utmost importance for democratic stability and long awaited impetus for development in both countries.

Another Western Balkans Summit was held on July 10, 2018 in London, less than two months after the Sofia Summit. This high level political event was hosted by the UK in the scope of the Berlin Process - a diplomatic intergovernmental initiative of the Merkel cabinet, which aims to foster regional collaboration on common areas of interest and promote the EU enlargement to the Western Balkans as a geostrategic goal of the EU. The Berlin process is very affirmative of civil society contribution, inter-sectoral dialogue and socio-economic dimension of the EU enlargement and regional peace and stability, so each Summit is accompanied by a Civil Society, Business and Youth Forum. In May 2017, German Minister of Foreign Affairs announced a “Berlin Plus” agenda featuring the creation of special funds for start-up businesses, vocational training, IT infrastructure development, and the formation of a fund for infrastructure and technology to which EU member states, EFTA, and the EEA members could contribute as donors. The London Summit was another display of heightened political interest in the European perspective of the Balkans. Special attention was put on neighbourly cooperation and reconciliation, which has resulted in the signing of two joint declarations on war crimes and missing persons in the framework of the Berlin process, declaring commitment to enhanced regional collaboration on the sensitive legacy of the war which is still affecting lives of thousands of families of war victims still searching for their loved ones, respect and justice. It remains to be seen if the Western Balkan leaders will be at all willing to walk their refreshed peace talk.

The current wind of political change boosting the EU enlargement process in the Western Balkans is greatly due to the fact that there are two presidencies in a row throughout 2018 (Bulgaria and Austria) that have prioritised the region in their working agenda. After Bulgaria’s kick-off at the Sofia Summit, resulting in a project-oriented Sofia Priority Agenda, under the overall frame of European unity (“United We Stand”) Austria has prioritised Western Balkans enlargement within its peace and security frame (“Europe that Protects”) focused on three priority areas: security and migration, maintaining competitiveness through digitalisation, and stability in the neighbourhood. Austria has declared its will to build upon the most recent Bulgarian achievements and “advocate for developing a concrete EU perspective for all Western Balkan / South Eastern European states based on clear criteria relating to their individual performance and work on achieving measurable progress”. While Austria’s commitment to the region is much needed, its strong focus on securitisation of its entire neighbourhood policy bears the high risk of the increasing (tacit or even public) political conditioning of the EU accession by the Western Balkan leaders’ collaboration with the EU border protection machinery, putting in danger the upholding of the international human rights obligations of the EU member states, stemming from the Geneva Convention and its own treaties.
Current Challenges

A political ambient has been created where further enlargement is approached with utmost caution of its potential negative effects on the EU’s internal political, economic cohesion, and stability. EU leaders have tended to accommodate to the growing pressure from populist parties and a significant share of public opinion that view East to West labour migrations and further enlargement to the Balkans and especially Turkey as a threat to Union’s wealth and (Christian) identity, as poorer and democratically less developed countries, from the Europe’s South and East attempt to join in, including those with prevalent or significant share of Muslim population (Turkey, B-H, Kosovo, and Albania). An overarching concern about the EU’s capacity to absorb new members while grappling with its own institutional rigidities and deficiencies has emerged as the main argument for a slower and more cautious approach to enlargement, shared across the board, including France and Germany as key drivers of the Integration process. Renewing EU’s political commitment to the EU enlargement has been recently pursued most by the Commission President Juncker and the presidencies of Bulgaria and Austria, yet it is imperative to keep the momentum over the upcoming years. Ideally, EU enlargement should be treated as a constant horizontal priority of the EU, positioned as such in the new Leaders’ Agenda as well as Strategic Agenda of the European Council, expected to be discussed at the Sibiu Summit in May 2019.

While it has not been a game-changer, the Berlin Process has managed to raise political leverage of the Western Balkans’s EU perspective and boosted the political interest in regional cooperation, through its pragmatic focus on a variety of strategic development projects, such as Connectivity Agenda, RYCO and the establishment of several regional sectoral fora, such as the West Balkan Chambers Investment Forum and the Civil Society Forum. As stressed by Marciaq in the Berlin Process Assessment paper published by FES, “the challenge, which the Berlin Process, in its design and achievements, can help overcome, is to embrace the politicisation of enlargement as a new reality and fight for enlargement as political battle rather than ticking the boxes of a technical process. European integration could and should be a source of constructive cleavages in WB6 politics – beyond the simplistic Europhile vs. Eurosceptic debate. Transnational mobilisation which considers the EU as political object rather than an omniscient deity are necessary to divert WB6 (and EU) citizens from ethnopolitics and bolster further togetherness. The role of civil society networks is essential here, as is the capacity of the EU to recover its power to inspire.”

Due to the securitisation of the migration policy with principal focus on border protection and migration containment, there is a valid fear shared by the human rights community across Europe and the region that under Austrian presidency, the Western Balkans leaders can expect political and financial awards for keeping as many refugees and migrants out of the EU. This will come at harsh expense of the people seeking refuge from war and misery in Europe exposed to the restrictive border protection regimes emerging in the Western Balkan region, where brutal “push-backs”, tacitly tolerated by the EU, shatter not only people’s hopes of a better life, but lives themselves, as was the recent case with the tragic death of Madina, an Afghan refugee girl whose family was expelled to Serbia from Croatia. The growing political consensus in the EU about protecting the borders first will only intensify after the European elections in May 2019, expected to boost the populists’ political influence in the European
Parliament. Human rights activists across Europe should prepare for the situation of losing the Parliament as their strongest institutional ally in ensuring any realistic political opportunity to disrupt the dehumanising policy frame of securitisation of migration, which has already devoured the EU’s commitment to international solidarity, enshrined in Article 2 of the Lisbon Treaty, which states the EU’s value orientation in its international relations.

Considering the deeply ingrained political clientelism and ethnic nationalism as key enablers of the fixed political power relations, and authoritarian tendencies in the Balkans, the EU should make a real effort to strengthen its own rule of law enforcement mechanisms, related to the accession process. While it has prioritised Chapter 23 in all of the negotiation processes since Croatia’s entry to the EU, in practice, results are missing. Considering the deterioration of the rule of law in the EU itself, it is imperative that the EU recovers its own legitimacy by strengthening its own legal and financial compliance mechanisms in respect to its own member states. In parallel, the EU should insist upon intensified international and regional collaboration on prosecution of corruption and organised crime. In the scope of accession, Western Balkans leaders should be held unequivocally accountable for their underperformance in respect to the rule of law and anti-corruption, which is impossible without functioning judiciary, independent media, and effective civil society oversight.

EU Presidency 2020 Relevance

The key political task ahead is grasping the moment and ensuring continuity of political commitment of the EU leaders to the Western Balkans EU enlargement across the two presidency trios in the period 2018-20. After Bulgaria and Austria, there is a realistic chance that Romania and Croatia – both closely tied with their Western Balkan neighbours - could position the topic of EU enlargement as common priority of the new Trio, which also includes Finland. A strategic shift away from „box ticking‟, enabling tangible benefits of EU integrations for the citizens and economies of the Western Balkans during and not only upon the accession process is of critical importance for making the EU a credible choice for the region, especially in light of the growing economic and political influence of Russia, Turkey, and China, and massive emigrations by young and educated people who have lost trust in the prospects of a prosperous and democratic future in their home countries. Specific improvements, such as reduction or annulment of roaming charges, systematic financing of the regional media or reconstruction of the regional transport network are much needed investments into people's trust in the process. The EU leaders should draw lessons learned from the Berlin process by defragmenting the accession progress tracking, refocusing the entire EU enlargement process in the Western Balkans on the quality of regional cooperation, and by enabling wider participation of the Western Balkan countries in EU processes, and „thus blurring the divide between membership and non-membership through pre-accession participation”. These strategic shifts should finally make EU integration a credible and effective tool for a truly democratic and sustainable development of the region.
Building upon Austria’s clear focus on ensuring the implementation of the current strategic priorities set by the Commission as well as Sofia Priority Agenda, Romania will be tasked with seeing through the process of formulation of the new Leader Agenda and the Strategic Agenda of the European Council, which will be presented by the President Tusk at the May 2019 Sibiu Summit. This is the key opportunity for mainstreaming EU enlargement, with immediate focus on the Western Balkans as the EU’s long-lasting priority until 2025 – the year when the European community might open its doors to Serbia and Montenegro, but also, hypothetically, to Macedonia and Albania, in case the national reform processes reach full speed.

The upcoming negotiations on the new Multiyear Financial Framework, moderated by Austria might also extend beyond the European elections into the presidencies of Romania and even Croatia, which need to keep the EU investments into the EU enlargement and the Western Balkans high on the political agenda. The current Commission’s proposal envisions a 13% increase of the Instrument for Pre-Accession, which will hopefully remain uncontested by the future European Parliament. Still, if the EU enlargement is affirmed as one of the lasting political priority of the EU in the new Strategic Agenda of the European Council, a much more ambitious, Marshall-type of plan of investment for the Western Balkans should be introduced, in order to speed-up the reforms but also to help bridge the deep gap in social and economic security between the EU and WB6 countries. As proposed by the European Public Service Union, it should focus on enhancing social cohesion, decent employment, well-functioning, people-centred public administrations, developing adequate social protection systems and quality public services. Such a plan could serve, inter alia, to support specific programmes for faster social convergence.

Croatia has already committed to hold a follow-up Zagreb Western-Balkans Summit in the first half of 2020, which should take stock of the Sofia Priority Agenda, but should also strive to provide a more specific perspective of accession in 2025 and not to steer away from most controversial issues. The new Trio should take a bold step forward in addressing the constitutional lock-in and ethnic-based political divisions that are preventing Bosnia-Herzegovina to step out of chronic economic depression and social insecurity of its citizens. While the relations between Serbia and Kosovo are formally progressing after the signing of the Brussels Agreement in April 2013, the final political outcome in the form of a lasting peace agreement based on mutual recognition of two sovereign states is far on the horizon – a sensitive diplomatic endeavour involving the future EU Presidency, which may be especially sensitive for Croatia, sharing the same legacy of the post-Yugoslav wars. The current standstill in EU-Turkey relations is not sustainable either, and in the long-term can only lead to further alienation of Turkey from the EU’s legal and political sphere and further escalation of hostilities. EU’s political leverage is seriously harmed by its dependency of Turkey’s migration mitigation. Regardless of the outcomes, the new trio will need to deal with the complex issue of EU-Turkey relations.

In times of populist threats, it is more important than ever that the next EU Presidency trio brokers a lasting political agreement on strategic democratic development of the Western Balkans, embraced by all Western Balkan countries as well as their immediate EU neighbours and partners. The new deal for peace, security and democracy in the Balkans should be firmly anchored in the common rule of law and anticorruption agenda, a regional transitional justice process, and a regional framework for sustainable and equitable
socio-economic development, understood as invaluable investments into security and stability of Europe. Perhaps, Zagreb 2020 Summit would be the right time and place to cut the deal.

Key Concerns from the Civil Society Perspective

The EU should renew its pledge to peace and democracy in the Balkans by letting go of the illusion of a seemingly stable neighbourhood run by Balkan strongmen, drawing their power from clientelistic control of the public resources, the economy and the media, and the re-cycling of ethnic hostilities. The toleration of „stabilitocracy” is nothing more than a quick relief fix for the EU’s rampant fears of migrant influx and new Balkan wars. Due to such regimes’ evident corruptive nature, stabilitocracy can only bring benefit to the current rise of right-wing populism across the continent and the region itself, embedded in rage against „corrupt and detached Brussels-oriented rulers”, easily fuelled across millions of the Balkan poor and marginalised, which in turn provides a strong alibi for a religious fundamentalist (both Islamic and Christian) and chauvinist backlash against liberal democratic standards of fundamental freedoms, cultural pluralism and diversity. The EU leaders must acknowledge the serious security threat of renormalisation of semi-autocratic governance model in the Western Balkans, coupled with religious radicalisation, which can be easily taken advantage of by political actors within and beyond Europe who wish to shatter its value core and make profit from its dissonance, fragmentation, and inability to act on the global political stage.

As recommended by the Balkans in Europe Political Advisory Group (BIPAG), the EU presidencies should strongly focus on the critical issue of consolidation of liberal democracy, well beyond technical assessments of Chapters 23 and 24, as the key political conditionality for accession. The next trio should invite the Commission to revisit the current relevance of the structure of the negotiation chapters, to consider introducing a new negotiating chapter „Quality of democracy” focusing on the core political criteria of liberal democracy, taking into account the legacy of the war-ridden past as well as new threats posed by populism and fundamentalism. To mobilise popular support for democracy, both the Commission and the Council need to ensure that the criticism of the Balkan strongmen that is articulated behind closed doors becomes more visible and audible in the European public and to the citizens of the Western Balkans. In practice, it means that the EU should take a strategic investment approach to independent media and civil society enhancing their resilience, autonomy and sustainability. The current project-focused pre-accession funding modality should be at least complemented if not replaced by new impact-oriented funding, engaging a network of politically independent public and private foundations in the EU and the Western Balkans of different size and focus, ranging from large public entities such as the European Endowment for Democracy to the local civil society actors such as Trag Foundation in Serbia.
Finally, the most decisive test of enlargement is the will of the people. The EU must demonstrate that it really cares about people’s well-being in the Western Balkans, as well as Turkey, once the relations improve. It should take responsibility for the lack of attention paid to the quality and economic and social effects of the reforms carried out, since they are not closing the deep socio-economic gap in economic growth and social security between EU Member States and candidates for membership. The new policy instrument EU Pillar for Social Rights should be extended to accession countries, informing the content of the key socio-economic reforms and public investment programmes fostering social and economic convergence, viewed outside the neoliberal paradigm. As recommended by the European Public Services Union, the European Pillar of Social Rights should serve as an additional benchmark when assessing a country’s readiness for accession and for guiding relations with third countries, in addition to benchmarks on respecting the Treaty and its values, the EU Charter of Fundamental Rights, the European Social Charter. The new EU Budget 2012-27 must enable strategic investment into social and economic development as well as the democratic, economic, and social reform processes in the enlargement countries, with special focus on the Western Balkan region. As recommended by the European Economic and Social Committee, in the future negotiation agendas, the overall state of social, economic and territorial cohesion in accession countries should be thoroughly assessed and discussed at the top political level, bearing in mind that poverty and social and economic insecurity fuel autocracy, populism and political instability. If the EU wants credible enlargement, it should make sure first that it does not deplete people of their social rights and sense of security.
Key Sources and Further Reading


