Policy Perspectives on the EU in Today's Complex World:
Leveraging Transnational Networks

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Rooted in original scientific research, AGORA© Fora endeavour to improve policy making by fostering suggestions based on academic research and effective dialogue among a limited number of participants hailing from the research, policy making and civil society communities.

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Roundtable 2 of the 2018 AGORA© Forum on **«The EU in Today's Complex World: Leveraging Transnational Networks»** discussed the European institutions' ability to leverage transnational networks in favour of their global normative and regulatory agendas. Accordingly, it considered whether and how the various forms of engagement the European institutions entertain with transnational networks allow for a "conscious effort [by the EU] to address and improve institutional interactions" within Global Governance.

The following briefs, prepared by three MSCA-funded GEM-STONES Early Stage Researchers served as reference documents for discussions on some cases where the EU has actively sought to externalise its regulatory agenda, with regards to the governance of:

- Rapidly expanding digital markets (ESR-5 Guillaume Beaumier);
- The increasingly controversial involvement of civil society organizations in policy-making (ESR-7 Manfredi Valeriani);
- Newly emerging forms of green financing (ESR-8 Andreas Dimmelmeier)

Cover image:
Jean-Michel Folon - Croisière dans la tasse

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ROUND TABLE 2 – Leveraging Transnational Networks

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Guillaume's research explores how regulatory issues arising from the development of e-commerce are being governed in an increasingly complex environment. More specifically, he looks at how public and private actors have interacted to shape the rules pertaining to data protection in the Transatlantic area. Before starting his PhD studies, he obtained a master degree in international studies in which he studied the development of the European investment policy post-Lisbon.

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BACKGROUND OF THE STUDIED POLICY FIELD

Protection of privacy has been a major concern for Western societies for a long time now. Privacy is in fact often seen as one of the cornerstone of liberal democracies, which can even be enshrined in their constitution. In recent years, the digital revolution has however put the protection of privacy under significant pressure. The advent of increasingly powerful computers has allowed data collection and analysis to reach unimaginable levels a couple of years ago. In 2010, The Economist reported that American drones used in Iraq and Afghanistan alone produced around 24 years' worth of video footage. Next to this, the rise of the Internet has also made it easier to share and collect personal data. Many people around the world were recently shocked to learn how much personal information
Facebook has on them.

In the context of e-commerce, private actors use these new tools to collect personal data about their consumers worldwide. These information are then used to target them with advertising and special offers aimed at making them purchase new goods and services. While not all advertising or selling practices are problematic, this use of personal data by private companies is far from benign. Human rights consideration aside, we run the risk of seeing companies that start to adopt uncompetitive practices, such as market segmentation. In this context, it is crucial that public actors step in to ensure a fair and competitive economic system.

BACKGROUND OF EU ACTIONS IN THE STUDIED POLICY FIELD

The European Union has historically been a leader in the regulation of personal data. Even prior to the digital revolution that we are experiencing today, the EU was leading the way. In the 1970s and 80s, European countries were intensily debating data laws to protect their citizens. While not all were at the time promoting rules as stringent as the EU is putting forward today, they were among the first to put the issue on the agenda. In 1995, the EU then really took the lead with the adoption of its Data directive. The latter brought data protection to a new level and forced many actors around the world to change their own rules. Since then, the EU has adopted an e-Privacy Directive in 2002 which focused on privacy in telecommunications. This year the EU Data Directive was replaced by its new regulation on data protection. The General Data Protection Regulation (GDPR), which entered into force on May 25th 2018 is expected to have a tremendous impact. As compared to its previous Directive, the GDPR will be directly enforceable. As a result, we have seen many private actors being forced to change their current practices. Many consumers worldwide became aware of this after having received multiple e-mails of compliance.

Next to this regulatory actions, the EU has also worked with private actors to push them to develop their own rules (i.e.: code of conduct). This was particularly important before the adoption of the GDPR as the Data directive was not directly enforceable as just mentioned. By working with private actors, the EU could try to ensure that its internal market had harmonized rules. Concomitantly, it also helped to protect the data of its citizens abroad.

SWOT ANALYSIS OF EU ACTIONS IN THE STUDIED POLICY FIELD

The most recent actions of the EU have clearly shown its ability to shape the rules worldwide. The size of its market combined with its regulatory capacity allow it to shape global rules. As previously indicated, private companies around the world have been forced to change their practice following the adoption of the GDPR. Equally important is the fact that multiple countries are now eyeing to imitate the most recent European rules. Instead of developing their rules from nothing, they find easier to simply harmonize their framework to the one of the EU. Brazil and Thaïland are two cases were it is happening right now.

At the same time, the European approach faces many challenges. Importantly, the application of the GDPR may inadvertently harm Internet openness. Some European users might already have experienced situations where private companies decided to exclude their access from Europe as they do no wish to implement the expensive mechanisms required by the GDPR. While China and the U.S. still do not have equivalent rules, this might even contribute to create three different data realms, which would effectively limit the openness of the Internet in the future.

The costs of the implementing the GDPR are in themselves another potential threat to its success. Many studies have already came to the conclusion that almost half of private companies do not comply entirely with the GDPR. A side effect of the GDPR could actually be to reinforce big tech companies, which can more easily absorb the costs of implementing the new rules, at least in the short term.

It should also be kept in mind that new technologies affecting how personal data is used are continuously being developed. Many data uses that companies use today did not even exist ten years ago. Nowadays, the development of artificial intelligence is one technological area that will significantly affect the use of personal data in the years to come. Keeping up with these quick changes is especially hard for public regulations which take a lot of time to be drafted. Here, private regulations could notably help as they can be adapted to a new technological reality more easily.

RECOMMENDATIONS

(1) The EU should not be complacent after having adopted the GDPR. For one, it should work to ensure that private actors implement it correctly by testing the privacy protocols of some companies.

(2) The EU should also look into the possibility to work with private actors to build one global private standard. This would probably be one of the best way to ensure that private actors worldwide actually implement the GDPR, while limiting the risk of creating multiple data realms. The International Standard Organization (ISO) is notably one forum through which the EU could work.

(3) At the same time, the EU should also take such an opportunity to already listen how private actors think that the rules could be improved. As they are the ones working on a day-to-day basis with these technologies, they are also in the best position to know what can be done and how. For example, it is already clear that the development of new algorithms and artificial intelligence based on the analysis of massive amount of personal data will create issues that will not be tackled by the GDPR. To keep pace with these developments, it is essential that the EU interacts with private companies.

(4) During these processes, the participation of other non-governmental stakeholders would also be essential to ensure that the interests of all citizens is well represented.

SUGGESTED READINGS

Bennett, Colin J. 2017. The Governance of Privacy: Policy instruments in global perspective. Abingdon: Routledge.

Bamberger, Kenneth A. and Deirdre K. Mulligan. 2015. Privacy on the Ground: Driving Corporate Behavior in the United States and Europe. Cambridge: MIT Press.

Newman, Abraham L. 2008. Protectors of Privacy: Regulating Personal Data in the Global Economy. Ithaca and London: Cornell University Press.

Newman, Abraham L. and Elliot Posner. 2015. “Putting the EU in its Place: Policy Strategies and the Global Regulatory Context.” Journal of European Public Policy 22(19):1316–1335.

The Economist. 2010. The Data Deluge. https://www.economist.com/node/15579717

ROUND TABLE 2 – Leveraging Transnational Networks

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BACKGROUND OF THE STUDIED POLICY FIELD

Transnational networks vary in nature, size and intensity -
At a time of growing and fast interconnectivity of the globalised world, networks may be created between States, people, corporations, associations and so on.

- Among the actors that benefited more from the transnational networks facilitation there are indeed civil society organisations (CSOs) -
For instance, entities such as Non-governmental organisations (NGOs) and Nonprofit Organisations (NPOs) have indeed found a new leap in their transnational activities and operations. CSOs can be used as a foreign policy tools. States and institutions have nowadays recognised the importance of CSOs in transnational relations incentivising domestic actors and regulating foreign ones. CSOs can serve institutions in providing public goods that otherwise would be impossible or too costly to provide. Furthermore, they can enhance cooperation and mutual understanding at the lowest levels of society.

- Institutional support to CSOs is not free of challenges-
While incentives (economic and political) are usually well accepted by CSOs they can also have adverse implications. For instance, excessively short financing could prevent CSOs to operate according to their wishes due to concerns about the time limit of the available resources. Institutions face risks due to information asymmetries and control over the operating activities. Especially when providing funds, institutions lack the capacity to have full control over the CSO activities. This may lead the CSO not to respect the agreed terms. However, excessive control may limit the organisation making it fail in achieving optimal results.

- Fragmentation of the institutional framework related to CSOs may create asymmetries and inefficiency -
If the regulatory framework that gives CSOs access to incentives, opportunities and safeguard are not easy to access some organisations may be unable to fully develop their capacities. If access to incentives is too costly, only organisations with a big amount of resources can invest in the expertise, the time and the costs needed to obtain such incentives.

-Transnational CSOs are often need institutional support beyond economic resources -
CSOs usually don't have much power when they bargain with foreign governments. Therefore, CSOs capacity to operate transnational should be favoured by domestic institutions favouring an enabling environment abroad trough government-level negotiation.

BACKGROUND OF EU ACTIONS IN THE STUDIED POLICY FIELD

The Union recognised the importance of CSOs internally and externally -
CSOs are incentivised within the EU to foster European sentiments while abroad are seen as fundamental actors to strengthen relations beyond the governmental level.

- The EU takes into consideration transnational CSOs under its Development Cooperation policy field -
This is coherent with the fields where CSOs conduct most of their activities. CSOs generally work within the boundaries of the public good, addressing causes of general interest.

- The EU takes into consideration Civil Society under DGTrade -
DGTrade has a preferential channel for communication with civil society. The civil society dialogues take place continuously and are well received by the participants.

-The main instruments for the support of transnational CSOs can be found under the Development Cooperation Instrument (DCI) The DCI includes the thematic program (2014-2019) “Civil Society Organisations and Local Authorities” established with regulation 233/2014. The program follows its predecessor (2007-2013) “Non-State Actors and Local Authorities in Development”.

-The CSOs-LAs programme has a budget of 1.9 € billion under a general budget for the DCI of 19 € billion -
The programme appears to be highly funded. Funds are allocated in different amounts and for different periods depending on the project.

- The framework appears to be still fragmented and there are difficulties in accessing data on past projects -
While data are available under the European Transparency Initiative, complete data are not possible to access, limiting research activities and possible evaluations of the projects.

SWOT ANALYSIS OF EU ACTIONS IN THE STUDIED POLICY FIELD

- Strengths -
Recognition of the importance of the CS sector and its transnational (external) dimension.
Institutionalised and repeated dedicated programmes.

- Weaknesses -
Lack of a common internal framework to promote “European CSOs”.
Fragmentation.
Difficulties in accessing data and providing evaluations.

- Opportunities -
Building a common framework.
Opportunity to expand current instruments.

- Threats -
Extreme dependency on single programmes.
High risk for uncertain future

RECOMMENDATIONS

The EU is at a good stage in the recognition of CSOs’ value, internally and externally. With different initiatives and instruments, the Union provides concrete support to CSOs activities. However, the incentives can still be expanded. While there are some evaluations available, a systemic review of the past and current programmes is still lacking.

Furthermore, the lack of an integrated framework for the regulation of CSOs within the EU borders increases the complexity of the sector. A simplification and a homogenisation of the different national legal frameworks could help in simplifying the framework at the Union’s level. Expanding the instruments for transnational CSOs beyond the area of Development Cooperation and establishing dedicated funds, may help in creating more reliable perspectives for CSOs. Political and economic certainty can provide CSOs with the right environment to properly focus on their activities.

Also, at the international level there is a growing trend to reduce the space for foreign CSOs within national borders. The Union should be aware of this trend and should engage in substantive relations with its partners in order to create a favourable environment for its CSOs abroad.

SUGGESTED READINGS

Cooley, A., & Ron, J. (2010). The political economy of transnational action among international NGOs. In Advocacy Organizations and Collective Action (p. 205). Cambridge University Press.

Dupuy, K., Ron, J., & Prakash, A. (2016). Hands off my regime! Governments’ restrictions on foreign aid to non-governmental organizations in poor and middle-income countries. World Development, 84, 299–311.

Mahoney, C., & Beckstrand, M. J. (2011). Following the money: European Union funding of civil society organizations. JCMS: Journal of Common Market Studies, 49(6), 1339–1361.

Marchetti, R. (2016). Global strategic engagement: states and non-state actors in global governance. Lexington Books.

Van Puyvelde, S., Caers, R., du bois, C., & Jegers, M. (2012). The Governance of Nonprofit Organizations: Integrating Agency Theory With Stakeholder and Stewardship Theories. Nonprofit and Voluntary Sector Quarterly (Vol. 41).

ROUND TABLE 2 - Leveraging Transnational Networks

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BACKGROUND OF THE STUDIED POLICY FIELD

Sustainable finance has received a stark increase of attention over the last couple of years. Especially, between 2014 and today (2018) there was a dramatic increase of activity. Albeit still accounting for less than 1% of global bonds, the market for specifically marked green bonds increased more than threefold between 2012 and 2017. Loser definitions of green assets and investing models also suggest that Europe performs a leading role with over 50 % of managed assets being invested according to some sustainability criteria (vis a vis 22% in the US). At the same time, national governments and regulators as well as transnational fora like the G20 and the Financial Stability Board (FSB) have started to take action on sustainable finance. The most prominent developments include the FSB's Task force on climate related disclosures report (2017), the adoption of a 35 points plan on green credit by the Chinese regulatory commission (2016), the work of the G20's green finance study group (since 2015) and the European Commission's action plan on sustainable finance (2018) that followed the assessment of its high-level expert group (HLEG). Besides these high-level initiatives national bodies have been accelerating their actions on sustainable finance. According to one report, in 2018 there were already 300 policy and regulatory measures in 54 jurisdictions, which means a doubling of their number since 2013 (UNEP Inquiry 2018: 25). Furthermore, increased knowledge production of policy proposals, metrics and risk assessment tools has resulted in the creation of an entire cottage industry. Again 2014 marked a qualitative shift, as the data on publications from 145 organisations the period from 1998 until 2017 suggests (own dataset).

This increased research and advocacy activity has arguably provided the backbone for an ongoing conversation about sustainable finance. In 2018, it seems that not a week passes by without either a major bank or insurance company announcing a sustainability strategy for their lending activities or portfolio management. And at the same time, the pace of NGO reports accusing such financial institutions for not delivering on their promises appears also to have accelerated.

BACKGROUND OF EU ACTIONS IN THE STUDIED POLICY FIELD

The most notable action of the EU on sustainable finance is the launch of the 'action plan on sustainable finance' in March 2018, which followed the assessment of the High level expert group. Nevertheless, EU actors such as DG CLIMA and DG FISMA, the European Investment Bank (EIB), the European Systemic Risk Board and the European Political Strategy Center had already previously engaged with the issue. They either undertook assessments themselves or commissioned research from third parties. Also, the EIB pioneered the issuance of green bonds, even though since then it has been overtaken by China in terms of magnitude.
Lastly, the EU grants under the Horizon 2020 programme have sponsored research into metrics (e.g. SEI metrics consortium) and system level implications (e.g. DOLFINS) concerning a transition towards a sustainable financial system.

Currently the Technical Expert Group that is sponsored by DG FISMA is undertaking feedback and outreach sessions, which are closely monitored by stakeholders.

In addition, three legislative proposals from the action plan are currently in the trialogue.

SWOT ANALYSIS OF EU ACTIONS IN THE STUDIED POLICY FIELD

Strenghts: As a network analysis of the knowledge production on sustainable finance shows, the 2015 'Shifting private finance' report commissioned by DG CLIMA managed to bring people and organisations together that subsequently came to occupy important roles in the transnational debate about sustainable issue. Thus the EU acted as a good catalyst here.
It is also notable that the HLEG included a broad variety of policy ideas and managed to survey the expertise on sustainable finance appropriately. Both the HLEG report and the Commission's action plan also have to be lauded for their boldness and speed. Especially, the treatment of fiduciary duty, benchmarks / indices, and short-termism are promising insofar as they have the potential to induce (much needed) systemic changes in the financial system

Weaknesses: While the European institutions are very active in the policy field, there are huge differentials as to member state involvement. The leading states are France and the UK, with France having done already some policy experimentation regarding guidance for institutional investors and the UK hosting many financial and research institutions active in the field as well as the task force on green finance. In addition, the Swedish and Danish and Dutch pension sectors, as well as the Dutch central banks are recognized as frontrunners on the issue. In other countries, there is partial engagement with sustainable finance as public actors (e.g. Central banks, regulators, ministries), private (e.g. trade associations, financial institutions, stock exchanges), and civil society (e.g. NGOs, research institutes) push the issue albeit in a less coordinated form. Countries where some engagement is present include the Italy, Germany, Poland, Belgium and Spain. In the case of Germany momentum has gradually picked up in the last year, but the lack of a capital based pension system makes dynamics and the ecology of involved actors different. What is perhaps one of the most crucial barriers is to involve member states with relatively strong dependence on fossil fuel assets.

Opportunities: If implemented well and speedily there is the opportunity for the EU to become a standard setter in an emerging policy area. In addition to this, there is the opportunity to make a contribution in the transition of the EU's (and other countries') economies towards a form of organisation that does not transgress the planetary boundaries. Also, as sovereign and institutional investors seem to become more eager to invest long-term in stricltly monitored sustainable assets and with a possible (albeit uncertain and most likely slow) transition in financial activity away from London to financial centres in continental Europe, there is the possibility to gain market shares in a future oriented line of activity.

Threats: The action plan's suggestion to start pragmatically (for reasons of data availability, models, pathways amongst others) with a conceptualization of sustainability mostly related to climate change risks making a mistake that has been noted by environmental scholars time and again. This is because a narrow focus on climate as one problem to fix rather than as a part of interconnected systems can lead to outcomes with negative impacts for other dimensions of environmental and social sustainability.

Another threat could arise from the proposals on increasing the role of retail investment and individual decision making in sustainable finance. While reducing the control that financial intermediaries exercise is a welcome suggestion, informed decision making on investment requires substantial knowledge by the individual investors. Proposals to increase financial literacy via education are again a welcome solution. However, such education should should be critical (including discussions of crisis, defaults, short-termism) and not a nudge for citizens to behave in a way that suits the needs and business models of financial institutions

Two other threats that have already been voiced repeatedly in the debate are the need for policy coherence (e.g. not maintain fossil subsidies while encouraging investment into sustainable assets) and to not tailor regulatory reforms to the needs of large financial institutions thus making business harder for smaller firms, which often have information advantages on the sustainability dimensions of their portfolios.

Finally, and most importantly, focus of regulatory action should really rest on the outcomes rather than on the process. This means that the performance of reforms and the financial sector overall should be evaluated according to how good it is in achieving a transition in environmental terms (e.g. reducing GHG emmissions, halting biodiversity loss, improving air quality, etc.) and not on self-referential financial sector metrics such as the (non-)alignment to a given index or portfolio.

RECOMMENDATIONS

As stated above, some of the policy proposals on sustainable finance have arguably the potential to induce systemic changes. The literature on economic paradigm changes suggests, however, that while the formulation of new agendas can be carried out in elite settings, a paradigm change that permeates all parts of economic activity requires a greater public debate (cf. Hall 1993; Baker 2013). Hence, a recommendation would be for the EU to gear up its communication on the issue, possibly framing it as a new and positive contribution or raison d'etre for the financial sector, 10 years after the crash.

Moreover, the support and funding for research should be continued. This goes especially for contributions from research traditions like ecological economics, evolutionary and institutional economics and complexity science (e.g. Battiston et al. 2017), since they are able to reveal phenomana and dynamics that are hard to grasp for 'mainstream' analysis and models in economics and finance.

SUGGESTED READINGS

Baker, A. (2013). The New Political Economy of the Macroprudential Ideational Shift. New Political Economy, 18(1), 112–139.

Battiston, S., A. Mandel, I. Monasterolo, F. Schutze, and G. Visentin, “A climate stresstest of the financial system,” Nat. Clim. Chang., vol. 7, no. 4, pp. 283–288, Apr. 2017.

Hall, P. A. (1993). Policy Paradigms, Social Learning, and the State: The Case of Economic Policymaking in Britain. Comparative Politics, 25(3)

Moslener, U., Thomä, J., Sonerud, B., Grüning, C., Cochran, I., Dupré, S., ... & Perroy, L. (2015). Shifting private finance towards climate-friendly investments: policy options for mobilising institutional investors' capital for climate-friendly investment. DG CLIMA

UNEP Inquiry (2018). Making Waves: Aligning the Financial System with Sustainable Development. (n.d.), 52.