



FUTURE OF EUROPE OBSERVER

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This issue of the ZEI Future of Europe Observer takes stock of the implementation of the von der Leyen-Commission's 2020 work program as part of ZEI's reframed research project on "Governance and Regulation in the European Union". Visualized by the ZEI Monitor traffic lights, this magazine includes analyses on the progress being made in the Commission's six policy priorities.



Legislative proposal not tabled yet or withdrawn



Pending Ordinary Legislative Procedure



Legislative proposal passed

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Future of Europe Observer

accompanies the debate on governance and regulation in the European Union. Authors are ZEI Scholars, Master of European Studies Fellows and Alumni.

Von der Leyen: Still Caught in Corona Calamities

More than one year after the COVID-19 hit Europe, the pandemic is still raging, with the third even more deadly wave. The state of emergency has regrettably not stopped EU member states from engaging in age old political blame games against the European Commission. Accusing President Ursula von der Leyen (vdL) of failing to effectively manage the procurement of enough life-saving vaccines just serves as another, though probably more consequential example. Even though member states mandated vdL to negotiate (not sign!) advance purchase agreements with the pharmaceutical industry, national interference to buy less expensive doses instead of cutting-edge products proved critical to creating an EU-wide supply shortage. This lack of real supranational centralization in public health, though in line with Art. 168 TFEU, represents an obstacle in need of being addressed by the upcoming Future of Europe Conference.

It bears no wonder that vaccine disputes had an inhibiting impact on the delivery of the Commission's work program. Yet we could see the first white smoke on the EU's planned health union as the 5.1 billion euro-heavy EU4Health program to boost the resilience of national health systems entered into force in March 2021 (Regulation (EU) 2021/522). It was based on a Commission Proposal from May 2020 (COM(2020) 405 final) Another point of success is the fact that the EU is the biggest donor in the global vaccine alliance

COVAX. Future EU member states such as North Macedonia have already benefited from this.

However, vaccine exports are not the only currency by which von der Leyen's geopolitical ambitions needs to be measured. The new Biden Administration has opened a window of opportunity for the international realization of the European Green Deal and for pushing a global democracy agenda. Regrettably, this is put at risk by von der Leyen's reluctance to immediately enforce the agreed rule of law budget conditionality mechanism (Regulation (EU, Euratom) 2020/2092) against ruling autocrats at home, as the binding law would require as of the 1st of January 2021. The decision to suspend the application of the RoL-Mechanism until pending court cases against it at the EU Court of Justice will be settled is even more unfortunate as the Commission successfully shepherded through an "EU Magnitsky Act" to sanction human rights abusers abroad. (Council Regulation (EU) 2020/1998)

As in previous years, the Center for European Integration Studies (ZEI) will continue tracing the progress of EU legislation by way of the ZEI Monitor which provides a useful gateway for doing in-depth research on the European Commission's annual work programs until 2024. Our affiliated Research and Master of European Studies-Fellows, as well as Alumni will form a crucial part of this venture.

Dr. Robert Stüwe, *Research Fellow at the Center for European Integration Studies (ZEI), University of Bonn.*

Commission Priority 1: The European Green Deal

Goals and Key Players

Since the presentation of the European Green Deal in December 2019, swiftly followed by the presentation of the European Green Deal Investment Plan and the Just Transition Mechanism, a number of initiatives and proposals have been made. Moreover, the European Commission has continued to see the European Green Deal as a strategy for growth, even a model for economic recovery in light of the COVID-19 pandemic (European Parliament, 2020). The fact that the Green Deal has been allocated to an Executive Vice-President in the person of Frans Timmermans underlines the high priority the Commission places on this issue. In contrast to the Juncker Commission (2014-2019), Executive Vice Presidents have direct authority over a Commission Directorate-General. In the case of Timmermans, it is the DG Climate Action reporting to him, whereas Energy Commissioner Kadri Simson is in charge of the DG Energy. (European Commission 2019a) Both Commissioners are part of the Green Deal's 'Project Team' set up for coordinating the pertinent policies.

Progress

Thus, despite initial caution on legislative progress in the various policy areas as well as a revision in general due to the prioritization of the ongoing health crisis, adoption of new initiatives has been achieved, in particular the European Climate Law (European Commission 2020a, European Commission 2020b), which is currently being negotiated by the Council and the European Parliament.

At first glance von der Leyen's Commission appears to have created a virtuous cycle for the European Green Deal with on the one hand having formed a European Climate Pact with an engaged European public, which was launched in December 2020. On the other hand, leadership has been shown and commitments have been endorsed to climate neutrality by setting legally binding objectives. A fine line must still be walked here as the EU should maintain if not increase inclusion of global partners, especially with regards to its industrial strategies as well as its strategy for an integrated energy system, and not pre-emptively excluding global partners through the EU Emission Trading System (Reiners

& Grimm 2020, European Parliament 2020).

In essence the European Green Deal strives for a virtuous cycle of economic sustainability simultaneous to environmental sustainability, underpinned by sufficient funds and financing tools for an inclusive transition. 2020 has seen the majority of progress made by the European Commission on the economic side of this equation without discounting for ongoing progress such as launching the European Climate Pact or the adoption of a biodiversity strategy (European Commission 2020c), which was done in parallel to the farm-to-fork strategy to be mutually reinforcing (European Commission 2020d).

Regarding the **European Industrial Strategy**, climate neutrality is to go hand in hand with digital leadership striving for a globally competitive, green and digital Europe (European Commission 2020e). It is foreseen to build industrial alliances in this field with industry specific initiatives such as on batteries (European Battery Alliance launched in 2017), plastics (Circular Plastics Alliance launched in 2018) and microelectronics (Microelectronics Cloud Alliance as part of the Pact for Skills planned for 2021) (ibid.). These initiatives are to be extended for a European

Clean Hydrogen Alliance (launched July 2020) and a European Raw Materials Alliance (launched September 2020), among others. With European firms consisting to 99 per cent of Small and Medium-sized Enterprises (SMEs), the European Commission seeks to support and facilitate these throughout the transition to a competitive, green and digital Europe. Three major focal areas have been identified to achieve this. Firstly, digitalization itself will be promoted with the appointment of Sustainability Advisors to help improve access to various skills, Digital Innovation Hubs will be set up to integrate digital innovations and funding will be made available through the new European Innovation Council (European Commission 2020f). Secondly, actions are to be undertaken addressing challenges to market access, in particular regarding bureaucracy with a Late Payment Directive and an EU Start-Up Nations Standard aligning administrative procedures (ibid.). Thirdly access to finance is to be supported and facilitated by creating an SME Initial Public Offering and by boosting the share of venture capital investments (ibid.). Also,



Commission Priority 1: The European Green Deal

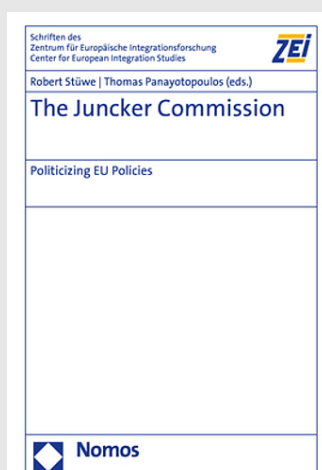
on the level of producer and consumer the European Commission acknowledges room for improvements to a better integrated single market. Key steps are to be taken in order to iron out remaining barriers throughout the supply chain from the perspective of both the business entity as well as the end-consumer (European Commission 2020g). Part and parcel of this is a long-term Action Plan for better implementation and enforcement of single market rules (ibid.). Within the single market, competition policy is seen as a cornerstone to success. This is foreseen to have sustainable spillover effects to enable fair global competition (ibid.).

The second broad policy area in which the European Commission has achieved a number of accomplishments throughout 2020 is that of clean energy, specifically the strategies for an **EU Energy System Integration Strategy**. Not only is decarbonization of energy in itself seen as critical to achieving climate objectives, but also establishing a fully integrated, interconnected and digitalized EU energy market is a key principle (European Commission 2019b). Energy poverty is to be prioritized by ensuring that an integrated EU energy market provides a secure and affordable supply of energy, in which energy efficiency and renewable sources are further key tenets (ibid.).

In correspondence with progress made in industrial

The Juncker Commission. Politicizing EU Policies, Nomos-Verlag, Baden-Baden 2020.

This book, edited by Robert Stüwe and Thomas Panayotopoulos, is the first comprehensive analysis of President Juncker's self-proclaimed "Political Commission" between 2014 and 2019. Based on its ten policy priorities, which the Commission retained in all of its annual work programs, the authors analyze its strategies of dealing with the politicization of European integration. The conclusion is ambiguous: The Juncker Commission sought to use politicized issues as an opportunity to hone its institutional profile. Yet controversies and crises repeatedly forced it to resort to damage control.



strategies of the European Green Deal, clean hydrogen production guided by the **EU Hydrogen Strategy** will play a central role in the EU's integrated energy system (European Commission 2020h). The aim of investing in a European hydrogen ecosystem is twofold. On the one hand, there are numerous application possibilities as a feedstock, a fuel or an energy carrier and storage. On the other hand, exactly these applications are most useful in traditionally hard-to-decarbonize sectors on a large scale that are energy intense such as industry, transport and building (ibid.). As a result, the European Commission views hydrogen as an investment priority in its recovery plan in order to create local jobs and to boost economic growth and resilience (ibid.). In addition to adapting new energy practices more conducive to achieving climate neutrality, the Green Deal includes mitigating its carbon footprint by reducing methane emissions. One such initiative is the **EU Methane Strategy** with a cross-sectoral approach, i.e. in the energy, agricultural and waste sectors in particular, and use of synergies (European Commission 2020i). Cross-sectoral actions are to include improved detection, monitoring and reporting of methane emissions by companies, observatories and satellite data; a thorough review of relevant EU climate and environmental legislation; and supporting the acceleration of a biogas market from sustainable resources (ibid.). Complementing the cross-sectoral actions are sector specific initiatives. A third considerable element of the EU's Energy System Integration Strategy is the **development of offshore renewable energy** (European Commission 2020j), which is to become a core component, with a diversified approach in technologies in order to harness all of the EU's sea basins (ibid.). Regional cooperation and a predictable legal framework are therefore essential to scale up offshore renewable energy deployment. The European Commission plans to scale up wind energy capacity from currently 12 GW to 300 GW by 2050 and scale up ocean capacity, including wave and tidal technologies, from currently 13 MW to 40 GW by 2050 (European Commission 2020k).

Conclusion

In short, developments in initiatives and progress in legislation within the European Commission's first priority during 2020 reflect a continued vision of striving for a virtuous cycle of economic growth while environmentally sustainable, with a view to an inclusive society. For 2021, Brexit will be a fact, Joe Biden has brought the US back into the Paris agreement, and perhaps the COVID-19 pandemic can be referred to in past-tense. The prospects appear bright for the European Green Deal.

Aiveen Donnelly is a ZEI Master Alumna "Class of 2016".

Commission Priority 2: A Europe Fit for the Digital Age

It has been one year now since the last update on the Commission Priority 2 (see ZEI Future of Europe Observer Vol. 8 No. 1 April 2020). One year of the von der Leyen-Commission being in office. But also one year of the COVID-19 pandemic that hit the European Union hard. Amid these tough times the Commission had to face many new challenges besides the six Commission Priorities for 2019-2024, which were identified in July 2019 (when no one could imagine the persistent global health crisis). Nevertheless, it is time to review the Commission's first year in office. All things considered it can be said that the Commission has done a good job when it comes to the fulfilment of the EU's digital strategy. Mainly responsible for digital affairs are the Commissioners Margrethe Vestager as Executive Vice-President and Thierry Breton in charge of the Internal Market.

Goals and Key Players: Shaping Europe's Digital Future

The major goal of the Commission is to make this the "Digital Decade" for Europe. Therefore, the Commission's work is aimed at strengthening Europe's digital sovereignty and at setting standards with a clear focus on data, technology and infrastructure. The key actions of the Commission were presented on the 19th of February 2020, when it published a Communication on shaping Europe's digital future (COM (2020) 67 final). The Commission established three main pillars, on which its work will focus over the next five years. In 2020, the first two of the main pillars became the focal points:

Technology that works for people. Bringing forward digitalization in the European Union should make a real difference to people's daily lives. The development and deployment of new technologies aims to work for all people and therefore should have a positive impact in all life situations. In this respect, the Commission especially focuses on the issue of *Europe's Gigabit con-*

nectivity, which is the major goal of the Gigabit Communication, published on the 14th of September 2016 (COM(2016) 587 final). In order to establish Gigabit connectivity for all Europeans, the acceleration of investments in Europe's gigabit connectivity has been one of the key actions of the Commission.

A fair and competitive economy. The European Single Market should be adapted to the new conditions of digitalization in the European Union. The goal is to build up a frictionless digital single market with a competitive environment that brings benefits for both companies and consumers. On

the one hand, companies should develop and use digital technologies and data at a scale that boosts their productivity and competitiveness. On the other hand, consumers should be confident that their rights are respected when it comes to the usage of data. To reach this goal, *a legal framework for the governance of common European data spaces* is needed.

Progress and Achievements in 2020

1. Technology that works for people

The first strategic objective of the Gigabit Communication 2016 is to provide Gigabit connectivity (at least 1.000 Mbps) for all main socio-economic drivers such as schools,

transport hubs and main providers of public services as well as digitally intensive enterprises. The second strategic objective is to ensure that all urban areas and all major terrestrial transport paths have uninterrupted 5G coverage. And third, all European households, rural or urban, should have access to internet connectivity, offering a downlink of at least 100 Mbps, upgradable to Gigabit speed.

The Digital Economy and Society Index Report 2020 (DESI 2020 – Connectivity) shows that the European Union is on a good path when it comes to the fulfilment of the strategic objectives. In 2019, next gener-



Commission Priority 2: A Europe Fit for the Digital Age

ation access (NGA) coverage increased to 86 per cent of households while fixed very high capacity networks (VHCNs) were available to 44 per cent. However, it is still a long way to reach all of these strategic objectives, especially when it comes to rural areas. Basically, private sector investments always have priority as Art. 107 (1) TFEU generally prohibits the granting of financial aid to undertakings by the state pursuant. Therefore, the establishment of the European Electronic Communications Code (EECC) is an important step towards Europe's Gigabit connectivity by *enhancing investment incentives* with an updated regulatory framework in a competitive environment. In addition to this, the Commission published a *Recommendation on Connectivity* on the 19th of September 2020 (C(2020) 6270 final). The recommendation addresses the member states and invites them to work together to develop best practices and measures that will reduce the costs of network deployment and therefore enhance investment incentives for private investors. The goal is to develop a Connectivity Toolbox to foster EU-wide advanced connectivity.

Financial state aid remains an important factor when it comes to the rollout of 5G and fibre networks. Although, financial state aid has the potential to cause distortions of competition, it can fill investment gaps and thus help contribute to the fast establishment of EU-wide advanced connectivity. Therefore, financial state aid can be accepted according to Art. 107 (3) TFEU by a decision of the Commission. Until now, the Commission has always decided on the basis of the *EU Guidelines for the application of State aid rules* in relation to the rapid deployment of broadband networks (2013/C 25/01), which were published on the 26th of January 2013. To update these guidelines, the Commission launched a *public consultation* on the 8th of September 2020, inviting member states and other stakeholders to provide their views and comments on the existing EU state aid rules on public support for the deployment of broadband networks. Interested parties could respond to the consultation until the 5th of January 2021. The goal is to update the EU Guidelines in reaction to the new challenges of Europe's digital future.

2. A fair and competitive economy

When it comes to the establishment of a fair and competitive economy in a frictionless digital single market, a *legal framework for the governance of common European data spaces* is essential. Therefore, the Commission's work in 2020 mainly focused on setting up such a legal framework. On the 19th of February 2020, the Commission published a European Data Strategy (COM(2020) 66 final). Subsequently, two proposals for a Regulation were released on the 15th of December 2020. (ZEI Monitor 2019-2024 - Commission Priority 2)

The first proposal of the Commission (*Digital Services Act* – COM(2020) 825 final) covers basic rules for a digital single market such as obligations for intermediaries and providers. Therefore, the Digital Services Act contains clear rules for the provision of intermediary services, hosting services and online platforms. The new obligations should establish better protection of consumers and their fundamental rights during the use of online services. Besides, a powerful transparency and a clear accountability framework for online platforms should be granted. Furthermore, the Digital Services Act aims to foster innovation, growth and competitiveness within the digital single market.

The second proposal of the Commission (*Digital Markets Act* - COM(2020) 842 final) contains special rules on contestable and fair markets in the digital sector. These special rules of the Digital Markets Act apply to so-called *gatekeepers*. A gatekeeper is defined as a provider with a strong economic and intermediation position, which causes a significant impact on the internal market. Typically, a gatekeeper has a position that is comparable with the dominant market position in Art. 102 (1) TFEU. Therefore, the special obligations for gatekeepers that are established in the Digital Markets Act are aimed to control the dominant market positions in the new digital single market. The goal of this Regulation is to create new opportunities for competitors.

Conclusion and Outlook: Europe's digital future in 2021

In 2020, the Commission made some big achievements on the way to establish a Europe Fit for the Digital Age. The ongoing progress regarding the acceleration of investments in Europe's Gigabit connectivity will speed up the rollout of 5G and fibre networks. In addition, the Digital Services Act and the Digital Markets Act provide an important basis for a common legal framework in the digital single market.

In 2021 we can expect further important steps on the way to Europe's Gigabit Connectivity. The development of a Connectivity toolbox and the results of the consultation regarding the EU Guidelines might have a big impact on the future of both private investments and financial state aid.

Moreover, we can expect a proposal of the Commission for a Data Act in the first quarter of 2021. The Data Act will be an essential part of the legal framework for the governance of common European data spaces and expand the common set of rules that were proposed by the Commission in 2020. All in all, the Commission's proposals will be a huge step into a frictionless and competitive digital single market.

Carlos Deniz Cesarano is a ZEI Research Fellow and a PhD candidate in Law at the University of Bonn under the supervision of ZEI-Director Professor Christian Koenig.

Commission Priority 3: An Economy that Works for People

Goals and Key Players

The European Green Deal announced by the European Commission (EC) in December 2019 is a long-term plan to make the EU's economy sustainable by 2050. However, the rapidly changing economic environment and the uncertainty surrounding COVID-19 have prompted the European Commission to plan and present alternative solutions to manage the likely economic impact of the pandemic.

Since the beginning of the COVID-19 crisis, the European Union (EU) has taken action in a range of areas, from the provision of medical supplies, assistance to EU citizens stranded in third countries, the removal of obstacles to the movement of EU goods in the Single Market and the long-term economic response. In the first stage, it was important to manage the health crisis, so measures were aimed at strengthening health care systems, preserving jobs, and helping businesses. Not only is how to ease restrictions in a coordinated way currently being deliberated, but also what response measures will be needed in the long-term. It should also be noted that the EU is also taking steps to strengthen its global response to COVID-19.

Progress in 2020

The European Union's economy is projected to have shrunk by 7.4 per cent in 2020, according to the data platform Statista. Individual countries will experience different economic developments. Spain's Gross Domestic Product (GDP) will likely decline by 12.4 per cent, while Lithuania will experience the smallest shrinkage with a downturn of 2.2 per cent according to this estimate (Statista - November 2020).

On the 27th of May 2020, the EC adopted three key actions to address the socio-economic consequences of Covid-19 in the European Union. It was decided to increase the ceilings for the 2014-2020 Multiannual Financial Framework (COM(2020) 446 final) to strengthen the Multiannual Financial Framework 2021-2027 (COM(2020) 443 final) and to establish a European Union Recovery Instrument (COM(2020) 441 final/2)

(called „Next Generation EU“). The EC has proposed to allow all unspent European Structural and Investment Funds money to be used in response to COVID-19: maximum flexibility – with no restrictions on transfers between funds and regions, no requirements for thematic concentration and national co-financing. This makes it easier and faster to implement projects and speed up the investment of EU funds.

The EU's Multiannual Financial Framework 2021-2027 budget, the Recovery and Resilience Facility (RRF) in 2021 and the temporary instruments add to a sum of 1.8 trillion euro with the main aim of rebuilding a post-COVID-19 Europe.

The RRF seeks to bring about further economic recovery. Under this facility, 672.5 billion euro will be provided until the 31st of December 2026, as Art. 3 of the Council Regulation (EU) 2020/2094 on the Recovery Instrument sets out. The grand total is split into loans of up to 360 billion euro, grants amounting to 384.4 billion euro and budget guarantees of up to 5.6 billion euro. (ZEI Monitor 2019-2024 - Commission Priority 3)

The new initiative REACT EU, which is placed within the “NextGenerationEU” program includes a budget of 47.5 billion euro and aims to contribute to a green, digital and

resilient recovery of the economy. At the same time, it extends the crisis response measures delivered through the Coronavirus Response Investment Initiative and the Coronavirus Response Investment Initiative Plus. This financial support will be made available through the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the European Fund for Aid to the Most Deprived (FEAD).

“NextGenerationEU” will also provide financial support to other European initiatives such as Horizon2020, InvestEU, rural development and the Just Transition Fund (JTF). The goal and guiding principles of NextGenerationEU are environmental sustainability, productivity, equity and macroeconomic stability. This needs to be reflected in each member state's recovery and resilience plan in which individual national reform and investments plans have to be proposed to the Commission for approval.

ZEI Monitor
EU Commission Work Program 2020

-  Social Europe: SURE-Instrument
-  Economic Governance: Next Generation EU
-  Deepening the Capital Markets Union
-  Completing the Banking Union
-  Effective Taxation
-  Customs Union Package

Commission Priority 3: An Economy that Works for People

The EC urges member states to address the following areas in particular (European Commission 2020):

a) Power up: advancing the financing of promising clean technologies and accelerating the development and use of renewable energy sources; b) Renovation - improving the energy efficiency of public and private buildings; c) Charging and refuelling - promoting promising clean technologies to accelerate the use of sustainable, accessible and intelligent transport and refuelling and refuelling points and the development of public transport; d) Connect - rapid deployment of high-speed broadband services in all regions and households, including fiber-optic and 5G networks; e) Modernize - digitization of public administration and services, including the judiciary and health care systems; f) Scale-up - increasing the cloud capacity of European industrial data and building the most powerful, advanced and sustainable processors; g) Reskill and upskill - adapting education systems to support digital skills and education and training for all ages.

Another important field of economic recovery that should receive more attention is social protection and employment retention. The Coronavirus pandemic and restrictive measures taken by national governments created significant employment problems. The crisis has changed the labor market. Indeed, some businesses will never reopen. However, a clear change - the transition to a digital workplace - has provided opportunities for some businesses. The figures show that the situation in EU labor markets differs. Unemployment across the whole of the European Union is expected to rise to 8.6 per cent in 2021. Among EU countries, Spain is expected to suffer the worst unemployment rate at 17.9 per cent, followed by Greece at 17.5 per cent. The lowest unemployment rate is forecasted for the Czech Republic with 3.3 per cent (Statista - February 2021).

To ease these problems, the Commission proposed the labor market solidarity instrument SURE for mitigating unemployment risks in an emergency (Council Regulation 2020/672). SURE's regulations allow the EC to issue social bonds on the capital market in order to collect money. After coming into effect on the 20th of May 2020, the instrument for facilitating short-term work provides loans to member states and sets up a maximum amount of 100 billion euro to help businesses retain workers whose incomes are being paid from SURE. Financial assistance provided via this instrument is to support the creation or extension of short time work schemes in the member states and other similar measures including for self-employed workers.

Another way to safeguard jobs is to subsidize worker wages and incomes by compensating those who have lost work due to the crisis. However, the eligibility criteria for access to employee and self-employed income

support schemes have been adopted differently by member states with regard to the minimum requirements to be met by companies and workers. Such a divergence in rules may affect the expected results of the measures.

Conclusion

Some countries have been harder hit economically by COVID-19. Explanations as to why this happened can be provided: the severity of lockdown measures, the structure of national economies, the fiscal capacity of governments to counter the collapse in economic activity and the quality of governance in different countries (Sapir 2020). Despite the fact that the GDP is now forecasted to grow by 3.7 per cent in 2021 and 3.9 per cent in 2022 in the EU and by 3.8 per cent in both years in the euro area, the speed of the recovery will vary significantly across the EU. It needs to be emphasized that differences between member states could become entrenched and cause deeper economic and social gaps than seen before. (Euronews 2021) The long-term success of recovery at the national and European level will depend on the various factors mentioned above.

Outlook 2021

Under the European Recovery Instrument, the EC aims to borrow 750 billion euro from the capital markets to support economic recovery in the EU. The RRF plans should enable member states to increase their growth potential, job creation and economic and social resilience, as well as to adapt to green and digital transformation. The fact that money for loans and subsidies to EU countries will be lent on behalf of the European Commission, and the fact that the European Central Bank has decided to expand its stimulus measures, will reduce market pressure for some peripheral euro area countries with very difficult public finances.

Importantly, the European Semester and the new Recovery and Resilience Instrument are linked. Recovery and resilience plans will be assessed in the light of the country-specific recommendations. The National Reform Programmes and recovery and resilience plans are called to be presented in a single integrated document. The integration of the planned activities makes it possible to emphasize the involvement of member states in a wide-ranging dialogue with social partners and all other stakeholders in order to prepare proper recovery and resilience plans. The implementation of the NextGenerationEU program, including its Recovery and Resilience Facility, should provide a strong boost to the EU economy.

Prof. Dr. Daiva Dumčiuvienė is a ZEI Senior Fellow and Chairwoman of the Doctoral Committee of Economics, Kaunas University of Technology, Lithuania.

Commission Priority 4: A Stronger Europe in the World

2020 - What a Geopolitical Year for the EU!

1. Goals and Opportunities

In 2019, the newly appointed Von der Leyen European Commission vowed to adopt a more “geopolitical” posture, given the return of Great Power politics on the world stage. This step has met with general enthusiasm, although some have warned that such a move goes against the EU’s political DNA, weakening its track record as a “civilian power” (Lehne 2020). The EU’s ambition to join the geopolitical power game does not come as a surprise. The 2016 Global Strategy already made a commitment to base EU foreign and security policy on the notion of “principled pragmatism.” A first sign that Realpolitik will indeed guide the EU emerged in March 2019 (six months before the Von der Leyen Commission took office), when the EU’s China Strategy labelled China a “strategic rival” that needs to be confronted with an assertive and coherent EU posture.

How has the Von der Leyen Commission fared in its pivot towards geopolitics? 2020 has proven an exceptional year, and both a bane and a blessing for the “Geopolitical Commission.” On the one hand, the COVID-19 pandemic has strengthened nationalism among EU member states, who, in times of crisis, have mainly looked for national solutions within harder borders. On the other hand, the pandemic has offered the EU an opportunity to stand up against both China and Trump’s US, mainly by taking a more hard-nosed approach to trade policy as a “geopolitical instrument that the EU can use to leverage its influence in the global economy” (Macyra 2020). The pandemic revealed vulnerabilities in access to key medical supplies and strengthened calls for EU resilience in critical industries’ supply chains, for example by near- or reshoring “essential” equipment and services. The Commission’s role in managing the joint purchase of personal protective equipment (PPE) and

vaccines, and brokering a post-COVID economic stimulus for struggling member states, has reinforced its position. Some pundits even concluded that the pandemic has roused a “sleeping giant”, heralding “Europe’s geopolitical awakening” (Bergmann 2020).

This conclusion is flawed, and too cheerful. The following section briefly examines the main achievements and challenges of the “Geopolitical Commission.”

2. 2020 - Progress and Challenges

The overview should begin in the EU’s direct vicinity, with Belarus and the Western Balkans. Clearly, the EU cannot look with great pride on its response to the crisis that flared up in Belarus, after the country’s botched and violent presidential elections in August. The EU has traditionally used economic sanctions and threats to coax Belarus to adopt democratic standards and increase its detachment from its Russian overlords. The rise of a vocal and courageous civil society standing up against President Alexander Lukashenka’s autocratic rule seemed to offer the EU a lever to reach these strategic goals. Hawkish member states such as Poland and Lithuania called for broad economic sanctions on Belarus; a

new EU-Belarus trade deal post-Lukashenka; offering support to protesters; as well as a clear commitment for the country’s “European future.” Most European leaders, and hence the European Council, proved reticent to go beyond a “European Magnitsky Act” (adopted on 7 December 2020, which envisions visa-bans and asset-freezes targeting individuals guilty of crimes against humanity), in order to put pressure on the Lukashenka-regime. If the Belarus crisis proved anything, it is that the EU is internally divided on how to deal with challenges in its direct strategic backyard, and that member states remain reluctant to delegate foreign and security policy to the largely invisible “Foreign Policy czar” Josep Borrell.

ZEI Monitor
EU Commission Work Program 2020

-  Partnership EU-Organization of African, Caribbean and Pacific States (OACPS)
-  Financial Sovereignty
-  Africa Strategy
-  Enlargement Methodology
-  Eastern Partnership
-  Human Rights, Democracy & Gender Equality: e.g. EU Magnitsky Act
-  WTO Reform

Commission Priority 4: A Stronger Europe in the World

The EU's approach towards the Western Balkans has been hectic and disjointed. At the start of the pandemic, regional media reported the arrival of medical assistance from China and Russia, whereas the EU had issued an export ban (on the 19th of March 2020) on personal medical equipment to third countries (including the Western Balkans). Only after severe public pressure did the Commission reverse its policy, and medical exports were released for the region. This was followed (in May 2020) by a significant aid package (of 3.3 billion euro) to assist the Western Balkans to deal with the pandemic, and to strengthen ties with the EU. The Commission made it clear that the Western Balkans remains a "geostrategic priority" to the EU, but these words rang hollow to many leaders in the region. The key geopolitical question regarding the Western Balkans also remains unresolved: Should the EU stick to strict conditionality on the rule of law before accepting new members, or wave them through to keep the region from aligning further with rivalling Great Powers like China and Russia? This question became even more problematic since Bulgaria blocked accession talks between the EU and North Macedonia (on 8 December 2020), ostensibly due to issues related to "history, identity and language."

Beyond Europe, the EU's main geopolitical challenges are China and the Middle East. China was able to beat the EU in its own game, by successfully conducting COVID-diplomacy (through active medical assistance) towards the Middle East, the Pacific, Africa, and elsewhere (Bodetti 2021). This has increased China's soft power and boosted its geopolitical position across the globe; to the detriment of the EU. The long-awaited EU-China trade deal (the so-called "Comprehensive Agreement on Investment", or CAI) was announced on 30 December 2020, capping Germany's six months European Council Presidency. The European Commission, which negotiated the deal, was criticized for ignoring massive human rights violations in China. For some, this showed that the EU was well underway towards "strategic autonomy" from the US on trade and foreign policy matters. The deal was announced just a few weeks before the Biden administration took office, making it impossible to formulate a new, transatlantic approach towards China. Italy, Poland, Belgium and Spain also criticized the Commission for negotiating a deal that did not take their national interests into account (Hanke Vela et al. 2021). Germany and France were blamed by these countries for side-lining smaller member states, which just proved that the CAI managed not only to drive a wedge between the EU and the US, but between EU member states as well. As a result, the CAI is no real success-story for the "Geopolitical Commission."

Finally, the usual geopolitical powder keg of the Middle East posed a new, and somewhat unexpected geopolitical "shock" to the EU: The US Trump Administration proved capable of brokering unmatched peace accords between Israel and its Islamic neighbors. President Trump's vision of flouting Iran and the Palestinians and bringing Israel and several Gulf and North African countries closer together has been a blow to the European Commission's confidence. The so-called "Abraham accords" proved that the EU's longstanding approach of assuaging Iran and the Palestinians was mistaken. At a time when the European Commission tries to gain experience and a reputation as a "geopolitical player", this loss of face (and faith) could not have come at a worst time.

3. Conclusion / Outlook

What to conclude and what awaits the Von der Leyen Commission? It is always gratuitous to lament the tortuous path of the EU towards geostrategic maturity. 2020 should be considered as the first year of a learning curve of uncertain length and slope. The positives should therefore also be mentioned, mainly that a serious debate on the EU's strategic autonomy has finally taken off and come into its own. Putin's Crimea invasion of 2014; Trump's MAGA-strategy; and China's imperial dreams can all take credit for Europe's geopolitical renaissance.

This debate should be intensified and broadened to the wider European public to earn grassroots support. HR Borrell may begin a review of the 2016 Global Strategy, based on the new realities of a post-Brexit and (hopefully) post-COVID Europe. But 2021 also bears risks: the Biden administration is likely to commit itself (rhetorically) to multilateralism, but also to engage in new military adventures (Marcetic 2018). Trump's uncompromising stance towards the EU has ruffled feathers and kicked even the most hesitant EU-supporter into action. Biden may lull the EU into passivity again, and call for its support for future US military interventions. The hope is for 2021 to be a bit more boring (and predictable) than 2020. But don't count on it.

Dr. Peter van Ham is a ZEI Senior Fellow. He works as a Senior Research Fellow at Clingendael Institute in The Hague, Netherlands and is the editor-in-chief of the Clingendael Magazine for International Relations, the 'Clingendael Spectator'.

Commission Priority 5: Promoting our European Way of Life

On the Road from Great Expectations to the First Actual Results

1. Goals and Key Players

The 5th priority of the Von der Leyen Commission sounds pompous, but despite the controversies at the original naming stage (cf. Trilling 2019), no decision was taken to relabel it once more. As the dedicated website reveals however, the emphasis does lie on not just promoting but actually protecting EU citizens and their values. Some right-wing politicians are still bound to be pleased with that.

Efforts under this heading are directed towards three main goals: 1) upholding the rule of law (encompassing judicial protection as well as fundamental rights), 2) ensuring strong border management, 3) strengthening internal security. These objectives come together in the portfolio of Mr. Margaritis Schinas eponymous to the priority.

While Mr. Schinas is to coordinate the various activities, the organogram of his team is a bit fuzzy. Notably, Ms. Helena Dalli, Ms. Ylva Johansson, Mr. Didier Reynders and Ms. Věra Jourová have been appointed Commissioner for respectively 'Equality', 'Home Affairs', 'Justice' and 'Values'. The latter however is also a Vice-President herself so not subservient to Mr. Schinas. Thus, while 'Protecting the European way of life' is the overarching theme, the competent Commissioner does not function as a true overlord for the members entrusted with directly connected tasks. Moreover, while the aforementioned portfolios are logically linked to that of Mr. Schinas, he is to supervise also what goes on in the spheres of 'Innovation, Research, Culture, Education, Youth' (spearheaded by Ms. Mariya Gabriel), 'Health and Food Safety' (overseen by Ms. Stella Kyriakides) and 'Jobs and Social Rights' (handled by Mr. Nicolas Schmit).

As it is impossible to exhaustively highlight the recent developments in each of these areas, this update is limited to three prominent dossiers where genuine movement was visible.

Progress in 2020

The Juncker Commission prepared the ground for a series of projects in this domain which fit well into the agenda of Ms. Von der Leyen. Though in the first half of 2020, the COVID-19 pandemic caught the lead actors by surprise and totally disrupted the 'European way of life, their work certainly did not grind to a halt.

The new asylum and migration pact

On the 23rd of September, the Commission unveiled its new 'pact on migration and asylum', which had been a long time in the making. As Mr. Schinas and Ms. Johansson clarified in their presentations, the Commission sought to learn from its mistakes in 2015/2016

when an incomplete set of instruments was proposed that failed to propose durable solutions and met with much scepticism and resistance. The novel deal, consisting of five draft regulations, presents a hard break with the Dublin system whereby the state of entry is the one responsible for processing an asylum claim. Simultaneously, the idea of mandatory relocation quotas has been abandoned. Instead, the Pact outlines various conceptions of solidarity allowing member states to take in selected individuals, extend financial sup-

port, or offer 'return sponsorships' (facilitating the exit of persons whose claims have been rejected). Attention equally goes out to making arrangements with non-EU countries on accepting returnees. As a final feature worth mentioning, those arriving at an external border are to go through security, health and identity checks within 5 days, followed by a 12-week procedure allowing for appeals against negative decisions. This should eclipse the often hopeless stays in decrepit national centers like camp Moria on the isle of Lesbos. Presently the package is subject to further discussion in the Council and Parliament.

Measures to safeguard the rule of law

At its inception, the Von der Leyen Commission pledged to launch a comprehensive framework under which it would annually assess the status quo of the rule of law across the Union. It was a smart move to place the supervision partly in the hands of the Czech



Commission Priority 5: Promoting our European Way of Life

Ms. Jourová, alongside Mr. Reynders, considering the likely resistance from Central and Eastern European countries (de Waele 2020).

On the 30th of September, the Commission issued its first report, reviewing the state of play as regards the functioning of the judiciary, media freedoms, corruption and good governance. It rehearsed that the exercise is to become a yearly exercise, aiming for early detection of existing or potential issues. The 2020 report criticised Poland in particular, calling the threats to judicial independence there a serious concern. Hungary, Romania, Bulgaria, Croatia and Slovakia were chastised on similar grounds. The Commission moreover pointed to deficiencies in the fight against corruption in these countries, as well as Malta.

The document itself alas does not lead to concrete action against any Member State. So far it did feed into subsequent discussions in the Council. In addition, already in 2017 the Council agreed with the Parliament on the creation of a mechanism introducing ‘rule of law conditionality’, not only applying to cases of corruption or fraud, but also to fundamental values such as freedom, democracy, equality, and respect for human rights. This resulted in a draft regulation enabling the Council, upon a reasoned proposal from the Commission, to adopt measures withholding funds from backsliding countries by qualified majority. Despite Hungary, Poland and Slovenia attempting to veto both this measure and the 1.85 trillion euro Multi-annual Financial Framework to which it pertains, final agreement was reached in the European Council on the 10th of December 2020. The compromise entails that the Commission will prepare guidelines on the application of the regulation which it should not adopt or enforce until after the judgment of the European Court of Justice on this matter. Though the European Council’s preferences are as such not binding, they found acceptance in the legislative trajectory. The act was adopted on the 22nd of December 2020, entering into force on 1 January 2021.

Standing up for LGBTQI rights

On the 12th of November 2020, the EU reached another historic milestone when it launched its first-ever strategy to protect the rights of LGBTQI people in Europe. This was one way to respond to their downgrading in several Member States, amongst which Hungary, Croatia, Bulgaria and Slovakia. Some municipalities in Poland have gone so far as to declare themselves ‘LGBT-free zones’, leading to a severing of ties by partner cities, as well as a reprimand, cutting of funds and follow-up investigations by the Commission. Moreover, Ms. Jourová has proposed to place homophobic hate crimes in the register of select offences for which the EU can

establish minimum rules, and to arrange financial incentives for initiatives to combat them. Through future legislation, transnational recognition of child-parent relations in cross-border families is to be strengthened as well.

Conclusion

As may be clear even from this small sample, the train is coming up to speed, and we have moved beyond the stage of ‘great expectations’.

The proposed asylum and migration pact has been cleverly thought out, with the flexible take on burden-sharing leading commentators to believe that the package will be in place by 2023. A crucial objectionable element in the plan may nevertheless turn out to be that if repatriation of rejected asylum-seekers proves unsuccessful, the member state concerned has to let the persons stay in their country.

The first rule of law report could usher in a new era of supranational monitoring. At the same time, the process has been discredited a paper tiger, and the temporary neutering of the conditionality regulation described as a catastrophic moral failure (Moriijn 2021). Similarly, on the LGBTI rights fronts, much will depend on the next concrete steps to give teeth to the words on paper.

Outlook 2021

In October last year, the Commission presented its work programme for 2021. Special attention under Priority 5 is given to the building of a Health Union and reinforcement of the Schengen system. Also in the pipeline are proposals on the fight against human trafficking, terrorism and antisemitism. Additional measures are foreseen on legal migration while the draft rules in the discussed pact make their way through the institutional machinery.

Rule of law monitoring will continue, whereby questions do linger on the effectiveness of the adopted reports and on whether member states will make any improvements in the meanwhile. The Court might speak out shortly on the lawfulness of the conditionality regulation, so that the Commission can wrap up its guidelines and start applying it. Time is of the essence, especially with the next Hungarian elections slated for the first half of 2022. Lastly, the prospects appear bleaker as regards shoring up of LGBTQI rights, since adopting legislation on mutual recognition requires unanimity in the Council, which should prove difficult to attain.

Prof. Dr. Henri de Waele is a ZEI Senior Fellow, Professor of International and European Law, Radboud University Nijmegen and Guest Professor of EU External Relations Law, University of Antwerp.

Commission Priority 6: A New Push for European Democracy

Goals and Key Players

The European Commission set itself a number of priorities in its political guidelines for the period of 2019-2024 (Von der Leyen 2019). In priority six it is proposed to give European democracy a 'new push'. Building on the unique democratic system and the 'record-high' high turnout in the 2019 elections, Europeans are to play a stronger role in decision-making. The Commission stresses accordingly that 'we will go further than ever before to make this happen' (Von der Leyen 2019: 19). As such citizens are to have their say at a Conference on the Future of Europe. This Conference is to bring together citizens, civil society and European institutions as 'equal partners'. Young people are to take centre stage. The (then candidate for) Commission President Ursula von der Leyen committed herself to following up on what will be agreed, including by legislative action if appropriate. Even Treaty change was seen to be in the cards.

Apart from the Conference on the Future of Europe, which is a cornerstone of the Commission's priority, other proposals include the strengthening of the partnership between the European Commission and the European Parliament (EP). One even goes as far as proposing a right of initiative for the EP, which is seen as the 'voice of the people'. The way leaders are appointed to the top jobs in the EU institutions is also seen to be in need of an overhaul. The lead candidate, or Spitzenkandidaten, system, which builds the foundation of appointing the Commission President, is a case in point. Hand in hand with the revision of this system, one will also have to revisit the issue of transnational lists in the European elections. In order for Europeans to have faith in the EU, its institutions should be open and beyond reproach on ethics, transparency and integrity. In order to 'protect' the Union, which in recent years has been subject to 'external interference', the Commission guidelines foresee that a European Democracy Action Plan is to be put forward (Von der Leyen 2019).

Progress in 2020

All three EU institutions put forward a position on the Conference on the Future of Europe in the course of 2020. The position by the European Parliament is generally seen as going the furthest and being the most detailed and methodologically sound (EPRS 2020). In its resolution of the 15th of January 2020, the Parliament strongly endorses the active participation of citizens. These are to debate EU policy issues – that broadly overlap with the Commission's priorities - in thematic Agoras composed of 200-300 citizens. Parliament came up with detailed proposals as to the composition of the Conference, which is to be composed in total of 227 members. It is interesting that the EP commits to a follow-up of the outcome of the Conference either with legislative initiatives or with even Treaty change, and invites the other institutions to do the same (European Parliament 2020).

The Commission, in a Communication from the 22nd of January 2020 follows the same line as the EP on several fronts. Issues that cover the six policy areas of the Commission are to be discussed in a bottom up approach. The Conference is also to be transparent and inclusive (European Commission 2020a). The Commission however comes up with a less detailed proposal when it comes to the composition of the Conference (EPRS

2020).

The Council in turn agreed its position on the 24th of June and revised it on the 3rd of February 2021. The suggestion of the EP for citizens to debate in thematic Agoras is not picked up as such (neither in the first nor second position). In the latter the Council stresses that the process needs to be inclusive, with all member states involved equally. This implies that a 'large variety of different views and opinions' should be taken into account.

In this context, the Conference should build on the successful holding of citizens' dialogues and consultations over the past two years.



Commission Priority 6: A New Push for European Democracy

ZEI Discussion Paper C 266/2021

The European Citizens' Initiative channels citizens' participation from member states to the European Union at an unprecedented scale. The initial expectations on it and its potentials are as "loud" as a "thunder". Contrasting with the implications assessed, this research finds there is only "little rain" dropped. Instead of concluding the instrument as a failure, the Union should shape the challenge as an opportunity to build a European public sphere for bringing Europeans closer to each other and the EU.

Zentrum für Europäische Integrationsforschung
Center for European Integration Studies
Rheinische Friedrich-Wilhelms Universität Bonn



Kwan Lok Alan Ho

**“Loud thunder, little rain”
Participatory Democracy in
the European Union**

Discussion Paper
C266
2021

In order to make the discussions relevant to citizens, the content of the Conference should be centered around several key topics, including those from the European Council's Strategic Agenda 2019-2024 (reaching from issues such as societal challenges to sustainability). Note that the Commission's priorities are not mentioned as a point of departure for coming up with priorities. The Council changed its position when it comes to the chairmanship of the Conference. In June, it still advocated for an 'eminent' European personality that should act as an 'independent and single chair'. It now considers that the Conference could be placed under the authority of the three European Institutions acting as a Joint Chairmanship. The Conference should start work as soon as possible and be based on the mandate of a Joint Declaration by the three institutions.

As opposed to the EP, the Council consistently does not endorse the option that any proposals by the Conference could lead to Treaty change (Council of the European Union 2020 and Council of the European Union 2021).

The actual start of the Conference – which was to kick-off in 2020 - was however delayed due to the COVID-19 Pandemic and a debate over who would chair the Conference and whether the outcomes of the Conference should lead to Treaty change. At the end of 2020 (on the 3rd of December) the Commission came up with its Action Plan for Democracy to strengthen 'the resilience of democracies within the Union'. The proposed measures are based on three main pillars that reach from protecting the integrity of elections and promoting democratic participation, to strengthening the freedom and pluralism of the media as well as to combating disinformation (ZEI Monitor: EU Progress 2019-2024) (European Commission 2020b).

Conclusion and Outlook 2021

The fact that the Commission wants to provide a 'new push' to European democracy is an important signal. The Conference on the Future of Europe is one of the main pillars in this quest to prepare this democratic reform, inter alia bottom up. The three institutions have put forward their respective positions in the first half of 2020. In substance, the EP is more ambitious and wants to leave the possibility of treaty change open, whereas the Council is not propagating this as an option and the Commission is presenting itself as an „honest broker“ in a middle position between both institutions. The Commission complemented this debate by putting forward an action plan on democracy with the main objective to update EU rules in line with the challenges of the digital age.

The Conference itself has been delayed, but at the time of writing these lines there is a new attempt to kickstart the event. As mentioned above, a proposal is currently circulating to spearhead the Conference with a triple Presidency (De la Baume 2021). Hopefully this will get the event off the ground and indeed provide a new impetus for democratic reform.

Professor Christine Neuhold is a ZEI Senior Fellow, Professor of EU Democratic Governance and Dean of the Faculty of Arts and Social Sciences at the University of Maastricht.

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Center for European Integration Studies
Genscherallee 3
53113 Bonn
Germany

Editors:

Robert Stüwe
rstuewe@uni-bonn.de

Sally Brammer
sbrammer@uni-bonn.de

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