



REPORT

THE POLISH INSTITUTE OF INTERNATIONAL AFFAIRS
INSTITUTE OF POLITICAL STUDIES OF THE POLISH ACADEMY OF SCIENCES
NORWEGIAN INSTITUTE OF INTERNATIONAL AFFAIRS

HAS THE EU LEARNT FROM THE UKRAINE CRISIS? CHANGES TO SECURITY, ENERGY AND MIGRATION GOVERNANCE

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Contents

Introduction	5
I. EU Security Governance: A Liberal Player in a Realist World.	7
Better Governance as a Security Solution, and Problem	7
Economic Sanctions as a Security Tool.	8
The Revival of the Transatlantic Connection.	9
Security Challenges in the EU’s New Institutional Cycle.	10
II. EU Energy Governance: Trading States in a Mercantilist World.	11
Lack of Readiness for a Foreseeable Crisis	11
Securing Winter Supplies to Ukraine	12
Crisis Management and Infrastructure.	12
The Need for Strong European Institutions	13
Energy in the EU’s New Institutional Cycle.	14
III. EU Migration Governance: Incomplete Drive for Liberal Policy	17
Asylum Policies—Testing EU Solidarity	17
Labour Migration—Testing EU Openness	19
Migration and Development—Testing EU Partnership Building	20
Migration in the EU’s New Institutional Cycle	21
IV. Poland and Norway in the New International Governance Environment.	23
Facing Up to the Definitive “End of the End of History” in the Security Realm	24
Coping with the Cleavage between Energy Importers and Exporters.	26
Reacting Upstream to an Unclear Refugee Problem in the East.	28
V. Things to Watch in 2015	31

Introduction

“The challenge the Ukrainian crisis poses to the European Union’s foreign and security policy can be precisely measured: 50 metres.”¹ The president of the European Commission, Jean-Claude Juncker, was talking about the distance between the Commission’s Berlaymont headquarters in Brussels and the Justus Lipsius building where the heads of EU governments hold their regular summits. Juncker’s is a rather technocratic perspective certainly, but the long walk between the two headquarters is a symbol of a political divide, between the European action and particularist national interests, the cause of internal conflicts and probably also lower governance efficiency in the EU.

The Russian-Ukrainian crisis that began unfolding in November 2013 and escalated in February and March 2014 has undermined the unspoken assumption that military conflict in Europe had been confined to the past. The upheaval has been labelled a “return to realpolitik,” “a renewed East-West division,” or “a new Cold War”—terms that directly challenge the EU’s soft and post-modern means of handling international relations. Coinciding with the beginning of a new institutional cycle of the European Union, the crisis has put the bloc’s resilience to external disruptions, as well as its internal efficiency, to the test. And yet, external shocks often result in positive shifts and improvements of internal governance, as they highlight the need to both formulate and conduct successful policies.

This report, which forms part of a broader project on policy learning and governance in Europe, judges whether the EU has successfully adapted to the Ukrainian crisis. We examine three areas: security, energy and migration. We argue that, although changing conditions have revealed existing deficiencies of the European frameworks, a policy of continuation persists. As such, the report questions the idea that the EU constitutes a positive form of “experimentalist governance,” a model of governance based on reciprocal interaction and mutual learning between political units in the EU. We conclude our study by exploring the challenges posed to two states, Norway and Poland, which have a particular stake in experimentalist cooperation, before providing a list of issues to be watched in 2015.

¹ J.-C. Juncker, “Ukrainian Lessons: What the EU Must Do to Improve Its Foreign and Security Policy,” 15 May 2014, <http://juncker.epp.eu/news/ukrainian-lessons-what-eu-must-do-improve-its-foreign-and-security-policy>.

I. EU Security Governance: A Liberal Player in a Realist World

The Ukrainian crisis has created pressure in the EU's security policy—demanding a change in the EU's usual *modus operandi*. Firstly, the EU is viewed, especially from Moscow's perspective, not as a bystander or mediator to events in Ukraine, but as a party to this conflict and a part of the problem. Russia wanted to contain the EU's influence when intervening in Ukraine, seeing Brussels as a threat to its interests and even its security. Secondly, the EU's usual reliance on so-called soft power has clear problems when it comes to dealing with hard security challenges, as the EU lacks traditional hard power instruments, especially when confronted by a player that is both willing to and capable of using military power to pursue its political objectives.² Thirdly, some specific features of its security decision-making have delayed and complicated the EU's reaction to such a crisis.

It is for that third reason, however, that we cannot expect to see the results of any policy reconsideration from Brussels any time soon. EU decision making processes in this sphere always result from laborious interaction between Member States and Brussels, and tend to favour the status quo. Therefore, as shown by earlier analyses in this project,³ the practice of experimentalist governance (which involves goal-setting, policy formulation and implementation and potential revision as a dynamic, circular process) is even less advanced and less positive in the field of security than in those of energy or migration. This problem is being compounded, moreover, since the lessons to be drawn from the Ukrainian crisis are by no means clear.

Russian actions may, for instance, have an unintended consequence for European security policy, giving a new boost to traditional transatlantic cooperation. This may help the EU and NATO mend their fences and make them work closer together, undermining Russia's long-term objective of limiting the United States' strategic presence in Europe. Russian actions may encourage the EU to develop as a classic security player, pushing Europeans to increase their share of the hard security burden and removing one of the most important causes of tension in transatlantic cooperation. And yet, although the crisis has revealed some weaknesses in the EU's posture as a classic security player, it has also demonstrated how the EU's market power and economic weight can still be usefully factored into the European security equation.

It is therefore worth briefly considering this clash of traditional and post-modern security responses, before examining how they could play out in the EU's new institutional cycle (which began with the election of the new European Parliament in May 2014, and continued with new presidents of the Commission and European Council).

Better Governance as a Security Solution, and Problem

The EU's neighbourhood policy has been driven by a strong liberal assumption that the best way to secure stability is to improve governance, and to strengthen economic cooperation. Ukraine was no exception to this rule. When the EU decided to invite Ukraine to strengthen economic and political ties by signing an Association Agreement with a Deep and Comprehensive Free Trade Area it was made with strong conditionality elements and some important governance-related strings attached. The goal was not to outcompete Russia geopolitically but to help Ukraine

² To learn more about this tension shaping EU security policy at the global level see M.E. Smith, "A Liberal Grand Strategy in a Realist World? Power, Purpose and the EU's Changing Global Role," *Journal of European Public Policy*, vol. 18, no. 2, 2011, pp. 144–163. For more on the EU's role as a security player see T. Renard, *The European Union: A New Security Actor?*, EUI Working Papers, 2014.

³ L. Puka, R. Parkes (eds.), "Linking National and European Governance: Lessons for Poland and Norway", *PISM Strategic File*, no. 17 (53), 2014, http://goodgov.pism.pl/files/?id_plik=17921.

change its political and social system in order to boost stability and good relations. By trying to make Ukraine accept the conditions set by the EU and adopt measures that would challenge corruption, the EU made an effort to address questions of the broader security spectrum.

The conflict has not changed that path—indeed, EU financial assistance has continued (further supported by the International Monetary Fund). However, the Eastern Partnership as a security-building measure has been shown to have some real limitations. The field of border management is one example.⁴ The EU launched some border assistance missions in Ukraine and Moldova, and decided to deploy a monitoring mission in Georgia after the 2008 war. However, what became problematic in the case of Ukraine was the EU's reluctance to promote institutional reforms, for instance in the field of border management and in encouraging the country to drop Soviet-style border control and adopt EU-style border management. The issue of border control turned out to be crucial in the case of Ukraine as weapons, volunteers and regular Russian troops could cross the Russian–Ukrainian border in the Donetsk and Luhansk regions almost unchecked, thus changing the local power balance against the Ukrainian army.

The Ukrainian border police were not prepared for this kind of challenge, therefore it is important to advocate for a stronger security component to EU's neighbourhood policy as a way of improving its efficiency. The crisis has shown that a state confronted with covert and/or open aggression can only survive if it has the right state structures to deal with such challenges in the first place. The EU needs to help its partners survive and consolidate and in order to do so its policy towards them should help them to put in place effective law enforcement, intelligence and defence structures. However, implementation of this type of policy may face some challenges. It could have been argued, prior to the Ukrainian-Russian crisis, that the EU should act extremely cautiously, as adding a security dimension to its neighbourhood policy could provoke negative reactions from Russia and have a negative impact on cooperation between Russia and the EU. The crisis has, however, had two crucial impacts. Firstly, it has revealed that Ukraine is in real need of deep security sector reform, including more efficient management of the country's borders. This is also important for the EU, as Ukraine's ties with the EU have been strengthened as a consequence of the crisis, and it is in the interests of the EU that Ukraine's border is managed more efficiently. Secondly, the crisis has resulted in an unprecedented worsening of relations between the EU and Russia, which makes the argument about the possible negative impact of adding a security dimension to EU's neighbourhood policy much less relevant.

Economic Sanctions as a Security Tool

Once Russia resorted to increasingly overt military actions (instigating civil war in Crimea and in the Donbas region, annexing a large section of Ukrainian territory on 18 March 2014, and triggering violent conflict in eastern Ukraine) the EU had to face up to the prospects of traditional military threats emerging in its close vicinity, and in a country that was set to increase the level and the scope of its economic and political cooperation with the EU. The EU decided that, in order to de-escalate the conflict, it should make Russia change its course in favour of a more cooperative approach. As always, however, the EU was reluctant to use military means and went, following the United States' example, for restrictive economic measures. In other words, the EU conducted its security policy with economic means accompanied by political dialogue.

Although there were some dissenting voices within the EU, Brussels managed to secure formal support from all Member States for several rounds of restrictive measures introduced against Russia—no mean feat given the diversity of opinions on Russia. The goal of these measures

⁴ N. Popescu, *First Lessons from the Ukrainian Crisis*, EUISS Issue Alert, 10 October 2014, www.iss.europa.eu/publications/detail/article/first-lessons-from-the-ukrainian-crisis.

was not to punish Russia but to make it change its strategic behaviour and to play a more constructive part in the work on the solution of the Ukrainian crisis. In order to achieve this, the EU also decided to discuss the questions of mutual interest directly with Russia and Ukraine. Postponement of the implementation of parts of the Association Agreement until 2016 could be interpreted as an attempt at accommodating Russian interests. However, when Russia decided at the end of August 2014 to send its troops into Ukraine to help separatists cope with increasing Ukrainian military pressure, the EU did not hesitate to introduce the next set of restrictive measures.

The Revival of the Transatlantic Connection

Russian actions in Crimea and eastern Ukraine have provided additional incentives to both the EU and NATO to better coordinate their actions and their policies towards Russia. This coordinated Western action has already brought some results. On 17 April 2014 the four parties taking part in the Geneva meeting—Russia, the EU, the U.S. and Ukraine—agreed that all sides must refrain from violence, intimidation and provocative action of any kind; that all illegal armed groups must be disarmed; all illegally seized buildings must be returned to their legitimate owners; and that all illegally occupied streets, squares and other public places in Ukrainian cities and towns must be vacated. It was also agreed that amnesty was to be granted to protestors and to those who had left buildings and other public places and had surrendered their weapons, with the exception of those found guilty of capital offences. The Organisation for Security and Cooperation in Europe was to strengthen the role of its special monitoring mission to Ukraine that had been deployed on 21 March 2014 to give it a leading role in assisting the Ukrainian authorities and local communities in the immediate implementation of these de-escalation measures. The EU, Russia and the U.S. committed themselves to support this mission.⁵

Most importantly, it was also announced at the Geneva meeting that the constitutional process would be inclusive, transparent and accountable. Further, all sides underlined the importance of economic and financial stability in Ukraine, and expressed readiness to discuss additional support. To achieve those results, Western leaders decided to exert direct pressure on the Russian president, Vladimir Putin, and to keep direct communication channels open. Both U.S. President Barack Obama and European leaders were in direct contact with the Russians and Ukrainians. On 2 July 2014 foreign ministers of Russia, Ukraine, Germany and France met in Berlin to discuss ways out of the deadlocked situation and a new round of talks took place in Berlin on 17 August 2014. Those meetings prepared the ground for meetings in Minsk on 26 August and 5 September, which resulted in an agreement on a permanent ceasefire in eastern Ukraine. The same topics were also discussed at meetings in Milan on 16 and 17 October 2014, at which Angela Merkel, François Hollande, Vladimir Putin and Petro Poroshenko could exchange views on the situation in Ukraine and discuss how to address this gravest challenge to European security. Merkel has in addition conducted more than 40 telephone conversations with Putin on the topic of Ukraine, and had a four-hour meeting with him on the sidelines of the G20 summit in Brisbane on 15 November 2014, at which she was joined by the new head of the EU Commission, Jean-Claude Juncker. The French president, François Hollande, also decided to meet Putin in Moscow on 6 December 2014, to impress upon him the seriousness of the situation and the need for finding a way out from the current deadlock. Finally, it was announced that the four leaders, Merkel, Hollande, Poroshenko and Putin, were to meet in Kazakhstan's capital Astana in January 2015 to discuss how to deal with this grave crisis. However, the meeting did not take place due to the escalation of the armed conflict in Donbass and the fact that the ministers of foreign affairs of the four countries were not able to agree on an agenda for it.

⁵ More about the OSCE is available at the "Special Monitoring Mission to Ukraine" website at osce.org/ukraine-smm.

This crisis played a major part in making the EU rethink its relations to the U.S. and NATO, but this was hardly the only factor. The Ukrainian crisis thus fell on fertile ground when it comes to strengthening the transatlantic link, and may give a new—and needed—boost to cooperation on security between the EU and NATO. In its declaration from the most recent summit, in Wales, NATO supported the EU's sanctions against Russia and described the EU as a unique and essential partner, sharing common values and strategic interests. NATO also promised to continue to work side by side with the EU in crisis management operations, to broaden political consultations, and to promote the complementarity of the two organisations to enhance common security and stability. The declaration stated also that “the current strategic environment has highlighted the need for further strengthening our strategic partnership and reinforcing our joint efforts and our common message.”⁶

Security Challenges in the EU's New Institutional Cycle

The new European Commission is to pay greater attention to the coordination of the EU's security policy. The choice of Federica Mogherini as the new EU High Representative of the Union for Foreign Affairs and Security Policy was originally disputed due to what some Member States saw as her soft line towards Russia, but she managed to secure the support of all of them. In his so-called mission letter to Mogherini, the new head of the European Commission, Jean-Claude Juncker, described his vision of her role in the new institutional setting.⁷ The new High Representative, who is also Vice-President of the Commission, is to be responsible for the work of all commissioners with regard to external relations, and will also work closely with the other vice-presidents and guide the work of the commissioners for European Neighbourhood Policy and Enlargement Negotiations; Trade; International Cooperation and Development; and Humanitarian Aid and Crisis Management. Juncker meant also that Mogherini should draw on the Commission's policy instruments and expertise in many areas, including policies under the responsibilities of the commissioners for Climate Action and Energy, Transport and Space and Migration and Home Affairs, which all have a strong external dimension. Although in her prepared written statement during her hearings at the European Parliament on 6 October 2014 Mogherini did not mention the Ukrainian–Russian crisis, she promised “to project a strong and coherent external agenda for the EU” and underlined in her direct responses to questions that the best way of dealing with the crisis and influencing Russia's attitude was to help Ukraine and work closely with the Ukrainian leadership. Over the last couple of months Mogherini has adopted an active approach to the work on the solution of the current crisis by issuing a number of statements, holding a number of meetings with the key players (including with the Russian minister of foreign affairs, Sergey Lavrov, on 4 December 2014), and urging Putin and the rest of the Russian leadership to introduce a radical change in their attitude towards the rest of the world and to switch to a cooperative mode. During the OSCE meeting in Basel on 4 December she also called on Russia for an immediate halt of “the inflow of weapons, equipment and troops from across the Russian border” and for “the withdrawal of any illegal and foreign forces, mercenaries and military equipment from eastern Ukraine.”⁸ It is still too early to see whether this policy and those calls will have any lasting impact, but the new High Representative has managed at least to send a strong signal to the Russian leadership, that Russia's approach to the crisis has to change.

⁶ NATO, “Wales Summit Declaration,” 5 September 2014, www.nato.int/cps/po/natohq/official_texts_112964.htm.

⁷ J.-C. Juncker, “Mission Letter to High Representative of the Union for Foreign Policy and Security Policy/ Vice-President of the European Commission,” 1 November 2015, http://ec.europa.eu/commission/sites/cwt/files/commissioner_mission_letters/mogherini_en.pdf.

⁸ Based on official information on F. Mogherini's activities, provided by the European External Action Service, at www.eeas.europa.eu/index_en.htm.

II. EU Energy Governance: Trading States in a Mercantilist World

The conflict between Russia, as the main supplier of resources to the EU, and Ukraine, as the main transit country, has become a real test case for the efficiency of the EU's energy governance. The question of whether the bloc is able to handle external shocks, including a halt in supplies of Russian gas, has come to the fore of discussions in the European Council and the Commission's works. Apart from the EU's resilience, the crisis tested the strength of its decision making bodies and the bloc's unity. It has revealed weaknesses in all three, rather than triggering qualitative changes.

At the same time, it has questioned the EU's belief in market forces as a panacea for all energy challenges. Internally, the common market is far from completion, and policy formulation and execution is largely dependent on the particular policies of major companies and state interests. Externally, the European Union has become increasingly dependent on imports, and more prone to confrontation with the mercantilist principles of exporters such as Russia.

Lack of Readiness for a Foreseeable Crisis

Had it not been for the Ukrainian conflict, the security of supplies would have been likely to occupy last place in any list of EU energy policy goals, overshadowed by climate and competitiveness. That ex ante situation, and the lack of comprehensive scenarios for major supply failures, may come as a surprise provided the extreme resource hunger of the EU (it is importing nearly twice as much energy as the United States, and five times that of China). Of all the gas consumed in the EU, 15% is transited through Ukraine. The 2006 and 2009 transit disruptions have taught the bloc a lesson, though apparently an insufficient one. Although they resulted in the 2010 Regulation on Security of Gas Supplies, that measure's insufficient current level of implementation leaves Central and Eastern European members most vulnerable to the shocks.⁹ Neither did the earlier disruptions result in the creation of crisis prevention mechanisms, let alone a comprehensive approach to external energy developments (such as shifting patterns of energy supply and demand, changing roles of global key players, and political instability in key exporting regions).¹⁰

With the current crisis, Russia unwittingly attached a price tag for international security to its gas sales, as its military actions disillusioned even a normally sympathetic European Left, in turn throwing into question the liberal paradigm of EU energy policy. For the first time, the European Commission discussed the vision of Europe making do without Russian gas and it even, despite the high costs attached, thought about substituting Ukrainian transit (approximately 57 billion cubic metres of gas). Around \$33 billion would be needed to reduce EU dependence on Russian gas dependence by 40% during just one winter.¹¹ In the event, however, economic sanctions were introduced, with the aim of solving, rather than igniting, the problem, and the "nuclear option" of halting gas supplies from Russia was avoided. EU priority became to secure winter gas supplies to

⁹ European Commission, "In-depth Study of European Energy Security," SWD (2014) 330, July 2014, http://ec.europa.eu/energy/doc/20140528_energy_security_study.pdf.

¹⁰ K. Szulecki, K. Westphal, "The Cardinal Sins of European Energy Policy: Non-governance in an Uncertain Global Landscape," *Global Policy*, 2014.

¹¹ Based on the data of the International Energy Agency and Bernstein Energy, the Commission has listed the top three actions in order to achieve this goal. These are drawing down gas inventories, outbidding Asia on LNG, and switching gas power to oil power. European Commission, "In-depth Study of European Energy Security Accompanying the Document Communication from the Commission to the Council and the European Parliament: European Energy Security Strategy," COM (2014) 330 final, Staff Working Document, Brussels, 16 June 2014, http://ec.europa.eu/energy/doc/20140528_energy_security_study.pdf.

Ukraine, strengthen internal crisis management mechanisms, and increase physical interconnectivity by enabling new directions for the flow of gas, eastwards and southwards (“reverse flows”).

Securing Winter Supplies to Ukraine

Undoubtedly, securing winter supplies of gas to Ukraine and diminishing the risk of disruptions in the supply of Russian gas to Europe became the EU’s priorities. The interruption in Russian gas supplies to Ukraine from June 2014 was a consequence of the dispute on gas prices, debt, and contract provisions between Russia’s Gazprom and Ukraine’s Naftohaz. In May, Gazprom unilaterally abolished its previous price discounts to Ukraine, and increased the gas price from \$285 to \$485, claiming that this was the means of recouping the Naftohaz debt, calculated at \$4.5 billion for deliveries in November and December 2013 and April, May and June 2014, and filed the case before the Stockholm arbitration court. Ukraine, in turn, questioned those actions, requested a review of the pricing formula, and demanded \$6 billion compensation from Gazprom for wrongly calculated gas prices going back to 2010.

All this has had real implications for the region’s security of supply. As the arbitration procedures take on average between one and three years, despite political controversies, it was in the economic interests of Naftohaz and Gazprom to come to an agreement, and renew the gas supplies. It was also a condition for undisturbed deliveries of Russian gas to the EU. Therefore, since June, the European Commission has joined the negotiations between the parties. Additionally, at the end of September, Commissioner Gunther Oettinger tried to increase gas supplies from Norway.¹² Moreover, Poland, Slovakia and Romania sent small volumes of gas back to Ukraine. Additionally, Gazprom’s weakening economic results as a result of falling global oil prices contributed to an agreement being reached after seven rounds and five months of negotiations. On 31 October, Ukraine, Russia, and the European Commission signed a trilateral protocol¹³ that was the basis for restoring Russian gas supplies to Ukraine from November 2014 until 31 March 2015. The volume is flexible, and Ukraine is free to request according to national needs, without a take or pay clause. The price was set “below \$385 per thousand cubic metres.” By the end of 2014, Ukraine had already borrowed, and paid \$3.1 billion of debt (subject to verification by the Stockholm arbitrage court).

Still, it is too early to claim that the problem has been solved. The arbitration case is still pending, and the trust between the parties has been undermined after violations of Minsk agreement by Russia. Moreover, whether the EU and international institutions will be able to “pay the gas bill” by crediting Ukraine after March 2015 remains a question.

Crisis Management and Infrastructure

The European Commission has also undertaken actions to increase internal security in the EU, recognising that these measures need to include neighbouring and transit countries.¹⁴ For the first time, it conducted gas “stress tests” to check the possible effects of a disruption in Russian

¹² L. Puka, “The Paradox of a Stable Supplier: Norway in the European Union’s Gas Strategy,” *PISM Bulletin*, no. 122 (717), 13 October 2014, www.pism.pl/files/?id_plik=18395.

¹³ Binding Protocol regarding the conditions for gas delivery from the Russian Federation to Ukraine for the period from November 2014 until 31 March 2015, http://ec.europa.eu/commission_2010-2014/oettinger/headlines/news/2014/11/doc/20141030_trilateral_protocol.pdf.

¹⁴ “Report on the Findings of the Energy Community Focus Group, Accompanying the Document *Communication from the Commission to the European Parliament and the Council on the Short-term Resilience of the European Gas System. Preparedness for a Possible Disruption of Supplies from the East During the Fall and Winter of 2014/2015*,” Brussels, 16 October 2014, http://ec.europa.eu/energy/doc/nuclear/2014_energystresstests_energycommunityfocusgroup.pdf.

supplies in the coming fall and winter. Apart from the EU and EFTA Norway and Switzerland, the tests included the countries that agreed to follow the EU energy liberalisation regime, through the Energy Community (Albania, Bosnia and Herzegovina, Kosovo, the former Yugoslav Republic of Macedonia, Moldova, Montenegro, Serbia and Ukraine), and the candidate country Georgia. Other major energy stakeholders (The United States, Canada, Japan, Turkey, ENTSO-G, and the International Energy Agency) were also consulted.

The conclusions highlighted the vulnerability of Eastern and South-Eastern European states to disruptions. The most vulnerable were found to be Finland, Estonia, the Former Yugoslav Republic of Macedonia, Bosnia and Herzegovina, and Serbia, each of which would face gas shortfalls of at least 60%.¹⁵ Immediate actions to diminish the negative effect of disruption included the implementation of EU liberalisation legislation (a market-based approach), the maximisation of interconnector capacity, the removal of restrictions to cross-border energy trade, especially reverse flows, and shared responsibility between public authorities and industry for behavioural changes (energy efficiency and lower demand).

The dependence on one supplier was highlighted in December 2014, when Russia cancelled the South Stream project, Gazprom's alternative route to deliver gas to South-Eastern Europe avoiding Ukraine. It was planned that the pipeline would have run under the Black Sea to Bulgaria, and continue through Serbia, Hungary and Austria. In return, Russia came up with an alternative proposal for a new, 50 bcm gas pipeline, to be constructed under the Black Sea to Turkey's border with Greece, although this project is at a very preliminary stage. Still, cancellation of South Stream shifts the responsibility for strengthening the European infrastructure in South-Eastern Europe onto the European companies, Member States, and not least the European Commission. The latter promised in January 2015 to give priority to energy security and interconnectivity in the region.¹⁶

But interconnectivity is also a prerequisite for the energy to physically move and be traded across the borders.¹⁷ Currently, in Southern and Eastern Europe, less than 10% of electricity and gas can be sent this way. The crisis might result in some of the EU's infrastructure funds being allocated to this region. To this end, the "key infrastructure gas security projects" in Eastern and South-Eastern Europe could receive priority in the funding, from the €5.85 billion Connecting Europe Facility and, in future, from the European Fund for Strategic Investments. Their list was attached to the Commission's European Energy Security Strategy from May 2014.¹⁸ Although the projects will face tough competition, as EU direct funding for energy projects between 2014 and 2020 will cover only 5% of the EU's infrastructure needs, the winners will not only contribute to energy security, but also determine the new shape of gas trading in the years to come.

The Need for Strong European Institutions

As illustrated by the example of gas supply negotiations, the European Commission did not try to hide its ambitions to use its legislative and executive powers to shape the EU's post-

¹⁵ European Commission, "Communication from the Commission to the European Parliament and the Council on the Short-term Resilience of the European Gas System. Preparedness for a Possible Disruption of Supplies from the East During the Fall and Winter of 2014/2015," COM(2014) 654, Brussels, 16 October 2014.

¹⁶ European Commission, "Energy Security and Interconnectivity in Bulgaria and the Other Countries of South-east Europe—a Priority for the European Commission," Press release IP/15/3180, Brussels, 12 January 2015, http://europa.eu/rapid/press-release_IP-15-3180_en.htm.

¹⁷ J. De Jong, J.M. Glachant, M. Hafner, "A Smart EU Energy Policy," CIEP, EUI, FEEM, Wilton Park, 2010; and European Commission, "Progress towards Completing the Internal Energy Market," COM (2014) 634 final, October 2014, http://ec.europa.eu/energy/gas_electricity/doc/2014_iem_communication.pdf.

¹⁸ European Commission, "Communication from the Commission to the European Parliament and the Council, European Energy Security Strategy," COM (2014) 330 final, pp. 22–23, http://ec.europa.eu/energy/doc/20140528_energy_security_communication.pdf.

Ukraine energy policy. But this was no power grab. Its reasoning is straightforward and justified: the higher the degree of import dependence, the greater the need for resilient institutions to compensate for the resource scarcity. In the EU, however, the efficiency of its institutions in the energy field remains limited. The tensions between the national and supranational stakeholders are still vivid. Those weaknesses were effectively inscribed into EU law, in Article 194 of the Treaty on the Functioning of the European Union. On the one hand, the EU has explicit competence to develop energy policy,¹⁹ while on the other, the Member States maintain their rights to decide on their own energy mixes and the energy taxation, thus the decisions falling within these scopes are subject to unanimity.²⁰ Consensus is hard to reach as long as the Member States have differing domestic energy resources, different energy requirements, and large, state-owned, monopolistic energy industries.²¹

The external dimension of EU energy policy, as an extension of internal EU regulations, is prone to the same weaknesses. More so indeed, for the fiercely independent Member State policies have been even more visible than in the internal policy field.²² Strengthening the institutions could be achieved either by altering the foundations of the treaty, or *de facto*, by more fully deploying the tools at hand. The first option is not politically feasible, and nor has it been discussed. The second has been deployed selectively. Despite the robust powers available to it, in particular in the field of competition law, the European Commission has refrained from actions that could possibly antagonise Russia (competition is the only EU domain in which the European Commission has both exclusive competence and great sanctioning powers). The anti-trust case against Gazprom, accused of the abuse of its dominant position,²³ has been put in the queue.

And here we come full circle: to take proper effect externally, the Commission's competition powers would also have to be developed internally. Current regulations to liberalise and integrate the internal market are insufficient for that to happen. Taking an example from the electricity market, recent positive market developments such as a drop in the wholesale prices in the EU have not been passed on to customers,²⁴ giving the Member States an argument to introduce protectionist measures that, like a vicious circle, make it more difficult to integrate the markets in the future.

Energy in the EU's New Institutional Cycle

The European Commission under Jean-Claude Juncker aims to transform energy into a major pillar of EU integration. To that end, the Commission itself has undergone structural re-organisation to reflect the agenda to create an Energy Union. The new post of Vice President for the Energy Union was created as a complement to the (newly merged) Commissioner for Climate Action and Energy. The policy course has been set in Juncker's guidelines. In theory, the managerial competences over conduct of the Commission's "priority project"—the creation of a resilient Energy Union—are vested with Vice President Maroš Šefčovič. To this end, he coordinates the work of a group of commissioners, including Commissioner Miguel Arias Cañete.²⁵ The latter is

¹⁹ *Treaty on the Functioning of the European Union*, in force on 1 December 2009.

²⁰ L. Hancher, F.M. Salerno, "Energy Policy after Lisbon," in: A. Biondi, P. Eeckhout, S. Ripley (eds.), *EU Law after Lisbon*, Oxford University Press, Oxford–New York, 2012, pp. 367–402.

²¹ N. Nugent, *Government and Politics of the European Union*, Duke University Press, Durham, 2006, p. 376.

²² R. Youngs "The EU's Global Climate and Energy Policies: Gathering or Losing Momentum?," in: A. Goldthau (ed.), *The Handbook of Global Energy Policy*, Wiley-Blackwell, Malden, 2013, p. 421.

²³ Should Gazprom be found guilty, the sanctions could reach up to 10 billion. In the current geopolitical situation, it could have political significance, and additional sanctioning power—a confrontation that the EU would rather avoid. More on the case: A. Riley, "Commission v. Gazprom: The Anti-trust Clash of the Decade?," 2012, Brussels: CEPS, www.ceps.eu/book/commission-v-gazprom-antitrust-clash-decade.

²⁴ European Commission, "Progress..." *op. cit.*

²⁵ Commissioners for Climate Action and Energy, Transport, Internal Market, Industry, Entrepreneurship and SMEs, Environment, Maritime Affairs and Fisheries, Regional Policy, Agriculture and Rural Development and Research,

“part of the project team” responsible for legislative proposals.²⁶ In practice, however, much will depend on the new commissioners’ ambitions and their will to cooperate, not to mention the European Parliament’s support for their ideas. As a result, the efficiency of this system of “overlapping competences” is not to be taken for granted.

So far, the ambitions of Šefčovič have been paramount. He is developing the concept of an Energy Union, initially presented by Poland’s then prime minister Donald Tusk, and later in Juncker’s guidelines.²⁷ Both versions highlight the need for market integration (the internal market has to be completed,²⁸ resources pooled, and network infrastructure developed) and increased security of supplies (by diversifying energy sources, reducing the high energy dependency of the most vulnerable Member States, and strengthening the negotiating power vis-à-vis third countries). In the latter aspect, common purchasing of gas was the most controversial aspect of Tusk’s proposal, cautiously embraced by Šefčovič in November 2014.²⁹ The difference between Tusk’s and the Commission’s proposals came in the definition of “indigenous energy resources” that should be developed in the EU. For Tusk, those are primarily fossil fuels, while for the President and Vice President of the European Commission, the role of renewables is paramount. The Commission wants to preserve the EU’s leadership in climate change policy and “the European Union to become the world number one in renewables.”

The discussion on the EU’s 2030 targets has not solved this dispute, but rather frozen the existing *status quo* of different energy mixes (thus, interests) between various EU Member States. The European Council’s Conclusions of 23–24 October 2014 (2030 Climate and Energy Framework), provide for only one binding goal on each Member State, namely of reducing greenhouse gases by 2030, by 40% compared to 1990.³⁰ The main instrument to lead the transformation will be reformed emission trading system. The ten poorest EU Member States, including Poland, have been granted access to an additional crediting fund to modernise their energy systems, and the possibility of up to 40% of free allowances to their power sectors. There is no binding obligation on them with regard to renewables, and no energy efficiency target. In theory, by 2030 there will be room for coal power plants in the EU. In practice, however, much will depend on the price of emission allowances as well as the efficacy of the new governance structure in the EU, where the Commission will work out national renewable goals in a dialogue with the Member States, as well as the governance reform within institutions, and division of powers between the Commission and the European Parliament.

Thus, so far, the Energy Union concept can be viewed as old wine in a new bottle. The Ukrainian crisis has created a necessity to integrate, but has not changed EU energy policy fundamentals, nor has it solved the underlying diverging interests between the Member States and between them and the EU as whole.

Science and Innovation. J.-C. Juncker, “Mission Letter to Vice-President for Energy Union”, 1 November 2015, http://ec.europa.eu/commission/sites/cwt/files/commissioner_mission_letters/sefcovic_en.pdf.

²⁶ J.-C. Juncker, “Mission Letter to Commissioner for Climate Action and Energy”, 1 November 2015, http://ec.europa.eu/commission/sites/cwt/files/commissioner_mission_letters/arias-canete_en.pdf.

²⁷ J.-C. Juncker, “A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change. Political Guidelines for the next European Commission,” http://ec.europa.eu/about/juncker-commission/docs/pg_en.pdf.

²⁸ With the European Commission envisaging the €200 billion in added value from the completed internal market, *ibidem*, p. 19.

²⁹ “Šefčovič: ‘We Should Explore Common Purchasing of Gas,’” *EurActiv*, 18 November 2014, www.euractiv.com/sections/energy/sefcovic-we-should-explore-common-purchasing-gas-310091?utm_source=EurActiv+Newsletter&utm_campaign=d82242608b-newsletter_daily_update&utm_medium=email&utm_term=0_bab5f0ea4e-d82242608b-245671905.

³⁰ European Council, “23 and 24 October 2014 Conclusions,” Brussels, 24 October 2014, www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/145397.pdf.

III. EU Migration Governance: Incomplete Drive for Liberal Policy

The Russian–Ukrainian crisis has so far had only a limited impact on the EU’s border management and migration policy, the humanitarian dimension of this conflict notwithstanding. Tellingly, it is a picture of a boat filled with migrants somewhere in the Mediterranean that is featured on the cover of the Frontex Annual Risk Analysis 2014, and indeed Europe’s southern border, not the eastern one, seems subject to the highest migratory pressure. Still, independent of geographical locations, the need for better overall migration policy with special emphasis on a Common European Asylum System and modern border management is acute. In principle, the EU’s migratory policy aims, in its external dimension, not only to complement the EU’s internal free movement regime and ensure enhanced security in the Schengen area, but also to strengthen the EU’s neighbourhood strategy. However, with the mounting challenges in the neighbourhood, combined with differences in both migratory governance needs and capacities of the Member States, the EU’s drive for liberal polices remains largely incomplete.

In this context, the Russian–Ukrainian crisis poses just another challenge for the EU’s migration governance. First, in the current, highly uncertain situation, there is a need for contingency plans to prepare for a potentially large inflow of forced migrants that would test European solidarity, now so clearly insufficient in the south. Second, Ukraine is likely to become a source of increased labour migration at a time when the European Union is aiming to reshape its migration policy against the background of strong anti-immigration social sentiment among its citizens. Third, the crisis is affecting existing schemes of cooperation between the EU and Ukraine, such as the Visa Liberalisation Action Plan, and may pave the way for new instruments, for instance a Mobility Partnership.

Asylum Policies—Testing EU Solidarity

EU Member States, Switzerland, and Norway have witnessed a substantial rise in the number of Ukrainian asylum applications, especially since the beginning of 2014. In May 2014, 720 new asylum applications were lodged in comparison to 70 in May 2013.³¹ The rise was particularly high in Poland, which received almost one third of the total number of applications made in the first half of 2014. In July the European Asylum Support Office organised workshops in Warsaw to discuss Ukrainian arrivals.³² As the possibility of a further rise cannot be excluded, several Member States prepared contingency plans.³³ Poland is particularly prone to a rise in the number, as it is a border state and a country with a high number of Ukrainian migrants (due to social networks facilitating arrivals).

How well is the EU prepared for the scenario of forced migration from the east? In the wake of the Kosovo conflict, the European Union agreed on a Temporary Protection Directive,³⁴ an instrument for dealing with a mass influx of displaced persons. Yet this directive has never been used, despite large inflows of people following the Arab Spring and the conflict in Syria. Although “solidarity” is one of the aims and instruments of the EU’s asylum system, its actual meaning remains purposefully vague.³⁵ Member States are the players responsible for granting the appropri-

³¹ In EU-28, Eurostat.

³² *Ibidem*.

³³ *Ibidem*.

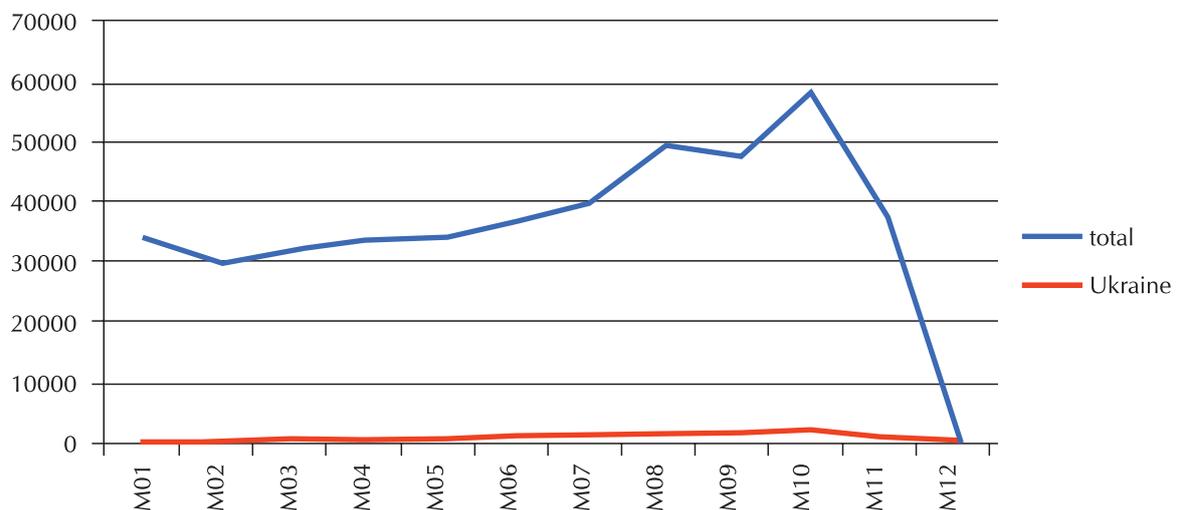
³⁴ “Council Directive 2001/55/EC of July 2001 on Minimum Standards for Giving Temporary Protection in the Event of a Mass Influx of Displaced Persons and on Measures Promoting a Balance of Efforts between Member States in Receiving Such Persons and Bearing the Consequences Thereof.”

³⁵ M. Garlick, *Strengthening Refugee Protection and Meeting Challenges: the European Union’s Next Steps on Asylum*, Policy Brief, Migration Policy Institute Policy Europe, June 2014.

ate level of protection as defined by recently renegotiated (or “recast”) directives that shape the Common European Asylum System. A potentially higher burden is also placed on frontline states due to the Dublin regulation³⁶ that (if other conditions, such as family reunification, fail to apply) makes the first country of entry responsible for the application. Solidarity mechanisms, namely financial help available through the Asylum and Migration Fund,³⁷ operational help provided by the European Asylum Support Office³⁸ or use of special instruments such as relocation³⁹ are limited in their influence and use.

Nevertheless, despite a high increase in the share of new asylum applications lodged by Ukrainians, their absolute number is relatively small, accounting for 2.5% of all new asylum applications in the EU during 2014.⁴⁰ Moreover, only a few applicants are granted asylum (generally Ukrainians do not meet the criteria for refugee status⁴¹) or some subsidiary forms of protection. Thus, many choose to use other migration channels to reach third countries or migrate internally,⁴² to other parts of Ukraine. The UNHCR assessed that there are at least 514,000 internally displaced persons (IDPs) in Ukraine, many in acute need of support.⁴³

Figure 1. Number of new asylum applications in 2014



Source: Eurostat.

³⁶ Regulation (EC) No. 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third country national as amended by Regulation No. 118/2014, available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/examination-of-applicants/index_en.htm.

³⁷ European Commission, “Proposal for a Regulation of the European Parliament and the Council on Establishing the Asylum and Migration Fund,” COM (2011) 751 Final, Brussels, 15 November 2011, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0751:FIN:EN:PDF>.

³⁸ “Regulation (EU) No. 439/2010 of the European Parliament and the Council of 19 May 2010 Establishing a European Asylum Support Office,” <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:132:0011:0028:EN:PDF>.

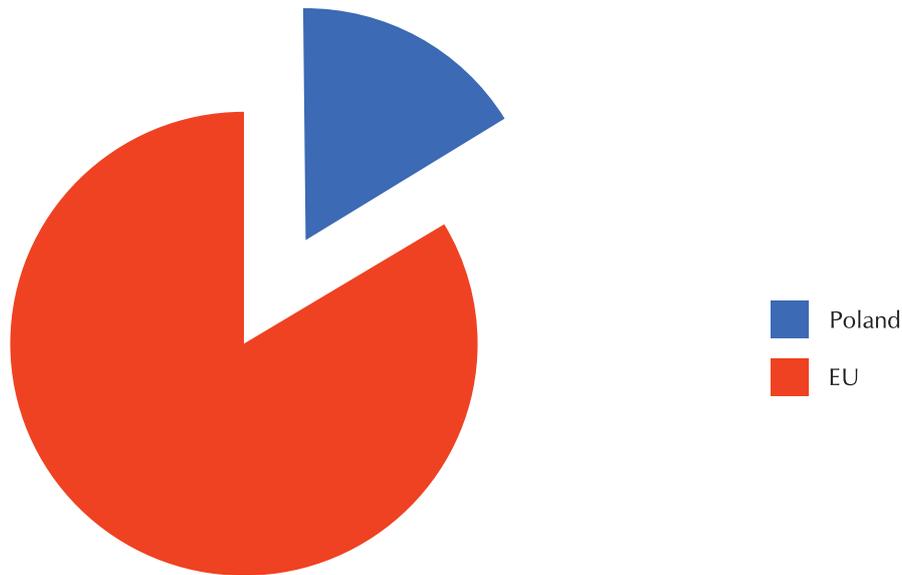
³⁹ European Council Conclusions of 18–19 June 2009.

⁴⁰ Eurostat.

⁴¹ Criteria set in “The 1951 Convention Relating to the Status of Refugees together with 1967 Protocol Relating to the Status of Refugees.”

⁴² For more detailed analysis see: M. Jaroszewicz, “Problem uchodźczy na Ukrainie: ocena sytuacji,” Centre for Eastern Studies, Warsaw, 18 September 2014, www.osw.waw.pl.

⁴³ State for December 2014, UNHCR, Briefing note, www.unhcr.org/5481b1896.html.

Figure 2. Number of new asylum application from Ukrainian citizens in 2014 in Poland and EU

Source: Eurostat.

Labour Migration—Testing EU Openness

Ukrainian labour migration is directed mainly to Russia, followed closely by a number of workers choosing destinations in Europe (around 40% of Ukrainians who migrate). Poland, where Ukrainians are the most numerous group of migrants, benefited particularly from this trend, with many Ukrainians finding employment in agriculture, construction and household services. Many of them are circular migrants, who work in the EU but often return to Ukraine where they live. A comprehensive forecast presented by Poland's Centre of Eastern Studies in 2014 estimates that the number of Ukrainians in the EU27 and Norway will reach between 1,150,000 (low scenario) and 2,500,000 (high scenario) by 2050, in comparison to an estimated one million Ukrainian residents now.⁴⁴ The impact of the Russian–Ukrainian crisis is not fully assessed in this study, but provisional estimations suggest that any substantial change in the foreseen volume of labour migration is only possible if the unrest becomes much more severe.⁴⁵ If not, the influence of the situation in Ukraine will be rather indirect, while a further deterioration of the country's economic conditions may determine the “high scenario.”

In 2013 Ukrainians received the highest number of first residence permits in the entire EU, and Poland was the host country for most of them. Of these applications, 64.1% were issued for employment reasons. Apart from the economic and security situation, much will also depend on Russian policy towards Ukrainian forced and labor migrants, and the possible tightening of the immigration rules may provoke a re-orientation towards the EU with substantial numbers of qualified workers heading for wealthier EU Member States and Norway.⁴⁶ An increase in the supply of labour through migration could be good news for EU economies that have to deal with negative demographic changes, but may pose policy challenges at a time of high anti-immigration sentiment

⁴⁴ M. Jaroszewicz, M. Lesińska (eds.), “Forecasting Migration between the EU, V4, and Eastern Europe. Impact of Visa Abolition,” Centre for Eastern Studies, Warsaw, July 2014; number refers to legal migration and does not reflect circular migration.

⁴⁵ *Ibidem*, p. 16.

⁴⁶ *Ibidem*, pp. 103–104.

in a crisis-ridden Europe. This could be the case if we were to see a new pattern of migration, with more people settling permanently, followed by a wave of family reunifications and an increase in the number of students.⁴⁷ A rise in the number of migrants may also entail more irregular migration, which is currently estimated to reach between 20–40% of the overall number of migrants.⁴⁸

Migration and Development—Testing EU Partnership Building

Enhancing mobility between Ukraine and the EU was identified by the Commission as one of the most important instruments of the EU's support for successful Ukrainian development and transition.⁴⁹ Thus, the commission declared its support for Ukrainian efforts to quickly meet the requirements of the Visa Liberalisation Action Plan, proposing a Mobility Partnership and underlining increased possibilities for the mobility of students and young people under Erasmus+.

Visa facilitation discussions between the EU and Ukraine began in 2008, and the principles were agreed in the 2010 Visa Liberalisation Action Plan. In May 2014, after the adoption of the bulk of new legislation, Ukraine successfully moved to the second phase of the plan, when the Commission assesses the actual functioning of the relevant policies.⁵⁰ Currently, the implementation of the required measures is, unfortunately, still far from satisfactory.⁵¹ The impact of the Russian–Ukrainian crisis on the possible dynamics of visa liberalisation is twofold. First, the crisis makes it much more difficult for Ukraine to reform and for the EU to assess the progress, and second, visa liberalisation has become a more important instrument of foreign policy aimed at enhancing people to people contacts. Thus, before the process of visa liberalisation is concluded, Member States can use the existing possibilities under the Visa Facilitation Agreement and Visa Code to facilitate the entrance of certain categories of migrants from Ukraine.⁵²

Mobility partnerships are non-legally binding political declarations between interested Member States and third countries, aimed at improving migration governance in the mutual interests of those states. So far, the commission has led negotiations resulting in seven such agreements. The possibility of signing a Mobility Partnership with Ukraine was raised during the Hungarian Presidency, but with no results.⁵³ Nevertheless, in the current circumstances, that form of cooperation could receive a new boost, especially if the EU were to come up with an attractive offer.⁵⁴ This would mean not only facilitating legal migration, but also agreeing on measures aimed at fighting brain-drain and brain-waste effects. As participation in the Mobility Partnerships is voluntary, it would also test individual Member States' willingness to engage.

⁴⁷ *Ibidem*, p. 221.

⁴⁸ *Ibidem*, p. 10.

⁴⁹ European Commission, "European Commission's Support to Ukraine," Memo, Brussels, 5 March 2014, europa.eu/rapid/press-release_MEMO-14-159_en.htm.

⁵⁰ European Commission, "Fourth Report on the Implementation by Ukraine of the Action Plan on Visa Liberalisation," COM(2014) 336 final, Brussels, 27 May 2014. See: Eastern Partnership Visa Liberalisation Index for Ukraine, <http://monitoring.visa-free-europe.eu/ukraine>.

⁵¹ See: *ibidem*.

⁵² "Agreement between the European Union and Ukraine on Facilitation of the Issuance of Visas with Amendments" and "Regulation (EC) No. 810/2009 of the European Parliament and of the Council of 13 July 2009 Establishing a Community Code on Visas (*Visa Code*)."

⁵³ E. Guild, S. Carrera, J. Parkin, "What Role for Migration Policy in the Ukrainian Crisis?," CEPS, 27 March 2014, www.ceps.be.

⁵⁴ *Ibidem*.

Migration in the EU's New Institutional Cycle

Clearly it is not the situation in the Eastern Neighborhood that drives the new agenda for the EU's migration policies, but the new approaches may also help address challenges posed by the Russian–Ukrainian crisis. Both the European Council (in its “Strategic Agenda for the Union in the Times of Change” paper) and the president-elect of the European Commission (in his presentation before the European Parliament on priorities of the new European Commission) recognised migration policy as one of the EU's main priorities in the coming years.⁵⁵ Priority is given to policies that are useful in dealing with the migratory pressures on the EU's southern flank, such as improvements in border management and the solidarity component of the Common European Asylum System. The experience from the south could also be useful in the event of a humanitarian catastrophe developing in Ukraine if the situation there were to spiral out of control and trigger mass forced migration from this conflict-torn country.

The announced focus on legal migration channels that are to help the EU deal with demographic tensions and labour shortages could also help to boost and streamline Ukrainian migration. Some new policy approaches are reflected in the institutional framework of the new Commission.⁵⁶ In the new Commission, in which vice-presidents coordinate the work of different groups of commissioners, the foreign policy dimension of the EU's migration policy will be improved by cooperation between the Commissioner responsible for Migration and Home Affairs and the High Representative for Foreign Affairs and Security Policy. Supervision by the Vice President for Better Regulation, Inter-Institutional Relations, the Rule of Law and the Charter of Fundamental Rights is to ensure respect for fundamental rights. The decisive factor in the EU's ability (or lack thereof) to deal with the migration related challenges caused by the Ukrainian crisis will be not so much the question of policy design, but rather the question of successful implementation of the new policy.

⁵⁵ Respectively, European Council, “Strategic Agenda for the Union in the Times of Change,” 26/27 June 2014; J.-C. Juncker, *op. cit.*

⁵⁶ See: http://ec.europa.eu/about/juncker-commission/structure/index_en.htm.

IV. Poland and Norway in the New International Governance Environment

The escalation of the Russian–Ukrainian conflict, from popular protests in Ukraine, through Russian intervention to hybrid war,⁵⁷ has created new framework conditions for European governance, with consequences that extend well beyond the security arena. These developments have had an impact on two European countries in particular, Russia’s neighbours Norway and Poland. Despite their middling size and populations, their political significance in the EU and NATO has recently increased, as indicated by the happy symmetry of the elevation of two former prime ministers to top European posts. Donald Tusk became the President of the European Council, and Jens Stoltenberg is now NATO Secretary General. Not only are the EU and NATO the main governance environments for both countries,⁵⁸ which might look upon the elevations as rewards for loyal cooperation, but Norway and Poland are now expected to influence and generate new ideas for the EU and NATO agendas—Poland, as a neighbour and ardent advocate of Ukrainian interests and the Eastern Partnership in the EU, and Norway, as the next major natural-resource supplier to the EU after Russia.

Not that the interests and priorities of the two countries are wholly congruent of course. Poland, acutely aware of its domestic vulnerabilities, has focused on the issue of solidarity. Warsaw pointed in particular to perceived deficiencies in international security guarantees for Central and Eastern Europe, and increased domestic military spending. It has also highlighted the vulnerability of energy systems in this part of Europe, and called for the creation of an Energy Union. That strengthened Poland’s negotiating position in designing the EU 2030 climate and energy strategy, and allowed security concerns to be included. By contrast, the demanding refugee situation in the southern Mediterranean, and the continued lack of clarity about forced migration trends in the east, have left Poland with a difficult hand to play in the field of migration. Calls for solidarity are being directed at Poland by other Member States.

As for Norway, it shares Poland’s concerns about the weakness of international guarantees in this part of Europe, and has increased its own defence spending, as well as aligning its policies more closely with the EU. However, it does so from a stronger budgetary position and amidst speculation that Moscow will not risk jeopardising relations along its northern sea routes, which until now have been quite well regulated. Moreover, in the energy field Norway’s priority is still ensuring that the EU does not move away from gas, which is viewed as less reliable thanks to Russian unpredictability in the security field. There is scepticism amongst Norwegian suppliers about Polish suggestions that EU Member States strengthen their hand by conducting joint purchases of gas, proposal that was a core element of the original Energy Union proposal. As for migration from Ukraine, this is still not regarded as an immediate challenge, though it is likely that this will change due to the magnetic effect of the Norwegian labour market.

This mix of shared and divergent interests between Poland and Norway conforms to an increasingly common pattern of cooperation in current international relations, which might be termed “complex interdependence.” As such, the pair need to develop a common means of dealing with three overarching challenges.

⁵⁷ For more on this type of warfare and the challenges it poses, see F.G. Hoffman, *Conflicts in the 21st Century: The Rise of Hybrid Wars*, Potomac Institute for Policy Studies, Arlington, 2007, and F.G. Hoffman, “Hybrid Warfare and Challenges,” *Joint Force Quarterly*, 52, 2009, pp. 34–39, and J. Vandiver, “SACEUR: Allies Must Prepare for Russia’s Hybrid War,” *Stars and Stripes*, 4 September 2014. In the current context, this study is also relevant: M. Galleotti, “The ‘Gerasimov Doctrine’ and Russian Non-Linear War,” 2014, <http://inmoscowshadows.wordpress.com/2014/07/06/the-gerasimov-doctrine-and-russian-non-linear-war>.

⁵⁸ Poland is a full member of the EU. Norway has special status—more than 70 agreements, including the Agreement on the European Economic Area, link the country to the EU internal market and a wide range of other EU policies.

Facing Up to the Definitive “End of the End of History”⁵⁹ in the Security Realm

Both Poland and Norway perceived Russian actions as undermining the basic rules regulating international relations. In contrast to Fukuyama’s claims, therefore, the Cold War does not seem to have marked a definitive and sustainable step in the “End of History.” Russian interventionism and the annexation of Crimea have given lie to the assumption that, even in Europe, Western liberal democracy is the final form of human government, and that political conflicts from now on will be solved by political means. Poland and Norway, being medium-sized European countries, both share an interest in the stability and functioning of the existing international system, and Russian revisionist policy has created a new situation which has a negative impact on cooperation and security in their close international environment. Committed as they are to this order, both Norway and Poland condemned Russian actions and were alarmed on three grounds.

Firstly, Russia has breached international law by intervening militarily in a sovereign country without a UN mandate, and by annexing part of the Ukrainian territory after a rigged referendum.⁶⁰ It also breached the 1994 Budapest Memorandum (which it signed, together with Ukraine, the U.S. and the UK) that guaranteed Ukraine’s security and territorial integrity in return for Ukraine giving up its post-Soviet nuclear arsenal.

Secondly, Russia has openly challenged basic values and norms regulating security cooperation in Europe, especially the norm of the peaceful solution of political problems and non-use of military instruments in relations with other members of this community, and ignored international institutions, such as the OSCE and UN, as forums for addressing its concerns.⁶¹

Thirdly, Russian intervention in Ukraine has made the whole European security environment more volatile, unpredictable and unstable, at a time when Europe faces other security challenges, such as the turmoil in North Africa, the growth of the Islamic State in the Middle East, and the consequences of a deep economic crisis.

In Poland, Russian intervention in Ukraine was viewed as the ultimate proof of the revival of the Russian imperial idea, threatening not only Ukraine but the whole international order, and forcing a reconsideration of the hierarchy of threats faced by Poland.⁶² The most important steps taken by the Polish policy making community were the acceleration of the reform of the Polish military and the expedited launch of the Polish rearmament programme, which focuses on the Polish military’s ability to deal with traditional, territorial threats. Poland also played an important part in pushing both the EU and NATO to adopt a more coherent approach to Russian intervention and focus more on collective defence. Due to the Polish historical experience, and the current assessment of material assets and the political will of its traditional Western partners, Polish decision makers have also made a substantial effort to make NATO and the U.S. show more resolve

⁵⁹ The concept of the end of history is discussed in detail in the book published in 1992 by Francis Fukuyama. His main conclusion was that the end of the Cold War marked not only the end of a specific ideological conflict but meant also the universalisation of Western liberal democracy as the final form of human government. One of the effects of such a development would be the solution of political conflicts by political means and not by the use of military instruments. For more on that see F. Fukuyama, *The End of History and the Last Man*, Free Press, New York, 1992.

⁶⁰ Russia justified its intervention by the need to protect ethnic Russians in the area, but unlike its intervention in Georgia, which was also presented as a humanitarian intervention, Moscow decided to annex Crimea and continued its intervention by giving direct and indirect political and military support to separatists in eastern Ukraine who challenged the territorial integrity of the Ukrainian state.

⁶¹ Although Russia is not formally a member of the European and transatlantic security community it was widely expected that Russia would follow the practice of not using military instruments in its policy towards its European and Western partners.

⁶² In 2013 the White Book on Security stated that the probability of the outbreak of an interstate war in Europe was low, and presented data showing that Poles were not very anxious about a loss of sovereignty and independence. *The White Book on National Security*, BBN, Warsaw, 2013, p. 78. For an English language version of the document see www.spbn.gov.pl/download/4/15016/WhiteBookNationalSecurityPL2013.pdf.

and willingness to defend allies. On a visit to Poland in June 2014, Obama signalled a new U.S. commitment to European security, and the September NATO summit in Wales presented the Alliance's modified approach to both Russia and regional security.

For some years now Norway has been engaged in building friendly relations with Russia. Moscow's intervention in Ukraine was thus met with a mixture of disbelief, alarm and disappointment. Norway followed all EU decisions on the restrictive measures against Russia, and agreed that Jens Stoltenberg, one of its most experienced politicians, would become the next secretary general of NATO, tasked with dealing with the immediate consequences of Russian actions. On the domestic level, Norway revised its assessment of the strategic importance of Russia in two lengthy statements published in the middle of October 2014 by the Ministry of Defence and Ministry of Foreign Affairs⁶³ in connection with work on the country's budget. In order to adapt to these new security circumstances, and show its sense of responsibility to its NATO partners, the Ministry of Defence asked for a 3.4% (NOK 1.46 billion) increase in its budget. On 1 October 2014 the minister of defence asked the chief commander of the armed forces to prepare, by the end of 2015, a set of recommendations on how the Norwegian armed forces could be better prepared to meet future challenges, including those stemming directly and indirectly from the Russian intervention in Ukraine.⁶⁴

Conclusions and Recommendations

In the wider realm of security, some alterations in the EU's neighbourhood policies are clearly needed. Although there are some confirmations of the role of the EU's economic clout and security instruments, and of the continuing attractiveness of its governance model, the Russian–Ukrainian crisis has revealed that the previous framework was insufficient. Greater awareness of different perceptions of the EU's actions can also add to a better understanding of the challenges ahead. The crisis in Ukraine will undoubtedly influence the future development of cooperation between the EU and NATO, and will most probably increase the scope and the depth of security cooperation between the two. This will in turn provide new opportunities to increase the scope of bilateral security cooperation between Poland and Norway, and may also motivate both of them to better coordinate their security policies in NATO, and to jointly support the development of more fruitful cooperation between NATO and the EU on various aspects of security in Europe.

What can thus be recommended to Warsaw and Oslo in the given situation? Poland has to speed up and complete the process of building a comprehensive national security system, in which different state agencies and services should communicate and better cooperate with each other. In order to build a viable national deterrence potential, the future structure, tasks and equipment of the armed forces need to be further defined, and long-term financing assured. Poland has to strike the right balance between investing in European defence capabilities and enhancing its own military capacity to defend its territory and borders, especially in a situation when NATO's Article 5 commitment to collective defence is not automatically implemented, or in the so called "hard to find consensus" situations. The asymmetric and hybrid mode of warfare introduced during the Ukrainian crisis makes the urgency of this task even more acute. Being dependent

⁶³ In both documents it was underlined that Russia, through its actions in Ukraine, which were illegal from the point of view of international law, has changed the security environment around Norway, increasing the level of conflict between Western countries and Russia to its highest since 1989. The Norwegian Ministry of Defence, Prop. 1 S (2014–2015), "Proposisjon til Stortinget (forslag til stortingsvedtak) for budsjettåret 2015, 2014," www.statsbudsjettet.no/upload/Statsbudsjett_2015/dokumenter/pdf/fd.pdf, and the Royal Ministry of Foreign Affairs, Prop. 1 S (2014–2015), "Proposisjon til Stortinget (forslag til stortingsvedtak) for budsjettåret 2015, 2014," www.statsbudsjettet.no/upload/Statsbudsjett_2015/dokumenter/pdf/ud.pdf.

⁶⁴ For more details see the detailed description of the assignment at <http://regjeringen.no/upload/FD/Dokumenter/Rammeskriv.pdf>.

on external support in the worst case scenario, both Poland and Norway should reconfirm their commitment to NATO.

Norway should consider increasing the level of military spending to 2% of GDP, as encouraged by the Alliance, and spend this on projects related to collective defence and strengthening Norway's strategic capabilities and position in the region. Both Poland and Norway should increase their level of cooperation with EU Member States facing similar Russia-induced security dilemmas. The Ukrainian crisis has confirmed that Russia still considers the use of various forms of military power as a legitimate instrument of its policy. Due to the disparity of potentials, Norway has had to rely on its allies for securing a sufficient level of deterrence/threshold defence vis-à-vis potential threats, but at the same time has chosen to provide some reassurance to its neighbour. As this double deterrence/ reassurance approach has proven efficient, exemplified by the fact that Norway and Russia managed to solve a border issue in the Barents Sea in 2010, Norway should try to continue to follow this line in its relations with Russia in this new strategic situation as well, especially if Russia were to reconsider its policy towards Ukraine and embark on a more constructive approach to building mutual trust. This may, however, be difficult in a situation when all Norway's allies still insist that it is too early to lift sanctions imposed on Russia.

Coping with the Cleavage between Energy Importers and Exporters

Neither Poland nor Norway has fundamentally re-defined their national energy policies as a consequence of the crisis. But both countries have implemented ad hoc measures to decrease the negative effect of the disruptions of gas deliveries to Ukraine, with Poland using a reverse pipeline on the border to deliver gas to Ukraine (although its capacity of 1.5 billion cubic metres annually equals just 6% of Ukrainian supplies from Russia) and Norway agreeing to deliver small volumes of gas to Ukraine through the European gas network. Both countries also used the momentum to influence the EU's energy agenda and secure their interests.

In all this, Poland epitomises the dilemmas of an energy importer. It is an EU Member State with fossil fuels making up a large proportion (90%) of energy consumption, and is rich in national coal resources. But national coal is expensive due to fixed costs, leaving the country hooked on imports of oil, gas and even coal from Russia. Policy focuses on security of supplies (for example, crisis management, solidarity mechanisms, and diversification). The EU's attempts to present renewables and a low-emissions setup as the solution is treated with scepticism, not least because the approach is weighted against the exploitation of indigenous coal resources. The battle over gas supplies served as a catalyst to change the EU focus from climate to security. Consequently, Poland militated for EU security of gas supplies, as well as closer EU energy cooperation and alignment of national policies vis-à-vis Russia. The EU Energy Union proposed by Donald Tusk in April 2014 listed some measures aimed at improving security. The concept was, in principle, adopted by the European Commission, which currently is working on detailed guidelines to be presented by the end of February 2015.⁶⁵

Norway has a different perspective, thanks to its status as an energy exporter to the EU.⁶⁶ This is because, in a way, it falls into the same category as Russia, and the economies of both countries depend on gas and oil sales to the EU. Still, the crisis has increased the value of Norwegian gas, considered to be the politically safer option. Consequently, production has increased, and

⁶⁵ The details of the ideas of common gas purchases, and the rehabilitation of coal were criticised, as a possible drift away from liberalisation and the long-term transformation of the sector.

⁶⁶ To learn more about Norway's understanding of its country's energy dilemmas see J.M. Godzimirski, "The Norwegian Energy Security Debate," in: E. Moe, P. Midford (eds.), "Common Challenges, National Responses: The Political Economy of Renewable Energy and Energy Security in Japan, China and Northern Europe," Palgrave Macmillan, London–New York, 2014, pp. 116–136.

new markets (such as Lithuania and Ukraine) have opened. Nevertheless, internal conditions limit the country's ability to fully replace the shortfall in Russian gas, and to eliminate the uncertainty in the market, bringing uncertainty towards the role of gas in the future energy mix of the EU. The same logic applies to the EU's low-emission transformation, which Norway supports as long as it does not decrease the European demand for its gas and oil. This is because, internally, the country is the leading renewable energy consumer (50% of the energy mix), though further transformation of the national sector is perceived as a costly challenge.

Conclusions and Recommendations

The Ukrainian–Russian conflict has revealed three main energy governance needs inside the European Union. First, to ensure greater energy security guarantees to the EU Member States and transit countries. Second, to ascertain strong EU leadership, and appropriate tools for policy formulation. Third, to integrate internally, both physically through market interconnections, and politically, around the same goal.

The revival of energy security in the EU is the most vivid (though likely short-term) consequence of the conflict. During the crisis, Norway has proved to be a reliable partner of the EU, and increased trust between the parties. Still, the country can by no means replace Russian gas, and it opposes the Energy Union proposal of joint EU gas purchases. Another likely aftermath of the crisis is that crisis management communication between the EU Member States will improve, and that the new government in Ukraine will be motivated to implement the EU regulations on gas market liberalisation.

Dependence on Russian gas will not decrease overnight, firstly because of the long-term take or pay contracts with Gazprom across Europe, and secondly, because of likely problems with financing for the modernisation of the decapitalised energy sectors, or for improving the energy efficiency in Eastern and South-Eastern Europe, Ukraine included. This is a matter of vital importance for Poland, where investments in generation and transmission (of both electricity and gas) are estimated to reach €25 billion by 2020. The country might use the crisis to put the region it in the spotlight of EU financing, and crediting. Increased regional interconnectivity will boost market development in Poland, which is expecting a gas surplus next year, once additional Qatari LNG supplies reach Świnoujście, and in the longer term possibly from other LNG suppliers.

The European Commission's bid for leadership has to be executed within the framework of the competence limitations. Like in the financial sector, the Commission could use the European semester mechanisms, with a view to increase its influence. Also learning from financial sector, it could be claimed that increasing energy efficiency will not be possible without the deployment of the strongest tool at hand, namely competition. Closer market integration, and a level playing field, is the first step in achieving the goals of sector transformation. This, however, might be hard to achieve without a fourth liberalisation package and greater competences for the EU agencies, such as ACER. As with the three previous packages, a new one is likely to clash with the particular interests of the EU Member States.

Not least, when it comes to policy goals the Commission's internal governance reform reflects a desire for integration and continuity towards low-emission transformation. The Commission could make progress toward this goal by developing environmental regulation, where its competences are broader. Should that trend continue, there is a risk of a split within the EU. A first group of countries will undergo low-carbon transformation of their energy sectors, while a second group, increasingly reliant on fossil fuels, will have to develop additional technologies (with limited EU support), or pay a fee for pollution. It will also be left vulnerable to global changes in commodity prices. Poland, which secured emissions exemptions for its coal producers

in the 2030 perspective, would be likely to be among the latter group, as developing low-carbon technologies or switching to renewables is a challenge, with simultaneous development of the fossil fuels. Norway, which officially shares the EU's climate goals and is a part of the European Trading System, will be influenced by reform. Electricity cooperation (both in terms of connecting the North-Western European and Nordic electricity markets and of developing interconnectors between continental Europe and the United Kingdom) is likely to develop in the future.

Reacting Upstream to an Unclear Refugee Problem in the East

Poland, as a frontline state bordering directly on the area of the crisis, is naturally concerned about possible large-scale forced migration. So far, migratory pressure has been manageable, but if this increases substantially Poland might find itself in need of European solidarity. That makes it hard for Warsaw to define its interests at a time when it itself is being asked to show solidarity: does it side with Mediterranean states in pursuit of a European system of solidarity or not? Meanwhile, as regards the question of labour migration from troubled Ukraine, Europe is becoming an even more attractive target. Poland, already host to over 37,000 Ukrainians,⁶⁷ may witness not only a rise in the volume of migration, but also greater differentiation in type. Poland also decided to evacuate people of Polish descent from Donbas (178 partook part in the programme).⁶⁸ The quality of the help offered in Poland will serve as a litmus test of Polish capacities regarding integration programmes and coordination between ministries. This comes at a time when Poland is still in the process of liberalising and strengthening its immigration policies, in the framework of implementing the strategic document on migration policy ("Polska polityka migracyjna: stan obecny i postulowane działania").⁶⁹ Last but not least, in line with the EU's overall support for Ukraine, Poland would expect EU-wide progress in the visa facilitation and liberalisation process.

Norway faces some dilemmas similar to those faced by Poland. The main difference is that Norway, unlike Poland, is not a frontline state that has to prepare some contingency plans in case of a worsening of humanitarian situation in Ukraine. This does not, however, let it off the hook. Norway has learnt that a humanitarian crisis even in a more remote part of the world will sooner or later translate into a greater flow of refugees and asylum seekers, some of them reaching Norway. This was, for instance, the case with many thousands of Chechen refugees coming to Norway after the outbreak of the second Chechen war in 1999/2000. Its efforts to resettle refugees from the Eastern Mediterranean also give it a stake in the EU's ongoing debate on solidarity. Moreover, due to the country's prosperous economy, Norway is a very attractive target area for economic migrants from Ukraine. Its domestic labour market model may thus become an important pull factor, attracting new waves of Ukrainian labour migrants, as well as making Norway an important part of the EU's efforts to leverage visa facilitation in the neighbourhood.⁷⁰

⁶⁷ Valid residence permits by 31 December 2013, source: M. Jaroszewicz, M. Lesińska (eds.), "Forecasting Migration between the EU, V4, and Eastern Europe...", *op. cit.* p. 91.

⁶⁸ Ministry of Foreign Affairs, "People of Polish Descent Evacuated from Donbas," 13 January 2015, www.msz.gov.pl/en/news/people_of_polish_descent_evacuated_from_donbas.

⁶⁹ State of implementation on 8 October 2014, <http://bip.msw.gov.pl/bip/polityka-migracyjna-po/19529,Polityka-migracyjna-Polski.html>.

⁷⁰ Once the EU has signed a visa facilitation agreement with a third country, Schengen-associate states such as Norway, Switzerland and Iceland are invited to follow suit. In addition, Norway has been very active in shaping international framework for handling refugee issues as a part of its ambitious policy on foreign aid, and is a strong advocate of international cooperation in that field.

Conclusions and Recommendations

Instead of being a true game-changer in migration governance, the Russian-Ukrainian crisis is rather a factor that highlights some systematic deficiencies and vulnerabilities of the EU system. The high volatility that characterises the current situation, makes contingency planning both more difficult and necessary. This is especially true for the Common European Asylum System, which is now in a renewed phase of implementation, adapting national practices to the recast directives aimed at greater harmonisation and higher standards of procedures and reception of asylum seekers. Meanwhile, the EU is struggling to define, by its actions, what “solidarity” really means in this area. Despite persisting skill shortages and a worsening demographic situation, with the rise of anti-immigration and anti-European discourse across Europe, managing more labour migration may be challenging for policy makers. Last but not least, the EU is facing the challenge of conducting a migration policy that takes proper account of third country needs and suits the European foreign and security policy agenda.

Poland, due to its geographical proximity to Ukraine and active eastern policy is naturally on the forefront of all these challenges. It is particularly important that it maintains its readiness to host Ukrainian refugees and focus on strengthening EU-wide solidarity instruments. Polish immigration policy, still very much in the making,⁷¹ requires investment in the integration capacities needed for dealing with different types and larger numbers of Ukrainian immigrants. It is also crucial that Poland remains an advocate of visa facilitation and liberalisation. For Norway, the impact of the Russian–Ukrainian crisis is, and will probably remain, much less direct. Nevertheless, there is a need for close monitoring of the situation and engagement in humanitarian aid. Since Norway is also a very attractive target for labour migration from Ukraine, there will be a need for the implementation of some measures to prevent the misuse of the asylum instrument in the event that the humanitarian situation in Ukraine worsens.

⁷¹ See: J.M. Godzimirski, K. Kasianiuk (eds.), *Polish and Norwegian Governance: Closing the Gaps*, Warsaw, July 2014, www.pism.pl/publikacje/Raporty-PISM/Polish-and-Norwegian-Governance-Closing-the-Gaps, p. 29–34.

V. Things to Watch in 2015

The Ukraine crisis is certainly an important factor in the EU's process of policy formulation, coming as it does just ahead of the new institutional cycle. As such it will boost the EU's willingness to truly engage in evaluation of its policies and in the process of mutual learning, which are crucial elements of successful experimentalist governance leading to better adjusted policies.⁷² However, its impact on solving the EU's inherent governance weaknesses, and on boosting the will to integrate and pool EU resources, will be verified only with time. Internally, the process of reformulating the EU agenda by the European Council and new European Commission provided an opportunity to address the new strategic challenges. Although the European Council's "Strategic Agenda for the Union in Times of Changes" put economic growth as a first priority, energy issues, better migration management, and a stronger voice in foreign and security policy are also highly-placed on the list.⁷³

The introduction of the new structure of the European Commission signalled the commitment to deliver on key issues,⁷⁴ many of which, such as an Energy Union or better coherence of the EU's external actions, are crucial for dealing with the Russian-Ukrainian crisis. But the new structure is also a challenge, and neither the mission letters nor the hearings in the European Parliament put an end to the discussion on its actual functioning.⁷⁵ Thus, the first things to watch are how the new Commission will work, and whether this new structure will produce better coordination and improve the coherence of EU policies. In specific governance areas, some key developments will show whether the EU is able to adapt to the new situation in the medium and long-term:

In security and defence:

- The development of NATO and EU cooperation will help define whether the effect of the Ukrainian crisis is short or long-term.
- The effect of Russian action on defence and security spending in Europe will show whether there is a room for the de-economisation and re-securitisation of European security policy. Reactions may differ, depending on a Member State's proximity to the conflict zone.
- Whether Europe will manage to re-evaluate its neighbourhood policy, and develop the broader security concept, will depend largely on the ability of the High Representative to act as a real coordinator of foreign and security policy.

In energy:

- The development of infrastructure and regulation to ensure the possibility of reverse flows of gas at interconnectors is a likely short-term test of the real commitment to strengthening the security of supplies. South-Eastern European states might benefit from the EU assistance both in terms of diversification and market development, provided they obey the EU regulations.
- In the mid to long-term perspective, however, relations with Russia will have to be dealt with due to the high level of mutual interdependence in the energy field.

⁷² L. Puka, R. Parkes (eds.), "Linking National and European Governance...", *op. cit.*

⁷³ *Strategic Agenda, op. cit.*

⁷⁴ More on the new structure: M. Stormowska, "Junckera recepta na sukces: Nowa struktura Komisji Europejskiej," http://blog.pism.pl/pl/Czy_taka_jest_przyszlosc_Europy?p=1&id_blog=39&lang_id=12&id_post=365.

⁷⁵ V. Petruscot, "Juncker's 'Last chance' Commission: Can He Deliver?," Policy Network, 23 October 2014.

- Despite continuity in the European Commission’s approach to low carbon transformation, the likelihood that this goal will be achieved will depend on the level of market integration between Member States (short-term) and the development of clean coal technologies and transformation in Eastern Europe (mid-term). If they fail, the likelihood of reaching an agreement post 2030 will be close to nil.
- Depending on the efficiency of the new governance structure in the European Commission, the Member States’ ambitions under the voluntary renewables goal post 2020 and the support available, the trend towards two-speed energy transformation in the EU might increase.
- The establishment of an Energy Union is a necessary step for integration, but is not taken for granted. A qualitative change still depends on the agreement reached, for which the countries need to see direct benefits, and on the actions of the Vice President.

In migration:

- Before looking to the east, one has to see how Europe deals with the challenges in the South. In the first place, the development of new Frontex border surveillance mission in the Mediterranean (Frontex Joint Operation “Triton”)⁷⁶ and the next steps in border management.
- To see if the EU is to take up the challenge of improving asylum policies, it is crucial to monitor whether the recast directives of the Common European Asylum System are correctly implemented, and whether relocation and resettlement initiatives are joined by more Member States.
- Much will depend on how the Commission’s ambitions in the field of legal migration are translated into policy measures, and what the results of the Blue Card directive evaluation will be.
- It is also important to follow the way the EU is to deal with the debate on new principles for free movement and access to social benefits at national and EU level.
- Finally, it is important to see how the new Commission structure will improve the coordination of migration policy, and what the real role of the High Representative will be.

⁷⁶ European Commission, “Frontex Joint Operation ‘Triton’—Concerted Efforts to Manage Migration in the Central Mediterranean,” memo, Brussels, 7 October 2014, http://europa.eu/rapid/press-release_MEMO-14-566_en.htm.

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Project GoodGov—“National and European Governance: Polish and Norwegian Cooperation Towards More Efficient Security, Energy and Migration Policies”—is a Polish–Norwegian research project conducted by PISM in cooperation with NUPI and ISP PAN.

The project explores how Poland and Norway can learn from each other in the crucial policy areas of security, energy and migration. This report finalises the initial stage of the project. The other three publications analyse: how unequal partners can learn from each other; how this process can be structured within the EU and EEA frameworks; and how this would function specifically between the two countries in the three chosen fields. The project is conducted by PISM in cooperation with the Norwegian Institute of International Affairs and the Institute of Political Studies of the Polish Academy of Sciences. The project is managed by Lidia Puka (PISM). The content editor is Roderick Parkes (PISM). More information: goodgov.pism.pl.

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