

**UNIVERSITY OF ECONOMICS, PRAGUE**  
**Faculty of International Relations**

**D O C T O R A L   T H E S I S**

2018

Monika Bokšová

**UNIVERSITY OF ECONOMICS, PRAGUE**  
**Faculty of International Relations**  
Department of International Business



TITLE

**THE IMPORTANCE AND THE EFFECTS OF THE  
COMMON COMMERCIAL POLICY OF THE  
EUROPEAN UNION WHEN REACHING  
NON-ECONOMIC GOALS**

AUTHOR

**Monika Bokšová**

ACADEMIC DEGREE

**Doctor of Philosophy (Ph.D.)**

Study Programme:  
Field of Study:  
Under Supervision of:

International Economic Relations  
International Business  
Associate Professor Ludmila Štěrbová

# Table of Contents

<i>Acknowledgement</i> .....	<i>iv</i>
<i>Declaration</i> .....	<i>v</i>
<i>Abstract</i> .....	<i>vi</i>
<i>List of Abbreviations</i> .....	<i>vii</i>
<b>Introduction</b> .....	<b>1</b>
<b>1 Literature Review</b> .....	<b>6</b>
1.1 Normative Power .....	6
1.2 Market Power .....	14
1.3 Global Regulatory Power .....	18
<b>2 Methodology</b> .....	<b>23</b>
2.1 Conceptualisation .....	23
2.2 Research Gap .....	27
2.3 Method .....	29
<b>3 Human rights clauses within the Stabilisation and Association Agreements vis-à-vis EU Enlargement Policy</b> .....	<b>36</b>
3.1 Principle of Leverage .....	40
3.2 Principle of Pragmatism .....	47
3.3 Principle of Credibility .....	52
<b>4 Human rights clauses within the Association Agreements vis-à-vis EU Neighbourhood Policy</b> .....	<b>61</b>
4.1 Principle of Leverage .....	63
4.2 Principle of Pragmatism .....	70
4.3 Principle of Credibility .....	76
<b>5 Human rights protection vis-à-vis the GSP+ arrangement</b> .....	<b>82</b>
5.1 Principle of Leverage .....	85
5.2 Principle of Pragmatism .....	91
5.3 Principle of Credibility .....	94
<b>Conclusion</b> .....	<b>103</b>
<b>List of Interviews</b> .....	<b>110</b>
<b>References</b> .....	<b>112</b>
<b>Annex A</b> .....	<b>123</b>
<b>Annex B</b> .....	<b>125</b>

## **Acknowledgement**

I am grateful to associate professor Ludmila Štěrbová for her supervision, expertise and for her continued support over the years. Similarly, I am indebted to the reviewers for providing me with invaluable feedback and critical insights enabling me to refine my work. Additionally, I would also like to thank my brother for being the very first reader of my thesis. For our intellectual and stimulating talks I am most appreciative.

I am also thankful to all practitioners who kindly agreed to be part of my study. I am grateful for their openness and willingness to share their first-hand experience with me in order to advance the understanding of the EU action. In this regard, I am similarly very appreciative for the support of the Delegation of Prague to the European Union, which allowed me to conduct most of the interviews at the very heart of the European Union – in Brussels.

Lastly, my profoundest gratitude goes to my dear and caring family, affectionate Tomáš and my closest friends Augustina, Eva and Zuzana. Without their constant encouragement, academic motivation and love my research would not have been possible. This thesis is dedicated to them.

## **Declaration**

I, Monika Bokšová, hereby certify that this thesis has been written by me and I have acknowledged all citations and sources appropriately. I was admitted in September 2012 as a research student and a candidate for the degree of Doctor of Philosophy (Ph.D.), the higher degree for which this is a record of work carried out at the University of Economics in Prague between 2012 and 2018.

November 19, 2018

## Abstract

This doctoral thesis analyses the role of the European Union (EU) in the international system and contributes to the ongoing debate on EU-as-a-power. Its predominant aim is to investigate the Common Commercial Policy as a tool for achieving the EU's non-economic goals, in particular, the protection of human rights. In doing so, it offers an empirical study on how the EU's market power is used to externalise EU human rights regulations in countries of negligible economic importance. The analysis is conducted on three different levels of policies: (1) EU Enlargement Policy, (2) EU Neighbourhood Policy and (3) other partners – economically vulnerable countries involved in the incentive arrangement General Scheme of Preferences Plus (GSP+). This is a qualitative comparative case study analysis and the two key data sets consist of a wide range of policy documents provided by the EU together with the trade agreements, and the interviews conducted with EU and member states' representatives at various levels and in different functions. In parallel, quantitative trade-related data are used to support the arguments presented throughout the study. The analytical framework applied is thematic analysis and the patterns identified across the data are: the *principle of leverage*, the *principle of credibility* and the *principle of pragmatism*. This thesis demonstrates that (1) the EU does use its market power; (2) the EU externalises its human rights regulations explicitly and evidently in trade agreements across its policies; (3) the EU is a pragmatic actor and this results in policy inconsistencies and double standards; (4) the possible consequences of these inconsistencies on the EU's credibility as an actor are taken into account by the EU.

**Key words:** European Union, market power, human rights, externalisation, credibility, leverage, pragmatism

## List of Abbreviations

AA	Association Agreement
BiH	Bosnia and Herzegovina
CAT	Convention Against Torture
CCP	Common Commercial Policy
CIA	Central Intelligence Agency
DCFTA	Deep and Comprehensive Free Trade Agreement
DG NEAR	Directorate-General for Neighbourhood and Enlargement
DG TRADE	Directorate-General for Trade
EaP	Eastern Partnership
EBA	Everything But Arms
EC	European Commission
ECJ	European Court of Justice
EEAS	European External Action Service
ENI	European Neighbourhood Instrument
ENP	European Neighbourhood Policy
ENPI	European Neighbourhood Policy Instrument
EP	European Parliament
EPE	Ethical Power Europe
EU	European Union
EUBAM	European Union Border Assistance Mission to Moldova and Ukraine
Euromed	Euro-Mediterranean Partnership
Eurojust	European Union's Judicial Cooperation Unit
Europol	European Police Office
Frontex	European Border and Coast Guard Agency
FTA	Free trade agreement
FYROM	Former Yugoslav Republic of Macedonia
GATT	General Agreement on Tariffs and Trade
GDP	Gross domestic product
GS	A Global Strategy for the European's Union Foreign and Security Policy
GSP	Generalised Scheme of Preferences
GSP+	An extension to the Generalised Scheme of Preferences (a special incentive arrangement to encourage sustainable development and good governance)
HRs	Human rights

HRW	Human Rights Watch
ICC	International Criminal Court
ICCPR	International Convention on Civil and Political Rights
ICJ	International Court of Justice
ICTY	International Criminal Tribunal for the former Yugoslavia
ILO	International Labour Organization
IPE	International Political Economy
IR	International Relations
KSC&SPO	Kosovo Specialist Chambers & Specialist Prosecutor's Office
LDC	Least Developed Country
LPE	Liberal Power Europe
MEP	Member of the European Parliament
MPE	Market Power Europe
NATO	North Atlantic Treaty Organization
NPE	Normative Power Europe
PPP	Purchasing power parity
SAA	Stabilisation and Association Agreement
S&D	Progressive Alliance of Socialists and Democrats in the European Parliament
SAP	Stabilisation and Association Process
TAIEX	Technical Assistance and Information Exchange
TEU	Treaty of the European Union (Treaty of Lisbon)
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNSCR	United Nations Security Council Resolution
USA	United States of America
WB	Western Balkans
WIPO	World Intellectual Property Organization
WTO	World Trade Organization



## **Introduction**

The European project is based on economic integration. Despite diverse challenges, such as the European debt crises, the migration crises peaking in 2015, persistent youth unemployment in many member states, a growing and ubiquitous ageing population, and, most recently, Brexit, the European Union (EU) is still largely considered a successful project and the cornerstone of European stability and economic prosperity. As such, it has attracted scholarly attention for some time, focusing not only on the Union's development and the policies it has established over more than six decades, but also on its unique character as an actor in the international arena – a notion transcending a variety of disciplines, in particular International Relations (IR), International Political Economy (IPE) and International and European Law.

These disciplines offer competing claims with regard to the nature of the EU, resulting in various concepts contributing to the EU-as-a-power debate. Their fundamental postulates differ, however, thereby providing an unparalleled opportunity for mutual enrichment when opting for an interdisciplinary course. Whereas the IR scholarship focuses primarily on the ends, and to a certain extent, on the means of a power, labelling the EU with certain modifications pervasively as a normative power, the IPE scholarship puts the emphasis on the sources of power, and thus approaches the EU as a market power. Within the rigid legal framework, the notion of power is particularly puzzling and cannot be understood in the traditional way, i.e. as a tool to wield influence. Rather it is either viewed as a competence to act in line with legally binding documents or as a global reach of EU law, eventually addressing the EU as a global regulator.

This doctoral thesis aims to contribute to the EU-as-a-power debate by focusing on one of its oldest common policies, the Common Commercial Policy (CCP). Trade is central to the European project, and as such provides an opportunity to understand the EU's power better. Indeed, even the European Coal and Steel Community was designed to encourage trade while conserving peace in Europe, and thus implicitly to promote the protection of human rights (HRs). As a result, the development of trade and the promotion of HRs have gone hand in hand ever since. That said, the point of departure of this thesis is Chad Damro's (2012) relatively recent model of Market Power Europe, which underlines the importance of the EU in international trade by simultaneously envisaging a wide range of areas of EU interest beyond trade issues. This has provoked the author's

keen interest in pushing the debate further by offering a compelling analysis of the importance of the CCP when reaching non-economic goals, focusing on the protection of human rights in third countries. More specifically, the research question is: ‘How is the EU’s market power used to externalise the EU’s human rights regulations in countries with negligible economic importance?’

Rather than trying to find substantive truth, this thesis seeks to capture *how* the process of reality is constructed via a profound analysis of *text* and *talk* in social reality, focusing on language as the key medium of interaction. Its aims are therefore threefold.

- (1) To examine the instruments the EU has at its disposal to pursue the protection of human rights in trade deals with countries which have the potential to access the EU and are candidate or potential candidate states.
- (2) To assess whether the instruments that work within the EU Enlargement Policy are equally useful for partner states participating in the EU Neighbourhood Policy to support human rights protection through trade.
- (3) To assess whether the instruments that work within the EU Enlargement Policy and/or the EU Neighbourhood Policy are equally useful for partner states participating in a special incentive trade arrangement, the Generalised Scheme of Preferences Plus (GSP+).

In order to answer the research question and fulfil the aims of the research, two main data sets were collected containing *interviews*, and *text* and *documents*. The objective of the interviews was to uncover how Market Power Europe makes its influence felt in EU practitioners’ daily practice on different qualitative levels of the EU’s trade relations inherent to three external policies: (1) the EU Enlargement Policy, (2) the EU Neighbourhood Policy and (3) countries involved in GSP+. These three case studies offer practical insights into how the EU uses its market power in order to achieve its overarching external policy goals. Additionally, this thesis also makes use of secondary quantitative trade-related data illustrating the arguments put forward.

Countries covered are Bosnia and Herzegovina, Serbia, Kosovo<sup>1</sup>, Georgia, Morocco, Ukraine, Bolivia, Pakistan and Sri Lanka. This brings some limitations. The scope of this study does not allow for the inclusion of a greater sample of countries. Nor does it deal

---

<sup>1</sup> This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

with countries outside the above-mentioned policies, and therefore regions such as Sub-Saharan Africa are omitted. Lastly, although this study only deals with economically insignificant countries, which may appear to be limiting, such an approach is essential in order to move the debate forward and challenge current scholarly understanding of the EU action towards such countries.

The analytical framework applied in this thesis is a qualitative thematic analysis in which three themes have been identified, allowing for a better understanding of the EU's action vis-à-vis its partners in each of the case study groups.

- (1) The *principle of leverage*, considering both the 'sticks' the EU has at its disposal and its possible manoeuvring limitations.
- (2) The *principle of pragmatism*, which seeks to explain the rationale behind particular actions.
- (3) The *principle of credibility*, shedding light on whether or not the EU is perceived as an authentic and convincing partner.

It was only possible to identify these patterns by engaging with data sets (the relevant EU documents and trade agreements, and the interviews) and also by looking beyond to other available sources. As a result, field work turned out to be a cornerstone of this research, and 26 EU practitioners were interviewed in four different locations: Brussels, Prague, Vienna and The Hague.

Subsequently, this thesis argues that the EU is aware that its biggest strength – the power of its market as a vehicle – plays a key role in the stimulation of desired actions outside its territory. Thus, the EU makes effective use of its market as a tool across different levels of trade relations embedded in different external policies. The EU's action is driven by *pragmatism* and less so by norms, which, although upheld to some extent, are often sacrificed for *pragmatic* reasons. Moreover, even though some EU actions might give a semblance of the desire to uphold norms, these actions may be explained in parallel by the *principle of pragmatism*. The EU's main aim in its external affairs is constructive engagement and it is ready to use any means at its disposal to keep the third countries engaged in a dialogue, thus not sacrificing its *leverage* completely. Indeed, it would rather weaken its *credibility* through an inconsistent approach and 'double standards' than threaten its overarching interests. In order to demonstrate these findings, the thesis is divided into five chapters as follows.

Chapter 1, *Literature Review*, is divided into three sub-chapters, mirroring the interdisciplinary nature of this thesis and seeking to combine insights gained from three different disciplines: (1) International Relations, (2) International Political Economy and (3) International and European Law. As such, it sets the scene of this research. The second chapter *Methodology* presents the analytical framework within which the research is conducted and the data sets upon which it resides.

The next three chapters analyse the different ways in which trade agreements serve as a vehicle for exporting the protection of what, in the eyes of the EU, are universally applicable human rights. Chapter 3, *Human rights clauses within the Stabilisation and Association Agreements vis-à-vis EU Enlargement Policy*, focuses on the instruments the EU has used to promote human rights in Western Balkan countries, with specific reference to Bosnia and Herzegovina, Serbia and Kosovo. Western Balkan countries all have genuine potential to join the EU, although their individual positions differ.

Chapter 4, *Human rights clauses within the Association Agreements vis-à-vis EU Neighbourhood Policy*, deals with the more proximate southern and eastern neighbours of the EU. These countries, in contrast to those involved in the EU Enlargement Policy, are not perceived as potential EU member states. Nevertheless, the EU has sought to offer them an alternative preferential economic and political regime. These agreements provide privileged links involving the establishment of a free trade area and creating border cooperation in areas of mutual interest between the EU and the country in question (Institute for Government 2018). The exact nature of these agreements varies from country to country. The three examples examined in this chapter are Georgia, Morocco and Ukraine.

Chapter 5, *Human rights protection vis-à-vis the GSP+ arrangement*, covers geographically remote countries that have little commercial value for the EU – indeed, their share of the EU's total trade in goods is little to none. This applies to Bolivia, Pakistan and Sri Lanka, the case studies featured in this chapter. The fact that the EU offers preferential access to its market in return for the fulfilment of certain criteria demonstrates its willingness to make use of political conditionality, even in these distant lands.

The concluding final chapter reflects on the main findings of those that precede it. It demonstrates how this research contributes to furthering the EU-as-a-power debate by

applying Chad Damro's 2012 model to an original analytical framework. The chapter concludes by presenting the policy implications of this research and its relevance for EU policy makers.

# 1 Literature Review

A long history of discussion as to the essence of power within the international interaction has failed to generate a broad agreement on its nature and its role (Baldwin 2012, 273). Dahl (1957) defined power as an ability to do things and control others, to get others to do what they otherwise would not (as explained in Baldwin 2012, 273). This definition is widely accepted, although scholars disagree over the exact nature of power (Baldwin 2012). Similarly, the essence of the European Union and its policies has attracted scholarly attention for some time, transcending a variety of disciplines. Building on these notions, an interdisciplinary approach is crucial to this research, pertaining primarily to three disciplines: (1) International Relations (IR), (2) International Political Economy (IPE), and (3) International and European Law.

This chapter serves as a vehicle to uncover the power puzzle of the EU by exploring the constantly evolving body of ideas presented within each of these disciplines, starting with Francois Duchêne (1973) and continuing through Ian Manners (2002) to the more recent work of Chad Damro (2012). Although the aim is not to offer an exhaustive list of concepts, which is beyond the scope of this thesis, the discussion below presents a synthesis of cross-disciplinary thought, seeking to contribute to the ongoing debate by offering a comprehensive picture of insights gained from across the disciplines.

This will, consequently, allow in Chapter 2 for the conceptualisation and conduct of this research and ultimately push the EU-as-a-power debate further by analysing the EU's approach towards third countries, with a sharp focus on the involvement of countries that are economically insignificant to the EU in three different policies: EU Enlargement Policy, EU Neighbourhood Policy and GSP+. The reason for narrowing the sample to economically negligible countries is a growing consensus among scholars that the EU is inconsistent when addressing human rights protection in third countries (Smith 2008, Börzel and Risse 2004, Smith and Light 2001), often identifying the economic (in)significance of an EU partner as a constitutive pattern governing the EU's approach.<sup>2</sup>

## 1.1 Normative Power

Power is one, if not the key concept, applied in International Relations and Political Science. Within the broader debate, much of the scholarly attention has been directed

---

<sup>2</sup> See Chapter 2 (section 2.2) for a detailed description of the research gap.

towards the European Union (or European Community as it was then)<sup>3</sup> because of its unique and ambiguous position in the international arena. Jacques Delors, former president of the European Commission, himself estimated the EU to be ‘un objet politique non identifié’ (1985).

This thesis perceives the EU as an international actor partnering European countries which have voluntarily decided to work together in certain fields, as specified in numerous treaties<sup>4</sup>, and, more importantly, to delegate some of their sovereign competences and responsibilities for decision-making to a supranational body. Although the EU is not a state, the aforementioned characteristics set it apart from a pure international organisation. In this regard, scholars tend to argue that the EU seems to be a *sui generis* phenomenon while recognising that it is not an international actor in the conventional sense (Phelan 2012, Rogers 2009, Rosamond 2005). Yet the EU does shape the international system in many respects simply by virtue of its presence (Rosamond 2005, 10).

Maull, however, upholds a traditional state-centric view within the international relations discourse, rejecting the definition of the EU as a power and preferring to denote it as a ‘force’ (2005). In IR scholarship, this seems relevant; after all, the non-state character of the Union has kept the EU from joining the International Labour Organization (ILO) and the United Nations (UN) as a full member (Larik 2016, 117).

The competing claims regarding the nature of the EU’s influence have spawned various concepts contributing to the EU-as-a-power debate. These concepts, according to Bachmann and Sidaway (2009), have mirrored the political and economic development of the EU over the years. As a result, the account below is broadly chronological.

### **1.1.1 Civilian Power**

The first contribution to be explored is that of Francois Duchêne, scholar and advisor to Jean Monnet, who introduced his notion of the EU as a civilian power in the first half of the 70s. That was around the same time that the very first enlargement of the EU took place and coincided with a period of geopolitical and geo-economic turbulence associated

---

<sup>3</sup> The name European Union was introduced by the Maastricht Treaty in 1993 but did not have legal personality until the Lisbon Treaty came into force in 2009. This thesis uses the terms European Community and European Union interchangeably.

<sup>4</sup> Paris Treaty (1952), Rome Treaties (1958), Merger Treaty (1967), Single European Act (1987), Maastricht Treaty (1993), Amsterdam Treaty (1999), Nice Treaty (2003) and most recently Lisbon Treaty (2009).

with two main events: (1) the aftermath of the United States of America's (USA) defeat in Vietnam, and (2) the collapse of the Bretton-Woods system of exchange rates fixed around the dollar (Bachmann and Sidaway 2009, 95). Although Duchêne advocated that 'Europe shall move beyond a common market towards a deeper political and economic union' and, as such, represent a new international authority that could wield its influence (Bachmann and Sidaway 2009, 96), his concept has neither been comprehensive enough, nor has it been sufficiently elaborated on in the literature (Orbie 2006, Zielonka 1998).

Notwithstanding these shortcomings, the Duchêne concept, sparked scholarly debate about what kind of power the EU is. Remarkably, within IR scholarship subsequent developments may not have moved in the direction initially intended by Duchêne (1973). Although this seems mere speculation, the idea that the economic strength of the EU could eventually shape its major source of power has a certain resonance with the International Political Economy perspective discussed below in section 1.2. It therefore appears that, while serving as a cornerstone of IR scholarship, the concept of civilian power shifted slightly away from Duchêne's initial assumption and was further thoroughly elaborated and discussed from various non-economic angles.

According to Smith, civilian power implies that it is '... non-military, and includes economic, diplomatic and cultural policy instruments', although she admits that a certain fuzziness appears as to what extent peacekeeping forces could be considered civilian when they use military means, regardless of their goals. In particular, Smith concedes that with regard to the four key elements of civilian power – means, ends, use of persuasion, and civilian control over foreign (defence) policy – a clear dividing line between civilian power and military power is more evident in the last three elements and relatively hard to determine in the first (Smith 2003, 64-65).

This conclusion may also be the answer to Stavridis' criticism of Smith's previous work on civilian power Europe, as he disputes the statement that militarising the EU diminishes its civilian power. According to Stavridis, the opposite is true; militarisation provides the EU with free choice regarding whether or not to use force in order to meet civilian ends, and thus enhances the EU's credibility as a power (2001, 18). Whitman (2002) and Sjursen (2006) agree that using military force, or threatening to do so, does not necessarily contradict the civilian ends a state or organisation may have, especially in case where important norms are systematically broken, leading a normative entity to conclude that



action is needed. ‘Military means does not invalidate the notion of civilian power Europe *per se*’ (Whitman 2002, 19). In short, the concept of civilian power evolved into extensive discussion about its ends and means, with a particular focus on military means and the appropriateness of their use in this context. However, the sources of such a power remained unanswered.

### **1.1.2 Soft Power**

At the turn of the 80s and 90s, Joseph Nye pioneered the notion of soft power. As with Duchêne, his conceptualisation was influenced by events, in this instance mainly by the end of a bipolar world. Although Nye’s analysis focuses primarily on the positioning of the USA within the world system, his thoughts are relevant for this research and applicable to EU realities. Nye points out that the source of power in world politics changes over time. Whereas in the 18<sup>th</sup> century, the deciding factor was the size of a country’s population, in the 20<sup>th</sup> century diplomats and politicians perceived crucial sources of power to be natural resources, economic size, military power and political stability. Consequently, the power of a country was ‘tested’ in a war (Nye 1990, 154). Nye realised that there is a certain shift in where the power of an actor comes from. At the end of the 20<sup>th</sup> century military force remained the ultimate source of power, yet an increasingly important role is played by (1) the ability to make use of communications, organisational and institutional skills, and manipulation of interdependence, and (2) the ability to benefit from the effects of new technologies, better access to education and economic growth (Nye 1990, 154-158). ‘Power is passing from “capital rich” to “information rich”,’ says Nye (1990, 164).

In respect of the EU, Nye argues that its lack of political unity precludes it from becoming more powerful. However, he predicts that the proof of power will no longer lie in the volume of resources an actor can supply, but in the actor’s ability to change the behaviour of other parties (Nye 1990, 155) in a way that conforms to its interests and deploying the skills mentioned above under (1). According to Nye, ‘soft co-optive power’ – non-coercively motivating others to behave in certain way – is no less important than traditional hard command power, simply because it provokes less resistance and thus may ultimately bring about the sought-after results (Nye 1990, 167). To support this notion, Nye (1990) presents two arguments. Firstly, in response to the increasing complexity of the modern world and the waning importance of territorial gains as a means of wielding power, states have become more economically interconnected and mutually

interdependent. However, interdependence does not mean harmony; it means unevenly balanced mutual dependence, often approached differently in security, trade and financial terms. Secondly, the ever-growing costs connected with the use of military force on the one hand, and the intransferable nature of this force on the other, limit its ability to attain desired effects.

### **1.1.3 Normative Power Europe**

In 2002, Ian James Manners put forward his influential concept of Normative Power Europe (NPE) just after the horrific events of September 11<sup>th</sup> 2001, which radically altered the perception of security and power in the world.

Manners wished to locate the EU power debate beyond the state-like feature polemic by focusing, not on what the EU *does* or *says*, but on what the core of its identity *is* (Manners 2002, 239). According to Manners, this can be defined through five principal norms – peace, liberty, democracy, human rights and fundamental freedoms – and four minor norms – social solidarity, anti-discrimination practices, sustainable development and good governance (Manners 2002, 242-243). In this sense, Pace (2007, 1044) understands that NPE is construed as an action of appropriateness.

Manners points out that ‘accepting the normative basis of the EU does not make it a normative power’ (Manners 2002, 244), and he finds it vital to search for the factors shaping the diffusion of EU norms. Firstly, this happens by *contagion* in the sense that European integration may serve as a model for other countries wishing to cooperate more closely. Secondly, *informational* diffusion takes place through EU communication strategies presented by its representatives. Thirdly, *procedural* diffusion is facilitated by the institutionalisation of the relationship between the EU and its partner, be that a country concluding an agreement or an international organisation accepting the EU as a member. Fourthly, *transference* occurs through mutual trade or financial and technical assistance provided by the EU. Fifthly, *overt diffusion* is promoted by the presence of EU delegations both in third countries and within the framework of international organisations. The final element is *cultural filter*, which basically means learning by doing. Manners describes this as an interplay between knowledge and the creation of political and social identity by the adaption or rejection of certain norms (Manners 2002, 244-245).

To sum up, Manners proposes that the acts of the EU are the results of what the EU *is*, and here he argues that the normative nature of the above-mentioned factors predisposes it to be a normative power. He adds that his concept has three important features. Firstly, it has an *ontological quality*, as the EU is conceptualised as a changer of norms within the international system. Secondly, it has *positivist quantity*, as the EU seeks to act in order to change the norms within the international system. Lastly, it also has a *normative quality* given by the conviction that the EU shall act to extend norms (Manners 2002, 252).

However, some authors criticise Manners' concept for lack of precision (Sjursen 2006, Pace 2007). Pace (2007, 1059) sought to evaluate the NPE concept by analysing its content, process, agents, environment, mechanisms and goals in the context of the Middle East conflict, arriving at the conclusion that NPE has its limits as it proved ineffective in this instance. Similarly sceptical about the NPE is Sjursen (2006), who highlights another flaw in the reasoning. She argues that labelling an actor as a normative power is particularly tricky when it comes to human rights, one of the core principles of NPE. The implication here is that the EU acts in order to spread the common good, but that would require a general or even universal understanding of what the common good is in terms of human rights. In reality, values or beliefs about what is 'good' vary significantly from culture to culture, and as such constitute the unique identity of every cultural space or community. Therefore, acting in line with NPE may be valid to the EU's own norms, yet may be perceived as an effort to wield its influence. To put it differently, Sjursen (2006) suggests that this may epitomise the new imperialism of the 21<sup>st</sup> century.

Another critique of the NPE concept was offered by Diez, whose main arguments were that: (1) there is little distinction between the civilian and normative concept and (2) the EU is not the only entity offering a normative discourse, referring to the activities of the USA, in particular; (3) 'normative and military power are not necessarily incompatible' (Diez 2005, 25). In this vein, Whitman (2002) and Sjursen (2006) also hold that normative and military power are not from the outset mutually exclusive. In response, Manners provided an additional explanation of his concept. Firstly, he maintained that if normative means 'should, ought, or good', then it is not clear 'what is normative about civilian power', given that Duchêne himself relied heavily on using materialist strategies and self-interest within Westphalian culture while stating that the EU seeks to civilise third countries. Undoubtedly, this raises post-colonial concerns (Manners 2006, 175-177).

Secondly, the civilian power concept emphasises the communitarian nature of its action with regard to national interests and goals, and is therefore only applicable to states, such as the USA. In contrast, NPE underlines the cosmopolitan nature of its action, focusing on what is considered 'normal' within world society (Manners 2006, 176). Lastly, Manners admitted that while there had been gradual military involvement, it was always predetermined by NPE principles (Manners 2006, 173).

One of the most recent critiques of NPE has come from Wagner (2017), who believes that the Manners' model shows limited understanding of EU actions. More specifically, Wagner points out that NPE tends to focus on the EU core norms as the key explanatory variables of EU policies, and thus underestimates the interest contestation within EU external relations (Wagner 2017, 1406). Besides EU interests, Futák-Campbell (2018) also criticises NPE for not incorporating identity and moral concerns into its model. She argues that it is important to incorporate these concepts and link them together in order to better understand what kind of power the EU is. This, she argues, helps to shed light on the nature of the EU as a 'multifaceted power'.

#### **1.1.4 Ethical Power**

Mixed interests and their contestation were admitted as part of the less revolutionary concept of Ethical Power Europe (EPE) introduced in the second half of the 21<sup>st</sup> century. Aggestam (2008) suggests that the EU shall be analysed as EPE on the grounds that EPE is a concept rather than a mirror of an empirical reality and as such shall be approached and explored.

She seeks to move the concepts of civilian and normative power further. Her assertion is that 'ethics is a deeply contested subject' (Aggestam 2008, 3), therefore ethical dilemmas are inherent to any actor striving for ethical action. 'Not only do ethical considerations have to be weighed against strategic interests; ethical principles themselves may conflict' (Aggestam 2008, 10). In the light of this, Aggestam does not unequivocally condemn inconsistency in the foreign policies of supposedly ethical actors and refers to a question raised by an EU official in connection with the crisis in Darfur<sup>5</sup>: 'Do you allow killing to

---

<sup>5</sup> Darfur is a region of Western Sudan where in 2003 conflict broke out initiated by intentionally marginalised non-Arab rebel groups. The Sudanese government led by the President Al-Bashir with strong pro-Arab rhetoric violently suppressed the rebel groups. An ethnically-targeted campaign of mass killing took place. The European Parliament called on the United Nations to protect the civilians. The United Nations Security Council referred the situation to the International Criminal Court (ICC). Consequently, President Al-Bashir was arrested and

continue or do you invade Sudan?’ (quoted in Aggestam 2008, 10). By drawing attention to such a concrete example, she adds weight to her argument that, although there may be general consensus on the abstract principles, making a timely, right and ethical decision may prove to be a tough task. In the same vein, Smith and Light (2001, 6) claim that humanitarian intervention is one of the more controversial issues on the foreign policy agenda.

The major differences with civilian and normative concepts are twofold. Firstly, this interpretation of EPE views the EU, not only as an actor *per se*, but also as an international organisation formed by member states with particular interests; thus, it breaks away from conceptualisation of the EU as an entity beyond the state inherent to both civilian and normative concepts. Secondly, EPE does not question the existence of military power therein; rather it focuses on the genuine choice (ethical dilemma) it presents, namely if and under what conditions it is appropriate to use it (Aggestam 2008, 3-4).

In the light of the Smith and Light (2001, 6) argumentation rejecting a discrepancy between ethical considerations and state interests, Aggestam arrives at the conclusion that these are instead intertwined and the EU, ‘like any other international actor, has mixed motives’ (Aggestam 2008, 8). Although some of the ideas within EPE are relevant and can help to deepen understanding of the EU’s action, the fact that it does not discuss any sources of EPE *per se* at all may be the reason for its limited reach.

### **1.1.5 Liberal Power Europe**

Liberal Power Europe (LPE) is one of the most recent concepts introduced by Wagner (2017). He seeks to progress the stimulating debate on the nature of the EU’s influence in the international arena while simultaneously admitting that the debate has already produced an excessive number of different adjectives searching for the most appropriate characterisation of the EU as a power (Wagner 2017, 1398).

In terms of values, Wagner’s model resembles NPE but places more emphasis on free trade and the market economy, which Manners’ model lacks. ‘The promotion of democracy, human rights, international institutions and law as well as market economy

---

indicted for committing several serious crimes, the first sitting head of state to be the subject of an ICC arrest warrant (International Coalition for Responsibility to Protect 2018).

and free trade are all policies one can expect of the European Union as a liberal<sup>6</sup> power' (Wagner 2017, 1404).

Pursuing his argument, Wagner finds two major weaknesses in both the civilian and the normative power concepts. Firstly, they tend to overemphasise the normative motivations of the EU, and as such overlook other interests and constraints EU policy makers have to consider. Secondly, they tend to depoliticise EU external policies (Wagner 2017, 1401), which seems wrong and at odds with the reality. Indeed, even the EU's Common Commercial Policy (CCP) is inherent to the Union's External Action<sup>7</sup>, and as such shall be undeniably understood as a part of the political process.

Wagner's concept of LPE sets out to overcome these shortcomings. In contrast to NPE, LPE views both ideas (norms and values) and material interests as key drivers of EU external policy. These cannot, however, be determined *ex ante*. This implies that they are usually defined *ad hoc*. As a result, LPE does not 'privilege idealist motives over commercial interests or the other way around' (Wagner 2017, 1401). In this regard Wagner calls for more research to establish whether and under what conditions the EU decides to pursue commercial interests and when it might focus on promoting HRs instead (Wagner 2017, 1401-1402).

In short, LPE discusses and places emphasis on the diverse motivations driving EU policies and admits the even the norms and values *per se* may conflict with each other. Moreover, conceptualising the EU as a *sui generis* entity with a unique policy may be misleading; therefore, it shall be viewed as any other international actor 'motivated and constrained by liberal ideas and interests (Wagner 2017, 1410). As a result, Wagner's conceptualisation of both normative and economic motivations stimulating EU action links the EU-as-a-power debate within the International Relations discipline to the ideas put forward by the International Political Economy discipline which follow.

## 1.2 Market Power

The EC founding treaties limited integration to economic spheres and, proposed that the focal point would be trade. Yet the development of EU labelling outlined in the

---

<sup>6</sup> Wagner admits that the term 'liberal' may be problematic given the lack of a strict definition which would be widely accepted across disciplines. Yet for him, this term means a focus on the individual, his or her freedom and well-being, connoting a political bottom-up process within which the government policy is driven by the interests of the individuals and groups in the society (Wagner 2017, 1401).

<sup>7</sup> See Part Five of the Treaty of the European Union.

paragraphs above from the IR perspective, with the exception of LPE to some extent, do not seem to reflect this sufficiently. On the contrary. It is therefore hardly surprising that from the International Political Economy (IPE) perspective, these labels appear inaccurate without further enquiry to gain a deeper understanding of where the different types of power – civilian, normative, soft, ethical, or most recently liberal – stem from. To put it another way, whereas the IR scholarship focused primarily on the ends, and to a certain extent on the means, of a power, the IPE scholarship puts the emphasis on the sources of the power. Detailed discussion of the IPE thoughts follows.

CCP has always been one of the most common policies within the European Union. The elements of commercial policy had already been introduced in the treaty establishing the European Coal and Steel Community. Given the common character of this policy, which is managed on a supranational level, both the EU member states and the European Community were contracting parties of the General Agreement on Tariffs and Trade (GATT). Moreover, the EU was a founding member of the successor to GATT – the World Trade Organization (WTO), which sets global trading rules and offers membership, not only to states, but also to separate customs territories possessing full autonomy in the conduct of their external commercial relations<sup>8</sup>. As a result, Maull's rejection (2005) of the definition of the EU as a power outlined in the IR section 1.1, seems unconvincing, at least from the IPE's point of view. Moreover, the EU is also a member or active participant in a number of global international organisations, such as the Food and Agricultural Organization of the United Nations, the European Bank for Reconstruction and Development, and the Codex Alimentarius Commission (Larik 2016, 116).

Chad Damro says that '... the EU's identity, both historically and presently, rests crucially upon market integration,' (Damro 2015, 1341-1342). Likewise, Meunier and Nicolaïdis (2006, 906-907) perceive the EU's internal trade liberalisation and external trade policy as the glue binding former enemies within Europe together, and thus becoming power *through* trade. Similarly, Larik (2011, 13) suggests that 'Europe's single most important contact with the world beyond its borders is through trade'. This thesis builds on the notion that the EU is a power *in* and *through* trade (Meunier and Nicolaïdis

---

<sup>8</sup> See Article XII:1 of the WTO Agreement.

2006, Larik 2011). Table 1 below suggests external issues connected with the EU power *through* trade.

Table 1: Forms of EU Trade Power

<b>Nature of trading relations</b>	<b>power <i>in</i> trade (exporting goods, capital, services)</b>	<b>power <i>through</i> trade (exporting standards and norms)</b>
<b>bilateral</b>	symmetric and asymmetric bargaining power over market access	democratisation, development, governance and adoption of standards
<b>regional</b>	reciprocal market access	exporting EU single market rules and broader governance tools to other regions
<b>global</b>	multilateral bargaining, specific and diffuse reciprocity	shaping the multilateral system through deep trade agenda

Source: Meunier and Nicolaïdis 2006, 910

Indeed, with less than 7% of the world population share, the EU accounts for 23.8% of the world's gross domestic product (GDP), making it the largest economy in the world and the biggest trading block globally (Eurostat 2016a, 2016b). To put this in perspective, the USA creates around 22.2% of the world's GDP. However, the fact that the USA, with a population that is around 36% smaller than that of the EU, is capable of generating a comparable share of the world's GDP is thought-provoking. Yet the striking difference in trade terms is the extent to which both the EU and the USA are integrated in world trade. Whereas the USA is a top trading partner for over 20 foreign countries, the EU is the top trading partner for around 80 countries (EC 2014), and as such accounts for 15.6% of total world exports and imports (EU 2018a). Similarly, it ranks first in both inbound and outbound international investments. As a result, the EU is substantially integrated into the global market (EC 2014). These trends are convincing enough and support Chad Damro's model entitled Market Power Europe (2012) claiming that the EU becomes a power *through* trade, which follows.

This conceptualisation is built upon insights from both IPE and IR themes that have run more or less independently of each other and, according to Damro (2015, 1336), have not always grasped opportunities for mutual enrichment. Damro further argues that the need to situate the EU as an international actor helped to generate the proliferation of conceptualisations of the EU as a power within the international system. Until now, concepts (civilian power, normative power) have failed to explain the extent to which



power in one policy area can become power in another (Damro 2015, 1338-1339). This may be misleading and does little to advance understanding of the EU-as-a-power debate. Furthermore, although the civilian and normative power labels can shed light to some extent on what the EU *does* in certain fields, it is crucial to look beneath the surface of these labels to see what it is that allows the EU to take respective civilian and normative measures. Therefore, Market Power Europe (MPE) serves as a conceptual framework, which shall be perceived as an analytical tool for a more complete understanding of social, economic and political phenomena (Damro 2015, 1340).

Damro's model builds on the EU's identity, which he defines by three inter-related and mutually reinforcing characteristics: (1) market size, (2) institutional features and (3) interest contestation (Damro 2015, 1339). Few scholars would dispute the significance of the MPE's core characteristic, i.e. the EU's market size within the global trade exchange. However, what does come under question at the scholarly level is the extent to which this characteristic provides an explanation of what the EU actually *does* in both trade and non-trade fields, be it migration as analysed by Jurje and Lavenex (2014), or more generally the inconsistent use of negative conditionality presented by Smith (2005).

The second MPE characteristic – institutional features – suggests that if the regulatory capacity of the EU outside its territory is to be analysed, then the decision-making processes and rules for issuing respective regulatory measures must unquestionably be taken into account. To be more specific, MPE must consider a variety of actors that operate within these processes and, consequently, may condition the externalisation. These are the European Commission (EC), European Parliament (EP), Council of Ministers, European Court of Justice (ECJ), different national and international regulatory agencies, and last but not least, the EU member states themselves (Damro 2015, 1342).

The final MPE characteristic – interest contestation – shall be understood as a societal pressure which may be exerted by various types of interests groups. Depending on their preferences, these groups may form pro-externalisation coalitions striving to influence the aforementioned decision-making bodies (Damro 2015, 1343).

The key word of this thesis is externalisation, which is in line with the MPE model, since according to Damro (2012, 690), externalisation occurs when an actor (the EU) attempts to get another actor (a third country) to adhere to a level of regulation similar to that in effect in the EU single market or to behave in a way that generally satisfies or conforms

to EU market-related policies and regulatory measures. According to Damro, through the MPE model, externalisation shall be explored in two stages: (1) the study of EU attempts (or non-attempts) to externalise both intentionally and unintentionally<sup>9</sup> and (2) the study of EU success (or failure) in expanding its influence via externalisation (Damro 2015, 1344).

One of the biggest strengths of the MPE concept is that the possible reluctance of any third country to behave in a way desired by the EU does not disprove the whole concept; in fact, it is the model's natural component. As Damro (2015, 1345) puts it: 'Failure is a very real possibility.' Such an approach allows us to draw certain conclusions and policy implications through testing the model. More importantly, it eliminates the increasingly common conclusion of both politicians and scholars that the EU is inconsistent in its approach where HRs in third countries are concerned (Smith 2008, Börzel and Risse 2004, Smith and Light 2001), thereby hampering to a certain extent efforts to advance understanding of the EU's actions and policies and their ensuing effects worldwide.

### **1.3 Global Regulatory Power**

The definition of power in the traditional sense as the 'ability of one actor to influence the behaviour of another actor' may seem excessively vague for the legal world. Whatever the reason, legal scholars have largely avoided considering the effects of power on the creation of international legal rules (Byers 1995, 113). Therefore, within the legal framework, power is viewed more as a competence or a right to do something based on a particular legally binding document. The competence to enter into international legal relations is embedded therein.

As a result, much of the EU power debate centres on its ability to enter into international agreements. Although the Vienna Convention on the Law of Treaties (1969) entitles both states and international intergovernmental organisations to be party to an agreement, the nature of the EU raises not only academic debate but also fierce public discussion, with opponents of ever-deepening European integration repeatedly stipulating that the EU is not a state and shall not pursue these ends. In this context, Svoboda (2010, 15) argues that, despite certain difficulties with the EU categorisation in the traditional sense as a

---

<sup>9</sup> Similarly, within the IR debate, Ben Rosamond recognises that the EU appears to be an entity taking action both intentional and unintentional. Either way, the EU action produce certain effects (2005, 10).

state or international organisation, the international community declared that it was an international organisation in 1986.

According to Svoboda (2010) and Kuijper et al. (2015), from a legal point of view, an international organisation can be considered a fully-fledged actor empowered to act on the international plane only when it has international legal personality. This was accorded to the EU by the Treaty of Lisbon (TEU) in 2009,<sup>10</sup> yet Larik argues that ‘... the EU cannot be classified as an ordinary international organization, and consequently its law is no longer considered as ordinary public international law, it is ostensibly not a state, even though it has acquired a quasi-federal structure’ (2016, 179).

The concept of power also seems problematic also because, as Byers states, the dominant concept within international legal thought has been the concept of state equality. This suggests that, not only are all states entitled to participate within the international legal system because they are formally equal, they are also entitled to the same general rights and subject to the same general obligations (Byers 1995, 113-114).

At the same time, Byers admits that, despite states’ formal equality, ‘it is generally easier for more powerful states to engage in behavior which will significantly affect the maintenance, the development, or transformation of customary rules than it is for less powerful states to do so’, as they usually have larger and more highly skilled diplomatic corps, enabling them to effectively pursue their interests (Byers 1995, 115). There are, however, two main constraints. First, according to Byers, ‘[the] human rights debate is clearly about the role of power in the process of international customary law’, as it often challenges the traditional view that states have the right to govern their internal matters without interferences (Byers 1995, 121). Second, EU external policy regarding the promotion of human rights seems governed by the two fundamental principles of universality and indivisibility (Brandtner and Rosas 1998).<sup>11</sup> These principles are also covered in Article 21[1] of the Treaty of Lisbon.

---

<sup>10</sup> Prior to that, it was only the European Communities (first pillar) that was able to conclude international agreements.

<sup>11</sup> When the protection of HRs is tackled in global affairs it generally addresses HRs as defined in the International Bill of Human Rights. This is the rather informal name used to refer to the combination of the relevant documents on HRs, which comprise the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966) with its two Optional Protocols and the International Covenant on Economic, Social and Cultural Rights (1966) (Bokšová 2013, 6).

‘The Union’s action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.’

More specifically, universality means that human rights are globally applicable because they are the rights that everyone shall have as a human being (Donnelly 1984, 400). Indivisibility means that civil and political rights, and economic, social and cultural rights are equally important and interrelated (Brandtner and Rosas 1998). According to Benedek (2010), with the Lisbon Treaty not only did the EU obtain a strong legal basis for its human rights policy but 2009 (the year it came into force) shall also be considered as a breakthrough year for the foundations of the EU system for the protection of human rights (quoted in Bokšová 2013, 12). The most significant articles in this respect follow. Firstly, Article 2 TEU confirms the Union’s core values.

‘The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.’

Secondly, within the Article 3[5] TEU, the EU commits to promoting its values globally.

‘In its relations with wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among people, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.’

Article 6 TEU is similarly important as it accords the Charter of Fundamental Rights the same legal weight as EU treaties. ‘Moreover, the EU accedes to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)’ (Bokšová 2013, 11).

It shall be noted that the EU’s determination to promote its values globally and the principles governing this policy (universality and indivisibility) are problematic to a

certain extent as they contrast with the notion of cultural relativism, which holds that it is the culture which is ‘the sole source of the validity of the moral right or rule’ (Donnelly 1984, 400). In short, both the principle of non-interference and that of cultural relativism challenge the EU’s promotion of human rights.

In the event of an ideological clash, one of the greatest strengths of the more powerful entities is that ‘if more than verbal or written statements are required, powerful states also have military, economic and political strength to enforce jurisdiction claims, impose sanctions, and dampen or divert international criticism (Byers 1995, 115). This leads Byers to the conclusion that the significance of power is largely unrecognised by scholars (Byers 1995, 117). Yet there is a profound difference between scholars from industrialised and non-industrialised nations. The latter have long been pointing out the uneven field they are playing on (Byers 1995, 126).

The EU’s power could, from a legal perspective, eventually be viewed as a global reach of EU law. According to Scott, these considerations may lead to labelling the EU as a Global Regulatory Power. ‘The EU makes frequent recourse to a legislative technique’ which ‘not only leads to the EU governing transactions that are centered upon the territory of the EU, but it also enables the EU to influence the nature and context of third country and international law’ (Scott 2014, 87). However, Scott refutes the assumption that the EU would seek to export its norms *per se* hereby. Rather these actions shall be viewed as signs of pure unilateralism serving the EU’s interests (Scott 2014, 87).

In more trade-related matters, Perišin (2015) states that the EU has been relatively successful in exporting its standards, as there are many cases where producers in third countries observed the EU’s high standards on health, environment, animal welfare and then started to adopt these. For instance, after the WTO Appellate Body’s ruling against the EU on the European Communities-Hormones case<sup>12</sup>, which arrived at a conclusion that the EU’s prohibition of the import of meat treated with certain hormones was in breach of WTO law, the Union did not abandon its measure, but instead Canada and the USA – the complainants – adjusted their production and subsequently received better conditions for the import of their ‘high quality beef’. This can be understood as an ‘export of norms’ (Perišin 2015, 112) which beyond any doubt serves the EU’s interests. Firstly,

---

<sup>12</sup> For more information about the case, see DS26 European Communities – Measures Concerning Meat and Meat Products (Hormones) on the WTO website.

it made other countries follow its standards; secondly, it managed to maintain its high standards; thirdly, its beef did not lose its competitiveness on the global market. Analogously, if third countries adopted the EU's labour standards, the competitiveness of the EU's production would not, in all probability, be threatened either. This may explain the effort the EU puts into the externalisation of its regulations. Moreover, every successful accomplishment in this regard strengthens Scott's claim that the EU's standards sometimes significantly shape the global standard setting body (Scott 2014, 87).

In conclusion, it is beyond the scope of this thesis to offer an exhaustive list of concepts that discuss the EU within the international system. The aim of Chapter 1 was to provide a cross-disciplinary review of the predominant approaches contributing to the ongoing debate on the EU-as-a-power. Among the leading concepts that were identified are: Normative Power Europe, Market Power Europe and Global Regulatory Power. While these concepts all consider what kind of power the EU is in the international system, they do so from different disciplinary perspectives, namely International Relations/EU Studies, International Political Economy and Law. This allows for an interdisciplinary approach, as the mutual enrichment of different disciplines is what the EU-as-a-power debate has lacked until now (Damro 2015). To bridge this gap, the following chapter discusses the EU performance from different angles and presents arguments to demonstrate which of the outlined concepts within the literature best fits, and thus best explains the EU's action in practice. Consequently, this allows for this study to demonstrate how the EU's power in one policy area can be used in a non-related field. But before that, an explanation of the operationalisation of this research will follow within the methodology chapter, Chapter 2.

## **2 Methodology**

The preceding chapter covered scholarly contributions to the EU-as-a-power debate across different disciplines (IR, IPE, International and EU Law), seeking to capture both their individual substance and their potential for mutual enrichment. This chapter builds on the interdisciplinary body of literature discussed in that analysis and ultimately presents a theoretical point of departure for this thesis. It introduces the rationale behind the research question, explains the analytical framework within which the research is conducted and presents data sets upon which this thesis relies.

### **2.1 Conceptualisation**

The vast body of literature on the EU's position in the international system dating back almost five decades unequivocally confirms its status as an international actor contributing to a certain extent to global governance and regulation. This justifies labelling it as a power despite the fact that it is not a state. Having situated the EU as an international actor, the competing claims regarding the nature of its influence have spawned various concepts contributing to the EU-as-a-power debate across disciplines.

Following Nye's logic as discussed in section 1.1.2, if the EU is, indeed, a power, then the question: 'What kind of power does it actually exert within the international system?' needs to be addressed. To gain a perspective by comparing some of the variables Nye suggests, Table 2 below illustrates the EU's power from different angles. With over 516 million inhabitants (CIA 2018), the EU has the third largest population in the world after China and India. However, truly remarkable is the size of the EU's economy as measured by its GDP at purchasing power parity (PPP). Equally noteworthy is its leading share of global exports in both goods and services, bearing in mind that its population accounts for approximately 7% of world population. A comparison in terms of military size is not applicable as there is no European army. Concrete data follows below.

Table 2: EU in Comparison with other World Economies for 2017

	Population (in millions)	Area (thousands km <sup>2</sup> )	GDP PPP (trillions of €)	GDP (per capita)	% of global exports (goods)	% of global exports (services)	Active military personnel (in thousands)
<b>EU</b>	516	4,479	17.8	34,985	15.22	25.23	N/A
<b>China</b>	1,379	9,596	19.8	14,541	12.77	4.29	4,635
<b>India</b>	1,281	3,287	8.01	6,159	1.68	3.47	3,468
<b>Japan</b>	126	377	4.6	36,524	3.94	3.41	307,9
<b>Russia</b>	142	17,098	3.4	23,865	1.99	1.08	4,017
<b>USA</b>	326	9,833	16.6	50,895	8.72	14.43	2,500

Source: author's own based on data from WTO 2018, CIA 2018, Business Insider 2018

Additionally, it is worth mentioning that the EU, together with its member states, is the largest provider of development aid worldwide. In 2015, it contributed over €65 billion, more than half of all development aid provided in that year. In comparison, the USA and Japan contributed €24 billion and €7 billion respectively (EC 2017c). That said, if Nye (1990) was right and power has been moving from the 'capital rich' to the 'information rich' for some time, the fact that the EU lags behind in investment into research and new technologies may weaken it considerably in the future, negatively affecting its competitiveness and subsequently its share of global trade. The EU spent only 2% of its GDP on research and development whereas Japan and USA spent 3.6% and 2.7% respectively. The EU appears to have taken the significance of this on board, however, and its stated objective is to increase investment to 3% by 2020 (EC 2017c).

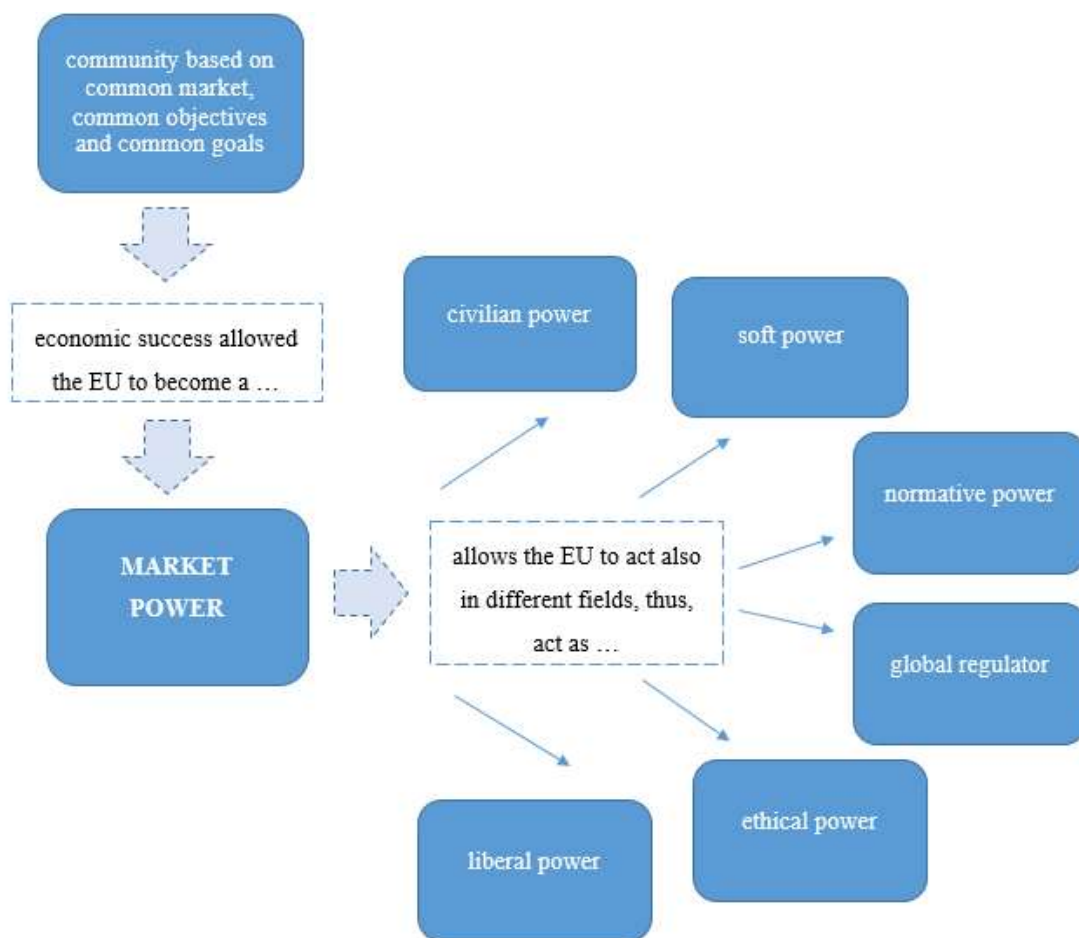
Most importantly, the oft-cited Duchêne (1973) and Manners (2002) have sought to assign different labels to the role of the EU in the international arena: those of civilian and normative power. This 'labelling issue' continues to be at the centre of scholars' interest, as confirmed by the recent contributions to the EU-as-a-power debate of Damro (2015 and 2012), Scott (2014) and Zielonka (2008). However, the IR labels, like their legal counterpart – global regulatory power – can appear inappropriate without further enquiry to gain a deeper understanding of what lies behind them. Even the money donated by the EU as development aid, constituting the largest share in the world, needed to be earned somehow. Table 2 above illustrates key sources of the EU's power which stem initially from the economy, and may subsequently spill over into politics. More recently, this knock-on effect has brought the concept of Europe as a market power to the fore.



In short, the EU's economic success may, and does, spill over into other policies, both internal and external, with the result that some of its rules and regulations have been externalised. This concept of 'regulation export' in fields such as democracy, rule of law and human rights has led some scholars to label the EU as a civilian or normative power, while overlooking what enables it to exert its power within the international arena. In the last decade, however, these concepts have been losing ground as IPE scholars have started to ask where the EU's power actually comes from, rather than accepting the assumption that the EU is a *sui generis* international actor as suggested by the IR scholarship (Meunier and Nicolaïdis 2006, 910; Damro 2015 and 2012).

The main argument of this thesis is that the Market Power Europe model is the best way to understand the EU's role in international affairs, as it allows the EU to act as a civilian, normative, or more generally soft power, or even as a regulatory power, through its determination to actively externalise its rules. As Wagner states, the EU has been repeatedly questioned as to why it only intervenes in certain cases, and has consequently been accused of applying double standards. As a result, the proponents of the Normative Power Europe may in this regard admit the limited capabilities of the EU (Wagner 2017, 1408). Drawing on this argument of limited EU capabilities, not being a market power would automatically thwart any effort to get any other actors to adhere to the level of regulation desired by the EU. In line with the above-mentioned assumptions. Diagram 1, 'Labelling Dilemma Resolution', illustrates the relationship between market power and other spheres of influence.

Diagram 1: Labelling Dilemma Resolution



Source: author's own

Damro's Market Power Europe model serves as the point of departure for this research. This thesis suggests that Damro was correct in his assertion that, while the other concepts may have been appealing, they have not paid due attention to other significant factors contributing to what the EU is; they have neglected that, at its core, the EU is a market (Damro 2012, 682-683). In sum, and building upon Damro's argument, it could be said that the MPE model is the most convincing for the reasons which follow. First, the EU is the biggest single market in the world and one of the three largest global players in international trade along with the USA and China. 'With just 6.9% of the world's population, the EU's trade with the rest of the world accounts for 15.6% of global exports and imports' (EU 2018a). These figures demonstrate how important it is for the rest of the world to trade with the EU. This is what has led to the EU becoming a power.

Second, Damro's MPE concept includes a wider range of EU areas of interest beyond trade issues, evolving into a comprehensive and extensively elaborated model based on the belief that it is primarily trade that allows the EU to act outside economic matters if

the need arises. Other concepts are not persuasive enough with regard to the source of the EU's power and focus instead on the ends of EU action. Yet the ability to make other actors behave in a certain way has to stem from something; power does not spring out of nowhere. In a similar vein, this thesis accepts, in line with Damro's argumentation, that 'the best way to evaluate NPE versus MPE is to determine whether the EU is more likely to influence the behaviour of others through the projection of its core and minor norms or the externalization of its market-related policies and regulatory measures' (Damro 2012, 697). Given the sheer size of the EU market and its global importance, the origin of EU power is clearly defined within the MPE model. It also explains why the EU has been accepted as a full member of the WTO – the world's leading trade organization.

Third, the MPE model does not necessarily limit itself to pro-market, neo-liberal or capitalist aspects, although it may appear that way. In reality, it also emphasises the significance of interventions in the market, whether via economic or social regulations. That said, the conceptualisation reflects the existence of both economic and social agendas of the EU (Damro 2012, 683).

Last, but not least, one of the biggest strengths of the MPE model, in contrast to the leading IR model, NPE, is that it 'does not require the EU to be policy-consistent in its externalisation, nor does it require the EU's objectives to be consistent' (Damro 2015, 1347). As such, it allows us to avoid the methodological pitfall that would result from stating that the EU's policies are in practice inconsistent (Damro 2015, 1347).

## **2.2 Research Gap**

As argued in detail above, Market Power Europe is the most appropriate label for the EU given its economic size and the influence it is able to wield as a result. The significance of the various concepts introduced and reviewed in Chapter 1 is unambiguous in deepening our understanding of EU actions. Furthermore, these concepts have contributed substantially to the development of European Studies and IR more generally. They are largely theoretical, however, so there is much need for empirical investigation, which the ongoing debate lacks. Therefore, some scholars involved in the debate are calling for further research in this field (Martin-Mazé 2015, Baldwin 2012, Pace 2007).

Wagner (2017) even claims that the debate lacks engagement with theories on different aspects, such as commercial interests and motives. This makes this thesis a fitting analysis contributing to the ongoing debate. Moreover, the European Commission itself in its

recent trade strategy of 2015 entitled *Trade for All* concedes that the CCP and its role within the EU external relations has been a vibrant topic lately.

‘Trade policy is more debated today than at any time in recent years, with many asking whether it is designed to support broad European interests and principles or the narrow objectives of large firms.’

(EC 2015, 18)

There is undoubtedly a dearth of research evaluating trade agreements with third countries from both a normative and an economic viewpoint, with such a combination having only been briefly touched upon by Wouters et al. (2015), Erickson (2011), Hafner-Burton (2009) and K. E. Smith (2003). This thesis will seek to fill the gap by offering an EU cross-policies analysis, focusing always on countries with negligible economic importance to the EU to reassume and further develop Zielonka’s (2008) and Smith’s (1998) claim that the economic (in)significance of a third country to the EU plays a substantial, if not the key, role in determining the EU’s approach. ‘Important’ countries are only objects of EU rhetoric and declarations. In contrast, poor, marginal states with little economic importance are those where the EU applies conditionality and demonstrates its determination to protect human rights. Similarly, the EU is not hesitant in applying negative conditionality<sup>13</sup> in these cases (Smith 1998). Therefore, this thesis seeks to provide a comprehensive analysis of whether or not the EU adapts its approach on three different levels of policies towards economically insignificant countries, where a decisive approach is what scholars might be expecting to see.

As a result, the research question this thesis answers is: **‘How is the EU’s market power used to externalise the EU human rights regulations in countries with negligible economic importance?’** The formulation of this question is built on Doty’s (1996) stipulation that when embarking on research on the nature of power which proceeds from conceptualisation, it is vital to make use of the ‘how’ question. Such an approach facilitates a deeper understanding of the practices and policies which are thereby possible. “‘How’ questions thus highlight an important aspect of power’ and allow for ‘particular interpretative dispositions’ (Doty 1996, 4). Similarly, the pure essence of the ‘how’ question does not allow for the use of hypotheses, as the aim is not to confirm or disprove

---

<sup>13</sup> Positive conditionality entails promising benefit(s) to a state if it fulfils certain political and/or economic conditions, whereas negative conditionality involves reducing, suspending or terminating those benefits if the state in question violates the conditions previously set (Smith 2008, 58).

a hypothesis as might be the case in quantitative research. Rather, the conducted study seeks to provide a profound understanding of EU daily practice while focusing on its key strength – the Common Commercial Policy. As such, it is a study of meaning, since ‘studies of meaning talk about understanding the conditions for action’ (Klotz and Lynch 2007, 15). To put it differently, although the effects of the CCP are assessed and interpreted, this thesis is not a causal study seeking to explain the EU’s action by demonstrating a relationship between certain variables.

Furthermore, this thesis is not intended to offer any normative claims about how the EU as a market power should act. Likewise, the aim is not to test the validity of the MPE concept but to examine *how* ‘things’ are done. As such, this thesis compares and contrasts EU rhetoric (what the EU and its officials *say*), EU practice (what the EU *does*) and the rationale (*why* the EU decides for such an approach) in the particular cases of nine different countries sharing questionable human rights records and economic insignificance to the EU. As a result, if the EU takes the ethical dimension of its external commercial policy seriously, then the aforementioned characteristics provide ample room for the EU to apply conditionality<sup>14</sup> across the policies considered.

Last but not least, there have been no studies to date assessing the EU’s cross-policies approach, focusing on the protection of HRs in third countries via trade, and this is a further unique contribution of this thesis. As such, it compares and contrasts the EU approach towards certain countries involved in different EU policies. Does the EU apply a ‘double standard’<sup>15</sup>? And how can different EU approaches possibly be explained and understood? Do the different policies matter in shaping the EU approach? By addressing these questions, this thesis sheds important light on the EU’s approach towards economically incompatible partners and thus contributes to the debate on the EU’s role within the international system *through* its biggest strength – its market.

## 2.3 Method

This thesis is comprehensive qualitative research seeking to make a novel contribution to our understanding of how the EU uses market power to externalise its human rights

---

<sup>14</sup> Political conditionality is a linkage by a state or international organisation of perceived benefits to another state (aid, trade concessions, cooperation agreements, political contacts or international organisation membership) to the fulfilment of conditions relating to the protection of human rights and the advancement of democratic principles (Smith 1998).

<sup>15</sup> It should be noted that ‘double standards’, or ‘inconsistency’, is not an obstacle for making effective use of the Marker Power Europe conceptualisation as already discussed above.

regulations in countries with negligible economic importance within three different levels of EU external policies. Given the qualitative nature of the research, it is beyond the scope of the thesis to consider all trade agreements concluded between the EU and its trading partners. Hence, selected groups are analysed in the context of: (1) EU Enlargement Policy, (2) EU Neighbourhood Policy, and (3) other partners – economically vulnerable developing countries<sup>16</sup> represented by a selection of countries involved in a specific arrangement called General Scheme of Preferences Plus (GSP+).

The countries profiled are: Serbia, Bosnia and Herzegovina and Kosovo (EU Enlargement Policy); Georgia, Morocco, Ukraine (EU Neighbourhood Policy); and Bolivia, Pakistan and Sri Lanka (GSP+). Although diverse in terms geography, culture, political development and, most importantly, their prospects of eventual EU membership, they share two main characteristics that are central to this research. Firstly, the protection of human rights is a challenge in these countries, and progress is therefore monitored by international non-governmental human rights organisations. Secondly, the mutual economic interdependence between the EU and each of the case studies is highly unbalanced. To be more specific, whereas the share of the total trade in goods in each country makes the EU one of its top trading partners<sup>17</sup> (ranging from first to fifth), their economic importance to the EU is utterly negligible.

In sum, this research is based on a relatively small number of cases – nine trade agreements concluded by the EU with partners outside its borders. This suggests that, in line with Silverman's description of qualitative analysis, it sacrifices scope for depth and detail (Silverman 2013, 105) and works within a discursive constructionism approach, as described by Doty and Klotz and Lynch above. Rather than trying to find substantive truth, it seeks to capture *how* the process of reality is constructed via reflective analysis of *text* and *talk* in social reality, while focusing on language as the key medium of interaction (Silverman 2013, 106-111). As a result, its agenda is to 'look at, and listen to, the activities through which everyday actors produce the orderly, recognisable, meaningful features of their social worlds' (Silverman 2013, 107). The data used are *interviews*, and *text* and *documents*. Detailed description of the data sets follows below.

---

<sup>16</sup> For the purposes of this thesis, the countries are classified as developing according to the United Nations Country Classification within World Economic Situation and Prospects data.

<sup>17</sup> See statistics of the Directorate-General for Trade of the European Commission for each of the case countries – for instance, Trade in Goods with Serbia.

### 2.3.1 Data Sets

There are two key data sets. The first was obtained from policy documents provided by the European Union, including *A Global Strategy for the European Union's Foreign and Security Policy (GS)* released in 2016, and the treaties concluded between the EU and the selected countries. The latter encompass Stabilisation and Association Agreements (SAA), Association Agreements (AA), Deep and Comprehensive Free Trade Agreements (DCFTA) and Cooperation Agreements, as well as Progress Reports and Enlargement Strategies where available. These are relevant as 'scrutinizing EU documents and communications is instructive because they are the result of public consultations, in which not only the official actors of the EU have input, but also various interest groups submit comments' (Damro 2012, 692).

The second was obtained through interviews with representatives of the EU and member states, selected to represent a range of levels and functions (policy analysts and coordinators, civil servants). The EU officials were from the European Commission's Directorate-General for Trade, Directorate-General for Enlargement and Neighbourhood, Directorate-General for International Cooperation and Development, the Council of the European Union, the European External Action Service (EEAS) and the European Parliament. National representatives and diplomats working at the ministries of their home countries on EU trade relations were also included. Additionally, two interviews were held with officials from the International Criminal Court (ICC) in order to learn about their understanding of the EU's role in the international system. The interviewees were selected according to their position and agenda, and were asked open-ended questions.<sup>18</sup>

The interviews had two aims: firstly, to understand how Market Power Europe operates on different levels of EU external policies in the interviewees' daily practice, and secondly, to gain practical insights into EU trade negotiations, the tactics used and the desired outcomes. Furthermore, it is worth noting that 'research interviews can provide valuable insights into participants' account of a specific phenomenon, if they are treated as social interactions' (Futák-Campbell 2018, 35). The data gained shows how Market Power Europe is used to get third countries to take certain measures with a view to

---

<sup>18</sup> See the List of Interviews held on page 110.

improving their human rights records. To put it differently, it shows how the EU as a power wields its influence.

The interviews were held between April and July 2018 and conducted under the principle of confidentiality and anonymity. As a result, the officials who decided to participate in this research are not identified.<sup>19</sup> There are theoretical reasons for this too, as the thesis analysis represents a collective understanding of power in the context of human rights promotion through trade. It builds on a total of 26 in-depth interviews with practitioners from 15 different countries, which is believed to increase its credibility and to demonstrate a collective understanding of the issue in hand.

In addition, this study makes use of secondary quantitative evidence on trade relations between the EU and the case studies in order to illustrate the arguments put forward. These were used particularly to strengthen study's comprehensiveness and its ability to illustrate EU's role within the international system.

### **2.3.2 Case Selection – Justification**

This is a comparative case analysis. The main aim is to analyse how the EU's market power is used to externalise the EU's regulations on different levels of trade relations inherent to various policies through the medium of three case studies: (1) EU Enlargement Policy, (2) EU Neighbourhood Policy and (3) GSP+. These were not selected randomly. Rather there are certain similarities and contrasts relevant for this research.

In terms of the similarities, firstly, the EU develops particular policies towards these groups of countries, encompassing both political and economic aspects. Secondly, the countries involved are developing countries of negligible economic importance to the EU where Market Power Europe is supposed to be pervasive, and thus provide a good example for the analysis when seeking to identify resemblances and possible discrepancies in the EU's approach. Thirdly, most of these countries share unsatisfactory human rights records. Lastly, the groups are not as clear-cut as they may seem at first. Some countries involved in the EU Neighbourhood Policy harbour aspirations to be eventually accepted into the EU Enlargement Policy. Remarkably, Georgia, previously involved in GSP+, achieved a similar move by progressing to the EU Neighbourhood

---

<sup>19</sup> See Annex B for the letter of confidentiality the interviewees have received prior to the interview.



Policy after concluding Deep and Comprehensive Free Trade Agreements with the EU, leading to its withdrawal from the GSP+ regime as of January 2017.

In terms of contrasts, there are considerable geographical differences among the countries involved in each of the policies. Countries within the EU Enlargement Policy are typically the closest EU's neighbours. Both Bosnia and Herzegovina (BiH) and Serbia share borders with the EU. Serbia is more advanced in its negotiations as it already has candidate status, while BiH is still only a potential candidate. Countries included in the EU Neighbourhood Policy are often, although not exclusively, 'middle way' countries. It shall be noted that some of the Neighbourhood Policy countries are literally on the EU's borders, such as Ukraine, while some of the Enlargement Policy countries do not share any border with the EU as yet, for example, Kosovo. In order to cover as diverse a range of countries as possible, the focus is also placed on Morocco, an African monarchy with a colonial legacy.

With regard to the GSP+ countries, these are generally far away in terms of physical distance, although globalisation has brought them closer to the EU, with all its potential and risks. As Jayasinghe explains, economic globalisation has propelled a mass influx of trading opportunities and the development of cross-border relations (Jayasinghe 2015, 555). This has simultaneously increased inequality in the distribution of wealth between the developed and developing countries, causing the latter to find it more and more challenging to participate in international trade. As such, countries involved in the GSP+ regime constitute a good example of trade relations for the purposes of this analysis. To make the sample as diverse as possible, this study places particular focus on Bolivia, a Latin American country with a sizeable population, Pakistan, and Sri Lanka, an island economy.

### **2.3.3 Analytical Framework**

The analytical framework applied in this research is *thematic analysis*, which seeks to identify, describe, analyse and report important patterns (themes) across the entire data sets (Braun and Clarke 2006, 6-8). These include, firstly, a wide range of agreements and texts; secondly, a number of interviews; and, thirdly, secondary quantitative data. Given the fact that this method 'works both to reflect reality, and to unpick or unravel the surface of "reality"' (Braun and Clarke 2006, 9), its application is appropriate for this research. Moreover, this method aims at offering vital aspects in relation to the overall research

question without depending heavily on quantifiable measures (Braun and Clarke 2006, 10) by ‘careful reading and re-reading of the data’ (Rice and Ezzy 1999, 258). To put it differently, through detailed description of how themes are generated from all the data sets used, and how these are related, the thematic analysis method demonstrates rigour within a qualitative research study (Fereday and Muir-Cochrane 2006, 91). As a result, this eventually provides scholarship in different fields with additional insights, which deepen understanding of the phenomena in question.

According to Silverman, perceiving qualitative research as subjective seems a caricature (Silverman 2013, 6). Braun and Clarke agree with other scholars, for instance, Parker (2004) and Yardley (2000), when they state that criteria determining good qualitative research exist (Braun and Clarke 2006, 26). The six phases of the process of conducting a thematic analysis they identified, and which this research followed, are: (1) familiarising with the data, (2) generating initial codes, (3) searching for themes, (4) reviewing themes, (5) defining and naming themes, and (6) producing the report. At the same time, Braun and Clarke pointed to the pitfalls a researcher should be aware of, including too much overlap of the themes, mismatch between the data and the analytical claims, and/or mismatch between theory and analytical claims. In order to avoid these pitfalls and generate an in-depth analysis, it is crucial to present the research clearly and to rigorously apply both the method and theory (Braun and Clarke 2006, 25-27).

The themes identified across the data sets are: the *principle of leverage*, the *principle of credibility*, and the *principle of pragmatism*. To begin with, analysis of the *principle of leverage* explores the nature of EU power over each country, drawing on the economic predominance of the EU over that country and analysing the mutual trade exchange. In addition, examination of this principle seeks to uncover its possible limitations, on the one hand, and demonstrate its supremacy, if applicable, on the other. Secondly, the *principle of credibility* sheds light on whether or not the EU is perceived as an authentic and convincing partner by the countries in question. Moreover, as explained above, this analysis encompasses three different levels of policies. Consequently, the definition of *credibility* may vary according to the context. As a result, this principle demonstrates the nuances of EU performance, and how these may be perceived and eventually affect the accomplishment of the EU policies. Lastly, the study of the *principle of pragmatism* analyses how the EU has acted, and thus seeks to explain the motives that have made the EU decide to proceed in a particular way.

These three principles also enable locating the three core characteristics of the MPE (market size, institutional features and interest contestation) empirically across three EU external policies profiled in this research. This demonstrates the thematic analysis fits with Damro's conceptual framework which this thesis builds on.

This is a deductive, top-down analysis driven by the researcher, and as such it cannot capture a rich description of the overall data. Rather it provides a detailed analysis of certain aspects of the data (Braun and Clarke 2006, 12). Moreover, it is conducted on a latent level, which allows it to go beyond the semantic content of the data, and start 'to identify, or examine the *underlying* ideas, assumptions, and conceptualisations - and ideologies - that are theorised as shaping or informing the semantic content of the data' (Braun and Clarke 2006, 13). As a result, the research could not be conducted without the rigorous interpretative work that goes hand in hand with the constructivist approach within which this thesis is situated. As Wendt puts it, the epistemological approaches matter a lot to the efforts 'to make sense of the real world' because these directly influence the questions asked and ultimately the insights gained. Moreover, no scholar can avoid taking his or her own position on it (Wendt 1998, 101). The analytical chapters follow.

### **3 Human rights clauses within the Stabilisation and Association Agreements vis-à-vis EU Enlargement Policy**

Within the scope of this thesis, the first agreements to be analysed are the Stabilisation and Association Agreements (SAAs). SAAs are key instruments of the Stabilisation and Association Process (SAP) and encapsulate the European Union's current policy towards the Western Balkan countries. In contrast to the countries studied in the following analytical chapters, these countries were identified as potential candidates for EU membership. The EU perspective for Western Balkan countries was approved at the European Council summit in Thessaloniki in June 2003 (European Council 2003).

In the light of the geopolitical changes that took place in Europe at the turn of the 80s and 90s, new countries aspiring to belong to the EU emerged in Central and Eastern Europe. Given the legacies of these countries, the EU had to define the accession criteria more clearly. These were first formulated by the European Council at its meeting in Copenhagen in 1993 and further strengthened in Madrid in 1995. The criteria agreed were *political*, *economic* and *acquis communautaire*. The key features of the criteria are presented below.

- 1) Stable institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.
- 2) A functioning market economy, including the capacity to cope with the competitive pressures and market forces within the Union.
- 3) The ability to take on the obligations of membership, including the capacity to implement the rules, standards and policies that make up the body of EU law, which is generally referred to as to the *acquis* (EU 2018b).

Membership is the EU's ultimate offering and therefore requires as much alignment as possible in all three areas (*political*, *economic* and *acquis*), with the aim of eliminating potential future crises and shocks. Schimmelfennig and Sedelmeier (2002) define enlargement as 'a process of gradual and formal institutionalization of organizational rules and norms', furthermore, Fraczek (2012) considers the Copenhagen criteria as the focal point of the principle of conditionality (quoted in Bokšová 2013, 20).

Although an SAA is primarily a trade agreement, it epitomises the framework of the relationship between the EU and each of the Western Balkan countries with regard to

mutual rights and obligations. In other words, trade within the agreements becomes part of a much broader framework constituting common political and economic objectives that can be achieved through an effective implementation of EU policy towards the Western Balkans. As such, SAAs include free trade, EU law approximation, political dialogue<sup>20</sup> and cooperation in different areas, as well as economic and financial assistance. The agreements are not identical, however. The list of countries involved within the SAP developed over time in line with the political development in the region.<sup>21</sup> To date, the policy has been directed towards Albania, BiH, Croatia (prior to its EU accession in 2013), the former Yugoslav Republic of Macedonia (FYROM), Montenegro, Serbia and, more recently, to Kosovo.

The SAP offers a progressive partnership to the aforementioned countries with a view to stabilising the whole region. The current trade regime was last renewed in 2015 and will endure until the end of 2020. Nearly all exports enter the European Single Market without customs duties or quantitative restrictions, although a few exceptions exist<sup>22</sup> (EC 2017a). It is important to stress that these EU autonomous trade preferences are granted to the Western Balkan countries on a merit-based approach. To be more specific, the Western Balkan countries have been offered preferential access to the European market in exchange for political and economic reforms that will align their current legislation with that of the EU.

The political and economic goals set in each agreement differ since the Union opted for an individualised approach to reflect the particular situation and needs of each of the countries involved (EC 2000). According to Doyle and Garcia Martinez: ‘SAAs formalize an economic timetable of increasing interaction with the European Single Market ... and are seen as the closest formal relationship any state can have with the EU, short of outright membership; as such, they contain deep multi-faceted cooperation’ (Doyle and Garcia Martinez 2017, 6).

Isak (2007) argues that formulating a SAP represented a fundamental step forward. This was true, not only for all the former countries of the Socialist Federative Republic of

---

<sup>20</sup> Zemanová (2008, 101) points out that political dialogue was already becoming a part of the EU’s approach towards third countries during the 80s, and that the main rationale behind that was to gather information about the countries and actively engage. However, political dialogue only started to cover the HRs agenda after 1991.

<sup>21</sup> Montenegro declared its independence in 2006. Prior to that, its data were included in Serbian data. Similarly, Kosovo declared its independence from Serbia in 2008.

<sup>22</sup> Sugar, wine, baby beef and certain fisheries products enter the EU under preferential tariff quotas.

Yugoslavia, but also for the EU, which had been completely paralysed during the armed conflicts of the 1990s, and thus unable to prevent catastrophes due to a lack of appropriate foreign policy instruments (quoted in Bokšová 2013, 24).

The individualised approach suggests that the EU is aware that a one-size-fits-all approach may not be the most effective, thanks to lessons learned from the Eastern enlargement. This also explains why the process of negotiating, signing, ratifying and implementing SAAs takes place at varying speeds, with the characteristics of the agreement differing in each case (Doyle and Garcia Martinez 2017, 7). This suggests that the speed of implementation depended on the extent to which the countries were making progress in the required fields. Table 3 below illustrates the timeline of SAAs.

Interestingly, SAA negotiations with FYROM and Croatia both opened simultaneously, and the SAAs were signed within months of each other a few years later. However, while Croatia went on to join the EU in 2013, FYROM has not yet become a member, although it has had its SAA in force since 2004.<sup>23</sup> The sequence of events in other Western Balkan countries has been similarly unequal. For instance, Bosnia and Herzegovina had to wait eleven years from the opening of negotiations before its SAA came into force in 2015, making it the slowest country to undertake the reforms required by the process. In contrast, Kosovo has experienced the fastest advancement (at least from the chronological point of view). Moreover, Kosovo is unique in that it is the only country to have concluded its SAA with the EU after the ratification of the Lisbon Treaty.

---

<sup>23</sup> The dispute with Greece over the name of FYROM has been a key stumbling block on the Macedonian path towards EU membership.

Table 2: Timeline of the Stabilisation and Association Agreements

Year/ Country	FYROM	Croatia	Albania	Montenegro	Bosnia and Herzegovina	Serbia	Kosovo
2000	Negotiations opened	Negotiations opened					
2001	Signature	Signature					
2002							
2003			Negotiations opened				
2004	Entry into force						
2005		Entry into force		Negotiations opened	Negotiations opened	Negotiations opened	
2006			Signature				
2007				Signature			
2008					Signature	Signature	
2009			Entry into force				
2010				Entry into force			
2011							
2012							
2013		Croatia joins the EU				Entry into force	Negotiations opened
2014							
2015					Entry into force		Signature
2016							Entry into force

Source: Doyle and Garcia Martinez 2017, 7

The core of the following analysis of the countries included in the SAP encompasses Bosnia and Herzegovina, Serbia and Kosovo. Next, the analytical section seeks to capture how the *themes* identified within the methodology chapter appear across the data sets. The patterns revealed are further analysed and interpreted in the ensuing subchapters.

### 3.1 Principle of Leverage

At the European Council meeting in Lisbon March 2000, it was decided that an SAA should be preceded by asymmetrical trade liberalisation (EP 2000) in favour of the Western Balkan countries. As a result, Council Regulation No 2007/2000<sup>24</sup> of September 2000 introduced specific trade measures for countries within the SAP. In an amendment of 2009, it is stated that this preferential and asymmetric approach does not constitute a precedent for the CCP with other third countries (Regulation 1215/2009). With the signature of the SAAs, the countries gained ‘almost completely free access to the EU market, whereas the market trade concessions on products of EU origin were implemented progressively and customs duties still apply to certain products’ (EC 2018h).

This asymmetrical liberalisation approach reflects the incompatible sizes of the economies in question. To put it in today’s figures, while the EU GDP per capita in current prices is \$38,500, the same indicator for BiH, Serbia and Kosovo is \$5,100, \$6,900 and \$4,410 respectively (IMF 2018a). Similarly, in the EU there are over 510 million consumers, while the most populous country in the Western Balkan region is Serbia with 7 million people, followed by BiH with 3.5 million and Kosovo with only 1.9 million (IMF 2018b).

Following the discussion on the EU position in global trade in Chapter 2 (section 2.1) and in order to proceed with this analysis, it is vital to consider EU market power over the selected SAA countries. The EU 28 is the top trading partner for Bosnia and Herzegovina, Serbia and Kosovo, accounting for 65.1%, 64.5% and 41.1% of their total trade respectively. Other partners are rather marginal – Serbia is the second best trading partner for BiH (10.7%), as it is for Kosovo (12.1%). Serbia’s second best trading partner is Russia (6.7%). This is captured in Table 4 below.

---

<sup>24</sup> This regulation has been significantly amended many times since then.



Table 3: Total Goods and Top Trading Partners of BiH, Serbia and Kosovo for 2017

	<b>Total Trade (% of world)</b>	<b>Top Partner</b>	<b>Export (% of world)</b>	<b>Top Partner</b>	<b>Import (% of world)</b>	<b>Top Partner</b>
<b>BiH</b>	65.1	EU 28	73.0	EU 28	60.8	EU 28
	10.7	Serbia	10.0	Serbia	11.1	Serbia
	4.2	China	3.8	Turkey	6.5	China
<b>Serbia</b>	64.5	EU 28	67.6	EU 28	62.3	EU 28
	6.7	Russia	8.2	BiH	8.2	China
	5.0	BiH	6.0	Russia	7.3	Russia
<b>Kosovo</b>	41.1	EU 28	25.0	EU 28	43.1	EU 28
	12.1	Serbia	16.0	Albania	12.3	Serbia
	8.7	Turkey	14.0	India	9.6	Turkey

Source: author's own based on data from European Commission 2018e/f/g

The data above seems convincing in terms of understanding the EU's market power in the countries profiled. However, the Council Regulation regulating the trade regime within the Stabilisation and Association Process No 1215/2009 did not 'provide any possibility to temporarily suspend the exceptional trade measures in the event of serious and systematic violations of human rights, including core labour rights, of fundamental principles of democracy and the rule of by its beneficiaries' (Regulation 2015/2423). In this respect, the current Council Regulation 2015/2423 of December 2015, whose period of application lasts until the end of 2020, is changing this, marking a considerable *de jure* change within the EU approach. This poses the question: Would this qualitative change be possible if the EU did not have *leverage*? As one of the interviewees puts it: 'If a country is economically irrelevant, it allows the EU to prioritise human rights' (Interview 13). This is very much in line with the argument of Zielonka (2008) and Smith (2008), who claim that the economic and political (in)significance of a third country to the EU plays a substantial role when the EU is considering a particular action, which implies that the EU tends to go for an *ad hoc* approach. To what extent this also represents a *de facto* approach is analysed further within the section on the principle of *pragmatism*.

Additionally, Sedelmeier (2017) analyses EU *leverage* from a different angle. He claims that the EU has more *leverage* on candidate and potential candidate countries than it has on its own member states. Sedelmeier was referring to the fact that possible illiberal practices within EU member states are difficult to tackle, and consequently almost impossible to solve at EU level. This is because the EU member states 'are unwilling to

cede any control over how to respond' to illiberal practices in their home countries, most notably in Hungary<sup>25</sup> or Poland<sup>26</sup> (Sedelmeier 2017, 337). The only way to address democratic backsliding in EU member states is by invoking Article 7 TEU, which stipulates that it is the European Council which, by unanimity (minus one), determines whether there is a serious and persistent breach of the EU values<sup>27</sup> by a member state. This allows the Council of the EU to restrict certain rights of the member state in question merely by utilising qualified majority vote. Drawing on this, Sedelmeier argues that it effectively makes it easier to 'punish' a country for a breach rather than to reach unanimity (minus one – the country concerned) on the existence of the breach as such (Sedelmeier 2017, 339). This unanimity 'deadlock' to which Sedelmeier (2017) is referring can be illustrated by the statement of Hungarian Prime Minister Victor Orbán in 2017 when, in search of allies and more 'understanding' for his home actions at EU level, he vowed that 'the inquisition offensive against Poland can never succeed because Hungary will use all legal options in the European Union to show solidarity with the Poles' (quoted in Politico 2017).

This demonstrates the limits of EU *leverage* once a country is already an EU member state, which may explain why the EU puts so much effort into bringing candidates and potential candidates closer to its standards and norms by making use of conditionality. If a country fails to fulfil the criteria set by the EU, the EU may subsequently put negotiations on hold, cancel planned official visits or provide the country with a negative assessment, thus tarnishing its international reputation. However, this kind of conditionality can only be effectively used when the EU has *leverage*. Otherwise the countries would have no incentive to follow EU recommendations (conditions), which often involve costly measures.

---

<sup>25</sup> Freedom House classifies Hungary as a semi-consolidated democracy which has worsened its performance in all observed rankings (national democratic governance, independent media, civil society etc.) over the last nine years. The report states that the Hungarian government of the ruling party Fidesz rather 'creatively' complies with EU rules and values and seeks to hide the gradual erosion of its democratic system. Most remarkably, in 2017 a new law significantly restricting civil society was passed. Similarly, the country has ceased to comply with its obligations under international law (Freedom House 2018).

<sup>26</sup> Freedom House classifies Poland as a consolidated democracy. However, the recent judicial reform, which was carried through by the ruling party Law and Justice, significantly undermines the separation of powers and, if implemented, would change the democratic character of Poland substantially. Moreover, the governing party pushed for amendments to electoral law through which the appointment of the National Electoral Commission is politicised and as such threatens the democratic electoral process in the country (Freedom House 2018a).

<sup>27</sup> See Article 2 TEU.

Remarkably, an overwhelming majority of the EU officials interviewed, who deal with the Western Balkan region on a daily basis, stated that they do not deem virtually free access to the EU market to be the main driver for all the reforms required by the EU (Interviews 3, 5, 6, 13, 16, 17). Instead, the prospect of membership is the incentive that makes all other potential drivers seem marginal. Moreover, one interviewee claimed that Bosnia and Herzegovina in particular will not be unduly concerned should the volume of trade with the EU diminish as a result of protectionist measures. ‘The protectionist measures would help Bosnian politicians’ (Interview 3).

The interviewee was referring to the general consequences of free trade. Among other things, free trade makes imports cheaper and encourages competition within the free trade area. Yet the gains from trade are not equally distributed, and those who stand to reap the greatest benefits are predominantly consumers. However, consumers are not usually very well organised in asserting their interests, namely lower prices and a wide range of products available on the domestic market. In contrast, the sectors’ representatives, particularly in agriculture, are highly likely to go on strike and thus exert considerable pressure on the local government. To illustrate the significance of agriculture, Table 5 shows the GDP distribution by sector in selected WB countries.

Table 4: GDP composition by sector for 2017

	<b>BiH</b>	<b>Serbia</b>	<b>Kosovo</b>
<b>Agriculture</b>	7.8%	9.8%	11.9%
<b>Industry</b>	26.8%	41.1%	17.7%
<b>Services</b>	65.4%	49.1%	70.4%

Source: author’s own based on data from Central Intelligence Agency 2018

To put the agricultural sector into perspective, in countries such as Poland, Slovakia and Bulgaria, or even a Western Balkan country like Croatia, agriculture accounts for 2.4%, 3.8%, 4.3% and 3.3% of local GDP respectively (Central Intelligence Agency 2018). Moreover, the current British ambassador to BiH claims that, even though the contribution of agriculture to Bosnian GDP may appear minimal at first sight, its significance is immense. According to him, the figure of roughly 8% does not provide ‘a true picture of how important farming is, because half of the BiH population still live in the countryside and the vast majority of those people depend, directly or indirectly, on the agricultural sector for their livelihood’ (Ferguson 2014). These links explain why it may be tempting for the Bosnian government to introduce protectionist measures to

support its own producers, a move that is likely to prove popular with voters. Yet the European integration process and protectionist measures are as compatible as oil and water.

Accession *per se* leading eventually towards full EU membership has been tempting, too. In this context, some of the interviewees argued that ‘the EU perspective makes the “game” different’ (Interview 5). ‘The commercial field is not an autonomous field which would determine it [the countries’ effort to take certain measures] on its own. It is rather part of the whole package which is called European integration’ (Interview 13). ‘The carrot is not just trade’ (Interview 16). ‘The EU uses accession as a carrot, not trade’ (Interview 5).

Another tool which appears to have been effective in facilitating the process is visa liberalisation (Interview 13, 17). EU *leverage* in this regard has always been strong. It is a generally attractive instrument which can have significant impact when made conditional on fulfilling certain requirements, especially in the fields of justice and home affairs (Trauner and Manigrassi 2014, 3). The EU specifies its conditions in the so-called roadmap, where the individual needs of each country are taken into account on a case-by-case basis. These generally cover four main areas: document security, illegal migration and readmission, public order and security, and external relations and fundamental rights (Trauner and Manigrassi 2014, 6).

The strength of the visa liberalisation incentive stems from the fact that it is traditionally welcomed by the general public in countries where visa requirements apply, making it ‘the dominant issue of the EU-Western Balkan relations’, as Trauner and Manigrassi claim (2014, 2). As a result, a potential success in obtaining visa-free travel to Europe for a country’s citizens may boost the electoral chances of local politicians in WB. To draw a parallel with protectionist measures, while these may have a similarly positive effect on politicians’ popularity, they are not in line with the European integration process. Visa liberalisation, on the other hand, is entirely in keeping.

Meanwhile, visa liberalisation in WB may have certain advantages for EU member states as well. According to Tanja Fajon, the Member of the European Parliament (MEP) and the EP’s rapporteur for visa liberalisation for Kosovo, free movement contributes to strengthening, not only political ties, but also economic ties, and international businesses may benefit greatly (S&D 2018). Potential risks and restraints resulting from free

movement rest predominantly with the EU member states. Serbia and BiH have been enjoying visa-free access since 2009 and 2010 respectively. Remarkably, just one year after visa liberalisation was introduced in Serbia, ‘asylum applications from Serbian citizens in the EU rose by 76%<sup>28</sup>’ (Trauner and Manigrassi 2014, 2). This is, however, not, politically attractive for the EU and the member states’ political leaders. Therefore, visa liberalisation, albeit an effective incentive to encourage Western Balkan countries to undertake certain reforms in justice and home affairs, needs to have ‘checks and balances’. As a result, the EU decided to complement this instrument ‘by the threat of temporarily reinstalling visa requirements’, turning the incentive into ‘a moving target not only used by the EU as source of external influence pre-visa liberalization but also post-visa liberalization’ (Trauner and Manigrassi 2014, 25). Interestingly, Kosovo is the only Western Balkan country which has not yet enjoyed visa-free travel to the EU, although it may be moving closer. In March 2018 its parliament ratified a Border Demarcation Agreement with Montenegro, thereby removing one of the major obstacles (Progressive Alliance of Socialists & Democrats in the EP 2018).

In short, even though BiH, Serbia and Kosovo are currently economically dependent on the EU, the analysis above suggests that the trade benefits the EU offers are not the main driver for Western Balkan countries to follow EU instructions and align with EU standards. Moreover, there are additional peculiarities specific to each country. For instance, the importance of the EU to Kosovo is primarily shaped in political rather than economic terms. The arguments here are twofold.

First, the political nature became evident in the aftermath of Kosovo crisis of 1998-1999. Shepherd (2009) argued that the EU found itself in an environment where it was obvious that its power was limited because it was incapable of preventing a violent conflict in its vicinity and, more specifically, of thwarting the Serbian offensive in Kosovo (Shepherd 2009, 513). This led to a serious reconsideration of the EU’s approach and resulted, among other things, in the creation of the aforementioned SAP, a political instrument equipped with a range of economic and political tools designed to promote stability (Shepherd 2009, 514) through a ‘clear set of values which stress democracy, rule of law and human rights’ (Shepherd 2009, 530). In this context, it shall be noted that in April 2016 a temporary judicial institution was established – the Kosovo Specialist Chambers

---

<sup>28</sup> The asylum seekers were primarily people belonging to ethnic minorities (Trauner and Manigrassi 2014, 2).

& Specialist Prosecutor's Office (KSC&SPO) – with a seat in The Hague and mandate and jurisdiction over crimes against humanity, war crimes and other crimes committed between 1998 and 2000. The creation of these chambers was a response to the allegations reported in the Council of Europe report of January 7, 2011 (KSC&SPO 2018) and shall be seen as part of the efforts in the fight against impunity. Furthermore, following Joseph Nye's soft power concept (Chapter 1, section 1.1.2), Shepherd points out that, since the EU is primarily regarded as a soft power, one of its key drivers for making other countries do what it wants is through the so-called 'power of attraction' based on admiration for its values and the overall achievements of integration, which, if followed, will eventually lead to EU membership (Shepherd 2009, 522). For instance, it was thanks to an amendment to Kosovo's constitution in 2015 that the chambers mentioned above became part of the Kosovar judicial system (KSC&SPO 2018). This would have been very unlikely without the EU's effort.

Second, the political essence as far as Kosovo is concerned is apparent in some of the proclamations made by the EU and member states' representatives throughout the period until very recently. For instance, as long ago as 1999, Tony Blair argued that acts such as genocide cannot be ignored by the international community as they mark the point where the principle of non-interference ceases to be relevant because these acts ultimately threaten international peace and stability (Shepherd 2009, 516). More recently, one of the EU's most important figures dealing with Kosovo was Austrian politician Ulrike Lunacek, former Member of the European Parliament (MEP) representing the Greens who served as rapporteur for Kosovo between 2009 and 2017. The political spirit of Kosovo's future is embedded in her recent book detailing her experience in office. 'We Europeans have the responsibility not to let down the hopes the Kosovars are putting into the EU. The Kosovars shall finally have a normal life in a normal state that is recognised worldwide,' she says (author's translation of Lunacek 2017, back page). In the same vein, one interviewee claimed: 'The thing is that without the EU, the future of Kosovo is not clear and its possible EU membership is just a "cherry". Kosovo is not a United Nations member and finds itself in a stage of building its own statehood' (Interview 16).

In conclusion, in order to broaden understanding of how EU *leverage* works in practice, be it economic or political, it is crucial to note that this *leverage* is far from being a static pattern. Rather it is a changeable pattern which may be strengthened or weakened by additional economic and broader political linkages. In economic terms, the financial crisis

at the end of the first decade of the 21<sup>st</sup> century shook Europeans' confidence in the EU's capability to act. In political terms, opinion fragmentation, both within the European Parliament and among member states, reduced the EU's *leverage* when negotiating with third countries. Lastly, in both political and economic terms, the recent migration crisis has also had a significant impact.

### 3.2 Principle of Pragmatism

The Copenhagen criteria bringing candidate countries closer to the EU in political and economic terms and seeking to align the law of the aspirant countries with the *acquis communautaire* ratcheted up the conditionality approach to EU membership (Shepherd 2009, 522). In return for undertaking desired reforms, candidate countries were promised accession with eventual EU membership. The criteria may appear platitudinous at first sight, but, as one of the EU officials (Interview 4) pointed out, they are actually well thought out. 'You cannot have democracy without a functioning market economy; you can have it the other way around, though. For democracy you need educated people. If people do not think for themselves, you cannot develop trade because trade is connected with ideas. Ideas, consequently, stimulate growth and that is what allows [a country] to be competitive on the global market.'

The EU needs stable and prosperous countries in its immediate neighbourhood. Given the economic immaturity of the Western Balkan countries and their incomplete transition to market economies<sup>29</sup> (Greider 2017), the EU effort to keep them engaged in the pro-reform process reflects the EU's pragmatic approach. This point was made by a Czech official based in Brussels, who said that the EU 'does not need the Western Balkan countries economically' (Interview 13). Moreover, as suggested above, the relatively small size of their populations coupled with the weakness of their economies suggests that opening up the EU market to their imports is unlikely to create negative effects for the EU.

The EU is fully aware of other international actors vying for influence in the region, including Russia, Turkey, United Arab Emirates and even Kuwait (Interview 13). Clearly, it is not in the EU's interest to have a Russian ally on its doorstep in Serbia, and

---

<sup>29</sup> The EU defined *market economy* in EU Regulation 2016/1036 Art. 2 [7c] in abbreviated form as follows. (1) Decisions of firms (prices, costs, input, etc.) are made in response to market signals without significant state interference. (2) Firms have clear accounting records in line with the international standards. (3) Absence of non-market distortions. (4) Firms are subjected to bankruptcy and property laws guaranteeing legal certainty and stability. (5) Exchange rates are at market rate.

subsequently to observe a new geopolitical turn of events taking place in Europe. Drawing on this rationale behind the EU's effort to engage in the Western Balkans, the Czech official observed that 'the EU knows there is a certain risk that if it is too hard on these countries [Western Balkan], they will turn to the other international players. That is not in the EU's interest' (Interview 13). Therefore, to prevent this from happening, it is necessary for the EU to keep track of the Western Balkan countries on one hand, and as the same official noted 'to find a good balance within the negotiations' (Interview 13), on the other.

The importance of this is highlighted by the fact that Western Balkan countries' 'economic performance has been particularly disappointing, even when compared to relatively modest results [in the Central and Eastern European countries]' (Bonomi and Reljić 2017, 2). As Bonomi and Reljić further put it: 'To date, even under the most optimistic forecasts, the expected average Western Balkan's GDP growth rate of around 3% is insufficient to accelerate the process of catching up and convergence. A recent estimation by the World Bank indicates that at current rates, it would take about six decades for average per capita Western Balkan income to converge with the EU average' (Bonomi and Reljić 2017, 3). These two factors – (1) the prospect of undertaking ostensibly endless hard reforms and (2) gloomy economic forecasts – result in what scholars and international organisations such as the International Monetary Fund (IMF) often term 'reform fatigue' (Bonomi and Reljić 2017, Doyle and Garcia Martinez 2017, IMF 2015). Additionally, Trauner and Manigrassi (2014) believe that the equally negative effect visa restrictions have on EU *credibility* and its general image in the Western Balkan region foster 'scepticism that the EU is not serious in its declarations about the region's future in Europe' (Trauner and Manigrassi 2014, 10). In short, the combined impact of all these factors in weakening the EU's *credibility* may effectively alter the Western Balkan course in undesirable ways and lead to it eventually ending up, for instance, within the Russian sphere of influence.

To sum up, the EU has been facing a dilemma with potentially far-reaching political and geostrategic consequences. On the one hand, enabling an unstable country with incomplete transition to become a market economy is risky as its political and economic instability could prove to be contagious and intrinsically threaten the stability of the EU. A parallel could be drawn here with the 2010 debt crisis in Greece resulting in apprehension that a similar situation could happen again. A country whose fringe



economy represented only 2.7% of euro area GDP almost wrecked the European Monetary Union (EMU) due to the fudging of the entry criteria (Featherstone 2011, 211-212). So some lessons have been learned. On the other hand, losing influence over a region in such close proximity to the EU could have detrimental ramifications as well.

This may explain the EU's decision to change its position towards Bosnia and Herzegovina over the case of *Sejdić and Finci*<sup>30</sup> vs. *BiH*, which was brought to the European Court of Human Rights (ECHR). This case 'demonstrated the discrimination that the people in Bosnia and Herzegovina may face based on their ethnic origin' (Bokšová 2013, 21). As a result, making the BiH constitution compliant with the ruling of the ECHR on the *Sejdić and Finci* case became a prerequisite for membership application (conditionality) and had been holding up the decision of the European Council to put the SAA into force for only four years with no progress on the BiH side (Interview 6). In fact, the SAA with BiH refers to human rights both in its preamble and in Article 5, which reads as follows.

'International and regional peace and stability, the development of good neighbourly relations, human rights and the respect and protection of minorities are central to the Stabilisation and Association process. The conclusion and the implementation of this Agreement will remain subject to the conditions of the Stabilisation and Association process and are based on the individual merits of Bosnia and Herzegovina.'

Moreover, the Council Decision (2008/211/EC) concerning the principles, priorities and conditions determining the European Partnership stated that BiH was required to 'ensure that national legislation be fully compatible with the European Convention on Human Rights'. Indeed, the EU had put pressure on the Bosnians to bring about constitutional approximation to the EU law while indicating that laxity in this regard could eventually suspend advancement on the Bosnian path towards a closer relationship with the EU prior to the SAA entering into force in 2015. For instance, former commissioner for

---

<sup>30</sup> The former is of Roma origin and the latter is Jewish. They are both prominent public figures who intended to stand in presidential and parliamentary elections. However, given the fact that the Dayton Peace Agreement only proclaimed BiH as a country of three peoples, Croats, Serbs and Bosniaks, they were declared ineligible to run by the Bosnian authorities because of their respective ethnic origins. The different political interests of the three biggest ethnic communities in Bosnia and Herzegovina have prevented them from reaching an agreement on the issue of national minorities' inability to run in national elections. The Court declared this a violation of Art. 14 (prohibition of discrimination) of the ECHR (Bokšová 2013, 21).

Enlargement and European Neighbourhood Policy Štefan Füle<sup>31</sup> stated: ‘I am here to underline to Bosnia and Herzegovina’s institutional and political leaders how urgent it is to implement the judgment of the ECHR in the case of *Sejdić and Finci* ... It is one of the preconditions for an application for EU membership to be taken into consideration ... We have been clear about the consequences of no progress. Without an agreement and then a Stabilisation and Association Agreement fully in force, Bosnia and Herzegovina's EU path would be frozen’ (Füle 2013).

Drawing on these accounts, the EU’s effort to actively use conditionality is undeniable, yet it has not brought about the desired results and BiH even regressed in its development. This is reflected in interviews with practitioners who claimed that the EU balanced all the aspects inherent in its relations to BiH and decided to change its position without any improvement being made by BiH with regard to the amendment of the constitution (Interviews 3 and 6). An EU official working in the Directorate-General for Neighbourhood and Enlargement (DG NEAR) described this chain of events as ‘mismanaged practice of conditionality’ (Interview 3). However, an EU official from the Directorate-General for Trade (DG TRADE) took a different view and perceived the delay in signing the SAA as punishment *per se* (Interview 6).

Despite the paragraphs above demonstrating how the EU seeks to make use of conditionality, it is interesting that according to two interviewees the EU has *de facto* never directly linked the protection of human rights with the trade benefits it offers in the Western Balkan region. The current SAAs put in place obviously provide trade benefits while at the same time asking for the protection of human rights, a message that has been reinforced by the above-mentioned new Council Regulation of 2015 allowing for the suspension of benefits. However, no such suspension has yet been applied (Interview 17).

Similarly, another EU official argued that ‘there is not conditionality in this sense’ (Interview 16). If the EU acceded to the bargaining approach, it was unlikely to be effective given that what usually lags behind is not law adoption, but law implementation. Thus, the EU would need to be very specific about what kind of progress it expects (Interview 17). These views clearly constitute a challenge to one of the EU’s most frequently used tools – conditionality. It is rather unlikely that there will be no

---

<sup>31</sup> Štefan Füle was in the office between years 2010-2014. Since October 2014, this post has been held by Johannes Hahn.

conditionality at all given the well-known sophisticated and conditional system of chapters opening and closing on the way towards the EU membership. Moreover, an EU practitioner referred specifically to the 35 chapters (Interview 13) that need to be successfully closed prior to a candidate country's accession. Moreover, chapter 23 *Judiciary and Fundamental Rights* and chapter 24 *Justice, Freedom and Security* deal clearly with the agenda this thesis focuses on. As this interviewee pointed out: 'It is said that chapters 23 and 24 ... shall be those that govern the progress within the negotiations. That means that these chapters shall be among the first to be opened between and shall be kept open as long as possible' (Interview 13). This demonstrates that conditionality is clearly being used.

But how can the contradictory insights presented by different interviewees be understood? It would appear that the EU seeks to avoid being too explicit in order to maintain as much room for manoeuvre as possible. When it does become explicit and fails to achieve its goals, as happened in the *Sejdić-Finci* case, then its *credibility* as a power is jeopardised. This seems to be the lesson learned.

The discrepancies in the practitioners' statements could also be taken to mean that conditionality is part of a whole negotiation tactic. However, what is being negotiated does not seem to be a trade agreement *per se*. Rather it is the accession. Yet the trade agreement constitutes the vehicle driving the EU accession trajectory forward. It shall be noted that the EU has a vested interest in keeping people-to-people business contacts with the Western Balkans at a high level. At the same time, it is less likely to compromise on an accession, as progress towards this goal has been made clearly conditional on concrete measures being taken. Yet, even in this regard the EU seems willing to properly consider all the arguments for and against insisting on compliance in accordance with its overarching strategy in the region.

The implications are threefold. Firstly, the newly added Article 2[1]d of the Council Regulation No 2015/2009, amended by the Council Regulation No 2015/2423, which provides the possibility of a temporary suspension of the preferential trade measures granted is very likely to be used if extremely serious and systematic violations of human rights take place. In other words, this article is not intended to be used as a conditionality in everyday dialogue with the Western Balkan countries, as it may seem, but constitutes the last resort if all other EU tools fail and the situation turns out to be internationally

unsustainable. Moreover, as one of the EU officials pointed out, the protection of HRs in Western Balkan countries is not as bad as it is in other countries the EU still trades with (Interview 5).

Secondly, in line with the analysis of the principle of *leverage*, the EU actively uses conditionality to advance the accession process, not trade *per se*, as trade is not the main incentive in the Western Balkan countries. Lastly, if conditionality does not bring about the desired results, the EU very pragmatically balances its options and pursues its own interests. For example, when the importance of the Western Balkan region to the EU became apparent during the migration crisis, losing influence in BiH did not appear to be the best alternative. As a result, the EU changed its position.

In sum, having noted that the most important incentive for Western Balkan countries is the genuine prospect of EU membership, and that the EU acts rather pragmatically, it is evident that another pattern is going to shape Western Balkan willingness to align with EU standards. It is the principle of *credibility* which follows.

### **3.3 Principle of Credibility**

The term *credibility* is often invoked when discussing EU policy towards Western Balkan countries. In his State of the European Union address of 2017, President of the European Commission Jean-Claude Juncker, said: ‘If we want more stability in our neighbourhood, then we must also maintain a credible enlargement perspective for the Western Balkans’. Moreover, the Communication from the Commission of February 2018 was itself entitled ‘A credible enlargement perspective for and enhanced EU engagement with the Western Balkans’ (EC 2018i). Reading between the lines of the Communication, *credibility* could be seen to have two dimensions. Firstly, the requirement to demonstrate ‘a credible and sustainable track record of reform implementation’ (EC 2018i, 8) suggests that candidate and potential candidate countries must undertake and implement real reforms in order to proceed on their European path. Secondly, the EU policy towards the Western Balkans needs itself to be *credible*.

From the perspective of this thesis, the second dimension is more interesting and is therefore further analysed. Although its true meaning may not be immediately apparent, one of the interviewees (Interview 5) explained it as follows. ‘The promise of becoming an EU member is not as clear as it used to be with the Central and Eastern European countries. The Western Balkan countries think that the EU’s insistence on the

improvement of the protection of human rights may potentially not be rewarded and may even set them back.’ A key implication of this statement is that the EU needs to act as a *credible* partner of Western Balkan countries in the sense that if they *do* meet the criteria set, EU membership will eventually follow. As a result, when approaching WB countries, the EU’s *credibility* consists of two key aspects: (1) a clear and tangible prospect of membership and (2) normative consistency of the *credible* incentives (Huszka 2018, 353; Schimmelfennig 2008).

With regard to the first of these, if the EU wishes to be perceived as a *credible* partner, it has to be beyond any doubt that the progress WB countries make as part of the accession process will be rewarded by EU membership. With regard to the second, it needs to be beyond any doubt that EU membership does not depend on any external factors – artificially concocted reasons covering up the EU member states’ reluctance to accept new members within the integration – but exclusively on the candidate countries themselves. However, scholars are not unanimous in their appraisal of this. Whereas Schimmelfennig (2008, 933) has assessed the EU conditionality policy to be by and large consistent, other scholars such as Vachudova (2014), Grabbe (2014) and Anastasakis (2008) do not share his view, citing different cases where the EU’s merit-based approach has not been consistent (Huszka 2018, 353). Notwithstanding these discrepancies, there are areas where the EU has been insistent on compliance from the very beginning of the negotiations, for example, by imposing, the requirement of cooperation with the International Criminal Tribunal on the Former Yugoslavia (ICTY)<sup>32</sup>. In this regard, all the EU principles (*leverage*, *pragmatism* and *credibility*) governing its approach towards Serbia appeared to complement each other and work in a desired way for the reasons outlined below.

The findings of Bokšová (2013) show that the launch of SAA negotiations in 2005 was already made conditional on progress in cooperation with the ICTY. When Serbia restricted its cooperation with the tribunal the following year, the EU decided to call off the negotiations. This prompted Serbia to commit to full cooperation, leading to the relaunch of the SAA negotiations in 2007. In April of the following year, both the SAA and the Interim Agreement on Trade and Trade-Related Issues were signed. The SAA

---

<sup>32</sup> The ICTY was a United Nations court of law based in The Hague which, during its period of tenure 1993-2017, dealt with war crimes that took place during the conflicts in the Balkans in the 90s. During this time the court indicted 161 individuals (ICTY 2018).

concluded with Serbia refers to the protection of human rights, not only in its preamble, which is not binding, but also in its operative clauses through Articles 2 and 5 (Bokšová 2013, 41). Article 2 reads as follows.

‘Respect for democratic principles and human rights as proclaimed in the Universal Declaration of Human Rights and as defined in the Convention for the Protection of Human Rights and Fundamental Freedoms, in the Helsinki Final Act and the Charter of Paris for a New Europe, respect for principles of international law, including full cooperation with International Criminal Court for the former Yugoslavia (ICTY), and the rule of law as well as the principles of market economy as reflected in the Document of the CSCE Bonn Conference on Economic Cooperation, shall form the basis of the domestic and external policies of the Parties and constitute essential elements of this Agreement.’

Article 5 states.

‘International and regional peace and stability, the development of good neighbourly relations, human rights and the respect and protection of minorities are central to the Stabilisation and Association process referred to in the conclusions of the Council of the European Union on 21 June 1999. The conclusion and implementation of this Agreement come within the framework of the conclusions of the Council of the European Union of 29 April 1997 and are based on the individual merits of Serbia.’

However, the fact that the SAA was only signed but was not in force suggests that the EU may have expected greater eagerness to cooperate with the ICTY from the Serbian side. For instance, two of the main actors of the Srebrenica massacre<sup>33</sup>, Radovan Karadžić<sup>34</sup> and Ratko Mladić<sup>35</sup>, were at that time still trying to escape justice. As Freyburg and Richter (2008) point out, the international community regards impartial prosecution of war crimes as a litmus test for the maturity of a democracy and its willingness to respect international humanitarian law (Richter 2008, 9). Both scholars were referring to Croatia in particular, but the same principle holds true for other Balkan countries, including

---

<sup>33</sup> The Srebrenica massacre took place in July 1995 at the end of the Bosnian conflict, and resulted in the execution and loss of more than 7000 Bosnian Muslims, mostly men and boys (Obradovic-Wochnik 2009, 61).

<sup>34</sup> Radovan Karadžić is a Bosnian Serb who served as a president in the three-member presidency of Republika Srpska (part of BiH) in 1992, and then as sole president of Republika Srpska and Supreme Commander of its armed forces till 1996. He was arrested in 2008, and in 2016 he was convicted of genocide, crimes against humanity and violations of the laws or customs of war. On those grounds, he was sentenced to 40 years’ imprisonment (ICTY 2018a).

<sup>35</sup> Ratko Mladić is a Bosnian Serb who served as Commander of the Bosnian Serb Army between 1992 and 1996. He was arrested in 2011 and sentenced to life imprisonment in 2017 for committing genocide, crimes against humanity and violations of the laws or customs of war (ICTY 2018b).

Serbia. Huszka (2018, 354) states that Serbian compliance in this regard was not widely expected as it could have been perceived by the Serbian people as contradicting their national identity, making it extremely difficult for them to fulfil.

Despite all these doubts, the Serbian police arrested Radovan Karadžić in July 2008 (ICTY 2018a) – three months after the SAA was signed – paving the way for further advancement. A few days later, Karadžić was transferred to the ICTY.<sup>36</sup> Wishing to take the advantage of the situation, Serbia officially applied for EU membership in 2009 (Bokšová 2013, 42). Referring to this event, an interviewee noted that potential candidates do not usually apply for EU membership without some indication that the timing is good and that their application is likely to be assessed positively (Interview 17). The aim here is not to speculate whether or not any communication between the EU and Serbian officials truly took place. Rather this thesis seeks to observe how ostensibly separate issues may be interconnected. In 2010, the ratification process of the SAA started, which could have provided Serbia with a *credible* incentive to proceed in its cooperation with the ICTY. As a result, Ratko Mladić was arrested in 2011. The following year Serbia was granted candidate status. What is more, Serbia also made an effort to accomplish another EU requirement, normalisation of relations with Kosovo, and in April 2013 the first agreement on the principles that regulate the mutual relations of these two countries was adopted. Five months later, the SAA entered into force. These developments show the effects of positive conditionality over time (Bokšová 2013, 41-43). Likewise, they demonstrate how a *credible* reward, however partial, contributed to bringing about desired outcomes in particular areas.

Notwithstanding the positive instances described above, Huszka (2018) argues that Serbia ended up ‘cherry picking’ from the EU human rights criteria, seeking to hide its reluctance to put in place other requirements, such as freedom of expression and media freedom, and camouflaging its non-compliance by providing the positive outcomes in transnational justice discussed above. The issue of freedom of expression remains unresolved, despite longstanding EU concerns about violence against journalists and political pressure put on media, think tanks and human rights organisations (Huszka 2018, 361). Although freedom of the press is guaranteed by the Serbian constitution, enforcement lags behind. Moreover, under the administration of Aleksandar Vučić, prime minister at the time and

---

<sup>36</sup> The author attended one of the Karadžić hearings at the ICTY in The Hague on November 15<sup>th</sup> 2012.

president since 2017, freedom of the press has been further eroded (Freedom House 2017).

According to Huszka (2018), Serbian political elites fail to effectively implement freedom of the press because it is not in their own interests. As she puts it: ‘Pluralistic media would make it much harder for the authorities to continue their power concentration efforts’ (Huszka 2018, 364). Huszka further claims that the EU fails to ‘punish’ Serbia for this undesired development. This leads her to the conclusion that the EU compromised the *credibility* of its conditionality policy in favour of ensuring stabilisation of the region by prioritising conditionality on ICTY cooperation and relations’ normalisation with Kosovo over other requirements (Huszka 2018, 357-359).

While this thesis does not regard policy inconsistency as conceptually problematic *per se*, it recognises that it may negatively affect the *credibility* of the EU in its partners’ eyes. Apparently, the level of EU *credibility* vis-à-vis the Western Balkans is influenced by the EU’s action, which has both its strengths and weaknesses. On one hand, the EU seeks to act as a model and template to be followed (Interviews 5 and 8). Indeed, never before have these countries experienced decades of lasting peace, which has gone hand in hand with economic prosperity affecting, to a greater or lesser extent, every new member state joining the block. Hence, the Norwegian Nobel Committee even awarded the EU Nobel Peace Prize in 2012 for ‘... the advancement of peace and reconciliation, democracy and human rights in Europe’ (Nobel Foundation 2012). This could be interpreted as recognition of what the EU has achieved within the Enlargement Policy in particular. As a result, this policy is considered to be one of the most successful EU policies ever (Juncos and Pérez-Solórzano Borragán 2016, 237; Gateva 2015; Ludlow 2013; Schimmelfennig 2008). However, there are several aspects of the Enlargement Policy that undermine EU *credibility*.

Firstly, Thomas Mühlmann, head of the Western Balkan Unit at the Austrian Foreign Ministry, observed that the EU’s attention has drifted away from the enlargement policy in recent years as a multitude of more pressing concerns have consumed its energy, including the financial crisis, the Greek crisis, the migration crisis and now Brexit (Mühlmann 2018). Consequently, these challenges have influenced the rise of nationalism in EU member states, with resultant anti-EU feelings facilitating the rise in popularity of authoritarian and populist leaders (Lunacek 2018). All in all, this recent



development contributes to what scholars call ‘enlargement fatigue’ (Juncos and Pérez-Solórzano Borragán 2016, 237). Yet it would be wrong to perceive enlargement fatigue as a new phenomenon. It was already making its presence felt during the first decade of the 21<sup>st</sup> century when EU member states were facing difficulties reaching agreement on fundamental EU internal reform, leading to the rejection of the Constitutional Treaty in referendums held in France and the Netherlands in 2005, and the subsequent rejection of the Lisbon Treaty in Ireland in 2008. As a result, the EU, the political leaders of its member states and the general public started to question the EU’s ‘absorption capacity’, concluding that, with 27 member states at the time, the EU may have ‘expanded too fast and too far’ (Shepherd 2009, 528).

Secondly, the pace of reform and economic convergence in the Western Balkan countries bore little resemblance to the development of the Central and Eastern European countries (Dabrowski and Myachenkova 2018, Bonomi and Reljić 2017). For instance, Bosnia and Herzegovina, Serbia and also Montenegro have not yet reached their real 1989 GDP level (Bonomi and Reljić 2017, 2). In other words, the economic growth and public wellbeing expected from the gradual integration with the EU has not been matched by the reality, and the ability of the WB countries to benefit from integration with the EU appears to be limited. Their export of manufactured goods is below potential, their products are less sophisticated because their economies rely too much on cheap labour, and they have not found a way to modernise their technologies. Moreover, the Western Balkan export of goods and services as a share of GDP represents an average of 30%, which is far below the 80% averaged by similarly sized transition economies that are already EU member states (Bonomi and Reljić 2017, 2). Therefore, the Western Balkan countries have not managed to take advantage of the growth they experienced from 2001-2008 as a result of the inflow of foreign capital, and as such have not accomplished profound economic restructuring and modernisation. Regardless of the pre-crisis boost, the global financial crisis and the European crisis slowed down the pace and amplified high unemployment, particularly of young people, which stands at 62.3% in BiH, 57.7% in Kosovo and 43.3% in Serbia (Dabrowski and Myachenkova 2018, 1-8). This development apparently does not fuel pro-European feelings; on the contrary, it may lead people to questioning the path towards the EU, which may eventually encourage restraint in pursuing reforms. In other words, the *credibility* of the EU path has been hit badly by

this development as the results up to now appear to be below the general expectations of the Western Balkan people.

Thirdly, although Kosovo has potential candidate status, the *credibility* of the EU's approach is weakened by the fact that not all member states recognise Kosovo<sup>37</sup> as an independent state. The European Union as such does not have the legal capacity to diplomatically recognise a state; this resides with the member states (Bledowski 2017). The five EU member states that have not yet recognised Kosovo are Cyprus, Greece, Romania, Slovakia and Spain. Hence, the EU's capability to act as one is limited. This may eventually affect the willingness of the Kosovar assembly and government, which came to power in September 2017, to undertake desired reforms.

Fourthly, in its reports on the progress made by candidates and potential candidates, the EU regularly draws attention to lack of advancement in desired fields. For instance, the reports on BiH, Serbia and Kosovo of April 2018 all note that there was little or no progress within the observed period (October 2016 – February 2018) in the area of freedom of expression, which remains a big concern. Both verbal and physical attacks against journalists and other forms of pressure occur (EC 2018j, 3; EC 2018k, 25; EC 2018d, 21-23). Moreover, the extent to which the EU approach is *credible* in the context of the recent assassinations of Daphne Caruana Galizia (October 2017) and Ján Kuciak (February 2018) is questionable. Both victims were investigative journalists and both were murdered in EU states. It could be claimed that this is a case of the pot calling the kettle black.

Likewise, when the EC assesses the protection of minority rights in all the selected countries, it calls for more progress and a more comprehensive approach towards the Roma and Ashkali<sup>38</sup> populations, which remain vulnerable groups (EC 2018j, 20; EC 2018k, 4; EC 2018d, 4). In the context of Kosovo, an interviewee said that while the EU

---

<sup>37</sup> Kosovo declared its independence from Serbia on 17<sup>th</sup> February 2008. Since then its political status has continued to be a sensitive political issue within the European and international communities. Immediately after Kosovo's declaration of independence, the Council of the EU acknowledged its validity while stressing that it was a *sui generis* case. Subsequently, Slovenian foreign minister Dimitrij Rupel, who presided over the Council of the EU between January 2008 and June 2008, reminded the Council that the EU had promised the Western Balkan region its EU perspective at the Thessaloniki summit in 2003 and suggested that it was time to recall the EU commitments (EP 2008).

<sup>38</sup> According to Marushiakova et al. (2001) Ashkali are usually identified as Albanian-speaking Roms who entered the international community just after the Kosovo crisis. However, Ashkali most often declare themselves as either Albanian or Roma, while preserving their own distinctive identity (2001, 24). This may also explain why the Ashkali minority is addressed within the EU Framework for National Roma Integration Strategies.

organises a bi-annual Roma seminar, it may not seem ‘authentic’, and thus *credible* enough, given that some EU member states have poor Roma protection records themselves (Interview 17). In this regard, Human Rights Watch (HRW) in its 2017 report addresses the unsatisfactory situation of Roma people in Hungary and Croatia (HRW 2018), while an EC working document on Roma integration observed recent developments in Bulgaria, the Czech Republic, Greece, Portugal, Romania, Slovakia and Spain, suggesting that the effective integration of Roma is an issue which needs to be tackled across more EU countries (EC 2017).

In addition, according to the EC report, further areas where BiH, Serbia and Kosovo have either reached, or are in the early stages of reaching, some level of preparation indicate that improvement is needed. These areas include the fight against organised crime, the fight against corruption and the need to build up the judicial system (EC 2018j, 3; EC 2018k, 3-4; EC 2018d, 3-4). An interviewee pointed out that ‘paradoxically, the EU is sometimes more strict with candidate countries than with its own member states,’ referring to the ongoing debate about the Polish judiciary system and to current political developments in Hungary, confirming the procedural constraints to tackling undesirable political development in member states discussed in section 4.2 above. ‘If this happened in candidate countries, the EU would very probably stop the negotiations<sup>39</sup> automatically,’ he observed (Interview 16).

The arguments put forward in this chapter could be summarised as follows: (1) recent lack of EU interest in the Western Balkan countries, (2) insufficient economic growth in the WB countries (3) the lack of a single EU voice regarding Kosovo and (4) the EU’s lack of self-reflection in different fields diminish the EU’s *credibility* greatly. In terms of the EU’s *leverage*, the WB countries appear to be attracted predominantly by the prospect of joining the ‘exclusive club’ of the EU member states, which allows for the use of conditionality. Yet the EU seeks to keep as much manoeuvring space in the negotiations as possible and, therefore, tends to sacrifice explicitness, because if overly explicit requirements are not fulfilled by partners, they weaken both the EU’s *credibility* and its *leverage*. Moreover, less specificity allows for changes in position without attracting too much international or scholarly attention, helping the EU to avoid criticism. As far as

---

<sup>39</sup>The EU-Kosovo negotiations have not started yet so it would be more correct to talk about the Kosovar path towards the EU; however, the interviewee was commenting on the development and trying to make a comparison in general.

*pragmatism* is concerned, the EU's all-important goal is to ensure stability, security and influence in its immediate neighbourhood, which explains its willingness to change its position if necessary.

## 4 Human rights clauses within the Association Agreements vis-à-vis EU Neighbourhood Policy

Building on the findings of the first analytical chapter (Chapter 3) on agreements concluded with countries involved in the EU Enlargement Policy, this chapter turns to another type of agreement involving countries whose prospects of obtaining EU membership are unlikely at the moment. Yet the countries participating in the European Neighbourhood Policy (ENP) are located right on the EU borders, and are therefore of immediate interest to EU security and foreign policy.

As explained in Chapter 3, ‘the ability to spark reforms and transformation processes in its neighbourhood [meaning countries involved in the EU Enlargement Policy] has always been one of Brussels’ strongest qualities, practically unmatched by any other country or international body’ (Bokša 2017). The main reason for this is that the EU Enlargement Policy has proved its ability to bring countries together and create a common space of peace, stability and economic prosperity while taking advantage of its *leverage* and, consequently, making use of conditionality. In addition, in many cases the EU has managed to serve as a model and attract other countries through its success story in both political and economic terms. This encouraged the ‘outsiders’ – at least 22 non-establishing countries – to consider aligning with the EU rules and as a result, they decided to follow the model. Besides, never before has Europe experienced the creation of a community which would live without conflict for many decades, making the European project unique.

Yet, the European project should not be perceived as a static entity; rather it is a process and every enlargement has affected its development in some way<sup>40</sup>. Moreover, it soon became clear that the EU Enlargement process is far from being a tool that could be applied endlessly. The original Article 237 of the Treaty of Rome stipulated that any European country could become an EU member state (Bokšová 2013, 8; Börzel and Risse 2004, 15-16). This principle is currently governed by Article 49 TEU.

---

<sup>40</sup> For instance, the first enlargement of 1973 which followed after two previous French vetoes illustrated the asymmetrical relationship between the EU and the applicant countries. The Mediterranean enlargement included Greece, Spain and Portugal, relatively poor countries which, although net contributors to the EU budget, were lagging behind economically compared to the previous EU9. The response to this challenge was the introduction of cohesion policy. The most challenging enlargement turned out to be the Eastern enlargement since the sheer number and size of the applicant countries, combined with their economic underdevelopment, demanded institutional and policy reform of the EU (Juncos and Pérez-Solórzano Borragán 2016, 229-230).

‘Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union ...’

This may appear straightforward, but experience demonstrates that it is not. No matter how clear it seems in the south, where the Mediterranean marks a natural Euro-African border, that did not deter the African nation of Morocco from challenging this by applying for EU membership in 1987. However, its application was turned down on the basis that it is not geographically situated in Europe (Juncos and Pérez-Solórzano Borragán 2016, 231). In the east, the border issue is even more complex as there is no widespread consensus on where the Euro-Asian borders lie.

In addition, over time the EU’s ‘absorption capacity’, as discussed in the previous chapter (section 4.4), has started to be questioned. New realities after the turn of the millennium – the accession of 12 new member states on the one hand, and the onset of so-called ‘enlargement fatigue’ on the other – prompted the search for a new approach towards EU ‘newly gained’ neighbours. To put it differently, the EU Neighbourhood Policy launched in 2003 and developed throughout 2004 (EC 2018t) is the result of the EU’s effort to come up with an alternative to its Enlargement Policy. Many see enlargement as the EU’s best foreign policy tool, but developing a policy that will be equally successful in a different context is a tough call.

There are currently 16 countries in the ENP comprising the EU’s closest eastern and southern neighbours.<sup>41</sup> The origin of the policy lies in the conviction that the EU has a vested interest in enhancing stability and security in its bordering regions, given the possible spillover effect of potential negative developments. Within the ENP there are two key initiatives: the Euro-Mediterranean Partnership (Euromed) and the Eastern Partnership (EaP). The former establishes a privileged relationship with countries forming an imaginary ring around the EU’s southern borders, from Morocco to Turkey, based upon a mutual commitment to common values such as democracy and human rights, rule of law, global governance and market economy principles (EC 2018t). The latter provides the framework for deepening relations with six of Europe’s eastern neighbours: Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine.

---

<sup>41</sup> In the south: Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestine, Syria, Tunisia; in the east: Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine (EC 2018t).

The recent migration crisis, peaking in October 2015 with the inflow of more than 10,000 refugees on a single day (EC 2017b), proved Europe's fears to be well founded. Moreover, almost 40% of the world's refugees and internally displaced persons are gathered on the EU's doorstep, with several protracted conflicts (EC 2015a, 17) threatening the Union's future stability. As a result, the EU deems it of the utmost importance to actively engage with the neighbouring countries and strive to address the roots of these threats and, consequently, contribute to securing common borders (EC 2015, 12). This is done through political dialogue via different instruments, from Twinning<sup>42</sup> or TAIEX<sup>43</sup> to common border missions such as EUBAM<sup>44</sup>. Nevertheless, it is rather unlikely that political dialogue and consequent potential alignment with EU standards would take place if the neighbouring countries did not have an economic incentive to actively engage. Analysis with a closer focus on Georgia, Morocco and Ukraine follows.

#### 4.1 Principle of Leverage

The paragraphs above imply that the EU's *leverage* is diminished in political terms within the ENP by the absence of the eventual prospect of EU membership. This, in turn, limits the EU's potential use of conditionality, as some scholars suggest (Schimmelfennig 2012, Cremona 2008, Dannreuther 2004). Before it is possible to proceed with further analysis, it is necessary to have a good grasp of the economic relations of the EU and its partners within the ENP.

Table 6 below demonstrates the extent of these countries' economic dependence on the EU. Not only is the EU their top trading partner, the percentage difference between their trade figures with the Union and those with their second largest trading partner is huge. In the case of Morocco, over 59.4% of its trade is with the EU, but for all three countries the EU's economic importance is considerable.

---

<sup>42</sup> Twinning is an instrument for institutional cooperation between public administrations of EU member states and partner countries, aimed at sharing expertise and achieving concrete operational results through peer-to-peer activities (EC 2016a).

<sup>43</sup> TAIEX stands for Technical Assistance and Information Exchange instrument and underpins public administration with regard to the approximation, application and enforcement of EU legislation (EC 2016b).

<sup>44</sup> EUBAM stands for the European Union Border Assistance Mission to Moldova and Ukraine and promotes border control, customs and trade norms and practices that meet EU standards. It was launched in 2005 and the current mission mandate is valid until November 2020 (EEAS 2018a).

Table 5: Total Goods and Top Trading Partners of Georgia, Morocco and Ukraine for 2017

	<b>Total Trade (% of World)</b>	<b>Top Partner</b>	<b>Export (% of World)</b>	<b>Top Partner</b>	<b>Import (% of World)</b>	<b>Top Partner</b>
<b>Georgia</b>	26.5	EU28	23.7	EU28	27.5	EU28
	14.8	Turkey	14.5	Russia	17.2	Turkey
	11.1	Russia	10.0	Azerbaijan	9.9	Russia
	8.8	China	7.9	Turkey	9.2	China
<b>Morocco</b>	59.4	EU28	64.6	EU28	56.5	EU28
	6.4	China	4.1	USA	9.2	China
	6.0	USA	3.7	Brazil	6.9	USA
	3.8	Turkey	2.8	India	4.5	Turkey
<b>Ukraine</b>	41.6	EU28	40.5	EU28	42.5	EU28
	12.0	Russia	9.2	Russia	14.5	Russia
	8.2	China	5.6	Turkey	11.3	China
	4.8	Belarus	5.5	India	6.7	Belarus

Source: author's own based on data from the European Commission 2018q/r/s

In the light of this dependence, an EU official (Interview 7) claimed that the key *leverage* the EU has with ENP countries is the possibility of concluding a Deep and Comprehensive Free Trade Agreement. The difference between an Association Agreement (AA) and a DCFTA is qualitative. In fact, a DCFTA is an economic pillar of an AA. In other words, no trade agreement is entitled DCFTA; it is always an AA with or without enhanced economic and trade relations (denoted by the 'DCFTA part'). Admittedly, this may cause some confusion. In the case of Ukraine, the qualitative difference is given through the addition of 'Title IV on Trade and Trade-Related Matters' (Interview 18), which runs to 124 pages and provides an in-depth description of EU-Ukraine trade relations. A DCFTA consists of two key components: (1) the gradual opening of reciprocal market arrangements by both parties with some asymmetry favouring the EU's partner, and (2) far-reaching regulatory approximation to EU law in trade-related matters, including customs, geographical indications, sanitary and phytosanitary measures, and trade and sustainable development (EC 2017d, 16-18).

Public consultations the EU conducted with its ENP countries show that access to the EU market remains a key incentive (EC 2015a, 7), confirming the conceptualisation of the EU as Market Power Europe. Indeed, in Ukraine in 2016 (the first year of the provisional DCFTA application), EU exports to and imports from Ukraine increased by 17.6% and 1.9% respectively. Georgia's DCFTA with the EU entered into force in July 2016.



Between the years 2014-2016 EU exports grew by 2.8% while imports from Georgia decreased by 16.4%. This was, however, primarily caused by the drop in global prices for commodities, significant for Georgia as its exports are based on raw materials and semi-finished products (EC 2017d, 16-17). To date, Ukraine and Georgia, together with Moldova, are the only three ENP countries to have concluded a DCFTA agreement with the EU. It has to be stressed that these DCFTAs are not entirely identical and involve different levels of commitment in different sectors, as well as different levels of liberalisation. When comparing Georgia and Ukraine, for example, more liberalisation is possible in the former because it is overall less competitive on the market than Ukraine (Interview 18). In all three countries, utilisation rates of the preferences provided by their DCFTAs have been very high, accounting for 80% in the case of Georgia and 90% for both Ukraine and Moldova (EC 2017d, 17).

With regard to Morocco, the EU-Morocco AA was signed in 1996 and entered into force in 2000, establishing two-way trade liberalisation in industrial goods; further selective liberalisation of agricultural and fishery goods was agreed in 2012. The following year the DCFTA negotiations were launched, with the aim of integrating Morocco's economy into the EU single market and bringing it closer to EU legislation in the areas outlined above. Consequently, the DCFTA seeks to exploit the potential of mutual economic relations and at the same time reinforce the Moroccan reform process (EC 2018v). Since 2013, four rounds of negotiations have taken place, but in April 2014 the negotiations were put on hold (EC 2018w).

It shall be noted that the extent of EU *leverage* in ENP countries varies considerably, since they are hugely diverse, each with its own individual needs, constraints and aspirations. Some have never even abandoned the idea that one day they could eventually become EU member states. Whereas countries in the south may focus exclusively on special relations with the EU, countries in the east, such as Ukraine, Moldova and even Georgia, do not regard EU membership to be completely out of reach, at least not in the long run. For instance, as early as 2009, the year that the EaP was launched, public opinion polls conducted in Georgia identified EU membership as the third 'most important international aid to Georgia' (Bolkvadze 2016, 431). This 'incentive nuance' typical of the east-south divide directly influences the EU's *leverage*.

Ukraine in particular has made significant strides towards alignment with EU rules in order to have a DCFTA (Interview 18). Since 2007-2008, the core of the EU-Ukraine relationship has been shaped by the possible conclusion of an AA with a potential DCFTA component. This has served, firstly, as a model for EU policy towards all of Eastern Europe under the dimension of the EaP, and secondly, as a key incentive, enabling the EU to use conditionality to influence future Ukrainian development (Burlyuk and Shapovalova 2017, 36-37). Moreover, an interviewee pointed out that, of all the EaP countries, Ukraine is the one whose economy depends most heavily on the EU market (Interview 7). Additionally, it is important to consider that in 1989 Ukrainian gross national product per head was at about the same level as in Poland, whereas 25 years later it was only one third (EC 2014a, 6). In terms of human rights, democracy and rule of law, there were significant issues under the presidency of Viktor Yanukovych, despite the fact that Ukraine has been a member of both the Council of Europe and the Organization for Security and Cooperation in Europe (EC 2014a, 6). At the EU Foreign Affairs Council in 2012, the EU welcomed Ukraine's determination to enhance its ties with the EU, and set out the requirements to be met prior to the conclusion of a DCFTA, declaring that 'Ukraine's performance will determine the pace of the engagement' (Council of the EU 2012). The areas of serious concern were: (1) selective justice, (2) unfair and non-transparent elections, and (3) lack of effective implementation of ECHR judgements and Council of Europe decisions and other reforms agreed within the Association Agenda (Council of the EU 2012).

The economic dependence of Ukraine on the EU led the EU to conclude, perhaps too soon and too fast, that its *leverage* would be sufficient, without having due regard for the concerted efforts the Kremlin was making to persuade Ukraine to turn towards Russia. For this reason, Burlyuk and Shapovalova (2017, 44) argue that the EU underestimated cross-conditionality – 'another actor offering comparable benefits at lower adjustments', in this case Russia. Remarkably, Russia did not protest to any significant extent at the beginning of the EU-Ukraine DCFTA negotiations in 2008<sup>45</sup>, deeming that Victor Yanukovich was unlikely to meet one of the EU's conditions – namely the release from jail of Yulia Tymoshenko, former prime minister and one of Yanukovich's main political opponents, before the presidential elections scheduled for early 2015 (Popescu 2013, 1).

---

<sup>45</sup> This took place in parallel with the Ukraine accession to the WTO.

Two reasons lay behind Russia's sudden reassessment of its hitherto lukewarm position. Firstly, the EU had acknowledged that some progress was being made by the Ukraine government. For instance, it positively assessed the new Criminal Procedure Code<sup>46</sup>, the law on freedom of association, and other steps Ukraine had taken in combatting organised crime and human trafficking (EC 2013a). These positive developments prompted it to put forward a proposal for a Council decision on signing the AA in the autumn of 2013, despite lack of progress regarding Tymoshenko's release, sidelining this key obstacle to further advancement in the negotiations (Popescu 2013, 1).

Secondly, it soon became clear that Ukraine's ambitious association with the EU, on the table since 2008, and its potential participation in the Eurasian Customs Union<sup>47</sup> were mutually exclusive (Burlyuk and Shapovalova 2017, 44) due, among other things, to 'differing standards and tariffs in place' (Popescu 2013, 1). These factors played a crucial role in causing the Kremlin to reconsider its approach. Indeed, the events of the first decade of the 21<sup>st</sup> century, when countries such as Latvia, Lithuania and Estonia, in particular, but also the Czech Republic, Poland, Hungary, Slovakia, Bulgaria, and even Romania, became EU member states, brought home to Russia that its sphere of influence had diminished substantially, and probably irreversibly. In the light of these geopolitical changes, the potential loss of Ukraine as well – a traditional Russian domain – was too much to take.

These factors spurred Moscow into action and it made use of cross-conditionality to prevent Ukraine from signing its agreement with the EU. After blocking virtually all Ukrainian imports in the summer of 2013, it offered to withdraw the trade embargo and provide Yanukovich with political and economic support in return for not signing the AA with the EU (Burlyuk and Shapovalova 2017, 44). With an eye on the forthcoming elections of 2015, Yanukovich opted to accept the Russian proposal, as it better suited his own interests. While the potential benefits of signing the DCFTA with the EU seemed attractive, they would only start emerging in the longer term, whereas the Russian offer promised immediate results. In short, the EU 'miscalculated the size of its reward' (Burlyuk and Shapovalova 2017, 45).

---

<sup>46</sup> The Criminal Procedure Code prescribes the way in which criminal proceedings shall be conducted aiming at protecting rights and legal interests of both physical and legal persons on the Ukraine territory (WIPO 2018).

<sup>47</sup> The Eurasian Customs Union was established by Russia, Kazakhstan and Belarus in 2010. Consequently, in 2011 border controls were eliminated. The initiative further developed in 2015 into the Eurasian Economic Community with Armenia and Kyrgyzstan joining this integrational project (Kirkham 2016, 111).

These events suggest that ‘EU *leverage* acts in a complex environment’ (Burlyuk and Shapovalova 2017, 44) and may therefore be weakened or strengthened by additional external factors, such as other international actors. An interviewee also drew attention to the role played by the national governments of EU partner countries, noting that, if these governments are pro-European, EU *leverage* increases. He observes this happening in Ukraine and Georgia, and believes it could even apply to Morocco unless the problem of Western Sahara<sup>48</sup> is mentioned (Interview 12).

The Georgian case is a perfect example of this. Between 2004 and 2013, the country was run by a pro-Western and reform-oriented administration under President Mikheil Saakashvili (Bolkvadze 2016, 410). During his first terms, he simultaneously sought to strengthen ties with the EU and foster linkages with the USA (Bolkvadze 2016, 431). At the 2008 Bucharest Summit of the North Atlantic Treaty Organization (NATO), the heads of states and governments declared that they welcomed Georgia’s and Ukraine’s Euro-Atlantic aspirations and desire to join NATO, and agreed that these countries would become members (NATO 2008). Yet, according to Rinnert (2010), NATO’s subsequent rejection of Georgia’s membership application and the distressing effects of the August war of 2008 encouraged Georgia to turn its focus exclusively on integration with the EU (quoted in Bolkvadze 2016, 431). Not only did potential EU membership enjoy wider support among the Georgian public, the possibility of visa simplification was similarly attractive (Bolkvadze 2016, 431), providing the EU with another ‘big carrot’ as further analysed by principle of *pragmatism*.

However, in the absence of pro-European sentiments, promoting change becomes more difficult. Additionally, the EU seems to be aware of the potential risks, as in the 2015 ENP Review it states that the EU cannot solve all the challenges and threats in its neighbourhood and admits that its *leverage* is limited (EC 2015, 2). Yet if it has no economic *leverage* at all and relies on its ostensible normative power alone, any efforts to make other countries take desired and mostly costly measures and adopt certain standards appear to be naïve and illusory.

An EU official argued that the ENP countries have two key motivations for entering into negotiations with the EU. The first is the financial assistance they receive. The current

---

<sup>48</sup> Western Sahara is a conflict territory located on the north-west coast of Africa. In 1975, the former Spanish colony was divided between Morocco and Mauritania without the consent of the indigenous people. Sahraoui nationalists, led by the Polisario Front, launched a war of independence (Daadaoui 2008, 143).

European Neighbourhood Instrument (ENI) put in place for the period 2014-2020 accounts for €15.4 billion and as such underpins the implementation of the ENP (EC 2018t). The second is the preferential access to the EU common market which the EU offers. In this regard, both strengthening and weakening factors inherent to the EU institutional framework are present.

On the one hand, there is the European Parliament where politicians from all 28 member states are grouped together in cross-national political groups representing ideologically different schools of thought. These diverse political backgrounds are mirrored by the extent to which these groups support the idea of linking trade with and human rights. To put it differently, there are marked differences of opinion regarding the desirability of using trade as a broader tool of external relations in the pursuit of non-economic goals. For instance, the Confederal Group of the European United Left/ Nordic Green Left and the Greens/European Free Alliance belong among the most fervent proponents, the Group of the Progressive Alliance of Socialist and Democrats (S&D) is broadly in favour, both the European People's Party and the Alliance of Liberals and Democrats for Europe are somewhat circumspect, coming to the European Conservatives and Reformists, who stand at the end of list having long opposed this linkage (Interview 9). These discrepancies affect the EU's *leverage*. If the 'voice of the European people', which the EP represents, was united on this matter it would at least psychologically increase the EU's *leverage*.

On the other hand, the interviewee also stressed that because 28 member states act as one through the supranational Commission, which has the mandate to negotiate the trade agreements, this strengthens the EU's *leverage* considerably. It would be a different story if the EU member states had to negotiate these agreements individually, as its *leverage* would be weakened substantially (Interview 7). The EU appears to be fully aware of this because in its 2015 Review of ENP it encourages efforts for more coherent and coordinated communication as it admits that 'the EU is more influential when united in a common approach and communicating a single message' (EC 2015a, 5). In addition, an EU practitioner said that the EC reflects different voices within the EP and actively seeks to prevent any negative statement by continuously informing the EP about ongoing trade negotiations and progress reached (Interview 9).

Although there is clearly economic asymmetry between the EU and its ENP partners, the EU's *leverage* also faces certain constraints. For instance, the EU is gradually becoming

more vulnerable in terms of its energy dependence, as discussed below within the principle of *pragmatism*. Five out of six EaP countries are relevant in this regard. Azerbaijan's position is particularly unique as it is an actual energy producer. Four other countries; Belarus, Georgia, Moldova and Ukraine, play a key role in energy transit (EP 2016, 19).

## 4.2 Principle of Pragmatism

The EU determination to provide neighbouring countries with increased attention is embedded in Article 8 TEU.

‘[1] The Union shall develop a special relationship with neighbouring countries, aiming to establish area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation.’

‘[2] For the purpose of paragraph 1, the Union may conclude specific agreements with the countries concerned. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation.’

This article implies that the EU appears to be convinced that the prosperity of its neighbours serves its own interests and as such shall be enhanced. Therefore, it commits itself to actively contributing to the political and economic development of countries on its doorstep. Many scholars contend that the EU's engagement in its neighbourhood is largely *pragmatic*. Del Satro and Schumacher (2005) claimed that the driving force for the establishment of the ‘ring of the friends’ surrounding the EU territory had been security concerns. Similarly, Pardo (2004) said that the EU's prime objective was to keep chaos outside while simultaneously enhancing security by keeping the outside friendly (quoted in Browning and Joenniemi 2007, 16).

Although the ENP countries are territorially grouped, the EU seeks to approach them bilaterally. While Browning and Joenniemi agree with the EU's rhetoric that only an individual approach allows for a tailor-made approach addressing the different needs of each country, most scholars tend to align more with the ‘perspective that Realpolitik’ governs the EU action in the sense that bilateralism intensifies the power asymmetries between the EU and its partners (Browning and Joenniemi 2007, 20). As Štěrbová puts it, one of the CCP's core aims is to increase the ‘negotiating power’ of the European integration in trade liberalisation negotiations. As a result, the CCP is based on the

principle of unity. This is mirrored in a single EU approach in trade relations towards third countries (Štěrbová 2013, 221). This is a highly *pragmatic* move since it increases the EU's *leverage* within the negotiations. Subsequently, not only does the EU support the expansion of European entities on foreign markets (Štěrbová 2013, 231), it is also able to push for more reforms that suit its interests. Indeed, EU preponderance is significantly reinforced if 28 EU member states negotiate as one with one single partner.

An EU official stated that the EU is 'a realistic actor' and, therefore always 'prefers engagement and modest progress to cutting ties and allowing a country to backslide' (Interview 12). This statement can be supported by the EU's approach in both the Georgian and Ukraine cases in particular. As regards Georgia, the EU realised that visa facilitation constituted one of its strongest tools given the widespread public support for it. As Bolkvadze rightly notes, visa facilitation usually goes hand in hand with a readmission agreement<sup>49</sup>, which is beneficial for both parties of the visa facilitations agreement.

As a result, the EU set out clear criteria upon successful completion of visa facilitation negotiations. These were: (1) conclusion of readmission agreement, (2) ensuring availability of passports with biometric identifiers, (3) development of comprehensive national action plan for migration (4) enhancement of anti-money laundering measures (5) border management, and (6) setting of anti-trafficking rules (Bolvadze 2016, 431). In all these areas, Georgia achieved satisfactory results. To highlight just a few of the measures undertaken, Georgia started to cooperate with Frontex (European Border and Coast Guard Agency)<sup>50</sup> with a view to enhancing border security, and further promoted its cooperation with Eurojust (European Union's Judicial Cooperation Unit)<sup>51</sup> and Europol (European Police Office)<sup>52</sup>. In addition, regarding the human trafficking issues, Georgia focused on the efficient implementation of the comprehensive legislation it had already put in place. These achievements were soon positively assessed in the 2011

---

<sup>49</sup> A readmission agreement sets out clear obligations and procedures for the authorities of non-EU countries and of EU member states as to when and how to take back people who are irregularly residing (EC 2018x).

<sup>50</sup> Frontex (European Border and Coast Guard Agency), established in 2004 and based in Warsaw, seeks to help Schengen countries to manage their border controls and to harmonise border controls across the EU by providing technical support and expertise (EC 2017e).

<sup>51</sup> Eurojust, established in 2002 and based in The Hague, provides support in judicial coordination and coordination between national authorities in order to combat terrorism and serious organised crime (EC 2018y).

<sup>52</sup> Europol, established in 1999 and based in The Hague, assists national authorities in law enforcement in order to combat serious international crime and terrorism (EC 2018z).

Report on Human Trafficking, which noted that Georgia even outperformed some EU member states, such as Latvia, Greece and Malta (Bolvadze 2016, 432-434).

Georgia continues to be assessed positively in this regard, making it the best performing country in the region. According to the 2018 Report on Human Trafficking, Georgia achieved the highest possible ranking (tier 1) for the period 2016-2018, up from a tier 2 ranking for 2013-2015 (US Department of State 2018)<sup>53</sup>. Bolkvadze (2016) claims that the EU's conditionality proved successful in these areas because visa facilitation was a strong incentive, and, no less importantly, the EU demands did not threaten the Georgian political elites. To explain the context, given the country's hybrid regime characterised by free, but not fair, political competition, those in power are heavily influenced by whether or not the EU demands in different areas are likely to generate additional votes for them (visa facilitations), or conversely, reduce their chances of re-election (media freedom, free and fair elections, etc.). If they conclude the former, they are willing to undertake even costly reforms because they are not 'costly' politically, whereas in the latter case, they are far more reluctant as it could do them more damage than good. As a result, compliance is highly selective.

Nevertheless, as Interviewee 12 argued above, even a little progress (implicitly selective) is perceived by the EU positively. Indeed, all the aforementioned positive results achieved by Georgia are in the EU's interest as they indirectly enhance EU security. Therefore, the EU rewarded Georgian progress, firstly with a visa facilitations agreement which entered into force in 2011, and subsequently with visa liberalisation which, since March 2017, has allowed Georgian nationals with biometric passports to enter the Schengen zone for a short stay without visa obligations (EC 2018aa).

Similarly, partial positive results were rewarded in the Ukrainian case. As already discussed above in section 4.1, Council of the EU 2012 reiterated that electoral, judicial and constitutional reforms were necessary for establishing new relations at the DCFTA level (Council of the EU 2012). However, the Commission report of 2013 stated that in the course of the events at the turn of 2013-2014, the improvements achieved in the three key areas were only of 'a cosmetic nature' (EC 2014a, 6). Moreover, there could hardly

---

<sup>53</sup> The US Department of State issues an annual report where it assesses the extent of effort a particular government has put into combatting human trafficking. Within the assessment the best performance is labelled as tier 1, the worst performance is labelled as tier 3. Effectively, it is tier 4 as in between there is tier 2 and tier 2 watch list. To maintain tier 1 ranking, a country has to make progress each year (US Department of State 2018).



be another explanation for the EU's willingness to conclude the AA with Ukraine, which had previously been conditional on the release of Yulia Tymoshenko, despite lack of progress on this subject at the Vilnius Summit of autumn 2013. An interviewee shared his experience of EU procedure when an EU partner does not follow up on the promises [in regard to the human rights agenda] as follows: (1) declaration is adopted, (2) second declaration is adopted, (3) bilateral discussion behind closed doors takes place, (4) money suspension, (5) cancellation of some visits and bilateral discussions (Interview 12). This implies that the EU does not want to end up having no contact with the country in question because engagement is perceived as one of its major interests. Therefore, it seeks to provide any country with enough time so that shortcomings can be fixed. In parallel, however, it seeks to urge the country to take desired measures as these are equally in the EU's interest.

In the 2015 Review of the ENP, the priorities of the policy were reassessed and, among other things, it was stated that 'the EU will pursue its interests, which include the promotion of universal values. The EU's own stability is built on democracy, human rights and the rule of law and economic openness and the new ENP will take stabilisation as its main political priority in this mandate' (EC 2015a, 2). This statement implies that firstly, the EU believes that its good practice, and thus, engagement, shall contribute positively to the stabilisation of the neighbouring countries, and secondly, the EU is aware that alignment with its standards done by other countries serves its own interests, both in political and economic terms. In this sense, it appears very *pragmatic*, although its action is covered by a 'normative veil'. If operated successfully, with more and more countries adopting an approximation to EU legislation and standards, the EU's *leverage* will be strengthened, leading to a strengthening of its power in global terms too. In this regard, an EU official stated that 'the strategy to spread one's own values is a common strategy of all actors globally' (Interview 7), suggesting that such an action does not make the EU exceptional. Rather it is an integral part of global affairs, as every actor striving to become a global power is likely to use all the instruments at its disposal. For the EU, its major instrument is its market.

Interviewees dealing with ENP countries in particular, both within the DG NEAR and DG TRADE, found it relatively difficult to arrive at a common and clear conclusion regarding whether or not the EU could ever put the human rights agenda above the importance of trade with the ENP countries. Is the 'normative veil' fact or fiction? The

DG NEAR representatives believe that the EU puts human rights before its interests (Interviews 10 and 12), supporting their view by referring to the recent sanctions against Russia after the Russian annexation of Crimea in 2014, which have been clearly against the EU's economic interests (Interview 12).

The sanctions in absolute terms resulted in the total loss of EU exports to Russia, which accounted for 34.7% over the period 2014-2016 (EP 2017a, 34)<sup>54</sup>. The country bearing the biggest economic burden in absolute terms was Germany, while in relative terms countries such as Cyprus, Greece and Croatia were particularly badly affected because of the decrease in their exports of agricultural products (EP 2017a, 40). In terms of other effects, the estimations of the Austrian Institute of Economic Research suggest that EU sanctions against Russia caused the loss of 400,000 jobs across the EU (EP 2017a, 40). This seems politically difficult to defend in view of the high unemployment rates in some of the EU member states at the time. For instance, in Greece and Spain, unemployment in 2014 was already reaching 26.5% and 24.5% respectively, although the average EU28 unemployment rate was 10.2% (Eurostat 2018).

In contrast to the DG NEAR representatives, the DG TRADE officials claimed that trade and human rights agendas are pursued in parallel. The aims of these may, however, in certain cases conflict with one another. When such a clash takes place, detailed analysis of the extent of human rights violations in the country concerned is conducted (Interview 18). The extent of the human rights violations is further assessed alongside other potential EU interests. In other words, the EU analyses what is at stake in each particular case and decides accordingly. This eventually results in differential treatment – a double standard (Interview 18). To put it differently, although the ‘normative veil’ operates from the very beginning of negotiations, it is only given emphasis when no other interests are at stake. The experience these EU practitioners shared shows a very *pragmatic* rationale behind the EU's action.

Moreover, according to another interviewee (Interview 7), trade is generally not about values but about economic interests. To support this statement, he argued that ‘Azerbaijan is not a democracy, yet the EU still has a bilateral, even non-preferential,

---

<sup>54</sup> However, according to the EP analysis, it is rather difficult to determine the extent to which the sanctions on their own caused the decrease in the volume of trade with the EU due to other factors that may have considerably affected it, too, such as the slump in international oil prices and subsequent devaluation of the ruble resulting in reduced foreign import demand (EP 2017a, 39).

agreement with it, in contrast to the more democratic Belarus, where negotiations on any preferential agreement are conditional on proven tangible steps in human rights, such as a moratorium on the death penalty' (Interview 7). He goes on to explain these different treatments or inconsistencies by drawing attention to the energy security the EU needs to preserve and the fundamental role Azerbaijan plays therein.

Azerbaijan is also key for diversifying the supply chain away from Russia. In terms of crude oil, Azerbaijan accounted for 5% of the EU's imports in 2015. Russia and Norway accounted for 30% and 12% respectively, while all other EU oil suppliers accounted for a single-digit percentage share of the total crude oil import in 2015. This explains why even 5% coming from Azerbaijan is not negligible, especially in light of the fact that the EU is dependent on imports from highly unstable regions, making these imports potentially insecure (Buffet 2016, 2-3). In fact, energy security, as argued by Futák-Campbell, is 'the most pressing common security interest that unites EU member states' interest into collective interest in the eastern neighbourhood' (2018, 131), over and above other traditional security threats such as terrorism, war or migration. Her findings are in line with the ENP Review of 2015, which includes amongst its new priorities 'greater attention to the energy security and climate action' (EC 2015a, 3). 'The EU strongly relies on its neighbourhood for safe, secure and predictable generation and transportation of energy and therefore needs to strengthen its dialogue with partner countries on energy security and sustainable production' (EC 2015a, 11). Indeed, 'EU-28 dependency on energy imports increased slightly more than 40% of gross domestic consumption in 1990 to reach 53.6% by 2016' (Eurostat 2018a).

Following the logic of Interviewee 7, who said that trade is not about values but about economic interests, how then can EU sanctions against Russia after the annexation of Crimea be understood? Interestingly, there seems to be a long-term pragmatic rationale behind the EU's action. If it had not acted as it did, not only would this have considerably weakened its *credibility*, it would have sent other international actors the clear message that the EU tolerates annexations. By tacitly supporting such actions in its neighbourhood, the EU risks upsetting stability and security on its doorstep, eventually resulting in far-reaching economic problems. This may have been the reason why the EU decided to sacrifice its short-term economic interests in favour of the long term.

### 4.3 Principle of Credibility

It is fair to state that the ENP has faced ample criticism. For instance, using Wolfers' (1962) terminology of 'milieu' and 'possessions' goals<sup>55</sup>, Tocci (2006) claimed that the EU failed to achieve its milieu goals in the southern neighbourhood because, according to her, possessions goals cannot be used as a means to induce normative change in fields such as human rights or democracy. In order to avoid this fundamental contradiction inherent in the EU's goal, she refuses conditionality as a tool. This perspective contradicts Market Power Europe, the overarching concept of this thesis, yet it is worth mentioning in order to move the debate further.

This thesis accepts that conditionality is not always an effective tool. Indeed, the EU is motivated to balance all the arguments for and against its use and may eventually change its position, as happened in the *Sejdić-Finci* case in Bosnia and Herzegovina within the Enlargement Policy, and in the release of Tymoshenko in Ukraine within the Neighbourhood Policy. These actions are inconsistent, and eventually result in diminishing the level of the EU's *credibility*. However, a conditional approach based on the EU's *leverage* has long been the EU's most successful tool, allowing it to directly influence countries in its neighbourhood. It is hard to think of another tool that could produce comparable results.

Besides general 'enlargement fatigue', another key factor in the policy's lack of success is the fact that many practitioners who previously worked on enlargement and negotiated the agreements moved to cover ENP portfolios in 2003 and 2004 (Futák-Campbell 2018). Expanding on this, Futák-Campbell (2018) argues that these practitioners brought with them the methodologies employed for countries that are working towards accession to the EU, which made the switch to accepting that these countries have little or no chance of accessing the EU more difficult to build into the policy. Therefore, the practitioners made use of conditionality during the initial phase of the ENP in much the same way as it had when dealing with the Central and Eastern European countries at the turn of the millennium. This was later corrected but at a great cost that challenged the *credibility* of the EU with ENP partners.

---

<sup>55</sup> The former represents EU's effort to contribute to the international community by promoting peace, democracy, human rights, rule of law and international law in the neighbourhood. The latter represents the EU's effort to protect its own interests with respect to economic and commercial objectives, border management or energy security (Tocci 2006, 10).

In a more country-specific view, as discussed in section 4.1, regardless of the fact that Tymoshenko was still in jail, the EU was willing to seal the deal with Ukraine at the EU-Ukraine summit in Vilnius in 2013. Prior to the summit, different voices were heard within the EU itself. These differences of opinion generally did little to enhance the perception of the EU's *credibility* in its approach towards Ukraine as the EU did not appear to be convincingly unified. Burlyuk and Shapovalova identified three main positions adopted by EU diplomats and MEPs: (1) internal affairs shall not directly influence future EU-Ukraine relations, (2) Yanukovich shall be 'punished' by retaining the agreement conclusion, and (3) Yanukovich shall be 'punished' by concluding the agreement and enforcing its implementation. The last stance prevailed and demonstrates that the EU prioritised its geopolitical interests over its normative position (Burlyuk and Shapovalova 2017, 42-44). As a result, the consequences on the EU's *credibility* are twofold and it largely depends on the perspective taken.

On the one hand, despite a certain amount of hesitation before a final position was taken, the EU's willingness to further engage with Ukraine seemed to be clear and in this sense the EU position appeared to be *credible*. This contrasts with Turkey, for example, where it gradually began to be questioned whether or not EU membership was a serious prospect and whether further advancement in the negotiations, similarly to some Western Balkan countries as discussed in previous chapter, truly depended exclusively on Turkish performance. However, in the case of Ukraine, this may be different as the prospect of membership is not on the table and as such a serious effort to move towards approximation with the EU does not seem to be in the sight, at least from the public point of view.

Additionally, it shall be stressed that Yanukovych's decision not to sign the AA with the EU provoked a fierce public reaction leading to massive civil protests on Kiev's Maidan (Independence Square), generally referred as to the Euromaidan protests. These brought about the end of Yanukovych's rule in Ukraine. A new government headed by Prime Minister Arseniy Yatsenyuk was appointed, and in March 2014 Ukraine signed the AA with the EU (EC 2015b). However, it could not be applied immediately as it lacked both ratification by the Ukrainian parliament and the consent of the EP.

Given the situation in Ukraine, the EU decided to provide it with unilateral trade preferences as of April 2014. An EU official said that these preferences were approved

in only two months, whereas usually the process takes two years (Interview 18), thus, the EU's willingness to help Ukraine was obvious. In September 2014, the Ukrainian parliament ratified the AA and the European Parliament gave its consent allowing for a provisional application<sup>56</sup> of relevant provisions of the agreement since November 2014 and the DCFTA section since January 2016 (EC 2015b). Despite the negative result of a non-binding 2016 referendum in the Netherlands suggesting that not all EU citizens wish to pursue closer ties with Ukraine, the Dutch senate approved the ratification and the DCFTA section came into full force in September 2017 (Interview 18). Moreover, the EU took the difficult economic situation in Ukraine into account and added additional temporary autonomous trade measures as of October 2017 to those it had already accorded. These consisted of: (1) additional zero tariff import quotas for certain agricultural products and (2) partial or full removal of import duties on several industrial products (European Council 2017). In the light of these EU actions, the EU appears to be determined to provide Ukraine with real help, making its approach more *credible*.

On the other hand, in its approach towards Ukraine at the beginning, the EU clearly sacrificed one of its normative requirements, which would be incompatible with the concept of the EU as a normative power. To put it differently, from a normative perspective the EU's *credibility* must have been questioned. Futák-Campbell (2018) extensively examined the Normative Power Europe concept in the Eastern region in her work 'Practicing EU foreign policy'. She argued that practitioners ought to be more mindful of their moral responsibility towards ENP countries, just as they were with the Central and Eastern European countries before they joined the EU. Evoking such moral responsibility without appropriate actions to follow or the prospect of membership will jeopardise the EU in the sense that it will be seen as a 'moralising' power rather than a responsible actor in the region. NPE is, however, not the point of departure of this thesis since the EU is conceptualised as a market power bearing in mind all other interests and, thus, allowing for normative inconsistencies. Nonetheless, the aforementioned example clearly demonstrates the EU's ability to use its market power as an instrument, not only for achieving its ends – in this instance helping Ukraine economically – but also for externalising its norms, despite the fact that some of these norms can be sacrificed at

---

<sup>56</sup> Provisional application means that the scope of the agreement is applied before the agreement has been ratified by the EU member states and/or their national parliaments.

times. Yet admittedly, the EU shall cautiously consider to what extent the possible inconsistencies could affect its *credibility* as an actor.

When the EU considers its action towards southern Mediterranean countries such as Morocco it has to be careful not to discredit itself ‘by imposing reforms from outside’, as this is a sensitive issue given the country’s colonial legacy (Tocci 2006, 4). As a result, any action lacking general internal support may significantly threaten the EU’s *credibility*. Drawing on this, Tocci explains why the EU puts a lot of effort into identifying the reforms that need to be taken in the Mediterranean countries. In the case of Morocco, the first Action Plans covered reforms in fields such as decentralisation or modernisation of the prison system, and also in family law which was promoted by the Moroccan monarchy (2006, 4).

The commitment to common values such as democracy and human rights is embedded in Article 2 of the EU-Morocco AA.

‘Respect for democratic principles and fundamental human rights established by the Universal Declaration of Human Rights shall inspire the domestic and external policies of the Community and Morocco and shall constitute an essential element of this agreement’

A comparison of the wording here with the wording of the SAA concluded with Serbia discussed in section 3.4 reveals certain similarities and contrasts. Regarding the similarities, the articles referring to the human rights are embedded in the operative part of the agreement making them legally binding. As such, it can be understood that the EU is serious about its determination to promote human rights. Moreover, it is evident that the wording ‘essential element’ gives the EU the possibility of suspending the agreement if a serious breach takes place. However, the term ‘serious breach’ lacks a precise definition and therefore leaves room for the EU to assess each case *ad hoc*.

With regard to the contrasts, the AA with Morocco appears to be less demanding as it only refers to the Universal Declaration of Human Rights without pinning down the specifics. Whereas in the SAA with Serbia, besides referring to other declarations such as the European Convention on Human Rights or the Helsinki Final Act, it also requires respect for the principles of international law, and, specifically, cooperation with the ICTY. An equivalent requirement is missing in the Moroccan case. The parallel here

would be the ICC<sup>57</sup>, since Morocco has signed the Rome Statute although it has not yet ratified it and as such is not a State Party.<sup>58</sup> Why the EU does not use its *leverage* and explicitly require cooperation with the ICC, which would reinforce its determination to pursue international justice and ultimately raise its *credibility*, is a question that remains unanswered. This is particularly interesting in view of an ICC official's claim that the EU had previously made its aid towards African countries under the Cotonou Agreement<sup>59</sup> conditional on Rome Statute ratification (Interview 14).

Out of the ENP countries profiled in this thesis, only Georgia is a State Party to the Rome Statute as it signed the act in 1998 and subsequently ratified it in 2003 (ICC 2018b). Remarkably, Ukraine belongs to the signatories that have never ratified the act *per se*. Nevertheless, following the violent suppression of the Euromaidan protests (against the Ukrainian government after it decided to draw back from concluding the AA with the EU in autumn 2013) Ukraine lodged its declarations accepting ICC jurisdiction over the alleged crimes. As a result, since November 2013 the Court has been able to exercise its jurisdiction with no end date, as specified in the second Ukraine declaration of 2015 (ICC 2018c).

One of the principal tools underpinning the ENP, and consequently the EU's *credibility*, is the aid the EU provides through a funding instrument called the European Neighbourhood Instrument (ENI)<sup>60</sup>. The ENI running from 2014-2020 is worth over €15

---

<sup>57</sup> The International Criminal Court was established by the Rome Statutes which was signed in 1998 by 120 states and it took effect in 2002 upon ratification of by 60 states. This makes ICC the very first world's first permanent international criminal court. The court investigates and tries individuals charged with the gravest crimes, such as genocide, war crimes, crimes against humanity and the crime of aggression. As such it contributes to the global fight against impunity (ICC 2018). It shall be noted that the ICC may only exercise its jurisdiction if the crimes were committed on or after July 1<sup>st</sup> 2002 by (1) by a State Party national, (2) in the territory of the State Party, (3) in a state which accepted the court's jurisdiction. Additionally, the UN Security Council may on the grounds of its resolutions refer crimes (outside the ICC's jurisdiction) to the ICC Prosecutor granting the court its jurisdiction (ICC 2018a).

<sup>58</sup> The current constitution of Morocco does not allow for the Rome Statute to be ratified. As the Coalition for the ICC (2018) explains, although the 2011 Moroccan constitution amendments provide for the criminalisation of genocide, all other crimes against humanity and war crimes (Article 23), the inviolability of the king remains problematic (Article 46). It shall be noted that monarchies such as Great Britain, Spain, Belgium or Sweden are all State Parties to the Rome Statute. But in order to ratify the Rome Statute, a country's constitution must be compatible with the Rome Statute. Hence, amendments in this regard in the case of Morocco are desirable.

<sup>59</sup> The Cotonou Agreement is the most comprehensive partnership agreement between the EU vis-à-vis developing countries and governs its relations with 79 African, Caribbean and Pacific (ACP) countries. Its main objective is to reduce and eventually eradicate poverty and contribute to the gradual integration of the ACP countries into the world economy. The Cotonou Agreement was adopted in 2000 and is based on three fundamental pillars covering (1) development cooperation (2) economic and trade cooperation (3) political dimension (European Council 2018).

<sup>60</sup> The ENI replaced the European Neighbourhood Policy Instrument (ENPI) which covered the period 2007-2013 and provided financial aid comparable to the amount provided by the ENI today (Cross Border Cooperation in the Mediterranean 2013).



billion. It is divided into ENI East and ENI South<sup>61</sup> (Cross Border Cooperation in the Mediterranean 2015). An indicative allocation for ENI South for the ongoing funding period is €7.5-9.2 billion (EC 2018u). Within the ENP framework, Morocco is the largest recipient of EU funds (EC 2018v).

In conclusion, one of the particularities inherent to this chapter is that the EU Neighbourhood Policy covers not only the largest number of countries when compared to the EU Enlargement Policy and GSP+, but also a highly diverse group of countries. This prevents scholars from identifying how explicit the EU is in its negotiations and how much manoeuvring space it generally strives for. In terms of *leverage*, preferential access to the EU market and the possibility of concluding a DCFTA remain key ‘carrots’. Additionally, there are other similarly attractive tools, such as visa facilitation. Visa facilitation broadly helps the leaders of ENP countries politically. As a result, they are mobilised and highly motivated to fulfil the EU’s requirements, even though they may demonstrate selective compliance at times. In terms of *pragmatism*, the EU is driven by its overarching strategies and security interests within the ENP, just as it is within the EU Enlargement Policy, which therefore does not allow for a consistent approach. Dialogue embracing different aspects of possible mutual cooperation is the EU’s indispensable tool on its path towards the ‘export of good practice and norms’.

---

<sup>61</sup> Cooperation with Syria is suspended given the ongoing political situation in the country.

## **5 Human rights protection vis-à-vis the GSP+ arrangement**

The last type of trade agreement to be analysed, together with its role in protecting HRs beyond EU borders, are trade agreements concluded with remote developing countries that have minor significance for the EU's geostrategic or political interests. Developing countries on their path towards economic growth are generally disadvantaged by their limited possibilities of engaging with international trade. For this reason, trade preferences seem to constitute one of the solutions to alleviate developing countries' dissatisfaction by providing access to the EU market (Jayasinghe 2015, 555), and thus enabling them to integrate into and move up regional and global value chains (EC 2015, 22).

Based on the United Nations Conference on Trade and Development (UNCTAD) recommendations (EC 2018o), the General Scheme of Preferences (GSP) was introduced in 1971, making it the oldest EU trade regime contributing to the promotion of human rights outside the EU's territory (EP 2017, 2). As such, it allows the EU to provide developing countries classified as low income, lower middle-income economies or least developed countries (LDCs) with unilateral trade preferences based on the WTO Enabling Clause (EP 2017, 2). The EU Regulation, which currently governs the GSP, (EU) No 978/2012 of the European Parliament and of the Council, came into effect in January 2014. In recital 7 it reads as follows.

‘By providing preferential access to the Union market, the scheme should assist developing countries in their efforts to reduce poverty and promote good governance and sustainable development by helping them to generate additional revenue through international trade, which can then be reinvested for the benefit of their own development and, in addition, to diversify their economies. The scheme's tariff preferences should focus on helping developing countries having greater development, trade and financial needs.’

It shall be noted that the current GSP has been modified and reformed over time and the scheme has undergone certain changes. For instance, firstly, it was the 1994 GSP Regulation which included the possibility of suspending trade preferences for violations with regard to forced labour for the very first time. Secondly, the revised 2001 GSP Regulation referred to eight of the ILO conventions. Thirdly, the scheme was modified in the 2005 GSP Regulation after the WTO Appellate Body in 2003 found that certain arrangements rewarding some countries for their efforts in the fight against drug

trafficking were discriminatory, and therefore incompatible with WTO rules (EP 2017, 2).<sup>62</sup> Lastly, the current Regulation mentioned above is based on the 2005 GSP Regulation (Regulation (EC) No 980/2005), and as such preserves the three-layered structure outlined below.

- (1) **Standard GSP** grants customs duty reductions for around 66% of all tariff lines to developing countries classified as low income or lower-middle income economies<sup>63</sup> which do not belong among LDCs.
- (2) **GSP+** (special incentive arrangement) grants not only duty reductions but also duty-free access for essentially the same 66% of all tariff lines to countries that are considered vulnerable due to lack of economic diversification and insufficient integration within the global trade exchange, on condition that 27 core international conventions<sup>64</sup> on human rights, labour rights, protection of environment and good governance are both ratified and implemented.
- (3) **Everything but Arms (EBA)** (special arrangement) grants full duty-free and quota-free access for all products except for arms and ammunitions to the countries classified as LDCs<sup>65</sup> (EP 2017, 2).

Bearing in mind the aim of this thesis and the fact that the special incentive arrangement GSP+ combines trade and the protection of human rights, it is clear that the GSP+ stands at the heart of further analysis. GSP+ shall be generally perceived as an outcome of the EU's trade and development policy since it is a unilateral trade preference offered by the EU to a developing country. The above-mentioned Regulation (EU) No 978/2012 explains the aim of the GSP+ arrangement as a:

‘... special incentive arrangement for sustainable development and good governance ... which ...should be granted to those developing countries which, due to a lack of diversification and insufficient integration within the international trading system, are vulnerable, in order to help them assume the special burdens and responsibilities resulting from the ratification of core international conventions on human and labour rights, environmental protection and good governance as well as from the effective implementation thereof.’

---

<sup>62</sup> See General System of Preferences - Handbook on the Scheme of the European Union from UNCTAD (2015) for further information regarding the scheme.

<sup>63</sup> Classified by the World Bank.

<sup>64</sup> See the list of conventions in Annex A.

<sup>65</sup> Classified by the United Nations.

More specifically, through GSP+ the EU seeks to provide developing countries with the incentive to ratify and uphold 27 core international conventions, without expressing incompatible reservations (EP 2017, 3). These cover: seven UN human rights conventions, eight ILO labour rights conventions, eight UN conventions on environment protection and climate change, and four UN conventions on good governance. It also expects effective implementation of these conventions, and stipulates regular and continuous external monitoring to ensure that this happens. The beneficiary countries are expected to support this process by committing to report on progress and development in the respective fields. This makes the GSP+ arrangement the ‘most comprehensive and detailed human rights mechanism established within the framework [of the EU CCP]’ (EP 2017, 1), because in return for effective compliance with the aforementioned conventions the developing countries are granted preferential access to the EU market. This provides them with an economic incentive.<sup>66</sup> Moreover, overall it also fits the EC strategy *Trade for All* introduced in 2015.

The fact that the EU offers preferential access to its market based on the fulfilment of certain criteria even to geographically remote countries demonstrates its willingness to make global use of conditionality. Moreover, it needs to be stressed that even the standard GSP is, to a certain extent, made conditional, because the beneficiary countries are similarly *expected* to comply with the principles of the core human rights and labour rights conventions. If they fail to do so, the EC may decide for the preferences to be withdrawn. This is *negative conditionality*. Yet in the case of the GSP+ arrangement, it is *positive conditionality* since the beneficiaries are granted preferential access to the EU market when the set criteria are met (EP 2017, 3). The similarity the standard GSP shares with the GSP+, in contrast to the EBA arrangement, is that when the beneficiaries conclude a free trade agreement (FTA) with the EU they lose their GSP or GSP+ status (EC 2018p, 1).<sup>67</sup> This similarity is quite straightforward, because to be eligible for the GSP+ status, ‘countries must first fulfil the precondition of being beneficiaries of the standard GSP’ (EC 2016, 6). In this sense the GSP+ is not just an upgraded version of the

---

<sup>66</sup> Yet scholars such as Jayasinghe 2015 and Bartels 2007 perceive this to be rather problematic and argue that the GSP+ arrangement does not seem to comply with the Appellate Body interpretation of the WTO Enabling Clause, which allows additional tariff preferences for developing countries while committing them to ratify and implement a list of human and labour rights conventions, and conventions on environmental protection and good governance because of its ‘conditional’ substance.

<sup>67</sup> For example, this is what Georgia experienced in 2016 including a six-month transitional period so that the Georgian businesses could adjust to new realities provided by the DCFTA as already discussed in the previous analytical chapter.

standard GSP, since the more progress the eligible countries are willing to make in terms of the protection of human rights, labour rights, environment and good governance, the more preferential access they may strive for. Additionally, in order to be granted GSP+ status, countries have to apply to the EC, requiring a level of proactivity on their part which, according to Interviewee 2, plays an indispensable role. As a result, this is one of the major qualitative differences between the GSP+ and both the standard GSP and the EBA, where the countries are included automatically based on their classification.

In the GSP+ arrangement, there are currently<sup>68</sup> nine beneficiary countries: Armenia, Bolivia, Cabo Verde, Kyrgyzstan, Mongolia, Pakistan, Paraguay, the Philippines and Sri Lanka (EC 2018ac). It should be noted that given the limited social development and economic vulnerability<sup>69</sup> of these countries, it is highly unlikely that they would take any measures to improve human and labour rights, protect the environment or enforce good governance in their countries without the incentive provided by the EU. Simply put, there would not be enough political will to take any action. The EU is fully aware of this, and therefore, through its trade with a partner, plays the role of a normative actor seeking to influence the setting of standards and norms in that country by providing them with this special trade arrangement. An analysis of the GSP+ arrangement with a focus on Bolivia, Pakistan and Sri Lanka follows below.

## **5.1 Principle of Leverage**

Although most of the GSP+ countries are geographically remote, in the context of globalisation and the ensuing effort of developed countries to integrate developing nations into the global trade exchange, they are not remote in economic terms. As a result, the volume of trade with the EU, resulting also from the preferential GSP+ arrangement, from their point of view, is not negligible. This is particularly true of Pakistan and Sri Lanka. This is captured in Table 7 below.

---

<sup>68</sup> Up to April 30 2018.

<sup>69</sup> See Annex VII of the Regulation (EU) No 978/2012 for the definition of ‘vulnerability’.

Table 6: Total Goods and Top Trading Partners of Bolivia, Pakistan and Sri Lanka for 2017

	<b>Total Trade (% of World)</b>	<b>Top Partner</b>	<b>Export (% of World)</b>	<b>Top Partner</b>	<b>Import (% of world)</b>	<b>Top Partner</b>
<b>Bolivia</b>	17.3	Brazil	17.9	Brazil	21.6	China
	14.1	Argentina	16.0	Argentina	16.8	Brazil
	14.0	China	10.4	EU 28	12.6	Argentina
	10.9	EU 28	7.8	USA	11.3	EU 28
<b>Pakistan</b>	21.9	China	35.3	EU 28	27.4	China
	16.1	EU 28	17.7	USA	13.7	UAE
	11.3	UAE	6.0	China	9.5	EU 28
	8.2	USA	5.2	Afghanistan	4.9	USA
<b>Sri Lanka</b>	16.3	India	27.7	EU 28	22.0	India
	15.2	EU 28	24.6	USA	19.9	China
	13.7	China	5.8	India	8.4	EU 28
	10.5	USA	4.5	Singapore	6.9	Singapore

Source: author's own based on data from European Commission 2018l/m/n

According to the study of the European Parliament Research Service, the garment sector in the beneficiary countries has benefited considerably. Given its potential, the growth of this sector could make a significant contribution to raising employment levels, particularly of women, and this could bring further benefits in the fight against poverty (EP 2017, 2-3). Additionally, the GSP+ was based on the idea that beneficiary access to the EU market will establish an environment conducive to refocusing on new, higher value-added products. Unfortunately, there has been huge disparity between the opportunity to diversify under GSP+ regime and the diversification efforts that have actually been taking place. The 2016 EC report pointed out unsatisfactory development in this regard in three particular GSP+ countries: Bolivia, Armenia and Paraguay (Bokša and Bokšová 2017, 17).

Yet, the GSP+ arrangement also brings positive results. For instance, in 2016, overall imports under GSP preferences amounting to €62.6 billion entered the EU market, of which around €7.5 billion came from GSP+ beneficiaries, accounting for almost 12% of the total.<sup>70</sup> The largest share of the value of the GSP+ imports was in Pakistan, accounting

<sup>70</sup> Twenty-three standard GSP beneficiaries accounted for €31.6 billion (accounting for more than 50%) and forty-nine EBA beneficiaries accounted for €23.5 billion (accounting for more than 37%).

for 74%, followed by the Philippines, accounting for 22%; all other GSP+ beneficiaries including Bolivia accounted for less than 1% (EC 2018p, 2).<sup>71</sup> In terms of the overarching goal of the GSP+ arrangement, namely the integration of the GSP+ countries within the international trade exchange, it shall be noted that the overall import trend from the countries involved in GSP+ trade regime showed an increase between the years 2014 and 2016 (EC 2018p, 2). Therefore, it can be understood that this regime is effective in some way.

The EU is fully aware of the economic *leverage* it has over selected GSP+ countries. Indeed, this directly affects the dialogue the EU conducts with them. In this regard, two interviewees (Interview 2 and 24) said that when the EU seeks to spread its values, it focuses on the countries where there is more trade. That explains why most of the GSP+ beneficiaries are Asian countries, because Asia is, according to the interviewee, important in trade terms. To put it in perspective, ‘around 90% of the total volume of preferential exports to the EU under GSP originates in fewer than 10 countries, located mainly in South and South-East Asia’ (EP 2017, 3). This contrasts with Africa, where serious human rights issues are also present but where many countries have very little or almost no trade with the EU. As a result, the EU’s *leverage* is diminished when compared to most Asian countries (Interview 2). Similarly, another interviewee, said that the lower the volume of mutual trade, the smaller the human rights agenda that is put on the table (Interview 26).

To put it differently, the EU’s *leverage* determines the extent to which it may exert influence over other countries. And the *leverage* itself is set firstly, by the volume of trade and dependence of a partner on the EU, and, secondly, by the dependence of the EU on the partner country, be it in economic and/or political terms, as further analysed in the section on the principle of *pragmatism*. Moreover, as already stated above, the countries interested in GSP+ have to actively apply for the status. In so doing, they demonstrate a strong interest in the scheme, which consequently eventually intensifies the *leverage* the EU has over them (Interview 2; EP 2017, 8).

As one of the interviewees (Interview 19) put it: ‘There is a completely different dialogue with Pakistan on the one hand and the USA on the other, which is obviously difficult

---

<sup>71</sup> These data exclude Sri Lanka. The GSP+ status was withdrawn from Sri Lanka in 2010 and it only re-entered the special incentive scheme in 2017; therefore, Sri Lanka is not covered in the GSP+ statistics of 2016.

because it draws international criticism'. Nevertheless, it shall be noted that even in the Pakistani case the EU's *leverage* is weakened because, as further analysed in the section on the principle of *pragmatism*, Pakistan is an EU ally in the region in the war against terror (Interview 9), deterring the EU from taking a more emphatic stance. However, the EU's *leverage* is not powerless either.

While the EU has never withdrawn the trade preferences to Pakistan, it has found another means of exerting influence – it actively uses its diplomatic 'sticks and carrots'. An example cited by one of the interviewees was the planned visit to Pakistan of Federica Mogherini in 2017 to sign an EU-Pakistan Strategic Engagement Plan. However, the EU expected Pakistan to take certain measures in return, and these did not take place. As a result, Mogherini's 'conditional' visit was cancelled (Interview 11). This year, the EU explicitly expected Pakistan to issue an invitation to the EU Election Observation Mission to attend the parliamentary elections due in July 2018 (Interview 11). The EU used this additional incentive, as it was aware that 'Pakistani leaders really wished to be seen in the media with Mogherini' (Interview 11). The fact that the EU Election Observation Mission was present at the parliamentary elections in July (EEAS 2018b) shows an additional dimension of the *leverage* the EU has had when dealing with Pakistan.

The political inconsistencies and 'double standards' that arise from this case-by-case approach not only attract criticism within academia – Smith (2008), Börzel and Risse (2004) or Smith and Light (2001) – they may also cast the EU in a negative light as an international actor when negotiating trade agreements with other third countries. In this regard, an EU official who has been present at many of these trade agreements negotiations said that 'sometimes African countries raise these issues even during the negotiations themselves and ask: "Why don't you [the EU] care about human rights in China? Human rights is our internal affair,"' (Interview 9). However, the interviewee went on to add: 'In China the economic need is mutual, and even though the human rights dialogue takes place, it happens on a completely different level' (Interview 9). These observations suggest that in the context of human rights the EU is tougher on some countries than on the others. This was corroborated by most of the interviewees (Interview 1, 2, 3, 4, 8, 9, 12, 13, 16, 17, 18, 22), who agreed that the EU action may be, as suggested above, deemed an 'inconsistent' policy or demonstrate 'double standards'.



Only interviewee (Interview 25) flatly refused to accept this, stating that ‘the EU has clear guidelines and a policy within which human rights are mainstreamed. There is no variance in the [EU’s] approach. Of course, the issues are different in each case, as are the ways these are voiced. Some of the work is more public, and some of the work is more below-the-radar because otherwise it would be harmful ... Nevertheless, in terms of the content, approach and determination it is equal’. To reinforce her argument, she cited the example of the EU-Canada Comprehensive and Trade Agreement negotiations, which also included the protection of human rights in the agenda.

According to this interviewee, her Canadian counterparts were astonished that such an issue was deemed relevant to their situation (Interview 25). However, she was the only interviewee who refused to accept the EU ‘inconsistent approach’ in terms of human rights promotion. The interviewee works within the EEAS and as such contributes to the management of diplomatic relations and conduct of EU foreign and security policy, which may explain the striking difference in her response.

Despite confirming the ‘inconsistent’ policy or ‘double standards’, the other interviewees did not believe the EU should be criticised for this, as they did not consider it a mistake. Rather it is the substance of policy, and the key determinant is the *leverage* the EU has in each case (Interviews 3, 8, 12, 16, 22). Moreover, EU action differs very little from that of the USA, one of the EU’s ‘power’ counterparts in the international arena.

The USA pays publicly less attention to violations of human rights in countries in the Middle East that rank among its allies, such as Saudi Arabia or Israel, compared with the stance it takes towards those where relations are more antagonistic, such as Iran. Moreover, it might be difficult for an American official to openly criticise human rights protection in Israel, given the Christian lobby in the USA, which according to Haija (2006) has a profound influence in shaping American policy towards Israel-Palestine. On the other hand, China is an interesting case because the protection of human rights is not, for obvious reasons, part of its external policy at all, and therefore it may be considered as consistent regardless of the economic *leverage* it may have. Whether this is the ‘consistency’ the scholars long for and whether it brings about the desired beneficial results for the international community is another question.

Yet it shall be noted that China has never sought to present itself as an actor with ambitions to push for a normative agenda, in contrast to the EU. Some of the EU’s recent

documents and statements of its leading figures suggest that its normative ends are becoming more and more intertwined across different policies and actions, which contrasts with Zielonka's observation during the first decade of the 21<sup>st</sup> century that 'Europe's external trade relations are largely divorced from Europe's foreign policy' (2008, 474). Things have changed since then. This was already apparent in the Treaty of Lisbon, as the CCP was embedded in the Union's External Action with the aim of strengthening coherence (Portela and Orbie 2014, 64). In this regard, although the Union's external actions are generally not ranked in hierarchical order, Archick (2008) claims that external trade relations are more often used as a vehicle for accomplishing goals of the foreign and security policy than the other way around (quoted in Štěrbová 2013, 221). The qualitative changes introduced by the Treaty of Lisbon are further underpinned by the EU actions, and its representatives' pronouncements have complemented and further developed this trend. The EU Trade Commissioner Cecilia Malmström in the *Trade for All* strategy of 2015 stipulated that

'... the strategy is about ensuring EU trade policy is not just about interest but also about values ... the new approach also involves trade agreements and trade preferences programmes as levers to promote, around the world, values like sustainable development human rights, fair and ethical trade and the fight against corruption.'

Cecilia Malmström (2015, 5)

In a similar vein, Federica Mogherini, the High Representative of the Union for Foreign and Security Policy and Vice-President of the European Commission, presented her vision of the EU in the Global Strategy (GS) in June 2016. From her perspective, she argued that soft and hard power are not mutually exclusive. Her statement follows.

'The European Union has always prided itself on its soft power – and it will keep doing so, because we are the best in this field. However, the idea that Europe is an exclusively 'civilian power' does not do justice to an evolving reality. For instance, the European Union currently deploys seventeen military and civilian operations, with thousands of men and women serving under the European flag for peace and security – our own security, and our partners'. For Europe, soft and hard power go hand in hand.'

Federica Mogherini (2016b, 4)

Mogherini announced 2016 as a year of human rights activism and a global campaign was launched called EU4HumanRights. Consequently, EU delegations worldwide started to prepare new human rights and democracy strategies covering the period through to

2020 (2016a). Overall, these statements and actions underpin the notion that the EU is an actor pursuing normative ends, using different tools on its way to achieve its far-reaching goals. In order to uncover the possible driving forces and constraints governing EU action in this regard, the analysis of the principle of *pragmatism* follows below.

## 5.2 Principle of Pragmatism

Besides being an actor with normative ends, the EU shall also be viewed as a *pragmatic* actor. Accepting this notion allows for a good explanation of the inconsistencies in EU action despite all the criticism it attracts from scholars such as Smith (2001) and other international actors alike. The latter point will be further developed in the section on *credibility* (5.3). However, it shall be noted that having a normative agenda and being inconsistent are not mutually exclusive, tempting though this simplification may be. The argument here is that the EU acts in a way which may best be described by a quote from Otto von Bismarck: ‘Politics is the art of the possible, the attainable – the art of the next best’ (as quoted in Partington and Taylor 2018, 15). Therefore, in order to understand the EU’s action, it is crucial to analyse the factors in each single case individually.

The notion of ‘*pragmatism*’ is present even in the EU’s official documents. The aforementioned Global Strategy reads: ‘Principled pragmatism will guide our external action in the years ahead’ (EEAS 2016, 8). The EU, like any other international actor aspiring to influence the international system, is *pragmatic* in the sense that it is fully aware that it can only use the cards that it has. These cards are determined by its *leverage* towards the partner in question, as discussed above, and by internal constraints and interests. The EU power stems primarily, though not exclusively, from its market power, as analysed in the first analytical chapter above. As a result, EU dominance beyond countries that aspire for the EU membership is particularly visible in the countries it trades with. Market Power Europe allows it to act globally to pursue its interests and also normative ends.

It shall be noted that pursuing normative ends globally is, in essence, very *pragmatic*. Zielonka rightly claims that ‘compromising on the normative agenda’ in the field of labour rights, social welfare and even the protection of the environment is not an option for the leaders of the EU and its member states. This is particularly true for economic reasons. The people of the Europe Union wish to preserve their high standards of living, work and health. Failure to export these norms by introducing equally high standards in

other countries may eventually threaten the EU's global competitiveness. (Zielonka 2008). Moreover, Zielonka further argues that 'if other actors in the world adopt European, rather than, say, an American regulatory framework, this has advantageous results for European companies because they do not need to undertake any costly adjustments' (2008, 481). Two EU practitioners presented arguments in the same vein (Interview 1 and 22).

The first spoke of the interconnections between the protection of human and labour rights and business interests. According to Interviewee 1, human rights and trade cannot be delinked. To the other interviewee, preserving European competitiveness is an increasingly important issue. In the light of economic growth in China and Latin America, production in the EU may at some point become too expensive. Without a comprehensive approach covering all the tools at the EU's disposal, from exploiting new technologies (Interview 22) to exporting EU standards, it would be difficult to effectively reverse these trends. Another *pragmatic* aspect was highlighted by a third interviewee (Interview 24), who said that the GSP+ regime is profitable, not only for the beneficiaries but also for European importers, as it makes the import of commodities that may not be as readily available in the EU, such as tuna or strawberries, cheaper and therefore more accessible. This demonstrates that EU non-reciprocal trade preferences can be seen to be *pragmatic* in some way.

The same official (Interview 24) reflects on the normative framework of the GSP+ trade regime. In her view, the EU seeks to play the role of a global actor through the GSP+ regime in the sense that it endeavours to spread values and standards that stem from its own identity. The fight against poverty is likewise one of the EU's objectives as it is embedded in Article 3[5] TEU, as discussed in Chapter 1 (section 1.3), and it is also inherent to the GSP itself, as shown in recital 7 of Council Regulation No 978/2012 currently governing the scheme. Additionally, over half of all development aid comes from the EU and its member states, making them collectively the largest aid donors (EU 2018c). Preferential access to the European market allows beneficiaries generate income they would find hard to source in other ways. In this context, it shall be noted that the garment sector is the sector benefitting the most within the GSP+ regime and as such has significant potential to create new job opportunities, especially for women, lifting people out of poverty (EP 2017, 12-13). In terms of EU bilateral development assistance, Bolivia

is the largest recipient country in the whole Latin American region, accounting for €281 million in the period 2014-2020 (EC 2018ad, 1).

If, however, a country ceases to have its preferential access towards the EU market, this may negatively affect the most vulnerable – its workers. In the event that a developing country does not comply with its key obligations under GSP+ regime (adoption of 27 core conventions, effective implementation, and monitoring cooperation), the EU has to decide whether or not this shall be ‘ignored, overlooked, tolerated’ or whether preferential access shall be withdrawn. The former approach potentially threatens the EU’s *credibility* and, psychologically, even its *leverage*. The latter demonstrates that the EU is a *credible* actor, on the one hand, yet ready to indirectly contribute to worsening the situation for people who already live in unsatisfactory conditions, on the other hand. This is a huge dilemma. Moreover, there can be additional political and geostrategic interests simultaneously affecting the EU’s eventual approach.

Pakistan is a good case illustrating all the above assumptions. Pakistan has benefitted from the GSP+ regime since 2014 and has turned out to be the major beneficiary (EC 2018ab). Prior to that it benefitted from the standard GSP regime. Portela and Orbie (2014) claim that the EU wished to reward Pakistan for its role in the fight against terrorism by extending the preferences, yet even the attempts to offer better tariffs through humanitarian measures after the 2010 floods turned out to be highly controversial. As a result, the Council Regulation 2012 ‘relaxed the vulnerability criterion for the GSP+ from 1% to 2% making Pakistan eligible’ (Portela and Orbie 2014, 72).

Pakistan’s human rights record is generally unsatisfactory, although it has ratified all the desired instruments. The application of the death penalty, use of torture and child labour are just a few of many areas where it falls short. Similarly, freedom of expression poses serious concerns (EC 2018p, 8). In addition, the 2018 Global Slavery Index estimates that almost 3.2 million Pakistani people live under modern slavery. Not only does this clearly violate UN and ILO conventions (EP 2017, 7), the alarming increase in the number of people living in modern slavery (an increase of over a million between 2016 and 2018), shows that the situation is getting worse, not better (implied from EP 2017, Global Slavery Index 2018).

However, as one of the practitioners put it, ‘sometimes there is a specific approach even within the GSP+ which is entirely politically motivated ... everybody has to close their

eyes to conditions and situations that should preclude the country from being in the GSP+ at all. But Pakistan is an EU ally in the region, and it helps to fight against terror' (Interview 9). Yet it shall be noted that such an approach, albeit *pragmatic* bearing in mind that it is an EU ally, may eventually produce negative effects leading to the partial loss of both the EU's *leverage* and *credibility*. Interviewee 9 said that the incentive of the GSP+ regime brought about only limited improvements in the case of Pakistan (Interview 9), implicitly demonstrating the weakening of the EU's *leverage* as a result of having tolerated insufficient compliance.

In similar vein, another EU official argued that, although the EU seeks to address human rights within the EU-Pakistani dialogue, Pakistan appears to be resistant. As a result, 'all the programmes that go in this direction have a hard time getting to the point where they can be signed' (Interview 11). On being asked directly whether or not Pakistan complies with its GSP+ obligations and therefore deserves to reap the benefits, she turned red before admitting that when comparing the human rights in Pakistan to other GSP+ countries, then 'Pakistan did not belong in the room' (Interview 11). She insisted, however, that this was not the point because 'with the prospect of terrorism, the EU does not really have an alternative' (Interview 11).

Meanwhile, whereas Interviewee 9 pointed out the limited results of the EU policy towards Pakistan, Interviewee 11 claimed that in this special case everything was worth doing as long as it brought about a mutual dialogue (Interview 11). 'Pakistan is a difficult partner ... it is more about keeping it engaged ... everything beyond that is a "cherry"' (Interview 11). This implies, not only that the EU does not want to punish Pakistan, but that it is less ambitious in its approach towards it, striving primarily for dialogue.

Dialogue appears to be particularly crucial as far as GSP+ countries are concerned, not just for Pakistan. The 2018 EC report says that GSP+ supports countries such as Bolivia, Sri Lanka and even Mongolia to intensify their engagement in human rights dialogues, which simultaneously provide a platform to discuss related human rights issues (EC 2018, 13).

### **5.3 Principle of Credibility**

As discussed in Chapter 3, the EU action vis-à-vis its partners within the EU Enlargement Policy is deemed *credible* when one key criterion is met. It needs to be beyond any doubt

that any progress a candidate and/or potential candidate country makes within the negotiations on its path towards EU membership depends exclusively on its own endeavours and the concrete results these endeavour brings. It must also be clear that the progress is not down to any external factors. The EU shall respect the criteria it has clearly set in the past and shall refrain from coming up with additional requirements in the course of the negotiations. In other words, it is a merit-based approach, which facilitates the advancement of those countries that take the criteria seriously enough. When no progress is made, negotiations are suspended, but the candidate or potential candidate country is unlikely to be withdrawn from the EU Enlargement Policy based on lack of expected progress in any area, be it political or economic or legal. The fact that Turkey remains a candidate country despite the current unsatisfactory political developments<sup>72</sup> from the EU point of view only confirms that.

In the context of the GSP+ arrangement, EU *credibility* has a markedly different substance, and thus its definition shifts. Those countries that aspire for GSP+ status have to implement and uphold 27 core international conventions on human and labour rights, environment protection and good governance.<sup>73</sup> This is a precondition, and effective implementation is regularly monitored and assessed. Moreover, the beneficiaries commit to providing the Commission and other cooperating institutions with information so that approved external monitoring can take place. If shortcomings in the implementation of the conventions are identified and the country fails to act in accordance with the recommendations it receives, its GSP+ status shall be withdrawn and it shall be demoted to the less preferential regime of standard GSP. If this did not happen, the policy would lose its *credibility*, as would the EU as an actor.

To sum up, *credibility* in the case of the EU Enlargement Policy is positive in the sense that positive outcomes shall bring advancement up the European ‘ladder’, from

---

<sup>72</sup> When Recep Tayyip Erdoğan took over the presidential office in Turkey in 2014, the country had a parliamentary political system within which a president is typically politically impartial and serves a maximum of two consecutive five-year periods. Erdoğan’s effort to extend his executive power both *de facto* and *de jure* resulted in a constitutional reform referendum which took place in April 2017. The reform package encompassed several changes, including the president’s competency to appoint ministers, public officials and numerous judges in both the Constitutional and Supreme court; the president’s competency to issue decrees, declare a state of emergency or dissolve parliament; the loss of the parliament’s right to interpellation. Dvořáková (2017) claims that these constitutional changes represented a clear intention to remove checks and balances from the Turkish political system and as such suggest that the country is on the way to becoming a non-democratic regime. Likewise Kučera (2017) argues that although Turkey is still a democracy, it is approaching an authoritarian system epitomised by extensive presidential powers and the following years will prove whether or not Erdoğan will manage to complete Turkey’s transformation into a dictatorship or not (in Bokša and Bokšová 2018).

<sup>73</sup> See Annex A for the list of the conventions.

preferential relations with the EU to full EU membership (merit-based). On the other hand, if no progress is made, negotiations are put on hold but the country is not withdrawn or otherwise punished except for the risk to its reputation. In contrast, *credibility* in the case of GSP+ is negative in the sense that lack of implementation does cause withdrawal (demerit-based). If the opposite is true, the beneficiary only receives positive assessment but cannot move any further and strive for even more preferential arrangement.

Overall, the nature of the *credibility* may vary according to the policy in question. What remains the same is that if the EU has ambitions to be a ‘global actor’, as the very name Global Strategy suggests, it has a vested interest in ensuring that its actions and policies are considered *credible*. The practitioners’ responses as to what kind of an actor the EU is, without assessing its *credibility* as such, were quite straightforward. No interviewee argued that the EU is exclusively a regional actor, although one (Interview 11) maintained that ‘the EU is an important regional actor with the ambition to become a global actor’. Similarly, another interviewee (Interview 19) gave an ambivalent response when stating that ‘the EU is a regional actor with global relationships’. However, a substantial number of interviewees – 20 – perceived the EU as a global actor (Interviews 1, 2, 3, 5, 6, 7, 8, 10, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 24, 25) with some referring directly to the EU’s global influence through its market power (Interviews 1, 2, 7, 8, 13, 14, 20).

One interviewee shared his complex view of the EU’s role within the international system, as follows. ‘From an economic point of view, it is a global player, from a political point of view it aspires to be a global player and from a security point of view it aspires to be a regional player’ (Interview 13). The practitioners’ references to trade and economic links support the initial premise of this thesis that Market Power Europe, as has been argued in the literature review, is the main driver that allows the EU to act globally, and thus externalise its regulations.

Having aligned with the notion that the EU is a global actor, its *credibility* plays a role within that and can strengthen or weaken its power. This is particularly important in the context of the GSP since it generally represents one type of the trade relations Brussels aims to develop, regardless of the fact that its beneficiaries are of economic insignificance. It shall be noted that the way the EU acts is observed, not only by the beneficiaries, but also by other global players. Therefore any EU action which is considered *credible* or *not credible* can strengthen or weaken its power within the



international system. Moreover, it is evident that the more *credible* the EU is, the greater impact it can have in line with its interest, conviction and determination. In this regard, two EU experts for GSP+ said that it is not the punishment in the form of withdrawal from the preferential regime that helps to address possible shortcomings and bring them in line with the ratified conventions, but the ‘threat of withdrawal’ which has turned out to be the most effective tool (Interviews 1 and 2). This threat needs to be *credible*. As an interviewee put it: ‘The EU does not want to get to the point of withdrawal because that will not bring about the desired effects in the country concerned. On the other hand, and this is important, if a country *is* withdrawn, that definitely helps to put pressure on the other countries in the regime, because withdrawal ceases to be ‘just talk’ and becomes a *credible* threat’ (Interview 2). Another interviewee (Interview 22) similarly stated that it would be wrong to think that the EU’s aim is to punish a beneficiary for non-compliance at any cost. ‘There is always a concerted effort to solve any problems before withdrawal takes place’, she said (Interview 22).

The case of Sri Lanka and its withdrawal from the GSP+ regime in 2010 is a good illustration of this. Sri Lanka had benefitted from the preferential regime since 2005 (EC 2009a). However, in the light of available information provided by the United Nations and non-governmental organisations, which negatively assessed the effective implementation of some GSP+ conventions, the EC, in line with Article 19[1] of the Council Regulation (EC) No 980/2005, launched its investigations in 2008. As two of the EU officials pointed out, the EU always makes use of available reports of non-governmental organisations, the UN, the World Bank or ILO because the DG TRADE has only one unit dealing with GSP+ countries. ‘It does not therefore have the capacity to investigate all the countries in detail’ (Interview 9), and ‘It is not an investigative power’ (Interview 1). As a result, third party assessment is always conducted.

According to the available reports, Sri Lanka failed to effectively implement (1) the International Covenant on Civil and Political Rights (ICCPR), (2) the Convention Against Torture (CAT), and (3) the Convention on the Rights of the Child, in particular in the context of the Sri Lankan government’s offensive against the Tamil Tigers (Portela and Orbie 2014, 69). In addition, as Hampson et al. (2009) explain, the Sri Lankan government did not sufficiently cooperate in the investigations (quoted in Portela and Orbie 2014, 69) which, in the GSP+ regime, are expected to clarify the situation. At the time, Sri Lanka was the major beneficiary within the GSP+ and its most important imports

were clothing and fishery products (EC 2009). Basing its calculations on 2008 figures, the Commission estimated that if Sri Lanka was withdrawn from GSP+ and became subject to the less preferential standard GSP regime, ‘an additional €78 million in import duties would have been collected’ (EC 2009, 2).

After careful examination of the human rights situation in Sri Lanka, which took a year, in autumn 2009 the Commission concluded that the Sri Lankan government had failed to effectively implement the three conventions relevant for the benefits under the GSP+ scheme (EC 2009a). On these grounds, the EC proposed to the Council that a temporary suspension of the preferential access to the EU market be imposed. This was subsequently approved by the Council by a qualified majority and the EU’s decision was declared in February 2010 (EC 2010). Yet, as the EC regulation reads, the suspension takes effect six months after the EU notifies its decision. This meant that the regime transfer from GSP+ into standard GSP was due in August 2010.

This six-month period is designed to provide the EU partner country with additional time to take certain measures and eventually reverse the negative consequences, which underpins the notion that the EU uses potential withdrawal as threat to stimulate the partner country to take action in desired fields. Moreover, in June 2010 the EC intensified its effort to motivate Sri Lanka by offering it an additional six-month period (making one year in total since the decision by Council was made) in the hope that Sri Lanka could demonstrate tangible results and sustainable progress by July 1st. However, the EU did not receive any official reply to this offer (EC 2010). As a result, despite the EU’s determined efforts, Sri Lanka was the first, and so far the only, developing country to experience GSP+ withdrawal (Portela and Orbie 2014, 69). In short, the EU action was *credible* throughout the period that the issue was on the table and transformed the threat into a real action. However, it needs to be stressed that, despite being *credible* in the sense that the conditions for preferential access were meant to be taken seriously, the EU was criticised for its action on normative grounds, as it deprived the most vulnerable people of their jobs and livelihoods. Indeed, as a result of the preference withdrawal, 25 clothing factories were closed, forcing almost 10,000 people out of work. In the event, the economic consequences turned out to be less severe than initially feared, but the withdrawal irrefutably resulted in an increase of poverty in the country (EP 2017, 6).

At the beginning of 2015, a new Sri Lankan pro-reform government was elected and embarked on a series of constitutional reforms, including restoring the independence of the judiciary, the police and the human rights council. By the end of 2015, the government also signed the UN Convention against Enforced Disappearance, which, according to the human rights observers, was a step towards tackling a major, decades-long issue (HRW 2016). On these grounds, Sri Lanka decided to reapply for the GSP+ in June 2016 (EP 2017, 6). As an EU official stated, the EU actively helped Sri Lanka to get back on track. ‘The EU together with Sri Lanka crafted a roadmap of specific steps which needed to be taken in order to regain GSP+’ (Interview 9). This effort on both sides resulted in the granting of GSP+ status in May 2017. Although more effort is needed with regard to the repeal of the Prevention of Terrorism Act, Sri Lanka has made significant progress and improved the protection of human rights (EC 2018p). The positive impact of the incentive GSP+ arrangement is, therefore, undeniable in this case.

As far as Pakistan is concerned, it is difficult to talk about the EU being *credible*, as discussed in the section on the principle of *pragmatism* above. Yet, even in this problematic case some positive effects of the EU’s positive conditionality and corresponding *credibility* can be identified. As the Democracy Reporting International (2016) noted, the requirement of having ratified 27 international conventions played a significant role prior to granting GSP+ status to Pakistan (quoted in Bokša and Bokšová 2017, 15). As part of the Pakistani effort to gradually align with GSP+ obligations, the country’s leaders decided to ratify both the ICCPR and the CAT in advance, albeit with some reservations (Democracy Reporting International, 2016, 13).

According to Democracy Reporting International (2016), when the EU subsequently indicated that the maintenance of the reservations would render Pakistan ineligible for GSP+ status, Pakistan chose to withdraw seven out of its nine previous reservations from the ICCPR and six out of nine reservations out of the CAT (quoted in Bokša and Bokšová 2017, 15). This may serve as proof that the positive conditionality provided by the EU had an effect, as Pakistan took some measures to progress the human rights issue and ultimately adopt the desired conventions. Pakistan has now adopted all 27 of the core international conventions, but effective implementation lags behind. Nevertheless, the EU action not only brought about desired outcomes, at least in *de jure*, it also proved to be *credible*.

However, the EU's room for manoeuvre is limited. On the one hand, it is determined to contribute positively to development in global affairs as laid down in both the Lisbon Treaty (Article 3 [5] TEU; Article 21 [1] TEU)<sup>74</sup> and more recently the GS (EEAS 2016, 8). On the other hand, the practitioners' responses imply that they feel that the EU action needs to be *credible* in the sense that if unpleasant measures need to be taken in line with the previously approved conditions of a policy, there can be no exceptions, not even for 'moral' reasons. In this regard, an official from the Committee for International Trade at the European Parliament said that it is the EP that puts considerable pressure regarding implementation and general enforcement (Interview 20). This was confirmed by an EC official who noted that 'the EP increasingly demands the use of conditionality.' Nevertheless, the two core aims suggested above – positive contribution to global affairs and the pursuit of the EU *credibility* as an international actor – may contradict each other in certain cases and it may be difficult to strike a balance. For instance, even if the EU withdraws preferential access to its market from a country where the EU is a top trading partner (*leverage*) for objective reasons, thereby strengthening the *credibility* of its action, its decision may have far-reaching consequences, increasing unemployment and poverty for the country's most vulnerable citizens. This also explains why the EU is determined to make use of withdrawal as a last resort. Moreover, the EU assesses every situation individually *ad hoc*, which in turn may in some cases weaken its *credibility*, though.

A good example of this individual *ad hoc* approach is Cape Verde, which enjoyed an EBA arrangement from the scheme's launch in 2001. When in 2008 it ceased to be classified as a LDC, rendering it ineligible for this arrangement, it was given a three-year transition period so that local businesses would have time to adjust to the new realities (EC 2011). However, given the lack of development and the limited range of its exports, with fish accounting for 75% (Trading Economics 2018), if it did not get preferential access to the EU market, the Cape Verde economy would collapse (Interview 9). This would have a negative impact on businesses, which would be forced to lay off staff, driving many of the islands' people into poverty. As a result, its application to the GSP+ was fast-tracked (Interview 9).

When asked to clarify this 'fast track mode' in a follow-up interview, Interviewee 9 explained that it was not a case of skipping certain procedures in the process. Instead, the

---

<sup>74</sup> See chapter 1 (section 1.3) where these articles are discussed.

Commission worked closely with Cape Verde and provided it with support and expertise on a daily basis when preparing its application. The EC even knew when the application was due to be submitted and was therefore able to keep Cape Verde on track to avoid delays and ensure that the application was correctly filled out without omissions. This resulted in a positive evaluation and eventually led to GSP+ status being granted ‘on time’ (Interview 9 follow-up). This demonstrates the EU’s pursuit of normative ends via trade in practice. Its desire to help Cape Verde seems undeniable.

In terms of *credibility*, Bolivia is an equally relevant case. There are two key issues that cause international concern here: (1) illegal drugs, and (2) the insufficient protection of children. More interestingly, the EU’s response to these challenges is sending two different messages that both strengthen and weaken its *credibility*.

Bolivia has enjoyed preferential access to the EU market under the GSP+ regime since 2009 (Democracy Reporting International 2017). Having ratified all the relevant conventions, however, in 2012 it withdrew from the UN Single Convention on Narcotic Drugs ‘requesting to re-accede to the Convention with a reservation which would allow the traditional use of the coca leaf’ (EC 2013b). Consequently, the EC initiated an investigation to assess whether Bolivian compliance with the GSP+ requirements had revealed a weakening in the Convention’s effective implementation (EC 2013b). Moreover, only 15 government parties to the Convention opposed the Bolivian request<sup>75</sup>, thus allowing Bolivia to re-accede to the Convention in February 2013. As a result, Bolivia was not obliged to choose between keeping its traditional cultural practice (coca-leaf chewing) or maintaining preferential access to the EU market and was able to enjoy both. It is beyond the scope of this thesis to assess whether or not chewing coca-leaf and using it for cultural and medicinal purposes is in line with the UN Single Convention on Narcotic Drugs, but the EC investigations may serve as proof that the EU takes compliance concerns seriously and acts accordingly, which strengthens its *credibility*.

In contrast to this, it is worth mentioning that in 2014 Bolivia introduced a new law (Code for Children and Adolescent, Law No. 548) which caused concern to the international community, particularly the ILO (ILO 2014). It shall be stressed that Bolivia has ratified ILO Convention No. 138 on the minimum age for admission to employment and work,

---

<sup>75</sup> The Conventions’ rules establish that one third of the 183 government parties to the Convention have to object to such a request for the request to be refused (EC 2013c).

as well as ILO Convention No. 182 on the worst forms of child labour. In line with the former, the new Bolivian Code fixes the minimum age working age at 14 years. However, it also allows for exceptions. For instance, children aged 10-14 can be self-employed, while children aged 12-14 are allowed to work for third parties (ILO 2014). In addition, the ILO is afraid that Bolivian children will not be protected from hazardous work, such as mining and harvesting sugar cane, which is prohibited for all children and adolescents under 18 (ILO 2014). These changes made Bolivia the first country in the world to legalise employment at such a young age (HRW 2017). Moreover, in 2015 around 850,000 children were working in Bolivia, of whom the majority were under 14 (HRW 2017). In light of these facts, it is extremely puzzling that the EU has not taken concrete measures beyond raising the protection of children in the EU-Bolivia political dialogue (EC 2018ae). This certainly diminishes its *credibility* greatly.

Drawing on these findings, the EU's *credibility* as far as GSP+ countries are concerned has both strengths and weaknesses, as the record of its action has been ambiguous. It shall be stressed that the definition of the EU's *credibility* shifts when compared to the EU Enlargement Policy. Rather than positive (merit-based), it is negative (demerit-based). Furthermore, with the ratification of 27 core international conventions, the EU is very explicit in its approach towards GSP+ countries in stating the requirements that need to be met as a precondition for granting GSP+ status. However, the EU simultaneously requires effective implementation and cooperation with monitoring, which provides it with a little room for manoeuvre. The EU's *leverage* stems from its market power. The countries are very economically dependent on the EU and the loss of preferential access to the EU market would affect them radically. Nevertheless, the EU is driven by *pragmatism* and it is not using its economic *leverage* blindly. More specifically, the EU's political and geostrategic interests prevent it from treating the GSP+ countries equally.

## Conclusion

The focus of this thesis was to analyse the role of the CCP when reaching non-economic goals, in particular, the promotion of the protection of human rights. With the entry into force of the Treaty of Lisbon in 2009, the CCP was included in the EU External Action seeking to underpin its overall coordination and coherence. Thereafter, the CCP was irrefutably understood as an integral part of the EU's participation in global affairs and its major instrument in achieving its overarching goals in both political and economic terms. Even though the incorporation of human rights clauses is not new and was present prior to Lisbon, the EU has actively and effectively continued in this trend of interconnecting different aspects of its policies since then.

In October 2015 the European Commission presented a new strategy, *Trade for All*, setting out the EU's determination to make use of trade agreements and trade preferences in order to actively contribute to sustainable development, fair and ethical trade and the promotion of human rights. Two months later in December 2015, a new Council Regulation (2015/2423) was adopted changing the trade regime and approach towards countries involved in the Stabilisation and Association Process, and now explicitly providing for the possibility of temporary suspension of the trade preferences in the event of serious and systematic violations of human rights, a fundamental *de jure* change. Additionally, in 2016 Federica Mogherini launched a global campaign called EU4HumanRights which set in motion the development of new human rights and democracy strategies covering the period through to 2020.

The EU's new approach of interconnecting different policies marked a major change of direction and was decades in the making. Over time, the policy of promoting human rights spilled over into other policies, the CCP included, directly affecting the EU's trade agreements negotiations. This trend appears to be the result of the EU's reflection and awareness that its major tool – its market – constituted the source of its *leverage* in world affairs, thus allowing it to achieve its aims even outside trade issues. Remarkably, this research on the importance of the CCP when reaching non-economic goals with particular focus on human rights was launched in September 2012 and the actions mentioned above demonstrate how timely an analysis it has turned to be. It has been able to foresee the growing importance of the CCP across different policies and the emphasis the EU, for a variety of reasons, places on the protection of human rights. Building on the intrinsic

importance of the EU in international trade terms, the point of departure of this thesis was Chad Damro's (2012) concept of Market Power Europe, allowing for the amalgamation of trade policy and normative ends, the promotion of human rights, in particular. As such, this research contributes to the ongoing EU-as-a-power debate by offering the following claims.

Firstly, the EU actively makes use of its market power across all its external policies to encourage countries of negligible economic importance to take certain measures to enhance the protection of human rights. The source of this power is primarily the attractiveness of trading with the EU thanks to the EU's economic strength and its willingness and openness to offer asymmetrical liberalisation. This allows the EU to wield its influence in fields seemingly outside trade issues, leading many scholars to label the EU as a civilian power, normative power, ethical power or global regulator, to name a few. However, it needs to be stressed that within the EU Enlargement Policy, trade is part of the 'negotiating package' as there is even more that the EU can offer – membership, which is the most attractive aspect of the negotiations.

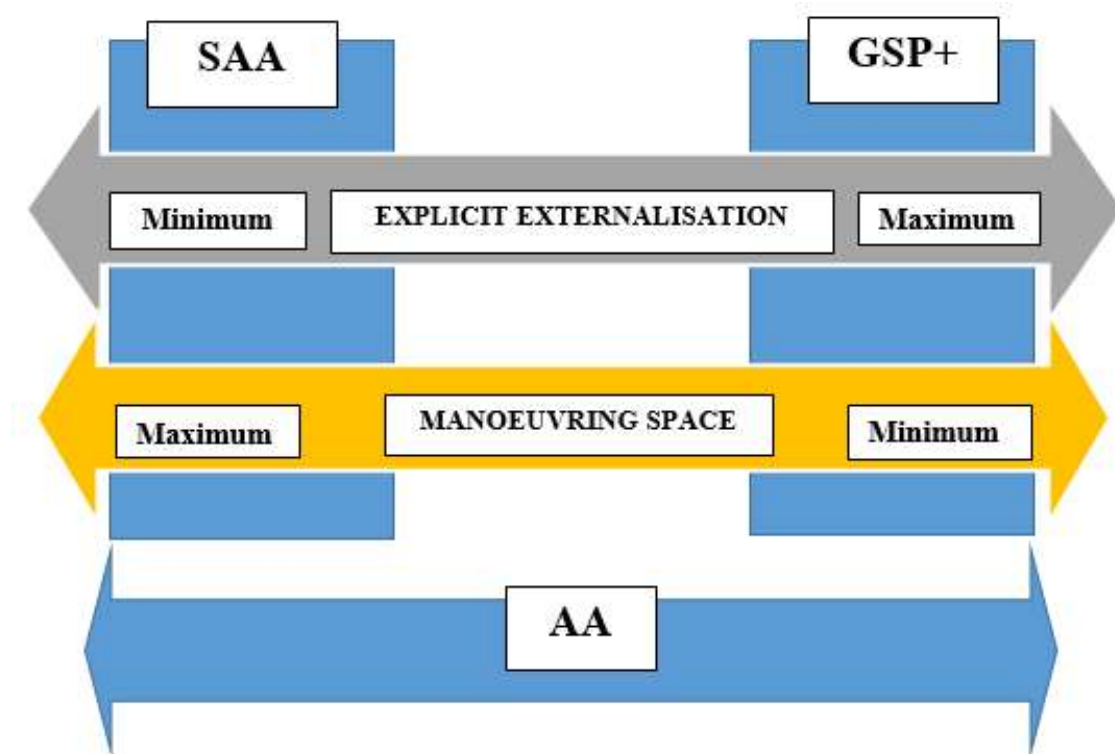
Secondly, the EU externalises its human rights regulations explicitly and evidently in the trade agreements it concludes, making preferential access to the European market conditional on the protection of human rights across its policies. This is at its most explicit in the GSP+ regime, where acceptance of a set of 27 core conventions on human and labour rights conventions, the protection of the environment and good governance is required before preferential access to the European market can be granted. Remarkably, in the case of the EU Enlargement Policy the practitioners argued that there is no conditionality in the sense that the EU would directly link the protection of human rights with the trade benefits it offers. This sharply contrasts with both wording of the respective agreements and with the aims of the Council Regulation (2015/2423) already put in place, however. The practitioners claimed that the EU would have to be too explicit, which in turn would diminish the manoeuvring space essential for the conduct of the negotiations. Indeed, it is beyond any doubt that the EU seeks to externalise its regulations via multi-level dialogue encompassing different aspects of the mutual relations it has with the country in question, where preferential trade access is part of the whole 'package'.

This is particularly interesting in light of the sophisticated system of chapter opening inherent to the accession process, where conditionality seems to play a fundamental role.



Yet EU officials negotiating accession claim that this is not the case. In other words, this implies that the EU finds it absolutely vital to keep manoeuvring space for its actions when engaging with enlargement countries, whereas in the case of GSP+ countries this does not seem to be a comparably essential part of the EU's approach. Neighbourhood countries fall somewhere in the middle between these two extremes. Drawing on these findings, Diagram 2 below illustrates the patterns identified within the EU's externalisation of its norms and the extent to which the EU either prefers explicit externalisation or strives to keep adequate room for manoeuvre.

Diagram 2: Externalisation of the EU Norms



Source: author's own

These findings are enlightening and contribute to the EU-as-a-power debate. Although the EU aims to uphold its norms and would claim to be a normative power, a case-by-case analysis of its action reveals that it has demonstrated a considerable degree of flexibility, especially in cases such as BiH and Ukraine. Similarly, even though the desire to keep manoeuvring space is less significant in its dealings with the GSP+ countries, it is nevertheless present. Albeit it is rather unlikely that a country would join this incentive trade regime without first ratifying the required conventions, the EU assesses *ad hoc* to what extent an efficient implementation has taken place, again providing it with some

manoeuvring space so that other political and geostrategic interests can be taken into consideration, as demonstrated in the case of Pakistan.

A third finding of this thesis, which builds on the above-presented argument, is that the EU is a very *pragmatic* actor striving for the protection of both its economic and its political interests. This was clearly evident across all the analytical chapters. In Chapter 3, it was shown how the EU changed its position on the *Sejdić-Finci* case rather than cede its influence in BiH. In Chapter 4, it was shown that the EU was willing to sign the agreement with Ukraine, even though one of its requirements had not been fulfilled – the release of Yulia Tymoshenko. In Chapter 5, it was demonstrated that the EU has overlooked Pakistan's ineffective implementation of the conventions rather than lose an ally in the fight against terror. In other cases, where the EU has not been influenced by other political and geostrategic interests, it has proceeded in line with the agreement in question, which may result in the eventual withdrawal of the preferences, such as in case of Sri Lanka.

EU actions which take other considerations into account can result in policy inconsistencies and double standards, a fact that was confirmed by numerous EU officials, who maintained that these are a natural policy ingredient deriving from the key determinant – the *leverage* – the EU has in each country. The double standards stem from the reality that the EU is a market power, hence its ability to influence others derives from economic realities on the ground. Double standards are not linked with morality, but only with the *leverage* embedded in trade relations. Additionally, throughout the analytical chapters, the study has shown that the EU's *leverage* does not stem from the policy or scheme a country is involved in. In fact, it has been demonstrated that the EU shows inconsistencies even towards economically marginal countries and these inconsistencies ultimately derive from unique case-by-case patterns. These patterns encompass, not only a wide range of purely economic considerations, but also diverse political and geostrategic concerns, such as energy security, cross-conditionality, and the internal politics of a partner country where leaders' desire to gain voter approval can result in actions either to the benefit or the detriment of the EU. The significance of the last pattern was evident in all analytical chapters. Thus, *leverage* fluctuates across a very wide spectrum.

Remarkably, having conceptualised the EU as a market power this thesis also argues that the EU pursues normative ends. There is no disputing that the EU actively strives for better protection of human rights in economically insignificant countries. However, this thesis stipulates that normative ends are always pursued unless other interests are at stake. Moreover, even the promotion of human rights has a very *pragmatic* essence. As Zielonka rightly claimed, ‘compromising on the normative agenda’ in the field of labour rights, social welfare and even the protection of the environment is not an option for the leaders of the EU and its member states. If the EU fails to effectively ‘export’ its norms, maintaining the same high standards that prevail at home, this may eventually threaten its global competitiveness (Zielonka 2008, 483). In other words, *pragmatism* is the guiding principle which ultimately has the upper hand and overrides its normative desires as shown throughout this study, particularly in the Bosnian, Ukrainian and Pakistani cases.

In addition, even though several EU actions might give a semblance of a desire to uphold norms, in reality this may not be the case. For instance, the imposition of sanctions against Russia after the annexation of Crimea was perceived by some of the practitioners as indisputable evidence of the EU being a normative power as this action was clearly not in the EU’s economic interests. Yet, even in this case, a *pragmatic* rationale can be understood. If the EU had not reacted, not only would this have considerably weakened its *credibility*, it would have sent a clear message to other international actors that it would tolerate similar actions elsewhere. In this way, the EU would ultimately ‘support’ such actions in the neighbourhood, consequently, threatening stability and security on its doorstep.

Finally, *credibility* is an important aspect of the EU’s action. As a result, the EU appears to consider carefully whether or not its action will strengthen or weaken its *credibility*. That is why it is willing to punish certain countries for not complying with previously agreed norms provided that there are no other interests at stake, as shown in the case of Sri Lanka (Chapter 5). Hence, it takes the opportunity to demonstrate that it is prepared to make use of its ‘sticks’ and thereby make a withdrawal threat more *credible*. That said, as many of the practitioners confirmed, the EU perceives the punishment as a last resort and always seeks to avoid reaching this point by providing an uncooperative country with additional assistance, often financial, technical and procedural, or with extra time to make the necessary adjustments. Effectively, Sri Lanka was given extra time too prior to losing its preferential access. The EU always prefers partial compliance to cutting the ties. Its

priority appears to be constructive engagement. The EU is ready to use all the means at its disposal in order to engage in a country or region.

Interestingly, when comparing the policies, the substance of the EU's *credibility* differs. The most striking difference is between the EU Enlargement Policy and GSP+. Regarding the EU Enlargement Policy the EU's *credibility* means that it needs to be established beyond any doubt that EU membership does not depend on any external factors – artificial reasons concocted to hide EU member states' reluctance to accept new members – but exclusively on the candidate countries themselves (merit-based approach). In contrast, *credibility* in the case of the GSP+ is negative in the sense that failure to implement measures shall ultimately lead to withdrawal (demerit-based). If that were not the case, the EU's *credibility* in the international arena would diminish accordingly.

Drawing on these findings, there are two main directions for future research on this topic. First, in order to gain additional insights into the EU's action and to take the current debate further, research could expand the scope of analysis to embrace a wider range of case studies from and outside of the three different policies (EU Enlargement Policy, EU Neighbourhood Policy and GSP+) and also to include countries showing less economic asymmetry. Second, *principled pragmatism* is a key concept in this study which has not been properly explored in academic literature since its conception within the EU's 2016 Global Strategy. While in this study *principled pragmatism* has been explored across the EU's three policies to demonstrate that what the EU *says* it actually *does*, it would be important to delve more deeply into the EU's action in a comprehensive and comparative way. Elaborating further on the *principles of leverage, pragmatism and credibility* offers scope for taking scholarly understanding of the multifaceted nature of EU external relations covering economic, political and normative agendas to new heights.

Equally, a few policy implications can be drawn from this research for EU practitioners. Ultimately, the EU strives to reward countries that follow or directly implement its norms, the principle being that those that come closest to the EU norms benefit the most. Hence, the EU establishes a circle of competition among third countries, particularly those that surround it. This creates a competition incentive among third countries, thus, significantly, amplifying the *leverage* the EU can ultimately wield. Yet, the EU follows this idea only implicitly, and the EU policymakers should, in fact, strive for more tangible and explicit terms. Its goals would be to create peer pressure by making effective use of

the ‘name and shame’ technique. This, however, does not mean that the EU should abandon its differentiated and often tailor-made approach; rather it should take the opportunity of using peer pressure as a reinforcing factor eventually strengthening its *leverage*.

In conclusion, despite the EU’s *pragmatic* approach, its promotion of human rights is effective in some ways. It is unlikely that the third countries would take what are often costly measures without an economic incentive, such as the one the EU provides by linking human rights with preferential access to its market. Although effective implementation usually lags well behind the adoption of laws, it can be stated that the EU actively contributes to an improvement in human rights protection worldwide, at least in the *de jure* sense. To this end it makes use of its biggest strength – its market, as demonstrated throughout this thesis. It is likely that the EU will not only continue this strategy of interlacing policies in the coming decades, but will also increasingly put more emphasis on human rights negotiations, always governed by the *principle of pragmatism*.

## **List of Interviews**

Interview 1, European Commission, Directorate-General for Trade, Brussels, May 2018

Interview 2, European Commission, Directorate-General for Trade, Brussels, May 2018

Interview 3, European Commission, Directorate-General for Neighbourhood and Enlargement Negotiations, Brussels, May 2018

Interview 4, European Commission, Directorate-General for Neighbourhood and Enlargement Negotiations, Brussels, May 2018

Interview 5, European Commission, Directorate-General for Neighbourhood and Enlargement Negotiations, Brussels, May 2018

Interview 6, European Commission, Directorate-General for Trade, Brussels, May 2018

Interview 7, European Commission, Directorate-General for Trade, Brussels, May 2018

Interview 8, Permanent Representation of the Czech Republic to the European Union, Brussels, May 2018

Interview 9, European Commission, Directorate-General for Trade, Brussels, May 2018

Interview 10, European Commission, Directorate-General for Neighbourhood and Enlargement Negotiations, Brussels, May 2018

Interview 11, European Commission, Directorate-General for International Cooperation and Development, Brussels, May 2018

Interview 12, European Commission, Directorate-General for Neighbourhood and Enlargement Negotiations, Brussels, May 2018

Interview 13, Permanent Representation of the Czech Republic to the European Union, Brussels, May 2018

Interview 14, International Criminal Court, The Hague, May 2018

Interview 15, International Criminal Court, The Hague, May 2018

Interview 16, European Commission, Directorate-General for Neighbourhood and Enlargement Negotiations, Brussels, May 2018

Interview 17, European Commission, Directorate-General for Neighbourhood and Enlargement Negotiations, Brussels, May 2018

Interview 18, European Commission, Directorate-General for Trade, Brussels, May 2018

Interview 19, European Commission, Directorate-General for Trade, Brussels, May 2018

Interview 20, European Parliament, Committee for International Trade, Brussels, May 2018

Interview 21, European Parliament, Committee for International Trade, Brussels, May 2018

Interview 22, Permanent Representation of the Czech Republic to the European Union, Brussels, May 2018

Interview 23, European Union Rule of Law Mission to Kosovo, Vienna, April 2018

Interview 24, Ministry of Industry and Trade of the Czech Republic, Common Commercial Policy Unit, Prague, June 2018

Interview 25, European External Action Service, Strategic Planning Unit, (phone interview) June 2018

Interview 26, European Parliament, Progressive Alliance of Socialist and Democrats (S&D), Prague, July 2018

## References

- AGGESTAM, L. (2008) Introduction: Ethical Power Europe? *International Affairs*. Vol. 84 (1): 1-11.
- ANASTASAKIS, O. (2008) The EU's political conditionality in the Western Balkans: Towards a more pragmatic approach. *Southeast European and Black Sea Studies*. Vol. 8 (4): 365-377.
- BACHMANN, V., SIDAWEY, J., D. (2009) Zivilmacht Europa: a critical geopolitics of the European Union as a global power. *Transactions of the Institute of British Geographers. New Series*. Vol. 34 (1): 94-109.
- BALDWIN, D. A. (2012) Power and international relations In CARLSNAES, W., RISSE, T., SIMMONS, B. *Handbook of international relations*. London: SAGE Publications Ltd.
- BOLKVADZE, K. (2016) Cherry picking EU conditionality: Selective compliance in Georgia's hybrid regime. *Europe-Asia Studies*. Vol. 68 (3): 409-440.
- BOKŠA, M. (2017) The EU's popularity is challenged in its neighbourhood. *Journal of International Affairs*. Available at: <https://jia.sipa.columbia.edu/online-articles/eus-popularity-challenged-its-neighborhood> (accessed on 21.04.2018).
- BOKŠA, M., BOKŠOVÁ, M. (2018) Turkey in a state of political tumult vis-à-vis its accession process, freedom of press and human rights record. *Mali Levijatan*. Vol. 5 (1): 95-110.
- BOKŠA, M., BOKŠOVÁ, M. (2017) Analysis of GSP+ as an instrument for upholding human rights and inciting economic development In *Current economic, political and social issues in EU*, ed. FEREBAUEROVÁ, R., ŘÍHA, R., 12-18. České Budějovice: College of European and Regional Studies Czech Republic.
- BOKŠOVÁ, M. (2013) An evaluative study of the impact of EU human rights commitments on its trade negotiations. Master's thesis, Universität Wien – Diplomatiche Akademie Wien.
- BONOMI, M., RELJIĆ, D. (2017) The EU and the Western Balkans: So near and yet so far. *German Institute for International and Security Affairs*. Available at: [https://www.swp-berlin.org/fileadmin/contents/products/comments/2017C53\\_rlc\\_Bonomi.pdf](https://www.swp-berlin.org/fileadmin/contents/products/comments/2017C53_rlc_Bonomi.pdf) (accessed on 15.06.2018).
- BÖRZEL, T. A., RISSE, T. (2004) One size fits all! EU policies for the promotion of human rights, democracy and rule of law. Workshop on Democracy Promotion, Oct. 4-5, 2004, Center for Development, Democracy, and the Rule of Law, Stanford University. Available at: [https://www.researchgate.net/profile/Tanja\\_Boerzel/publication/228768742\\_One\\_Size\\_Fits\\_All\\_EU\\_Policies\\_for\\_the\\_Promotion\\_of\\_Human\\_Rights\\_Democracy\\_and\\_the\\_Rule\\_of\\_Law/links/53f75702cf24ddb7d58912/One-Size-Fits-All-EU-Policies-for-the-Promotion-of-Human-Rights-Democracy-and-the-Rule-of-Law.pdf](https://www.researchgate.net/profile/Tanja_Boerzel/publication/228768742_One_Size_Fits_All_EU_Policies_for_the_Promotion_of_Human_Rights_Democracy_and_the_Rule_of_Law/links/53f75702cf24ddb7d58912/One-Size-Fits-All-EU-Policies-for-the-Promotion-of-Human-Rights-Democracy-and-the-Rule-of-Law.pdf) (accessed on 28.04.2018).
- BRANDTNER, B., ROSAS, A. (1998) Human rights and the external relations of the European Community: An analysis of doctrine and practice. *European Journal of International Law*. Vol. 9: 468-490.
- BRAUN, V., CLARKE, V. (2006) Using thematic analysis in psychology. *Qualitative research in psychology*. Vol. 3 (2): 77-101.
- BROWNING, C., JOENNIEMI, P. (2007) Geostrategies of the European Neighbourhood Policy. Available at: <https://www.econstor.eu/bitstream/10419/84610/1/DIIS2007-09.pdf> (accessed on 29.07.2018).
- BUFFET, L. (2016) Europe increasingly dependent on risky oil imports: Transport and environment. Available at: [https://www.transportenvironment.org/sites/te/files/publications/2016\\_07\\_Briefing\\_Europe\\_increasingly\\_dependent\\_risky\\_oil\\_FINAL\\_0.pdf](https://www.transportenvironment.org/sites/te/files/publications/2016_07_Briefing_Europe_increasingly_dependent_risky_oil_FINAL_0.pdf) (accessed on 23.07.2018).
- BURLYUK, O., SHAPOVALOVA, N. (2017) 'Veni, vidi, ... vici?' EU performance and two faces of conditionality towards Ukraine. *East European Politics*. Vol. 33 (1): 36-55.
- BUSINESS INSIDER (2017) The 25 most powerful militaries in the world. Available at: <https://www.businessinsider.com/the-worlds-most-powerful-militaries-2017-3> (accessed on 01.08.2018).
- BYERS, M. (1995) Custom, power, and the power of rules. *Michigan Journal of International Law*. Vol. 17 (1): 109-179.
- CIA (2018) The World Factbook. Available at: <https://www.cia.gov/library/publications/the-world-factbook/> (accessed on 16.07.2018).
- COALITION FOR ICC (2018) Morocco. Available at: <http://www.coalitionfortheicc.org/morocco> (accessed on 02.11.2018).



- CREMONA, M. (ed.) (2008) *Developments in EU external relations law*. Oxford: Oxford University Press.
- CROSS-BORDER COOPERATION IN THE MEDITERRANEAN (2015) *The European neighbourhood instrument*. Available at: <http://www.enpicbmed.eu/enicbmed-2014-2020/the-european-neighbourhood-instrument> (accessed on 29.07.2018).
- CROSS-BORDER COOPERATION IN THE MEDITERRANEAN (2013) *From ENPI to ANI: parliament approves new European Neighbourhood Policy*. Available at: <http://www.enpicbmed.eu/communication/enpi-eni-parliament-approves-new-european-neighbourhood-instrument> (accessed on 29.07.2018).
- DAADAOU, M. (2008) The Western Sahara conflict: Towards constructivist approach to self-determination. *The Journal of North Africa Studies*. Vol. 13 (2): 143-156.
- DABROWSKI, M., MYACHENKOVA, Y. (2018) The Western Balkan on the road to the European Union. *Bruegel Think Tank*. Available at: [http://bruegel.org/wp-content/uploads/2018/02/PC-04\\_2018.pdf](http://bruegel.org/wp-content/uploads/2018/02/PC-04_2018.pdf) (accessed on 29.06.2018).
- DAMRO, C. (2015) Market Power Europe: Exploring a dynamic conceptual framework. *Journal of European Public Policy*. Vol. 22 (9): 1336-1354.
- DAMRO, C. (2012) Market Power Europe. *Journal of European Public Policy*. Vol. 19 (5): 682-99.
- DANNREUTHER, R. (2004) *European Union foreign and security policy: Towards neighbourhood strategy*. London: Routledge.
- DELORSE, J. (1985) Speech at the first intergovernmental conference held in Luxembourg on September 9. Available at: [https://www.cvce.eu/en/obj/speech\\_by\\_jacques\\_delors\\_luxembourg\\_9\\_september\\_1985-en-423d6913-b4e2-4395-9157-fe70b3ca8521.html](https://www.cvce.eu/en/obj/speech_by_jacques_delors_luxembourg_9_september_1985-en-423d6913-b4e2-4395-9157-fe70b3ca8521.html) (accessed on 25.04.2017).
- DIEZ, T. (2005) Constructing the self and changing others: Reconsidering 'Normative Power Europe'. *Millennium: Journal of International Studies*. Vol. 33 (3). Available at: [https://scholar.google.cz/scholar?hl=cs&as\\_sdt=0%2C5&q=thomas+diez+Millennium%3A+Journal+of+International+Studies+33+%283%29&btnG=](https://scholar.google.cz/scholar?hl=cs&as_sdt=0%2C5&q=thomas+diez+Millennium%3A+Journal+of+International+Studies+33+%283%29&btnG=) (accessed on 10.05.2018).
- DONNELLY, J. (1984) Cultural relativism and universal human rights. *Human Rights Quarterly*. Vol. 6 (4): 400-419.
- DOYLE, N., GARCIA MARTINEZ F. J. (2017) Political impacts of the Stabilisation and Association Agreements: A comparative study. Available at: <http://www.legalpoliticalstudies.org/wp-content/uploads/2017/10/Political-Impacts-of-the-SAAs-A-comparative-Study.pdf> (accessed on 27.12.2017).
- DUCHÊNE, F. (1973) The strategic consequences of the enlarged European Community. *Survival. Global Politics and Strategy*. Vol. 15 (1): 2-7.
- ERICKSON, J. L. (2011) Market imperative meets normative power: Human rights and European arms transfer policy. *European Journal of International Relations*. Vol. 19 (2): 209-234.
- EUR-Lex (2008) Council decision on the principles, priorities and conditions contained in the European Partnership with Bosnia and Herzegovina and repealing Decision 2006/55/EC. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008D0211&from=EN> (accessed on 16.06.2018).
- EUR-Lex (2015) Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, on the other part. Available at: [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22015A0630\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22015A0630(01)&from=EN) (accessed on 16.06.2018).
- EUR-Lex (2016) Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on Protection against Dumped Imports from Countries not Members of the European Union. Available at: [http://trade.ec.europa.eu/doclib/docs/2016/june/tradoc\\_154702.en.L176-2016.pdf](http://trade.ec.europa.eu/doclib/docs/2016/june/tradoc_154702.en.L176-2016.pdf) (accessed on 16.06.2018).
- EUR-Lex (2012) Regulation (EU) No 978/2012 of the European Parliament and the Council of 25 October 2012 applying scheme of generalised tariff preferences and repealing Council Regulation EC No 737/2008. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012R0978&from=EN> (accessed on 08.03.2018).
- EUR-Lex (2009) Council Regulation (EC) No 1215/2009 of 30 November 2009 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association Process. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009R1215&from=en> (accessed on 19.06.2018).
- EUR-Lex (2000) Council Regulation (EC) No 2007/2000 of 18 September 2000 introducing exceptional trade measure for countries and territories participating in or linked to the European Union's Stabilisation and Association process. Available

at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02000R2007-20001201&from=en> (accessed on 19.06.2018).

EUROPEAN COMMISSION (2018a) Enlargement. Check current status. Available at: [https://ec.europa.eu/neighbourhood-enlargement/countries/check-current-status\\_en](https://ec.europa.eu/neighbourhood-enlargement/countries/check-current-status_en) (accessed on 10.03.2018).

EUROPEAN COMMISSION (2018b) Enlargement. European Neighbourhood Policy. Available at: [https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/overview\\_en](https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/overview_en) (accessed on 14.03.2018).

EUROPEAN COMMISSION (2018c) Trade. Negotiations and agreements. Available at: [http://ec.europa.eu/trade/policy/countries-and-regions/negotiations-and-agreements/#\\_partly-in-place](http://ec.europa.eu/trade/policy/countries-and-regions/negotiations-and-agreements/#_partly-in-place) (accessed on 15.03.2018).

EUROPEAN COMMISSION (2018d) Kosovo 2018 Report. Available at: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-kosovo-report.pdf> (accessed on 13.06.2018).

EUROPEAN COMMISSION (2018e) Trade in goods with Bosnia and Herzegovina. Available at: [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113358.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113358.pdf) (accessed on 19.06.2018).

EUROPEAN COMMISSION (2018f) Trade in goods with Serbia. Available at: [http://trade.ec.europa.eu/doclib/docs/2008/august/tradoc\\_140028.pdf](http://trade.ec.europa.eu/doclib/docs/2008/august/tradoc_140028.pdf) (accessed on 19.06.2018).

EUROPEAN COMMISSION (2018g) Trade in goods with Kosovo. Available at: [http://trade.ec.europa.eu/doclib/docs/2011/january/tradoc\\_147309.pdf](http://trade.ec.europa.eu/doclib/docs/2011/january/tradoc_147309.pdf) (accessed on 19.06.2018).

EUROPEAN COMMISSION (2018h) Statement on the negotiations with Bosnia and Herzegovina on the bilateral trade regime after the accession of Croatia to the EU. Available at: [http://europa.eu/rapid/press-release\\_MEMO-13-736\\_en.htm](http://europa.eu/rapid/press-release_MEMO-13-736_en.htm) (accessed on 19.06.2018).

EUROPEAN COMMISSION (2018i) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Region. A credible enlargement perspective for and enhanced EU engagement with the Western Balkans. Available at: [https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans_en.pdf) (accessed on 28.06.2018).

EUROPEAN COMMISSION (2018j) Bosnia and Herzegovina 2018 Report. Available at: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-bosnia-and-herzegovina-report.pdf> (accessed on 29.06.2018).

EUROPEAN COMMISSION (2018k) Serbia 2018 Report. Available at: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-serbia-report.pdf> (accessed on 29.06.2018).

EUROPEAN COMMISSION (2018l) Trade in goods with Bolivia. Available at: [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113350.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113350.pdf) (accessed on 03.07.2018).

EUROPEAN COMMISSION (2018m) Trade in goods with Pakistan. Available at: [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113431.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113431.pdf) (accessed on 03.07.2018).

EUROPEAN COMMISSION (2018n) Trade in goods with Sri Lanka. Available at: [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113449.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113449.pdf) (accessed on 03.07.2018).

EUROPEAN COMMISSION (2018o) General Scheme of Preferences. Available at: <http://ec.europa.eu/trade/policy/countries-and-regions/development/generalised-scheme-of-preferences/> (accessed on 08.07.2018).

EUROPEAN COMMISSION (2018p) Report from the Commission to the European Parliament and the Council. Report on the Generalised Scheme of Preferences covering period 2016-2017. Available at: [http://trade.ec.europa.eu/doclib/docs/2018/january/tradoc\\_156536.pdf](http://trade.ec.europa.eu/doclib/docs/2018/january/tradoc_156536.pdf) (accessed on 08.03.2018).

EUROPEAN COMMISSION (2018q) Trade in goods with Georgia. Available at: [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113383.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113383.pdf) (accessed on 20.07.2018).

EUROPEAN COMMISSION (2018r) Trade in goods with Morocco. Available at: [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113421.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113421.pdf) (accessed on 20.07.2018).

EUROPEAN COMMISSION (2018s) Trade in goods with Ukraine. Available at: [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113459.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113459.pdf) (accessed on 20.07.2018).

EUROPEAN COMMISSION (2018t) European Neighbourhood Policy. Available at: [https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/overview\\_en](https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/overview_en) (accessed on 21.07.2018).

EUROPEAN COMMISSION (2018u) Southern Neighbourhood. Available at: [https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/southern-neighbourhood\\_en](https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/southern-neighbourhood_en) (accessed on 29.07.2018).

EUROPEAN COMMISSION (2018v) Trade. Morocco. Available at: <http://ec.europa.eu/trade/policy/countries-and-regions/countries/morocco/> (accessed on 30.07.2018).

EUROPEAN COMMISSION (2018w) Ongoing of FTA and other trade negotiations. Available at: [http://trade.ec.europa.eu/doclib/docs/2006/december/tradoc\\_118238.pdf](http://trade.ec.europa.eu/doclib/docs/2006/december/tradoc_118238.pdf) (accessed on 30.07.2018).

EUROPEAN COMMISSION (2018x) Return & readmission. Available at: [https://ec.europa.eu/home-affairs/what-we-do/policies/irregular-migration-return-policy/return-readmission\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/irregular-migration-return-policy/return-readmission_en) (accessed on 07.08.2018).

EUROPEAN COMMISSION (2018y) Eurojust. Available at: [https://europa.eu/european-union/about-eu/agencies/eurojust\\_en](https://europa.eu/european-union/about-eu/agencies/eurojust_en) (accessed on 07.08.2018).

EUROPEAN COMMISSION (2018z) Europol. Available at: [https://europa.eu/european-union/about-eu/agencies/europol\\_en](https://europa.eu/european-union/about-eu/agencies/europol_en) (accessed on 07.08.2018).

EUROPEAN COMMISSION (2018aa) Visa liberalisation with Ukraine, Moldova and Georgia. Available at: [https://ec.europa.eu/home-affairs/what-we-do/policies/international-affairs/eastern-partnership/visa-liberalisation-moldova-ukraine-and-georgia\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/international-affairs/eastern-partnership/visa-liberalisation-moldova-ukraine-and-georgia_en) (accessed on 07.08.2018).

EUROPEAN COMMISSION (2018ab) Trade. Pakistan. Available at: <http://ec.europa.eu/trade/policy/countries-and-regions/countries/pakistan/> (accessed on 08.08.2018).

EUROPEAN COMMISSION (2018ac) Trade helpdesk. Current GSP+ Beneficiaries. Available at: [http://trade.ec.europa.eu/doclib/docs/2017/july/tradoc\\_155842.pdf](http://trade.ec.europa.eu/doclib/docs/2017/july/tradoc_155842.pdf) (accessed on 12.08.2018).

EUROPEAN COMMISSION (2018ad) GSP+ Assessment of Bolivia covering period 2016-2017. Available at: [http://trade.ec.europa.eu/doclib/docs/2018/january/tradoc\\_156539.pdf](http://trade.ec.europa.eu/doclib/docs/2018/january/tradoc_156539.pdf) (accessed on 13.08.2018).

EUROPEAN COMMISSION (2018ae) EU trade policy encourages sustainable development and respect for human rights in vulnerable economies. Available at: [http://trade.ec.europa.eu/doclib/docs/2018/january/tradoc\\_156538.pdf](http://trade.ec.europa.eu/doclib/docs/2018/january/tradoc_156538.pdf) (accessed on 10.08.2018).

EUROPEAN COMMISSION (2017) Commission staff working document on Roma integration indicators scoreboard (2011-2016). Available at: [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017SC0286R\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017SC0286R(01)&from=EN) (accessed on 17.06.2018).

EUROPEAN COMMISSION (2017a) Countries and regions: Western Balkan. Available at: <http://ec.europa.eu/trade/policy/countries-and-regions/regions/western-balkans/> (accessed on 27.12.2017).

EUROPEAN COMMISSION (2017b) The EU and the migration crisis. Available at: <http://publications.europa.eu/webpub/com/factsheets/migration-crisis/en/> (accessed on 23.07.2018).

EUROPEAN COMMISSION (2017c) The basis for a Union. Available at: [https://europa.eu/european-union/documents-publications/slide-presentations\\_en](https://europa.eu/european-union/documents-publications/slide-presentations_en) (accessed on 01.08.2018).

EUROPEAN COMMISSION (2017d) Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Implementation of Free Trade Agreements 1 January 2016 – 31 December 2016. Luxembourg: Publications Office of the European Union.

EUROPEAN COMMISSION (2017e) European border and coast guard agency. Available at: [https://europa.eu/european-union/about-eu/agencies/frontex\\_en](https://europa.eu/european-union/about-eu/agencies/frontex_en) (accessed on 07.08.2018).

EUROPEAN COMMISSION (2016) The EU special incentive arrangement for sustainable development and good governance (GSP+) covering the period 2014-2015. Available at: [https://eeas.europa.eu/sites/eeas/files/european\\_commission\\_2016\\_report\\_on\\_the\\_generalised\\_scheme\\_of\\_preferences\\_during\\_the\\_period\\_2014-2015.pdf](https://eeas.europa.eu/sites/eeas/files/european_commission_2016_report_on_the_generalised_scheme_of_preferences_during_the_period_2014-2015.pdf) (accessed on 11.07.2018).

EUROPEAN COMMISSION (2016a) Twinning. Available at: [https://ec.europa.eu/neighbourhood-enlargement/tenders/twinning\\_en](https://ec.europa.eu/neighbourhood-enlargement/tenders/twinning_en) (accessed on 23.07.2018).

EUROPEAN COMMISSION (2016b) TAIX. Available at: [https://ec.europa.eu/neighbourhood-enlargement/tenders/taix\\_en](https://ec.europa.eu/neighbourhood-enlargement/tenders/taix_en) (accessed on 23.07.2018).

EUROPEAN COMMISSION (2015) *Trade for All. Towards a More Responsible Trade and Investment Policy*. Brussels: European Commission. Available at: [http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc\\_153846.pdf](http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf) (accessed on 01.06.2018).

EUROPEAN COMMISSION (2015a) Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Available at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/neighbourhood/pdf/key-documents/151118\\_joint-communication\\_review-of-the-enp\\_en.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/neighbourhood/pdf/key-documents/151118_joint-communication_review-of-the-enp_en.pdf) (accessed on 23.07.2018).

EUROPEAN COMMISSION (2015b) Implementation of the ENP in Ukraine. Progress in 2014 and recommendations for actions. Available at: [http://eeas.europa.eu/archives/docs/enp/pdf/2015/ukraine-enp-report-2015\\_en.pdf](http://eeas.europa.eu/archives/docs/enp/pdf/2015/ukraine-enp-report-2015_en.pdf) (accessed on 12.08.2018).

EUROPEAN COMMISSION (2000) Final declaration Zagreb summit 24 November 2000. Available at: <http://www.esiweb.org/pdf/bridges/bosnia/ZagrebSummit24Nov2000.pdf> (accessed on 27.12.2017).

EUROPEAN COMMISSION (2014) EU position in world trade. Available at: <http://ec.europa.eu/trade/policy/eu-position-in-world-trade/> (accessed on 17.06.2018).

EUROPEAN COMMISSION (2014a) Commission implementing decision of 29.04.2014. Available at: [https://ec.europa.eu/europeaid/sites/devco/files/special-measure-ua-modification-2013\\_en.pdf](https://ec.europa.eu/europeaid/sites/devco/files/special-measure-ua-modification-2013_en.pdf) (accessed on 31.07.2018).

EUROPEAN COMMISSION (2013) Statement by commissioner Štefan Füle on political consultations on implementation of the Sejdić-Finci judgement. Available at: [http://europa.eu/rapid/press-release\\_MEMO-13-328\\_en.htm](http://europa.eu/rapid/press-release_MEMO-13-328_en.htm) (accessed on 16.06.2018).

EUROPEAN COMMISSION (2013a) ENP country progress report 2012 – Ukraine. Available at: [http://europa.eu/rapid/press-release\\_MEMO-13-257\\_en.htm](http://europa.eu/rapid/press-release_MEMO-13-257_en.htm) (accessed on 22.07.2018).

EUROPEAN COMMISSION (2013b) Termination of GSP+ investigation on Bolivia. Available at: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=879> (accessed on 10.08.2018).

EUROPEAN COMMISSION (2013c) Notice pursuant to Art. 19(2) of Council Regulation (EC) No 732/2008 of the termination of an investigation with respect to the effective implementation of the United Nations Single Convention on Narcotic Drugs in Bolivia. Available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:080:0014:0014:EN:PDF> (accessed on 10.08.2018).

EUROPEAN COMMISSION (2011) Cape Verde secures access to EU markets and boosts its development. Available at: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=763> (accessed on 14.07.2018).

EUROPEAN COMMISSION (2010) EU Temporarily withdraws GSP+ trade benefits from Sri Lanka. Available at: [http://trade.ec.europa.eu/doclib/docs/2010/february/tradoc\\_145799.pdf](http://trade.ec.europa.eu/doclib/docs/2010/february/tradoc_145799.pdf) (accessed on 08.08.2018).

EUROPEAN COMMISSION (2009) Commission report on Sri Lanka GSP+ report. Available at: [http://trade.ec.europa.eu/doclib/docs/2009/october/tradoc\\_145141.pdf](http://trade.ec.europa.eu/doclib/docs/2009/october/tradoc_145141.pdf) (accessed on 08.08.2018).

EUROPEAN COMMISSION (2009a) Notice on the GSP+/Sri Lanka issue. Available at: [http://trade.ec.europa.eu/doclib/docs/2009/october/tradoc\\_145154.pdf](http://trade.ec.europa.eu/doclib/docs/2009/october/tradoc_145154.pdf) (accessed on 08.08.2018).

EUROPEAN COUNCIL (2018) Cotonou Agreement. Available at: <http://www.consilium.europa.eu/en/policies/cotonou-agreement/> (accessed on 30.07.2018).

EUROPEAN COUNCIL (2017) Ukraine: Council agrees its stance on trade measures. Available at: <http://www.consilium.europa.eu/cs/press/press-releases/2017/06/06/ukraine-trade-measures/> (accessed on 12.08.2018).

EUROPEAN COUNCIL (2003) Declaration EU-Western Balkan summit 21 June 2003. Available at: [http://europa.eu/rapid/press-release\\_PRES-03-163\\_en.htm](http://europa.eu/rapid/press-release_PRES-03-163_en.htm) (accessed on 10.06.2018).

EUROPEAN EXTERNAL ACTION SERVICE (2018) Eastern Partnership. Available at: [https://eeas.europa.eu/diplomatic-network/eastern-partnership/419/eastern-partnership\\_en](https://eeas.europa.eu/diplomatic-network/eastern-partnership/419/eastern-partnership_en) (22.07.2018).

EUROPEAN EXTERNAL ACTION SERVICE (2018a) The European Union border assistance mission to Moldova and Ukraine. Available at: <http://eubam.org/who-we-are/> (accessed on 23.07.2018).

EUROPEAN EXTERNAL ACTION SERVICE (2018b) Statement by the spokesperson on the elections in Pakistan. Available at: [https://eeas.europa.eu/delegations/pakistan/48920/statement-spokesperson-elections-pakistan\\_en](https://eeas.europa.eu/delegations/pakistan/48920/statement-spokesperson-elections-pakistan_en) (accessed on 31.07.2018).

EUROPEAN EXTERNAL ACTION SERVICE (2016) *A Global Strategy for the European Union's Foreign and Security Policy*. Brussels: European External Action Service. Available at: [https://europa.eu/globalstrategy/sites/globalstrategy/files/regions/files/eugs\\_review\\_web\\_0.pdf](https://europa.eu/globalstrategy/sites/globalstrategy/files/regions/files/eugs_review_web_0.pdf) (accessed on 30.03.2018).

EUROPEAN PARLIAMENT (2017) Human Rights in EU trade policy: Unilateral measures. Available at: [http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/595878/EPRS\\_BRI\(2017\)595878\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/595878/EPRS_BRI(2017)595878_EN.pdf) (accessed on 14.05.2018).

EUROPEAN PARLIAMENR (2017a) Russia's and the EU's sanctions: Economic and trade effects, compliance and the way forward. Available at: [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/603847/EXPO\\_STU\(2017\)603847\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/603847/EXPO_STU(2017)603847_EN.pdf) (accessed on 21.07.2018).

EUROPEAN PARLIAMENT (2016) The quest for natural gas pipelines: EU and eastern partner energy policies: security versus transit benefits. Available at: [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/586626/EPRS\\_STU\(2016\)586626\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/586626/EPRS_STU(2016)586626_EN.pdf) (accessed on 30.07.2018).

EUROPEAN PARLIAMENT (2008) Kosovo: Special case say MEPs. Available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=IM-PRESS&reference=20080219IPR21734&language=EN> (accessed on 13.06.2018).

EUROPEAN PARLIAMENT (2000) Lisbon European Council 23 and 24 March 2000 Presidency Conclusion. Available at: [http://www.europarl.europa.eu/summits/lis1\\_en.htm#3](http://www.europarl.europa.eu/summits/lis1_en.htm#3) (accessed on 19.06.2018).

EUROPEAN PARLIAMENT and COUNCIL OF THE EUROPEAN UNION (2012). Regulation (EU) No 978/2012 of the European Parliament and of the Council Applying a Scheme of Generalised Tariff Preferences and Repealing Council Regulation (EC) No 732/2008. Available at: [http://trade.ec.europa.eu/doclib/docs/2012/october/tradoc\\_150025.pdf](http://trade.ec.europa.eu/doclib/docs/2012/october/tradoc_150025.pdf) (accessed on 15.03.2018).

EUROPEAN UNION (2018a) The Economy. Trade. Available at: [https://europa.eu/european-union/about-eu/figures/economy\\_en](https://europa.eu/european-union/about-eu/figures/economy_en) (11.08.2018).

EUROPEAN UNION (2018b) Accession criteria (Copenhagen Criteria). Available at: [https://eur-lex.europa.eu/summary/glossary/accession\\_criteria\\_copenhagen.html](https://eur-lex.europa.eu/summary/glossary/accession_criteria_copenhagen.html) (accessed on 10.06.2018).

EUROPEAN UNION (2018c) Development and cooperation. Available at: [https://europa.eu/european-union/topics/development-cooperation\\_en](https://europa.eu/european-union/topics/development-cooperation_en) (accessed on 12.08.2018).

EUROSTAT (2018) Total unemployment rate. Available at: [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/603847/EXPO\\_STU\(2017\)603847\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/603847/EXPO_STU(2017)603847_EN.pdf) (accessed on 21.07.2018).

EUROSTAT (2018a) Energy production and imports. Available at: [https://ec.europa.eu/eurostat/statistics-explained/index.php/Energy\\_production\\_and\\_imports#More\\_than\\_half\\_of\\_EU-28\\_energy\\_needs\\_are\\_covered\\_by\\_imports](https://ec.europa.eu/eurostat/statistics-explained/index.php/Energy_production_and_imports#More_than_half_of_EU-28_energy_needs_are_covered_by_imports) (accessed on 02.11.2018).

EUROSTAT (2016a) Share of world population, 1960, 2015 and 2060. Available at: [http://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Share\\_of\\_world\\_population,\\_1960,\\_2015\\_and\\_2060\\_\(%25\)\\_2.png](http://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Share_of_world_population,_1960,_2015_and_2060_(%25)_2.png) (accessed on 17.06.2018).

EUROSTAT (2016b) Share of world GDP, 2004 and 2014. Available at: [http://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Share\\_of\\_world\\_GDP,\\_2004\\_and\\_2014.png](http://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Share_of_world_GDP,_2004_and_2014.png) (accessed on 17.06.2018).

FEATHERSTONE, K. (2011) The Greek sovereign debt crisis and EMU: A failing state in a skewed regime. *Journal of Common Market Studies*. Vol. 49 (2): 193-217.

FEREDAY, J., MUIR-COCHRANE, E. (2006) Demonstrating rigor using thematic analysis: A hybrid approach of inductive and deductive coding and theme development. *International Journal of Qualitative Methods*. Vol. 5 (1): 80-91.

FERGUSON, E. (2014) Help BiH farmers sell their products in the EU. Available at: <https://blogs.fco.gov.uk/edwardferguson/2014/12/01/help-bih-farmers-sell-their-products-in-the-eu/> (accessed on 16.07.2018).

FREEDOM HOUSE (2018) Nations in transit - Hungary 2018. Available at: <https://freedomhouse.org/report/nations-transit/2018/hungary> (accessed on 28.07.2018).

FREEDOM HOUSE (2018a) Nations in transit - Poland 2018. Available at: <https://freedomhouse.org/report/nations-transit/2018/poland> (accessed on 28.07.2018).

FREEDOM HOUSE (2017) Freedom of the press – Serbia 2017. Available at: <https://freedomhouse.org/report/freedom-press/2017/serbia> (accessed on 28.07.2018).

FUTÁK-CAMPBELL, B. (2018) *Practicing EU foreign policy: Russia and the Eastern neighbours*. Manchester: Manchester University Press.

GATEVA, E. (2015) *European Union enlargement conditionality*. London: Palgrave Macmillan.

GLOBAL SLAVERY INDEX (2018) Country data – Pakistan. Available at: <https://www.globallslaveryindex.org/2018/data/country-data/pakistan/> (accessed on 12.08.2018).

GRABBE, H. (2014) Six lessons of enlargement ten years on: The EU's transformative power in retrospect and prospect. *Journal of Common Market Studies*. Vol. 52: 40-56.

GREIDER, A. (2017) Outsourcing migration management. Migration Policy Institute. Available at: <https://www.migrationpolicy.org/article/outsourcing-migration-management-western-balkans-europes-refugee-crisis> (accessed on 16.06.2018).

HAIJA, R., M. (2006) The armageddon lobby: Dispensationalist christian zionism and the shaping of US policy towards Israel-Palestine. *Holy Land Studies: A Multidisciplinary Journal*. Vol. 5(1): 75-95. Available at: <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.692.6967&rep=rep1&type=pdf> (accessed on 26.06.2018).

HAFNER-BURTON, E., M. (2009) *Forced to be good: Why trade agreements boost human rights*. New York: Cornell University Press.

HRW (2018) European Union. Events of 2017. Available at: <https://www.hrw.org/world-report/2018/country-chapters/european-union> (17.06.2018).

HRW (2017) Bolivia. Events of 2016. Available at: <https://www.hrw.org/world-report/2017/country-chapters/bolivia> (accessed on 10.08.2018).

HRW (2016) Sri Lanka: New government makes significant progress. Available at: <https://www.hrw.org/news/2016/01/27/sri-lanka-new-government-makes-significant-progress-0> (accessed on 13.08.2018).

INSTITUTE FOR GOVERNMENT (2018) Association agreements. Available at: <https://www.instituteforgovernment.org.uk/explainers/association-agreements> (accessed on 15.03.2018).

ICC (2018) About the ICC. Available at: <https://www.icc-cpi.int/about> (accessed on 30.07.2018).

ICC (2018a) How the Court works. Available at: <https://www.icc-cpi.int/about/how-the-court-works/Pages/default.aspx#legalProcess> (accessed on 30.07.2018).

ICC (2018b) Assembly of states parties. Available at: [https://asp.icc-cpi.int/EN\\_Menus/asp/pages/asp\\_home.aspx](https://asp.icc-cpi.int/EN_Menus/asp/pages/asp_home.aspx) (accessed on 30.07.2018).

ICC (2018c) Ukraine. Available at: <https://www.icc-cpi.int/ukraine> (accessed on 30.07.2018).

ICTY (2018) About the ICTY. Available at: <http://www.icty.org/en/about> (accessed on 28.07.2018).

ICTY (2018a) Case information sheet: Radovan Karadžić. Available at: [http://www.icty.org/x/cases/karadzic/cis/en/cis\\_karadzic\\_en.pdf](http://www.icty.org/x/cases/karadzic/cis/en/cis_karadzic_en.pdf) (accessed on 28.07.2018).

ICTY (2018b) Case information sheet: Ratko Mladić. Available at: [http://www.icty.org/x/cases/mladic/cis/en/cis\\_mladic\\_en.pdf](http://www.icty.org/x/cases/mladic/cis/en/cis_mladic_en.pdf) (accessed on 28.07.2018).

ILO (2014) ILO's concerns regarding new law in Bolivia dealing with child labour. Available at: [https://www.ilo.org/ipec/news/WCMS\\_250366/lang-en/index.htm](https://www.ilo.org/ipec/news/WCMS_250366/lang-en/index.htm) (accessed on 10.08.2018).

INTERNATIONAL COALITION FOR THE RESPONSIBILITY TO PROTECT (2018) The crisis in Darfur. Available at: <http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-darfur> (accessed on 04.08.2018).

- IMF (2018a) IMF Data mapper. GDP per capita. Available at: <http://www.imf.org/external/datamapper/NGDPDPC@WEO/OEMDC/ADVEC/WEOWORLD/EEQ> (accessed on 19.06.2018).
- IMF (2018b) IMF Data mapper. Population. Available at: <http://www.imf.org/external/datamapper/LP@WEO/OEMDC/ADVEC/WEOWORLD/EEQ/EU/EUQ> (accessed on 19.06.2018).
- IMF (2015) Regional economic issue. Special report. The Western Balkans. 15 years of economic transition. Available at: <http://www.imf.org/external/pubs/ft/reo/2015/eur/eng/erei0315.htm> (accessed on 16.06.2018).
- JAYASINGHE, V. (2015) The legality of the European Union's special incentive arrangement. *Journal of International Economic Law*. Vol. 18: 555-575.
- JUNCKER, J. C. (2017) State of the Union address. Available at: [http://europa.eu/rapid/press-release\\_SPEECH-17-3165\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-17-3165_en.htm) (accessed on 28.06.2018).
- JUNCOS, A. E., PÉREZ-SOLÓRZANO BORRAGÁN, N. (2016) Enlargement In *European Union Politics*, 5<sup>th</sup> ed., 227-240, ed. CINI, M., PÉREZ-SOLÓRZANO BORRAGÁN, N. Oxford: Oxford University Press.
- JURJE, F., LAVENEX S. (2014) Trade agreements as venues for 'Market Power Europe'? The case of immigration policy. *Journal of Common Market Studies*. Vol. 52 (2): 320-336.
- KIRKHAM, K. (2016) The formation of the Eurasian economic union: How successful is the Russian regional hegemony? *Journal of Eurasian Studies*. Vol. 7: 111-128.
- KLOTZ, A., LYNCH, C. (2007) *Strategies for research in constructivist international relations*. New York: M.E. Sharpe, Inc.
- KSC&SPO (2018) The Specialist Chambers and Specialist Prosecutor's Office. Available at: <https://www.scp-ks.org/en/background> (accessed on 10.08.2018).
- KUIJPER, P., J., WOUTERS, J., HOFFMEISTER, F., DE BAERE, G., RAMOPOULOS, T. (2015) *The law of EU external relations. Cases, materials, and commentary on the EU as an international legal actor*. 2<sup>nd</sup> ed. Oxford: Oxford University Press.
- LARIK, J. (2016) *Foreign policy objectives in European constitutional law*. Oxford: Oxford University Press.
- LARIK, J. (2011) Much more than trade: The common commercial policy in global context In *Beyond the established legal orders: Policy interconnections between the EU and the rest of the world*, 13-46, ed. EVANS, M., KOUTRAKOS, P. Oxford: Hart Publishing.
- LUDLOW, N., P. (2013) Hard-won but vital: EU enlargement in historical perspective in LSE ideas the crisis of EU enlargement: Special report. Available at: <http://www.lse.ac.uk/ideas/Assets/Documents/reports/LSE-IDEAS-Crisis-of-EU-Enlargement.pdf> (accessed on 17.06.2018).
- LUNACEK, U. (2018) Beyond EU borders: Accession, association, alienation, 2<sup>nd</sup> Panel at the 14th International DASI Conference held in Vienna 2nd-3rd March 2018. Diplomatic Academy of Vienna.
- LUNACEK, U. (2017) *Frieden bauen heisst weit bauen. Von Brüssel ins Amselfeld und Retour: Mein Beitrag zu Kosovos/Kosovas Weg in die EU*. Vienna: Wieser Verlag.
- LYNN DOTY, R. (1996) *Imperial encounters*. Minneapolis: University of Minnesota Press.
- MALSTRÖM, C. (2015) Foreword to *Trade for All: Towards a more responsible trade and investment policy*, by EUROPEAN COMMISSION. Brussels: European Commission. Available at: [http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc\\_153846.pdf](http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf) (accessed on 01.06.2018).
- MANNERS, I. (2006) The European Union as a normative power: A response to Thomas Diez. *Millennium: Journal of International Studies*. Vol. 35 (1): 167-180.
- MANNERS, I. (2002) Normative Power Europe: A contradiction in terms? *Journal of Common Market Studies*. Vol. 40 (2): 235-258.
- MARTIN-MAZÉ, M. (2015) Unpacking interests in Normative Power Europe. *Journal of Common Market Studies*. Vol. 53 (6): 1285-1300.

- MARUSHIAKOVA, E. et al (2001) *Identity formation among minorities in the Balkans: The cases of Roms, Egyptians and Ashkali in Kosovo*. Sofia: Minority Studies Society Studii Romani.
- MAULL, H. (2005) Europe and the new balance of global order. *International Affairs*. Vol. 81 (4): 775-799.
- MEUNIER, S., NICOLAÏDIS, K. (2006) The European Union as a conflicted trade power. *Journal of European Public Policy*. Vol. 13 (6): 906-925.
- MOGHERINI, F. (2016a) Mogherini kicks off human rights events. Available at: [https://eeas.europa.eu/headquarters/headquarters-homepage/3555/node/3555\\_ka](https://eeas.europa.eu/headquarters/headquarters-homepage/3555/node/3555_ka) (accessed on 17.04.2018).
- MOGHERINI, F. (2016b) Foreword to *Shared vision, common action: A stronger Europe. A Global Strategy for the European Union's foreign and security policy*. Brussels: European External Action Service. Available at: [https://europa.eu/globalstrategy/sites/globalstrategy/files/regions/files/eugs\\_review\\_web\\_0.pdf](https://europa.eu/globalstrategy/sites/globalstrategy/files/regions/files/eugs_review_web_0.pdf) (accessed on 30.03.2018).
- MÜHLMANN, T. (2018) Beyond EU borders: Accession, association, alienation, 2<sup>nd</sup> Panel at the 14th International DASI Conference held in Vienna 2nd-3rd March 2018. Diplomatic Academy of Vienna.
- NATO (2008) Bucharest summit declaration. Available at: [https://www.nato.int/cps/us/natohq/official\\_texts\\_8443.htm](https://www.nato.int/cps/us/natohq/official_texts_8443.htm) (accessed on 07.08.2018).
- NOBEL FOUNDATION (2012) The Nobel Peace Prize 2012. Available at: [https://www.nobelprize.org/nobel\\_prizes/peace/laureates/2012/](https://www.nobelprize.org/nobel_prizes/peace/laureates/2012/) (accessed on 17.06.2018).
- NYE, J. (1990) Soft Power. *Foreign Policy*. Vol. 80: 153-171.
- OBRAĐOVIC-WOCHNIK, J. (2009) Knowledge, acknowledgement and denial in Serbia's responses to Srebrenica massacre. *Journal of Contemporary European Studies*. Vol. 17 (1): 61-74.
- ORBIE, J. (2006) Civilian Power Europe: Review of the original and current debate. *Cooperation and Conflict: Journal of the Nordic International Studies Association*. Vol. 41 (1): 123-128.
- PACE, M. (2007) The construction of EU normative power. *Journal of Common Market Studies*. Vol. 45 (5): 1041-1064.
- PARKER, I. (2004) Criteria for qualitative research in psychology. *Qualitative Research in Psychology*. Vol. 1: 95-106.
- PARTINGTON, A., TAYLOR, C. (2018) The language of persuasion and in politics: An Introduction. Available at: <https://www.routledge.com/The-Language-of-Persuasion-in-Politics-An-Introduction/Partington-Taylor/p/book/9781138038486> (accessed on 16.07.2018).
- PERIŠIN, T. (2015) EU regulatory policy and world trade: Should all the EU institutions care what the world thinks? *European Constitutional Law Review*. Vol. 11: 99-120.
- PHELAN, W. (2012) What is sui generis about the European Union? Costly international cooperation in a self-contained regime. *International Studies Review*. Vol. 14: 367-385.
- POLITICO (2017) Hungary's Victor Orbán pledges to support Poland against EU 'inquisition'. Available at: <https://www.politico.eu/article/hungary-viktor-orban-pledges-to-support-poland-against-eu-inquisition/> (accessed on 28.07.2018).
- POPESCU, N. (2013) The Russian-Ukraine trade spat. European Union Institute for Security Studies. Available at: [https://www.iss.europa.eu/sites/default/files/EUISSFiles/Alert\\_Ukraine\\_trade.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Alert_Ukraine_trade.pdf) (accessed on 22.07.2018).
- PORTELA, C., ORBIE, J. (2014) Sanctions under EU generalised system of preferences and foreign policy: Coherence by accident? *Contemporary Politics*. Vol. 20 (1): 63-76.
- PROGRESSIVE ALLIANCE OF SOCIALISTS & DEMOCRATS IN THE EUROPEAN PARLIAMENT (2018) Kosovo a step closer to visa liberalisation with the EU. Available at: <http://www.socialistsanddemocrats.eu/newsroom/kosovo-step-closer-visa-liberalisation-eu> (accessed on 16.07.2018).
- RICE, P., EZZY, D. (1999) *Qualitative research methods: A health focus*. Melbourne: Oxford University Press.
- ROGERS, J. (2009) From 'Civilian Power' to 'Global Power': Explicating the European Union's grand strategy' through the articulation of discourse theory. *Journal of Common Market Studies*. Vol. 47 (4): 831-862.



- ROSAMOND, B. (2005) Conceptualising the EU model of governance in world politics. Available at: [http://wrap.warwick.ac.uk/1098/1/WRAP\\_Rosamond\\_9570885-150709-rosamond\\_efar\\_05.pdf](http://wrap.warwick.ac.uk/1098/1/WRAP_Rosamond_9570885-150709-rosamond_efar_05.pdf) (accessed on 30.04.2018).
- SCHIMMELFENNIG, F. (2012) Europeanization beyond Europe: Living Reviews. *European Governance*. Vol. 7 (1): 1-31. Available at: [http://edoc.vifapol.de/opus/volltexte/2014/5275/pdf/lreg\\_2012\\_1Color.pdf](http://edoc.vifapol.de/opus/volltexte/2014/5275/pdf/lreg_2012_1Color.pdf) (accessed on 11.03.2018).
- SCHIMMELFENNIG, F. (2008) EU political accession conditionality after the 2004 enlargement: Consistency and effectiveness. *Journal of European Public Policy*. Vol. 15 (6): 918-937.
- SCOTT, J. (2014) Extraterritoriality and territorial extension in EU law. *The American Journal of Comparative Law*. Vol. 62 (1): 87-125.
- SEDELMEIER, U. (2017) Political safeguards against democratic backsliding in the EU: The limits of material sanctions and the scope of social pressure. *Journal of European Public Policy*. Vol. 24 (3): 337-351.
- SHEPHERD A., J., K. (2009) A milestone in the history of the EU: Kosovo and the EU's international role. *International Affairs*. Vol. 85 (3): 513-530.
- SILVERMAN, D. (2013) *Doing qualitative research*, 4<sup>th</sup> ed. London: SAGE Publications Ltd.
- SJURSEN, H. (2006) The EU as a 'Normative Power': How this can be? *Journal of European Public Policy*. Vol. 2006 (13): 235-261.
- SMITH, K. E. (2008) *European Union foreign policy in a changing world*, 2<sup>nd</sup> ed. Cambridge: Polity Press.
- SMITH, K. E. (2005) Beyond the Civilian Power EU debate. *Politique européenne*. Vol. 3 (17): 63-82.
- SMITH, K. E. (2003) *European Union foreign policy in a changing world*. Cambridge: Polity Press.
- SMITH, K. E. (2001) The EU human rights and relations with third countries: 'Foreign policy' with an ethical dimension. In *Ethics and foreign policy*, 185-203, ed. SMITH, K. E., LIGHT, M. Cambridge: Cambridge University Press.
- SMITH, K. E. (1998) The use of political conditionality in the EU's relations with third countries: How effective? *European Foreign Affairs Review*. Vol. 3 (2).
- SAA BETWEEN THE EUROPEAN COMMUNITITES AND THE REPUBLIC OF SERBIA (2008) Available at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/serbia/key\\_document/saa\\_en.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/serbia/key_document/saa_en.pdf) (accessed on 28.07.2018).
- STAVRIDIS, S. (2001) Why the 'militarising' of the European Union is strengthening the concept of a 'Civilian power Europe'. *Robert Schuman Centre for Advanced Studies*. Vol. 2001 (17): 1-21.
- SVOBODA, P. (2010) *Právo vnějších vztahů EU*. Praha: C. H. Beck.
- ŠTĚRBOVÁ, L. et al. (2013) *Mezinárodní obchod ve světové krizi 21. století*. Praha: Grada.
- TOCCI, N. (2006) Can the EU promote democracy and human rights through the ENP? The case of refocusing on the rule of law. Available at: <https://www.eui.eu/Documents/DepartmentsCentres/Law/Professors/Cremona/TheEuropeanNeighbourhoodPolicy/PaperToci.pdf> (accessed on 29.07.2018).
- TRADING ECONOMY (2018) Cape Verde exports 1999-2018. Available at: <https://tradingeconomics.com/cape-verde/exports> (accessed on 14.07.2018).
- TRAUNER, F., MANIGRASSI, E. (2014) When visa-free travel becomes difficult to achieve and easy to lose: the EU Visa Free Dialogues after the EU's experience with the Western Balkans. *European Journal of Migration and Law*. Vol. 16 (1). Available at: [https://s3.amazonaws.com/academia.edu.documents/34828307/Visa\\_Free\\_Dialogues\\_Trauner\\_Manigrassi.pdf?AWSAccessKeyId=AKIAIWOWYYGZ2Y53UL3A&Expires=1531787267&Signature=M4bRVFgl2QGe5UomeTUF623n8wo%3D&response-content-disposition=inline%3B%20filename%3DWhen\\_visa-free\\_travel\\_becomes\\_difficult.pdf](https://s3.amazonaws.com/academia.edu.documents/34828307/Visa_Free_Dialogues_Trauner_Manigrassi.pdf?AWSAccessKeyId=AKIAIWOWYYGZ2Y53UL3A&Expires=1531787267&Signature=M4bRVFgl2QGe5UomeTUF623n8wo%3D&response-content-disposition=inline%3B%20filename%3DWhen_visa-free_travel_becomes_difficult.pdf) (accessed on 16.07.2018).
- UNCTAD (2015) General system of preferences - Handbook on the scheme of the European Union. Available at: [http://unctad.org/en/PublicationsLibrary/itcdtsbmisc25rev4\\_en.pdf](http://unctad.org/en/PublicationsLibrary/itcdtsbmisc25rev4_en.pdf) (accessed on 08.03.2018).

- US DEPARTMENT OF STATE (2018) Trafficking in persons report. Available at: <https://www.state.gov/documents/organization/282798.pdf> (accessed on 07.08.2018).
- VACHUDOVA, M. (2014) EU leverage and national interests in the Balkans: The puzzles of enlargement ten years on. *Journal of Common Market Studies*. Vol. 52 (1): 122-138.
- WAGNER, W. (2017) Liberal Power Europe. *Journal of Common Market Studies*. Vol. 55 (6): 1398-1414.
- WENDT, A. (1998) On constitution and causation in international relations. *Review of International Studies*. Vol. 24: 101-117.
- WHITMAN, R. (2002) The fall, and rise, of the Civilian Power Europe. Paper presented to conference on The European Union in International Affairs, 3rd – 4th July 2002. Available at: <https://openresearch-repository.anu.edu.au/bitstream/1885/41589/3/whitman.pdf> (accessed on 28.05.2018).
- WIPO (2018) Code of criminal procedure of Ukraine. Available at: <http://www.wipo.int/edocs/lexdocs/laws/en/ua/ua023en.pdf> (accessed on 23.07.2018).
- WOUTERS, J., MARX, A., GERAETS, D., NATENS, B. (2015) eds. *Global governance through trade: EU policies and approaches*. Cheltenham: Edward Elgar Publishing.
- WTO (2018) Trade profiles. Available at: <http://stat.wto.org/CountryProfile/WSDBCountryPFView.aspx?Language=E&Country=E28%2cCN%2cIN%2cJP%2cRU%2cUS> (accessed on 01.08.2018).
- YARDLEY, L. (2000) Dilemmas in qualitative health research. *Psychology and Health*. Vol. 15: 215-228.
- ZEMANOVÁ, Š. (2008) *Evropeizace zahraniční politiky v oblasti lidských práv*. Praha: Oeconomia.
- ZIELONKA, J. (2008) Europe as a global actor: Empire by example? *International Relations*. Vol. 84 (3): 471-484.
- ZIELONKA, J. (1998) *Explaining Euro-paralysis: Why Europe is unable to act in international politics*. Basingstoke: Macmillan.

## **Annex A**

### **Core UN human rights and ILO labour rights conventions**

- 1) Convention on the Prevention and Punishment of the Crime of Genocide (1948)
- 2) International Convention on the Elimination of All Forms of Racial Discrimination (1965)
- 3) International Covenant on Civil and Political Rights (1966)
- 4) International Covenant on Economic Social and Cultural Rights (1966)
- 5) Convention on the Elimination of All Forms of Discrimination Against Women (1979)
- 6) Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
- 7) Convention on the Rights of the Child (1989)
- 8) Convention concerning Forced or Compulsory Labour, No 29 (1930)
- 9) Convention concerning Freedom of Association and Protection of the Right to Organise, No 87 (1948)
- 10) Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, No 98 (1949)
- 11) Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value, No 100 (1951)
- 12) Convention concerning the Abolition of Forced Labour, No 105 (1957)
- 13) Convention concerning Discrimination in Respect of Employment and Occupation, No 111 (1958)
- 14) Convention concerning Minimum Age for Admission to Employment, No 138 (1973)
- 15) Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, No 182 (1999)

### **Conventions related to the environment and to governance principles**

- 16) Convention on International Trade in Endangered Species of Wild Fauna and Flora (1973)
- 17) Montreal Protocol on Substances that Deplete the Ozone Layer (1987)

- 18) Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989)
- 19) Convention on Biological Diversity (1992)
- 20) The United Nations Framework Convention on Climate Change (1992)
- 21) Cartagena Protocol on Biosafety (2000)
- 22) Stockholm Convention on persistent Organic Pollutants (2001) EN L303/60 Official
- 23) Kyoto Protocol to the United Nations Framework Convention on Climate Change (1998)
- 24) United Nations Single Convention on Narcotic Drugs (1961)
- 25) United Nations Convention on Psychotropic Substances (1971)
- 26) United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988)
- 27) United Nations Convention against Corruption (2004)

## **Annex B**

### **Information Sheet**

University of Economics in Prague  
Faculty of International Relations

**Research Project Title:** The Importance and the Effects of the Common Commercial Policy of the European Union when Reaching Non-Economic Goals

**Name of Researcher:** Monika Bokšová

This information sheet provides details of PhD research project called The Importance and the Effects of the Common Commercial Policy of the European Union when Reaching Non-Economic Goals.

#### **Aim of the Project:**

The project focuses on analysing the market power of the European Union and its abilities to externalise its regulations if desired with focus on the protection of human rights.

#### **Details of the interview:**

The purpose of this interview is to ask you specific questions either on Enlargement Policy (in more specific Bosnia and Herzegovina, Serbia, Kosovo), Neighbourhood Policy (in more specific Ukraine, Morocco, Georgia) or GSP+ (in more specific Bolivia, Pakistan, Sri Lanka) which depends on the agenda you personally deal with. The interview will be between 30-40 minutes. The interview will be conducted face-to-face by the researcher, Monika Bokšová. You will be asked a number of questions about your experience and profession in the respective field of the EU. The research findings will be presented within the researcher's PhD thesis.

Participation in the research is entirely voluntary and you have the right to withdraw at any time. If you choose to withdraw during the interview process, the information obtained up to this point may still be used for the purposes of this study, unless you state otherwise. All information given will be treated in strict confidence and anonymity (Chatham House Rule), unless you agree otherwise.

If you would like further information on this project or have any questions regarding the interviews, please contact me.

Name of researcher: Monika Bokšová

Email: monika.boksova@vse.cz