

Università degli Studi di Torino

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# Six selected Master's theses by College of Europe students

## Guest Editor

**Georges Mink**, Titulaire de la Chaire de Civilisation européenne

Collège d'Europe à Natolin

Directeur de Recherche émérite au C.N.R.S. (ISP)



Brugge

College of Europe  
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Coordination by **Flora Kotlinski**, *College d'Europe à Natolin*



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# Introduction

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*De Europa* et le Collège d'Europe à Natolin se lancent pour la sixième fois consécutive dans la publication des meilleurs mémoires de fin d'études réalisés par les étudiants, cette fois-ci de la promotion 2023-2024, ayant eu pour patronne Madeleine Albright (1927-2022), ex-secrétaire d'État des États-Unis d'Amérique sous la présidence de Bill Clinton.

Pour Natolin, où elle est venue rencontrer nos étudiants et partager son expérience, son patronage avait une signification singulière. Sa biographie en témoigne. Sa famille a émigré de la Tchécoslovaquie à la veille de la soviétisation de ce pays par l'Union soviétique. Émigrée tchèque d'origine juive, naturalisée américaine, Madeleine Albright, qui a réalisé une brillante carrière universitaire, spécialisée dans les questions liées à la période de l'Union soviétique et aux pays de l'Europe centrale et du Sud, a effectué également une remarquable carrière diplomatique jusqu'au poste de secrétaire d'État. C'est à ce titre qu'elle a co-signé en 1999, avec les ministres des Affaires étrangères de la Pologne, Bronisław Geremek, de la Tchéquie, Jan Kavan, et de la Hongrie, János Martonyi, le document ratifiant leur adhésion à l'OTAN. Son exemple a ainsi été une inspiration pour nos étudiants. Nous pensons qu'il se reflète dans les travaux de nos étudiants.

Le Collège d'Europe à Natolin fait partie d'un petit nombre d'institutions universitaires qui ont produit et continuent de produire un si grand nombre de spécialistes de l'Europe, ainsi que de nombreux cadres européens. Ses tâches principales sont d'enseigner l'UE, mais plus largement l'Europe dans le monde. Ses marques de fabrique et d'excellence sont :

- s'appuyer sur une riche interdisciplinarité destinée à développer tous les angles des études européennes ;
- créer une culture et un savoir sur l'Europe ;
- former les futurs cadres européens, citoyens imprégnés des valeurs fondatrices européennes et fins connaisseurs de l'histoire européenne et de sa civilisation.

Nous avons sélectionné pour ce numéro spécial *De Europa* un échantillon de mémoires de fin d'études. Ces mémoires se distinguent par leur qualité intrinsèque et par la diversité des centres d'intérêt, avec un point en commun : avoir été réalisés dans le cadre du programme interdisciplinaire d'études européennes de Natolin. On bâtit ainsi ensemble un lien académique fort, une sorte de tradition d'échanges et de partage, contribuant ainsi à la consolidation de l'espace académique européen.

Les mémoires de fin d'année, dont nous proposons ici une sélection, constituent une forme de couronnement des efforts consacrés à l'obtention du Master avancé en études européennes interdisciplinaires au Collège d'Europe à Natolin. Ces travaux

ont une visée académique, mais aussi pratique, en ce qu'ils proposent des solutions et des recommandations lorsque cela est possible. Ils sont une claire manifestation de l'*ethos* citoyen européen. Les critères auxquels ils obéissent correspondent parfaitement à des normes de qualité communément admises, tant sur le plan théorique qu'empirique. Ils se conforment aussi à une série d'exigences méthodologiques, déontologiques et épistémologiques. Ces exigences sont consignées dans une sorte de code de bonne conduite, mais elles font aussi partie d'un important bloc d'enseignement appelé « Séminaire de recherche », où sont enseignées toutes les facettes de la bonne conduite déontologique (notamment en matière de politique anti-plagiat) et de rigueur épistémologique (prévention des erreurs logiques, des évidences ou des idées fixes).

Il est important de préciser ici le cadre de ces travaux et le format qu'impose ce cadre. Les cours, les ateliers thématiques, les *masterclasses*, les jeux de simulation sont dispensés par plusieurs dizaines d'enseignants ou de praticiens de premier choix, réputés au plan international et venant du monde entier. Les abondantes activités extracurriculaires, comme les conférences internationales, les exposés de personnalités invitées, les débats thématiques et les sorties de terrain, complètent le contenu du programme interdisciplinaire. Chaque année, ce programme est mis à jour et adapté aux dernières évolutions contemporaines. Deux perspectives s'offrent aux diplômés du Collège d'Europe à Natolin : il s'agit surtout d'études professionnalisantes, mais un petit nombre des meilleur(e)s étudiant(e)s choisit de poursuivre ses études supérieures en s'inscrivant dans des cycles de doctorat. Ces derniers poursuivront ainsi, pour la plupart, une carrière académique.

La structure du programme fait que le format du mémoire de fin d'année dépend du temps restreint dédié à l'exercice de la rédaction. Cependant, prévenus dès le début de l'année de ce défi, les étudiants choisissent leur sujet pratiquement dès le premier semestre. Les plus méthodiques commencent alors à définir leur objet de recherche, lisent les travaux se rapportant à leur sujet, puis passent à la phase empirique. Cette dernière ne peut être trop complexe, car le temps pour la recherche empirique est relativement court. Cela n'empêche cependant pas un recours fréquent à des entretiens préparés selon les canons des règles méthodologiques. On ne s'étonnera pas de constater qu'il s'agit, dans la plupart des cas, d'entretiens qualitatifs et semi-directifs. Le temps consacré à la vérification empirique des hypothèses de travail impose une méthodologie restreinte et bien contrôlée, sans pour autant nuire à l'excellence des résultats. L'écriture finale intervient pendant les deux à trois derniers mois du deuxième semestre, souvent en parallèle avec les nombreuses activités académiques et culturelles offertes à Natolin, ainsi qu'avec les cours du second semestre. Et pourtant, malgré ces contraintes, un grand nombre de mémoires comportent des thèses innovantes, originales et contribuant aux débats intellectuels en cours.

L'échantillon des meilleurs mémoires que nous avons sélectionné offre une riche représentation de la diversité des sujets choisis par nos étudiants, des objectifs ambitieux poursuivis, de l'élégance de l'écriture, du respect des normes et des règles en

vigueur dans le monde académique, mais surtout du foisonnement d'idées inspirées par la qualité de nos enseignements. Réaliser une telle recherche en si peu de temps est un véritable défi, d'autant plus que sa qualité égale souvent celle des mémoires de Master 2. Le choix de ces mémoires est guidé exclusivement par leur excellence. Plutôt que de s'inscrire dans un ensemble thématique homogène, cette sélection illustre la diversité des sujets abordés par les étudiants. Le kaléidoscope des thèmes abordés reflète également la pluridisciplinarité du programme de Natolin ainsi que son caractère interdisciplinaire.

Nous présentons ainsi aux lecteurs de *De Europa* le mémoire de **Flora Kotlinski**, intitulé ***L'Europe sociale et fracture de l'identité européenne. La question du travail détaché dans les relations franco-polonaises. Le cas du « plombier polonais »***. Cette recherche analyse la raison pour laquelle une expression aussi triviale que « le plombier polonais » acquiert une signification stigmatisante. À travers l'exploration de cette image, elle répond à la question suivante : pourquoi et comment le manque d'harmonisation de la protection sociale des travailleurs dans l'Union européenne engendre-t-il des crispations autour des migrations est-européennes, ayant un impact sur la formation de l'identité européenne ?

L'hypothèse centrale est que la coordination des normes dans le domaine du travail, plutôt que leur harmonisation, a causé des tensions liées à la mobilité des travailleurs. Cela expliquerait ainsi la montée de la xénophobie dans les relations professionnelles entre les différents pays membres de l'UE, notamment face aux nouveaux entrants. L'observation de la construction du stigmat et de l'anti-stigmat du « plombier polonais », en particulier en France, permet d'offrir un cadre fertile à cette analyse de l'émergence sémantique de cette catégorie dans les narrations touchant à l'imaginaire européen.

Le mémoire d'**Olga Vokh** s'intitule ***Understanding the impact of COMECE in the public affairs of the European Union after the Treaty of Lisbon***. Ce mémoire ambitionne de contribuer à la compréhension de l'impact des groupes de représentation des intérêts religieux au niveau de l'UE en étudiant le cas de la Commission des évêques de l'Union européenne (COMECE).

Créée en 1980, la COMECE est un acteur bien connu dans le domaine de la défense des intérêts à Bruxelles. Sa mission consiste à dialoguer avec les institutions européennes au nom des évêchés catholiques des États membres de l'UE et à tenir les conférences épiscopales informées des processus d'intégration européenne.

Pour vérifier les hypothèses de travail de ce mémoire, les stratégies d'impact et les opportunités de la COMECE sont étudiées sous l'angle de sa volonté et de sa capacité à s'aligner sur l'UE. L'alignement est compris à deux niveaux : stratégique (assurer sa légitimité en tant que participant au débat public, soutenir le projet de l'UE dans son ensemble, défendre les valeurs fondamentales de l'UE telles que déclarées dans les Traités) et tactique (faire des choix organisationnels, s'adapter aux voies d'influence et suivre les agendas politiques de l'UE).

Le travail de recherche d'Anna Denais porte sur *The Digital Services Act, a turning point in the role taken by online platforms in the fight against disinformation*. L'objectif de ce mémoire est d'examiner l'évolution du rôle des plateformes en ligne dans la lutte contre la désinformation. Dans le contexte de la mise en œuvre de la loi sur les services numériques (*Digital Services Act*, DSA), il explore l'impact de cette réglementation sur la responsabilité assumée par les plateformes en ligne.

Alors que les efforts précédents pour lutter contre la désinformation se sont largement concentrés sur des initiatives volontaires, incarnées par le Code de bonnes pratiques contre la désinformation, la loi sur les services numériques marque une rupture avec cette approche en instaurant un cadre réglementaire renforçant les obligations des plateformes. Elle reconnaît également les risques systémiques majeurs posés par les très grandes plateformes en ligne (*Very Large Online Platforms*, VLOP), notamment en ce qui concerne la diffusion de la désinformation, et leur impose des mesures supplémentaires.

Ce changement d'approche s'inscrit dans l'objectif plus large de la Commission européenne d'adapter « l'Europe à l'ère numérique » et de relever plus efficacement les défis liés au numérique. Cette recherche vise ainsi à interroger cette représentation et à évaluer dans quelle mesure le DSA constitue un véritable tournant, en particulier en ce qui concerne le rôle joué par les plateformes en ligne dans la lutte contre la désinformation.

Dans un tout autre registre thématique se situe la problématique abordée dans le mémoire de Zoe Banatvala. Son titre l'indique clairement : *Flavours of Friendship: Comparing India and France's Culinary Diplomacy*. Ce mémoire vise à comprendre dans quelle mesure la France pourrait servir d'exemple à l'Inde pour exploiter sa gastronomie sur la scène internationale. Il explore le potentiel de la diplomatie culinaire en tant qu'outil de renforcement du *soft power*, en s'appuyant sur la littérature existante sur le *soft power*, la diplomatie culturelle et la diplomatie publique, ainsi que sur les relations historiques de la France et de l'Inde avec la cuisine et l'influence culturelle. Grâce à des entretiens et à l'analyse de documents gouvernementaux, cette recherche identifie et examine les acteurs clés, les initiatives et les défis liés aux approches des deux pays en matière de diplomatie culinaire.

Les résultats suggèrent que l'Inde peut développer des capacités similaires à celles de la France en matière de diplomatie culinaire, à condition de combiner une stratégie et des ressources appropriées avec ses propres forces socioculturelles. On doit souligner l'originalité du choix du thème, tant par l'exigence d'une approche comparative que par son centrage sur les ressources mises à la disposition de l'auteur. Ce mémoire apporte un éclairage précieux sur le rôle du *soft power* et ses implications politiques et académiques.

Le mémoire rédigé par Maeve Carolan nous plonge dans l'univers linguistique : *Irish Becomes "A Truly European Language": How Ireland's First Language Waited Almost Half a Century for EU Recognition*. Ce mémoire a été réalisé dans le cadre de la Chaire de Civilisation européenne à Natolin.

Lorsque l'Irlande a rejoint la Communauté économique européenne en 1973, l'État a refusé de soumettre sa première langue au statut de langue officielle et de travail. L'irlandais est ainsi devenu une langue du traité, créant un système linguistique à deux niveaux au sein de l'Union européenne. Plus de trente ans plus tard, l'État a réévalué son approche de l'irlandais au niveau européen. À ce jour, l'Irlande est le seul État membre de l'Union européenne à avoir cherché à faire reconnaître sa langue nationale après son adhésion. Cette thèse examine les évolutions internes qui ont conduit à une modification radicale de la politique linguistique et à la recherche d'un statut officiel et opérationnel pour l'irlandais au sein de l'UE. L'auteure se penche ainsi sur un cas particulièrement intéressant de dynamique linguistique dans le cadre du processus d'eupéanisation induit par l'adhésion de l'Irlande à l'UE.

Cette recherche analyse ensuite l'évolution de la politique linguistique nationale irlandaise entre 1922 et 2005. L'auteure examine également l'impact de l'adhésion à l'UE sur cette politique, en accordant une attention particulière à ses effets sur la démographie économique de l'Irlande. Elle étudie la pertinence des transformations du système socio-économique irlandais et leur influence sur les attitudes nationales à l'égard de l'irlandais. L'auteure établit par ailleurs un lien entre la demande de reconnaissance de l'irlandais comme langue officielle de travail et l'exemple donné par d'autres États membres de l'Union européenne. Enfin, ce mémoire met en lumière le rôle crucial du *soft power* irlandais lors des négociations au sein de l'UE et analyse les facteurs ayant conduit au succès de cette reconnaissance linguistique dans un contexte unique.

Le dernier mémoire que nous proposons aux lecteurs de *De Europa* est celui de **Pol Revert Loosveldt**, intitulé « *Climate tunnel vision in the EU Environmental Policies: The case of the land use, land use change and forestry Regulation (LULUCF)* ». En résumé, l'auteur nous invite à nous pencher sur la question de la réalisation de la neutralité climatique, qui constitue l'un des objectifs principaux du *Green Deal* européen. Nous savons que cet objectif repose sur le renforcement des puits de carbone naturels dans les secteurs de l'utilisation des terres et de la sylviculture. Afin de surveiller et de contenir les émissions provenant de ces secteurs, tout en imposant aux États membres des objectifs contraignants en matière d'absorption nette, le règlement relatif à l'utilisation des terres, au changement d'affectation des terres et à la foresterie (UTCATF) a été introduit et renforcé en même temps que les règlements adjacents dans le cadre du *Green Deal* européen.

Toutefois, des doutes persistent quant à la capacité du règlement UTCATF à atteindre les objectifs d'absorption à long terme, étant donné que les objectifs fixés ne sont actuellement pas atteints et que leur faisabilité est remise en question. En réalité, la nécessité d'un changement systémique et d'une amélioration de la biodiversité est souvent négligée, malgré son rôle essentiel dans la fonctionnalité des écosystèmes en tant que régulateurs du climat. Cette approche trop focalisée, qualifiée de « *vision tunnel du climat* », s'inscrit dans une tendance plus large où les politiques climatiques servent de substituts pour répondre à des préoccupations environnementales plus générales. L'analyse qualitative du *Green Deal* européen et de l'UTCATF

montre que cette *vision tunnel* se manifeste notamment par l'absence d'obligations contraignantes en matière de préservation et d'amélioration des écosystèmes, contrairement aux obligations strictes liées au climat. Ce mémoire aborde ainsi un aspect très spécialisé de la lutte contre les tendances négatives de l'évolution climatique, que l'UE cherche à contrer par ses politiques. L'étude met en lumière certains des écueils de cette approche restreinte, tels que le risque de concentrer les efforts sur des mesures inefficaces tout en négligeant les implications systémiques de la transition pour le secteur de l'utilisation des terres et de la sylviculture.

Enfin, des pistes politiques complémentaires sont explorées afin d'élargir les considérations environnementales de l'UTCATF et d'assurer sa contribution durable à la neutralité climatique. L'approche adoptée repose sur la reconnaissance de la biodiversité comme un élément clé du bon fonctionnement des écosystèmes, ainsi que sur l'application du principe de précaution face aux incertitudes liées au changement climatique et au déclin sans précédent de la biodiversité.

Nous terminons donc la présentation de ces six mémoires par celui qui montre que nos étudiants n'hésitent pas à affronter des thématiques très complexes et spécialisées dans le court temps qui leur est octroyé pour effectuer une recherche pointue. Ces sujets ambitieux, si divers, mais placés dans le spectre des études interdisciplinaires européennes abordées par les étudiants de Natolin, témoignent de la créativité et de la qualité académique de nos étudiants.

Voici donc un ensemble de six mémoires de fin d'études réalisés pour clore l'année académique 2023-2024 au Collège d'Europe à Natolin. Nous espérons, par leur publication, éveiller l'intérêt non seulement pour les sujets traités, mais aussi pour le cadre académique stimulant où ces travaux ont pu se réaliser, à savoir le Collège d'Europe à Natolin.

Bonne lecture,  
Professeur Dr. Georges Mink



# Theses

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## **L'Europe sociale et fracture de l'identité européenne. La question du travail détaché dans les relations franco-polonaises. Le cas du « plombier polonais »**

Flora Kotlinski

### **1. Introduction**

« Le premier plombier polonais, c'est Marie Curie. Elle a quitté Varsovie pour la France, à qui elle a donné deux prix Nobel. Qui a retiré le plus de bénéfices de son départ, la France ou la Pologne ? » déclare Bronislaw Geremek le 14 Septembre 2005 (Courrier International 2005). L'Europe est alors dans la tourmente après les échecs successifs du référendum sur le Traité établissant une Constitution pour l'Europe (TCE), d'abord en France puis aux Pays-Bas. Ce texte avait pour objet de combiner les Traités précédents et d'accommoder la nouvelle forme de l'UE, passée en 2004 de 15 à 25 membres. La ratification, qui apparaissait comme une simple formalité initialement, s'est heurtée à un débat bien plus acharné qu'attendu (Drouelle 2015). En France, le sentiment de déclassement économique imprègne les discussions à la suite de l'essoufflement des Trente Glorieuses. À cela s'ajoute l'appréhension causée par l'ouverture de l'espace Schengen à un groupe d'États si important, avec les craintes migratoires que cela implique. En particulier, à la suite des délocalisations en masse des années 1990, la France a peur du « *dumping social* ». Ce terme désigne le phénomène de mise en concurrence, dans le cadre de la libéralisation économique, des travailleurs de pays riches avec ceux de pays moins riches afin de diminuer le coût du travail (résultant en l'abaissement des minima sociaux). En mars 2005, un personnage caricatural vient personnifier cette angoisse : le Plombier Polonais. Or, comme l'explique Joanna Nowicki : « réfléchir sur les stéréotypes nationaux, en dehors de son intérêt intellectuel, peut s'avérer important aussi pour aider les peuples d'Europe à verbaliser ce qui est inavouable dans le cadre des normes de bienséance » (Nowicki 2002 : 562). C'est dans cette intention que ce mémoire cherche à analyser la figure du Plombier Polonais.

Ce sujet comporte trois éléments importants : intégration, Europe sociale et identité ; qu'il convient de définir. Le concept d'intégration européenne s'entend comme « le transfert de domaines limités de la souveraineté nationale à la supranation », en l'occurrence à l'Union Européenne (Milward 2000 : 4). Il doit être appréhendé à la fois dans sa perspective politique (l'entrée de la Pologne dans l'organisation européenne) et économique (la fusion des marchés nationaux au profit du marché

unique). L'Union Européenne (UE) met en œuvre ce transfert soit par l'harmonisation (faire converger les législations nationales à l'aide de normes européennes), soit par la coordination (organisation de l'articulation entre les différentes normes nationales). Concernant les affaires sociales, l'Union utilise généralement la voie de la coordination : c'est ainsi le cas pour les politiques de protections sociales nationales, qui sont simplement coordonnées au niveau européen afin de garantir le respect du principe de subsidiarité. L'idée de cette recherche est de s'intéresser plus précisément aux conséquences sur le marché du travail de cet aspect : l'UE n'ayant pas de compétence en la matière<sup>1</sup> si ce n'est en termes de mobilité des travailleurs. Dans ce mémoire, le concept d'Europe sociale sera donc circonscrit à la protection sociale des travailleurs et la coordination que nécessite leur mobilité. Cependant cette définition restreinte s'inscrit dans le cadre du concept plus général de l'Europe Sociale comme l'ensemble des politiques publiques en matière sociale déployées par l'UE. Celles-ci reposent sur une volonté d'intégration politique. Pour Alan Milward, « [l'intégration] implique que les économies, les sociétés et les administrations des [...] entités nationales se fondent progressivement dans une identité plus large » (Milward 2000 : 2). L'intégration politique comprend donc la notion d'identité comme base pour la formation d'une communauté fondée sur des valeurs et un projet partagés. Or, dans le contexte d'une Europe qui s'élargit, certaines fractures identitaires émergent : le Plombier Polonais en est une émanation.

Afin d'explorer ce sujet nous nous sommes fondé sur une approche interdisciplinaire mêlant Histoire, Science Politique et Sociologie. Nous avons bénéficié d'une littérature abondante. Nous nous sommes appuyé, notamment, pour la construction de la dimension sociale de l'Europe, sur les travaux d'Olivier DeSchutter « L'équilibre Entre l'économie et Le Social Dans Les Traités Européens » (DeSchutter 2006) et de Sylvie Garnier « État Des Lieux de l'Europe Sociale » (Garnier 2019 : 85-101). Pour appréhender les impacts sur la société polonaise de la sortie du communisme, nous avons surtout utilisé les travaux de Georges Mink *Vie et Mort du bloc soviétique* (Mink 1997), « La société post-communiste : théories et données sociologiques » (Mink 2002 : 443-533) et « Intégration Européenne et Mutations Sociales En Europe Centrale » (Mink 2004 : 373-386) ainsi que l'ouvrage *Les Économies D'Europe De L'Est: Europe Centrale, Europe Orientale, Russie* de Dominique Redor (Redor 1997). Concernant la polémique du Plombier Polonais<sup>2</sup> à proprement dite et les critiques de l'Europe qu'elle a soulevées, les travaux de Stéphane Marchand *L'Affaire du plombier polonais* (Marchand 2006) et Amandine Crespy *Qui a peur de Bolkestein ?* (Crespy 2012) nous ont été d'une grande utilité. À cette bibliographie, il faut ajouter l'étude de sources primaires avec un corpus empirique constitué de droit de l'Union Européenne ainsi que de communications des institutions européennes. Nous avons aussi analysé le contenu de sources secondaires, notamment les articles de journaux couvrant la période de déroulement du scandale (Mars 2005 - Décembre

<sup>1</sup> Bien qu'elle puisse fixer des normes minimales.

<sup>2</sup> Nous avons privilégié cette graphie afin de mettre en avant le caractère allégorique de l'expression, que nous souhaitons étudier.

<sup>3</sup> Médiatisation du terme par Philippe De Villiers – Adoption de la Directive Service.

2006)<sup>3</sup> et plus récentes afin d'apprécier l'emploi de l'expression Plombier Polonais dans la sphère publique à travers l'arène médiatique. Finalement, afin de confronter nos hypothèses issues de la littérature, des sources primaires et secondaires, nous avons procédé à l'interview de Pierre Buhler. Monsieur Buhler est un haut fonctionnaire et un acteur majeur de la diplomatie française en particulier dans les relations franco-polonaises (depuis son premier poste à Varsovie en 1983). Il est nommé Ambassadeur de France en Pologne entre 2012 et 2016, période qui suit de près les événements du scandale qui nous intéresse. Cela nous a permis d'évoquer avec lui les conséquences de cette affaire dans les relations franco-polonaises. Nous avons aussi envisagé un entretien avec Philippe De Villiers, à qui l'on doit la médiatisation de l'expression. Cependant, ce qu'il a dit et fait est largement décrit dans la presse et la littérature couvrant le sujet.

Ce que ce travail aspire à comprendre est la raison pour laquelle une figure aussi triviale que celle du Plombier Polonais en vient à incarner une thématique plus profonde sur l'avenir de l'Europe et son identité. À travers l'exploration de cette image, cette recherche essaie de répondre à la problématique suivante : est-ce que le manque d'harmonisation de la protection sociale des travailleurs engendre des crispations autour des migrations intra-européennes qui se répercutent sur la formation de l'identité européenne ? L'hypothèse centrale est que le choix de la coordination des normes dans le domaine du travail, plutôt que celui d'une harmonisation, peut causer des crispations autour de la mobilité du travail. L'idée principale est que cela pèse sur la construction d'une identité commune européenne, en alimentant la xénophobie envers les nouveaux entrants dans la communauté. L'analyse de l'émergence de la figure du Plombier Polonais dans l'imaginaire européen illustre ce phénomène.

Une première partie offrira une vue d'ensemble des circonstances dans lesquelles la silhouette du Plombier Polonais se dessine. D'abord, en établissant la place de la question sociale en Europe, à travers la construction de ce sujet dans les textes et dans l'interprétation jurisprudentielle de la Cour de Justice de l'Union Européenne. Ensuite, en s'intéressant à l'émergence des textes sur le détachement des travailleurs. Enfin, en abordant le contexte d'accession de la Pologne au projet européen.

Une seconde partie, établira le déroulement du scandale du Plombier Polonais. Dans un premier temps, en tentant de trouver les racines de ce personnage dans l'imaginaire français et européen. Puis en examinant la réappropriation de cette image et le changement de perception qu'elle entraîne. Dans un second temps, nous observerons les conséquences que cette représentation a produites dans l'espace politique européen. Cette interrogation est primordiale alors que nous nous trouvons devant de potentiels nouveaux élargissements à l'Est (Conseil Européen 2022). Le camionneur ou le fermier ukrainien est déjà présenté dans certains médias comme le « nouveau Plombier Polonais » (Bodet 2023). Ce mémoire a donc pour intention de détricoter la figure du Plombier Polonais et ainsi d'ouvrir une réflexion plus large sur ce que ce type d'image peut dévoiler des failles européennes.

## **2. De la question sociale dans une union économique**

Il convient, en premier lieu, d'établir le contexte dans lequel émerge le Plombier Polonais. D'abord, il faut comprendre la mise en place de la question sociale en Europe. Puis, comment le thème du détachement des travailleurs s'est fait jour dans le droit de l'Union et dans quel contexte la Pologne a rejoint une Union déjà en proie à des questionnements sur le sujet.

### **2.1 Europe Sociale, le chemin de la coordination**

La construction européenne est lancée en 1957 avec le Traité de Rome, instituant la Communauté Économique du Charbon et de l'Acier (CECA). Aux fondements de cette construction, les Traités assurent la répartition des compétences entre l'Union et ses États Membres. C'est à travers l'histoire de ceux-ci et de leur interprétation par la Cour de Justice qu'il faut d'abord appréhender la place de la protection sociale dans l'Union Européenne.

#### **2.1.1 La construction par les Traités**

L'Union Européenne possède, en vertu de l'article 153 du Traité sur le Fonctionnement de l'Union Européenne (TFUE), une compétence d'appui en ce qui concerne la sécurité sociale et la protection sociale des travailleurs. De ce fait, l'Union se contente de coordonner les politiques de protection sociale des différents États Membres pour permettre la fluidité du marché du travail. Néanmoins, le choix de la coordination plutôt que celui d'une véritable harmonisation n'était pas nécessairement une évidence à l'origine. Il est important de souligner la grande influence en ce sens du Rapport Ohlin produit par l'Organisation Internationale du Travail en 1956 (BIT 1956). Avec le Rapport Spaak, il est l'une des influences majeures de la réflexion des pères fondateurs de l'Europe. Or, ce rapport projette que les standards sociaux s'élèveront mécaniquement avec la croissance économique et qu'il « ne serait donc ni nécessaire, ni recommandé, d'attribuer à la future Communauté économique européenne une compétence en matière sociale : l'amélioration des conditions de vie et de travail résulterait automatiquement des gains de productivité au sein de chaque État » (De Schutter 2006 : 131). Ainsi, le Traité de Rome suit cette logique et ne conçoit le rôle de l'Europe en matière de protection sociale que comme « une mesure d'accompagnement de l'intégration économique » (De Schutter 2006 : 130). L'idée est de simplement coordonner les systèmes dans leur diversité afin d'assurer la mobilité de travailleurs.

Le rôle mineur de la Communauté Économique Européenne (CEE) s'inscrit aussi dans le sens d'une répartition progressive des droits humains entre les deux blocs qui se cristallisent pendant la Guerre Froide. D'un côté, l'Est se fait protecteur des droits économiques et sociaux avec le Pacte international relatif aux droits économiques, sociaux et culturels (1966). De l'autre, l'Ouest défend les droits civils et politiques avec le Pacte international des droits civils et politiques (1966).

Ainsi la dimension sociale du marché commun a, dans un premier temps, été mise de côté. Dans les années 1970-1980, la question sociale prend cependant de l'ampleur dans la Communauté Européenne. L'intégration de trois nouveaux membres (Royaume-Uni, Irlande et Danemark) ainsi que le choc pétrolier font remonter les préoccupations sociales. Les membres fondateurs comme la France voient d'un œil suspect l'entrée dans l'organisation de ces membres très libéraux sur le plan économique, et le choc pétrolier enclenche une crise économique qui met fin aux « Trente Glorieuses » issues de la reconstruction. C'est dans ce contexte que la Cour de Justice de la Communauté Européenne (CJCE) utilise sa jurisprudence pour approfondir l'intégration du marché commun. En effet, dans un système comme celui de la communauté avec des pouvoirs exécutif et législatif faibles, le rôle du pouvoir judiciaire est crucial. Dans la célèbre affaire *Cassis de Dijon* (Cour de Justice des Communautés Européennes, 1979), la Cour étend son interprétation des entraves au commerce aux « mesures équivalentes à des restrictions quantitatives ». Ce faisant, la CJCE accélère « l'intégration négative » (Depetris 2001 : 119-123) ; c'est-à-dire qu'elle promeut la suppression des normes nationales dans le but de faciliter les échanges transnationaux, sans (pouvoir) les remplacer par des règles communes. En conséquence de ce contexte, le Conseil adopte une résolution visant à mettre en œuvre un programme d'action sociale dans lequel il « considère qu'une action vigoureuse doit être entreprise en vue d'atteindre les finalités sociales de l'union européenne » (Conseil des Communautés Européennes 1974 : 1). Ces avancées se limitent néanmoins à certains domaines : l'égalité femme-homme et la sécurité au travail. Le volontarisme sur les questions de sécurité au travail s'explique, selon Olivier De Schutter, par la technicité des sujets et des études nécessaires à l'étude de telle ou telle substance chimique. Ainsi « le fait de confier de telles études à une agence européenne telle que la Fondation de Dublin représente des économies d'échelle pour l'ensemble des États. » (De Schutter 2006 : 139).

De plus, c'est bien dans ces années que le droit social européen se constitue comme « un droit d'accompagnement du marché intérieur [...] conçu sur le mode négatif, plutôt que positif : il limite les effets des restructurations que la création du marché intérieur amène ». En effet, la deuxième partie des années 1980, suivies des années 1990, voient l'entrée de la Grèce, de l'Espagne et du Portugal. L'arrivée de ces pays crée d'importantes disparités économiques et, avec elles, la crainte d'un « dumping social ». L'ambition de Jacques Delors d'achever le marché unique prend en compte ces peurs. Le programme de travail de la Commission pour 1985 était déjà très explicite sur la nécessité d'équilibrer les dimensions économique et sociale : « les effets positifs qu'apporterait [le] grand marché viendraient à disparaître si certains États cherchaient à prendre sur les autres un avantage concurrentiel au prix d'un recul social. L'existence d'un espace social européen devrait donc empêcher le recours à des pratiques de dumping social, dommageable pour l'emploi global » (Commission des Communautés Européennes 1985). En ce sens, le Traité d'Amsterdam en 1997 intègre l'Accord sur la politique sociale de 1992 et mentionne en son article 136 la Charte sociale européenne de 1961 ainsi que la Charte communautaire des droits



sociaux fondamentaux des travailleurs de 1989 (De Schutter 2006 : 145). Cependant, l'article 137 CE prévoit simplement que la Communauté « soutient et complète l'action des États membres » dans un certain nombre de domaines (santé et sécurité des travailleurs, conditions de travail, information et consultation des travailleurs, intégration des personnes exclues du marché du travail, égalité entre hommes et femmes) par l'adoption de directives. Toute forme d'harmonisation des rémunérations, du droit d'association et d'action collective ne sont pas inclus. Le Traité de Nice n'apporte pas de modifications notables en matière sociale, voire régresse. En effet, il « précise que les dispositions prises en vertu de l'article 137 CE « ne portent pas atteinte à la faculté reconnue aux États membres de définir les principes fondamentaux de leur système de sécurité sociale et ne doivent pas en affecter sensiblement l'équilibre financier », précision que ne comportait pas la version adoptée à Amsterdam » (De Schutter 2006 : 146). En outre, il introduit la Méthode Ouverte de Coopération. Or, cet instrument issu de la Stratégie de Lisbonne est grandement lié au taux d'emploi et à la croissance, portant peu d'attention aux standards sociaux.

Ainsi il semble que les questions sociales connaissent un regain d'intérêt lors des périodes d'incertitudes liés aux impacts des différents élargissement sur le marché commun. Il est cependant notable que le Traité de Nice ait procédé à peu de changements en la matière alors même qu'il devait préparer l'élargissement à l'Est. Or, si les craintes avec l'entrée de la Grèce, l'Espagne et le Portugal concernant les disparités économiques étaient grandes, celles concernant les ex-États satellites devaient l'être tout autant. Il est vrai que l'on sortait à peine d'une période focalisée sur la finalisation du marché commun, et que les réformes institutionnelles de ce Traité n'ont pas nécessairement reçu l'attention qu'elles méritaient. Quoiqu'il en soit, les éléments institutionnels ne sont pas les seuls à mener vers le choix de la coordination plutôt que celui de l'harmonisation sociale, les évolutions juridiques doivent aussi être prises en compte.

### **2.1.2 Le rôle de la Cour de Justice**

Bien qu'il y ait eu des avancées dans certains domaines (protection techniques, égalité femme-homme), la question de la protection sociale a continué à être mise de côté au profit de la libéralisation du marché commun (Joerges 2009). Le rôle de la Cour de Justice ici n'est pas à négliger.

L'Union, bien que caractérisée par une « obsession des compétences »<sup>4</sup>, dispose de diverses solutions pour faire évoluer un domaine vers le niveau le plus adapté, en l'occurrence le niveau européen. Pour Sylvie Garnier « C'est précisément la CJUE, garante de l'interprétation des textes et de leur application, qui détient le pouvoir de fixer le curseur entre Europe sociale et Europe économique » (Garnier 2019 : 94). En effet, comme évoqué précédemment avec l'affaire Cassis de Dijon, afin de permettre la finalisation et une meilleure circulation des biens ; la Cour a poussé davantage les

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<sup>4</sup> Expression utilisée par la Professeure Catherine Schneider (Chair Jean Monnet) lors de son cours sur l'action extérieure de l'UE (2022, Université Grenoble Alpes). Elle y sous-entend que la question de la compétence est primordiale dans le droit de l'Union.



limites de la stricte interprétation. Finalement, cette évolution fut intégrée dans les Traités. La Cour aurait pu de la même manière favoriser une meilleure coordination des systèmes de protection sociale. Mais certains arrêts, comme *Laval un Partneri* en 2007 (Cour de Justice des Communautés Européennes, 2007) notamment, ferment la porte à cette idée. La position de la CJUE dans cet arrêt a été largement critiquée pour avoir priorisé la liberté de prestation de services et la libre circulation des travailleurs au détriment de leurs droits sociaux. En effet, cet arrêt concernait un différend entre un syndicat suédois et une entreprise lettone, où le syndicat avait menacé de recourir à des actions de blocage pour obliger l'entreprise à appliquer les conditions de travail suédoises (plus favorables pour les travailleurs détachés). La Cour a jugé que les syndicats ne pouvaient pas exiger de conditions de travail plus favorables pour les travailleurs détachés que celles prévues par la législation du pays d'établissement de l'entreprise d'envoi. Ce faisant, elle limite la capacité des États membres à protéger les droits sociaux des travailleurs détachés en empêchant l'imposition de conditions de travail plus favorables que celles prévues par leur législation nationale. La Cour de Justice ne semble donc pas encline à faire pencher la balance en faveur de la dimension sociale du marché commun. Selon Sylvie Garnier, « La thématique du détachement l'illustre parfaitement et démontre que si une lecture audacieuse des textes a été possible au profit des travailleurs, tel n'est désormais plus le cas » (Garnier 2019 : 94).

Dans son article « La construction d'un « droit social européen », Karim Fertikh analyse en quoi la composition de la Cour a influencé « sa faiblesse en matière sociale » (Fertikh 2016 : 202). Il y explique que dans la première phase (les années 1950-1960), les entrepreneurs sociaux sont présents dans des institutions comme la Commission ou le Parlement, mais pas dans la Cour de Justice. « Si la force du droit européen est liée aux juges européens, le droit social européen doit donc se fabriquer dans ces premières années largement hors de cette Cour » (Fertikh 2016 : 209). À la fin des années 1960, les partenaires sociaux perdent leur juge coopté, Petrus Serrarens, pour plusieurs raisons. D'abord, car Serrarens n'a pas de formation juridique initiale et que l'institution est alors dans un mouvement de professionnalisation, de renforcement du capital juridique de ses juges. « Ensuite, la légitimité de la présence syndicale est moins évidente pour les élites gouvernementales et administratives dans le cadre de la mise en place d'un marché commun généraliste que lorsqu'il s'agissait d'intervenir dans des bastions du syndicalisme industriel comme l'extraction de charbon et la production d'acier » (Fertikh 2016 : 208). Donc la Cour perd son juge dédiée aux affaires sociales dans le cadre de la professionnalisation mais aussi car le passage de la CECA à la CEE rend moins légitime le poids accordé aux syndicats dans les affaires européennes. Néanmoins, dans les années 1970 la question de l'harmonisation sociale suscite l'intérêt des juristes. Mais jusqu'aux années 1980-1990 la doctrine place le droit social en subordination, toujours en lien avec le droit économique dont il est « accessoire ou tributaire » selon Jean Boulouis (Boulouis 1989 : 524). C'est seulement dans les années 1990 qu'un juge spécialisé dans les affaires sociales entre de nouveau à la Cour, pouvant expliquer la résurgence des

contentieux sociaux. Mais cette nomination ne donnera qu'un dynamisme limité aux interprétations de la Cour en la matière.

Ainsi, les Traités fondant l'Union prévoit des compétences limitées en matière sociale et la Cour n'a pas fait preuve d'un grand volontarisme pour les étendre par le biais d'une interprétation téléologique. De fait, c'est la Commission qui se place comme entrepreneur du droit social européen : le travail de mobilisation de ses agents précède l'émergence d'une doctrine reconnue par la Cour de Justice. Mais concernant la mobilité du travail et la libéralisation des services dans les années 1990, les rôles s'inversent. En effet, c'est bien sur la base des jurisprudences de la Cour en matière de libéralisation des services que la Commission codifie un droit déjà existant.

## **2.2 Les prémices d'un scandale européen**

Le déséquilibre entre droit économique et social provoque des tensions autour de deux sujets qui se concrétiseront dans le scandale du Plombier Polonais. D'abord, car la libéralisation des services provoque des angoisses dans le monde du travail européen. Puis, parce que la Pologne ayant enclenché une transition économique drastique, connaît des mutations sociales laissant imaginer de possibles flux migratoires importants.

### **2.2.1 La libre circulation des services, parachèvement du marché commun**

Dès les années 1990, la libéralisation des services est progressivement lancée. En 1989, la Directive Télévision sans Frontières libéralise l'audiovisuel. C'est la première directive de libéralisation concernant un service, cela engage un mouvement de libéralisation secteur par secteur : électricité (96/92/CE), secteur postal (97/67/CE), télécommunications (paquet réglementaire 1998), gaz (2003/55/CE), services financiers (directives finances de 2006) ... En 1993, le Règlement 92/881 libéralisant les transports est adopté. Avec lui le concept de « dumping social » fait son entrée dans le paysage médiatique français à propos des camionneurs. En effet, la pratique du cabotage<sup>5</sup> expose déjà les Polonais comme main d'œuvre bon marché responsable de l'abaissement des minima sociaux (Marchand 2006 : 80). En 1996, la Directive 96/71/CE sur le travail détaché est adoptée dans l'objectif de favoriser le développement des services transfrontaliers. Pour faciliter ceux-ci, la directive détermine les conditions de travail applicables durant le détachement et les possibilités de contrôle. Elle s'inscrit dans la lignée de la jurisprudence *Rush Portuguesa*<sup>6</sup>, et en reprend les principaux éléments : au bout de 3 mois toute personne travaillant dans un État Membre doit être soumise aux conditions de travail de l'État d'accueil.

Cette libéralisation s'inscrit dans un besoin de compétitivité face à une écono-

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<sup>5</sup> Lorsqu'un transporteur routier de marchandises établi dans un État de l'UE, effectue sans y être établi, des transports domestiques dans un autre État.

<sup>6</sup> *Rush Portuguesa*, aff. C-113/89 (ECR 1990 I-01417), point 18. Dans le contexte de l'élargissement de la Communauté au Portugal, la mobilité des travailleurs soulève déjà des tensions que la Cour tente d'apaiser avec une jurisprudence proactive. Ce qui n'est pas anodin car, comme évoqué précédemment, la Cour est généralement plutôt timide en matière de contentieux social.

mie qui se globalise et elle apparait comme un objectif clair avec la Stratégie de Lisbonne (Europarl 2000). Elle va prendre ultimement la forme de la Directive 2006/123 relative aux services dans le marché intérieur présentée par le commissaire européen au Marché intérieur Frits Bolkestein (Pays-Bas). Dans son ouvrage *Qui a peur de Bolkestein ? Conflit, résistances et démocratie dans l'Union Européenne*, Amadine Crespy explique que lors de la proposition formulée le 13 janvier 2004, les cercles européens s'accordaient autour de la libéralisation des services dans le cadre de l'achèvement du marché intérieur (Crespy 2012 : 14). Mais le contexte de l'élaboration de la directive censée encadrer une libéralisation générale du domaine, fait exploser un sujet a priori technique et peu propice à l'intérêt de l'opinion publique. Le conflit autour de la directive Bolkestein est issu à la fois de tendances générales et de circonstances exceptionnelles. D'abord, ce texte émerge dans le sillage de trois dynamiques. La première étant la Stratégie de Lisbonne qui fait partie d'un processus général d'accroissement de l'intégration négative à cette période sous l'impulsion de la Commission et de la CJUE. Or, comme l'explique Amadine Crespy, ce type d'intégration souffre d'un déficit de légitimité démocratique et est de ce fait plus contesté (Crespy 2012 : 32). La seconde, correspond à un mouvement de politisation accrue des questions européennes en lien avec la signature du Traité de Maastricht (1992) et les débats autour de la perte de souveraineté due à l'union monétaire (Crespy 2012 : 3). La troisième dynamique, est une montée en puissance de la critique sociale de l'Europe « Tandis que les avancées de l'intégration en matière sociale prennent les chemins détournés, et plus ou moins fructueux, de la méthode ouverte de coordination, la libéralisation des services est l'un des rares textes contraignants de la stratégie de Lisbonne » (Crespy 2012 : 3).

Ensuite, à cela s'ajoute un hasard du calendrier européen. Au même moment s'entrechoquent le grand élargissement à l'Est (qui engendre des peurs liées aux migrations à venir), les référendums de ratification du Traité établissant une constitution pour l'Europe (qui stimule les débats sur l'avenir du projet européen) et la volonté de libéralisation des services (nourrissant les peurs liées au déficit social de l'Europe).

Le débat autour de la directive Bolkestein signe l'arrivée en force de la contestation de gauche dans les « résistances à l'Europe » (Crespy 2010). En effet, le Plombier Polonais, image née à l'aune de ce débat se teinte aussi de cette contestation multiple à la fois de gauche et de droite. Mais s'il ne faut pas occulter le caractère et de gauche et de droite des oppositions à l'Europe, il ne faut pas non plus penser que l'affaire du Plombier Polonais n'est qu'une affaire d'anti-néolibérale. Il y a du souverainisme et de la xénophobie dans ce terme. D'ailleurs la médiatisation du terme se fait par le biais d'un homme politique souverainiste : Philippe de Villiers. La question du Plombier Polonais, bien qu'intrinsèquement lié à la directive Bolkestein, ne s'y résume pas. Il s'agit de la formation d'une image qui charrie des imaginaires au-delà du dumping social, elle convoque une question d'identité ou plutôt d'altérité. Le Plombier Polonais, c'est l'autre qui vient prendre le travail des Français. Pourtant la Pologne fait alors déjà partie de l'Union Européenne.

## **2.2.2 Pologne, la grande transformation économique**

Pour entrer dans l'Union, le pays a dû procéder à une transition économique majeure et rapide entraînant des mutations sociales importantes. Le ministre de l'économie de l'époque, Leszek Balcerowicz, préconise une « thérapie de choc » pour une transition rapide. Comme l'explique Dominique Redor, il s'agit alors du premier plan « de passage à l'économie de marché appliqué à un pays de l'ex-bloc soviétique (à partir du premier janvier 1990) » (Redor 1997 : 27). Il sera pris comme exemple et suivi dans le reste des Pays d'Europe Central et Orientale (PECO). La transition consiste, d'abord, à réorienter le commerce polonais vers l'Ouest plutôt que dans le circuit fermé de l'ex-bloc communiste (en juin 1991 le Conseil d'assistance économique mutuelle est officiellement dissout). Ensuite, le plan prévoit une ouverture à la concurrence afin de casser les monopoles des entreprises d'État. Cela permet aussi d'importer dans un temps très court les prix du marché (le gouvernement communiste avait un système de prix fixes) et ainsi de « révéler » les entreprises rentables de celles qui ne le sont pas. Le choc est violent, pendant les premières années (1990-1992), « les PECO connaissent une très forte dépression économique, accompagnée d'une importante inflation et d'une baisse du niveau de vie » (Redor 1997 : 32). Cependant, le chercheur considère que les pays qui ont fait la transition la plus rapide (dont la Pologne) ont rebondi le plus rapidement en termes de croissance économique. D'autant que les pays d'Europe Centrale sont mieux lotis que ceux de l'Est pour la réorientation économique en raison de leurs liens historiques avec l'Ouest. Mais pour d'autres chercheurs comme Jean-Pierre Pagé et Julien Vercueil, « la Pologne a connu la croissance qu'on lui connaît en dépit de la thérapie de choc, et non pas grâce à elle » (Pagé et Vercueil 2001 : 98).

Quoiqu'il en soit, pour les Polonais et les Polonaises, les conséquences sont sévères. Les plus durement touchés sont celles et ceux qui ont joué un rôle essentiel dans l'arrivée de Solidarnosc au pouvoir : les ouvriers et ouvrières. L'importante main d'œuvre non qualifiée jadis employée dans les usines communistes doit trouver fortune ailleurs car les entreprises se capitalisent et se débarrassent des sureffectifs. En très peu de temps après l'enclenchement de la transition par le désormais honniti ministre de l'Économie, l'économie polonaise subie : une perte de 20% du pouvoir d'achat, un chômage à hauteur de 15%, la perte des logements gratuits etc... Le peuple polonais l'accepte car il y a la conviction d'une amélioration future sous le modèle capitaliste. L'entrée dans l'Union Européenne est à ces fins une lueur d'espoir, notamment à travers l'idée d'une émigration à l'Ouest. Toutes les entreprises qui disparaissent entraînent un chômage de masse, ainsi beaucoup d'ouvriers qualifiés se retrouvent sans emploi quand dans le même temps en France (et probablement en Europe) il y a un déficit de cette main d'œuvre là en particulier (voir page 26). Georges Mink dans son article « Intégration Européenne et Mutations Sociales En Europe Centrale », souligne que « dans la période de transformation post-communiste qui a précédé l'élargissement, les cadres ont migré de l'Ouest vers l'Est, tandis que les manuels ont été majoritaires parmi les migrants de l'Est vers l'Ouest » (Mink 2004 : 374). Cependant, il rappelle que les flux de main d'œuvre baissent au fil du temps après l'élargis-

sement, comme ce fut le cas pour l'Espagne par exemple. Mais les statistiques n'empêchent pas la peur d'une submersion des travailleurs venus de l'Est de monter.

En somme, les rédacteurs des Traités s'appuyant sur une logique libérale ont initialement préféré laisser la protection sociale des travailleurs au niveau national, puis ont progressivement octroyé à l'Union la possibilité de coordonner les législations en la matière. La Cour de Justice a dû, au fil du temps, interpréter les textes afin d'offrir des modalités concrètes pour que les travailleurs et les travailleuses puissent exercer pleinement leur liberté de circulation. Ce faisant, elle a privilégié l'aspect économique (faciliter la mobilité) par rapport à l'aspect social (éviter l'abaissement des minima sociaux). À la fin des années 1990, la question des services et du travail détaché émerge comme une importante préoccupation politique et législative. Finalement, le 1er mai 2004, malgré des appréhensions importantes de chaque côté<sup>7</sup>, l'élargissement prend place. La Pologne a dû opérer une transition spectaculaire afin de pouvoir rejoindre le marché commun qui se finalise. De nombreuses mesures de rattrapage lui permettent de tendre vers une économie capable de s'intégrer dans le Marché Unique. Mais la question des migrations intra-européennes ne s'atténue pas, elle s'embrase même rapidement après l'accession autour d'une figure repoussoir : le Plombier Polonais.

### 3. Le Plombier Polonais

L'image du Plombier Polonais surgit dans l'arène médiatique française au printemps 2005, moins d'un an après le grand élargissement à l'Est et à quelques mois seulement du référendum de ratification portant sur le Traité Constitutionnel Européen. Il devient rapidement un élément structurant des débats autour de ce référendum en France, il est donc intéressant d'y réfléchir afin de comprendre d'où vient cette image et ce qu'elle met en lumière.

#### 3.1 La figure du Plombier Polonais, bouc-émissaire d'une intégration violente

Le 14 janvier 2004 la Commission européenne approuve la proposition de directive relative aux services dans le marché intérieur présentée par le commissaire Fritz Bolkestein. Elle est présentée à la presse comme « une directive visant à réduire la paperasserie qui étouffe la compétitivité » (Commission Européenne 2004).

La directive prévoit :

- De simplifier les conditions d'établissement des entreprises dans un autre État Membre
- De stimuler la prestation de services transfrontaliers par l'application du Principe du Pays d'Origine<sup>8</sup> (PPO)

<sup>7</sup> Les PECO partagent, de leur côté, une préoccupation concernant la capacité de ces économies toutes nouvellement capitaliste de soutenir le choc compétitif de l'intégration au marché unique.

<sup>8</sup> Ce principe garantit que l'entreprise qui fournit un service dans d'autres pays de l'Union européenne est soumise exclusivement au droit de son pays d'établissement, sans avoir à se conformer à d'autres législations nationales éventuellement plus contraignantes, sauf exception. Les directives de libéralisations sectorielles des années 1990 s'appuyaient déjà, pour certaines, sur ce principe.



- De renforcer la coopération administrative entre les États Membres (concernant les contrôles des inspecteurs du travail)

La proposition est très bien reçue parmi les hautes sphères européennes et françaises. Depuis la Stratégie de Lisbonne, il existe un consensus parmi les élites et institutions européennes selon lequel il y a besoin d'un instrument juridique horizontal afin de libéraliser les services en général et d'ainsi achever le marché unique (Crespy 2012 : 14). Pourtant, la question de la libéralisation des services et du travail détaché créait déjà des troubles depuis un moment dans les opinions publiques (à travers les affaires de sous-traitance en cascade<sup>9</sup> et la question du cabotage cité par Pierre Buhler (Annexe 1) et Stéphane Marchand (Marchand 2006 : 74-75)). En effet, « Le travailleur détaché en France est souvent accusé de contribuer à créer une situation de dumping social, ce qui est partiellement exact » (Muller 2023 : 107). Bien que l'Union lui garantisse une égalité de traitement en termes de conditions de travail, l'employé détaché reste attaché au système social national du lieu d'établissement de son entreprise. Or, en Europe Centrale et Orientale les cotisations sociales sont bien plus basses, rendant le coût de la main d'œuvre moins chère que le travailleur français. Une simple allitération en « p » va provoquer l'apparition soudaine d'un conflit déjà mûr.

L'expression « Plombier Polonais » est attribuée à Philippe de Villiers et, bien que la paternité de l'expression questionne<sup>10</sup>, ce dernier est sans conteste à l'origine de la médiatisation du terme. En effet, il est, à ce moment-là, l'un des principaux tenants du « non » dans la campagne du référendum en France et il se saisit de la polémique grandissante autour de la proposition de directive faite par Fritz Bolkestein. Dans un entretien pour le journal *Le Figaro* le 14 mars 2005, il déclare que « cette affaire est très grave, car la directive Bolkestein permet à un plombier polonais ou à un architecte estonien de proposer ses services en France, au salaire et avec les règles de protection sociale de leur pays d'origine. Sur les 11 millions de personnes actives dans les services, un million d'emplois sont menacés par cette directive. Il s'agit d'un démantèlement de notre modèle économique et social » (*Le Figaro* 2005). La bombe est lancée, la machine médiatique s'emballe. Le commissaire Bolkestein, venu défendre à Paris son projet de directive sur la libéralisation des services, s'engage lui-même dans le débat en avril 2005. Il rétorque que, dans le Nord où il possède une résidence secondaire, il a du mal à trouver un plombier : il verrait donc d'un bon œil l'arrivée de plombiers polonais en France. Rapidement, l'expression se trouve au centre de tous les débats touchant de près ou de loin à l'Union Européenne. Comme évoqué précédemment, les discussions autour de la Directive Bolkestein avait toutes les raisons de

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<sup>9</sup> Montage légal qui consiste à sous-traiter plusieurs fois afin de rendre difficile l'identification du responsable légal en cas de poursuites.

<sup>10</sup> Certaines sources\* parlent d'une première évocation par Philippe Val dans un *Charlie Hebdo* de décembre 2004. Cependant, je n'ai pas réussi à mettre la main sur le numéro en question. Une personne de la rédaction du journal, que j'ai contacté à ce propos, m'a déclaré que « J'ai survolé les *Charlie Hebdo* de décembre 2004 à la recherche un article de Philippe Val évoquant l'image du plombier polonais, mais je n'ai rien trouvé ».

\*Julien Vallet, « Passe d'arme France-Pologne: d'où vient le "plombier polonais"? », *RFI*, 26 Août 2017. Consulté le 16 Novembre 2023. - Patrycja Chruściel, « La Formule Plombier Polonais Dans La Presse Écrite. » *Orbis Linguarum* 50/2018 (2016):41.

s'enflammer (voir 2.2.1), le Plombier Polonais ne fait que mettre le feu aux poudres. Ce travail tente donc d'analyser les raisons pour lesquelles cette image-là, plutôt qu'une autre, a connu un tel succès médiatique et politique en tant que facteur d'apparition de la cause. À ce moment charnière de la construction européenne, le Plombier Polonais est intrinsèquement lié à la question de l'identité européenne en ce que l'image devient le repoussoir brandi par un côté ou l'autre des opposants à la Constitution Européenne. Il s'agit alors de décider comment va se constituer cette communauté, d'où un questionnement notamment d'ordre identitaire.

### 3.1.1 D'où vient le Plombier Polonais ?

Lorsque Philippe de Villiers emploie l'expression, il fait aussi référence à « l'architecte estonien ». Pourtant, c'est bien le Plombier Polonais qui domine incontestablement le débat public par la suite. Comme l'explique Patrycja Chruściel dans son article « La formule plombier polonais dans la presse écrite », cette formule est très fixée dans le langage médiatique (Chruściel 2016 : 39-40). Elle fait presque systématiquement l'objet d'une distinction graphique (italique, guillemets...). Mais aussi, et surtout, elle a une présence écrasante dans le corpus étudié par rapport aux autres expressions : 917 occurrences contre seulement 2 pour l'architecte estonien et 15 pour une formule plus établie comme le maçon portugais. Alors, pourquoi le plombier est-il polonais ?

#### 3.1.1.1 Pourquoi un plombier, Polonais ?

D'abord, il semble qu'il s'agisse assez simplement d'une généralisation du travailleur de l'Est (Euractiv 2009). Lors de l'entrée des PECO dans l'Union, la Pologne représente à elle seule la moitié des nouveaux citoyens européens (38,2 millions d'habitants en janvier 2004 représentant 51% de la population des nouveaux arrivants (Dumont 2004 : 1)). Le poids démographique peut expliquer en partie la prééminence de l'image du Polonais pour représenter les nouveaux entrants.

Ensuite, les pays d'Europe Centrale ont des liens historiques plus importants avec l'Europe de l'Ouest que leurs voisins Orientaux. Surtout la Pologne, qui a une Histoire toute particulière avec la France. Les deux pays « partagent une histoire de travail inscrite de part et d'autre dans la mémoire collective » (Marchand 2006 : 24). En effet au début du XX<sup>ème</sup> siècle<sup>11</sup> les Polonais sont recrutés par les compagnies minières du Nord et du Pas-de-Calais afin de faire fonctionner les mines de charbon. À la veille de la Première Guerre Mondiale, on compte 10 000 Polonais dans le Nord de la France. C'est après la guerre que l'immigration s'intensifie, la France ayant subi d'importantes pertes humaines, elle signe en 1919 la *Convention franco-polonaise relative à l'embauche de la main d'œuvre polonaise*. Celle-ci fait des Polonais la deuxième nationalité étrangère en France après les Italiens, avec plus de 500 000 personnes se déplaçant

<sup>11</sup> Bien que l'émigration polonaise en France s'effectue tout au long du XIX<sup>e</sup> siècle pour échapper à la russification comme en témoigne la « Grande Emigration », c'est à la fin de celui-ci que ces migrations sont de plus en plus motivées par des raisons économiques.

d'un pays vers l'autre (Ponty 1985). Autrement dit, l'émigration du travail des Polonais vers la France est ancienne, le travailleur polonais a donc déjà une place de choix dans la mémoire collective française.

Finalement, la polonitude du plombier peut aussi s'expliquer par des raisons géopolitiques. Le grand élargissement soulève des inquiétudes et la Pologne, l'un de ses principaux acteurs, en est alors naturellement le catalyseur. L'année 2005 se déroule dans un contexte de sentiments assez négatifs autour du récent élargissement. D'abord, comme l'explique Christian Lequesne (Lequesne 2007 : 77-86), les élites françaises depuis les années 1990 poussent le discours en faveur d'un approfondissement de l'Union plutôt que d'un élargissement de celle-ci (voir pages 28). Ensuite, un sentiment général d'avoir mal préparé cet élargissement se fait jour autour du discours sur l'échec du Traité de Nice (Le Boucher 2002). Or, l'élargissement de 2004 est massif ; tandis que les précédents avaient compté au maximum trois nouveaux États Membres, celui de 2004 en compte dix. Le rôle de la Pologne dans ce « retour » à l'Ouest<sup>12</sup> des Pays d'Europe Centrale et Orientale est primordial. Elle est très active dans les négociations d'adhésion avec le soutien du groupe de Visegrad (créé en 1991 avec la Hongrie et la Tchécoslovaquie dans le but de peser sur les décisions européennes). La Pologne se distingue aussi parmi les nouveaux entrants car elle est à l'avant-garde des transformations économiques de la région avec le plan Balcerowicz (voir 2.2.2). Enfin, elle est auréolée de la lutte menée par le mouvement Solidarité. Ce combat a eu un grand écho en France comme en témoigne la visite de Lech Walesa en 1981, accueilli comme un « chef d'État » (Antenne 2). Dans l'émission télévisuelle « On a tout essayé » (Youtube 2005), le chroniqueur Pierre Bénichou appelle même les Polonais : « le peuple du siècle ». Cela en accueillant Piotr Adamski, un jeune mannequin polonais affublé d'un attirail de plombier. Mais pourquoi un costume de plombier ? Dans son corpus Patrycja Chruściel ne relève que 3 occurrences de « l'ouvrier polonais » contre 917 pour le plombier.

La question peut se poser car la plupart des Polonais qui travaillent en France, comme la majorité des travailleurs détachés, se trouvent plutôt dans le secteur agricole ou celui du bâtiment (DARES 2021). Cela pourrait être lié à la réalité qu'avait souligné le Commissaire Bolkestein : la France manque de plombiers, et une arrivée de ceux-ci sur son marché du travail lui serait bénéfique. En 2005, le pays manque encore de 6000 plombiers, et seulement 140 plombiers polonais sont présents sur le territoire (Marchand 2006 : 10). Dans son livre, Stéphane Marchand, explique que la course aux diplômes prestigieux a mené à un déficit d'ouvriers qualifiés (Marchand 2006 : 131). La figure du plombier pourrait donc être simplement l'incarnation de cet ouvrier qualifié dont la France a tant besoin. Ou bien est-ce simplement l'attraction d'une allitération en « p » sonnant remarquablement bien à l'oreille et pratique pour appuyer à l'oral sur le caractère péjoratif.

Quoiqu'il en soit, Marchand affirme aussi dans son ouvrage que la France n'a pas les outils pour mesurer le déficit de main d'œuvre qu'il dénonce (Marchand

<sup>12</sup> Certains, comme Milan Kundera dans son fameux article *Un Occident kidnappé. Ou la tragédie de l'Europe centrale*, considèrent que l'Europe centrale a toujours fait partie de l'Europe Occidentale. Milan Kundera, "Un Occident Kidnappé." *Le Débat* 27, no. 5 (1er Janvier 1983).



2006 : 235-236) et que c'est ainsi en partie que les Français ont eu peur d'une concurrence jugée déloyale.

### 3.1.1.2 Pourquoi en France ?

Le Plombier Polonais devient dans la France des années 2000, un symptôme de la crispation identitaire autour des questions économiques que soulèvent l'élargissement du marché commun.

#### *L'utilisation de la Gauche*

Il est, en effet, assez clair que la concurrence sur le marché du travail de ses nouveaux citoyens européens effraie en France. C'est en tout cas dans ce registre que s'inscrit la contestation de l'Europe à gauche. Le camp du « non » au référendum à venir est incarné notamment par Laurent Fabius, Bernard Cazeneuve, Arnaud Montebourg, Christiane Taubira et Jean-Luc Mélenchon. Lorsque la proposition de Bolkestein reçoit un vote positif au Parlement Européen, ces acteurs politiques l'interprète comme une preuve du caractère néolibérale de l'UE. Cela renforce leur crainte que le TCE accentue d'avantage cet aspect. Dans un contexte de stagnation de la croissance en France, le « dumping social » est une peur légitime. Avant le détachement des travailleurs, la question du cabotage avait déjà mis sous le feu des projecteurs des travailleurs polonais<sup>13</sup>. En Août 2005, la grève de la faim de travailleurs polonais victime de sous-traitance en cascade sur les Chantiers de l'Atlantique attire l'attention médiatique (Le Monde 2005). À peine deux semaines avant le référendum, Constructel (sous-traitant de France Telecom) est pris sur le fait : l'entreprise emploie des travailleurs portugais en France, aux conditions portugaises (grâce au flou juridique concernant le « détachement de moyens opérationnels »). L'affaire cause l'indignation notamment à gauche à l'encontre de ce qui est alors appelé les « délocalisations inversées » et lié au projet de Constitution pour l'Europe (« voilà ce que nous prépare l'Europe » (L'Humanité 2005)). Ainsi, la gauche française prend largement part à ce débat autour du Plombier Polonais. Comme l'explique Amandine Crespy, cela s'inscrit dans un contexte plus large de diversifications des « résistances à l'Europe » (Crespy 2012 : 10). Résumer l'euroscpticisme au nationalisme de droite est une erreur qui est souvent faite dans l'analyse science politique de l'euroscpticisme émergent des années 1990. Mais dans son ouvrage, *Qui a peur de Bolkestein? Conflit, résistances et démocratie dans l'Union Européenne* (Ibid.), la chercheuse montre comment l'opposition à l'Europe prend aussi de l'ampleur à gauche à travers la contestation de ses fondements néolibéraux.

L'attachement de la France à son modèle social explique donc la mobilisation des forces de gauche autour du concept. Mais il est intéressant de noter, comme le fait Stéphane Marchand, une certaine schizophrénie des élites françaises (Marchand 2006 : 97). En interne, elles ne peuvent qu'être favorable à ce modèle si populaire

<sup>13</sup> Précité l'exemple de l'affaire GAE TRA.

alors qu'à l'internationale elles affichent un agenda plus favorable à la mondialisation et au libre-échange afin d'attirer les investissements étrangers. De plus, Marchand ajoute que depuis le mandat de Jacques Chirac, ces mêmes élites qui construisent l'Europe ont pris l'habitude de la blâmer tous les problèmes que rencontre la France (Marchand 2006 : 272).

S'ajoute à cela, comme le souligne Christian Lequesne (Lequesne 2007 : 82), que les élites françaises n'ont jamais construit de discours positif sur l'élargissement. En effet, celles-ci (même les élites « maastrichtiennes ») mettent en avant un approfondissement de la construction européenne au détriment de son élargissement. Derrière le discours tenu par des personnalités comme Jacques Delors, Lequesne identifie un double enjeu : la volonté politique d'intégration car il y a une forme de « responsabilité morale » à cet égard (Ibid.) et les peurs que cette intégration génère. La peur visible en surface, celle de la dimension économique, mais aussi une peur plus cachée ; celle de la dilution du pouvoir de la France au sein de cette communauté. Derrière l'insistance sur l'approfondissement plutôt que l'élargissement il décèle une rhétorique de « gardien du temple » (Ibid.). Les élites françaises considèrent que le couple franco-allemand est à l'origine de l'Europe et devrait en rester maître. Elles ont peur d'un déclassement de la place centrale de la France dans la construction européenne. Or, comme évoqué précédemment, le nouvel élargissement est si important, rien qu'en termes démographiques, qu'il entraînera nécessairement une redistribution de l'équilibre des pouvoirs au sein de l'Union.

Ces éléments (défense du modèle social et volonté d'améliorer l'Europe avant de l'agrandir) donnent souvent à penser que le cas français est différent des autres. Cependant, cette frayeur française n'est pas unique à l'époque.

### ***L'utilisation de la Droite***

Si initialement certains pays semblent plus ouverts en termes de marché du travail car moins attaché à leur modèle social, « même dans les pays les plus libéraux, les moins rigides, le risque de dumping social, réel ou supposé, hante les esprits et répand comme une nuée d'inquiétude »<sup>14</sup>. L'affaire *Laval un Partneri* précitée témoigne de ce que même chez les plus libéraux, le travail détaché crispe. Cette affaire avait secoué les relations suédo-lettonnes alors même que la Suède était l'une des rares à ne pas avoir imposé de mesures transitoires aux nouveaux entrants de 2004<sup>15</sup>. Et comme le rappelle Pierre Buhler : « au Royaume-Uni l'artisan de l'Europe de l'Est notamment polonais, est un des arguments du Brexit ». Ainsi, la France n'est pas la seule à connaître ces peurs entourant les migrations du travail intra-européennes.

D'autre part, la xénophobie est bien présente en France dans l'affaire du Plombier Polonais. Que ce soit à gauche ou à droite, il y a du souverainisme et de la xéno-

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<sup>14</sup> Marchand 2006 : 66. L'auteur se réfère à une affaire de dumping social de la compagnie Irish Ferries ayant fait grand bruit en novembre 2005.

<sup>15</sup> Lors de l'adhésion des PECO, l'accès des nouveaux entrants au marché du travail est restreint par des mesures transitoires adoptées par une majorité des pays (dont la France qui les conserve jusqu'en 2008) à l'exception de la Suède, de l'Irlande et du Royaume-Uni.

phobie dans cette expression. D'ailleurs la médiatisation du terme se fait par le biais d'un homme politique souverainiste : Phillipe de Villiers. Il s'agit bien d'une stigmatisation des migrations intra-européennes. Comme évoqué auparavant, si le plombier est Polonais c'est parce qu'il représente la masse indistincte des travailleurs de l'Est en général. En l'occurrence, le Plombier Polonais permet d'exprimer le sentiment d'altérité : l'Européen de l'Est est un autre au même titre que l'Indien (en 2007 dans le sillon des débats autour de la Directive Bolkestein, le chef d'entreprise français Vighen Papazian (PDG d'Infodis) dénonce la concurrence « déloyale » des ingénieurs indiens, qu'il trouve « encore plus dangereuse que celle des plombiers polonais » (Papazian 2007)). Se développe alors la fausse idée selon laquelle le racisme serait apparu avec les difficultés économiques. Ainsi, les circonstances exceptionnelles tendraient à expliquer, voire légitimer, ce « racisme de crise » (Gastaut 2004 : 107-118). Mais la crise rend simplement acceptable dans le débat public des propos qui lui préexistaient dans des cercles plus restreints ; elle constitue simplement l'élément déclencheur du glissement de fenêtre d'Overton.

Quoiqu'il en soit, comme évoqué précédemment, la France a besoin de main d'œuvre et en particulier, de manuels qualifiés ; autrement dit de Plombiers Polonais. Mais si elle a besoin des travailleurs étrangers, pourquoi en a-t-elle si peur ?

D'abord, selon Stéphane Marchand, car la France manque instruments de mesures pour quantifier ses besoins de main d'œuvre (Marchand 2006 : 235). La société française ne se rend donc pas compte qu'elle a besoin de l'immigration pour faire fonctionner son économie. De plus, la « France traverse depuis dix ans [...] une sorte de dépression postimpériale à retardement qui éclate en rage confuse contre toutes les manifestations de recul de sa puissance » (Marchand 2006 : 21). Or, s'attaquer au modèle social français, c'est s'attaquer à une grande fierté française.

Qu'il soit utile ou non, réel ou imaginé ; assez rapidement la formule du Plombier Polonais se fige. Elle devient un élément structurant du débat autour du référendum, « un passage obligé pour tous les participants du débat sur la Directive Services » (Chrusciel 2016 : 42). Si le plombier polonais n'a pas envahi la France, la formule a bien envahi le débat français : « l'ensemble des locuteurs sont contraints de prendre position, de les définir, de les combattre ou de les approuver » (Krieg 2009 : 58). Et elle s'est même répandue à travers l'Europe, comme le note Patrycja Chrusciel : « à titre d'exemple, the Polish plumber avec 82 occurrences dans The Guardian en ligne ou 92 occurrences dans The Telegraph en ligne, et l'idraulico polacco avec 123 occurrences dans La Repubblica en ligne » (Chrusciel 2016 : 45).

Or en dépassant les frontières la figure se retrouve rapidement aux oreilles des Polonais eux-mêmes. La réaction polonaise va teinter le Plombier Polonais d'encore une nouvelle nuance.

### 3.1.2 L'apaisement

Le 29 mai 2005, le référendum français sur le traité établissant une Constitution pour l'Europe reçoit une réponse négative. Selon Libération, le Plombier Polonais ce

jour-là « terrassait le dragon européen » (Thibaudat 2005). Pourtant, il allait sous peu redorer son blason. En juin 2005, l'office de tourisme polonais, avec à sa tête Bartłomiej Walas, lance une campagne publicitaire. Une affiche est placardée partout en France, mettant en scène le mannequin Piotr Adamski. Dans un costume de plombier, derrière des lieux iconiques polonais, il s'adresse aux Français et Françaises : « Je reste en Pologne, venez nombreux ». Pour Pierre Buhler, « c'était une sorte de pic en retour, comme une prise de judo. Vous nous cherchez, vous nous avez trouvé mais pas sur le même terrain. Avec une caricature et un esprit farceur des Polonais » (Annexe 1).

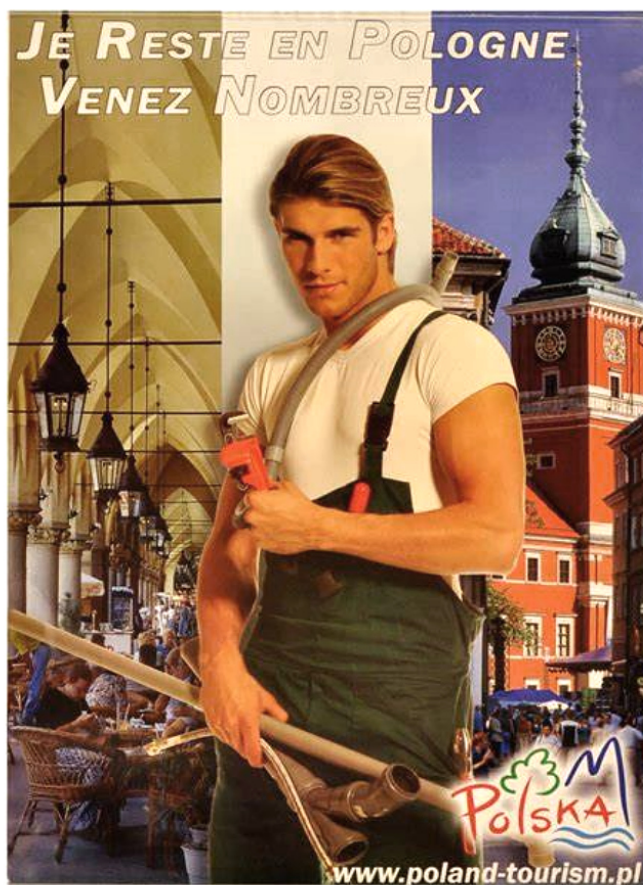


Figure 1<sup>16</sup>

bien qu'il y a des enjeux concernant le concept de civilité. Pour les Français, le Plombier Polonais c'est la menace de l'autre venu d'ailleurs ; pour les Polonais, c'est un renvoi au-delà du *Limes*. Rappelons que l'image du Plombier Polonais émerge d'abord à travers l'entretien d'un homme politique souverainiste (Philippe De Villiers) comme une critique xénophobe de l'ouverture des frontières à l'Est de l'Europe. Rapidement, il se fait une place de choix dans les débats français et mobilise toutes les nuances de l'échiquier politique. Il se fait aussi une place de choix dans l'imaginaire de gauche anti-libéral, comme incarnation du dumping social. Mais dès juin 2005, le symbole qu'est devenu cette expression entre dans une nouvelle phase de son itinéraire politique : la réappropriation.

Pour comprendre ce retournement, il faut s'intéresser à ce que cette image implique pour la Pologne. En l'occurrence, il faut souligner la violence d'une « altérisation » subie. En effet, l'entrée dans l'Union Européenne en 2004 est symboliquement capitale pour la Pologne car il s'agit d'un « retour » dans le monde civilisé comme l'explique Julia Michaelis dans son mémoire *Poland's Future Role in European Integration?*: « What matters in this connection is the Greek distinction between "civilisation" and "barbarity", according to which belonging to the West or being recognised as belonging to the West is a value as such » (Michaelis 2004 : 28). La résurgence de l'idée que les Polonais ont appris au Français à manger avec une fourchette (Henry 2007), quelques temps plus tard montre

<sup>16</sup> « Polish Plumber - Wikipedia », Google Image, consulté 8 Novembre 2023..



Cette campagne publicitaire offre à voir un beau jeune homme, encadré de bâtiments évoquant la richesse architecturale de la Pologne dans le but d'attirer des visiteurs. Cela s'inscrit d'ailleurs dans un contexte où la Pologne gagne en popularité parmi les destinations touristiques européennes (Wieckowski 2005). Mais au-delà des retombées économiques, il est intéressant de voir la place que cette campagne prend dans l'imaginaire polonais. Il semble que cette réappropriation ait initié une forme de retournement du stigmat. Ce concept, initié par le sociologue américain Erving Goffman (Goffman 1963), est développé notamment par son confrère français Pierre Bourdieu. Dans son article « L'identité et la représentation », Bourdieu définit le retournement du stigmat comme une stratégie visant: « non à effacer les traits stigmatisés mais à renverser la table des valeurs qui les constitue comme stigmates, à imposer, sinon de nouveaux principes de di-vision, du moins une inversion des signes attribués aux classes produites selon les principes anciens [...] La révolution symbolique contre la domination symbolique et les effets d'intimidation qu'elle exerce a pour enjeu non la conquête ou la reconquête d'une identité, mais la réappropriation collective de ce pouvoir sur les principes de construction et d'évaluation de sa propre identité » (Bourdieu 1980 : 69). Par cette campagne, les Polonais et les Polonaises se réapproprient une image qui constitue partiellement leur identité dans le contexte de la communauté européenne. Le Plombier Polonais devient presque un héros national de la même manière que l'histoire du brigand Janosik. Dans son article *Le mythe de Janosik*, Joanna Goszcznska retrace que l'histoire négative de ce personnage s'est finalement retournée pour exalter certaines caractéristiques avantageuses des Polonais (Goszcznska 2002 : 251). L'image épouvantail se transforme alors en porte étendard. En mars 2011, par exemple, deux artistes polonais : Maciej Kurak et Max Skorwider, organisent une protestation de Plombiers Polonais devant le Centre Pompidou à Paris. Or, cette utilisation positive d'une image initialement négative doit beaucoup à cette fameuse campagne. Elle est aussi positivement reçue en France, Bartłomiej Walas (à l'origine de la campagne) et Piotr Adamski (mannequin à l'affiche) faisant la tournée des médias français dans les mois qui suivent. Notamment avec une apparition évoquée plus tôt dans la populaire émission « On a tout essayé » (Youtube 2005). Dans celle-ci, les remarques frôlant la xénophobie vont bon train : la chroniqueuse Isabelle Alonso déclare à propos de Bartłomiej Walas « il a l'air autant polonais que moi j'ai l'air suédoise, il était pas tout à fait assez exotique à mon goût », peu après le chroniqueur Jean-Luc Lemoine explique que « à cause de la campagne [pour le référendum], on assimilait les Polonais à des envahisseurs ». Enfin, durant son sketch l'humoriste Florence Foresti appelle Piotr Adamski sur scène en prononçant les mots « spasiba, khalacho ». Cette dernière apostrophe, bien qu'effectuée de façon humoristique, souligne la confusion des peuples de l'Est dans une masse indistincte. Malgré ces diverses remarques, Bartłomiej Walas en profite pour faire la publicité des grandes destinations touristiques : Cracovie, Varsovie et Gdansk. Il revendique en fait l'utilisation de clichés en vue de donner l'envie aux Français et aux Françaises de visiter la Pologne, et d'ainsi découvrir ce qu'il y a réellement derrière une image fantasmée du pays. Pour lui, directeur de l'office de tourisme, c'est une occasion en or : « ça peut

arriver un truc comme une fois sur cent ans ». Il en constate d'ailleurs les effets : « notre site internet commence à exploser ».

Avec ce coup médiatique, le nouvel aspect de cet objet politique dépasse la sphère franco-polonaise et s'ancre dans l'imaginaire européen. La chercheuse Anca Pusca, dans « Visualising the EU », l'évoque comme un modèle de communication réussie et un exemple significatif de la place des images dans la construction d'un imaginaire européen (Pusca 2004 : 5-21). Cependant, si la réappropriation est un succès, la chercheuse souligne qu'elle n'a pas résolu les problèmes de fonds. Les vrais plombiers polonais se plaignent de l'emploi d'un jeune mannequin en pleine forme qui conduit inévitablement à la glamourisation d'une situation en réalité difficile. Néanmoins, comme Pusca l'explique, ce simple outil de communication a le mérite de combattre une image négative pour la Pologne et pour l'UE : « It was also a question of defending one's identity and nation and defeating a potentially wrong turn in how the EU thinks about itself. Representation, at least in this particular case, remains very much about identity if not also about ideology. It creates and sustains new ways of thinking about Europe and the EU, perhaps helping to create what Armbruster called a potential 'imagined Europe' à la Benedict Anderson (Armbruster et al., 2003) » (Pusca 2004 : 12). Certainement, cette campagne a joué un rôle important dans la construction d'une appréciation positive de cette image, aujourd'hui aussi présente dans la connotation de l'expression Plombier Polonais. Au détour d'une conversation avec Paweł Potoroczyn<sup>17</sup>, alors que je lui demandais si le Plombier Polonais avait pu lui causer des difficultés dans son travail de représentation de la Pologne à l'international, il me répondait que non. Il ajoute : « The polish plumber is the guy who can fix everything in Europe. You have a problem, call in a polish plumber ». Cette appréciation positive, de nos jours, résulte aussi probablement du fait que le « conflit » dont il était l'incarnation a fait l'objet d'une résolution.

En effet, l'échec du Traité constitutionnel européen n'a pas empêché la directive Services d'être adoptée. Quelques amendements du Parlement européen afin que le texte ne se réfère plus explicitement au Principe du Pays d'Origine ont permis de trouver un compromis. Le PPO constituait effectivement un des points focalisant le plus d'attention négative. L'adoption de la directive en février 2006 ne mets cependant pas immédiatement fin aux tensions. Selon Pierre Buhler, le sujet continu à faire des remous jusqu'en 2015 (Annexe 1). Quoiqu'il en soit, pour lui, la question du travail détaché fait l'objet d'une friction permanente jusqu'en 2015/2016 mais pas d'une crispation majeure. Ajoutons que si les questions de travail détaché sont en théorie résolues, la figure du Plombier Polonais aura eu, au-delà de simples reformulations normatives, des conséquences plus profondes auxquelles il convient de s'intéresser.

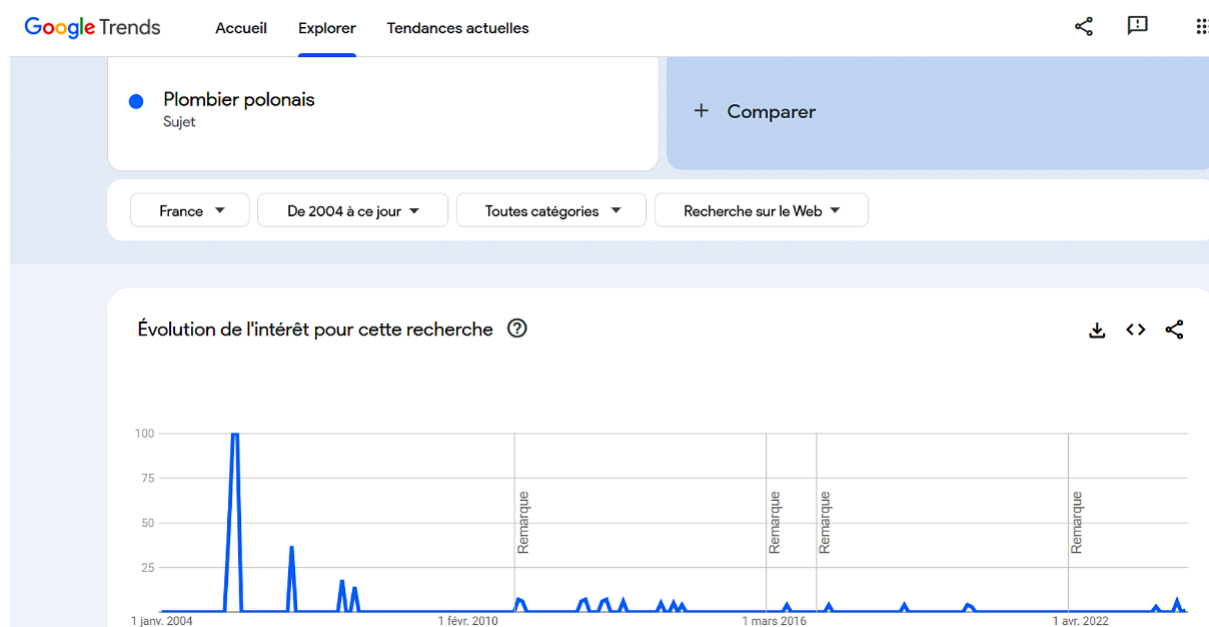
### 3.2 L'impact d'une image

Le Plombier Polonais est apparu soudainement et a tout aussi rapidement disparu des préoccupations de l'opinion publique française, comme le montre le gra-

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<sup>17</sup> Diplomate polonais, en charge des affaires culturelles aux États-Unis puis au Royaume-Uni, il a ensuite été directeur de l'Institut Adam Mickiewicz de 2008 à 2016.

prique ci-dessous. Grâce à l'outil Google Trend qui recense le nombre de recherche comportant l'expression, l'on peut identifier deux pics d'intérêt autour de juin 2005 (correspondant à la campagne de pub de l'Office du Tourisme polonais) puis août 2006. Après cela, l'expression ne fait l'objet que de quelques recherches une fois de temps à autres.

Figure 2<sup>18</sup>

Néanmoins, le passage de cette figure dans l'imaginaire commun a marqué cette période critique de la construction européenne. Il faut donc se pencher sur les conséquences de la politisation de cette formule.

### 3.2.1 Les conséquences en France

Ces conséquences se constatent d'abord à l'échelle de la France : l'invasion de plombiers polonais n'a pas eu lieu mais le référendum a bien rencontré une majorité de non en partie à cause de cette « grande hallucination collective » (Marchand 2006 : quatrième de couverture).

Il n'y a pas eu d'invasion de plombier polonais comme le montrent, entre autres (RTBF 2008), les chiffres de la Direction de l'animation de la recherche, des études et des statistiques du ministère du Travail (DARES 2021). L'expression relève bien du fantasme comme en fait état le champ lexical qui lui est associé faisant « plutôt penser à un péril fantastique, irréel, hallucinatoire et imaginaire » (Chrusciel 2016 : 47). D'autant, que les nouveaux États Membres eux aussi connaissent des problèmes de renouvellement de population : l'Europe fait face à un hiver démographique (Dumont 2019 : 1-15). A cela s'ajoute que, si les flux réels de mobilité du travail sont moindres que ceux imaginés lors de l'ouverture d'une zone de libre-circulation (Mink 2004 :

<sup>18</sup> « Plombier Polonais », Google Trends, consulté le 11 Mai 2024.



377-378), ce qui est insignifiant à l'ouest équivaut à une hémorragie à l'Est car les meilleurs éléments partent (Marchand 2006 : 171). Enfin, s'ils souhaitent émigrer, les travailleurs de l'Est n'ont pas la France en tête mais bien le Royaume-Uni (Ibid. :14). D'ailleurs dans un article du Parisien relatant les inquiétudes de Marek Belka (Premier Ministre polonais en exercice entre 2004 et 2005) concernant l'échec du référendum en France pour lesquels les Polonais « paieront la note » ; la journaliste Maya Czarnecka écrit que « le jour où la France décidera d'ouvrir ses frontières pour combler ses besoins de main-d'œuvre, les Polonais les plus dynamiques seront déjà partis ailleurs, ricane-t-on à Varsovie » (Czarnecka 2005).

Néanmoins ce fantasme a bien donné lieu (en partie) à une réalité tangible : l'échec du référendum en 2005. Cet échec intervient alors même que les modifications de la Constitution française ont été votées sans problème par les assemblées législatives quelques temps plus tôt (JORF 2005). La peur générée par la Directive Service, incarnée par le Plombier Polonais, a constitué un moment de bascule comme le montre l'évolution des sondages réalisés par l'institut IPSOS (l'expression est médiatisée le 14 Mars 2005) :

Le lien entre ces deux éléments sont clairs, il est fait aussi bien par les observateurs de l'époque (Thibaudat 2005) que ceux d'aujourd'hui (Bonnamy 2021). Dans son article, Christian Lequesne, rappelle en introduction que « Le sondage post réfé-

Intentions de vote pour le référendum

| Date de l'enquête               | Personnes certaines d'aller voter |      |                                       | Sûreté du choix  |                     | Abstention potentielle (« incertains d'aller voter ») | Pronostic des sondés |                     |              | Taille de l'échantillon |
|---------------------------------|-----------------------------------|------|---------------------------------------|------------------|---------------------|-------------------------------------------------------|----------------------|---------------------|--------------|-------------------------|
|                                 | OUI                               | NON  | N'ont pas exprimé d'intention de vote | Sûr de son choix | Peut changer d'avis |                                                       | Victoire du « oui »  | Victoire du « non » | Sans opinion |                         |
| 4 et 5 mars 2005                | 60 %                              | 40 % | 34 %                                  | —                | —                   | 41 %                                                  | —                    | —                   | —            | 853 pers.               |
| 18 et 19 mars 2005              | 48 %                              | 52 % | 24 %                                  | —                | —                   | non connu                                             | —                    | —                   | —            | 860 pers.               |
| 25 et 26 mars 2005              | 46 %                              | 54 % | 31 %                                  | 71 %             | 29 %                | 52 %                                                  | —                    | —                   | —            | 944 pers.               |
| 1 <sup>er</sup> et 2 avril 2005 | 48 %                              | 52 % | 27 %                                  | 74 %             | 26 %                | 50 %                                                  | 35 %                 | 39 %                | 26 %         | 947 pers.               |

Tableau 1<sup>19</sup>

rendum effectué par la Commission européenne les 30 et 31 mai 2005 démontre ainsi que les deux causes essentielles de ce non au traité constitutionnel ont été, dans l'ordre, la peur d'effets négatifs sur la situation de l'emploi en France (31%) et la détérioration d'une conjoncture économique considérée comme déjà mauvaise (28%) » (Lequesne 2007 : 77). À la marge, une conséquence directe fut quelques améliorations en termes de contrôles, de coordination entre les différents services en charge des affaires de sous-traitance (Marchand 2006 : 104).

<sup>19</sup> Tableau : « Sondages sur le référendum français du 29 mai 2005 », Wikipédia, consulté le 15 Mai 2024.

Quoiqu'il en soit, les répercussions principales de la trajectoire de cette expression dans l'imaginaire commun sont intéressantes à l'échelle européenne. Car si le rejet est national, cela oblige toute la construction européenne à marquer un temps d'arrêt.

### 3.2.2 Les conséquences pour l'Europe

En effet, la figure du Plombier Polonais a dépassé les frontières de l'hexagone, affectant les débats politiques et le monde médiatique au-delà de la sphère franco-française.

#### 3.2.2.1 Les relations franco-polonaises

En premier lieu, cette image a affecté les relations entre la France et la Pologne. Lors de l'entretien mené avec Pierre Buhler, celui-ci confirme que l'affaire n'a pas eu de conséquences majeures sur les relations franco-polonaises tout en causant néanmoins un « point de friction permanent » (Annexe 1) pendant plusieurs années. Il explique que lorsque la France reproche à la Pologne de faire du dumping social, celle-ci rétorque être dans son bon droit (européen) et que le zèle de l'administration française frôle le harcèlement des entreprises polonaises. De surcroît, les entreprises françaises sont entrées sur le marché polonais en masse en y prenant une position dominante en particulier dans les secteurs de la grande distribution et des télécoms. C'est à ce phénomène que se réfère Stéphane Marchand lorsqu'il écrit que « si un pays a envahit l'autre, c'est plutôt la France qui a envahit la Pologne » (Marchand 2006 : 16). D'ailleurs, c'est un effet de l'intégration au marché commun qui était prédictible comme l'expliquait Georges Mink dès 2004 : la structure sociale du monde du travail polonais n'a pas eu le temps de s'adapter, les nouveaux entrepreneurs de l'ancien bloc-communiste n'avaient pas suffisamment d'expérience pour se lancer dans un marché aussi compétitif (Mink 2004 : 384). L'on peut ajouter une forme d'hypocrisie car la France se situe, elle-même, juste derrière la Pologne en termes de nombres de travailleurs détachées dans l'Union (Direction générale du Trésor 2016). La différence réside dans le coût que ce détachement important fait peser sur l'une et l'autre des économies. En effet, pour la Pologne (et en général dans les PECO) la situation est souvent qualifiée d'hémorragie. Philippe Rusin, dans son ouvrage *Elargissement et flux migratoires*, commente : « De prime abord, la Pologne semble avoir tiré grand bénéfice de son adhésion [...] la réalité [est] moins flatteuse : près de 2 millions de Polonais ont quitté le pays pour aller travailler à l'étranger, soit 12 % environ de la population active ! » (Rusin 2007 : 22). Pour la France, ces deux arguments (les deux premiers, ceux avancés par la Pologne à l'époque) ne tiennent pas, car en premier lieu l'administration ne fait qu'assurer l'application du droit de l'Union et en second lieu les entreprises françaises établies en Pologne respectent le droit local.

Pour Pierre Buhler, le scandale est surtout médiatique car quels que soit les événements, les situations étaient traitées par « le dialogue normal » (Annexe 1). Il explique

que lorsque quelque chose sortait dans les médias « ça avait un impact finalement sur la conversation diplomatique franco-polonaise » (Annexe 1) mais que cela ne provoquait pas de crise. Il s'agissait simplement d'un point de désaccord qui revenait régulièrement dans les discussions franco-polonaises. Pour Pierre Buhler, les déclarations de Jacques Chirac par rapport à l'Irak en 2003<sup>20</sup> ont été bien plus empoisonnantes.

Néanmoins, du côté polonais cette image semble tout de même avoir nourri une forme de désillusion. Un sentiment général dans les PECO quant à l'accession à l'Union Européenne. D'abord enthousiastes : certains considérant avoir toujours fait partie de cette espace culturellement (Kundera 2021) et d'autres estimant l'avoir bien mérité comme une reconnaissance de leur lutte pour la démocratie (Frank 2004 : 102). L'adhésion soulève rapidement des opinions plus sceptiques car les promesses qui ont permis aux Polonais et aux Polonaises d'accepter une transition si violente, ne sont pas tenues. Les avantages économiques ne sont pas aussi rapides qu'espéré<sup>21</sup> et la population polonaise n'a plus la sécurité de l'emploi, ni celle du logement. L'économie de marché n'apporte pas les bénéfices rêvés et des images comme celle du Plombier Polonais, viennent appuyer sur la distance qu'il y a encore entre les anciens et les nouveaux membres. Cette déception mène à une forme de repli vers une identité plus familière comme l'explique Joanna Nowicki, « Face à ces frustrations inattendues, à nouveau une conscience centre européenne revient, celle d'une sorte de communauté d'expériences et d'aspirations dans une Europe en cours de redéfinition » (Nowicki 2002 : 543). Les débats autour des termes Europe Centrale, *Mittleuropa* et autres montre un retour de la question identitaire en Pologne, une volonté de ne pas se faire englober complètement dans un ensemble aux contours flous. Dès 2004, Georges Mink met en garde : « Certains experts pensent même que l'optimisme généré par les campagnes référendaires pour l'adhésion - qui ont partout exprimé une majorité plus que suffisante de partisans de l'intégration - pourrait avoir un effet pervers. La déception venue de promesses non tenues pourrait alors alimenter la montée de mouvements sociaux servant de tremplin à des courants politiques anti-européens qui n'ont pas baissé la garde » (Mink 2004, 386). De plus, même si le Plombier Polonais est une notion plus large, c'est tout de même la Pologne qui est nommée et son image a pu en pâtir. Certainement, l'image de la France a été écornée par cette affaire qui arrive juste après un élargissement déjà timidement accueilli par les gouvernements français successifs (Lequesne 2007 : 81). Cependant, au-delà de ce constant point de friction entre la France et la Pologne des années 2000 à 2010, le symbole du Plombier Polonais a aussi généré des discussions au niveau européen.

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<sup>20</sup> Le 18 février 2003 Jacques Chirac déclare que les pays candidats « ont perdu une bonne occasion de se taire » par rapport à l'intervention en Irak. Selon Pierre Buhler (entretien), si le plombier polonais n'a pas laissé de traces dans les relations diplomatiques franco-polonaises, cette phrase est bien restée dans les mémoires. (Il est intéressant de noter que la Pologne n'a pas pris personnellement le plombier polonais alors désignant les ouvriers des PECO en général mais s'est sentie particulièrement visé par cette phrase adressée aux PECO et non à elle en particulier. Peut-être est-ce lié au processus de digestion de l'affront, le plombier polonais ayant rapidement connu un "retournement de stigmat" contrairement à cette pique sous-entendant l'inexpérience des nouvellement libres PECO en termes de relations internationales).

<sup>21</sup> Aujourd'hui la Pologne connaît une croissance importante et se présente comme l'un des nouveaux moteurs économiques de l'UE. Mais dans les premières années qui ont suivi l'adhésion les coûts économiques et sociaux ont été importants.

### 3.2.2.2 Une image symptomatique, mettant l'Europe en débat

Le Plombier Polonais a eu le mérite de mettre l'Europe en débat, de créer un embryon de débat public européen. Amandine Crespy observe : « pour la première fois dans l'histoire de la construction européenne, la contestation d'une initiative législative éclate en amont de la décision et influence le processus de codécision » (Crespy 2010 : 13). Pour la chercheuse, l'expression du conflit autour notamment de cette figure polémique se révèle bénéfique pour la démocratie européenne en ce qu'elle permet la mise en lumière des diverses opinions sur un sujet purement européen. Ce débat émerge dans le sillon de la politisation des affaires européennes remontant aux années 1990 lié aux craintes soulevées par l'Union monétaire. Mais cela montre aussi qu'il y a une volonté de faire communauté au-delà des simples questions économiques, et que les contestations de l'UE ne se borne pas au nationalisme. Surtout, comme le démontre Anca Pusca, l'affaire du Plombier Polonais a rendu l'Europe visible (Pusca 2004 : 6). Or, ce qu'elle donne à voir sont des questionnements qui pré-existaient, que cette expression vient simplement cristalliser à un moment donné.

L'expression Plombier Polonais survit à la crise qui l'a vu naître et devient une expression consacrée. Bien qu'elle ne soit plus aussi proéminente dans les débats, elle a créé « une part de mythe qui a pris dans les esprits » (Annexe 1). Elle est régulièrement utilisée dans le langage journalistique (au moins une référence par an) et évoque un imaginaire précis lié à l'Europe. Il est intéressant de s'interroger sur la survivance du symbole au-delà de l'objet. La question du travail détaché a fait l'objet d'une résolution entre les États Membres comme l'évoque Pierre Buhler. Or, le fait que l'expression reste dans l'usage n'est pas anodin, elle a une utilité pour décrire le monde actuel. Si Pierre Buhler évoque une résolution du conflit en 2015, il évoque aussi qu'aujourd'hui la Pologne se retrouve un peu dans la même situation face à l'Ukraine dans une forme « d'ironie de l'Histoire » (Annexe 1). De plus, cette résolution évoquée, on observe une résurgence régulière des tensions autour de ce sujet, par exemple dernièrement lors de la Présidence d'Emmanuelle Macron (La Tribune 2017). Pour Patrycja Chrusciel, « en tant que référent social, la formule plombier polonais a dépassé les frontières du discours français » (Chrusciel 2016 : 45). Ce travail montre que le succès du Plombier Polonais réside dans le fait qu'il incarne un problème concret sur la scène européenne. Le problème en question est en réalité plus large que la seule question du travail détaché. Il s'agit d'un problème toujours non résolu d'équilibre entre Europe économique et Europe sociale, un problème d'ordre politique que Fritz Scharpf exprimait en d'autres termes : un déséquilibre entre intégration négative et positive (Scharpf 1999).

Pour revenir à la citation de Monsieur Potoroczyn (page 32), le Plombier Polonais est bien né afin de régler un problème européen. L'expression fait émerger une faille préexistante, pour nous permettre (peut-être) d'y remédier. Finalement, cette image a mis en lumière une problématique qui mine l'Europe depuis des années et qui revient à chaque élargissement : le « déficit social » de l'Union Européenne provoque une fracture dans la communauté européenne.

#### **4. Conclusion**

À la fin de cette analyse, il apparaît clairement que la question du travail détaché en Europe, bien qu'elle n'en soit pas la cause, alimente les dissensions. Cela est dû à plusieurs facteurs. D'abord, car historiquement l'Europe a choisi de faire de la protection sociale un appendice du marché unique et non un objet en soit. Ensuite, car l'arrivée de la Pologne dans l'Union s'est faite dans un contexte économique très particulier, qui pouvait laisser présager d'importants mouvements migratoires au moment même où l'ultime phase de libéralisation du marché unique s'enclenchait. Ces éléments de contexte, pris ensemble, expliquent une appréhension quant à la mobilité du travail en Europe. Cette crispation se révèle dans toute sa splendeur dans la figure du Plombier Polonais, qui fait mouche dans l'opinion publique française. Elle est utilisée comme repoussoir, aussi bien à l'extrême droite qu'à l'extrême gauche pour des raisons différentes. En Pologne, initialement perçue comme une stigmatisation, l'image est habilement réutilisée non seulement pour tourner en dérision le grossier cliché mais aussi pour profiter de son exposition médiatique.

Le Plombier Polonais est l'étincelle qui vient mettre le feu à un baril de poudre déjà bien rempli : les contestations du projet Européen, grandissantes depuis les années 1990. Les débats se cristallisent autour de cette image en raison de la prééminence de la Pologne dans l'imaginaire français par rapport aux autres Pays d'Europe Centrale et Orientale. Les traces laissées par ce moment de la vie politique française (et européenne) sont nombreuses. L'une des plus importantes est la mise en valeur d'une contradiction majeure au cœur de la construction européenne. À savoir, la mise en commun du marché du travail européen sans s'atteler à l'harmonisation des protections sociales, la création d'un travailleur européen sans un droit du travail européen. Une absurdité qui cause bien des maux et empoisonne la communauté que forme les citoyens de l'Union. Cette recherche suggère que sous couvert d'une critique du manque de protection sociale de l'UE, peut se cacher une xénophobie délétère que la « crise » rend acceptable. Mais aussi, que le déficit social alimente véritablement les dissensions entre les Européens. L'actualité avec les blocages de routiers polonais à la frontière ukrainienne, ou même les manifestations d'agriculteurs à travers l'Europe, montrent que ces préoccupations sont toujours bien présentes lorsqu'il est question d'élargissement.

## Annexes

### **ANNEXE 1 : Transcription de l'entretien avec M. Pierre Buhler, ex-ambassadeur de France en Pologne (2012-2016).**

Le 8 mars 2024, en visioconférence.

**Q : L'idée avec cet entretien, est de savoir ce qui s'est passé selon vous dans cette affaire. Les causes, le déroulement et les conséquences dans les relations franco-polonaises et plus largement dans la Communauté européenne. Je commencerai par une première question : est-ce que vous vous rappelez la naissance de cette image du plombier polonais ?**

**R :** C'était en 2005 si je me souviens bien. J'étais en France à l'époque, j'enseignais à SciencesPo pas vraiment sur les questions européennes. C'était avant le référendum de 2005, ça fait partie du débat sur le referendum. Il y avait une grande effervescence, pour ne pas dire plus, une agitation même autour de cette Directive Bolkestein. Qui avait donc était interprétée en France, notamment avec l'irruption de cette image du plombier polonais, comme du dumping social pratiqué par ces nouveaux pays membres de l'UE pour exécuter les prestations de services selon leur droit social dans d'autres pays. En faisant du dumping social par rapport aux salaires plus élevés de l'Ouest de l'Europe. Ce référendum va se solder par un refus en France et aux Pays-Bas. Refus de la Constitution européenne, c'est l'enjeu. Après je suis parti à l'autre bout du monde dans une autre ambassade, ma première ambassade à Singapour donc tout ça été devenu un peu éloigné. En revenant en Pologne en 2012 ce que j'ai constaté c'est que ça n'a pas vraiment, la thématique, la polémique du plombier polonais n'avait pas laissé de traces très visibles. En tout cas on ne me l'a jamais cité comme un enjeu contentieux. En revanche ce qui était très souvent cité c'était les déclarations de Jacques Chirac de 2003. "Ils ont manqué une occasion de se taire", qui n'était pas adressé à la Pologne, c'était pour les pays signataires de la fameuse lettre de soutien au Président Russe à l'époque pour l'intervention en Irak. Ça ça avait laissé beaucoup de marques. Vraiment perçu comme une offense faite à la Pologne singulièrement bien qu'elle n'ai pas été singularisée dans la remarque. Ça c'était extrêmement présent. Ce qu'il faut que vous sachiez pour votre travail, c'est que la question du travail posté, c'est comme ça que je l'ai comprise, le travail posté donc le droit de prestataires de services, en l'occurrence polonais, d'intervenir sur le territoire français a fait l'objet d'un contentieux, en tout cas d'une friction permanente et assez durable pendant tout mon séjour. Jusqu'à ce qu'ai été trouvé un accord en 2016 ou 2015 je ne me souviens plus de la date précise, régulièrement quand il y avait des doléances émises par des prestataires de services polonais sur les difficultés que leur faisait l'administration française pour opérer, ça remontait dans les médias polonais et ça avait un impact sur la conversation diplomatique franco-polonaise. C'était même devenu, je me souviens d'une réunion de travail entre la Première ministre Ewa Kopacz, un sujet important. Tout ce qui est parti en décembre 2014. Donc ça devait être en 2015. Pour les Polonais ce qui posait plus de problème, c'était le cabotage des transports



intra-européens avec le droit de livrer des marchandises, corollaires du marché unique de rendre des prestations de services. Et je pense qu'il y avait un flou juridique.

**Q : Il y a eu effectivement une grosse affaire avec une entreprise italienne qui employait beaucoup de camionneurs polonais qui transitait par la France. Ça avait fait beaucoup de bruit, à ce moment-là, il y avait un flou juridique qui n'a pas forcément été tout à fait résolu, même si il y a eu des initiatives par la suite.**

R : Je pense que ce qui a été exclu c'était la possibilité de faire du cabotage interne dans un pays, c'est à dire de livrer un chargement au point A en France et de prendre un autre chargement pour le livrer au point B, également en France. Ce qui était autorisé c'était de prendre en Allemagne et de le livrer en France. Ce dont je me souviens également c'est qu'il avait des pratiques quasiment délictueuses avec des entreprises fantômes qui avaient une boîte postale en France et qui employaient des salariés, pas seulement de Pologne d'ailleurs, sans garanties, parfois ils n'étaient même pas payés. Ils étaient totalement exclus des bénéfices du droit du travail français. Evidemment quand les services du Ministère du Travail et de l'Emploi détectaient ce genre de fraude, c'était parfois présenté comme étant une manœuvre de la bureaucratie française pour empêcher les travailleurs polonais de venir travailler en France. Il y avait des logiques beaucoup plus frauduleuses. Si je me souviens bien les Ministres du travail de l'UE avait régulièrement ça à l'ordre du jour en Conseil des Ministres. Et je pense à un moment donné la Tchéquie avait basculé parce que c'était des discussions à majorité qualifiée, avait basculé dans un sens plus proche du notre. Je crois que la France était avec l'Allemagne et la Tchéquie s'est retrouvée en faveur d'un compromis.

**Q : En vous écoutant j'ai deux questions qui me viennent à l'esprit. La première, c'est par rapport à ce que vous disiez au début. On parle du plombier polonais alors qu'en fait ça englobe tous les nouveaux membres qui entrent en 2004. Ce qui est intéressant pour moi, c'est que vous mentionnez que les déclarations de Jacques Chirac, qui n'étaient pas spécialement tournée vers la Pologne, ont été prises comme une offense précisément par la Pologne. Alors que l'affaire du plombier polonais où la Pologne est incriminée n'a pas forcément laissé de trace. Avez-vous quelque chose à me dire à ce propos-là ?**

R : Non pas vraiment, je partage votre observation. Ce qui montre qu'au fond la mémoire est sélective et des biais cognitifs se renforcent surtout avec le temps. Alors peut-être que pour le plombier polonais l'office du tourisme avait cette campagne avec le plombier, un beau garçon qui s'affichait sur les panneaux d'affichage en France. C'était assez humoristique et bien tourné d'ailleurs. Je pense que ça a dû rester un peu dans les têtes "vous vous êtes excité sur le plombier polonais mais vous on vous a bien eu en retour, en vous balançant cette campagne de publicité où on se payait votre tête." Ça donne une petite satisfaction d'amour propre qui a sans doute un peu panser les plaies.

**Q : Est-ce que vous considérez que ce réemploi, est un peu comme un retournement de stigmat, une réappropriation ?**

R: Oui c'était une sorte de pic en retour, comme une prise de judo. Vous nous cherchez, vous nous avez trouvé mais pas sur le même terrain. Avec une caricature et un esprit farceur des Polonais.

**Q : La deuxième chose que vous évoquez, et ce sont des choses que je retrouve dans mes recherches, est que souvent la France qui est en faveur de mieux réguler les questions de travail détaché se fait reprocher par le gouvernement polonais d'instrumentalisation. Que ce soit une manœuvre en fait pour restreindre la liberté de circulation des travailleurs, et cetera... Dans le cadre où la question du travail détaché est remise en avant un peu avec la dernière présidence française, est-ce que vous pensez qu'il y a une instrumentalisation de cette question-là de la part du gouvernement polonais, en cherchant à faire culpabiliser la France ?**

R : Oui. Il faut comprendre les mécanismes par lesquels ça passe. Il y a les entrepreneurs polonais qui rencontrent des difficultés avec l'administration française. Je pense que les contrôles étaient peut-être un peu récurrents et ils ont trouvé que c'était du harcèlement. Et se plaignaient dans les médias polonais qui était bien content d'en rendre compte. Ce qui mettait une pression sur le gouvernement polonais, le PIS à fortiori devait être sur cette ligne de nationalisme et de réaction à tout bout de champs. Donc il y avait cette espèce de circularité avec des points et des périodes beaucoup plus calmes aussi. C'est des débats ouverts, c'est comme ça les démocraties fonctionnent. Il y a des campagnes, les gens ne sont pas contents, c'est repris par les médias mais sans nécessairement beaucoup d'enquête contradictoires (les médias français font exactement la même chose). Quelqu'un se plaint, ils sont toujours heureux de tendre leur micro aux mécontents. Après ça prenait des proportions politiques mais ça restait quand même dans des limites assez acceptables. Je dirais que du côté français c'était pas une volonté d'harceler la Pologne mais les syndicats aussi montaient au créneau en dénonçant les conditions lorsqu'elles étaient frauduleuses. En tout cas lorsqu'elles sortaient vraiment des clous du droit du travail posté, qui pénalisaient les salariés avec des entreprises boîte aux lettres qui disparaissaient du jour au lendemain sans que les salaires, ni les charges sociales ne soient payées. Voilà ce que je peux dire c'est que du côté de l'administration française, on été déjà quand même dans une configuration de pénurie de main d'œuvre. On avait besoin de main d'œuvre qu'on ne trouvait pas sur le marché du travail français sauf par le travail clandestin alors que le travail posté c'est parfaitement légal et utile à des entrepreneurs français. Quand un entrepreneurs français embauche c'est le droit du travail français avec évidemment le SMIC, c'est quand même mieux que d'être payé en zloty sans garanties et certainement à un tarif inférieur. Quand on regarde le fond du dossier, ce n'est pas du tout noir et blanc. Il y a pu avoir des dérapages, du zèle de l'administration française c'est très possible mais je pense que le dialogue continuait entre les administrations, y compris au niveau politique.

**Q : En tout cas, vous ne constatez pas de crispation majeure dans les relations franco-polonaises à ce sujet-là.**

R : Non pas à ce jour. Parfois ça monte mais appeler ça crispation...Peut-être mais crispation majeure non, pas de situation de crise. C'était géré par le dialogue normal, soit au niveau politique entre ministre quand il y avait quand même, Kopac venait à Paris pour une visite de travail, c'était un point d'ordre du jour et pas négligeable. Ça se passait entre la première ministre polonaise et le Président, ensuite les ministres du travail se réunissaient. Ils continuaient de traiter le sujet dans le cadre de l'UE. Le cadre normal où quand il y avait des difficultés d'application des réglementations, on essayait de trouver des solutions satisfaisantes pour tout le monde. Ce que je constate avec le recul c'est que la Pologne se retrouve aujourd'hui dans la même situation vis-à-vis de l'Ukraine. Situation qu'elle reprochait à la France. Là les camionneurs polonais se retrouvent face aux camionneurs ukrainiens qui cassent le marché, le régime social. C'est du dumping social. Une sorte d'ironie de l'Histoire. On est toujours ou la victime ou le persécuteur de quelqu'un d'autre.

**Q : Vous avez évoqué le fait que, c'est un moment où on avait une pénurie de main d'œuvre et donc ça venait combler quand même un besoin qui était là. Dans un livre, écrit par Stéphane Marchand, il explique qu'au moment où cette directive Bolkestein qui a l'intention de libéraliser les services. La France est dans une position d'être avantagée par cette libéralisation du service puisqu'elle est la première exportatrice de services en Europe à ce moment-là, et pour diverses raisons. Je me demandais si vous aviez quelques remarques à faire sur comment se fait-il que à priori, la France avait tout à gagner ? Et pourtant, c'est elle qui a été la plus effrayée par cette ouverture du travail détaché dans le cadre des services.**

R : La France est exportatrice de service mais de vente de service à l'étranger alors que le tourisme ça se fait sur le territoire français. Il y a aussi du travail posté fait à l'étranger par des Français mais on n'était pas du tout dans les mêmes proportions. Par exemple, les assurances et les services bancaires sont installés à l'extérieur mais ils ont leurs filiales qui sont soumises au droit local. On est pas du tout dans la même configuration qui est celle d'individu travaillant sous leur droit national dans un pays de l'Union européenne. Je ne sais pas à quoi il fait allusion. En tout cas ce n'est pas du tout le rapprochement qui a été fait à l'époque. C'est vrai que la France exporte beaucoup de service mais via des entreprises qui ont pignon sur rue. La grande distribution est extrêmement présente en Pologne. Effectivement le gouvernement polonais nous reprochait "Vos entreprises sont entrées comme dans du beurre. Notamment les Télécom, Auchan, Leclerc, Carrefour vous avez déferlé chez nous, vous avez pris des places dominantes" Mais je ne pense pas que ça puisse être comparable. En tout cas nous avons répondu que nous, les entreprises en question, respectent le droit local. Les salariés sont au droit local. Bon du travail posté de français en Europe de l'Est je ne crois pas. Il y a des expatriés mais c'est assez différent. Ça demande à être creusé.

**Q : Je pense qu'effectivement il fait référence à des entreprises qui sont très bien implantées sur le marché et en fait ce qui se passe en 2005, c'est une peur par rapport à ces petites entreprises, notamment dans le bâtiment. Et je pense que c'est là-dessus que le débat porte plus que sur les grandes entreprises.**

R : Oui mais les petites entreprises ne sont pas très dégourdies pour s'exporter pour faire du travail posté. Alors effectivement quand on regarde un chantier. Mais ce n'est pas du dumping social on est sur quelque chose de sociologique, c'est vrai qu'il y a une asymétrie. Le niveau des salaires est beaucoup plus bas à l'Est qu'à l'Ouest. Mais la même réaction était visible dans d'autres pays. Ce n'est pas seulement français, c'est là où ça a pris le plus d'ampleur. Mais au Royaume-Uni l'artisan de l'Europe de l'Est notamment polonais, est un des arguments du Brexit. Au Pays-Bas aussi il y avait des réactions assez vives, assez xénophobes. Ça remontait régulièrement dans la presse, avec une animosité beaucoup plus forte. Alors qu'en France on était plus dans le verbe, dans l'image et dans le symbole que de l'animosité vis-à-vis des Polonais en France. Il y a eu une part de mythe qui a pris dans les esprits.

## **ANNEXE 2 : Chronologie du Plombier Polonais**

### **1956 - Rapport Ohlin**

Produit par l'Organisation Internationale du Travail, celui-ci préconise qu'il n'est « ni nécessaire, ni recommandé, d'attribuer à la future Communauté économique européenne une compétence en matière sociale : l'amélioration des conditions de vie et de travail résulterait automatiquement des gains de productivité au sein de chaque État » (De Schutter 2006 : 131). Influence importante sur la rédaction du Traité de Rome.

### **1957 - Traité de Rome**

La liberté de circulation des services est inscrite au même titre que les quatre autres aux articles 43 et 49 TCE.

### **3 juillet 1974 - Restriction à l'immigration du travail**

Dans un contexte d'augmentation du chômage le gouvernement français décide de suspendre l'immigration des travailleurs et des familles, sauf pour les ressortissants de la Communauté européenne (suspendue en 1978 par le Conseil d'État pour cause d'illégalité). Pour beaucoup de chercheurs et chercheuses (Laurens 2008 : 70), 1974 constitue un point de bascule pour l'opinion publique française concernant l'immigration du travail, la liant dans l'imaginaire collectif aux problèmes économiques. Forme d'aboutissement de la campagne de Jean-Marie Le Pen mettant en avant les chiffres 2 millions de chômeurs, 2 millions d'immigrés - Légitimation du « racisme de crise » (Gastaut 2004 : 107-118). Bien que les ressortissants de la CEE ne soient pas concernés, cela impacte l'image de l'immigration du travail en général dans l'opinion publique française.

### **21 novembre 1975 – Dispositif anti-chômage**

Instaure un mécanisme d'opposabilité de la situation de l'emploi (qui existe toujours aujourd'hui), selon lequel une entreprise française ne peut embaucher légalement un étranger que si elle ne trouve pas de Français qualifié pour occuper le même poste. « Une entreprise française ne peut embaucher légalement un étranger que si elle ne trouve pas de Français qualifié pour occuper le même poste. » (Marchand 2006 : 185).

**16 septembre 1988 - La Pologne et la Communauté européenne établissent des relations diplomatiques.**

**19 septembre 1989 - Varsovie, un accord de coopération commerciale et économique est signé entre la Pologne et la CEE.**

### **3 octobre 1989 – Directive télévision sans frontières**

Texte qui libéralise l'audiovisuel. Première directive de libéralisation concernant un service, qui engage un mouvement de libéralisation sectoriel : électricité (96/92/CE), secteur postal (97/67/CE), télécommunications (paquet réglementaire 1998), gaz (2003/55/CE), services financiers (directives finances de 2006)...

## **Décembre 1989 - Charte communautaire des droits sociaux fondamentaux des travailleurs**

Jacques Delors : « cette charte constitue désormais un pilier essentiel de la dimension sociale de la construction européenne, dans l'esprit du traité de Rome complété par l'Acte unique européen. Déclaration solennelle, elle fixe les grands principes sur lesquels se fonde notre modèle européen du droit du travail et, plus généralement, de la place du travail dans notre société. »

## **1<sup>er</sup> janvier 1990 : Mise en œuvre de la « thérapie de choc » / « plan Balcerowicz »**

Libération de 90% des prix + forte dévaluation du zloty + diminution drastique des subventions d'État aux entreprises de 17% à 4% du PIB + création d'impôts sur les entreprises, notamment une taxe pour dissuader les augmentations de salaires pour limiter l'inflation (Redor 1997 : 29)

## **27 mars 1990 - CJCE *Rush Portuguesa***

L'arrêt s'inscrit dans le contexte de l'élargissement de la Communauté au Portugal, l'arrivée de nouveaux entrants aux protections sociales moindres inquiète (Cour de Justice des Communautés Européennes, 1990).

## **13 juillet 1990 : Loi de privatisations des entreprises d'État en Pologne**

Privatisation progressive.

## **22 décembre 1990 - Ouverture des négociations formelles d'adhésion à l'UE pour la Pologne**

## **Juin 1991 - Fin du CAEM (en même temps que la dissolution de l'URSS)**

Fin du circuit fermé des économies du bloc de l'Est, réorientation économique vers l'Ouest.

## **7 février 1992 – Signature du Traité de Maastricht**

« Le traité de Maastricht, étape décisive au regard de l'intégration économique et politique du continent, aurait mis fin au consensus permissif qui aurait jusqu'alors prévalu au sein des opinions nationales. On aurait alors assisté à l'avènement d'un euroscepticisme de masse, comme en témoignent les échecs répétés des référendums de ratification » (Crespy 2010 : 10).

## **1<sup>er</sup> juillet 1993 - Règlement 92/881 libéralisant les transports**

Apparition du "dumping social" dans le paysage médiatique français à propos des camionneurs, la pratique du cabotage met déjà en lumière les Polonais comme main d'œuvre bon marché responsable de l'abaissement des minima sociaux (Marchand 2006 : 80).

## **5 avril 1994 - Demande d'adhésion officielle de la Pologne par Waldemar Pawlak, Premier ministre polonais.**

## **16 décembre 1996 – Directive Travail détaché**

L'objectif est de favoriser le développement des services transfrontaliers (fondé sur l'article 56 TFUE établissant le principe de libre prestation de services). En effet, depuis 1989 le domaine des services est progressivement libéralisé (voir 3 octobre



1989). Pour faciliter cela, la directive détermine les conditions de travail applicables durant le détachement et les possibilités de contrôle. Elle s'inscrit dans la lignée de la jurisprudence *Rush Portuguesa*, et en reprend les principaux éléments : au bout de 3 mois toute personne travaillant dans un État Membre doit être soumise à ses conditions de travail. Détails Mélanie Schmitt (Schmitt 2011 : 169-184).

Attention la directive n'a « pas harmonisé le contenu matériel de ces règles impératives de protection minimale. » (Cour de Justice des Communautés Européennes, 2007)

### **23 novembre 1999 – Arrêt Arblade**

La CJCE admet que la protection des travailleurs constitue une raison impérieuse d'intérêt général dont peut se prévaloir l'État d'accueil pour imposer sa législation sociale à moins d'une protection équivalente dans l'État d'établissement.

### **24 mars 2000 – Conseil Européen de Lisbonne**

Met à l'agenda la libéralisation des services afin de parachever le marché unique. Comme les services représentent 70% du PIB européen, leur libéralisation permettrait de renforcer la compétitivité de l'Union.

### **1er juillet/31 décembre 2000 - Présidence française du Conseil de l'UE**

#### **26 février 2001 - Signature du Traité de Nice**

Entrée en vigueur le 1er février 2003. Introduit la Charte des Droits Fondamentaux. Pas de modifications notables en matière sociale, voire régression selon Olivier De Schutter (De Schutter 2006 : 146). Surtout, pour beaucoup de commentateurs, le Traité ne prépare pas l'élargissement. Les réformes institutionnelles nécessaires ne sont pas prises.

### **18 février 2003 - Déclaration péjorative de Jacques Chirac à l'encontre des PECO**

Il considère que les pays candidats « ont perdu une bonne occasion de se taire » par rapport à l'intervention en Irak. Selon Pierre Buhler (entretien), si le plombier polonais n'a pas laissé de traces dans les relations diplomatiques franco-polonaises, cette phrase est bien restée dans les mémoires. (Il est intéressant de noter que la Pologne n'a pas pris personnellement le plombier polonais alors désignant les ouvriers des PECO en général mais s'est sentie particulièrement visé par cette phrase adressée aux PECO et non à elle en particulier. Peut-être est-ce lié au processus de digestion de l'affront, le plombier polonais ayant rapidement connu un « retournement de stigmatisation » contrairement à cette pique sous-entendant l'inexpérience des PECO nouvellement libres en termes de relations internationales.)

### **14 janvier 2004 – Proposition de la Commission pour la libéralisation des services**

La Commission européenne approuve la proposition de directive relative aux services dans le marché intérieur présentée par le commissaire Fritz Bolkestein puis la présente à la presse comme « une directive visant réduire la paperasserie qui étouffe la compétitivité » (Commission Européenne 2004).

La directive prévoit :

- De simplifier les conditions d'établissement dans un autre État Membre

- De stimuler la prestation de services transfrontaliers par l'application du Principe du Pays d'Origine<sup>22</sup>
- À renforcer la coopération administrative entre États Membres (concernant les contrôles)

Depuis les années 1990, la libéralisation des services avait été entamée secteur par secteur. Or, depuis la Stratégie de Lisbonne il y a un consensus parmi les élites et institutions européennes autour du besoin d'un instrument juridique horizontal afin de libéraliser les services en général et achever le marché unique. Donc le texte ne devait à priori pas poser de problèmes. Cependant, les mouvements altermondialistes font rapidement le lien entre ce texte et l'Accord Général sur le Commerce des Services lancé par le cycle de Doha et accusent la Commission d'un agenda ultra-libéral (Crespy 2010 : 25).

### **1er mai 2004 - La Pologne intègre l'UE (ainsi que 9 autres pays)**

Cependant, l'accès des nouveaux entrants au marché du travail est restreint par des mesures transitoires adoptées par une majorité des pays (dont la France qui les conserve jusqu'en 2008) à l'exception de la Suède, de l'Irlande et du Royaume-Uni.

### **10-13 juin 2004 – Élections Européennes**

Bien que se passant quelques temps après la proposition de la Directive Bolkestein, en vue d'une libéralisation des services dans l'UE, la question n'est pas une préoccupation majeure dans la campagne (Houchard 2013).

### **Décembre 2004 - Philippe Val (Directeur de rédaction Charlie Hebdo) aurait inventé le « plombier polonais »**

Bien que la création de l'image soit souvent attribuée à Philippe de Villiers, elle apparaît selon certaines sources d'abord dans Charlie Hebdo. Je n'ai cependant pas trouvé de preuve en ce sens, même après avoir contacté la rédaction du journal.

### **14 mars 2005 - Philippe de Villiers médiatise l'expression « plombier polonais »**

Il réagit aux déclarations de José Manuel Barroso (alors président de la Commission) maintenant sa position sur la directive Bolkestein. Le Figaro, 15 mars 2005 : « cette affaire est très grave, car la directive Bolkestein permet à un plombier polonais ou à un architecte estonien de proposer ses services en France, au salaire et avec les règles de protection sociale de leur pays d'origine. Sur les 11 millions de personnes actives dans les services, un million d'emplois sont menacés par cette directive. Il s'agit d'un démantèlement de notre modèle économique et social ».

### **Avril 2005 - Bolkestein reprend le « plombier polonais »**

Venu défendre à Paris son projet de directive sur la libéralisation des services, l'ancien commissaire européen avait déclaré, à titre d'exemple, qu'il avait du mal à trouver un plombier dans le Nord où il possède une maison de campagne, et qu'il verrait donc d'un bon œil l'arrivée de plombiers polonais en France.

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<sup>22</sup> Ce principe garantit que l'entreprise qui fournit un service dans d'autres pays de l'Union européenne est soumise exclusivement au droit de son pays d'établissement, sans avoir à se conformer à d'autres législations nationales éventuellement plus contraignantes, sauf exception. Les directives de libéralisations sectorielles des années 1990 s'appuyaient déjà, pour certaines, sur ce principe (Crespy 2010 : 28).

### **Mai 2005 - Affaire Constructel**

Deux semaines avant le référendum, Constructel (sous-traitant de France Telecom) est pris sur le fait : il emploie des travailleurs portugais en France, aux conditions portugaises (grâce au flou juridique concernant le "détachement de moyens opérationnels"). L'affaire cause l'indignation notamment à gauche à l'encontre de qui est alors appelé les « délocalisations inversées » et lié au projet de Constitution pour l'Europe ("voilà ce que nous prépare l'Europe") (L'Humanité 2005).

### **28 mai 2005 - Déclarations de Marek Belka**

Le Parisien rapporte : « Car « si les Français rejettent la Constitution européenne, c'est nous qui en paierons la note », expliquait le 1er mai dernier Marek Belka. Cela signifierait « moins de solidarité, moins de fonds européens » pour la Pologne. [...] Les anti-européens de la droite nationaliste et populiste, encore minoritaires en Pologne, prient pour que le non-gagne [...] En attendant, à Varsovie, on a pris très au sérieux l'histoire du fameux plombier [...] le jour où la France décidera d'ouvrir ses frontières pour combler ses besoins de main-d'œuvre, les Polonais les plus dynamiques seront déjà partis ailleurs, ricane-t-on à Varsovie. » (Czarnecka 2005)

### **29 mai 2005 - Échec du référendum en France**

Selon Libération le plombier polonais ce jour-là « terrassait le dragon européen » (Thibaudat 2005).

### **Juin 2005 - Campagne de pub "plombier polonais"**

L'office de tourisme polonais, dirigé par Bartłomiej Walas, lance une campagne avec le mannequin Piotr Adamski. Anca Pusca dans Visualizing the EU l'évoque comme une communication réussie et un exemple significatif de la place des images dans la construction d'un imaginaire européen (Pusca 2004 : 5-21). En effet, les deux hommes feront la tournée des médias français par la suite notamment une apparition dans la populaire émission « On a tout essayé ».

### **7 septembre 2005 – Directive reconnaissance des qualifications professionnelles**

Directive nécessaire à la libre circulation des travailleurs et travailleuses, notamment pour la prestation de services.

### **Août 2005 – Scandale des Chantiers de l'Atlantique**

Une grève de la fin d'ouvriers polonais sur les Chantiers de l'Atlantique (parmi foultitude d'autres scandales dans le genre cette année-là) révèle les problèmes de responsabilité posés par la sous-traitance en cascade (Marchand 2006 : 106-112).

### **31 Mars 2006 – Chanson pour un Plombier Polonais**

Sortie d'un titre intitulé *Chanson pour un Plombier Polonais* par le chanteur Davy Kilembé. Le refrain comporte une rime qui fait écho à la xénophobie de l'expression "Vous me connaissez, Je suis plombier, Je ne suis pas bien née, Je suis même Polonais".

### **12 décembre 2006 - Adoption de la directive Bolkestein**

Directive 2006/123 relative aux services dans le marché intérieur présentée par le commissaire européen au Marché intérieur Frits Bolkestein (Pays-Bas). Selon Wikipédia : Ce projet de directive a été largement utilisé comme argument par une partie de

la gauche ainsi que la droite souverainiste lors de la campagne référendaire française sur le Traité constitutionnel européen en 2005, cristallisant le débat sur l'« Europe libérale » et sur l'allégorie du « plombier polonais ». > Il est intéressant de noter que les oppositions des deux bords y trouvent à redire car cela mobilise à la fois la peur des transformations économiques (gauche) & la xénophobie (extrême droite). Le texte est adopté sans référence directe au « principe du pays d'origine » (peur du dumping social illustré en France par l'image du PP).

L'idée est de "faciliter l'accès des prestataires étrangers aux marchés nationaux en supprimant un certain nombre de règles nationales", de la même manière que cela avait été fait dans les années 1980 pour les marchés des marchandises et des capitaux (Crespy 2012 : 2).

### **2007 - Vighen Papazian référence le plombier polonais**

Le chef d'entreprise français (PDG d'Infodis) dénonce la concurrence « déloyale » des ingénieurs indiens, qu'il trouve encore plus dangereuse que celle des plombiers polonais.

### **13 décembre 2007 - Signature du Traité de Lisbonne**

L'article 153 TFUE donne compétence d'appui à l'Union en termes d'amélioration du milieu de travail pour protéger la santé et la sécurité des travailleurs ; de conditions de travail ; de sécurité sociale et de protection sociale des travailleurs.

De plus, une déclaration interprétative de l'article 156 TFUE sur la coopération dans les domaines de la politique sociale (emploi, droit au travail et conditions de travail, formation professionnelle, sécurité sociale, droit syndical...) précise que ces domaines "relèvent essentiellement de la compétence des États membres. Les mesures d'encouragement et de coordination [...] revêtent un caractère complémentaire. Elles servent à renforcer la coopération [...] et non pas à harmoniser des systèmes nationaux".

### **18 décembre 2007 : CJCE *Laval un Partneri***

Résolution juridique d'une affaire de travail détaché qui avait secoué les relations suédo-lettonnes (Marchand 2006 : 178-183), montrant bien que même chez les plus libéraux le travail détaché crispe (la Suède était l'une des rares à ne pas avoir imposé de mesures transitoires aux nouveaux entrants de 2004). Selon Sophie Garnier, " la CJUE a fait prévaloir une conception très restrictive des textes. De ce point de vue, la dimension économique du détachement l'emporte sur sa dimension sociale." (Garnier 2019 : 96). Pour les détails voir Schmitt 2011 : 177-180.

### **1er juillet 2008 – Fin des mesures transitoires à l'encontre des PECO en France**

Début mars 2006, le gouvernement français a opté pour une « suppression progressive et contrôlée des restrictions » à la libre circulation des travailleurs. Avec un an d'avance, la France a accepté d'ouvrir complètement son marché du travail le 1er juillet 2008 aux travailleurs des pays de l'élargissement de 2004. Cette mesure de clémence est à replacer dans un contexte particulier, celui de la présidence française de l'UE.

**1er juillet/ 31 décembre 2008 - Présidence française du Conseil de l'UE**

**1er décembre 2009 - Entrée en vigueur du Traité de Lisbonne**

**Mars 2011 - Manifestation de plombiers polonais**

Deux artistes polonais, Maciej Kurak et Max Skorwider, ont organisé une protestation de « plombiers polonais » devant le bâtiment du Centre Pompidou.

**2012 - Visite de François Hollande candidat puis Président en Pologne**

François Hollande revient sur l'épisode du plombier polonais lors de sa visite. Lors d'un débat accueilli par Gazeta, Adam Michnik pose la question d'un "amour non réciproque", pourquoi tant de méfiance ? (Réponse incomplète) « Il y a eu trop de malentendus entre la France et la Pologne ». Puis, il revient en tant que Président (novembre) dans le but de renforcer les liens économiques (par rapport à la place de l'Allemagne notamment) et de trouver un partenaire en termes de défense.

**9 décembre 2013 - Discussion révision Directive Bolkestein ravive le PP**

Le Conseil de l'UE discute de la révision de la Directive Services, et déclenche un retour du PP en France.

**2014 - Elections européennes**

**15 mai 2014 – Adoption Directive 2014/67**

Précise les modalités de mise en œuvre de la Directive 96/71. Les États Membres doivent coopérer et de partager les informations nécessaires concernant les termes et les conditions d'emploi.

**Novembre 2017 - Adoption du Socle Européen des Droits Sociaux**

Bien que pour Sophie Garnier (Garnier 2019 : 97), le texte s'inscrive dans un mouvement de renaissance de l'Europe sociale ; le texte n'a pas de valeur contraignante. Il se fonde sur l'art 3 TUE selon lequel l'UE doit œuvrer pour le bien-être de ses citoyens ; l'art 9 TFUE concernant les exigences en matière d'emploi et de protection sociale ainsi que l'art 151 TFUE qui fait référence aux CSE et CDF ; l'art 152 qui reconnaît et promeut les partenaires sociaux' et plus généralement la politique sociale de l'Union des articles 151 à 161. Le préambule précise que l'UE prend en compte « la diversité des systèmes nationaux », il s'agit donc de coordination plus que d'harmonisation.

**25 juin 2017 : Emmanuelle Macron en tournée dans les PECO**

Visite en Aout 2017 dans les PECO, en vue de rediscuter la question du travail détaché dans le cadre de la Présidence française du Conseil. Macron dit depuis la Bulgarie : « La Première ministre aura beaucoup de mal à expliquer qu'il est bon de mal payer les Polonais ». (RFI parle de 'tacle' alors qu'il est en opération séduction pour revoir la directive travailleurs détachés)

**28 juin 2018 : Directive 2018/957 révisant 96/71**

L'objectif est de limiter le "dumping social" en renforçant les règles s'appliquant au travail détaché. La durée maximum de détachement est fixée à 18 mois et la directive prévoit que les salariés détachés en France doivent percevoir une rémunération équivalente aux salariés français, y compris les majorations pour heures supplémentaires.

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## Understanding the impact of COMECE in the public affairs of the European Union after the Treaty of Lisbon

Olga Vokh

### Introduction

Founded in 1980, the Commission of the Bishops' Conferences of the European Union (COMECE) is based in Brussels and represents Catholic bishops from the twenty-seven member states of the European Union (EU). COMECE sees its mission in maintaining a dialogue with EU institutions, "providing contributions that promote common good and a human-centered approach" (COMECE 2024b). COMECE's main decision-making body is the Plenary Assembly composed of bishops delegated by the episcopal conferences of every EU member state (COMECE 2024a) as well as observers from the Catholic episcopates of Serbia, Switzerland, Scotland, England and Wales (Ibid.).

As of May 2024, COMECE relies on a sixteen-strong secretariat team (COMECE 2024c) as well as six thematic commissions bringing together responsible bishops, secretariat members, sectoral experts nominated by member bishops' conferences and external observers. Its 2022 annual report lists 94 actions ("contributions" and "events") across nine policy areas: Migration and Asylum; Ethics, Research and Health; Ecology, Energy and Agriculture; Legal Affairs and Fundamental Rights; Social and Economic Affairs; EU External Action; Education and Culture; International Religious Freedom; Youth Policies (COMECE 2022d). This vibrant activity calls for a thorough analysis of its relevance, consistency, and impact.

COMECE is a well-known player in the civil society interest representation ecosystem in Brussels. In 2009, the Lisbon Treaty opened a new chapter in the relations between EU institutions and faith-based groups, introducing the requirement for the EU to "maintain an open, transparent and regular dialogue" with religious, philosophical and non-confessional organisations, "[r]ecognising their identity and their specific contribution" (Consolidated version of the Treaty on the Functioning of the European Union, art. 17). Although the Treaty establishes a legal framework for dialogue, it does not reflect the variety and complexity of interactions between COMECE, on one side, and EU policy-makers and other actors of the Brussels realm, on the other side.

In the past fifteen years, Leustean, Turner, Forêt and others have published a number of insightful papers on religious interest representation in Brussels. While the question of the influence of these groups is explicitly or implicitly present in most of



these publications, no book chapter or article, to my knowledge, has focused specifically and deeply on the question of COMECE's impact.

Some authors argue that the term "lobbying" is not well suited for faith-based interest representation groups ["COMECE is not a 'Catholic lobby' (amid a multitude of Brussels lobbies) promoting the interests of the Church" (Turner 2021: 370)]. However, most EU institutional authors and generalist scholars operate with broad definitions of lobbying, encompassing a wide array of action by civil society actors. Therefore, this thesis will use "lobbying" and "interest representation" interchangeably. At the same time, it may be useful in some contexts to distinguish between religious interest groups' actions aimed at defending their specific interests (e.g., tax exemptions for their registered communities) and advocacy of broader values and principles, having impact beyond these groups' own religious communities (e.g., support to Syrian migrants' rights regardless their eventual religious affiliation).

In the context of EU lobbying, Michalowitz gives the following definition of influence:

According to Weber [...], power is the ability of an actor to force another actor, even against their own will, to pursue a certain course of action. Influence may be understood as a weaker form of power. An actor is being persuaded to pursue a certain course of action, even if they initially did not wish to do so. When applying this definition, the question of whether or not persuasion has taken place is most likely to become visible in examining factors leading to policy outcomes and changes in decision-makers' initial intentions. It focuses on the position or mind change of influenced actors [...] (Michalowitz 2014: 134).

This definition seems well-suited for groups specialised in representing certain interests, principles or values in Brussels with the goal of orienting EU policy-making in certain directions. However, for COMECE's case, it seems that this definition might be enlarged. While COMECE's mission includes "[p]artnering with the EU political process in the areas of interest to the Episcopates of the European Union" and "[c]ommunicating to the EU institutions the opinions and views of the Episcopates of the European Union on the European integration process", it also encompasses "[m]onitoring the activities of the European Union and maintaining COMECE Member Bishops' Conferences informed of such developments". (Chapter 2 includes examples of how COMECE's action may be geared towards promoting awareness about European integration dynamics among Catholic bishops and communities of believers far beyond Brussels.) Also, some of COMECE's activities may not be geared to "changing the mind" of the EU policy-makers, but still have some kind of effect, voluntary or involuntary, in the "EU bubble" and elsewhere (for example, COMECE's interactions with non-Catholic Christian groups in Brussels may have an impact on ecumenical dialogue). This is why this research, unless otherwise stated, uses the terms "influence", "impact" or "outcome" in a broad sense to designate, as largely as possible, the spectrum of changes induced or made possible by COMECE's presence in the public sphere. At the same time, are excluded from this research any effects which may happen in the private sphere (*in foro interno*).

This thesis strives to develop a coherent approach to understanding COMECE's actual or potential impact and apply this approach to primary data collected through a set of expert interviews as well as from COMECE's website and official EU sources, in order to suggest answers to the following questions: How can one assess COMECE's impact in the public affairs of the European Union? What are the key sources, drivers and channels of this impact? Is COMECE willing and able to project impact by proactively setting agendas and framing issues, or does it mainly react to the initiatives of the EU institutions? This academic endeavour will hopefully lead to a better understanding of religious groups within the EU lobbying nebula and promote fruitful approaches to interest representation.

According to Greenwood, "the contribution that interest groups make to European integration depends upon their general alignment with the outlook of the EU institutions" (Greenwood 2017: 9). The same intuition is expressed by Forêt:

[T]he organizations constituting European religious civil society seem to comply with the rules of the Brussels game more often than they are able to change these rules in the name of their own specific beliefs. They have to adopt and conform to suitable discursive repertoires and organizational forms in order to be heard (Forêt 2015: 9).

This broad hypothesis may be tested in a variety of fields. The "outlook of the EU institutions" may incorporate, among other things, their values, democratic imperatives, legal framework and institutional architecture, decision-making methods, political will, policy agendas. "General alignment" may mean the interest group's will and ability to support the very principle of European integration, uphold its fundamental values (liberal democracy, rule of law, market economy combined with strong social concerns, etc.), accept the EU's rules and policy agenda, use its institutional language, constructively contribute to its legislation drafts. This thesis examines each of these aspects and analyses to what extent COMECE's impact may depend on its alignment with EU institutions.

In order to explore these questions, this thesis makes use of academic literature and policy documents related to EU decision-making and interest representation, as well as the role and place of religion in these processes, including specific sources on the representation of the Catholic Church and other Christian confessions in Brussels. The combination of these sources builds a comprehensive and original approach to COMECE's action, mobilising theoretical social science concepts as well as empirical data.

In terms of primary data, this thesis makes use of ten interviews with COMECE bishops and Secretariate as well as other stakeholders, as detailed in the bibliography. These semi-open qualitative interviews, conducted from November 2023 through February 2024, aimed to collect expert insights and opinions, in order to identify key patterns of COMECE's behaviour in the environment of EU public affairs and its perception by external stakeholders. Interviews began with general indicative questions varying from one stakeholder group to another (Annex 1). These indicative questions were intended to prompt broad, unrestricted answers from the inter-

viewees who were free in structuring their responses and introducing keywords deemed relevant. Subsequently, general questions were followed by more specific and suggestive ones, aiming to understand the perceived outcomes of COMECE's action (such as changes in decision-makers' attitudes).

Other important research methods are document analysis and content analysis, performed on COMECE's annual reports (from 2018 to 2022 included), press-releases, contributions to public consultations launched by the European Commission, and other publications. These sources help measure COMECE's output (such as number and scope of its actions). The interpretation of this output may present biases as COMECE's criteria for reporting or not reporting an action are not strictly defined (for example, an increase in the number of reported events may be explained by additional human or financial resources, increased productivity – or a change of counting methodology). However, these sources do reveal the ways COMECE wants to present and promote itself. Arguably, the choice of "events" and "contributions", their categorisation and framing are representative of COMECE's institutional behaviour and conscious or intuitive impact strategies.

Finally, the Transparency Register (TR) is a valuable source of information on interest groups in Brussels.

Chapter 1 presents a theoretical framework for analysing the impact of faith-based interest groups in Brussels. This chapter comprises a review of existing literature: from general sources on EU integration theories and interest representation to those focusing on the peculiarities of Christian and Catholic interest groups. It briefly reviews theoretical models and impact assessment tools, discusses their relevance and limitations. A combination of models and tools applicable to COMECE is thus composed.

In Chapters 2 and 3, the abovementioned theoretical approaches and methodological tools are applied to empirical evidence. This analysis reveals key patterns of COMECE's institutional behaviour, self-perception and self-promotion, as well as its perception by external stakeholders (EU institutions, peer groups). It identifies the ways in which COMECE aligns or not with the outlook of EU institutions, and the perceived outcomes of such alignments.

Chapter 2 focuses on the strategic level of alignment: how COMECE secures legitimacy as a civil society actor in the EU public affairs; how it views the very principle of European integration to what extent it aligns with the fundamental values of the EU, as laid out in the Treaties.

Chapter 3 deals with the tactical level of alignment through examples of specific policies supported or challenged by COMECE, as well as the latter's organisation and use of different channels of impact. Indeed, "interest representation is conditioned by the nature of the decision-making system in which it is embedded" (Greenwood 2017: 24), and advocacy strategies and results are defined to a large extent by the "political opportunity structures" provided by institutions to organised civil society (Ibid.). Focus is put on two environments potentially channelling COMECE's impact: "supranational" (dialogue with the European Commission) and "representative" (in-

teractions with members of the European Parliament). However, the “intergovernmental” channel (interactions with member state leaders sitting on the Council of the European Union or the European Council) is left outside the scope due to space constraints.

## **1. A theoretical framework for studying the impact of faith-based interest groups in Brussels**

### **1.1. General outlook: prerequisites for lobbying impact**

Greenwood underlines the “high degree of fragmentation of power and decision-making” (Greenwood 2017: 23) at the EU level, arguing that “no one type of interest can ever routinely dominate the EU political system” (Ibid.) and that “consensual decision-making produces pluralistic outcomes” (Ibid.: 22). Dealing more specifically with religious interest groups, Forêt states that “pluralism is the iron rule of coalition-building”, and that “supranational elites hesitate to tackle value issues head on” (Forêt 2015: 10). Therefore, a prerequisite for being a successful religious interest group in Brussels is to be comfortable with the diverse and pluralistic environment of the *quartier européen*; combine a certain level of ambition with an ability to humbly accept the dilution of one’s own impact and the dominant “moderate line” (Ibid.).

Also, Greenwood dedicates a chapter to the “channels of influence” and “routes” of communication, distinguishing between “national” and “Brussels” ones. At the EU level,

there are a plethora of political opportunity structures for organized civil society, but never in such a way as to upset the driving balance of power away from the institutions (Greenwood 2017: 54).

Lobbying success depends on the ability to act in the “multiple arenas, venues and points of access”, created by the “complex interplay between subnational, member state, and supranational tiers of authority” (Ibid.: 24).

The European Commission appears to be an essential interlocutor for interest groups due to its powers of legislative initiative, law enforcement and international representation. At this level, the impact produced by these groups will depend on their ability to contribute to the ideological definition and framing of issues, as well as the relevance of their technical expertise for the needs of policy-drafting (Ibid.: 25).

As the main organ of representative democracy at the EU level, the European Parliament offers civil society groups a platform for engagement (Ibid.). Besides, the Parliament’s attractivity for interest groups has increased over decades as its powers have grown from consultation through cooperation to codecision under the ordinary legislative procedure. Given its specificities,

[e]ffective interest representation in the Parliament [...] requires wider coalitions, better networking, and non-technical approaches, combined with an acute sense for regional or even local political priorities (Lehmann 2009: 40).

As for the Council, it has been “somewhat reluctant to accept that it is a venue for EU interest representation” (Greenwood 2017: 26), which shifts the bulk of interest representation to the national level. However, contacts with the rotating presidency of the Council are common for Brussels interest representation groups (Ibid.: 27).

Other EU institutions, such as the Court of Justice, the European Economic and Social Committee or the COREPER may also be approached by interest groups, although the scope of this thesis does not accommodate a discussion of their specificities.

As for the “national route”, its use is

conditioned by the role of member states in EU decision-making, the nature of the positions being taken, and by the extent to which it provides a convenient and familiar point of access for interests (Ibid.: 28).

For COMECE, the relevance and convenience of the “national route” need to be evaluated at the level of individual episcopal conferences which maintain relations with national public authorities and act in very diverse legal, cultural and social environments. Again, the format of this thesis does not accommodate a focus on the “national route”.

As already cited in the hypothesis above, Greenwood suggests that “the contribution that interest groups make to European integration depends upon their general alignment with the outlook of the EU institutions” (Greenwood 2017: 9). Indeed, the EU institutions have their own agendas and only allow interest groups to act within them, and to the extent to which these groups’ core values coincide with the “logic” of the European integration (Ibid.). The following section looks at this hypothesis through the lenses of available theoretical approaches to the European integration and the role of interest groups therein. From each approach, it will be important to select elements that could be helpful for testing the hypothesis.

## 1.2. Review of theories of European integration and lobbying: accommodating alignment opportunities of religious interest groups

While every theory listed below contributes to the understanding of certain aspects of the European integration and the role of lobbying, no single theory fully explains these complex phenomena. This is why it seems interesting to combine several theoretical approaches, each highlighting different aspects of the EU’s *sui generis* political system and identifying more or less room for religious interest representation.

### 1.2.1 Neofunctionalism

Neofunctionalism, originally inspired by Haas (Haas 1958), views the European integration as a pragmatic process based on transnational cooperation of elites seeking solutions for common political and economic problems. Two key concepts are linked to this theory: spillover effect (cooperation in one field creates incentives and conditions for joint action in adjacent fields) and loyalty transfer (as national elites regularly socialise with their counterparts from other countries, they develop supra-



national solidarities and identities and may start valuing supranational interests beyond national ones) (Ibid.). In this model, “interest groups have potential to carry the political messages of the EU institutions to member states and to (and from) wider civil society” (Greenwood 2017: 9). However, this assumption is regarded sceptically by Greenwood because of interest groups’ offices being too “narrowly focused upon policy advocacy with EU institutions” (Ibid.). In parallel, Forêt deems neofunctionalism unfit for explaining religious groups’ impact at the EU level (because of European integration being “totally interest-driven”, which leaves little space for religious ideals), and expresses doubts about the reality of spillover effect for the broader public of believers (suggesting that religious interest “representation” in Brussels is, in fact, a business of a handful of religious leaders who are hardly representative of the believers’ attitudes to European integration – or even of their spirituality) (Forêt 2015: 15-17). However, it may be too early to dismiss neofunctionalism as a theoretical framework for understanding religious lobbying in Brussels. Leustean views as a functionalist effect that “the political elites encouraged the establishment of transnational religious bodies, which could be future partners of dialogue” (Leustean 2009: 169). He also argues:

[S]pillover proved to be successful not only on economic issues but also on religious issues: the strengthening of dialogue between churches from Eastern and Western Europe; the Catholic Church’s declaration of Saint Benedict as the patron of Europe in 1964; the composition of prayers and hymns concerning Europe; and the increasing interests of religious communities towards establishing a united Europe (Ibid.).

The neofunctionalist approach may therefore be used in this thesis: strategic alignments between COMECE and the EU institutions may be viewed in terms of spillover effect from politics to religion (section 3.1); also, one of COMECE’s missions is to keep episcopal conferences across the EU informed about European integration, thus contributing to the European socialisation of elites (section 3.2 – although episcopal conferences may remain largely driven by national contexts and trends). However, because of space constraints, it will not be possible to study the attitudes of average self-declared Catholics towards the EU and the possible impact of COMECE’s action on them.

### 1.2.2 Intergovernmentalism

In the intergovernmentalist approach, developed by Hoffmann (Hoffmann 1963: 521-549) and updated by Moravcsik (“liberal intergovernmentalism”) (Moravcsik 1998), member states are the sovereign drivers and controllers of the European integration process. They are powerful rational actors with clear preferences who engage in bargaining, cooperation and collective decision-making to pursue their national interests. In order to better achieve the negotiated objectives, member states confer competences upon supranational institutions which carry out “low politics” (policies) as opposed to “high politics” (negotiation of strategic decisions at intergov-



ernmental summits). While intergovernmentalism is well-suited to explain the negotiation of the Treaties, it may fail to take into account member states' changing positions or non-state actors' influence.

This state-centred approach leaves little space for the impact of supranational religious groups. According to Forêt, it "reflects member states' jealous defence of their prerogatives when it comes to regulating religion" (Forêt 2015: 18) (indeed, church-state relations are outside of the scope of EU competences). Also, although Forêt is ready to admit that non-state religious actors (such as COMECE) may play a certain role in EU "low politics", he finds their influence on "high politics" hard to assume (Ibid.). However, intergovernmentalism does not forbid religious actors to follow the "national route" of influence in the EU affairs (this could be discussed in a separate piece of research).

### **1.2.3 Multilevel governance**

The two abovementioned theoretical approaches (neofunctionalism and intergovernmentalism), in various combinations, have dominated the European studies since the late 1950s – early 1960s. Developed in the 1990s, the multilevel governance approach "does not confront the sovereignty of states directly" (Hooghe and Marks 2001: 27), but emphasises the complex interplay between levels of governance (supranational, national, regional, local) and the dilution of individual state sovereignty "by collective decision making among national governments and by the autonomous role of [supranational institutions]" (Ibid.: 2). In this model, non-governmental interest groups participate in the dilution of sovereign states' control at various levels, for example by suggesting policy initiatives to the Commission (Ibid.: 13). Also, the multilevel governance model stresses the difficulty of tracing the responsibility and impact of individual actors in the EU decision-making (Peterson and Bomberg 1999: 38). This thesis acknowledges the difficulty of process tracing for assessing the impact of a religious interest group such as COMECE (section 1.3), but also the inevitable dilution of impact in a pluralistic system.

### **1.2.4 Neoinstitutionalism**

(Neo)institutionalist approaches, developed by Pierson (Pierson 1996: 123-163), among others, emphasise the role of institutions not only as bodies producing formal rules, but also, in a very broad sense, as shapers of actors' behaviours, practices and interests (Rosamond 2022: 86). Thus, actors might modify their preferences and strategies in order to be in tune with the institutional environment, thereby implicitly validating this environment. This approach is well-suited to explain the propensity of religious interest groups to align with the outlook of the EU institutions. However, it is more difficult to view religions themselves as institutions shaping behaviours and interests in the context of today's EU: as underlined by Forêt, today institutionalised religions and their leaders in Europe have little moral or political control over believers (Forêt 2015: 22), and religion as a normative resource is weak (Ibid.: 4).

### 1.2.5 Social constructivism

This theoretical approach focuses on

how human agents interact in ways that produce structures (be they norms, institutions, shared cultural understandings, or discourses) that simultaneously shape and influence social interaction (Rosamond 2022: 90).

In this framework, interests and identities of EU integration actors are not given or fixed, but socially constructed, and “institutions act as arenas for communication, deliberation, argumentation, persuasion, and socialization” (Ibid.). This approach is rather accommodating for the influence of religious groups insofar as they are able to articulate and shape ideas and norms, thereby creating meaning and framing policy choices (Ibid.). Due to the decentralised nature of this model, there is leeway for interest groups to express their concerns, be proactive and even challenge the EU institutions’ outlook. However, as already stated, interest groups must accept competition and dilution of their voice in the polyphonic EU environment. Also, in this decentralised model, horizontal networks and alliances become key (in COMECE’s case, these may be Catholic, ecumenical, interreligious, etc.). Chapters 2 and 3 analyse how COMECE promotes Catholic thinking as a source of meaning and sense for European integration. Also, examples of COMECE’s partnerships for impact will be provided.

### 1.2.6 Neopluralism (Interest group theory)

Theoretically developed by mostly American scholars in the twentieth century, pluralism describes a “political system of multiple pressure points within governing institutions allowing (even encouraging) numerous organized interests to compete over the shape of public policy” (Holyoke 2020: 1). In this model, the government acts as a neutral “referee” of interest groups, “weighing up the arguments of both sides [...] and determining the course of action most in the ‘public interest’” (Hix 1999: 189). However, this neutrality is practically impossible to achieve because larger and richer groups will tend to dominate the system, and also because incentives to defend private interests are, by default, stronger than incentives to mobilise in favour of public interests (Ibid.). In order to correct this asymmetry, the government may want to cease being neutral and adopt an activist position in favour of underrepresented public interest (Ibid.: 190). Such a neo-pluralist model of interest intermediation is quite visible in the work at the European Commission [for example, the Commission funds environment protection NGOs such as the WWF (World Wide Fund for Nature 2024)].

In a neo-pluralist system, the hypothesis of alignment with the outlook of the government makes both strategic and tactical sense for interest groups: if the government is not neutral but endorses an activist position, then identifying this position and coming within its scope becomes an important success factor for interest groups. In this scenario, even a small interest group may become impactful if its inputs resonate with the government’s position (while in a purely pluralistic model size matters, which makes horizontal alliances a key strategy).

### **1.2.7 Access goods theory**

This approach presents lobbying as a mechanism of interdependence between interest groups and European institutions. According to Bouwen (2004: 339), “[i]t is a mistake to regard business lobbying as a unidirectional activity of private actors vis-à-vis the EU institutions. It needs to be recognized that the EU institutions are eager to interact because they need close contacts with the private sector in order to fulfil their institutional role.” Interest groups are granted access to EU decision-makers in exchange for providing three kinds of relevant information: “expert knowledge”, “information about the European Encompassing Interest”, “information about the Domestic Encompassing Interest” (Ibid.: 340). This framework seems favourable to the hypothesis of COMECE’s alignment with the outlook of the EU institutions: indeed, an interest group only gains access to decision-makers if the latter demand information supplied by the former. Chapter 3 features examples of “access goods” provided by COMECE and analyses the related supply-demand dynamics.

### **1.3. Criteria and tools for impact assessment**

This section enumerates several practical criteria and tools that could be applicable to COMECE and discusses their relevance for the present thesis.

#### **1.3.1 Fowler and Liedhegener: sequential influence model shaped by political regimes and systems**

Liedhegener (2013: 186) emphasises that “the political regime and its underlying political culture constitute a rather rigid framework [...] for any kind of political influence of religion”. He then discusses Fowler’s (2004) pyramid of influence factors of religious groups (theological outlook of a given confession, its internal unity and strategic position within the political context) and enriches it with the features of the governmental system. The result is a model incorporating four sets of factors analysed in a sequential order:

- 1) external conditions of action: deep societal structures which cannot be changed quickly (for example, transnational religious traditions or cleavage structure of society);
- 2) internal conditions of action (heritage, size, membership ties, organisation of a religious group);
- 3) internal conditions of political success (convergence of political positions, attitudes, and interests inside the group);
- 4) external conditions of political success – receptivity of the public, relative position to the party system, competition or cooperation with other interest groups, the final factor leading to political success being the structure of the governmental system (Liedhegener, 2013: 188).

Liedhegener’s conclusion is closely linked to our hypothesis: structures and strategies of political Catholicism are shaped by internal and external factors, among

which the political regime and institutional architecture of the lobbied entity play a key role. A *sui generis*, multi-level political system such as the EU calls for a *sui generis*, multi-level political Catholicism:

Catholicism in the EU is a mixture of interests of different national Catholicisms, transnational concerns of the Catholic Church and various policy networks shaped by the demands of the emerging EU political system (Ibid.: 195-196).

This aspect will be empirically developed in Chapters 2 and 3.

### 1.3.2 Dür: three complementary but problematic methods

This section draws on Dür's attempt (2009: 561) to stimulate research on the impact of interest groups in Brussels. He identifies three methods of measuring influence: process-tracing, "attributed influence", and assessing the degree of preference attainment.

For the purpose of studying COMECE's impact, full-fledged process tracing cannot be relied on for several reasons. First, as confirmed in an interview with the European Parliamentary Research Service (2023), process tracing is extremely hard to conduct even for EU institutions (such as the Parliament), due to significant degree of impact dilution and impossibility to follow all stages of the process, but also due to the inherent flaws of this method underlined by Dür (2009: 563-564). Second, the scope of the thesis does not accommodate an objective, 360-degree investigation of links between COMECE's contributions and policy outcomes.

Elements of the "attributed influence" method were used in the interviews (interviewees were asked, among other questions, "how would you evaluate COMECE's impact?"). While one must acknowledge the weaknesses of this method for assessing influence in absolute terms (subjectivity, biases, interviewees' lack of information or analytical capacity) (Ibid.: 565-566), it may produce interesting results in relative terms (for example, to compare impact of several interest groups, or to identify factors fostering or lowering impact). The third method, assessing the degree of preference attainment, is quite easy to apply, at least formally, by comparing adopted EU texts against an interest group's contributions. However, this method is tricky precisely because of possible alignment choices of interest groups, but also because of the pluralistic and multi-vector nature of EU decision-making. If the comparison identifies proximities, do they come from influence exercised by the interest group upon decision-makers, or, on the contrary, from the interest group's embracing decision-makers' vision? Or are both sides simultaneously inspired by a third actor or an external event?

Thus, Chapters 2 and 3 will employ some of methods described by Dür, keeping in mind that they may lead to more questions than reliable answers (even when used in a combined way), especially for research projects that lack scale and cannot afford massive data-collection.

### **1.3.3 Mudrov: resources and national rootedness**

Mudrov's approach to the cooperation of religious groups with EU institutions is incorporated within the framework of social constructivism, as the latter accommodates "inclusion of identity and nonstate actors into the analysis of European integration" (Mudrov 2014a: 512). He identifies at least four criteria for assessing their impact:

- 1) when their EU representation office was opened (assuming that longevity creates fruitful links in political circles);
- 2) team headcount and "stated objectives" of the office (broad or narrow issues);
- 3) if the represented religious confession is politically influential in EU member states, and thereby able to influence EU institutions through national authorities;
- 4) if the level of religiosity in the member states is high enough to suppose that their representatives in Brussels (i.e. MEPs) will be willing to support the representation of the confession and its initiatives (Mudrov 2014b: 65).

The first two criteria are related to resources (longevity, human resources, thematic outreach). While the availability of quantitative resources should definitely be viewed as a potential factor of influence, the qualitative dimension should not be overlooked: indeed, an older office and a larger team do not become successful until they demonstrate ability to accumulate expertise and social capital in order to produce impact.

The third and the fourth criteria have to do with what Greenwood calls the "national route" (section 1.1) and the social significance of a given confession. While the "national route" is not specifically studied in this thesis, religiosity and secularisation may be taken into account when studying COMECE's social representativity and the religious background of EU decision-makers (sections 2.2 and 3.2).

### **1.3.4 Other criteria for impact assessment**

Finally, two additional criteria may be inspired by the European Commission's "Better Regulation Guidelines", listing five dimensions for evaluating a public policy: effectiveness, efficiency, relevance, coherence and EU added value. "Coherence" means consistency with other EU policies or international obligations, in line with the EU's core values and objectives. "EU added value" refers to the additional results enabled by action at the EU level as compared to the sum of efforts by individual member states (European Commission 2021a).

One may transpose these criteria for a religious body (principal) having a representation office in Brussels (agent). However, these factors may contribute to impact in divergent and sometimes even mutually weakening ways. If the agent's lobbying action is consistent with the principal's core values (i.e., Catholic teaching such as promoted by episcopal conferences), it will be easier for the agent to secure resources and support from the principal. At the same time, the agent may achieve impact (added value) at a price of a greater distance from the principal, engaging in compromises and developing "European" solidarities and preferences which may not be the

principal's (Michalowicz 2004: 43-46). Thus, the agent's alignment with the dominant Brussels trends may create added value, but undermine consistency and therefore the agent's sustainability. Sections 3.1 and 3.2 will explore COMECE's positioning among various Catholic actors and discuss the agent-principal relation.

## 1.4 Conclusion

Thus, the subsequent chapters will study COMECE in terms of spillover effect (how legal and political integration creates opportunities for new forms of organisation and action of religious bodies) and supranational elite socialisation (how a Brussels-based Catholic institution aligns with European preferences and solidarities which make it a distinct body within the Catholic Church). This analysis will be closely linked to the neoinstitutionalist insight of institutions shaping actors' behaviours. This choice limits the space for social constructivist and classical pluralist interpretations: although different worldviews and interests can compete for influence at the EU level and contribute to the European integration processes, this competition happens in an environment defined by the EU institutions (Commission, Council, Parliament) which are selective in their reception of external contributions. However, this neoinstitutionalist inspiration may well be concordant with neopluralism (activist government). As emphasised in Fowler-Liedhegener's model of influence, the institutional system is the gatekeeper, able to filter the influence of even the largest and most active religious interest groups.

Due to space constraints, this thesis will not deeply study the multiple and heterogeneous "national routes" of influence. For the same reasons, a multi-level governance approach could inspire a separate research project on the Catholic presence in the EU public affairs, making good use of Mudrov's criteria based on national rootedness.

This thesis will study COMECE primarily as a Brussels phenomenon, well-embedded in the EU political "bubble", monitoring the EU institutions' agenda and supplying the relevant access goods demanded by these institutions in order to gain access to them and make its voice heard. Practically speaking, its main tools will be the measure of "attributed influence" through interviews and secondary sources; analysis of "preference attainment" through document analysis and content-analysis; analysis of outputs as declared in COMECE's annual reports; as well as an attempt at evaluating the coherence and added value of COMECE's action.

## 2. Strategic alignment: sharing the european integration fundamentals

This chapter focuses on long-term alignment strategies, providing the basis for COMECE's impact as an EU interest group. Such strategies may be identified at three levels: ensuring that COMECE is accepted as a legitimate participant of the public debate; articulating its attitude to the principle of European integration; defining COMECE's position with regard to the EU's core values. The first level is key, as impact



may vary in quantitative or qualitative terms depending on the legitimacy type and degree of recognition.

## **2.1. Securing legitimacy as a religious interest group in Brussels**

### **2.1.1 Article 17 TFEU as a legitimacy safeguard**

The very existence of Article 17 “can be seen as a result of a long campaign conducted by Europe’s historic Christian churches, as represented principally by COMECE [...] and CEC [...]” (Madeley 2013: 47). Interview with the European Parliament Research Service confirms expert perception of this provision as an achievement of faith-based lobbies and specifically of COMECE (Interview EPRS, 2023).

Although the Catholic Church was present in the Brussels lobbying realm for decades before the Lisbon Treaty, this article is important as it simultaneously recognises the “specific contribution” of churches, philosophical and non-confessional organisations to European integration and creates a basis for new opportunities through an “open, regular and transparent dialogue” with EU institutions (TFEU, art. 17.3). Therefore, Article 17 may be seen as both a result of past impact and a legal basis for future impact. As a COMECE bishop put it, “legitimacy stems from legality” (Interview COMECE 2024a).

COMECE’s communication on Article 17 is extensive: in 2018-2022, every annual report featured a section on its implementation, notably through “high-level meetings” with EU leaders. Although Leustean considers that these meetings are mostly “photo opportunities” (Leustean 2011: 310), these encounters are symbolically important as they validate COMECE’s place in the public debate. Almost all interviewees mentioned them as important elements of EU-COMECE dialogue. They may also be analysed in the spillover effect framework: political and legal integration creates opportunities for supranational sociability of religious and philosophical elites.

Thus, Article 17 may be viewed as a “minimum guarantee” of access to EU institutions for COMECE and other religious actors. However, this legal provision alone is not sufficient for a frequent and meaningful dialogue. Which other levers need to be activated to secure decision-makers’ consideration?

### **2.1.2 Three legitimacy challenges**

In order to fruitfully participate in the debate on EU policy-making, a religious group may need to tackle at least three legitimacy challenges.

First, some authors challenge Article 17 arguing that it unduly favours religions over non-confessional organisations. Prominent humanist figures attribute disproportionate influence to religious groups, “hierarchical, wealthy and well established in the corridors of power” (Madeley 2013: 49). According to them, Article 17 is only seemingly egalitarian: in reality, it favours religions, given their allegedly larger resources (Pollock 2013: 128-129).

Second, some political philosophers argue that religion is a “conversation stopper” (Rorty 1994: 1-6): because religious premises are not universally shared, faith-based arguments should not be acceptable in the public debate.

Third, one may argue that the EU, “ever since its infancy as a European Common Market, has ostensibly concerned itself almost entirely with this-worldly, secular matters” (Madeley 2013: 57), which makes “theological” contributions irrelevant. How may these challenges be tackled by a Christian interest group?

### 2.1.3 Countering allegations of preferential treatment

It may be tricky for religious groups to counter favouritism allegations, as the burden of ensuring a fair treatment of all Article 17 actors lies primarily on the EU institutions.

Interviews with Commission and Parliament representatives show that they enjoy a wide margin of discretion when choosing the degree of engagement with various Article 17 partners. A greater access to decision-makers is not granted to all, and criteria are not always explicit. An organisation’s “constructive” behaviour, “good faith”, expertise on EU policies were quoted as favouring engagement, while groups deemed “too politicised”, “aggressive” or “scandalous” had fewer chances to receive much institutional consideration (Interview European Commission 2023a). The Commission’s guidelines on this subject leave a significant margin of interpretation:

The topic and format for a specific initiative are chosen jointly by the Commission and the respective interlocutor in a spirit of constructive mutual understanding. The fact that the Commission chooses not to sponsor a particular initiative or the interlocutor prefers not to participate in a specific Commission initiative should not imply that either are in breach of their obligations or do not wish to enter into dialogue (European Commission 2017).

Given this margin, it is difficult to validate or dismantle allegations of favouritism. However, interviewed EU officials noted COMECE’s “constructive” attitude and high “technical” competency, as well as its leaders’ political acumen, as drivers of enhanced dialogue (Interview European Commission 2023a).

Also, interest groups may respond to allegations of preferential treatment by showcasing their compliance with deontological rules, notably by opting for inscription on the Transparency Register. The use of the TR “has become an attractive target for organizations to advertise themselves to a broader audience using an EU institutional platform” (Greenwood 2017: 60). COMECE’s website features a dedicated page on transparency (COMECE 2024e). Also, COMECE’s policy is to rely exclusively on EU episcopal conferences’ financial contributions for the sake of independence, and to avoid seeking or accepting any other funding (Interview COMECE 2023b). Such choices may not only serve the narrow purpose of EU lobbying, but also be part of a broader communication strategy of COMECE’s principal (Catholic elites in EU countries).

Another strategy to counter favouritism allegations may be to plead pluralism. Rather than acting alone, COMECE prefers to build alliances whenever possible (Ibid.). In these alliances, its impact may be diluted by compromises, but simultan-

eously amplified by increased social representativity. However, these alliances tend to remain religious: all institutional partners (apart from EU institutions) listed on COMECE's website as of March 2024 are of Christian pedigree (CEC, RCF, KNA, Caritas, FAFCE, etc.). Also, an MEP affirmed that COMECE had good connections with Muslim and Jewish leaders (Interview MEP 2023). Such pluralism is unlikely to convince secularists who oppose any religiously inspired arguments.

Objectively, this thesis can neither validate nor dismiss allegations of preferential treatment. It may be possible that some EU officials (consciously or sub-consciously) listen to COMECE more than to other lobbyists because of the sheer size of the Catholic community and its long historical presence in Europe. However, none of the interviewees mentioned them as COMECE's impact factors. Is it because these factors are too obvious to be mentioned, or because they are too difficult to admit explicitly? In any case, they do not automatically entitle COMECE to impact, as other legitimacy mechanisms seem to matter.

#### **2.1.4 Ability of "institutional translation"**

As underlined by Madeley, since the 1990s secularist stances in the normative debate on religion in the public sphere tend to be "softened": major political philosophers embrace the view of mainstream religions as "supportive of constitutional democratic regimes" and therefore eligible "to be welcomed into the circle of democratic debate" (Madeley 2013: 51). In this "post-secular" approach, "all that is required [...] is the epistemic ability to consider one's own faith reflexively from the outside and to relate it to secular views. Religious citizens can well recognize this 'institutional translation proviso'" (Habermas 2006: 9-10).

In COMECE's communications, there is a strong level of declared support of democratic and pluralistic forms of governance, albeit with conditions. Also, although COMECE's Catholic identity is clear and visible, it uses "religious" vocabulary very sparingly. Annex 2 shows how often "God-related" and "human-related" terms are used in COMECE's annual reports. The table reveals extremely low prevalence of "divine" terms compared to "human" and "citizen" terms. While the former are not entirely banned, they are definitely not in the limelight. Although terms such as "spiritual" or "faith" are relatively frequent, the context of their use is mostly that of pluralism ["G-20 Interfaith Forum" (COMECE 2020: 34), "Brussels-based faith organisations" (COMECE 2021c: 32)] or sustainability and eco-awareness ["Eco-Spirituality Workshop" (Ibid.: 18-20)]. As put by a COMECE interviewee:

Our mission as COMECE is related to EU legislation and policies, and our initiatives and proposals are expressed using the language, terms and arguments present in these legislative and policy texts (Interview COMECE 2024c).

Another example of COMECE's "translation" ability is the promotion of "a work-free Sunday for all": the recent call to establish an EU-wide synchronised day of rest mobilises mostly non-religious arguments ("protect workers' health", "promote a better work-life balance", fight "loneliness and related mental health issues"). Opportun-

ities for worship and “religious engagement” are mentioned only alongside with community and social time. Faith-based arguments are understated: Sunday is proposed as the day of rest “by tradition”, not as a direct result of theological reasoning (for example, as the day of Jesus Christ’s resurrection) (COMECE 2024d). At the same time, invoking “tradition” may be a way of indirectly favouring Christian workers over Muslim or Jewish ones, whose prescribed rest days are not Sunday.

### 2.1.5 Representing God vs. representing human

Finally, the view of Christian churches as focused on transcendency and therefore irrelevant for discussing “this-worldly” matters may be deconstructed theologically. Mainstream Christian traditions offer resources for non-antagonistic conceptualisations of spiritual and material, sacred and worldly, divine and human. Loving and serving God is inextricably linked to loving and serving the poor, the prisoner, the sick, etc. (cf. Matthew 25:40). Indeed, *“la théologie [...] ne parle pas de Dieu sans parler dans le même mouvement de l’être humain saisi dans son historicité et aux prises avec ce qui constitue le monde dans son irréductible pluralité”* (Causse 2008: 17).

The Second Vatican Council’s constitution *Gaudium et Spes*

focuses its attention on the world of men, the whole human family along with the sum of those realities in the midst of which it lives (Second Vatican Council 1965b: Preface).

In the same spirit, COMECE’s declares that its action must “take place in a way that promotes and protects the common good, in the light of the joy of the Gospel of Christ” (COMECE 2017: 1), explicitly stating the link between faith and societal commitment. The spiritual-temporal gap is bridged without confusion but in a mutually enlightening way:

*Pour nous chrétiens, [...] cet appel de vivre en pèlerins apporte un éclairage particulier à notre responsabilité de citoyens et d’acteurs politiques engagés. Notre avancée vers le royaume de Dieu est inséparable de notre engagement au service de la communauté politique* (COMECE 2006: 85).

Thus, one may argue that the catchy title of Madeley’s chapter “*Deus ex machina*. Representing God on the stage of the European Union” understates an important aspect of COMECE’s action. Indeed, its day-to-day mission may consist less in “representing God” than in representing a certain vision of the human person and society.

The next section will deal with the second level of strategic alignment: that of support to the principle of European integration as carried out since the 1950s.

## 2.2. Supporting the principle of European Integration: a two-way process

### 2.2.1 Long-term positioning: a “critical friend”

Kratochvil explains the Catholic Church’s support to European integration after World War II by five essential reasons (search for new peace architecture, dream of

European unification under the same institutional roof, the Church's universal and supranational identity, distrust towards the European state, desire to stop Communist expansion) (Kratochvíl 2021: 443-444). While these explanations cannot be developed here, let's take for granted that the Vatican elites have approved the idea of European integration since its beginnings in the 1950s strongly, but not unconditionally: their support has had various caveats and critical notes (Ibid.: 445-447). Also, the elites' attitudes may not reflect those of average believers or church-goers.

COMECE's support to the European integration generally seems to follow the Vatican's pattern of a "critical friend", although its tone may be somewhat different from the Holy See's (section 3.1). COMECE frequently emphasises its institutional euroenthusiasm, usually in association with adjectives describing the desired integration vectors:

The European project of a Europe united in diversity, strong, democratic, free, peaceful, prosperous and just is a project we share and for which we feel ownership (COMECE 2024f).

This support may be framed in different ways: as a legacy from the past, an action plan for the future, or a combination of both. To what extent may these forms of alignment be efficient in conveying impact?

## 2.2.2 The legacy of the "fathers": reversed alignment?

Quite justifiably, COMECE refers to the role played by Catholic values and individuals in the history of European integration:

Many of the founding fathers of the European Union were committed Catholics who maintained a strong belief in the dignity of every human being and the importance of community (Ibid.).

In another document, after an introduction on Robert Schuman's transforming vision for Europe, believers are exhorted to engage in public action:

I would also like to suggest that we need more men and women of vision, inspired as the case may be by the Christian gospel or by a profound commitment to humanitarian values, to keep the European dream alive. [...] Might those of us who engage in life on the public square, with the social teaching of the Catholic Church as our guide and touchstone, not contribute, as citizens and believers, to creating a Europe we would be proud to pass on to the next generation? (Marx 2013).

Here, although Christian beliefs are not the only option available, Schuman's action is framed in a closed connection to faith as a source of meaning. This link between faith and action is also emphasised in the homily for Jacques Delors's funeral:

*Jacques Delors, nous le savons, était croyant, profondément avec pudeur, simplicité, mais aussi enracinement. [...] L'homme croyant ne peut pas vivre replié sur lui-même [...]. Jacques Delors a toujours voulu sa vie tournée vers les autres, ses proches, sa famille mais aussi tous ceux qu'il a rencontrés, aidés, accompagnés dans ses multiples engagements syndicaux ou politiques (Hérouard 2024).*



Examples of great Catholic figures of European integration definitely contribute to COMECE's alignment with the EU, showing how Catholic faith can be productive in achieving European goals. However, this alignment is reversed, a "social constructivist" perspective replacing the "neo-institutionalist" one: Schuman and Delors are examples of how Catholic values and individuals may shape the EU. Appealing to their legacy is a way of proactively reminding the EU about its fundamental vocation:

*Il me paraît important aujourd'hui de rappeler les fondements [...] de la construction européenne en général, qui historiquement sont liés au sortir de la Seconde Guerre mondiale et la construction de la paix. C'est très intéressant et significatif de relire ne serait-ce que la déclaration de Robert Schuman en 1950* (Interview COMECE 2024a).

Highlighting belonging to the venerable Christian Democrat tradition is therefore a way of positioning COMECE in the "EU bubble". However, the outcomes of such "reversed alignment" are unclear. When asked about their dialogue with COMECE, interviewees from EU institutions never mentioned the Christian identity of "founding fathers" as a reason for more engagement. Also, in Schuman's uniformly admiring "official" biography, no mention of his spiritual background or beatification process can be found (European Commission 2024a). Also, the young wave of European MEPs and civil servants is culturally quite distant from De Gasperi's or Pflimlin's generations (Forêt 2015: 76-79), and the European People's Party has been drifting away from its Christian Democrat roots for the sake of "tactical broadening" (Ibid.: 56). Overall, "the EU as a polity is adamantly secular and secularizing" (Ibid.: 280). Thus, being part of the Catholic tradition of European thought does not seem to automatically entitle COMECE to impact: other levers must be activated.

### 2.2.3. Education for the European project: reversed representation?

Another important form of alignment is promoting the European project among Catholic clergy and faithful. While COMECE's bishops and its international Secretariate recognise the fundamentally positive effects of European integration and contribute to discussions on its shape, not all Catholic citizens and bishops share this commitment – especially since the 2000s enlargements. Several interviewees mentioned COMECE as a bridge able and expected to convey information about European integration opportunities and challenges to the diverse episcopal conferences of 27 member states:

I know that [COMECE has] the contact with the episcopates. [...] I think that this is very important, especially when some of the national churches are not very keen on EU. That's why it's important then to keep this kind of bridge with European institutions, because if [dialogue] depended on the national churches, it wouldn't be very effective (Interview MEP 2023).

I would see as our mission [...] to train our own bishops. [COMECE] member bishops are changing. [In some countries, t]he Church has had a tradition of engaging employees in EU relations: Germany, Austria, Luxembourg. Other conferences are traditionally more distant, do not have expertise, do not have resources. So it could



be a mission to train the bishops: encourage them to be active in the public life (Interview COMECE 2023a).

Other actions, such as the Interfaith Youth Convention on the European Green Deal, are directed at lay believers. Although focusing on a specific policy area (sustainable development), this event is framed in a broad way with regard to European integration:

The proposals and this report are a reflection of the commitment of young people of faith to a shared European project, the care for our Common Home, and their aspirations for the future of the European Union and its role in the world (Interfaith Youth Convention on the European Green Deal 2021: 3).

Also, COMECE's communication on this event emphasises engagement with non-Catholic communities. The opportunity to communicate with the European Commission's Executive Vice-President is an encouragement for believers to participate in the public debate. The link between religious faith and public action is the sense of purpose and moral choice (Ibid.: 2).

This may be seen as a neofunctionalist loyalty transfer mechanism, whereby europeanised elites diffuse supranational messages top-down. This may also be called "reversed representation", as an interest group promotes the lobbied entity's agenda with its own principal and within its broader social base.

Such actions have chances of producing double outcomes: inducing attitude change at the national and local levels, while stimulating EU institutions' demand for this particular access good (getting in touch with a sample of young citizens, willing to bring value to EU policies). Indeed, the Interfaith Youth Convention was spontaneously quoted by a Commission official as an example of significant COMECE's initiative, which is an indirect impact indicator (Interview European Commission 2023a).

Thus, COMECE represents the Catholic lineage of European integration, carrying on the tradition (or what remains of it) and not hesitating to "remind" EU decision-makers of the intuitions of the "founding fathers". However, in the secularised environment of EU institutions, such messages are likely to be filtered according to the decision-makers' secular agendas, and potentially attract less attention than messages coming from pluralist interreligious coalitions. Also, by promoting the principle of European integration among bishops and believers, COMECE positions itself as an ally of EU institutions and simultaneously fosters its own pool of support, stimulating production of ideas and grassroots initiatives.

COMECE's active support to European integration is therefore a salient feature of its dialogue with EU decision-makers and an important impact factor. However, the devil is in the details: which values is the European project based on?

### **2.3. Translating, nuancing and selecting values**

Despite the historic contribution of prominent Catholics to European integration, finding a common value ground with EU institutions may be challenging for a

Catholic interest group. On the one hand, McCrea echoes the “institutional translation” proviso: “religions are participating in public life but on terms which do not accommodate religiously based arguments in public debate” (McCrea 2013: 231). On the other hand, Turner considers that Catholic foundational beliefs and principles “cannot be coherently articulated in the language of secularity alone” (Turner 2021: 369). Thus, COMECE faces the need to strike a subtle balance between, on the one hand, embracing the EU’s secular values to be more audible, and on the other hand, witnessing the Catholic faith to be loyal to its principal’s evangelisation mission. This task may be facilitated by overlaps in these two sets of values, but also complicated by diverging definitions of many key terms.

### 2.3.1 EU Treaties and Catholic social doctrine: overlapping but not identical value sets

The Treaty on European Union (art. 2) defines the EU’s core values in the following manner:

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.

Also, art. 5.1 states:

The use of Union competences is governed by the principles of subsidiarity and proportionality.

In the post-Vatican II Catholic Church, the Compendium of the Social Doctrine introduces four fundamental concepts: human dignity, common good, subsidiarity, solidarity. These concepts are applied to family, work, economy, politics, international relations, environment, and peace-building, providing “the principles for reflection, the criteria for judgment and the directives for action” (Pontifical Council for Justice and Peace 2004: §7).

It would be tempting to conclude that these two sets of principles converge on certain terms, such as human dignity, subsidiarity or solidarity. However, use of identical terms does not mean agreement on their definition and implications. As expressed by an interviewed MEP:

This is not a question of terminology, but a questions of the content. You have the extreme left for example, who are absolutely anti-Church, and for them one of the most important problems is human dignity. The notion is coming from the social teaching of the Church, but of course the way of using this can be different. [...] Through this kind of using terminology and playing with the words, you can completely change the whole situation. [...] You have to understand what is behind (Interview MEP 2023).

Therefore, COMECE’s value alignment strategies are complex: they include conditionality, interpretation, and selective focus.

### **2.3.2 Value conditionality: yes to human rights, but not any human rights**

The Compendium of the Social Doctrine dedicates its Chapter III to the human person and human rights, framed as follows:

[T]he roots of human rights are to be found in the dignity that belongs to each human being [...] The ultimate source of human rights is not found in the mere will of human beings, in the reality of the State, in public powers, but in man himself and in God his Creator (Pontifical Council for Justice and Peace 2004: §153).

In this framework, “human rights are indeed universal, but only those that advance human dignity” (Kratochvil 2021: 447) in its Catholic definition. The concept of human dignity is used by COMECE both reactively [for example, reacting to the EU Pact on Migration and Asylum (COMECE 2023c)] and proactively. For example, the program of COMECE’s event “Human Dignity and Resilience: Migrants and Hosting Communities” did not explicitly mention human rights, suggesting an alternative view of the human person, overlapping with but not identical to the scope of EU human rights (COMECE 2021a).

Inversely, on rights which do not match the Catholic definition of human dignity, COMECE may be in a clear-cut opposition to EU institutions. In response to the European Parliament’s resolution on abortion rights (European Parliament 2022), COMECE’s General Secretary published a statement warning against “a deviation from universally recognized human rights” (suggesting that some rights are not universally recognised and therefore divisive). The arguments used do not directly invoke Catholic moral teaching, but warn the Parliament against acting beyond its competence, jeopardising other rights and “social cohesion” (COMECE 2022c). One may see here the familiar trend of understating religious notions and “translating” Catholic discourses into secular terms (section 2.1).

### **2.3.3 Value interpretation: the case of “Guidelines for Inclusive Communication”**

In November 2021, COMECE reacted to the European Commission’s internal “Guidelines for Inclusive Communication”. This document advised employees to replace “Christmas time” with “holiday times”, prefer “first name” over “Christian name” and avoid choosing “names that are typically from one religion” (European Commission 2021b). COMECE reacted by affirming its support of equality, non-discrimination and inclusiveness (a reminder of Article 2 TEU), but with implications different from those of the Commission’s authors:

Respecting religious diversity cannot lead to the paradoxical consequence of suppressing the religious element from public discourse [...] The valuable premise of inclusiveness should not cause the opposite effect of exclusion (COMECE 2021b).

The press-release ends with an indirect affirmation of overall support to the EU and its institutions:

COMECE expresses its concern for the damage this circumstance may have brought to the image of the EU institutions and to the support for the European project in the Member States (Ibid.).

In this example, as COMECE intensely opposes a Commission's position, it relies on the very same values, but with an alternative interpretation.

Although it would be too risky to directly attribute the guidelines' withdrawal to COMECE's intervention<sup>1</sup>, "preference attainment" method shows that a) COMECE's goal was achieved, and b) in this process, COMECE's fondness for certain fundamental values of the EU was reemphasised.

### 2.3.4 Selective focus: the example of religious freedom

The policy area "International Religious Freedom" (before 2020, "Freedom of Religion") in COMECE's annual reports totals 37 registered contributions and events over five years (Annex 4). This policy area takes a significant proportion of COMECE's attention compared to its weight in the EU policy agenda. Although EU law forbids discrimination based on religion, the Union has no competences in terms of church-state relations, explicitly reserved to member states by Article 17.1 TFEU. However, COMECE chose to advocate this particular freedom in a focused manner. In parallel, policy area "Legal Affairs and Fundamental Rights" appears slightly smaller in the annual reports with 35 actions over the same time span, and occasionally features topics which are also related to religious freedom, such as circumcision (for example, see COMECE 2018a).

This choice may be assessed from several standpoints. First, it is proactive and not reactive, as religious freedom rarely generates banner headlines in official EU news. Second, this choice is ecumenical and interreligious: COMECE almost never advocates freedom for Catholics alone, but fights discrimination and stigmatisation of most mainstream confessions (on topics such as worship during pandemic or ritual slaughter). Third, religious freedom is an area where COMECE has extensive expertise not only because of the Catholic Church in EU countries being directly concerned, but also thanks to its international network supplying first-hand information from almost any corner of the globe. The combination of these three dimensions is likely to generate "niche" impact: religious freedom being a "small" topic with little competition and public scrutiny, COMECE's enhanced presence in this field is likely to make it a key interlocutor and therefore create impact opportunities<sup>2</sup>.

## 2.4 Conclusion

As we have seen in Chapter 2, COMECE engages in a wide spectrum of actions seeking to secure its legitimacy in the EU public space, affirm its steadfast yet critical support to European integration, and advocate its core values in ways intelligible and acceptable to mostly secularised institutions.

<sup>1</sup> A group of EPP MEPs (mostly Forza Italia members) also publicly challenged the Commission invoking freedom of expression and inclusivity: [https://www.europarl.europa.eu/doceo/document/E-9-2021-005315\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-9-2021-005315_EN.html) (accessed April 5, 2024).

<sup>2</sup> For a study of "niche" impact in EU lobbying, see Mahoney Christine (2007). "Lobbying Success in the United States and the European Union". *Journal of Public Policy*, 27/1, 35-56.

In order to be accepted as a legitimate actor of the public debate – and stand a chance of producing impact – COMECE uses human-centred vocabulary which can potentially resonate with non-believers' attitudes, despite being inspired by religious notions. This “syncing” enables COMECE to communicate “at the right frequency”. At the same time, these strategies may not convince staunch secularist actors.

Although the legality of COMECE's action is safeguarded by Article 17 in the long term, its legitimacy and relevance cannot be taken for granted and have to be won by constant efforts.

Given the historic support of the Vatican elites to the European project, as well as the role played therein by devout Catholic leaders, COMECE's link to European integration is stronger than mere recognition or acceptance. Despite changing historical and cultural circumstances, COMECE contributes to the promotion of the European project among bishops and believers, thus cultivating a broader and multi-level field of impact.

Finally, there is no evidence that COMECE ever opposes the EU's fundamental values in principle. However, its support is not unlimited; it relies on complex conditions, interpretations, and selections. These adaptations, ensuring COMECE's consistency with its principal, have to be understood in the context of parallel yet often intertwined historic development of the Catholic social doctrine and the European project, as well as of the secular approaches prevailing today in EU institutions.

### 3. Tactical alignment: navigating across institutions and policy areas

Tactical alignment may be observed in how COMECE exploits at a day-to-day level “opportunities and constraints offered by the general political system and the specific institution within which [it] operates” (Forêt 2015: 7). While strategic alignment enables COMECE to achieve a fundamental level of recognition in the EU political landscape, tactical alignment shapes its regular interactions with decision-makers and other actors on specific policy areas. Once its basic legitimacy is ensured, its support to European integration articulated, and an operational value framework defined, COMECE needs to find the right tools and angles to deliver its messages to the right recipients. In this chapter, I will examine these tools and angles in three instances: COMECE's own organisational choices, its ability to navigate the EU's complex supranational environment, and its ability to frame policy issues.

#### 3.1. Finding the organisational format and positioning

A Catholic episcopal conference is “a council in which the bishops of a given nation or territory jointly exercise their pastoral office” (Second Vatican Council 1965a: §38.1). Bringing together bishops – ordained ministers entrusted with the supreme authority (Ibid.: §2) over the communities of the Catholic Church in their respective territories (dioceses) – episcopal conferences may be viewed as places of power within the Catholic Church and its territorial representatives *par excellence*. COMECE is a liaison between these places of authority and the EU centres of political power.

From an organisational point of view, COMECE could be regarded as a product of intersection of Catholic ecclesiology and EU institutional order. Kratochvil suggests that “the intrinsic propensity to support other transnational or universal organisations is well-developed within the Catholic Church” (Kratochvil 2021: 444). The need to adapt to the complex interplay between EU institutions may have shaped COMECE’s organisation and mission as much as the Catholic Church’s combination of primacy (centralisation around the Pope of Rome), collegiality (the authority of the college of bishops including the Pope himself), and synodality (“involvement and participation of the whole People of God in the life and mission of the Church”) (International Theological Commission 2018). What is the result of this shaping?

### 3.1.1 “Organisational isomorphism”

This “intrinsic propensity” is complemented by examples of “organisational isomorphism” (Liedhegener 2013: 190). This term used by Liedhegener to describe how the United States Conference of Catholic Bishops adopted organisational patterns following those of US governmental structures. COMECE’s organisation combines plenary meetings (where all 27 countries are represented by their bishops) and permanent functioning of a Brussels Secretariate, accountable to the Plenary Assembly but also enjoying significant room for initiative and able to define its priorities (Interview COMECE 2023b). These structures may echo the institutional interplay between the Council and the Commission. Also, plenaries are held twice a year, one per each rotating Council presidency, and it has become a tradition for the latter to meet with COMECE and CEC leaders.

“Since 1980, COMECE has grown as the EU itself has grown” (Turner 2021: 371) both geographically (welcoming new member states) and thematically (development of competences). In 2023, after enlargement came back to the core of the EU agenda after several years of slow or even negative progress, COMECE considered giving observer status to Ukrainian Catholic bishops (Interview COMECE 2024b). Also, when asked about additional hires he would make if additional budget was available, a senior COMECE representative named two potential positions to fill: one to strengthen External Affairs, focusing mainly on enlargement and neighbourhood, and one to help Catholic structures worldwide seek EU financing (Interview COMECE 2023b). These examples reflect COMECE’s willingness to adjust its organisation to long-term opportunities offered by the EU.

COMECE is not the only Catholic body acting at the European level. How does it avoid excessive overlaps with other Catholic actors while remaining loyal to its Catholic belonging?

### 3.1.2 COMECE and the Holy See: believe in the EU?

First of all, COMECE is a regional actor, as opposed to the Vatican whose global role is represented by the papal nuncio in Brussels and directly by the Pope. A



COMECE Secretariate member counted “the guidance that we receive from the Holy See” as a strength, adding: “Sometimes, we are complementary to what the Holy See says” (Interview COMECE 2023a). It would be hard to imagine COMECE use harsh vocabulary such as in these citations of Benedict XVI and Francis, respectively:

Does not this unique form of “apostasy” from itself, even more than its apostasy from God, lead Europe to doubt its own identity? (Benedict XVI 2007).

In many quarters we encounter a general impression of weariness and aging, of a Europe which is now a “grandmother”, no longer fertile and vibrant. As a result, the great ideas which once inspired Europe seem to have lost their attraction, only to be replaced by the bureaucratic technicalities of its institutions (Francis 2014).

Similarly, COMECE did not reproduce the Pope’s controversial statements regarding the Russian aggression of Ukraine [such as assuming that “NATO’s barking at Russia’s door” (Vatican News 2022) might have led to the war] – statements quite distant from the dominant EU perception.

Neither did COMECE quote Francis’s speech to the “(Re)Thinking Europe” 2017 congress:

We see how frequently issues get reduced to discussions about numbers. There are no citizens, only votes. There are no migrants, only quotas. There are no workers, only economic markers. [...] Statistics, however useful and important, are about arguments; they are soulless (Francis 2017).

Indeed, for the Argentinian Pope, Europe is declining – both quantitatively and qualitatively. As the Americas, Asia and Africa combined account for almost 75% of global Catholic population (Pew Research Center 2011), “the trend towards a predominantly non-European Church is unmistakable” (Kratochvil 2021: 453). Also, recent history has seen public conflicts between Francis and a European episcopal conference (Brockhaus 2023). Thus, it is not surprising to see different approaches to the EU demonstrated by the Pope and COMECE.

A concluding insight is provided by an interviewed MEP:

[COMECE] was not explaining the position of the Pope [on the Russian aggression of Ukraine], but presenting the view of European episcopate [...]. [This] also showed how complex the Church is inside. I mean, they have different views, different traditions, different ways of thinking, etc. So, I think that the COMECE is not really representing the Catholic Church in general, but the episcopates. [...] It is, I can imagine, not very easy, because very often [COMECE] cannot on this format criticise EU for many things (Interview MEP 2023).

Thus, although COMECE’s link with the Holy See is strong, its role is not to serve as the Pope’s lobbyist. COMECE’s DNA being rooted in the EU’s mission, its focus is essentially on the EU’s priorities, even if they do not rank high on the Holy See’s global agenda.

### 3.1.3 COMECE and other Catholic actors

COMECE is also distinct from other Catholic actors visible in the EU political playfield, such as the Council of Bishops' Conferences of Europe (CCEE) or the Jesuit European Social Centre (JESC).

First, it focuses primarily on political, economic and social questions relevant for the EU, as opposed to the CCEE's more pastoral and pan-European orientation. Although COMECE shares with the CCEE a propensity to ecumenical cooperation (the main partner being the CEC for both organisations), this cooperation may not serve the same purposes.

Second, COMECE's primary role is not to provide pastoral care to Catholics within the EU bubble. This work is mainly carried out by the Jesuit order, through places and initiatives such as the Chapel for Europe or the European Leadership Program.

Third, COMECE is not a representative of all Catholic EU citizens in the political sense:

They are not coming [to EU institutions] to negotiate on behalf of people. This is not their role. [Are they] an equivalent of the European Parliament, representing thousands of Catholics? No. [...] And I do not think that the Church around the world would treat COMECE as a negotiator on its behalf (Interview MEP 2023).

This view is also corroborated by the fact that most COMECE's actions do not benefit EU Catholic citizens or associations on the grounds of confessional belonging. Only in few policy areas (such as religious freedom) does COMECE seek benefits for religious confessions as such. Most COMECE's contributions do not separate Catholic or religious citizens from others.

### 3.1.4 Specialisation and centralisation of Catholic lobbying at the EU level

At the same time, COMECE holds the monopoly of official (reflected in the Transparency Register) representation of Catholic dioceses vis-à-vis EU institutions. As of March 2024, there are no TR entries for individual Catholic dioceses or episcopal conferences, from the EU or beyond. Also, out of twenty-three Eastern Catholic Churches, not one has a separate entry. This constitutes a difference with the Conference of European Churches (CEC): Romanian Orthodox Church (Transparency Register 2024a), Evangelische Kirche in Deutschland (Transparency Register 2024b), or the Office of the Anglican Bishop in Europe (Transparency Register 2024c) have separate updated entries in the Transparency Register, while being full-fledged CEC members (Conference of European Churches 2024).

This centralisation may reflect a Catholic specialisation strategy: the EU environment being highly complex, it makes sense to develop relevant expertise within a single dedicated bureau, avoiding dispersion between dioceses and episcopal conferences.

Also, non-diocesan Catholic actors are quite numerous in the Transparency Register, acting in the fields of peace, migration, combating poverty, etc. (Pax Christi,

Caritas, etc.). While they have in common the Catholic social teaching, none of them titles their official website “The Catholic Church in the European Union” as COMECE does. Although COMECE is not the “party” of Catholic citizens in a democratic sense, it incorporates bishops from each EU episcopal conference. The Church is not a democracy: its leaders are not elected by all believers. The college of bishops can represent the Church without democratic credentials: they hold their legitimacy as successors of apostles (Second Vatican Council 1965a: §1), not as representatives of believers’ opinions. Other Catholic organisations develop sectoral expertise and routinely act together with COMECE, but do not have the latter’s link to comprehensive Church authority.

Thus, COMECE’s principal is not the Catholic Church as a worldwide religious body, nor the Pope or his Curia, but indeed bishop’s conferences who exercise their ecclesial authority over their respective territories in EU member states. COMECE was born as a partner for the CEE/EU institutions (spillover effect) and a provider of information about their policies for the bishops.

While promoting the Church’s global magisterial teaching, COMECE is also a regional civil society actor, reflecting local concerns and adapting papal messages to the Brussels audience. Its unique positioning among Catholic actors makes it the natural interlocutor of EU institutions, even though it is not a democratically appointed representative of Catholic citizens. At the same time, COMECE’s specialisation among Catholic actors does not exclude cooperation: horizontal Catholic alliances may contribute to impact in a “social constructivist” mode.

## 3.2. Adapting to routes of influence

### 3.2.1 Principal-agent relation: consistency vs. added value

As mentioned in section 3.1, COMECE’s internal organisation may be compared to the interplay between the EU’s supranational and intergovernmental actors. COMECE’s Secretariate, composed mostly of lay professionals, is permanently present in Brussels and possesses technical expertise and social capital, much appreciated by its interlocutors from the European Commission (Interview European Commission 2023a) and Parliament (Interview MEP 2023). These expertise and capital constitute the Secretariate’s added value. However, as the Brussels team mingles with supranational elites, it may develop “neofunctionalist” preferences which may be different from the principal’s (cf. section 1.2 for loyalty transfer). This tension between value-added and consistency is captured by Turner:

COMECE would be alienated from its member conferences if its stance towards the EU diverged excessively from those issues which its constituent episcopal conferences might wish to raise with its (*sic*) own governments (Turner 2021: 379).

The same author provides an example of agent-principal disagreement: two articles criticising state of rule of law in Poland and Hungary were published in COMECE’s media “EuropelInfos” in 2016. Subsequently, Polish and Hungarian bishops

asked for and obtained withdrawal of these articles (Ibid.: 382). This incident may be seen as an example of national preferences contradicting European preferences. According to Turner, if such internal tensions are not negotiated in a constructive manner, they may decrease COMECE's impact:

COMECE's witness to the EU today may depend on the quality of its own continued commitment to [solidarity and responsibility] in the face of counter-forces within the Church itself. The future of COMECE as an effective instrument of the Church [...] may depend on its finding an adequate way of living this tension peaceably (Ibid.: 384).

Interviews with COMECE confirm the perception of diversity as a potential challenge for impact (Interview COMECE 2023a), but also as a strength if unity is ensured (Interview COMECE 2024a). Also, the Plenary Assembly has the power to control and steer the Secretariate's agenda, but usually approves its orientations almost automatically (Interview COMECE 2023b). Does this mean that the tension between consistency and added-value has been solved? Or does this solely illustrate COMECE's ability to avoid open controversies? In any case, the challenge of "unity in diversity" should be taken seriously by COMECE as much as by the European Union itself. To be an effective advocate, COMECE must build consensus and confidence among national episcopates.

### 3.2.2 European Commission: playing by the rules

The interviews depict the Commission as the main agenda-setter in the Brussels environment, whose plans are followed closely by interest groups (Interview European Commission 2023a). COMECE works with Commission officials from high-level meetings to contributions to policy drafts at early consultation stages.

While the Commission relies heavily on civil society during the drafting of its legislative proposals, it also filters the inputs. These choices are operated already in the selection of dialogue partners. As argued in section 2.1, although article 17.3 grants minimum access to the EU institutions to all convictional groups, the Commission enjoys a margin of discretion when it comes to enhanced dialogue. Two interviewed Commission officials praised COMECE's "constructive" and "non-aggressive" attitude, "good faith", "correct approach", "technical competency", "certain credit" (Ibid.), as well as being "cooperative" and "objective-oriented", providing contributions that are "very much to the point" (Interview European Commission 2023b).

Interactions are most often initiated by the Commission itself (for example, through public consultations preceding any important law drafts), but COMECE may also take initiative by inviting Commission officials to its events.

Overall, COMECE seems to have a wide range of impact opportunities with the Commission, but on two conditions: 1) demonstrate its ability to discuss technical issues and use universally intelligible vocabulary, 2) avoid trying to steal the agenda from the Commission. Once these conditions are fulfilled, COMECE may engage in a

variety of ways (from “philosophical discussions” and “promoting awareness” to very specific policy details, both reactively and proactively), but always respecting the Commission’s power of choice. This may explain the focus on outputs rather than outcomes:

Many church organisations tend to be output-focused (organising meetings and drafting papers) rather than outcome-focused. [...] But on the whole, they lack a Theory of Change, and step-by-step strategies that will lead to concrete outcomes (Pekridou 2024: 455).

Indeed, COMECE’s 2018-2022 annual reports highlight increase in outputs, but do not analyse impact. More generally, COMECE does not demonstrate targeted efforts in advertising its impact. As confirmed by a COMECE Secretariate member, his professional goal is to ensure that COMECE does not miss important opportunities to express its opinion, covers key thematic fields, without explicitly targeting a certain level of outcome linked to its action (Interview COMECE 2023a). This strategy, despite seeming humble, may be justified: an interviewed Commission official affirmed “we cannot do without COMECE” (Interview European Commission 2023a). For a civil society actor, the Commission’s willingness to enter in dialogue beyond the legally prescribed minimum is already a major achievement.

### 3.2.3 European Parliament: values personified

The European Parliament’s legitimacy stems from its election by direct vote of EU citizens. This requires from Catholic interest groups to position themselves in a nuanced way. As already stated, COMECE is not a representative of Catholic EU citizens. Several trends make it hard for COMECE (or Catholic hierarchy) to claim representation of the broad community of Catholic believers in the EU: “tendency to belong without believing” as well as to “believe without belonging”, divergences in positions of practising and non-practising Christians in Europe on controversial issues (Kratochvil 2021: 448). Secularisation and a weakening normative role of Church hierarchy (already mentioned in section 1.2) decrease the believers’ identification with bishops.

However, COMECE takes into account the presence of numerous Catholics in the Parliament. Although this presence has declined over time, devout Catholics such as Roberta Metsola and Othmar Karas have held significant offices in the past fifteen years. While they do not hold the monopoly of contacts with COMECE, and remain part of a “basic consensus on separation between politics and religion” (Forêt 2015: 65), their presence is a reminder that the Church is not a “foreign power” vis-à-vis the EU (Kratochvil 2021: 449). COMECE’s communication on attribution of the *In Veritate* award to Roberta Metsola suggests that Catholic MEPs may personify intersection of two sets of values: European and Catholic:

“[S]tanding up for our values is more important than ever” – EP President Roberta Metsola said in her acceptance address. “Our Christian and European values anchor us, they will help us prepare for a future European Union” (COMECE 2023a).



Although the European People's Party (EPP) is the party with the most salient Christian background, COMECE's lobbying efforts also seem directed towards other parties' members. Among twenty MEPs mentioned in COMECE's 2018-2022 yearly reports, only half represented the EPP (Annex 3). Party belonging and religious belonging or belief are not necessarily mutually defining, and COMECE may well find potential allies in political fractions which are not traditionally associated with Christianity. Why would they be willing to work with a Catholic interest group?

### 3.2.4 Supplying access goods to decision-makers

Interviewed representatives of EU institutions perceive similar benefits from working with COMECE. As policy-makers, they demand at least three types of access goods that COMECE is able to provide.

The first type is knowledge of citizens' concerns and needs in EU member states, stemming from the broad network of local Catholic structures:

The first beneficiaries are ourselves [the Commission]. They [CEMECE] know citizens and local context. [They therefore help us] identify what the needs are and how to satisfy them [...] The Catholic Church has strong local presence [and is therefore able to practice a] bottom-up approach (Interview European Commission 2023b).

Without local voices, we would not have the credibility and content (Interview COMECE 2023a).

The second access good is COMECE's contacts with non-Catholic religious communities. This type of social capital may be especially appreciated in culturally diverse societies with insufficient religious literacy, where decision-makers may need sherpas to navigate in the complex realm of religious meanings and preferences:

We also use the contact with COMECE when we want to invite someone. For example, we want to invite an expert on the question of war, from different religions – not only from Catholic religion. Thanks to COMECE, we have the contact [...] – Jewish, Orthodox. [...] I think that the people from different Churches trust them (Interview MEP 2023).

We have this reputation of a convener, a safe space, an inclusive space (Interview COMECE 2023a).

The third type of access good is the ability to contribute to EU policies with legal, economic, and social inputs:

[W]e have many contacts with COMECE because we think this is really important for us – as a bridge, but also as experts who can be very useful for us [through] different seminars, conferences, etc. [...] Of course, they have specialists on the law, international law, human rights, etc. That is why they know what they are saying. [...] They support us and help us with arguments (Interview MEP 2023).

*La crédibilité [se construit] sur ce que l'on fait sur les possibilités qui nous sont offertes. [Nous devons démontrer des] compétences techniques, pas seulement des vœux pieux. Rentrer dans le concret et apporter une valeur aux décideurs (Interview COMECE 2024a).*



Although some politicians may appreciate a moral assessment of a given policy from COMECE, they mostly appreciate humility and “are uneasy in dealing with religious groups which embody some form of claim to authority” (Turner 2021: 380).

Once again, the bottom line seems to be COMECE’s readiness to engage with the decision-makers at every opportunity and produce a certain output, but without control of outcomes:

If [COMECE’s General Secretary] is a good diplomat, he’s not imposing anything on the politicians. He is just being at the service: if you need me, I am ready to come. [...] I think this is the way they are doing and I think it’s very, very useful and very concrete (Interview MEP 2023).

Thus, to make the most of its presence in Brussels, COMECE must secure its internal cohesion, understand the agenda of EU institutions, find the right interlocutors and market its offer of “access goods”. Successful exchange of access goods usually happens in a situation of mutual influence: to influence decision-makers, COMECE must adapt to their legal competences, political agendas, or even personal outlooks.

There is no evidence that COMECE’s impact may be linked to its representativity of broad layers of citizens, as its bishops and Secretariate are not democratically appointed, and do not reflect the diversity of political preferences of Church members. At the same time, the dense international network of the Church’s structures enables COMECE to have a certain sense of citizens’ concerns and to convey them to policy-makers, together with the Secretariate’s expertise flavoured by the Catholic social and moral teaching.

In the final section, let us look at how COMECE handles different policy areas and initiatives.

### 3.3. Framing policy areas and policy initiatives

*“L’actualité de la COMECE est liée à celle de l’UE,”* and COMECE as such does not have a political programme (Interview COMECE 2024a). However, its links to the EU agenda may be more or less elastic, as is described in the following subsections.

#### 3.3.1 Scope and definition of policy areas: the example of family

COMECE’s action is structured into nine policy areas (cf. Introduction). All interviewed COMECE’s representatives underlined the importance of broad coverage, despite the resulting resource constraints. They disapproved the idea of giving up selected policy areas for the sake of better coverage of remaining ones. In this respect, COMECE is different from the Conference of European Churches, which has narrowed its focus to a few policy areas and defined one of them (peace-building) as a key priority for 2022-2023 (Interview CEC 2023).

COMECE’s preference may be explained by the broadness of the Catholic social doctrine. However, the thematic breakdown of COMECE’s policy areas does not strictly follow the Compendium. While it is relatively easy to establish correspond-

ence between chapters 6 and 7 of the Compendium (“Human Work” and “Economic Life”) and COMECE’s policy area “Social & Economic Affairs”, the Compendium’s chapter 5 “The Family, the Vital Cell of Society” has no direct equivalent. This does not mean that COMECE downplays this key component of the Catholic teaching – rather it structures its action in a way which is more consistent with the EU institutional environment:

*[P]our les évêques des pays d’Europe centrale et orientale, les questions de famille et d’éthique sont prioritaires, mais ils ne relèvent pas toujours du domaine des compétences de l’UE. Or, nous devons nous concentrer sur ces compétences* (Interview COMECE 2024a).

Also, at the European Commission, there is no Commissioner or DG for family, and legislation on marriage or abortion is indeed a competence of member states.

Handling family and sexuality issues without creating a dedicated policy area may reveal several things. First, this choice is consistent with COMECE’s strategy of emphasising the lack of EU competence in this field to challenge every attempt of EU institutions to support free access to abortion in member states. Also, this choice disperses this highly controversial area and avoids making it a constant, proverbial field of confrontation with a substantial part of the Brussels political world. It is worth noting that culture, education, and youth policies are also member states’ prerogatives, but not nearly as controversial as sexuality. Incidentally or not, they do not receive similar treatment: COMECE has dedicated policy areas “Youth policies” and “Education & Culture”.

### 3.3.2 Allocation of outputs: examples of external affairs, energy, and ecology

Alignment choices may also be illustrated by the relative importance of policy areas. In 2022, the shockwave of the Russian invasion of Ukraine may explain the dramatic increase of the share of “EU External Action” policy area in COMECE’s activity (Annex 4): 24% of total reported events and contributions (average proportion in 2018-2021: 15%). Also, the expenses of “EU External Action” almost doubled in 2022 (ca. 121K€) as compared to the 2018-2021 average (ca. 66K€).

Also, in 2022, policy area “Ecology & Sustainability” was renamed “Ecology, Energy & Agriculture”, in parallel to the adoption of the REPowerEU plan. In the 2022 annual report, the term “energy” appeared 40 times (compared to only two mentions in the four previous annual reports combined).

In these examples, the EU’s agenda shapes COMECE’s agenda. This does not mean that other factors do not play a role. COMECE’s long-term reflection is fed by many sources (including papal encyclicals and independent research), but its activity peaks often coincide with EU policy milestones. Analysis of 2015-2022 annual reports shows that Pope Francis’s paradigm-setting *Laudato Si’* encyclical appeared extensively on COMECE’s agenda in 2015 and 2016, its anniversaries were celebrated in 2018 and 2019, but the highest peak of activity was registered in 2020-2021, as the European Green Deal redefined the EU’s approach to climate change. While we can-

not confirm or reject that the Green Deal was partly inspired by *Laudato Si'*, we should register this example of COMECE's actions following major EU developments.

### 3.3.3 Three impact models by policy issue

An interest group's impact depends, among other things, on the issue's salience, level of controversy and public scrutiny (Mahoney 2007: 55). Thus, COMECE's impact chances may vary by policy area. Migration is an example of a large policy area with much public attention and interest competition, where COMECE's weight is insufficient to set the agenda. However, COMECE may produce impact with specific, limited suggestions which do not undermine the general trend adopted by policymakers:

[Sur la] migration, [il existe un] consensus qu'il faut renforcer les frontières de l'UE. La COMECE [ne peut pas] infléchir la politique migratoire, [mais] milite en faveur des voies légales : [par exemple, une] *blue card* pour les travailleurs qualifiés, sponsorisés par des ONG. [...] L'engagement des Eglises pour soutenir financièrement les réfugiés est quelque chose d'assez concret (Interview European Commission 2023a).

On the contrary, in smaller policy areas with less controversy and public scrutiny, such as religious freedom, COMECE has more leeway to set the agenda and frame the issues (cf. section 2.3).

Finally, there are issues which may seem "small" in terms of EU competences, but are important for the Catholic Church and highly controversial, such as abortion. Here, there seems to be no single winning strategy. Active promotion of the Catholic social teaching position on abortion as an intrinsically bad act may convince some decision-makers, but alienate others. This is probably why COMECE usually emphasises the EU's lack of competence in this field (cf. *supra*), trying to achieve at least negative impact (for example, discourage adoption of EU-wide pro-choice measures).

### 3.3.4 Combination of impact factors: the example of Ukraine's EU accession

As already stated, enlargement has come back to the focus of EU decision-makers in 2022-2023, as Ukraine and Moldova were granted candidate status in the context of the Russian aggression. The term "enlargement" is found eight times in COMECE's 2022 annual report, as compared to four times in 2018-2021 reports combined. COMECE's Plenary Assembly in April 2024 was dedicated to enlargement, and its leadership expressed desire to allocate additional resources to this area (cf. section 3.1). COMECE's output has therefore increased, and is likely to remain significant, unless the EU's agenda changes radically in the next years.

In 2022-2024, enlargement may be categorised as a highly salient topic where the EU has extensive competences. Also, the position of mainstream Catholic actors has few divergences with that of the European institutions. Therefore, COMECE's voice is likely to be diluted in the centrist consensus. However, it may produce impact by bringing to the table specific access goods.

First, COMECE relies on global Catholic networks (dioceses, universities, charities, etc.) to collect first-hand information about the Ukrainian civil society. Inviting the Head of the Ukrainian Greek-Catholic Church to the Plenary Assembly of November 2023 (COMECE 2023b) or visiting the Polish-Ukrainian border to meet with local Caritas and other relief organisations (COMECE 2022a) may be viewed as tools to accumulate relevant information to give substance to COMECE's policy contributions.

Second, COMECE also collects "access goods" through its ecumenical and interreligious networks (COMECE 2022b), thus increasing the representativity of its actions and demonstrating its attachment to the value of pluralism.

Third, COMECE demonstrates its ability to combine angles, on a topic when policy interactions are strong, and trade-offs are often required. COMECE's contributions touch upon Treaty reform (COMECE 2024g), rule of law as part of accession conditionality (Ibid.), relation between enlargement and neighbourhood policies (Vokal 2023), etc.

By making available its legal, political and cultural insights, fed by "field studies" in Ukraine, COMECE may position itself as an enlargement expert, ready to inform EU decision-makers with original contributions. Interviews confirm that the attractiveness of these contributions for Commission officials and MEPs lies less in their religious inspiration than in their relevance for facing enlargement challenges:

**Q:** Do you think that [COMECE] could bring value to you [on enlargement]?

**A:** Absolutely, because there will be new problems, new challenges, etc. When you look at the different countries which can be future members, when you see the religious problems inside Ukraine [...] – [you know that] the social processes will depend also on this kind of relations and the understanding of human dignity, etc. It will be quite important (Interview MEP 2023).

Thus, on this particular policy topic, COMECE's impact may be defined as bringing to decision-makers additional ideas and tools for implementing their policies – in the right shape and at the right moment.

### 3.4. Conclusion

As described in Chapter 3, COMECE's alignment with the outlook of EU institutions flows from its foundational purpose (to serve as a liaison between the Church regional elites and the EU elites). This explains why COMECE's level of alignment is probably the highest of all Catholic actors active in the EU public affairs. While being part of the Church, it is also part of the EU. Its added value directly stems from its successful integration in the EU landscape, speaking its language and understanding its priorities, while at the same time maintaining internal cohesion.

In the environment shaped by the Commission's right of legislative initiative and the Parliament's democratic pluralism, COMECE most usually pursues "a strategy without a strategy": being present, maintaining constructive working relations with eager decision-makers and being ready to respond to arising opportunities. However, in selected policy areas (especially on "small" and non-controversial topics) it

has more room to proactively frame issues. Overall, COMECE's success seems to depend on the demand for its "access goods" (information about citizens' concerns and needs, religious groups' outlooks, and policy inputs combined with ethical assessments). Invariably, to deliver these "access goods", COMECE must foster a relationship of confidence and a posture of humility vis-à-vis decision-makers, which does not exclude disagreement with some of them on selected issues. Also, the quality of these goods is determined by COMECE's ability to successfully combine several aspects: knowledge of EU policies, creative use of Catholic social doctrine, use of horizontal networks and alliances, among other factors.

## Conclusion

The findings of this thesis suggest that neofunctionalist, institutionalist and neopluralist approaches are fruitful for understanding religious groups' impact at the EU level. In today's highly secularised landscape of European integration, opportunities for "social-constructivist" or "pluralist" co-creation of values, agendas and policies by religious interest groups are constrained by the power of EU institutions (such as the Commission and the Parliament), their ability to set agendas and filter influences. Therefore, meanings produced by religious groups will be impactful to the extent to which the EU institutions demand these particular "access goods". This demand will usually be defined by the quality and relevance of other inputs – much less by their religious or philosophical underpinnings or their representativity of wide strata of EU population.

In this context, if COMECE wants to stand a chance of influencing EU decision-making, it can rely neither on social authority of religious values and norms nor on the heritage of the Catholic "founding fathers" of European integration. Rather, it has to make its contributions as useful as possible to EU policy-makers, employ their vocabulary and become their ally (which does not exclude critical feedback). Its impact is primarily meritocratic: it has to be earned by bringing value, and there is little entitlement by virtue of history or tradition.

COMECE's institutional behaviour and communication seem to be shaped by these constraints. COMECE is not just an average of national episcopal conferences transplanted to Brussels: it is as *sui generis* as the EU itself. Its very existence is linked to European integration (spillover effect), and its organisation is shaped by the EU institutional environment (isomorphism) as much as by Catholic ecclesiology. Its impact strategies take into account the combined power of institutions, the pluralism of the EU's political arena and the weakening normative role of institutionalised religion in Europe.

COMECE's case demonstrates the shift from cultural legitimacy (when Christian presence in the public debate was implicitly ensured by the dominant cultural belonging of decision-makers and broader society) to legal legitimacy (dialogue prescribed by the Treaties), procedural legitimacy (respect of transparency rules), technocratic legitimacy (expert knowledge) and pluralist legitimacy (ability to build alli-



ances and compromises). Its overall support to EU integration is steadfast, including educating Church members to EU public affairs. As a specialised regional actor, COMECE knows the EU institutions' competences, agendas and balance of power, and is able to leverage partnerships to amplify its influence. Although COMECE is not democratically representative, it is able to bring to policy-makers relevant knowledge about European societies and cultures, as well as to supply them with constructive and relevant ideas (access goods).

These alignment choices allow COMECE to be a well-known, respected and appreciated member of the Brussels universe, enjoying various forms of access to decision-makers well beyond Art. 17 obligations, despite criticism by hard-line secularist actors.

At the same time, several factors mitigate COMECE's impact. Although the values of the Catholic social teaching partially overlap with those of EU Treaties, they may not be identically defined and connoted. Value alignment is also complicated by COMECE's internal diversity, and building consensus between episcopal conferences from 27 countries may be challenging. Also, while COMECE usually acts in cooperation with other Catholic actors, its priorities and perceptions are not always those of the Holy See. Complex selections, interpretations and segmentations are necessary in its dialogue with EU institutions, to ensure balance of consistency and added value.

Also, COMECE's impact varies across policy areas, depending on their level of controversy and importance on the EU's agenda. In significant policy areas where the EU has extensive competences COMECE's inputs may eventually be accepted, but only marginally alter the political consensus: instead of changing decision-makers' minds, it may bring them fresh ideas on how to better implement their strategies. In areas with weaker EU competences but a higher level of controversy COMECE may sometimes achieve impact (such as discouraging undesirable decisions); however, direct confrontation over sensitive issues is a double-edged sword and may be counterproductive. Finally, in "niche" areas with smaller EU competencies and lower level of controversy COMECE stands a chance of gaining a significant "market share", framing issues on its own terms, and producing a higher impact.

Paradoxically, humility may be a winning strategy for a religious interest group. First, decision-makers seem to prefer dialogue with groups bringing service rather than those claiming authority. Excessively assertive programmes and radical reframing of issues may be perceived as aggressive by dialogue partners. Second, framing COMECE's advocacy in terms of pluralism and protection of diversity seems more fruitful than claiming dominant position in the European sociocultural landscape.

Finally, this thesis focused on the "Brussels route" of influence and has mostly used social science concepts and methods, studying strategic and tactical alignment as a proxy for impact. It would certainly be interesting to explore the "national route" of influence in a separate piece of research. Also, COMECE's case could be of interest to scholars of Catholic social teaching, ecclesiology, moral and political theology, ecumenical and interreligious dialogue.



**Annex 1. List of indicative questions for interviews with COMECE team and stakeholders**

| COMECE Bishops and Secretariate |                                                                                                                                                          | European Commission and European Parliament                                                            | CEC and JESC                                                                                           |
|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
| 1                               | How would you describe COMECE's relations with the Holy See, the Apostolic Nunciature to the EU, the Catholic episcopal conferences of EU Member States? | How would you describe COMECE's relations with the institution you represent?                          | How would you describe COMECE's relations with the institution you represent?                          |
| 2                               | How are COMECE's strategic priorities and action plan defined? How is their achievement monitored?                                                       | How is the agenda of your interactions with COMECE defined?                                            | What are the similarities and differences between COMECE and the institution you represent?            |
| 3                               | How would you evaluate COMECE's impact in the past N years (depending on the interviewee's experience)                                                   | How would you evaluate COMECE's impact in the past N years (depending on the interviewee's experience) | How would you evaluate COMECE's impact in the past N years (depending on the interviewee's experience) |
| 4                               | Which criteria, according to you, could be used to evaluate COMECE's impact?                                                                             | Which criteria, according to you, could be used to evaluate COMECE's impact?                           | Which criteria, according to you, could be used to evaluate COMECE's impact?                           |
| 5                               | Which factors, according to you, make COMECE's influence stronger?                                                                                       | Which factors, according to you, make COMECE's influence stronger?                                     | Which factors, according to you, make COMECE's influence stronger?                                     |
| 6                               | Which factors, according to you, may undermine COMECE's action?                                                                                          | Which factors, according to you, may undermine COMECE's action?                                        | Which factors, according to you, may undermine COMECE's action?                                        |
| 7                               | What could be done to enhance the impact of COMECE's action?                                                                                             | What could be improved in COMECE's dialogue with EU institutions?                                      |                                                                                                        |
| 8                               | Could you please describe COMECE's partnerships with other civil society actors?                                                                         |                                                                                                        |                                                                                                        |

**Annex 2. Use of selected terms in COMECE's annual reports (2018-2022)**

| Term(s) / Annual report (date)                                      | 2018 | 2019 | 2020 | 2021  | 2022 |
|---------------------------------------------------------------------|------|------|------|-------|------|
| God, Lord                                                           | 1    | 2    | 1    | 2     | 0    |
| Trinity, Father*, Jesus, Christ, Jesus Christ, Holy Spirit, Spirit* | 1    | 1    | 0    | 1     | 1    |
| Salvation, Saviour                                                  | 0    | 0    | 0    | 0     | 0    |
| Divine (and derivatives)                                            | 0    | 0    | 0    | 1     | 0    |
| Transcendancy (and derivatives)                                     | 0    | 0    | 0    | 0     | 0    |
| Bible, Scripture, Gospel (and derivatives)                          | 0    | 0    | 0    | 0     | 0    |
| Human (and derivatives)                                             | 45   | 51   | 38   | 39    | 47   |
| Citizen (and derivatives)                                           | 4    | 7    | 8    | 11    | 12   |
| Spiritual (and derivatives)                                         | 0    | 2    | 1    | 11*** | 2    |
| Faith (and derivatives)                                             | 5**  | 9    | 16   | 18    | 8    |
| Catholic, Catholicism                                               | 18   | 28   | 22   | 33    | 59   |
| Christian (adjective), Christianity                                 | 11   | 14   | 16   | 14    | 19   |
| Ecumenism (and derivatives)                                         | 4    | 5    | 8    | 7     | 4    |

\*As a person of the Trinity.

\*\*\*"Faith-based" only.

\*\*\*\*Mostly linked to ecology (e.g., "Eco-Spirituality Workshop" held in Taizé in November 2021).

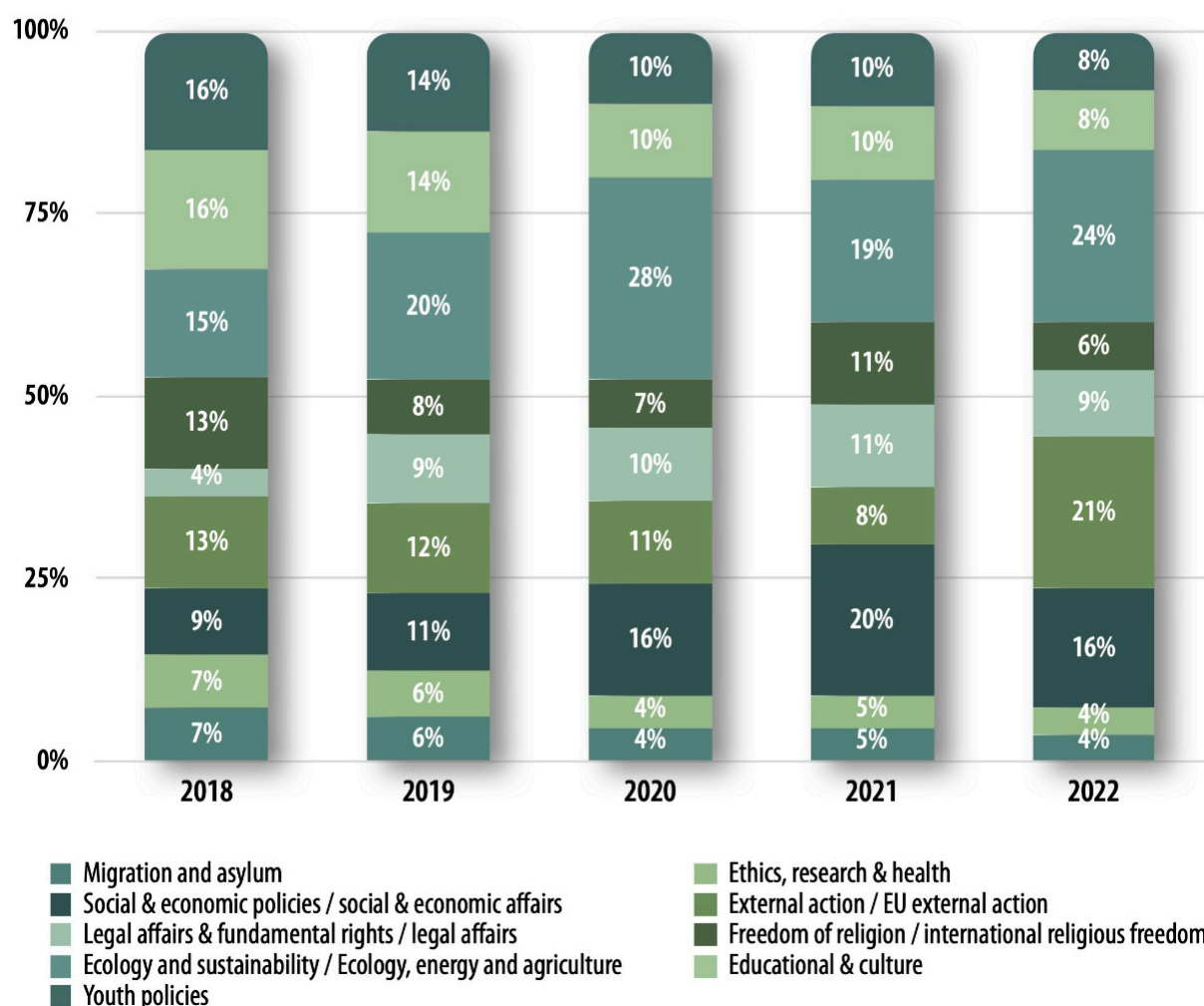
Source: COMECE website

### Annex 3. List of MEPs mentioned in COMECE's annual reports

| Year | MEP               | Party   | Country         |
|------|-------------------|---------|-----------------|
| 2018 | Ska Keller        | Greens  | Germany         |
| 2019 | Javier Zarzalejos | EPP     | Spain           |
| 2019 | Peter Liese       | EPP     | Germany         |
| 2019 | Thomas Mann       | EPP     | Germany         |
| 2019 | Marijana Petir    | EPP     | Croatia         |
| 2019 | Markus Ferber     | EPP     | Germany         |
| 2019 | Sven Giegold      | Greens  | Germany         |
| 2019 | Pietro Bartolo    | S&D     | Italy           |
| 2019 | Evelyn Regner     | S&D     | Austria         |
| 2019 | Gabriele Bischoff | S&D     | Germany         |
| 2020 | Lukas Mandl       | EPP     | Austria         |
| 2020 | Peter van Dalen   | EPP     | The Netherlands |
| 2020 | Patrizia Toia     | S&D     | Italy           |
| 2021 | Roberta Metsola   | EPP     | Malta           |
| 2021 | Helmut Scholz     | GUE/NGL | Germany         |
| 2021 | Sandro Gozi       | Renew   | Italy           |
| 2021 | Patrizia Toia     | S&D     | Italy           |
| 2021 | Alex Agius Saliba | S&D     | Malta           |
| 2022 | Dennis Radtke     | EPP     | Germany         |
| 2022 | Othmar Karas      | EPP     | Austria         |

Source: own elaboration based on COMECE annual reports

**Annex 4. Share of policy areas in total number of COMECE's events and contributions  
(as declared in 2018-2022 annual reports)**



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## Interviews and email communication

Interview CEC (2023). Representative of the Conference of European Churches in discussion with the author. Zoom, December 1, 2023.

Interview COMECE (2023a). COMECE Secretariate member in discussion with the author. Brussels, November 17, 2023.

Interview COMECE (2023b). COMECE Secretariate member in discussion with the author. Zoom, December 21, 2023.

Interview COMECE (2024a). COMECE bishop in discussion with the author. Dijon, January 4, 2024.

Interview COMECE (2024b). COMECE bishop in discussion with the author. Zoom, February 17, 2024.

Interview COMECE (2024c). Email from a senior member of COMECE Secretariate to the author. April 13, 2024.

Interview European Commission (2023a). Official of the European Commission in discussion with the author. Brussels, November 13, 2023.

Interview European Commission (2023b). Cabinet member of a European Commissioner in discussion with the author. Webex, November 16, 2023.

Interview EPRS (2023). Three representatives of the European Parliamentary Research Service in discussion with the author. Zoom, November 21, 2023.

Interview JESC (2023). Representative of the Jesuit European Social Centre in discussion with the author. Brussels, November 15, 2023.

Interview MEP (2023). Member of the European Parliament (EPP) in discussion with the author. Brussels, November 15, 2023.



## **The Digital Services Act, a turning point in the role taken by online platforms in the fight against disinformation**

Anna Denais

### **1. Introduction**

“We are now at a turning point. The rapid evolution of the digital space, combined with the growing threat of terrorism and disinformation, calls for a rapid, decisive, and coordinated response. The European Union with the cooperation of its Member States is ready to meet this challenge” (Breton 2023b).

In October 2023, Commissioner for Internal Market Thierry Breton addressed the European Parliament during a debate on the dissemination of disinformation and illegal content (European Parliament 2023). The discussion took place in the context of a resurgence of online disinformation triggered by conflicts in Europe and the Middle East. In his speech, Thierry Breton emphasized the grave democratic risks stemming from such a phenomenon. As a response, he underscored the role of the Digital Services Act (DSA) to ensure online safety and the protection of fundamental rights. In particular, Breton underlined his will to point out the responsibility of online platforms in this process (Breton 2023b).

#### **1.1 The Digital Services Act**

The DSA is a key proposal made by Ursula von Leyen, back when she was a candidate for the presidency of the Commission in 2019. In her political guidelines, she included six priorities for the Commission 2019-2024. Among them, one was dedicated to “a Europe fit for the digital age”. It ambitioned to harness opportunities from digitalization while implementing safer and more ethical boundaries online. In particular, the DSA was proposed to reform the rules on liability and safety for platforms (von der Leyen 2019). These objectives were further defined in February 2020 in the Communication “Shaping Europe’s Digital Future”. In this document, the Commission committed to increasing the responsibilities of online platforms through the DSA (European Commission 2020a). This commitment materialized in December 2020 when the Commission submitted the proposal to the European Parliament and the Council (*Proposal for a Regulation on a Single Market for Digital Services* 2020: 1).



The proposal is embedded in the context of an evolving digital world, with rising risks and challenges. Previously, digital services were regulated by the e-Commerce directive from 2000. Yet, since then, the digital landscape has crucially changed: new online services appeared, the role of technologies considerably increased, and consequently new challenges emerged. Therefore, the DSA aims to build on the e-Commerce directive and update it to the current context. More particularly, its innovation resides in the responsibilities and accountability given to providers of intermediary services, notably online platforms (*Proposal for a Regulation on a Single Market for Digital Services* 2020: 2-3).



Figure 1. Commissioner Thierry Breton presenting the Digital Services Act in December 2020 (European Commission, 2023a)

After a year and a half, a political agreement was reached in April 2022 between the European Parliament and the Council. For Ursula von der Leyen, this agreement was “historic, both in terms of speed and substance” (European Commission 2022). The regulation was finally published on October 19, 2022, in the Official Journal of the EU (*Regulation* 2022/2065). The final framework adopted under the DSA aims to rebalance the rights of

users with their responsibilities, and those of platforms. It imposes obligations on providers of intermediary services, taking into account their size, role, and impact on the online ecosystem (European Commission 2022). The DSA entered into force in August 2023 for Very Large Online Platforms (VLOPs) and Very Large Online Search Engines (VLOSEs). Its entry into force for all platforms then took place on February 17, 2024 (*Regulation* 2022/2065: §93).

## 1.2 State of the art

The DSA is a recent legislation and is thus a topic of current interest. Since its proposal in 2020, a significant number of scholars have covered the regulation and its implications. Nevertheless, a large part of this literature has been produced before the adoption of the DSA in 2022 and therefore bases its conclusions on the proposal of the Commission only (Savin 2021). When addressing the DSA, scholars either reflect on the legislation in its entirety (Buri, van Hoboken 2021) or on more specific aspects of the legislation such as copyrighting (Quintais, Schwemer 2022) and consumer protection (Cauffman, Goanta 2021). Yet, little attention is given to its contribution to the fight against disinformation.

The few articles that address the DSA under this perspective focus on the changes introduced to combat disinformation: the transition away from the Code of Practice (Galantino 2023) and self-regulation (Meyers 2022: 2); to the use of a risk-based approach (European Audiovisual Observatory 2021: 43); and the opportunity for policy-makers for a new culture of platforms' accountability (Leiser 2023: 11). They also highlight how the DSA contributes to preserving the integrity of the information ecosystem in the European Union (EU) through risk assessments, mitigation measures, an increased role of trusted flaggers (Leiser 2023: 10-11), and the access of vetted researchers to platforms' data (Strowel, de Meyere 2023: 78). However, none of them focus on the effective implementation of DSA provisions by online platforms and their approach to this new framework.

### 1.3 Research objective

In that sense, this research aims to analyze the DSA in light of the role taken by online platforms in the fight against disinformation. It is of particular interest, as they face increasingly more accountability through the DSA and are for the first time bound to combat disinformation. A focus will be put on the largest online platforms, the VLOPs, which are the only services subject to such obligations (*Regulation 2022/2065*: recital 80). Faced with these due diligence obligations, one could question whether they will effectively increase their involvement, leading the DSA to be a turning point for their role in combatting disinformation. This paper will thus aim to answer the following research questions: How effective has the response and compliance of online platforms to the DSA been in the fight against disinformation? What influence will this legislation likely have in the propensity of platforms to combat disinformation?

### 1.4 Methodology

For that purpose, the approach chosen will consist of analyzing the role of online platforms under three scopes: legislation, practical compliance, and implications for their prospective involvement. The objective is to provide a full overview of the impact of the DSA on the role of platforms in combating disinformation. The period studied runs from the entry into force of the DSA in August 2023, until March 2024.

The analysis will be based on the regulation, as well as on other EU acts related to the DSA. It will build on previous conclusions drawn in the literature and include news items from press articles. Press releases and declarations from online platforms will also be integrated into the analysis. Moreover, interviews will complement these sources and bring in a practical perspective from professionals in connection with the DSA. Four semi-directive interviews have been conducted with individuals working in different organizations: a member of the DSA enforcement team at the European Commission; a fact-checker and member of the board of the European Fact-Checking Standards Network (EFCSN); a senior policy advisor at the civil society

network European Digital Rights (EDRi); and a researcher in platform governance issues at the University of Amsterdam<sup>1</sup>.

## 1.5 Outline

After a review of scholarship, the approach taken will first analyze the role of online platforms in the legislation. The changes of the EU framework on online disinformation will be introduced. In particular, this first chapter will focus on the new accountability given to platforms, by specifying their due diligence obligations.

The second chapter will then be dedicated to the current compliance of online platforms to the DSA. For that purpose, case studies on the platforms Meta, TikTok, and X will be conducted. More specifically, their compliance with the DSA will be analyzed in light of provisions selected for their relevance to combating disinformation.

Finally, in the third chapter, a prospective stance on the long-term effect of the DSA will be taken. This chapter will analyze its implications for the involvement of online platforms in the fight against disinformation, and an analysis of its capacity to raise their propensity to do so will be conducted.

## 2. Literature review

First and foremost, before analyzing the role of the DSA, it is crucial to establish the contextual backdrop provided by existing literature. There are indeed many scholarly debates surrounding disinformation. In particular, it is the necessity and the shape of regulation, that are most debated. The purpose of this literature review is to introduce these ongoing discussions to better understand the context in which the DSA was adopted.

### 2.1 To regulate or not: the dilemma of disinformation governance

Disinformation is a topic widely covered in the literature. At EU-level, it is understood as “verifiably false or misleading information that is created, presented and disseminated for economic gain or to intentionally deceive the public, and may cause public harm”. This public harm is further defined as presenting risks for democratic policy-making and public goods such as the health of EU citizens, the environment, or security (European Commission 2018a: 3-4). This perspective is reflected in the literature, which extensively addresses its negative consequences. In fact, its impact on democracy has recently led to increasing regulatory and societal attention which prompted a large amount of research on the issue (Ó Fathaigh, Helberger, Appelman 2021: 3). Therefore, it is mainly addressed through the lens of its consequences on the elections of the European Parliament (Magdin 2020), but also on geopolitical and societal challenges, such as the Covid-19 pandemic (Vérifier, Bjola, Koops 2020) and foreign interference (Nestoras, Cirju 2021). These examples highlight the negative con-

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<sup>1</sup> Further information regarding the interviews is available in the annex 1.

sequences of disinformation. In that regard, literature emphasizes the harmful nature of the phenomenon, resulting in a defective process of information (Fallis 2015: 401).

Therefore, disinformation is broadly framed as a negative phenomenon. But, this does not necessarily mean that there is a unanimous agreement on whether it should be regulated. Regulation against disinformation is indeed very debated. The largest concern raised by scholars is the risk it poses to freedom of opinion and expression (Pielemeier 2020: 917). For some, regulating disinformation has inevitably a negative impact on these fundamental rights. Yet, it is essential to keep in democracies a space of debate, especially in countries with a fragile democratic culture (Pielemeier 2020: 939). A further risk highlighted is the manipulation of these regulations by authoritarian regimes for censorship. Amnesty International has reported on these incidents and the repression of journalists and social media users in some countries. In Asia, the Middle East, and North Africa, there have been cases, where individuals were prosecuted and even imprisoned for spreading misinformation, where in fact they were critics of the state. For instance, some were punished for criticizing governmental measures on Covid-19 or the official narrative on it. In other cases, the context of the pandemic was instrumentalized by authorities to sanction any individual criticizing the government. All in all, these regulations and cases of abuse can result in a “chilling effect”, that leads platform users to self-censor and dissuades them from speaking out (Vese 2022: 483).

On the other hand, others highlight the risks that disinformation poses for democracy. As mentioned above, a large part of literature addresses its negative implications on democratic processes or foreign interference. A significant event in that regard is the 2016 American presidential elections. While reflecting on this event, scholars highlighted the pivotal impact that “fake news” had on the election of Donald Trump. Some citizens were exposed to a large amount of disinformation, such as the claim that the Pope endorsed the Republican candidate, which could have impacted their choice of vote (Allcott, Gentzkow 2017: 232). Similarly, the literature highlights the link between disinformation in the 2016 Brexit referendum and ideological polarization. 2016 was thus a key year, in which the harmful effects of disinformation on democracy were highlighted (Bărgăoanu, Radu 2018: 28). Another more recent example of its democratic risks is Covid-19 disinformation: the dissemination of conspiracies negatively affected citizens’ compliance with public health guidelines, and ultimately eroded their trust in institutions’ guidance (Vériter, Bjola, Koops 2020: 573-575). This example has been widely studied in the literature, which underlined the risk that Covid-19-related conspiracies posed to human life (Mariniello 2022: 335). Therefore, regulation of disinformation puts forward the need to protect democratic foundations. Policies of this type are directed towards three components of democracy that can be impacted by disinformation: self-determination; accountable representation; and the process of opinion and will formation (Tenove 2020: 521).

When considering these two sides of disinformation regulation, one could think that regulators are faced with an intrinsic dilemma: how can we avoid the negative implications of disinformation without harming individuals’ right to opinion? Yet,

protecting freedom of expression and reducing disinformation are not mutually exclusive and complement each other. Freedom of expression is essential to the democratic space; it allows debate and trust in the media, which are key elements to prevent disinformation. Intelligent legislative solutions can thus find a balance between these two objectives and avoid freedom of expression being undermined (Mariniello 2022: 346-347). In the case of the DSA, this balance has been found by a categorization of disinformation as harmful but not illegal. Therefore, the responsibility is put on online platforms that address disinformation through their moderation policies (Appelman 2024).

## **2.2 The shape of disinformation regulation: a complex web of responsibilities and the role of online platforms**

This solution found in the DSA of raising the responsibility of online platforms leads to another debate: how should disinformation be regulated? And which actors should bear responsibility for combating disinformation? The DSA effectively puts the involvement of online platforms at the core of its regulatory model. This reflects a shift described in the literature, where market players are considered more and more accountable and involved in the fight against disinformation (de Blasio, Selva 2021: 841).

Nevertheless, even if the DSA focuses on online platforms, they are not the only actors responsible. In fact, disinformation raises a “complex web of responsibilities”, which results from the very nature of the internet where individuals are free to post any content at any time (Penfrat 2024). The responsibility is thus distributed among different social groups, from citizens and journalists to public officials (de Blasio, Selva 2021: 841). Reducing the amount and negative impact of disinformation requires a diversification of content and credible media (Buiten 2022: 20). For that reason, some scholars recommend using self-regulation models based on the voluntary involvement of stakeholders to empower users and increase their media literacy, rather than government intervention which can create even more distrust (Vese 2022: 502). Yet, it is also highlighted that the previous use of this framework in the EU has not sufficiently delivered to combat disinformation (European Court of Auditors 2024: 4-5). As self-regulation is based on the contribution of many stakeholders such as journalism, civil society, and politics, the system can be weakened whenever one of them fails to get involved (de Blasio, Selva 2021: 841).

Therefore, an increasing amount of literature supports the use of a co-regulatory approach to regulate disinformation. It consists of a framework where platforms are responsible for developing mechanisms, which in turn must be endorsed by authorities (Marsden, Meyer, Brown 2020: 2; Durach, Bârgăoanu, Nastasiu 2020: 5). This is exacerbated by recommendations of scholars to work more closely with online platforms to close vulnerabilities, uphold responsibilities and values, and coordinate on takedowns (Pamment 2020: 6-7) as well as improve the monitoring and accountability of online platforms (European Court of Auditors 2021: 46-47). We can thus notice



that two models coexist within the literature: the self-regulatory model, with a shared responsibility; and the co-regulatory approach, which puts greater emphasis on the role of online platforms (Casero-Ripollés, Tuñón, Bouza-García 2023: 662-663).

The increasing accountability attributed to online platforms, in the literature and in the DSA, is justified by scholars by two elements. First, it is argued that this responsibility directly arises from their nature. An online platform is a “hosting service that, at the request of a recipient of the service, stores and disseminates information to the public” (*Regulation 2022/2065*: §3). Their nature accentuates the propagation of disinformation, as they are key channels through which disinformation can be distributed to a large public (Mariniello 2022: 349). Scholars highlight that this is a direct consequence of their business model. Social media algorithms conceive “filter bubbles” where users are mostly confronted with content similar to their views. This allows them to create echo chambers, where content is likely to increase engagement. In these echo chambers, the biases and emotions of users are exploited and exacerbated. This results in a fertile ground for the dissemination of disinformation, which is created to be more engaging than truth (Lauer 2021: 398). Second, it can be observed that market forces fail to reduce disinformation: platforms do not have an economic incentive to take action (Mariniello 2022: 341). This is due to the fact that content moderation is very expensive for online platforms and is difficult to sustain in the long term (Chatain 2023). Platforms also benefit from the algorithms based on engagement, which foster disinformation (Lauer 2021: 396). Indeed, their revenue is closely linked with the amount of web traffic. If a larger number of users is present on the platform, it signifies that they can generate more advertising revenues and extend their dataset with information on users. All in all, more engagement means a larger profit. Consequently, this model incentivizes platforms to further encourage users to stay online. This fosters disinformation, which is favored by algorithms as its diffusion boosts web traffic. Disinformation indeed triggers users’ emotions, leading to emotional responses, which tend to result in faster and greater engagement (Mariniello 2022: 341-342). Therefore, online platforms do not have an economic incentive to counter disinformation. This can explain that their involvement has remained limited and insufficient (European Commission 2018a: 2).

It is in this context that the DSA was developed. Faced with the limits of self-regulation and the role of platforms in the dissemination of disinformation, the DSA provides a response by raising the accountability of online platforms and giving them incentives to combat disinformation.

### **3. The DSA, a milestone in the regulation of disinformation and the approach adopted towards online platforms**

The role of online platforms is thus crucial in the fight against disinformation. Consequently, the first step of this research aims to assess the legal consequences of the DSA on the responsibility that they hold. Indeed, if for Commissioner Thierry Breton, the DSA is at the forefront of the fight against disinformation, it is because it



changes the current approach by, for the first time, requiring platforms to tackle disinformation (Breton 2023b).

### **3.1. An unprecedented accountability for large online platforms**

#### **3.1.1 The need to adapt to online platforms' new role**

According to the European Commission, the DSA sets an “unprecedented new standard” for the accountability of online platforms (European Commission 2022), making it a milestone in the approach adopted towards them. The choice for this new standard is rooted in a context where legislation did not match the evolving role of online platforms. Before the DSA, online services were mainly regulated by the e-Commerce Directive passed in 2000. The DSA thus had the objective of modernizing and building upon it (Buiten 2021: 361-363). This means that the DSA reformed the e-Commerce Directive to adapt to the changing digital environment while confirming some of its core principles (*Proposal for a Regulation on a Single Market for Digital Services* 2020: 1). This change is justified by the significant evolution in the role of platforms in the online environment. Two decades ago, they were rather passive intermediaries (Buiten 2021: 361), with limited impact on the content that they hosted. Platforms such as YouTube, Twitter, and Facebook favored free speech and only developed punctual policies on user speech (Klonick 2017: 1619-1621). Over time, this passiveness decreased and two decades after the introduction of the e-Commerce directive, online platforms had become active co-creators of the digital space (Buiten 2021: 361-363). Their importance in information dissemination also increased and they became a place of systemic risks (Ó Fathaigh, Helberger, Appelman 2021: 15). Therefore, the legislation in place was not adapted to their role and needed to be updated, to better consider their active role as shapers of information.

In particular, regarding disinformation, online platforms were subject to no binding legislation. Before the DSA, the instruments chosen mainly consisted of soft law. The implication of the EU in disinformation started in 2015 (European Court of Auditors 2021: 10) when the East StratCom Task Force was launched in the European External Action Service. The objective of the communications teams was to counter Russian disinformation campaigns (European Council, 2015). Then, in 2018, the European Commission published the “Communication on tackling online disinformation”, setting up objectives for a European framework on disinformation (European Commission 2018a). Later in the same year, these objectives resulted in the publication of the Code of Practice on Disinformation, the first worldwide initiative of this type. Based on a voluntary basis, online platforms agreed to some self-regulatory standards to combat disinformation (*EU Code of Practice on Disinformation* 2018: 3). In 2018, the Commission published another Communication joint with the High Representative, the “Action Plan against Disinformation”, to develop a response in the run-up to European elections (European Commission 2018b). It was followed in 2020 by another plan, the “European Democracy Action Plan”, which complements previous initiatives and identified some strategies to counter disinformation (European

Court of Auditors 2021: 10). Finally, the Code of Practice was revised in 2022 by the Strengthened Code of Practice on Disinformation. This new Code of Practice built on previous standards and set more ambitious commitments to further involve online platforms in the fight against disinformation (*EU Strengthened Code of practice on Disinformation* 2022). Therefore, many steps were taken by the EU to combat disinformation. Yet, none of these instruments had a binding value. It is in response to these limitations that the DSA came into play. It created for the first time binding obligations on disinformation and updated the regulatory framework for online platforms to better fit their new role. This involved drawing up new responsibilities in line with their increased importance (Buiten 2021: 361).

### 3.1.2 A status tailored to the largest platforms, the VLOPs

Furthermore, adapting legislation to the new role of online platforms also meant that obligations are now tailored to their size. Indeed, not every platform holds the same risks. According to the DSA, once a platform reaches a certain size, it poses “systemic risks” which can have a disproportionate impact in the EU (*Regulation 2022/2065*: recital 76). Indeed, with a large user base, their impact is exacerbated. They can thus have considerable influence over online safety and the shaping of public opinion. These impacts are categorized in the DSA among four categories of systemic risks: the risks related to illegal content; the impact on fundamental rights; the effects on democratic processes and public security; and the risks related to the manipulation of the design, functioning, or use of platforms. Disinformation is included among this last category of risks. In particular, the DSA cites the example of disinformation on health (*Regulation 2022/2065*: recital 79-83). Disinformation can also be included in the third category since it can have negative consequences on democracy as mentioned previously.

To respond to these systemic risks, the DSA adopts an approach with asymmetric obligations: platforms have to comply with a different number of obligations depending on their size and impact on the ecosystem. This is reflected through the introduction of a specific status for platforms and search engines with more than 45 million monthly users, hence 10% of the EU consumer market, which are designated as VLOPs and VLOSEs. As disinformation mainly concerns platforms, only VLOPs will be referred to in the further analysis. Nevertheless, it should be highlighted that VLOPs and VLOSEs are essentially subject to the

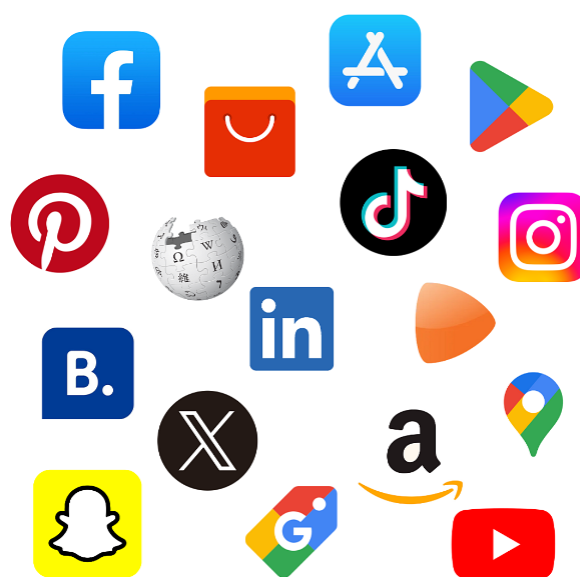


Figure 2. Platforms designated as VLOPs under the DSA (Own elaboration, non-exhaustive)

same rules. With their status, come additional obligations justified by the supplementary systemic risks that they pose. For the President of the European Commission Ursula von der Leyen, this means that “the greater size, the greater the responsibilities of online platforms”. Commission Thierry Breton also declared that “the time of big online platforms behaving like they are ‘too big to care’ is coming to an end” (European Commission 2022). In April 2023, the Commission designated the list of online services subject to this status. It includes 20 VLOPs, such as Facebook, Instagram, X, and TikTok, and 2 VLOSEs (European Commission 2024f).

### **3.2. From self-regulation to co-regulation**

#### **3.2.1 The insufficiency of self-regulation under the Code of Practice**

Moreover, the new accountability addressed to online platforms is reflected through the change in the governance model. Previously, EU actions in regard to disinformation were mainly based on self-regulation. The model was introduced through the Code of Practice on Disinformation in 2018 and reinforced under the strengthened version in 2022. This means that platforms did not have to implement any practices but only committed to reporting their activities. If they failed to implement any measure of the Code, they did not face any sanctions, leaving room for a lot of discretion (Shattock 2021: 1-2). This led the self-regulatory framework to be insufficient to effectively address disinformation, as online platforms can assess independently where to focus their action. For instance, Facebook is investing more in content moderators in the English language, meaning that disinformation is less likely to be addressed in the largest EU languages (Meyers 2022: 2). Furthermore, platforms can decide to leave the Code of Practice at any time, hence removing their commitment to contribute to the fight against disinformation. This is what X did in May 2023, following its purchase by Elon Musk (Deutsche Welle 2023). These examples demonstrate that although the Code brings a useful framework to combat disinformation, the fact that it is based on platforms’ voluntary commitments cannot guarantee a linear and productive involvement.

Such an observation is supported by a report of the Court of Auditors, which assessed that the Code of Practice failed to accomplish its objective of holding online platforms accountable. In particular, it argued that there were significant shortcomings in the reporting phase. Reports were of heterogeneous length and the annual review which should have been produced by signatories was not accomplished. Moreover, the Commission expressed difficulties in assessing the impact of platforms’ actions (European Court of Auditors 2021: 30-34). Therefore, difficulties with the self-regulation framework were met both in platforms’ contribution as well as in the reporting phase. As the Code of Practice is not binding, this meant that the Commission had limited means to enforce it. All in all, the Code of Practice allowed the European Commission to establish a place for engagement with platforms, yet it did not achieve its objective of making them take an active role in tackling disinformation (European Court of Auditors 2021: 5). In that regard, although the Code of Prac-

tice has enabled the EU to take additional steps in combating disinformation, it has shown some of its limitations.

### 3.2.2 The introduction of a co-regulatory model with the DSA

In this respect, the DSA attempts to respond to the critics of self-regulation by subjecting online platforms to binding obligations. Following X's withdrawal from the Code of Practice, Commissioner Thierry Breton declared that "beyond voluntary commitment, fighting disinformation will be legal obligation under DSA" (Deutsche Welle 2023). Indeed, the DSA introduces a new model of regulation, a co-regulatory framework, meant to supplement the current action of the Code of Practice. This co-regulatory framework functions in the following way: a regulatory body, the EU, sets rules for the operations of online platforms, while online platforms must develop mechanisms to implement the rules defined and deliver self-assessments (Kirk, *et al.* n.d.). This means that they are now legally bound to take action against disinformation, but they remain rather autonomous in defining how to implement them. This is well illustrated by Articles 34 and 35 of the DSA. They legally require platforms to conduct risk assessments on their services, followed by risk mitigation measures tailored to the risks identified. However, the wording of the Articles gives them discretion in the way to implement them (*Regulation 2022/2065*: §34-35).

Within this co-regulatory framework, the DSA has defined instruments to guide platforms in the implementation: voluntary Codes of Conduct and crisis protocols (European Commission 2024d). Codes of Conduct are defined in the Article 45 of the DSA with the aim to "contribute to the proper application of [the] Regulation". They are designated under the supervision of the European Board for Digital Services (*Regulation 2022/2065*: §45). Similarly, the drawing up of crisis protocols is defined in Article 48 of the DSA and should be encouraged by the Commission, so that VLOPs can develop practices to address crisis situations (*Regulation 2022/2065*: §48). This leads to an intertwining of soft and hard law, where the Code of Practice on Disinformation could become binding through the DSA. Nevertheless, there is still uncertainty on this matter and the Board still has not designated it as a Code of Conduct (Couronne 2024). In any case, the DSA is a milestone in the regulation of disinformation as it introduces an innovative co-regulatory framework, including previous soft law instruments while adding binding obligations. This enables the EU to compensate for the limitations of self-regulation and take additional steps in the fight against disinformation.

## 3.3. The due diligence obligations for VLOPs on disinformation

### 3.3.1 A diffuse integration of disinformation as harmful content

The DSA is indeed characterized by the due diligence obligations placed on online platforms. These obligations are fit to the size and nature of the online services, meaning that VLOPs are bound to additional rules (*Regulation 2022/2065*: recitals 40-41). These higher standards are justified by the great societal impact they have, for

instance on public debate, economic transactions, or dissemination of information. As they pose “systemic risks”, they should be addressed by specific supplementary obligations (*Regulation 2022/2065*: recitals 75-76). Furthermore, a specificity of the DSA is that it is a “horizontal instrument”: the rules that it sets address various issues without mentioning them directly. They can range from illegal content to the protection of children and combatting disinformation (European Broadcasting Union 2023: 4-5). In order to understand which provisions address disinformation, it is then essential to grasp the distinction between illegal and harmful content in the DSA (European Commission 2024d). While illegal content is subject to stricter rules and online intermediaries are obliged to remove it, only VLOPs must address harmful content (Konarski 2023). At the EU level, disinformation is only considered to be harmful. It is part of the “systemic risks” addressed in the DSA (Ó Fathaigh, Helberger, Appelman 2021: 2).

However, despite this classification, official sources and literature do not identify a clear list of obligations that address disinformation. The European Commission declares that it is addressed through “rules on how platforms moderate content, on advertising, algorithmic processes and risk mitigation” (European Commission 2024d). In other words, many obligations can be linked to disinformation. Therefore, interviews with stakeholders were an insightful means to better understand which ones are more impactful in the fight against disinformation. Unanimously, risk assessments under Article 34 and risk mitigation measures under Article 35 were designated as the most relevant obligations in that regard (Appelman 2024; Couronne 2024; Kuklis 2024; Penfrat 2024). Article 34 requires VLOPs to carry out assessments to identify and analyze any systemic risk resulting from their services, including their content moderation, advertising, and algorithmic systems (*Regulation 2022/2065*: §34). Subsequently, Article 35 demands VLOPs to put in place mitigation measures tailored to the risks previously identified. These can include a change of their terms, content moderation processes, or algorithms (*Regulation 2022/2065*: §35). Additionally, other obligations can be considered useful in the fight against disinformation. They include Article 36 on crisis response mechanisms, and Article 48 on voluntary crisis protocols, even if their scope of action is broader (Kuklis 2024). These provisions stem from the role played by platforms in the dissemination of disinformation in times of crises, such as Russia’s invasion of Ukraine (Buijs, Buri n.d.). Other relevant DSA obligations are Article 45 on Codes of Conduct, as the Code of Practice on Disinformation could soon become part of this framework (Couronne 2024), and Article 39 on the creation of ad repositories to increase advertisement transparency and tackle disinformation through advertisement (Siren Associates 2023).

### **3.3.2 Disinformation as illegal content in some Member States**

Nevertheless, a more forgotten aspect of the DSA’s application to disinformation is that rules on illegal content might in some cases apply to disinformation. Indeed, even if it is not considered illegal at the EU level, an increasing number of Member



States has made it such at the national level. This phenomenon has expanded since the Covid-19 pandemic, when authorities had to face a lot of disinformation on the health crisis. In 2020, the European Commission admitted that some Member States already had laws prohibiting disinformation. Yet it underestimated the phenomenon, by only mentioning a Hungarian law (Ó Fathaigh, Helberger, Appelman 2021: 2). In fact, many Member States have laws of this kind, for instance: in Lithuania, disinformation is explicitly prohibited; in Malta, a criminal law makes it an offense to spread false news; and in France, the dissemination of false news that disturbs public peace is subject to a fine. Some laws also target disinformation in specific contexts: the Hungarian law is centered on disinformation preventing the effectiveness of Covid-19 measures; and in Austria, it is an offense to disseminate false news that could influence voters during an election (Ó Fathaigh, Helberger, Appelman 2021: 10-11). Therefore, the scope of disinformation considered illegal at the Member States' level varies a lot, making its legal status even more complex. This situation can then seem contradictory to the DSA's objective to harmonize national approaches. In that sense, it rather complexifies it, making disinformation subject to different rules depending on the Member State concerned (Ó Fathaigh, Helberger, Appelman 2021: 19).

Furthermore, under Article 3 of the DSA, illegal content is defined as "any information that [...] is not in compliance with Union law or the law of any Member State" (*Regulation 2022/2065*: §3). This means that DSA provisions on illegal content will apply to disinformation in Member States that have laws prohibiting it. We can thus envisage additional provisions to contribute to combating disinformation. One of them is Article 9, under which online platforms can receive orders from national authorities to take down illegal content. Article 16 can also be related to disinformation, as it requires platforms to set up "notice and action mechanisms" for illegal content. They allow any user or entity to report the presence of such content. Finally, Article 22 also contributes to the removal process of illegal content by requiring that notices submitted by trusted flaggers take priority (Konarski 2023). However, it must be remembered that these measures can only be applied heterogeneously, on a national case-to-case basis. Added to the first measures on harmful content, this results in a complex framework of measures addressing disinformation in the DSA. In the further analysis, only provisions applying homogeneously to the whole EU will be analyzed. Consequently, disinformation will only be considered within the DSA framework as harmful and not illegal content.

| Categories of content under which disinformation is classified           |                                           |                            |                                                 |                                                    |
|--------------------------------------------------------------------------|-------------------------------------------|----------------------------|-------------------------------------------------|----------------------------------------------------|
| Relevant DSA provisions contributing to the fight against disinformation | Harmful content<br>(in all Member States) |                            | Illegal content<br>(in only some Member States) |                                                    |
|                                                                          | Article 34                                | Risk assessments           | Article 9                                       | Removal of illegal content by national authorities |
|                                                                          | Article 35                                | Risk mitigation            | Article 16                                      | Notice-and-action mechanism                        |
|                                                                          | Article 36                                | Crisis response mechanisms | Article 22                                      | Priority handling of trusted flaggers              |
|                                                                          | Article 39                                | Ad repositories            |                                                 |                                                    |
|                                                                          | Article 45                                | Codes of Conduct           |                                                 |                                                    |
|                                                                          | Article 48                                | Voluntary crisis protocols |                                                 |                                                    |



### **3.4. Conclusion**

Therefore, this first chapter allowed us to establish that the DSA legally changes the position of online platforms. It marks a departure from the Code of Practice and incentivizes platforms to play a larger role in the fight against disinformation. The DSA largely raises their accountability, in particular for the largest platforms under the status of VLOPs, and sets binding obligations for them to follow. However, although we may see a legal shift in their role, this change can only be complete if online platforms effectively comply with them.

## **4. The response of online platforms to the DSA, some efforts resulting in heterogeneous compliance levels**

Subsequently, in order to study the changing role of online platforms in combating disinformation, it is also necessary to look at how their new obligations have been implemented. Indeed, even though the legislative changes demonstrate a clear increase in responsibility for platforms, this change must be reflected in platforms' practices in order to have a genuine impact.

### **4.1. Case studies of selected online platforms' compliance with provisions related to disinformation**

#### **4.1.1 The platforms studied: Meta, TikTok and X**

For that purpose, three case studies looking at the implementation of the obligations by Meta, TikTok, and X will be analyzed comparatively. They have been chosen due to the fact that they represent a large range of online platforms: they are all designated as VLOPs (European Commission 2024f), but have various behaviors regarding the fight against disinformation. First of all, Meta is described by the EFCSN as the company taking the most initiatives in order to combat disinformation (Couronne 2024). The US-based company led by Mark Zuckerberg gathers several services, such as the social networks Facebook and Instagram or the messaging services WhatsApp and Messenger. Formerly called Facebook, it changed its name in 2021 to promote the "metaverse", an environment where users can interact in virtual reality. Another reason for this change was to rehabilitate its image following a controversy over the dissemination of disinformation on Facebook (Ramanathan 2024). Therefore, Meta's position will be considered as regards to its increased efforts to combat disinformation since then. Meta's case study will focus on Facebook and Instagram, as they are both the only Meta's services designated as VLOPs. They will be addressed under the name of their company Meta as no distinction is needed: we can notice that they essentially apply the rules in the same way, since the European Commission's enforcement always addresses both of them at the same time (European Commission 2024f).

Secondly, TikTok is another social network based on the creation and sharing of short videos. Formerly called Musical.ly, it is a Chinese platform that belongs to the

company ByteDance. Regarding disinformation, TikTok has quite an ambivalent position: it takes actions but those are rather superficial, and seemingly meant for image purposes. For instance, its approach to fact-checkers consists of showing that they are taking initiatives, but those do not materialize nor have many consequences (Couronne 2024). Furthermore, TikTok's position is also interesting as its activities led regulators to express concerns about the use of data and surveillance on the app. Those concerns are notably caused by a fear of foreign interference by the Chinese government (Britannica 2024a) and thus raise geopolitical issues. For instance, in 2023, the European Commission banned its employees from having the app on their devices, due to fears of cybersecurity threats (Liboreiro, Huet 2023).

Thirdly, the last case study is about X. The social media platform based on the sharing of short messages was previously known under the name Twitter between 2006 and 2023. This case is particularly relevant as the platform faced a major turning point when it was bought by Elon Musk in 2022. Musk brought significant changes to the content moderation of the platform, which led to an increased circulation of false information, hate speech, and violence (Britannica 2024b). In view of this development, EU regulators raised concerns about X regarding disinformation. Commissioner for Values and Transparency Vera Jourova described thus the platform as containing the highest ratio of misinformation and disinformation (Porter 2023). Furthermore, it can also be noted that X's involvement in combating disinformation is not only weak, but its involvement is in fact harmful to that purpose by exacerbating disinformation (Couronne 2024). Therefore, these three case studies offer a wide range of perspectives on platforms' approach to disinformation: they all have various levels of involvement, from proactive to weak, and even harmful. When analyzing their compliance with DSA obligations, it will then be insightful to bear in mind this context to better understand their practices.

#### 4.1.2 A focus on DSA provisions on harmful content: Articles 34, 35 and 39

Additionally, the case studies will be conducted on selected DSA provisions, based on their relevance to combating disinformation and the availability of data on platforms' compliance. These provisions only concern those related to harmful content, which apply homogeneously to all Member States. This excludes the ones linked to illegal content, as they are not concerned with the fight against disinformation at the EU level, but rather on a national scale. As mentioned previously, national laws on disinformation are also very heterogeneous. It thus seems difficult to study platform compliance on a case-by-case basis. Moreover, within the provisions addressing disinformation as harmful, the analysis will not include Articles 36 on crisis response mechanisms, 45 on Codes of Conduct, and 48 on voluntary crisis protocols. Their application indeed relies on recommendations of the European Board of Digital Services (*Regulation 2022/2065*: §36,45,48), whose first meeting was held in February 2024 (European Commission 2024c). There is thus not enough time and experience in the use of these articles that could allow for an analysis.

Therefore, the focus will be put on other DSA provisions related to harmful content, for which more data are available: Article 34 on risk assessment, Article 35 on mitigation measures, and Article 39 on ad repositories. As mentioned in the previous chapter, these three articles are relevant to disinformation, as they either aim to address systemic risks due to the design, functioning, and use of platforms or to avoid the dissemination of disinformation through ads. For the purpose of the analysis, the main sources used will be information available through the platforms and the enforcement actions taken by the European Commission<sup>2</sup>. The enforcement includes investigatory powers on platforms' activities through requests for information, interviews, and inspections, as well as sanctioning powers. They are particularly insightful, as they allow us to understand the interpretation of the Commission on data that is not publicly available. The enforcement is indeed a response to the data submitted by platforms on their compliance with DSA obligations. It thus reflects the response of the Commission to their compliance powers (European Commission 2024a). This is notably the case for risk assessment reports, which platforms are required to submit to the Commission, but do not have to release to the public before November 2024 (European Commission 2023b).

## **4.2. Articles 34 and 35 on risk assessments and mitigation: uneven responses to similar challenges**

### **4.2.1 Addressing disinformation during the events of the Israel-Hamas war**

First, compliance with Articles 34 and 35 can be assessed together, as they are intrinsically linked, the mitigation measures being a response to the risks assessed. These DSA provisions are key to combating disinformation: they directly impact the design, algorithmic system, and overall functioning of platforms (*Regulation 2022/2065*: §34-35). As part of their implementation, all three platforms studied seemed to have had difficulties with a similar crisis. This was due to the increased disinformation wave following the beginning of the Israel-Hamas war in October 2023. This wave was described by the EU Disinfo Lab as having reached an unprecedented scale. Both sides of the conflict engaged in these disinformation campaigns to gain external support through the sharing of false information and brutal and emotional imagery. They were even further fed by third countries, willing to support one party in the conflict (EU Disinfo Lab 2024). This was thus a considerable challenge to face for online platforms in the implementation of the DSA.

For Meta, it resulted in a request for information from the Commission, asking for more details on its compliance with risk assessments and mitigation measures. Particularly, the request was centered on how Instagram and Facebook put in place those measures to address the dissemination and amplification of disinformation in the context of the conflict (European Commission 2023d). No data is publicly available on the response given by Meta. However, it is worth mentioning that after this

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<sup>2</sup> The list of enforcement actions taken by the European Commission is available in annex 2.

request for information, no proceedings were introduced by the European Commission (European Commission 2024f). We can therefore assume that it was satisfied by Meta's response. This shows that the platforms Facebook and Instagram have dealt with increased disinformation, but have been able to adequately assess this risk and take mitigation measures, even though the content of these measures is unknown.

Regarding TikTok, a similar process took place. In October 2023, the platform received a request for information from the European Commission. As in the previous case, it asked for more details on risk assessments and mitigation measures, especially for the spread of disinformation (European Commission 2023e). Then, in February 2024, some formal proceedings were opened by the Commission. The issues raised in the proceedings concerned risk assessment and mitigation measures, yet those focused on other risks than disinformation (European Commission 2024b). This shows that TikTok has not been complying correctly with Articles 34 and 35 of the DSA. However, it should be pointed out that their non-compliance does not concern disinformation, meaning that the platform must have taken sufficient account of this risk, according to the Commission.

Finally, X also had to face enforcement actions from the Commission on disinformation related to the Israel-Hamas war. In this case, it can be noted that the scale of these actions was much larger. Here, the action did not start with a request for information, but with a letter from Commissioner Thierry Breton addressed to Elon Musk directly and published on X in October 2023. The letter reminded Musk of obligations linked to the DSA, including the necessity to put in place mitigation measures to address risks related to disinformation. It also included a 24-hour deadline to respond to the Commission's requests. This was followed by exchanges between Musk and Breton, where Musk insisted that X had an open-source and transparent policy (Bre-



Figure 3. Exchanges between Musk and Breton on X on October 10, 2023 (Breton 2023b)

ton 2023b). Two days later, the Commission's action was continued in a more conventional setting, through a request for information to X. As in the letter, the request concerned risk assessment and mitigation measures related to disinformation (European Commission 2023c). The enforcement actions then continued in December 2023 with the opening of proceedings against X. These focused on several areas including the limited "effectiveness of measures taken to combat information manipulation on the platform". In particular, it targeted a feature of X, the "Community Notes" (European Commission 2023), which are part of their policy against disinformation, yet have not shown any concrete results and can be instrumentalized for other aims (Couronne 2024). These proceedings are still ongoing and no further information is available on their progress (Kuklis 2024). This highlights that X has met particular difficulties and did not take sufficient measures to tackle disinformation related to the Israel-Hamas war.

#### **4.2.2. Differentiated reactions reflecting the heterogenous involvement of platforms**

Therefore, the analysis of the Commission's enforcement actions regarding Articles 34 and 35 of the DSA shows a pattern in the compliance of online platforms. First, they are all facing similar issues. The current context has been unfavorable to the fight against disinformation with many events generating an increased amount of disinformation (Couronne 2024). Thus, all three platforms studied faced at least a request for information from the Commission, regarding disinformation on the Israel-Hamas war. Another example is the difficulties faced by platforms due to artificial intelligence (AI). In March 2024, all three platforms received a request for information regarding risk assessments and mitigation measures on risks related to generative artificial intelligence. One of these risks is the dissemination of false information (European Commission 2024e). Nevertheless, faced with these challenges, the response of online platforms is heterogenous, as the Commission's enforcement demonstrate. In this respect, the actions taken following the increase of disinformation with the Israel-Hamas war are insightful. Whereas the Commission's enforcement for Meta stopped at a request for information, proceedings were opened against TikTok and X on their compliance with Articles 34 and 35. For X, those proceedings were notably aimed at their handling of the risk of disinformation. This thus shows a wide range of compliance levels from these three platforms.

The responses observed in that case can be linked to the platforms' approach to disinformation mentioned previously. Meta, which is considered as taking the most initiatives against disinformation (Couronne 2024), has faced the least enforcement actions from the Commission. Then, TikTok, which is said to only take superficial initiatives to combat disinformation, was subject to more investigations from the Commission. But those were still inferior to the actions taken against X, the online platform described as having harmful behavior in the fight against disinformation. This shows that the role taken by online platforms can vary depending on their intentions.



Some platforms are more inclined to adapt their functioning to comply with DSA obligations, whereas others such as X are showing more reluctance to evolve in line with EU standards.

|                                               | Meta                                                                                                         | TikTok                                                 | X                            |
|-----------------------------------------------|--------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|------------------------------|
| <b>Measures taken</b>                         | Not available                                                                                                | Not available                                          | Not available                |
| <b>Enforcement by the European Commission</b> | <i>Risks related to the Israel-Hamas war</i>                                                                 |                                                        |                              |
|                                               | Request for information                                                                                      | Request for information                                | Letter posted by Breton on X |
|                                               | No proceedings                                                                                               | Opening of proceedings but unrelated to disinformation | Request for information      |
|                                               |                                                                                                              |                                                        | Opening of proceedings       |
|                                               | <i>Risks related to generative artificial intelligence</i>                                                   |                                                        |                              |
|                                               | Request for information                                                                                      | Request for information                                | Request for information      |
| <b>Level of compliance</b>                    | Compliance                                                                                                   | Partial compliance (risk mitigated for disinformation) | Non-compliance               |
| <b>Pattern of compliance</b>                  | <b>All platforms face similar challenges, yet they implement different levels of efforts and compliance.</b> |                                                        |                              |

Table 2: Overview of the compliance of Meta, TikTok and X with Articles 34 and 35 of the DSA

### 4.3. Article 39 on ad repositories: differentiated commitments to reach the required compliance level

#### 4.3.1. The ad repositories set up by online platforms

It can then be interesting to assess whether the conclusions drawn from the compliance with Articles 34 and 35 also apply to Article 39. This article requires VLOPs to set up a tool compiling the advertisement published on the platform. This repository must be searchable, reliable, and include various information, such as the content of the advertisement, the person on whose behalf it is presented, the period of advertisement, and the targeting parameters chosen (*Regulation 2022/2065*: §39). Such an obligation is relevant to combating disinformation, as it increases advertisement transparency and can help identify disinformation advertisers (Siren Associates 2023).

The ad repositories set up by online platforms are publicly available on their websites. In the case of Meta, the introduction of the DSA led to an expansion of the repository previously available (Clegg 2023). The ad library now includes four different tools: an ad library compiling all ads, sorted per purpose and showing targeting parameters; an ad library application programming interface; an ad library report; and an ad targeting dataset on ads about social issues, elections, or politics and available to approved researchers (Meta 2023). This extensive set of tools shows efforts from Meta to increase its ad transparency. These actions seem to comply with Article 39, as the European Commission did not address any enforcement actions to Meta regarding the ad repository (European Commission 2024f). So not only did Meta sufficiently apply the requirement, but it also took further initiatives by creating more tools in its ad library.

Furthermore, TikTok has also set up an ad repository, which is available publicly on its website. The tool allows for targeted search depending on the target country, the advertisement date, and the announcer (TikTok n.d.). However, this tool does not



seem to sufficiently comply with Article 39 of the DSA. In the formal proceedings opened against TikTok in February 2024, the ad repository was indeed a point of concern: the European Commission pointed out that requirements regarding a searchable and reliable repository had not been fulfilled (European Commission 2024b). This shows that despite an effort to implement the tool required, it is not always sufficient and does not necessarily mean that a platform complies with the obligations.

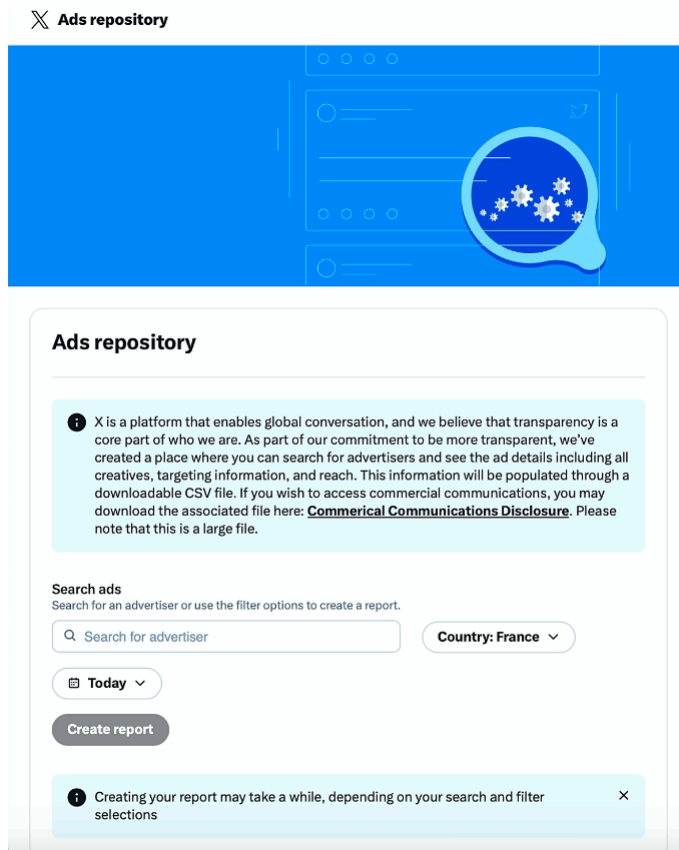


Figure 5. X's ad repository indicating delays in result generation (X n.d.)

A similar observation can be made for X, which also has a repository publicly available, showing a first effort of compliance (X n.d.). Nevertheless, this tool has not satisfied the European Commission. It emphasized the presence of "shortcomings in X's ad repository" in the proceedings opened in December 2023 (European Commission 2023f). The proceedings do not specify which shortcomings are in cause. Yet, a test of the ad repository online can already reveal some defects in the tool. Indeed, to search ads published on X, a report has to be produced by the platform, which takes several minutes to load, whereas for Meta and TikTok results are instantly available. X is aware of this difficulty and has warned about it on its website: "creating your report may take a while" (X n.d.). This slow

loading time makes the tool very difficult for users to explore and creates obstacles to its use. Therefore, in the cases of X and TikTok, the apparent compliance to Article 39 actually leads to a malfunctioning and constitutes a breach of the obligation.

#### 4.3.2. Some compliance efforts which might remain superficial

The analysis of platforms' compliance with Article 39 of the DSA is thus particularly interesting as it allows us to examine more in-depth the measures implemented. This is thanks to the fact that more information is publicly available, on top of the European Commission's assessment through their enforcement actions. It reinforces the conclusion previously done that online platforms' compliance is differentiated and reflects their involvement in combating disinformation. Meta's involvement is once again higher than X's and TikTok's. The entry into force of the DSA meant that it

expanded a resource already available, and Meta seems to have produced more tools than required in order to increase ad transparency. On the other hand, TikTok and X have not fully complied with Article 39 and are now subject to proceedings on this issue. A slight difference can be noted between the two platforms: while testing both of them, X's ad repository seems to present more obstacles to its use than TikTok's repository which can produce results instantly. Therefore, added to the results of their compliance with Articles 34 and 35, a pattern of behavior can be distinguished, with platforms' efforts ranging from most proactive to most reluctant: starting with Meta, then TikTok, and followed by X.

Furthermore, the study of compliance with Article 39 allows us to draw a further conclusion: online platforms all attempt to show minimal efforts, but this effort might only comply with a lower standard than the one required. This allows them to show publicly that changes have been made, while still maintaining their efforts to a minimal level. It is then crucial to consider the full context when assessing a platform's efforts in combating disinformation. Despite an apparent willingness to implement initiatives, these might only be superficial. A parallel can be drawn here with the analysis done by the EFCSN on the implementation of the Code of Practice by online platforms. Their report estimated that some platforms would sometimes backtrack from their promises and might misrepresent their policies, so that it would appear that they are complying when they are in fact not (European Fact-Checking Standards Network 2024: 5-6). This raises the question of whether some online platforms might adopt the same attitude towards DSA obligations.

|                                               | Meta                                                                                                                                               | TikTok                                  | X                                                      |
|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|--------------------------------------------------------|
| <b>Measures taken</b>                         | Expansion of an existing ad library in four different tools                                                                                        | Creation of a functioning ad repository | Creation of an ad repository with usability challenges |
| <b>Enforcement by the European Commission</b> | None                                                                                                                                               | Opening of proceedings                  | Opening of proceedings                                 |
| <b>Level of compliance</b>                    | Compliance                                                                                                                                         | Non-compliance                          | Non-compliance                                         |
| <b>Pattern of compliance</b>                  | Not only do platforms put in place different levels of compliance, but they also attempt to minimize their efforts to display apparent compliance. |                                         |                                                        |

Table 3: Overview of the compliance of Meta, TikTok and X with Article 39 of the DSA

#### 4.4. Conclusion

This second chapter thus demonstrated that the changing role of platforms regarding disinformation does not fall under a single standard. Compliance with the DSA greatly varies depending on platforms and their strategies. All of them deal with similar challenges, yet their way of handling it is quite different. Whereas a common minimal effort can be noted, for some the compliance remains at this stage. Therefore, they all take different roles in the fight against disinformation. This shows that the turning point introduced by the DSA relies greatly on platforms' strategy and choice. Yet, it is worth noting that implementation has just started, and this situation could still evolve.

## **5. The potential of the DSA to increase the propensity of online platforms to combat disinformation**

The entry into force of the DSA is quite recent, and implementing the piece of legislation requires time and resources (Kuklis 2024). Online platforms might then need a longer delay to change their approach in the fight against disinformation. This raises the question of whether the DSA could drive a change in their approach in the longer term. In that regard, it is of interest to examine this subject by taking a more forward-looking perspective.

### **5.1. The impact of the DSA on the approach taken by online platforms**

#### **5.1.1 A matter of balance between costs and benefits**

For that purpose, the first step involves understanding the impact of the DSA on the choices made by online platforms. Multiple factors can determine whether a platform decides to get involved in the fight against disinformation and to what degree. Internal mechanisms are quite opaque and vary between platforms. It is however possible to draw a common dynamic based on interviews and past conducts. All platforms designated as VLOPs in the DSA are large companies, whose existence depends on profit. Thus, their strategy inherently depends on a willingness to favor their business (Appelman 2024). This can mean two things: they either reduce costs by taking as few measures against disinformation as possible, or they can improve their reputation and attract more users by fighting disinformation and creating a feeling of safety. This is not a linear process, and this choice depends on platforms (Appelman 2024). For some, the approach of cost reduction is to be favored. For instance, for Jan Penfrat, senior advisor at EDRi, online platforms become reluctant to fight disinformation as soon as compliance becomes too expensive (Penfrat 2024). Francis Haugen, a former employee of Facebook and a whistleblower, also defends this point of view. Her insights allow us to better understand internal mechanisms. In 2021, she disclosed internal reports showing that the platform deliberately chose to favor its profit over the limitation of systemic risks. Haugen highlighted that Facebook could limit those risks: it had done it during elections by changing algorithms and giving less priority to political content. Yet, shortly after, she stated that Facebook returned to the former algorithm based on engagement, as it generated more profit (Kari, Milmo 2021). Therefore, this supports the idea that online platforms choose their approach depending on the costs. Moreover, her statement can be further corroborated by a memo sent by Andrew Bosworth, a Vice President in Facebook, which declared in 2016 that “all the work [Facebook] do[es] in growth is justified” even if “it costs someone a life by exposing someone to bullies” or “someone dies in a terrorist attack coordinated on our tools”. Although the memo was later described as a mere attempt to be provocative by Mark Zuckerberg, it still highlights the extent to which the cost-driven rationale can be considered within online platforms (Lauer 2021: 398).

Nevertheless, despite this approach, Facebook, now called Meta, is engaged in actions against disinformation and programs with fact-checking organizations. One of them is the third-party fact-checking program which includes over 90 fact-checking organizations in the world (Meta n.d.). It also plans to implement an operations center dedicated to addressing false information in the run-up to European elections (Kroet 2024). There is thus a contrast between its willingness to reduce costs and the fact that the company still takes initiatives against disinformation. It could then be argued that these actions are solely promoted for communication purposes. Yet, fact-checkers such as Vincent Couronne affirm that it is the platform doing the most to combat disinformation (Couronne 2024). Platforms have indeed a vested interest in polishing their image: when Facebook changed its name in 2021, it was partially to cover up the revelations done by Francis Haugen (Hays 2023). This highlights that decisions taken by online platforms rely on a balance between the minimization of costs and the benefit of improving their reputation. Ultimately, it is a matter of commercial decisions (Appelman 2024). Yet, the chosen balance depends on the platform and its strategies.

### 5.1.2 Platforms' reluctance to increase costs

The impact of the DSA on platforms' decisions can be further analyzed by following this approach. If their involvement in the fight against disinformation depends on the costs and benefits involved, it is necessary to assess the impact of the DSA on these variables. Such an analysis was done by the European Commission in its impact assessment accompanying the proposal of the DSA in December 2020<sup>3</sup>. It established that the regulation brought additional costs and administrative burdens to digital services. They include: costs of compliance with obligations such as risk management; the increase of their workforce to constitute a compliance office and eventually to be legally represented in the EU; and modification of internal mechanisms (European Commission 2020b: 53-55). These additional costs were quantified by the European Commission and the compliance was estimated to a maximum of 3.151 million euros per year<sup>4</sup>. Some other calculations also include the loss in advertising revenue. According to Cathleen Berger, lead of global governance and policy strategy at Mozilla (World Economic Forum n.d.), it can amount to up to 5% of these revenues. This amounts to 250 million euros for a platform with revenues of 10 billion euros (Berger 2023). This changes the scale of costs and brings the total to 253.151 million euros. There is thus a clear increase in the costs borne by online platforms to comply with EU regulations. Additionally, platforms are charged an annual supervisory fee to cover the costs of enforcement actions conducted by the Commission (*Regulation 2022/2065*: §43). They are also exposed to sanctions up to 6% of their annual worldwide turnover, in case of non-compliance (*Regulation 2022/2065*: §52).

<sup>3</sup> The estimate of costs at company level is available in the annex 3.

<sup>4</sup> This figure was calculated using the maximal costs for each item listed by the European Commission as an expense time for companies. It does not include the costs of risk mitigation measures that could not be estimated by the Commission.

Faced with these costs, online platforms could decide to stop operating on the European market to avoid them. Nevertheless, no platform has made such a claim. Elon Musk even had to refute an article that affirmed that X was considering leaving the European market (Musk 2023). The EU consumer market is indeed the most significant one in the world, as it associates both a large size and affluent consumers (Bradford 2020: 28). For American tech companies, it is the most important export market (Bradford 2020: 30). Therefore, as of now, the increase in costs does not lead online platforms to wish to stop operating on the European market. Nevertheless, it can be noticed that they are reluctant to pay these additional costs. In February 2024, Meta and TikTok announced that they intended to sue the Commission over the methodology used to calculate DSA supervisory fees (Tar 2024). This shows that online platforms are inclined to minimize costs and can resort to judicial procedures for that purpose. The DSA then impacts platforms by raising their reluctance to additional costs, whether they are fees, sanctions, or compliance costs. Therefore, the key parameter to influence their inclination to combat disinformation is cost. Acting on this parameter could allow the EU to create economic incentives to encourage platforms to combat disinformation.

## **5.2. The application of the Code of Practice on Disinformation: the case of collaborations between platforms and fact-checkers**

### **5.2.1 The renewed interest of platforms for exchanging with fact-checkers**

In that regard, a first aspect to consider is the application of the Code of Practice on Disinformation. It is a self-regulatory framework to which platforms can voluntarily become signatories. Among them, there are Meta and TikTok (European Commission 2024g). X also used to be a signatory but withdrew from the Code of Practice in 2023 (European Fact-Checking Standards Network 2024: 22). The Code of Practice invites signatories to follow several measures to combat disinformation. In particular, a few of them aim to “empower the fact-checking community”. Under Commitment 30, signatories commit to create a framework of cooperation with fact-checking organizations and to support them financially. In the following Commitments 31 to 33, they are also engaged in integrating their work into their platforms, giving them access to necessary information and protecting their independence (*EU Strengthened Code of practice on Disinformation*: 31-34). Consequently, the Code of Practice has resulted in creating cooperation between fact-checking organizations and online platforms. Meta’s “Third-Party Fact-Checking Program” is a good example of this, as it is now working with many independent fact-checking organizations in Europe. To organize these exchanges, the European Commission has driven the creation of an association representing these organizations, the EFCSN (Couronne 2024).

Therefore, these cooperations existed before the entry into force of the DSA. Yet, it is worth noting that since the DSA became binding, they have gained renewed impetus. Vincent Couronne, member of the board of the EFCSN, declared: “Since the ad-



option of the DSA, we have had exchanges with almost all platforms [...]. They are more inclined to collaborate with fact-checkers". In the case of Meta, he noted that discussions had been "much more intense and regular" (Couronne 2024). With TikTok, more exchanges started when the DSA was under negotiations. For instance, it attempted to collaborate with the EFCSN in the run-up to the 2024 European elections (Couronne 2024). So, the DSA did influence voluntary initiatives. Yet, this impact could be further encouraged. Indeed, platforms' renewed interest has failed so far to concretize any projects. Moreover, according to Vincent Couronne, the involvement of platforms is quite heterogeneous: whereas Meta is the company taking the most initiatives, TikTok's involvement is "extremely light", "not intended to have an impact" and X's approach has not changed since the entry into force of the DSA (Couronne 2024).

### 5.2.2 The status of the Code of Conduct, a catalyzer for increased action

A way to further increase the potential of the DSA to catalyze cooperation with fact-checkers would be to reinforce the status of the Code of Practice. Currently, it can be observed that cooperating with fact-checkers is a way to mitigate risks and implement the DSA. In fact, most of the EFCSN's interactions with Meta consist of exchanges about measures that can be put in place to comply with the DSA (Couronne 2024). This can be explained by the fact that the regulation includes some rather vague and abstract provisions. As mentioned previously, it is the case of Articles 34 and 35 (Griffin, Vander Maelen 2023: 7), which are the most relevant provisions to tackle disinformation. For instance, under Article 35, online platforms must take measures to mitigate systemic risks, and some examples of measures are given (*Regulation 2022/2065*: §35). Consequently, platforms are not guided in the implementation of the DSA but still have to report back to the Commission on the measures they put in place. These exchanges can create administrative costs, notably if platforms insufficiently comply and have to resubmit reports (Appelman 2024). In this context, working with fact-checking organizations can be a way to be guided to limit administrative costs.

It is also a way to prove their compliance with the DSA to avoid sanctions. The Code of Practice could indeed become a more important part of the DSA: in 2021 the European Commission set out the goal of evolving it into a Code of Conduct (European Commission 2021). Codes of Conduct are described under Article 45 as voluntary codes that contribute to applying properly the DSA. Their drawing up is encouraged and facilitated by the Commission and the Board (*Regulation 2022/2065*: §45). In other words, they have a concretizing function: they supplement obligations with more concrete and specific commitments (Griffin, Vander Maelen 2023: 3). The Code of Practice has still not been designated as a Code of Conduct (Couronne 2024). However, it could raise the potential of the DSA to constrain platforms to do more to address disinformation. Even if they are described as voluntary, Codes of Conduct are a straightforward way to prove that some mitigation measures have been taken (Griffin, Vander Maelen 2023: 6). If a platform decides to decline to participate in such a Code, it could face legal liability (Fahy, Appelman, Helberger 2022). In other words,



this would give Codes of Conduct a “de facto binding character” (Griffin, Vander Maelen 2023: 6). Granting this status to the Code of Practice would thus incentivize platforms to follow more closely their commitments, as they are looking to minimize compliance costs and avoid sanctions. This applies to cooperation with fact-checkers, as well as with any other measures in the Code of Practice.

### **5.3. The degree of compliance with the DSA**

#### **5.3.1 A mixed position of platforms: a positive public stance but incomplete compliance**

Furthermore, assessing prospectively the position of online platforms also requires analyzing their compliance with the DSA. A change in their involvement in the long term is bound to comply with this regulation. The case studies conducted previously allowed us to draw first conclusions on platforms’ compliance. They established that despite a common minimal effort, their current compliance level is uneven and dependent on the platforms’ choices. All have to face various challenges to comply and address disinformation waves. In response, Meta has proven a sufficient level of compliance, so that the Commission does not take enforcement actions beyond requests for information. However, other platforms such as TikTok and X have taken measures with limited effectiveness. This resulted in the opening of formal proceedings against them by the European Commission. Therefore, the results are quite heterogeneous.

However, despite this sometimes limited involvement, all platforms seem to have a public stance in favor of the DSA. This is reflected through public declarations justifying the purposes of the regulation. In a press release, Meta declared that the platform “will continue to work closely with European policymakers and regulators in support of this shared vision” (Clegg 2023). Similarly, TikTok has shared that they intended to comply with regulatory obligations and to “strive to set new standards through innovative solutions” (TikTok 2023). Even Elon Musk, the owner of X, said in a discussion with Thierry Breton that the DSA was “a sensible approach to implement on a worldwide basis” (Chan 2022). This is supported by their agreement to consent to enforcement actions. Even before the DSA came into force, X agreed to undergo a “stress test”. This was a preparatory exercise to assess whether the platform was ready to comply with the DSA (Chan 2023). Moreover, since the DSA became binding, VLOPs have been subject to many enforcement actions (European Commission 2024f). According to Lubos Kuklis, a member of the DSA enforcement team at the Commission, all platforms have cooperated and responded to requests so far. In the case of X, cooperation is sometimes more difficult as they have more limited capacities compared to others. But the employees in contact with the Commission still show a willingness to cooperate (Kuklis 2024).

Therefore, online platforms appear to adopt a mixed stance regarding the DSA: they have not achieved full compliance, but still maintain a favorable position toward the regulation and good relations with EU policymakers. They are indeed in a standby position, waiting for further elements before deciding how they will comply (Couronne 2024).

### 5.3.2 The Commission's enforcement as a key variable

In this intermediary phase, the key variable is likely to be the Commission's enforcement and its implications on the size of sanctions (Couronne 2024). Indeed, the costs borne by platforms will greatly depend on those. Through the impact assessment conducted by the Commission, compliance costs were assessed to a yearly maximum of 3.151 million euros (European Commission 2020b). It was raised to 253.151 million euros when considering the loss in advertisement revenues (Berger 2023). On the other hand, sanctions can be as high as 6% of the platform's global annual turnover, according to Article 52 of the DSA (*Regulation 2022/2065*: §52). This can result in a range of sanction costs, depending on the revenues of the platform. For instance, for TikTok whose worldwide turnover was estimated to be 8.59 billion euros in 2022 (Asselin 2024), it would amount to a maximum sanction of 515.4 million euros. Sanctions would then appear to be much higher than implementation costs. Nevertheless, it is worth noting that financial penalties usually do not reach their maximum amount. An illustration is the record fine of 1.8 billion euros imposed on Apple in 2024 for breaching antitrust rules. Despite this fine being the third highest ever given to a company in the EU, it only represented 0.5% of its revenue (Richter 2024), while the maximum was 10% (European Commission 2011). In this case, the balance between the costs of compliance and sanctions can be re-assessed: a fine of 0.5% of TikTok's revenue would bring it down to 42.950 million, which is lower than the estimated compliance costs of 253.151 million euros. This highlights that the level of sanctions is a determining factor in whether compliance or noncompliance is costlier.

|                                                                 | Costs of compliance                                                   |                       | Costs of non-compliance                             |                                               |
|-----------------------------------------------------------------|-----------------------------------------------------------------------|-----------------------|-----------------------------------------------------|-----------------------------------------------|
| Scenario 1 considering the level of sanctions set by the DSA    |                                                                       |                       |                                                     |                                               |
| Estimated costs                                                 | Including the loss in advertisement revenues                          | 253.151 million euros | Penalty rate according to the DSA                   | 6% of the platform's global annual turnover   |
|                                                                 |                                                                       |                       | Applied to TikTok                                   | 515.4 million euros                           |
| Balance                                                         | Non-compliance costlier than compliance                               |                       |                                                     |                                               |
| Scenario 2 considering the usual practice in terms of sanctions |                                                                       |                       |                                                     |                                               |
| Estimated costs                                                 | Including the loss in advertisement revenues                          | 253.151 million euros | Penalty rate according to the practice <sup>5</sup> | 0.5% of the platform's global annual turnover |
|                                                                 |                                                                       |                       | Applied to TikTok                                   | 42.950 million euros                          |
| Balance                                                         | Compliance costlier than compliance                                   |                       |                                                     |                                               |
| Deciding factors                                                | Degree of strictness of the enforcement<br>Rates applied to sanctions |                       |                                                     |                                               |

Table 4: Comparison of costs of compliance and non-compliance in the case of TikTok

<sup>5</sup> The penalty rate considered as the practice reflects the rate applied to the record fine imposed on Apple by the EU in 2024.

In this context, it can be argued that online platforms' compliance with the DSA will depend on the enforcement conducted by the Commission. Platforms seem to be waiting for the first sanctions to be pronounced, to assess whether it is worth complying with the DSA (Couronne 2024). This can explain why they may have shown limited efforts to implement provisions. In this period of uncertainty, it is difficult to estimate if sanctions will be sufficient to incentivize online platforms to comply. So far, the European Commission has not taken any sanction yet: its enforcement actions stayed limited to requests for information and openings of proceedings. The strongest actions taken are the proceedings opened against X in December 2023 and against TikTok in February 2024 (European Commission 2024f). The results of these proceedings are expected by online platforms and are likely to set the standard for platforms' actions (Couronne 2024). In the event that X and TikTok do not get severely punished, this will set a precedent for other platforms. They will be able to know how much leeway they have not to comply with provisions while avoiding sanctions. As platforms are likely to base their sanctions on minimizing costs, they might infringe on DSA obligations.

This scenario took place during the enforcement of GDPR: financial penalties were lower than the benefits of infringing the regulation, which incentivized online platforms to not comply with the regulation. The enforcement framework was also limited, as it opposed a single national data protection authority to a large company. This resulted in a difference in means, which almost always favored the platform (Penfrat 2024). However, it is worth noting that so far the experience of the DSA enforcement has been different, and the opposite scenario can be expected. It is ensured by the European Commission, which has larger means than national authorities. According to Jan Penfrat, senior policy advisor at EDRI, the Commission's response has been quite efficient and actions have been taken promptly (Penfrat 2024). The DSA entered into force in August 2023 for VLOPs, and two months later investigatory tools were deployed by requesting information. From the entry into force, it took four months for the Commission to increase its enforcement level and open proceedings against X (European Commission 2024f). It also includes contributions from civil society, which help strengthen enforcement capacities (Kuklis 2024; Penfrat 2024). The current state of enforcement thus shows a willingness to constrain platforms. Yet, the outcomes of the proceedings remain to be seen. High sanctions and strong enforcement will allow the Commission to incentivize platforms to further address disinformation (Buiten 2022: 20).

### **5.3.3. Conclusion**

In this perspective, this third chapter demonstrated that the DSA has the potential to increase the propensity of platforms to combat disinformation. Even if its effects have not been fully deployed yet, guaranteeing higher costs for non-compliance will likely increase their responsibilities. As online platforms mainly base their actions in a profitability logic, it would create economic incentives for the platforms

to combat disinformation. To achieve this, strict enforcement, significant sanctions, and the granting of the status of Code of Conduct to the Code of Practice on Disinformation will be necessary.

## 6. Concluding remarks

The object of this research was to examine how the DSA impacts the role of online platforms in combating disinformation. Two key questions framed the analysis. The first one sought to assess the effectiveness of the response and compliance of online platforms, while the second one explored how the regulation might shape the propensity of platforms to combat disinformation. In the context of the implementation of the DSA, this research is of particular interest, as it brings in a more practical approach. The DSA aims to address more effectively challenges in the digital environment, such as disinformation which could not be sufficiently tackled by previous EU instruments. It changes the role that online platforms are required to take in the fight against disinformation. In that respect, the DSA brings in significant changes in the way disinformation is regulated. Nonetheless, these changes can only be impactful if it is reflected in platforms' actions and if the regulation is sufficiently enforced. It is to these challenges that this research responds to assess the wider impacts of the DSA.

The analysis was based on an examination of the DSA, the Commission's enforcement, and the platforms' response, complemented by secondary literature. The impact of the DSA on the role taken by online platforms was assessed under three scopes: the legislative approach, platforms' compliance, and prospective changes. First, in terms of legislation, the DSA brought a turning point in terms of the regulatory approach adopted. From self-regulation to co-regulation, platform accountability is now at the very core of the fight against disinformation. This is particularly true for the largest platforms, the VLOPs, which are subject to more stringent obligations. They are responsible for identifying and mitigating systemic risks, which include disinformation. There is thus a clear legislative shift in the position taken by online platforms. Second, the issue was to determine whether this legislative change was reflected in the response and compliance of platforms. Case studies of the platforms Meta, TikTok, and X allowed us to draw some first conclusions on this matter. They showed that although the platforms face the same challenges, their response is different: while Meta is broadly compliant with the DSA, TikTok and X are currently subject to legal proceedings opened by the European Commission. Therefore, the effective change in the role of platforms depends on their strategy and willingness. This highlights that the turning point driven by the DSA still relies on the choices made by platforms. Third, with these considerations in view, it was necessary to establish whether the DSA has the potential to further increase their involvement against disinformation. It found that a way of incentivizing platforms was to create economic incentives, as they are primarily cost-oriented. In that regard, the enforcement phase is crucial. Through enforcement, the costs of non-compliance can be increased to raise the propensity of platforms to combat disinformation. Three conditions have thus been

defined for that purpose: a reinforcement of the status of the Code of Practice as a Code of Conduct, strict enforcement by the European Commission, and high sanctions.

As a result, this research has shown that the DSA primarily marks a turning point in the role played by platforms in the legislative framework. Online platforms are now bound to combat disinformation, and their responsibility has considerably increased. Yet, this legislative turning point is only partially reflected in their response and compliance. While all have deployed minimal efforts to comply with the new regulation, few have taken more significant action. The DSA, however, still presents the potential to further leverage their efforts in the fight against disinformation. As part of the enforcement phase, the European Commission can place high constraints on platforms and set economic incentives to encourage them to increase their action. All in all, the materialization of the legislative turning point driven by the DSA will depend on the enforcement.

These conclusions highlight the ability of the DSA to address disinformation more effectively in the EU. Some positive impacts can already be noted. Notably, according to the European Commission, online platforms have already changed their approach in recent elections in Slovakia, Poland, and the Netherlands by strengthening their fact-checking and media literacy capabilities (Kuklis 2024). With effective enforcement, we could then see these results being further enhanced. The Commission has already deployed strict enforcement of the DSA and put significant pressure on platforms. To ensure the continuity of these positive results, it is then crucial that these efforts remain, even after the European elections and the start of the Commission's new mandate (Couronne 2024).

Further studies may therefore examine the results of this process and the effect that the DSA enforcement will have. Combating disinformation is a lengthy and complex task. It would thus be worthwhile conducting a complementary analysis, with more hindsight on the impact of the DSA and future political priorities. In particular, it will be of interest to take into account the effect of the DSA beyond the EU. The role of online platforms regarding disinformation could indeed change on a much larger scale. If the DSA triggers a Brussels effect and extends the European standards outside of the EU, as some are already suggesting (Nunziato 2023: 117), the evolution of their role is then likely to be even more significant.

## Annex 1: Overview of interviews conducted

For the purpose of this research, four semi-directive interviews were conducted among stakeholders related to the topics of disinformation and the DSA. The list of interviewees is available below. Their inputs encompassed a variety of perspectives, such as those of regulators, non-governmental organizations and academics.

| Interviewee      | Organization            | Position                                     | Date of interview | Place of interview |
|------------------|-------------------------|----------------------------------------------|-------------------|--------------------|
| Naomi Appelman   | University of Amsterdam | PhD researcher on platform governance issues | March 26, 2024    | Online             |
| Vincent Couronne | Les Surligneurs         | Director                                     | March 1, 2024     | Online             |
|                  | EFCSN                   | Treasurer                                    |                   |                    |
| Jan Penfrat      | EDRi                    | Senior policy advisor                        | March 25, 2024    | Online             |
| Lubos Kuklis     | European Commission     | Member of the DSA enforcement team           | February 28, 2024 | Online             |



## **Annex 2: Enforcement actions taken by the European Commission**

This annex provides an overview of the enforcement actions taken by the European Commission until March 2024 for three VLOPs: Meta (Facebook and Instagram), TikTok and X (European Commission 2024f).

| <b>Main establishment of the provider in the EU</b>        | <b>Meta Platforms Ireland Limited (MPIL)</b>                                                                                                                                                                                                                                                                                                                          |
|------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Designated service</b>                                  | Facebook                                                                                                                                                                                                                                                                                                                                                              |
| <b>Type of service under DSA</b>                           | Very large online platform                                                                                                                                                                                                                                                                                                                                            |
| <b>Average monthly active users in millions</b>            | 259                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Digital Services Coordinator as of 17 February 2024</b> | Ireland                                                                                                                                                                                                                                                                                                                                                               |
| <b>DSA enforcement actions</b>                             | <ul style="list-style-type: none"> <li>- 25.04.2023: designation</li> <li>- 19.10.2023: request for information</li> <li>- 10.11.2023: request for information</li> <li>- 01.12.2023: request for information</li> <li>- 18.01.2024: request for information</li> <li>- 01.03.2024: request for information</li> <li>- 14.03.2024: request for information</li> </ul> |
| <b>Designated service</b>                                  | Instagram                                                                                                                                                                                                                                                                                                                                                             |
| <b>Type of service under DSA</b>                           | Very large online platform                                                                                                                                                                                                                                                                                                                                            |
| <b>Average monthly active users in millions</b>            | 259                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Digital Services Coordinator as of 17 February 2024</b> | Ireland                                                                                                                                                                                                                                                                                                                                                               |
| <b>DSA enforcement actions</b>                             | <ul style="list-style-type: none"> <li>- 25.04.2023: designation</li> <li>- 19.10.2023: request for information</li> <li>- 10.11.2023: request for information</li> <li>- 01.12.2023: request for information</li> <li>- 18.01.2024: request for information</li> <li>- 01.03.2024: request for information</li> <li>- 14.03.2024: request for information</li> </ul> |

|                                                            |                                                                                                                                                                                                                                                                                                                       |
|------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Main establishment of the provider in the EU</b>        | <b>TikTok Technology Limited</b>                                                                                                                                                                                                                                                                                      |
| <b>Designated service</b>                                  | TikTok                                                                                                                                                                                                                                                                                                                |
| <b>Type of service under DSA</b>                           | Very large online platform                                                                                                                                                                                                                                                                                            |
| <b>Average monthly active users in millions</b>            | 135,9                                                                                                                                                                                                                                                                                                                 |
| <b>Digital Services Coordinator as of 17 February 2024</b> | Ireland                                                                                                                                                                                                                                                                                                               |
| <b>DSA enforcement actions</b>                             | <ul style="list-style-type: none"> <li>- 25.04.2023: designation</li> <li>- 19.10.2023: request for information</li> <li>- 09.11.2023: request for information</li> <li>- 18.01.2024: request for information</li> <li>- 19.02.2024: opening of proceedings</li> <li>- 14.03.2024: request for information</li> </ul> |

|                                                            |                                                                                                                                                                                                                         |
|------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Main establishment of the provider in the EU</b>        | <b>Twitter International Unlimited Company (TIUC)</b>                                                                                                                                                                   |
| <b>Designated service</b>                                  | X                                                                                                                                                                                                                       |
| <b>Type of service under DSA</b>                           | Very large online platform                                                                                                                                                                                              |
| <b>Average monthly active users in millions</b>            | 115,1                                                                                                                                                                                                                   |
| <b>Digital Services Coordinator as of 17 February 2024</b> | Ireland                                                                                                                                                                                                                 |
| <b>DSA enforcement actions</b>                             | <ul style="list-style-type: none"> <li>- 25.04.2023: designation</li> <li>- 12.10.2023: request for information</li> <li>- 18.12.2023: opening of proceedings</li> <li>- 14.03.2024: request for information</li> </ul> |

### **Annex 3: Estimate of costs of the DSA at the company level**

The table below is an extract of the impact assessment of the DSA conducted by the European Commission. The assessment estimates the consequences at company level, notably in terms of costs (European Commission 2020b: 53-55).

Two elements can be taken into account for a better understanding of this data:

- The table differentiates impacts according to three options. It should however be noted that the option recommended in the assessment and chosen in the DSA is the third one (European Commission 2020b: 72).
- The table occasionally refers to full-time equivalents (FTEs) as a unit of calculation. According to the Commission, this unit can be valued to an average cost of 110,000 euros annually (European Commission 2020b: 137).

| Type of obligation                                                                                       | Option 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Option 2                                                                                                                                                                                                                                                                                                                                                                                                              | Option 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1. Notice and action obligations and information to users, absorbing complaints and redress costs</b> | <p>For all hosting service providers:</p> <p>Highly dependent on the volume of notices received, where personnel costs are the most notable expenditures. Estimates range from a one-off maximum cost of EUR 15.000 for establishing a notice-and-action technical system and light maintenance, to EUR 1 million for a volume of 200 notices received per day, and EUR million for 3000 notices received per day. While there are some economies of scale with the increase of the number of notices, these are limited. These are indicative costs and, for most companies, they do not represent an additional cost compared to current operations, but require a process adaptation in the receipt and processing of notices and streamline costs stemming from fragmented obligations currently applicable.</p> |                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>2. Legal representative</b>                                                                           | <p>For some online intermediary services not established in the EU and with a significant user base in the EU:</p> <p>Estimated between EUR 50.000 to EUR 550.000 per annum, depending on the FTE necessary to complete the tasks. These costs can be partially or fully absorbed, for most companies, in existing requirements for legal representatives.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>3. Transparency reporting</b>                                                                         | <p>For all intermediary services (exempting small and micro-enterprises):</p> <p>0.1 and up to 2 FTEs and one-off development data collection, absorbed in the development of systems</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>4. User-facing transparency of advertising and recommender systems</b>                                | /                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p>Online platforms (exempting small and micro enterprises):</p> <ul style="list-style-type: none"> <li>- Costs absorbed in the routine development of systems</li> <li>- Data collection and availability as regards information on the functioning and targeting criteria, when applicable, by and large absorbed into GDPR compliance, with minor additional costs for up-front information publication</li> </ul> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>5. Risk management obligations</b>                                                                    | /                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | /                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>Very large platforms:</p> <ul style="list-style-type: none"> <li>- Risk assessments: estimated between EUR 40.000 and EUR 86.000 per annum</li> <li>- Audits: between EUR 55.000 and 545.000 EUR per annum</li> <li>- Risk mitigation measures are variable costs and can range from virtually no costs, to significant amounts, in particular when the platforms' systems are themselves causing and exacerbating severe negative impacts. The duration and level of expenditure for such measures will also vary in time. Similarly, participation in Codes of conduct and crisis protocols requires attendance of regular meetings, as a direct cost, but the streamlined targeted measures can vary.</li> </ul> |
| <b>6. Ad archives</b>                                                                                    | /                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | /                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>Very large platforms (that run advertisements on their platforms):</p> <p>Up to 220.000 EUR for building APIs to give access to data and quality controls for data completeness, accuracy and integrity, and for system security and availability.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>7. Compliance officer</b>                                                                             | /                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | /                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>Very large platforms:</p> <p>Estimated between 1-5FTEs</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

## List of abbreviations

AI – Artificial Intelligence

DSA – Digital Services Act

EDRI – European Digital Rights

EFCSN – European Fact-Checking Standards Network

EU – European Union

VLOP – Very Large Online Platform

VLOSE – Very Large Online Search Engine

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## Flavours of Friendship: Comparing India and France's Culinary Diplomacy

Zoe Banatvala

"Indian cuisine [...] will serve as an intercultural bridge between nations and bring joy and happiness to people around the world" (Indian Council for Cultural Relations (ICCR) 2021b: 5m25s).

"After all, Miss, this is France, and a dinner here is never second best" (Trousdale and Wise 1991: 52m48).

### Introduction

Heading up the G20 in 2023 and set to be the world's third largest economy (Reuters 2023), India is emerging as a major geopolitical player. Along the way, its external cultural relations body, the Indian Council for Cultural Relations (ICCR), announced its intentions to deploy so-called culinary diplomacy (CD), using Indian cuisine to "showcase India's soft power and its culinary heritage on the world stage" (ICCR 2021a).

The ICCR's plans reflect a nation of a "billion kitchens" (ICCR 2021a), grounded in 5000 years of Indian cuisine, with unparalleled culinary diversity evolving through religious tradition, trade and colonial history (Taylor Sen 2015).

Yet a 2022 parliamentary report found that whilst India has significant potential for soft power, including through its cuisine, to achieve this potential, its ICCR-led cultural diplomatic activities must significantly improve (Committee on External Affairs (CEA) 2023: 7-8). The report therefore recommended that India's Ministry of External Affairs (MEA) review international best practices (CEA 2023: 6). While the MEA noted this recommendation in 2023, they have not publicly indicated any action since (CEA 2023: 6-7).

Similarly, international metrics on soft power rank India third for potential but 36th for performance (Brand Finance 2021). This gap between India's soft power potential and performance therefore warrants closer scrutiny, to understand how the ICCR and India could strengthen India's soft power.

Exploring how other countries approach CD as a tool to enhance soft power may therefore be useful to Indian policymakers. Like India, France has a rich gastronomic history. However, unlike India, France has been ranked first for soft power performance and third for cultural strength, bolstered by its UNESCO-recognised cuisine and having the highest number of Michelin-starred restaurants globally (Portland 2019: 39). Indeed France was explicitly referenced during an ICCR lecture on India's culinary



traditions as an exemplar of CD (ICCR 2021b: 58m32s). Why, then, do these countries have comparable gastronomic strength but opposite soft power performance?

Moreover, while CD literature is growing (Chapple-Sokol 2013), Indian initiatives such as the Annapurna Certificates or the International Year of Millets (IYM) remain understudied, largely due to their recency (2023). As such, this study asks: to what extent can India learn from French culinary diplomacy to enhance its soft power?

To answer this question, this study examines existing literature and historical context as well as key state initiatives and actors, with an emphasis on the ICCR, tourist bodies and foreign ministries<sup>1</sup>. The overarching research question invites five further sub-questions:

1. What is the theoretical strength of CD as a means of increasing soft power?
2. What are the actors, initiatives and strategies of the French state's CD model?
3. What is the strength of the French approach to CD?
4. Is the current Indian approach to CD comparable to France's?
5. What are the challenges India faces in deploying CD?

The main hypothesis is that India can develop comparable CD capability to France if appropriate strategies and resources are made available. France is further along in its CD journey, so it would be expected to find that French practices are better developed and resourced. With the right resources and policy, India could deliver similar results. However, a secondary hypothesis is that India would not look to emulate all areas of a French model, given France's history of projecting its culture, compared with India's emphasis on cultural exchange.

Having introduced the research, Part 1 reviews the literature on soft power, CD and food as culture. From here, Part 2 contextualises India and France's relationship to soft power and food, culturally and historically. Part 3 analyses the findings, where three key areas of CD activity emerge: (a) embassy activity, (b) tourism campaigns and (c) distinct culinary diplomacy initiatives. Finally, the conclusion synthesises findings and analyses, in terms of the initial hypotheses, before recommending further research on a potential French CD model, as well as Indian diaspora, and geographical indications (GIs)<sup>2</sup>.

An exploratory qualitative study allows for an investigation of India and France's CD approaches. The study uses data collected through interviews, with document analysis of government sources and relevant news-reporting. Interviewing key government and industry stakeholders provides expert perspective and unpublished insight into the inner workings of government CD, where policy documents and statements provide more empirical indications of current practices.

Seven interviews were conducted, with interviewees chosen based on complementary expertise in CD:

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<sup>1</sup> Note: A full list of relevant actors and initiatives can be found at Annex A.

<sup>2</sup> Note: the EU defines geographical indications as unique identifiers which link products with qualities tied to their place of origin. Examples include Italian Prosciutto di Parma or French Bordeaux wine. For more information see: "Geographical indications food and drink," European Commission, accessed March 10, 2024, [https://agriculture.ec.europa.eu/farming/geographical-indications-and-quality-schemes/geographical-indications-food-and-drink\\_en](https://agriculture.ec.europa.eu/farming/geographical-indications-and-quality-schemes/geographical-indications-food-and-drink_en).

- a. Dinesh K. Patnaik is the current Indian Ambassador to Spain and served as ICCR Director General when it announced its intention to use CD.
- b. Nagma M. Mallick is the current Indian Ambassador to Poland, with 30 years of experience in Indian diplomacy.
- c. Amarendra Khatua is a former Indian Ambassador, and the former ICCR Director General as well as former Dean of the Institute of Foreign Service, which trains Indian diplomats.
- d. Parvinder Singh Bali has worked as a chef in the luxury Oberoi Hotel Group for almost three decades, travelling globally to promote Indian cuisine, often with the Indian government, and serving as visiting faculty in culinary institutions globally.
- e. Arbind Singh is the national coordinator of the National Association of Street Vendors of India (NASVI), working with the government on food-related legislation, hygiene practices and food festivals.
- f. Gilles Quillot has been head chef at the French Embassy in London for over 25 years, with extensive experience of embassy activities both serving official guests and participating in culinary initiatives.
- g. Pierre Buhler was President of the Institut Français, and France's Ambassador for Cultural Action Abroad as well as former French Ambassador to Singapore and Poland.

These interviews were supplemented by greater availability of French policy documents than for India.

This study has evident limitations due to both primary source availability and the time constraints of a master's thesis. Data on expenditure and government evaluation regarding the efficacy of initiatives and events was limited by access to mostly public documentation and comment. Furthermore, the exploratory approach and the focus on two countries is not a wide enough sample to extrapolate a globally applicable model. Nevertheless, it may provide initial considerations to encourage further policy work. The starting point of the ICCR announcement led to a focus on CD through government activity. As such, CD undertaken uniquely by industry, private citizens or the third sector is beyond the scope of this study and warrants further exploration.

## 1. Literature Review

This section first conceptualises soft power and its tools - public and cultural diplomacy and nation-branding - which underpin culinary diplomacy theory. It then reviews two articulations of culinary and gastrodiploamacy before defining culinary diplomacy (CD) for this study. Finally, it explores food as part of culture to contextualise the strengths and risks of using food in diplomacy.

### 1.1 Soft power, cultural and public diplomacy and nation-branding

Both the French and Indian governments cite soft power as an objective in their diplomatic strategy (Ministère de l'Europe et des Affaires étrangères (MEAE) 2021;

ICCR 2021a). Soft power is Joseph Nye's (2009: 160-63) conceptualisation of a state's ability to attract or persuade others to achieve its objectives, rather than using economic or military force (hard power). Soft power is predicated on three key pillars, a country's foreign policies, political values and culture (Nye 2019: 8). Its assets range from literature and art, to sports and food (Nye 2004: 6). Nye argues that soft power is increasingly significant for any state looking to wield influence in international relations (Ifantis 2012: 441).

The theoretical coherence and utility of soft power are debated (Brown 2017: 37). Niall Ferguson rejects the idea of soft power, considering cultural and commercial goods as too soft to generate any real power (Nye 2006). However, for Nye (2004: 11), this mistakenly characterises soft power as the mere existence of cultural resources rather than the strategic deployment of these resources. Janice Bially Mattern (2005: abstract) goes further, seeing soft power as an extension of hard power, because attraction through cultural appeal still exerts influence - a form of coercion "through language".

Soft power remains popular with policymakers (Brown 2017: 37). However, Kostas Ifantis (2012: 442) does note the challenges of soft power as a deliverable policy objective. First, because it takes a long time to accumulate soft power and second, because it is difficult to measure and evaluate its utility (Ifantis 2012: 442). Yet, metrics exist, like Brand Finance's Global Soft Power Index (Brand Finance 2024) or Portland's Soft Power 30 (Portland 2019). Moreover, soft power remains "firmly entrenched in policy discourse" (Brown 2017: 37), including within India (ICCR 2021a) and France (MEAE 2021). Countries worldwide seek to increase soft power (Chitty 2017: 27), and spend billions doing so (Nye 2019: 16).

Public and cultural diplomacy are key tools to strengthen soft power (Chitty 2017). Public diplomacy refers to government engagement with foreign audiences alongside official counterparts (Pamment 2014: 1). Jan Melissen also highlights a shift to new public diplomacy, which focuses on "dialogue and engagement" rather than solely projecting information (Pamment 2014: 9).

Cultural diplomacy is considered a "core component" of public diplomacy by many (Pamment 2014: 29). It is often described as a "national policy designed to [...] export [...] [a] nation's culture in order to further the objectives of foreign policy", as Jessica C. E. Gienow-Hecht and Mark C. Donfried (2013: 13) explain. However, interpretations vary. For Yuzo Ota, it is any cultural promotion by those who identify with the relevant country (Gienow-Hecht 2010: 10) whereas Richard Arndt separates it from cultural relations, which "grow [...] without government intervention" (Gienow-Hecht and Donfried 2013: 13). Gienow-Hecht and Donfried's definition of cultural diplomacy, seen through the lens of government activity, is more helpful for this study's focus. Seeing cultural diplomacy as a policy-based activity which is intentionally undertaken by governments enables a tight focus on Indian and French state use of culinary diplomacy.

Finally, nation-branding is another key instrument for soft power (Viktorin et al. 2018: 12-13). This is Simon Anholt's term for use of marketing strategies to enhance a

nation's image, such as the UK's Cool Britannia campaign (Viktorin et al. 2018: 8-9). In terms of soft power, nation-branding becomes a "strategic self-presentation of a country" to create "reputational capital through economic, political and social interest promotion at home and abroad" (Szondi 2008: 5). As Christopher Browning (2023: 14) highlights, it "cultivate[s] an emotional resonance and attachment to the country". Melissa Aronczyk and Ishita Sinha Roy critique the long-term effectiveness and the risk of renewed nationalism (Aronczyk 2018; Roy 2019). Yet, Anholt (2013: 9) defends nation-branding; "responsible governments" should manage global perceptions to achieve their "economic, political and social" goals. Thus, whilst nation-branding is conceptually useful, policymakers should note potential pitfalls.

In sum, for this study cultural diplomacy leverages cultural resources through government diplomacy, public diplomacy specifically refers to efforts to target foreign audiences whilst nation-branding strategically crafts an attractive state image. Together these are key for wielding soft power, a state's ability to attract and influence others to meet its objectives, and underpin the theory of CD.

## 1.2. Culinary diplomacy (CD)

Culinary diplomacy (CD) and gastrodiploacy have emerged as fields in diplomatic theory over the last decade (Rockower 2020: 205). Early use of the term 'gastro-diplomacy' appears in a 2002 Economist article, outlining Thailand's campaign to increase numbers of Thai restaurants abroad to improve its international image (Parasecoli 2020: 128). Similar campaigns across Asia led to the formal conceptualisation of both culinary diplomacy by Sam Chapple-Sokol (2013), which this thesis uses, and gastrodiploacy by Paul Rockower (2012). Both build on existing literature including Costas Constantinou on gastronomic diplomacy (Chapple-Sokol 2013: 166), Linda Morgan (2012) on diplomatic gastronomy, and Christian Reynolds (2012) on food and soft power.

For Rockower (2012: abstract), gastrodiploacy is "cultural diplomacy through promotion of [...] cuisine". This is a coordinated public diplomacy campaign, using nation-branding to raise awareness of national cuisines, and therefore culture (Rockower 2012: 236). This is underpinned by the sociological and anthropological connection between food and emotions, which "shape long-term [...] perceptions" (Rockower 2012: 236). Moreover, food is an effective cultural diplomacy tool as it is perceived as "non-threatening" (Rockower 2012: 236). Middle powers use gastrodiploacy to increase their visibility through nation-branding, though the US and France are also beginning to deploy it, notes Rockower (2020: 208)<sup>3</sup>. Rockower (2020: 207) distinguishes between CD and gastrodiploacy, where CD applies to government-to-government engagements and gastrodiploacy covers wider cultural relations with foreign audiences.

For Chapple-Sokol (2013: 162), however, CD encompasses gastrodiploacy and more broadly the use of "cuisine as an instrument to create cross-cultural under-

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<sup>3</sup> Note: Rockower (2012: 208) explains that "in the global power dynamic, middle-power states are neither dominant superpower actors nor weak or small states but exist in the middle of the field".

standing" to improve "interactions and cooperation" in international relations. Chapple-Sokol (2013: 166-167) combines Constantinou's early gastronomic diplomacy theory - sharing meals to strengthen relations - and Raymond Cohen's "non-verbal diplomatic signalling", where the ambiguity of communication without words can be useful. Chapple-Sokol's CD also relies on Gordon Allport's 1950s contact hypothesis theory that "intimate" and "comfortable" contact can lead to positive relations (Chapple-Sokol 2013: 171). Meal-sharing may provide the perfect vehicle for this.

Chapple-Sokol recently reconfigured his framework from private/public to three strands (2016):

1. "Track 1 Culinary Diplomacy" (government-to-government)
2. "Gastro-diplomacy" (government-to-foreign public)
3. "Citizen culinary diplomacy" (between non-government actors).

This can be a useful framework for policymakers to understand different areas of CD. The scope of each strand is also broader than Rockower's. For example, on government-to-government CD, Rockower's (2020: 207) conception focuses on protocol and the "use of food and dining [...] to increase bilateral ties". But Chapple-Sokol's conception is not merely about the power of sharing a meal between diplomatic counterparts. He (2013: 178) quotes U.S. Secretary of State Hillary Clinton, who argues that "showcasing favourite cuisines [...] is an often overlooked and powerful tool" to "cultivate a stronger cultural understanding". This study therefore uses Chapple-Sokol's theory, which encompasses a broader range of instruments and activities for states using CD.

### **1.3 Food as culture**

CD theory recognises food's deep cultural significance. Sociologists and anthropologists alike have argued for the link between food and nostalgia, exemplified by writer Marcel Proust's description of the memory that madeleine cakes evoked for him (Rockower 2020: 207; Belasco 2008: 25-26). Food transforms from sustenance into cuisine - a "culture's language" - through diverse practices, dishes and ingredients as well as associated "protocols" and "etiquette", as Warren Belasco and Roland Barthes note (Belasco 2008: 16-18). In turn, food has a strong link with cultural identity (Ray 2013: 363-378). Elsewhere, Kaitlin Woolley and Ayelet Fishbach's (2019: 541-552) research demonstrates the positive impact of meal-sharing on cooperation, aligning with CD's theoretical underpinnings. Data also reflects this significance. Food is the third most important consideration for tourists (UNWTO 2017), and a third of tourists go to France for the food (France Diplomacy website 2024a).

However, there are risks in using food as a cultural tool. Building on Benedict Anderson's imagined communities, Sidney Mintz sees national cuisines as a "holistic artifice" amalgamating foods of people within "some political system" (Ray 2013: 369). There are also potential social consequences - attributing cultural significance to food can accentuate nationalism, which has been termed as 'gastronativism' by Fabio



Parasecoli (2020). Both India and France have witnessed this - in Nice, anti-immigration groups used the slogan “Yes to socca, no to kebabs”, while eating beef has incited Hindu-Muslim tensions in India (Parasecoli 2020: 3). Parasecoli (2020: 15) also emphasises that food is powerful because it “activate[s] emotions and ... everyone experiences it”. Yet it is this power, despite Rockower’s ‘non-threatening’ descriptor, which can render food contentious, from Arab-Israeli “hummus wars” (Di Fiore 2020: 43) to fierce debates over who owns the Dolma (Osipova 2014: 18-22). These factors should not be seen as prohibitive to using food strategically; this section has also explained the positive associations that food can create. Nevertheless, they bear consideration during CD policymaking.

This section explored how soft power, public diplomacy, cultural diplomacy and nation-branding theories underpin CD, forming the basis of this study. Food can be a powerful cultural tool, despite its socio-cultural pitfalls. The next section explores the specific relevance of these concepts to France and India.

## **2. Historical and Cultural Context of France and India**

This section explores the common importance for France and India of food and culture whilst drawing out the differences in how the key concepts reviewed appear in France and India. It argues that in terms of food and cultural diplomacy, France has a history of state-driven cultural projection, whilst India has prioritised pluralist cultural exchange.

### **2.1 France**

#### **2.1.1 Food**

If every country has a culinary tradition, in France as nowhere else that tradition has become a national symbol of prestige, the incarnation of French civilization (Clark 1975: 33).

France’s deep-rooted gastronomic culture is intertwined with its cultural diplomacy. Rick Fantasia (2018: 8) describes “gastronomy as a primary source of cultural power for the French”. While French cuisine has historically helped shape the nation, it has also long been projected beyond France.

France’s passion for food traces back millennia (Clark 1975: 34). However, French cuisine particularly evolved after the 1789 Revolution, with mutually reinforcing ideas of nationhood and French gastronomy (Fantasia 2018: 10-18). The period after 1789 saw a surge in Parisian restaurants as the nation centralised (Fantasia 2018: 10-18). The subsequent emergence of “gastronomic literature” transformed gastronomy into a cultural field (Fantasia 2018: 14). Antonin Carême, Grimod de la Reynière and Anthelme Brillat-Savarin produced formative books on gastronomy, whilst references to gastronomy by literary heavyweights such as Balzac and Fournier helped legitimise gastronomy as culture (Fantasia 2018: 22). Fantasia (2018: 18) argues this reinforced a “culinary nationalism”, intertwining cuisine with the very notion of the French nation.



By the 1920s and 1930s, chefs such as Maurice-Edmond Sailland were documenting regional cuisines, preceding modern tourist guides. This legitimised regional cooking within a Paris-dominated landscape (Fantasia 2018: 20-22). Moreover, the association of cuisine and tourism led Michelin to create a guide (Fantasia 2018: 20-22), shaping a “global fine dining culture’ [idealising] [...] French haute cuisine” (Zhang and Wu 2019: 191). Indeed French cuisine has had an influence far beyond France’s borders. Jean-Robert Pitte (2002: 2) sees France’s great success as persuading “Europe and the developed world” that French cuisine was superior. Successful projection of French cuisine into royal courts across Europe pre-dates the Revolution (Fantasia 2018: 17). However, it dominated nineteenth-century courts from Britain (Pitte 2002: 111) to the Ottoman Empire and was used strategically when receiving foreign guests (Çetin 2023: 225). At the turn of the century, influential chef Auguste Escoffier established restaurants with the Ritz, in their prestigious London and Paris hotels, and entrenched “a position of international culinary hegemony” for French haute cuisine (Fantasia 2018: 32). Indeed, into the twentieth century, the Kennedy White House traditionally served French dishes at formal dinners (Morgan 2012: 151). Thus, France has a long history of projecting its cuisine.

### **2.1.2 Cultural diplomacy**

France’s history of cultural projection is also reflected in its diplomacy, as it has historically linked culture to the state. François Chaubet (2022: 23) even argues that France “invented modern cultural diplomacy”. A French proto-cultural diplomacy can be traced back to Cardinal Richelieu, King Louis XIII’s chief minister in the seventeenth century (Lane 2013: 7). Melissen (2005: 1-2) argues King Louis XIV then furthered the practice to proto-nation-branding, before other European states. Napoleon continued using cultural projection to “reinforce French power” (Gienow-Hecht and Donfried 2013: 30), setting a trend of France deploying cultural institutions when its international standing was threatened. L’Alliance Française, which promotes the French language, was established a decade after the 1870-71 Franco-Prussian war (Gochaevich and Sakaev 2019: 200), France’s Office of Cultural Relations after the First World War, and “the first Ministry of Culture” in 1959, post-World War II (Zamorano 2016: 181). Today, France has the third largest diplomatic network (France Diplomacy website 2024d) and “one of the richest and most extensive cultural networks” (Tounta 2022: 141). The French 2021 Roadmap for Soft Power emphasises the continued need “to make influence diplomacy an integral element of foreign policy” (MEAE 2021: 7)<sup>4</sup>. Caterina Carta and Ángel Badillo’s (2020: 67) recognition of “French cultural policy” as “a trailblazer in the field”, is reinforced by Brand Finance’s soft power index (2024), which ranks France second globally in the Culture and Heritage category. Taken together, France’s cultural diplomacy manifests as a “state-oriented centralist model” (Carta and Badillo 2020: 68).

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<sup>4</sup> For consistency, all non-English direct quotations in this thesis have been translated. This is indicated in the reference footnote with “translation (n° of translation)”. Annex B contains a list of the original quotes and their translations. Translation 1 at Annex B.

Food has also played an important role within this historic trend, with cuisine being viewed as a “public good” through its cultural status (Clark 1975: 32). Rockower (2020: 208) labels France a “culinary great power”, whilst Chapple-Sokol (2013: 164) argues that CD is “deeply rooted in a strong French tradition”. He (2013: 165) cites Napoleon’s diplomat Charles Maurice de Talleyrand directing Antonin Carême, his “king of cooks and the cook of kings”, to tempt people to his table during the Congress of Vienna. Just as European negotiators enjoyed French cuisine, so France re-established its status in Europe (Chapple-Sokol 2013: 165).

However, France faces challenges to its soft power and culinary dominance. Raúl Matta (2019: 114) notes that fewer French restaurants ranking on lists like the World’s 50 Best Restaurants suggests a decline in the image of French cuisine. Mark Leonard (2022) argues that cultural divisions within France and Europe undermine soft power. A growing decolonial approach also challenges a perceived European projection of norms (Leonard 2022). As such, India’s approach to cultural exchange could be a more effective model for CD than traditional French projection.

Given its history of state-driven cultural and culinary projection, France nevertheless serves as a valuable benchmark for exploring culinary diplomacy approaches.

## 2.2 India

### 2.2.1 Food

“Food, like an invisible chisel constantly at work, has shaped the identity of the Indian nation” (Pant 2013: 1).

The ICCR’s recent intention to use culinary diplomacy to bolster Indian soft power emerges from a history of diverse cuisine and pluralist cultural exchange. Like France, understanding India’s culinary heritage and diversity can help us understand its potential for culinary diplomacy.

India’s food diversity draws on a 5000-year-old culinary history (Mangalassary 2016: 119-120). Food in Indian identity is rooted in ancient texts including the *Dharmaśāstras’* praise of being a “gourmand” (Srinivas 2011: 38). Food historians highlight common threads within Indian cuisine, including use of native ingredients like mangoes, aubergines and spices, alongside interlinkage of food and medicine through Ayurveda (traditional medicine) (Taylor Sen, Bhattacharyya and Saberi 2023: 2-5). Varied cultural influences led to regional specialities (Srinivas 2011: 38), like Kerala *appam* (pancakes) and Gujarati *undhiyu* (vegetable curry) (Taylor Sen, Bhattacharyya and Saberi 2023: 26, 161). Religious plurality means no beef for Hindus, whilst Muslims eschew pork, Jains avoid honey and Buddhists practice vegetarianism (Mangalassary 2016: 122-123). Geographically, Colleen Taylor Sen traces the Islamic introduction of Turkish, Afghan and Persian food traditions into Indian Mughal dishes, using pomegranates and almonds (2015: 183-184). The Portuguese contributed tomatoes, potatoes and chillies creating spicy *vindaloos* (curry) and sweet *bebinca* (cake) (Taylor Sen, Bhattacharyya and Saberi 2023: 401). Nineteenth-century Parsis in Mumbai fused Persian, Gujarati and European influences into dishes like

*Lagan nu custard* (wedding custard) (Raghavan, Asia and Singh 2015: 75). Finally, India's *masala chai* evolved when the British left surplus tea plants in the north of its former colony (Antani and Mahapatra 2022: 13).

Food has also shaped Indian political history. Sixteenth-century Mughal emperor Akbar adopted vegetarianism for political influence (Antani and Mahapatra 2022: 5); India's spices attracted fifteenth-century Portuguese travellers, before India's occupation when "the whiff of spice lured Britain to India" (Mangalassary 2016: 125). The use of beef and pork fat in gun cartridges caused revolts in 1857, and Britain's salt tax inspired Mahatma Gandhi's protest march (Parasecoli 2020: 98). During Partition in 1947, Punjabi refugees introduced the tandoor oven to wider India (Pant 2013: 21). The 1943 Bengal Famine and India's subsequent reliance on US food aid encouraged a 'green revolution' making India self-sufficient in food (Taylor Sen 2015: 273).

As Pushpesh Pant (2013: 27) says, in India, "it is food that defines our national identity". Indeed, the impact of food in India's pluralist history demonstrates its potential as a diplomatic tool.

### 2.2.2 Cultural diplomacy

Understanding how India's history shapes its approach to power and modern political priorities is necessary to explore India's CD potential. Like food, soft power and cultural diplomacy are rooted in ancient India, and have shaped the modern nation. Paramjit Sahay (2019: 70, 74) argues that proto-cultural diplomacy has long been inherent in India's pluralist culture, from King Ashoka promoting friendship through Buddhist teachings in 206 BC to Gandhi's assertion there is "room enough for Jesus, as there is for Mohammed, Zoroaster and Moses". This plurality created an emphasis on exchange which Yudhishtir Raj Isar (2017: 705–716) argues is central to the modern Indian conception of cultural diplomacy. Indeed, the ICCR's objectives revolve around cultural exchange and "mutual understanding" (MEA 2024b).

Moreover, in shaping modern India, Gandhi and former prime minister Nehru prioritised both soft power and cultural diplomacy. Gandhi's success in Indian independence illustrates successful soft power for Nye (2006). During the Cold War, Nehru's foreign policy was driven by a belief that peace was only possible through cultural exchange and "cooperation between nations and people" (Mark 2008: 183). His role in establishing the ICCR in 1950, and overseeing its subsequent integration into the MEA, indicates his vision of leveraging culture in diplomacy (Mark 2008: 185–7). Dubbed the "architect of India's foreign policy" (Mark 2008: 182), Nehru's approach lived on as subsequent politicians, including Yashwant Sinha and Shashi Tharoor, emphasised the importance of soft power for foreign policy (Ciorciari 2011: 63; Zaheer 2018: 26). Prime Minister Modi has revisited this by incorporating five pillars of soft power into Indian diplomatic strategy, including culture and dialogue (Mukherjee 2019).

Despite this renewed focus, India's huge soft power potential is seemingly untapped. Architecture, Ayurveda, Buddhism, cricket and yoga have all been invoked by academics as highlighting India's soft power potential (Kumari 2022: 26). Yet many

argue these have not been capitalised on. Arijit Mazumdar (2018: 483) blames the underutilisation of the ICCR, underfunding and staffing issues, while Hassan Zaheer (2018: 30) argues that effective strategy is lacking. This echoes concerns raised by India's parliamentary Committee on External Affairs in its 2022 report (CEA 2023: 4).

Bringing food and cultural diplomacy together, then, India has CD potential and challenges. Indian cuisine is already popular worldwide - in 2003 there were reportedly more Indian restaurants in London than Mumbai and Delhi (Mahapatra 2016: 5). It also appeals to trends for non-Western cuisines and vegetarianism (Bhatt 2013: 823). Yet, Indian cuisine still faces perception challenges. Restaurant owner Anita Jaisinghani (2014: 52) noted that "people don't think of Indian cuisine as an elegant cuisine". Its diversity is often not recognised, generalised as 'chicken tikka' or curry (Abraham and Ramaraj 2015: 140). Tourists see Indian food as too spicy and greasy (Abraham and Ramaraj 2015: 140), whilst associating it with a lack of hygiene ("Delhi belly") (World Economic Forum 2017). Challenges therefore remain for India when considering CD.

This section has outlined links between food and culture for both India and France, as well as their relationships with cultural diplomacy and soft power. Where France has a long history of state-driven cultural projection, a more recently independent India has prioritised pluralist cultural exchange. Additionally, France has long been associated with prestigious cuisine across the West, whilst Indian food struggles with foreign perceptions.

### 3. Findings

#### 3.1 Introduction

This section outlines the findings of this study, based primarily on government publications and interviews, for which experts were chosen for their insight on culinary diplomacy (CD). The analysis reflects areas that interviewees highlighted in interviews, through the lens of key concepts discussed in Part 3 - soft power and cultural diplomacy, public diplomacy and nation-branding in CD.

The first section explores how Indian and French embassies use CD. This encompasses both conventional diplomatic meals between government officials and broader public-facing activities that embassies undertake. This will help to understand how each country approaches CD in a conventional and public diplomacy context using traditional diplomats.

The second section focuses on how both countries approach tourism, which Simon Anholt describes as one of "six dimensions of nation branding" (Viktorin 2018: 125). Tourism can create a mass foreign audience for cultural exchange. In 2022, as the leading tourist destination worldwide, France received 92 million foreign tourists (Atout France 2023), whilst India had 6.2 million (Ministry of Tourism 2023: 6). An increasing role for cuisine emerges; food forms a third of tourism expenditure and tourists are looking for "authentic [...] culinary experiences" (UNWTO and Basque Culinary Centre 2019: 8). How France and India market themselves as a gastronomic des-

tinuation for 'culinary tourism' can therefore illustrate the role of food in their nation-branding, as well as their capacity to use food as part of touristic cultural exchange. Moreover, the difference in tourism numbers between France and India may not only provide us with tangible measurements of soft power, but help to understand the strengths of the French model and the challenges India faces.

The final section explores two French and two Indian initiatives which are entirely about food and led by their central governments: (1) the Annapurna certificates (India), (2) *Goût de France* / Good France (France), (3) the International Year of Millets (India), and (4) *l'Année de la Gastronomie* (France). When looking to understand both the French model and India's comparability, these can reveal how governments undertake a focused CD campaign, including the strategies they employ.

The time period for this study dates from 2010 for France and 2014 for India. For France, 2010 saw the inscription of the "gastronomic meal of the French" to UNESCO's Representative List of the Intangible Cultural Heritage of Humanity (UNESCO 2010). This is important when exploring CD through the lens of cultural diplomacy, which relies on a nation's cultural resources. The UNESCO listing marked recognition for French gastronomy as a cultural good, at an internationally recognised level. This seemingly enhanced France's ability to make gastronomy a core part of its brand and cultural exchange. Moreover, the inscription entails a commitment to safeguard and promote this cultural good, acting as an accelerator for promotion, research and preservation activities (Dumas and Monier 2021: 27).

For India, recent emphasis on CD through the ICCR's 2021 announcement follows a broader shift in India's relationship to soft power and cultural promotion, under Modi's premiership from 2014. The ICCR's relationship with soft power does predate Modi somewhat<sup>5</sup>. Its 2010-2011 Annual Report describes initiatives to expand cultural reach and promote "Soft Power" abroad (ICCR 2011: 9). Nevertheless, former ICCR DG and Ambassador to Spain, Dinesh K. Patnaik (2024) suggests a shift under Modi who "emphasised how [...] important Indian culture is to the world" and its role in fostering national identity. Patnaik (2024) notes that this is reflected through India being "more forthcoming" over the past decade in both cultural exchange and promotion. Industry expert Chef Bali (2024) also underscores Modi's role, noting Modi's vegetarianism and extensive travels, during which Indian food was often highlighted. Additionally, Bali (2024) notes that using gastronomy to attract tourists to India is a development of the last 10 years. This study therefore treats the last decade under Modi as central for the exploration of India's approach to CD.

### 3.2 Embassy activity

This section analyses the findings on how French and Indian embassies use cuisine both in (a) formal diplomatic endeavours and (b) wider public diplomacy, to increase influence and soft power.

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<sup>5</sup> ICCR annual reports publicly available online date back to 2003-2004. Information from the 2009-2010 report excluded from this study as not available in English.



Conventional CD involves official meals arranged between government officials, hosted by one party - state dinners, ambassadors hosting guests at residences, or international meetings. Both Indian and French interviewees emphasised the significance of such meals in fostering goodwill. They also underlined that these dinners are less about showcasing novel culinary experiences and more about ensuring the comfort and enjoyment of the guests.

Gilles Quillot (2024), head chef at London's French Embassy, points out that, for more formal dinners, "we're here to comfort them with French gastronomy [...] what we want is for them to have a good time"<sup>6</sup>. He does, however, encourage small nods to cultural exchange. A touch of Slovakian Borovička alcohol in the dessert when hosting Slovakia's ambassador, or bread made with Barbu du Roussillon, a wheat with ancient Greek roots, when welcoming Greek counterparts (Quillot 2024).

Prioritising that sense of comfort was echoed by Indian diplomats. Patnaik (2024) emphasises hosting over using restaurants for official meals. Their role is to "make people feel happy about eating [...] if you go to somebody's house to eat, you establish friendship, you establish relationships and so food becomes a binding agent for diplomats" (Patnaik 2024). India's Ambassador to Poland, Nagma M. Mallick (2024), concurs, noting that "guests at our Embassy Residence expect Indian food so [...] we try to serve the best version of the Indian cuisine that they may be used to".

Yet despite seemingly similar approaches, former diplomats for both India and France suggest somewhat diverging positions for both countries.

Former French diplomat and Ambassador for Cultural Action Abroad, Pierre Buhler (2024), describes fine dining as the "sacred duty of any French ambassador abroad", with gastronomy "ingrained in French ways of diplomacy". This extends beyond formal dinners, and into the realm of public diplomacy. Chef Quillot (2024) makes his own chocolate - ethical and environmental concerns regarding the chocolate industry led him to sourcing beans in French Martinique. It is time-consuming, he (2024) remarks, but results in 100% French-made chocolate. This creates unique gifts, chocolate bars that the Ambassador can offer guests (Quillot 2024). It also, Quillot (2024) observes, allows for promotion of Martinique. Each bar has a little explainer inside about the origins of the chocolate and beans (Quillot 2024). Quillot (2024) also highlights activity to emphasise culinary exchange during the anniversary of the 1904 *Entente Cordiale* agreement of friendship between the UK and France. The London embassy celebrated 20 years of the "*Entente Cordiale Culinaire*", founded by the Escoffier foundation, which unites students from culinary schools in both the UK and France to compete together in annual competitions (Raude-Leroy 2024). Sébastien Bidaud (2024), the Embassy's Deputy Head of Mission, underscored France's perspective on cuisine and diplomacy through this event: "Gastronomy can help bring States closer. Long live the Entente Cordiale, long live gastronomy".

Meanwhile, for India, though a number of activities in embassies are taking place, Amarendra Khatua (2024), former Indian diplomat and former Dean of India's Foreign Service Institute, suggests that the "increasing role of Indian cuisine in soft

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<sup>6</sup> Translation 2 at Annex B.



power diplomacy must be pushed more". Khatua (2024) explains that gastronomy does form part of institutional education for Indian diplomats. India's Foreign Service Institute provides "training, testing and awareness inputs on Indian cuisine to Indian diplomats", with support from the Ministries of Culture and Tourism and well-known hotels and restaurants, "in increasing their sensibilities" (Khatua 2024). This has translated to public diplomacy using cuisine from Indian embassies. Khatua (2024) notes an increasing use of food in diplomatic activity by Indian embassies: hosting food festivals, opening local Indian restaurants, and highlighting certain foods, spices and additives to promote trade. For example, Ambassador Patnaik (2024) highlights that his embassy recently hosted an event in Bilbao bringing together Indian and Spanish chefs to deliver 15 courses for 300 people. Patnaik (2024) recalls that they served a "fascinating" combination of dishes, which used Spanish ingredients with an Indian touch or vice versa, such as "squid masala". He (2024) notes that the event received considerable media coverage. This potentially increases the reach from a public diplomacy perspective - and Khatua (2024) confirms such activities are often with an eye to soft power. Over a diplomatic career across more than 12 different countries, he (2024) consciously "tried to promote use of Indian cuisine for pushing soft power diplomacy". But, Khatua (2024) argues, the initiative of individuals can be "average". Patnaik (2024) seems to concur, noting "some people are more creative [...] some people are less". Therefore, Khatua (2024) sees the need for improvement. The ICCR announcement was a useful "push", but more consistent organisation by Indian embassies and cultural centres abroad is required to promote Indian cuisine and incorporate it into soft power diplomacy (Khatua 2024). Khatua (2024) sees various means for this; "India festivals or major cultural events [...] food festivals [...] Publication of books on the diverse cuisine".

Thus, this section evidences similar approaches by French and Indian embassies to conventional diplomatic dinners; prioritising guest enjoyment over cuisine promotion. However, interviewees suggest that whilst using cuisine is systematically entrenched in French diplomacy, including public diplomacy activities, India's approach depends more on individual ambassadors and therefore has scope to improve.

### **3.3 Tourism campaigns**

This section explores French and Indian strategy for, and implementation of, tourism activities in both promoting cuisine as a core element of their nation-brand and harnessing culinary tourism to reach global audiences.

#### **3.3.1 #DestinationFrance #ChooseFrance**

French nation-branding is explicitly linked with food. In October 2023, President Macron unveiled the "Make it iconic. Choose France" communications campaign within the broader nation-branding campaign, Brand France (Atout France and Netflix 2024). Choose France's website states "Good produce and authentic taste are the

essence of our identity” and directs visitors to Taste France, a digital magazine on French gastronomy, as one of five sub-websites (Choose France website). This indicates the importance of gastronomy for Brand France. Brand France is also supported through tourism campaigns. As part of nation-branding, an objective of French tourism policy is to use culture “to contribute to the promotion and projection of France” (République Française 2021: 15)<sup>7</sup>. The value of gastronomy within this is clear: France estimates a third of its tourists come for the food (France Diplomacy website 2024a).

The government body responsible for tourism in France, Atout France, also published a ten-year tourism marketing and strategy plan in 2010 which reveals valuable points of insight to understand the French model for CD through tourism over the last decade (Atout France 2010).

First, the strategy recognises tourism as a nation-branding tool, and emphasises that Brand France must be consistently promoted throughout Atout France’s activities (Atout France 2010: 44-47). Gastronomy was one of six core tourism products presented, and therefore appears to take a significant role in French nation-branding through tourism (Atout France 2010: 44-47).

Second, France has a developed and strategic approach to marketing which is underpinned by a detailed understanding of priority tourism markets. Gastronomy forms a core attraction for visitors from many countries, and the marketing of gastronomic activities to promote France as a tourist destination is tailored to relevant markets accordingly (Atout France 2010: 106-119).

Third, a key component of the marketing plan is to target a so-called ‘Global Village’ (Atout France 2010: 40). This is a group with “influential capital” which France wants to target as they can influence wider publics and media (Atout France 2010: 40). They are “business leaders, “Frequent Flyers” [...] opinion leaders, high-level athletes, intellectuals or famous personalities” with high incomes of €150,000+ who can perpetuate positive images of France as a “desirable, modern destination” (Atout France 2010: 40). By focusing on this Global Village, Atout France is targeting an audience who are influential in their own countries. Their promotion of France as ‘desirable’ may therefore translate into soft power. Since gastronomy is a core asset for Atout France, it is reasonable to infer a considerable role for gastronomy in shaping key influencers’ positive perceptions of France, who in turn shape the views of others for French soft power.

France’s tourism strategy indicates the importance of gastronomy in the French nation-brand as well as a targeted marketing approach to influencers and key markets. How France actually delivers this strategy, with a focus on cuisine, can further illustrate interesting elements of France’s approach to promoting its food globally.

Since 2020, gastronomy and wine tourism has been one of Atout France’s eight workstreams and work includes managing the ‘Vignobles & Découvertes’ label marking quality wine tourism destinations, alongside protection of geographical indications (GIs), and other labels of product quality (Atout France website 2024a). This illustrates an institutional focus on gastronomy, alongside highlighting the emphasis

<sup>7</sup> Translation 3 at Annex B.

France places on using quality designations such as GIs or other labels as part of its approach to promoting its gastronomy<sup>8</sup>.

From a practical perspective, France's primary tourism website, France.fr, devotes a clear section to cuisine with specific restaurant recommendations for tourists (Explore France website). Additionally, in February 2024, Atout France announced a new advertising campaign with Netflix, based on an audience study which demonstrated that Netflix subscribers watching French content are more interested in French culture (Atout France and Netflix 2024). The campaign has created digital, customisable travel guides, like "Gourmet France", which directs users to restaurants featured in Netflix series, providing practical information on opening hours and bookings (Netflix en France 2024). This illustrates how France facilitates tourist engagement with its gastronomy by making it easy to find and visit restaurants, uses an insight and data-based approach, as well as highlighting the French state's use of private sector partnerships.

Activity at national level is complemented by regional and local initiatives. For example, in 2017, three French regions, in collaboration with Atout France, launched *la Vallée de la Gastronomie*<sup>®</sup> (Vallée de la Gastronomie 2021). This is a 620km tourist trail running from Dijon to Marseille, boasting 97 Michelin-starred chefs and emphasising values of "quality and authenticity of products and services proposed" (Vallée de la Gastronomie 2021). *La Vallée de la Gastronomie* demonstrates a French model which includes (1) emphasis placed on using quality designations such as GIs or the Michelin guide as part of France's marketing strategy, (2) tourism initiatives which focus exclusively on gastronomy and (3) collaboration between state and regional level governments.

Meanwhile, in 2023 the Arras Tourism Office held the first annual French Fries World Championship<sup>®</sup> (Hoornaert 2024). This was designed to promote Northern French cooking and tourism, reportedly amassing 50,000 spectators (Hoornaert 2024). Though this Championship is a regional initiative, it is indicative of a wider approach in the French model, as Chef Quillot (2024) suggests. This competition, says Quillot, sits alongside other events in France such as the Pastry World Cup and *Bocuse d'Or* which provide an excellent platform for CD. Quillot (2024) explains that the winners do not need to be French. Indeed participants from around the globe are encouraged, as such events provide a moment where contestants focus their efforts on French gastronomy with the idea of France as a critical reference point for cuisine (Quillot 2024). Thus, we can see a French model which uses dual-purpose events as both tourist attractions and promotion of French culinary arts, encouraging global competitors to cook French-style, whilst sending a message centring France as the destination for such events.

Finally, the Paris 2024 Food Vision strategy document reveals how France approaches messaging to represent modern French food to the world, as well as indicating a French approach of capitalising on existing events to promote its cuisine. The Paris 2024 Olympics have a specific strategy to harness this "unique opportunity to welcome

<sup>8</sup> Note: France often uses geographical indications and other quality designators strategically. More information can be found at Annex C.

the whole world to the table”, through 13 million meals (Paris 2024, 2022: 1). The strategy highlights the role of food in French identity, and the opportunity to showcase French regions and French quality products including GIs (Paris 2024, 2022: 3). The vision frames delivery around local, low-carbon food, avoiding single-use plastic and encouraging environmentally-friendly food waste management (Paris 2024, 2022: 3). At the heart of this is the messaging France wants to reinforce about its cooking; “More plant-based, more local, more sustainable and just as delicious” (Paris 2024, 2022: 3).

France's approach to CD through tourism suggests that gastronomy plays a pivotal role in the nation's branding efforts, as highlighted by its integration into tourism strategies and both broad and targeted marketing initiatives. This is delivered through practical initiatives which facilitate tourist engagement with gastronomy, using business partnerships. Furthermore, complementary local, regional and national efforts underscore a comprehensive and consistent approach to promoting French cuisine globally. This in turn includes strategic messaging on sustainability and quality designations.

Finally, when assessing the strength of France's CD, tourist numbers may indicate the success of France's overall tourism strategy, of which we have seen that gastronomy is a core part. UNWTO's data shows international arrivals increased from 77.65 million in 2010 to almost 91 million in 2019 (UNWTO website). Moreover, France has increased pre-pandemic international arrivals to 92 million in 2022 (Atout France 2023). This suggests strategies to increase tourism based on core attributes, including gastronomy, were effective.

### 3.3.2 Incredible India

Incredible India is India's tourism campaign, led by the Ministry of Tourism (MoT). It has been seen by both academics and its creators within government as India's core nation-branding operation (Kerrigan, Shivanandan and Hede 2023: 319:321). Examining its strategy and implementation therefore reveals how the Government of India (GoI) uses cuisine in its nation-brand and indicates challenges it could face with CD.

From a strategy perspective, a decade of the MoT's annual reports indicates an oscillating position on culinary tourism with more limited activity as a result. The 2014-2015 report describes Indian cuisine as “an integral component” of Indian tourism (Ministry of Tourism 2015: 74). Yet cuisine is not listed amongst the 10 “niche tourism” products identified for development and promotion in the report (Ministry of Tourism 2015: 28-45). The report does note the creation of an Indian Culinary Institute to preserve heritage cuisine and provide specialist training alongside a revived scheme for approval of standalone restaurants, in recognition of increasing tourist interest in local food (Ministry of Tourism 2015: 7, 50). The 2015-2016 report also notes that promotion of local cuisine should be an objective of the Ministry's SWADESH DARSHAN Scheme, which creates thematic tourist circuits, although no cuisine-specific circuit is suggested (Ministry of Tourism 2016: 19). Then, the 2016-2017 report indicates a role for the Indian Culinary Institute in promoting “Cuisine as

a Niche Tourism product”, although the chapter dedicated to Niche Tourism in the report does not reference cuisine at all (Ministry of Tourism 2017: 46). By 2017’s report, culinary tourism is listed in the Niche Tourism chapter (Ministry of Tourism 2018: 41), only to be removed the following year (Ministry of Tourism 2019: 23-32). Ensuing annual reports reference cuisine only in relation to sending chefs to food festivals abroad, Indian Culinary Institute activity and social media thematic promotion, rather than tangible domestic tourism offerings (Ministry of Tourism 2020: 53, 63, 66). However, the MoT’s draft National Tourism Policy of 2022 includes a specific section on cuisine, under “product specific roadmaps” (Ministry of Tourism 2022: 95). Describing tourism as “a vehicle for enhancing India’s soft power” (Ministry of Tourism 2022: 8), the policy states that “India’s strongest calling card to the world is its cuisine” and therefore “culinary trails” and “interactive culinary offerings” should be developed (Ministry of Tourism 2022: 95).

Although this implies a future focus on culinary tourism, current communications and activity appear more limited. Cuisine is present in the Incredible India communications campaign, with videos like the ‘Masala Masterchef’ (Ministry of Tourism 2019: 53). The Incredible India website also features “Food and Cuisine” as one of 12 thematic clusters (Incredible India website 2024a). However, the website describes different dishes and cuisines, without practical details, such as restaurants tourists might visit (Incredible India website 2024b). The MoT does undertake specific cuisine-related activities as part of the Incredible India campaign. For example, Ambassador Mallick (2024) notes that the MoT sponsors Indian chefs to anchor Indian food festivals in different countries, recalling a very successful festival of Lucknow cuisine she organised as High Commissioner in Brunei Darussalam. Chef Bali (2024), having participated in such festivals, similarly describes this as “successful food promotion [...] in unusual places [...] where we reach out to the people”. Nevertheless, we can see from activity reports that these constituted a relatively minor part of the MoT’s activities.

Looking at individual states, who might be better placed to provide practical information and also have individual tourism strategies, appears to provide a mixed picture. Chef Bali (2024) cites Kerala as a positive example, providing specific recommendations for places to eat. Kerala’s 20-year tourism plan from 2002 describes cuisine as one of five focus areas for promoting tourism (Government of Kerala 2002). However, Kerala’s tourism website details different dishes and recipes, but without specific locations to obtain these. Nor does it mention any food products with geographical indications, in contrast to France, despite having a number of these (Kerala Tourism website 2024a). The website does list 26 restaurants rated one to five stars, though does not explain whether stars correspond to quality or pricing, making it less user-friendly for tourists (Kerala Tourism website 2024b). This suggests cuisine, whilst present in promotion, is not as central or developed an offer as has been seen in France.

That cuisine is not a clearer strategic priority or focus for activity seems at odds with evidence from industry experts interviewed, who underscored considerable potential for Indian food as a broad-based area to appeal to tourists as well as a more niche tourism offering. From a broader perspective, the National Association of Street



Vendors of India's Arbind Singh (2024) highlights the wide "clamour for street food", with its ability not only to reflect the "vibrancy of food culture" but its accessibility due to affordability. Chef Bali (2024) also sees considerable scope for integration of cuisine in niche tourism products highlighted by the MoT, like rural and medical/wellness tourism. Bali (2024) suggests options for the government to explore like incorporating Ayurvedic cooking in tourist experiences in rural villages, or highlighting healthy vegan recipes during 'detoxing' stays for tourists. He also demonstrates enthusiasm for the "interactive culinary offerings" that the 2022 National Policy highlights (Ministry of Tourism 2022: 95). Bali's (2024) "dream" is running a six-week culinary programme, taking foreigners to spice and vegetable markets, speaking to farmers, and introducing local products. Then, "we all cook together and we have a meal [...] and share stories" (Bali 2024). This, he says, could also be badged as "entrepreneur tourism", geared towards those opening Indian restaurants abroad, while creating economic opportunities for local food and utensil suppliers (Bali 2024). As well as highlighting the potential for cultural exchange here, this underscores the potential for culinary tourism, industry's recognition of the cultural and economic benefits, and willingness to participate in initiatives.

Another strength Chef Bali (2024) highlights is the variety of vegetarian foods India has to offer, in keeping with current global trends of vegetarianism. Yet, this potential strength also illustrates a current challenge. Ambassador Patnaik (2024) recognises that despite India having "probably [...] the widest range of vegetarian food in the world", "very few people know that". This invites the question of why there has not been more promotion and development of culinary tourism to enhance CD and India's nation-branding, particularly given the 2022 Tourism Policy recognises an Indian "USP being Vegetarianism" (Ministry of Tourism 2022: 95). A number of challenges India faces emerge from these findings, which may help to understand this lack of promotion.

Part of the answer may lie in the central government prioritising tourist infrastructure improvement, a lack of which is a significant challenge for Indian CD. Annual reports from 2017 onwards highlight the MoT's work through Food Craft Institutes and Indian Culinary Institutes to provide "manpower sufficient to meet the needs of the tourism and hospitality industry, both quantitatively and qualitatively" (Ministry of Tourism 2019: 44). Government continued to highlight this challenge in the 2022 Tourism Policy. Industry experts interviewed corroborated these infrastructure issues. Chef Bali (2024) observes that interest in cuisine and hospitality professions, once "looked down upon", has increased with the advent of celebrity chefs like Sanjeev Kapoor. Additionally, Bali (2024) notes that previous generations had not passed cooking skills down - "we have lost our own heritage". So, he (2024) says, there is lots of training taking place to teach proper use of spices, as well as which fuels and utensils to use.

As noted in Part 2 and confirmed by interviewees, another challenge for India is hygiene and perception concerns. Singh (2024) explains "our kitchen is not as hygienic as in the West". He notes that hygiene training with Indian authorities for street food vendors across India has led to improvements. However, Singh (2024) underlines that processes need to be established for repeat education. The MoT's 2022



Tourism policy seems to recognise this challenge, emphasising the need to demonstrate India is “clean and hygienic” and committing to work with State and local administrations, alongside food safety authorities, to enforce hygiene practices at tourist destinations (Ministry of Tourism 2022: 44). Yet such collaboration is not necessarily straightforward. Singh (2024) explains that Indian governance structures encompass central, state and local governments. Often, he (2024) says, “the three governments are at three different purposes”, with the MoT sometimes “foiled” by local authorities. This indicates another challenge for India - intra-government collaboration.

Regarding perceptions, Singh (2024) notes that though hygiene has improved, perceptions have not. Chef Bali (2024) similarly addresses perception challenges, noting that Indian food has been reduced to “just curry” by foreign audiences, and deemed unappealing due to spiciness. Those who visit India may learn otherwise, but Bali (2024) questions how to reach and dispel “misconceptions” amongst those who have yet to visit. One way might be through overseas marketing campaigns, to enhance India’s ability to attract foreign tourists and promote cultural experience through food. However, the MoT closed all its overseas offices in 2023 (Economic Times (India) 2022). This comes despite the 2022 Tourism Policy aiming to increase international tourist arrivals in 2023, and almost double them by 2030 (Ministry of Tourism 2022: 10). The policy relies on Indian embassies to promote tourism, through dedicated tourist officers in 20 top tourist source markets (Ministry of Tourism 2022: 65). Yet embassy capacity presents another challenge. Parliamentary reports have criticised “promotional activities conducted by the Indian Missions” as “sporadic and irregular” (Department-Related Parliamentary Standing Committee on Transport, Tourism and Culture, 2022: 22), as well as noting that the MEA lacks adequate human and financial resources (CEA 2023: 4). Moreover, the Ministry’s budget for overseas promotion has dropped by 97% in 2024-2025, whilst domestic publicity spending has increased by 85% (Ministry of Finance 2024: 337). This seems at odds with the National Tourism Policy’s aim of increased international arrivals. Moreover, not yet reaching pre-pandemic numbers of international arrivals (down from 10.9 million in 2019 to 6.2 million in 2022<sup>9</sup>) suggests that more, not fewer, resources are required.

Overall, these findings indicate that GoI increasingly recognises gastronomy as a key pillar of India’s tourism offer, and by extension its soft power and nation-brand through CD. However, this has not yet translated into output. There is clear potential, and language in the 2022 Policy indicates a promising direction for Indian culinary tourism as part of soft power. Yet, challenges remain for Indian CD through tourism. There is a need to enhance infrastructure, improve hygiene, ensure cross-government collaboration and effectively communicate to international audiences.

### 3.4 Individual nation-wide culinary diplomacy initiatives

This section explores the Annapurna Certificates (India), *Goût de France* / Good France (France), the International Year of Millets (India) and *l’Année de la Gastronomie*

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<sup>9</sup> For 2019 figures see Ministry of Tourism 2020: 6 and for 2022 figures see Ministry of Tourism 2023: 7.

(France), four initiatives which focus solely on food. These illustrate India and France's capacity and approach to undertaking specific culinary diplomacy initiatives at national government level.

### 3.4.1 Annapurna Certificate

The ICCR's CD announcement followed its yearly lecture series, which in 2021 focused on "Insights into India's Culinary Traditions" (ICCR 2021a). During the lecture, the ICCR's president proposed three avenues for CD: organising food festivals abroad, lectures and demonstrations on Indian recipes, and a potential rating and certification system for Indian restaurants worldwide (ICCR 2021a). This latter idea led to the ICCR's flagship CD initiative: the Annapurna certificate.

Ambassador Patnaik (2024), serving as ICCR DG during this period, recalls that previously gastronomy was not part of the ICCR's cultural outreach. Instead, promoting Indian food was "a people's initiative" (Patnaik 2024). However, the ICCR saw a role in encouraging restaurateurs and celebrating their promotion of Indian cuisine, Patnaik (2024) explains. So whilst restaurants and the private sector would remain the main drivers promoting gastronomy, the ICCR could encourage them, and establish a "framework" focusing on recognising restaurants and ensuring their quality (Patnaik 2024).

Thus in June 2022, an ICCR email asked embassies to "recommend restaurants who have made outstanding contributions in promotion of Indian cuisine" (Embassy of India, Dakar 2022). Two objectives were outlined:

providing easy access and dependable services to everyone in search of authentic Indian cuisine abroad, and recognising restaurants abroad who have made an outstanding contribution to the promotion of Indian cuisine (Embassy of India, Dakar 2022).

These would be lifetime awards, open to all Indian restaurants regardless of the owner's nationality (Embassy of India, Dakar 2022). The nomination form required details on menu, footfall, types of customers (locals, Indians) and the Chef's qualifications (Embassy of India, Dakar 2022). In December 2023, an awards ceremony celebrated six recipient restaurants from Sweden, Costa Rica, the US, Oman, Sri Lanka and Mongolia (ICCR website 2024b).

Discussion around the purpose of the certificates and the judging criteria for recipients, as well as the number of applications received can help reveal Gol's objectives for these awards, including the messaging Gol intended to channel and the reach of this venture. This may help better understand India's model of CD and challenges therein. Whilst judging criteria and number of applications are not formally publicly available, there is evidence on both aspects.

The role India perceives for these certificates can be inferred from chef Mangeet Gill, who judged the awards and described them during the awards ceremony as a "powerful tool for cultural diplomacy" (ICCR 2023: 22m48s) with restaurants creating "opportunities for cross-cultural dialogue and understanding" (ICCR 2023: 24m18s).

The certificate also fosters tourism, by integrating “Indian food into a broader destination marketing strategy” (ICCR 2023: 24m40s).

Regarding criteria for the awards, a debate about the significance of authenticity emerges. Patnaik (2024) is more relaxed; with “1.4 billion people [...] 300 languages with 22 official languages, 3000 dialects, every possible denomination of religion across the world [...] what do you say is authentic Indian?”. There is joy, says Patnaik (2024), in “something new made out of traditional ways”. Who the chef is does not matter either - “the best French chefs in the world are not French” (Patnaik 2024). So, for Patnaik (2024), Indian restaurants do not require Indian ownership and there are many Bangladeshi, Nepali and Pakistani owners. However, it should be an Indian restaurant (albeit fusion is “encouraged”) (Patnaik 2024).

Chef Bali (2024), who attended the awards, provides a different perspective. For him, Annapurna certificates provide a “certificate of authenticity [...] stamped by the government of India and we recognise this restaurant to be serving the most traditional Indian food” (Bali 2024). This is important, says Bali (2024), given the challenge of restaurants abroad being billed as Indian whilst actually serving Pakistani or Bangladeshi food, with people unaware of the difference. Gill concurs, “the chef [...] has to be from Indian origin” (ICCR 2023: 21m30s) as the certificate is a “promise to uphold [...] our culinary traditions” (ICCR 2023: 22m17s).

This authenticity debate illustrates a challenge India faces in presenting its nation-brand using CD. Increasing numbers of Indian restaurants globally have familiarised audiences with Indian food, and, as Patnaik (2024) notes, “there is a great desire to have Indian food”. However, as Bali (2024) contends, many restaurants abroad serve Pakistani or Bangladeshi cuisine labelled as Indian food. Speaking at the ICCR lecture, Diplomat Banashri Bose Harrison concurs, none of the restaurants in Stockholm during her Ambassadorship would pass “the authenticity test” (ICCR 2021b: 08m00s). Since, for Harrison, it is culinary traditions which facilitate cultural diplomacy, lack of authenticity is a challenge. Moreover, whilst certain cuisines are UNESCO-recognised, India’s unique culinary diversity may prevent this: it does not have “one cuisine” to be recognised, she adds (ICCR 2021b: 08m17s). Nevertheless, Harrison maintains there is a strong cultural message to be harnessed. Nothing exemplifies India’s “unity in diversity and its ability to maintain continuity through change” better than its cuisine (ICCR 2021b: 08m48s).

The Annapurna certificates could help project this message. Publicity around the nominations and awards helps reach audiences through public diplomacy and make restaurants aware of the opportunity. Yet publicity appears to have been limited. Nomination timeframes were short; the original deadline was August 31 2022, just two months after the initial ICCR email (Embassy of India, Dakar 2022). Some embassies issued press releases a month after the ICCR email, with a two-week submission deadline for nominations (Embassy of India, Berne, 2022). London’s High Commission website does not appear to mention the awards, despite having a Cultural Centre in London and there being an estimated 8,000 Indian restaurants in the UK (Murray 2023). Publicity following the awards ceremony appears similarly limited.

“We haven’t communicated it really well”, Chef Bali (2024) acknowledges, it “wasn’t followed through really”. However, after the 2024 elections, which have diverted focus, Annapurna is “going to get really big”, Bali (2024) contends.

Indeed, Patnaik (2024) notes that plans are being considered by the ICCR to build on the Annapurna certificates, such as a Michelin-style guide to Indian restaurants. This would facilitate finding quality Indian food in India and abroad, something Chef Bali (2024) emphasises is needed for foreign publics, to guarantee not only hygiene - a challenge seen earlier for Indian tourism - but also that the food is “true to their flavours and taste”. Kerala has started this, says Bali (2024), but a more comprehensive approach, in both India and abroad, is needed.

The first years of the Annapurna awards therefore confirm that government CD is, to a degree, still nascent in India. Key challenges include ensuring a degree of authenticity as well as presenting such a diverse cuisine as a single cultural good. Moreover, as with Incredible India, significant reliance on embassies for coordination and promotion of CD initiatives, particularly given their resource restrictions, may limit the impact such initiatives can have. That said, since this is the inaugural Annapurna awards, it will be interesting to follow how the awards develop in future editions.

### 3.4.2 Goût de France / Good France

*Goût de France* / Good France (GdF) is a French initiative in CD introduced by Foreign Minister Laurent Fabius in 2015, alongside Chef Alain Ducasse (MEAE 2015: 2-4). Inspired by Escoffier’s 1912 Epicurean Dinners, which united diners across the globe eating the same menu at the same time on a single day each year, French embassies worldwide host dinners celebrating French food (MEAE 2015: 2-4). Local restaurants, selected by a committee, also participate in the initiative by serving a menu in the French tradition, as outlined in UNESCO’s listing (MEAE 2015: 2-4). 2015 started with 1000 menus by 1000 chefs in 150 countries (MEAE 2015: 2-4). These numbers grew steadily with 5000 participant chefs by 2019 (France in Tanzania website 2018). In reviewing the six editions between 2015-2021, various aspects of French CD emerge.

First, embassies tailored events to their audiences and enabled genuine exchange in host countries. Guests dining at the French embassy in Manila enjoyed music in both French and Cebuano (Embassy of France in Manila 2021). Nigerian and French chefs were tasked with creating dishes incorporating French and Nigerian ingredients, whilst French and Greek chefs created Greek-inspired eclairs (MEAE 2019: 7-8). This demonstrates France’s balance between promoting French cuisine and cultural exchange through gastronomy.

Second is a strategic use of themes to support French objectives and reinforce messaging on French gastronomy. GdF in 2017 focused on engaging hospitality students (La France en Argentine 2019). Events promoted French gastronomy to new generations of chefs worldwide, such as French cooking competitions for hospitality students in Poland (La France en Pologne, 2017)<sup>10</sup>. The result, surmised by France’s ambassador

<sup>10</sup> Translation 4 at Annex B.

to Poland during the 2017 launch event in Krakow, is ensuring “the sustainability of French gastronomic culture across the world” (La France en Pologne, 2017).

Inspired by COP21, 2019's GdF presented a Menu For The Planet, supporting the No More Plastic Foundation, where dishes had to be healthy and environmentally-conscious (MEAE 2019: 4). France simultaneously published a white paper on the future of sustainable gastronomy (MEAE 2019: 5). This theme allowed France to position its gastronomy as addressing global priorities like climate change and sustainability.

Additionally, different editions highlighted different French regions including Provence (MEAE 2019: 4) and Nouvelle-Aquitaine (France Diplomacy website 2024a). This likely facilitated three outcomes: promoting tourism, showcasing local products (which were encouraged to form part of dishes – see France Diplomacy website 2024a), and a ‘local’ focus to align with wider messaging on sustainability and environmental consciousness. 2024 will celebrate sports and gastronomy to coincide with the Paris Olympics - reinforcing how France capitalises on existing opportunities to promote its gastronomy (Gouvernement Français 2024: 9).

Third is the extensive use of partnerships and supporting events to increase impact. The MEAE worked with many partners within and outside the French state (MEAE 2019: 20-27). For example, Ducasse's *Collège Culinaire de France* was a key delivery partner in selecting participating restaurants (MEAE 2019: 20-27). Atout France organised events alongside regional tourism boards (MEAE 2019: 20-27). Companies including JCDecaux, Barrière restaurant group, Ponant cruises and TV5Monde also acted as sponsors and partners (MEAE 2019: 20-27).

Furthermore, by 2018 complementary events were amplifying GdF's reach. *La Fête de la Gastronomie*, where the culinary industry celebrates French gastronomy, was rebranded under GdF to encourage coordinated promotion, and scheduled to coincide with GdF events (Ministère de l'Économie des Finances et de la Souveraineté Industrielle et Numérique website). Similarly, regional tourism bodies launched a gastronomy year for Marseille and Provence to coincide with the region being highlighted in 2019's GdF internationally, with events from the World Pesto Soup Championship in Provence (Provence Tourisme 2019: 13), to New York's four-day Provence festival (MEAE 2019: 9). The number of partners, private and state, likely facilitated the financial and human resources to enable the breadth and development of GdF events. Meanwhile, strategically complementary events enabled reinforced messaging and capitalised on interest generated by GdF.

Fourth is a seemingly twin-track approach, as with France's tourism strategy, of targeting wider publics and strategic key influencers. GdF reached a considerable audience; the French government estimates that 2018's edition, with 3500 restaurants, reached 300,000 people (France in Canada 2019). 2019's edition, with 5000 participating chefs (France in Tanzania website 2018), likely reached higher numbers, and these numbers may not account for those participating in ancillary events, such as New York's Provence festival. This reach was combined with emphasis on the accessibility of French food. The French Ambassador to the Philippines noted French food is seen as “elitist, and [...] costly”, but being UNESCO-listed, “it belongs to everybody, and we want to



give as many people as possible [...] the chance to taste" it (Embassy of France in Manila 2021). This was not just rhetoric; in 2018 Chef Quillot (2024) delivered the embassy meal for less than £10 per head. This, explains Quillot (2024), offered an opportunity to dispel stereotypes about French food being inherently expensive. It also, he (2024) notes, garnered positive press attention, with a spread in the UK's Times newspaper.

However, alongside wider accessibility, those in positions of influence were targeted. In 2019, a gastronomic hike in Vienna was organised for "influencers", whilst Seoul's gala dinner included "fifty high-quality guests from political, economic, cultural and academic spheres, as well as trendsetters and influencers" (MEAE 2019: 9). This demonstrates a dual approach aiming at both the broadest reach possible - the publics of public diplomacy - and strategic engagement with those able to wield specific influence translating into soft power.

A final notable element is what Chef Quillot (2024) describes as "the social dimension"<sup>11</sup>. Quillot (2024) explains that Escoffier's dinners had a strong social aspect; Escoffier wanted to support better working conditions for chefs. This charitable element of Escoffier's vision remained in GdF. Restaurants were encouraged to donate 5% of proceeds to local charities, with embassy dinners supporting charitable endeavours (France in Canada, 2019).

In London, during the first GdF, Quillot (2024) worked with the Royal Academy of Culinary Arts, taking French chefs to British schools to teach students about eating well. An exchange also took place, British chefs went to the French school in London. Quillot (2024) enjoyed this so much that he continued the work. He (2024) visited schools in more deprived areas of Manchester to cook ratatouille; "oregano references pizza [...] kids love it"<sup>12</sup>. He worked with visually-impaired students in London, who recognised rose-flavoured bites given to them: "it's Turkish Delight"<sup>13</sup>. In 2016, Quillot (2024) worked with inmates at The Clink in Brixton, a charity project running restaurants in prisons to provide prisoners with qualifications and skills. By 2018, all four Clink restaurants in the UK were serving up menus for GdF (The Clink Charity 2018). Quillot (2024) had also wanted to organise a dinner hosted by the French Ambassador at the Clink restaurant in Wales, but Covid got in the way. Recognising the priorities of host countries is also reflected in the French approach. Organising events beyond London is important for CD, Quillot (2024) notes, as "it's important to British people"<sup>14</sup>. In the realm of both promotion and diplomacy, the impact of this social dimension seems evident. As well as press attention, and therefore public attention, activities associating French gastronomy with social conscience seem likely to generate attraction, critical to soft power. For Quillot (2024), there is power in the unexpected for French cuisine, which GdF facilitates. "We're expected in grand dining rooms, with a bit of pomp, a bit of luxury [...] you don't expect us in a prison [...] [or] school"<sup>15</sup>.

<sup>11</sup> Translation 5 at Annex B.

<sup>12</sup> Translation 6 at Annex B.

<sup>13</sup> Translation 7 at Annex B.

<sup>14</sup> Translation 8 at Annex B.

<sup>15</sup> Translation 9 at Annex B.



There were also obstacles for GdF, which demonstrate the difficulties France may face when using CD. Ambassador Buhler (2024) notes there was reluctance from certain colleagues, particularly in embassies in least developed countries, where the perception of events as lavish poses more of a challenge with local audiences. However, the French state's decision to continue GdF suggests this resistance has been surmountable. Activity around accessibility, sustainability and social responsibility alongside cultural exchange, as we have seen above, may have facilitated this.

This initiative's impact can be determined in various ways. 5000 participant chefs across 150 countries and 5 continents worldwide (France in Tanzania website 2018) indicates a wide audience for public diplomacy, whilst prestigious guests attending embassy dinners demonstrates targeted outreach. This was combined with considerable press attention, which may both reflect local interest and spread further awareness. Additionally, GdF has become a reference point for CD, having been explicitly cited as an example during ICCR's 2021 lecture which signalled India's own shift to CD (ICCR 2021b: 58m47s). GdF's success is perhaps encapsulated by Spanish chef Pablo Gallego, who, when asked why his restaurant was participating, responded: "Because we love French food, because we like France and because this Tuesday, we are all French" (Embajada de Francia en España 2017: 00m36s)<sup>16</sup>.

### **3.4.3 International Year of Millets 2023**

Following the Government of India's (GoI) proposal, in 2021 the UN declared 2023 the International Year of Millets (IYM) (Press Information Bureau 2023b). Millets are a sustainable, affordable and nutritious grain, according to the UN (FAO website). They are also indigenous to India, the world's biggest millet producer (Agricultural and Processed Food Products Export Development Authority website). IYM was significant for Indian CD, demonstrating GoI's ability to highlight Indian cuisine in a strategic and coordinated manner on the global stage and reinforce messages regarding its nation-brand.

From a nation-branding perspective, Modi sent clear messaging on how India was positioning itself, stating "India is at the forefront of popularising Millets, whose consumption furthers nutrition, food security and welfare of farmers" (Press Information Bureau 2023b). Moreover, he told agriculture ministers attending the Global Millets Conference in Delhi, India "has always given priority to responsibility towards the world and the resolve to serve humanity" and now "its heritage [...] brings it to the fore of global good" (Press Information Bureau 2023a).

A series of events marrying Indian cuisine with the use of millets complemented this messaging (Press Information Bureau 2023c). India used its G20 presidency throughout 2023 strategically during IYM. India's G20 Sherpa emphasised the opportunity presented through India's G20 presidency, crediting Modi's "whole-of-India approach" in allowing states and union territories to showcase their diverse culture, whilst introducing "millets to global palates" (Surabhi 2023). Lead chef for the leaders'

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<sup>16</sup> Translation 10 at Annex B.

summit dinner, Surendra Negi, confirmed Modi's instructions to "focus on millets" (Verma 2023). However, the opportunity to highlight Indian culinary heritage was not missed. Up to 500 dishes were prepared, presenting western-Indian fusion, spanning various Indian states, and highlighting street foods (Verma 2023). Celebrity chefs catered for world leaders' spouses, creating another opportunity for global influencers to discover Indian culinary culture. Chef Anahita Dhondy (2023) discussed Parsi food culture with the UK Prime Minister's wife after the meal.

A myriad of events organised by a range of GoI actors bolstered these G20 ones. The MoT organised a Millets Food Festival for Shanghai Cooperation Organisation countries, featuring chefs from member countries (Press Information Bureau, 2023e). A luncheon was hosted for UN Security Council states during India's Presidency (Ministry of External Affairs (MEA) 2022: 198). India's Mission to ASEAN (2023) worked with the Agriculture Ministry on an ASEAN-India Millets Festival in Indonesia, featuring both Indian and Indonesian celebrity chefs making millet-based dishes. Media reporting recognised this as "celebrating the cultural and culinary practices of the participants" (Indian Mission to ASEAN, 2023). This focus on regional and international organisations suggests an Indian CD approach which underscores multilateralism, echoing a Nehruvian emphasis on multilateral international cooperation.

Efforts went beyond government audiences into the realm of public diplomacy in the run up to, and during IYM. Millet-based cooking workshops were organised by embassies in Bhutan and Suriname (ICCR 2024a: 24, 49), a millet corner was created at the International Tapas Festival in Spain (MEA 2022: 156), and the Indian chef catering Cannes Film Festival's inaugural dinner used millets, whilst fusing rarer Indian regional dishes with French gastronomy (Indian Express 2023).

Chef Bali emphasises IYM's importance for Indian CD. India, says Bali (2024), was "serving millets to the world" and "everybody ... was astonished by the flavours and so many misconceptions that people have in their mind about Indian food". Indian media outlets reported on India's "G20 gastrodiploacy" (Economic Times 2023) and the role for millets as a new asset in India's soft power (Mohan 2023). India's approach was also recognised by world leaders, with the White House state dinner for Modi in June 2023 featuring millet-based dishes (India Today 2023).

IYM indicates India's proven CD capability to marshal its resources and deploy these effectively whilst illustrating how India might pitch nation-branding in the context of its cuisine. By centering millets in Indian cuisine, Modi can use culinary diplomacy to deliver messaging on India's nation-brand: India has the produce to feed the world sustainably, the culinary savoir-faire to make it delicious, and the desire to share it globally.

### 3.4.4 L'Année de la Gastronomie

*L'Année de la Gastronomie* (AdIG) was an initiative within *France Relance* (Gouvernement Français website), a €100 billion investment package to support economic recovery post-pandemic (France Diplomacy website 2024b). Taking place

between December 2021 and 2022, AdlG brought together events and initiatives to support the restaurant sector and promote tourism and French gastronomy (Sénat 2021). AdlG reveals a number of useful points about the French CD model.

First, we see the pattern of France's targeting both wider audiences and key influencers, through the *Forum de France de l'Alimentation* (FFA). Initially launched in 2019, and later incorporated into the AdlG initiative, the FFA convenes gastronomic influencers to discuss global gastronomy. The FFA was also integrated into the International Village of Gastronomy. The Village is a "major global gastro-diplomatic event", attracting 40,000 annual visitors from around the world and patronised by the French President (Village International de la Gastronomie website).

Secondly, CD is a recognised economic tool and funded accordingly. Given that AdlG is aimed at supporting a recovering restaurant sector, it was allocated a €5 million government fund. Selected projects promoting French gastronomy or highlighting French produce, alongside sustainability, inclusivity and tourism could receive up to €50,000 of French government funding (Gouvernement Français website). This demonstrates a dual-purpose approach - promoting economic growth through tourism and exports, and encouraging branding for French gastronomy as sustainable and inclusive.

Third, a crucial aspect is the allocation of human resources: a culinary diplomat. Guillaume Gomez was appointed in 2021 as the inaugural Personal Representative of the President on Gastronomy and Food, within the MEAE, to lead AdlG. Gomez's role extends beyond AdlG, which ended in December 2022 (Gouvernement Français website), to encompass GdF and designing and implementing strategies to promote French gastronomy domestically and abroad (Sénat 2021).

Gomez's appointment, then, suggests a unique institutionalisation of CD in France as well as demonstrating the importance France affords it. Many countries have officials engaging in CD - as Ambassador Patnaik (2024) notes, use of food by diplomats in diplomatic relations has long been seen as "part of our job". However, France uniquely has a diplomat whose entire role is CD.

The activities Gomez undertakes are therefore useful to understand how the French state wields CD. Gomez's role takes a clear international focus. He meets frequently with foreign dignitaries, such as discussing cocoa with Ecuador's ambassador (Gomez, 2024c). His activities also extend previous themes from GdF, promoting French cuisine through culinary education and charitable endeavours. He recently visited Kazakhstan, to participate in an Escoffier-inspired charity dinner (Gomez, 2024b) and inaugurate a culinary college showcasing French foods (Gomez, 2024a). He also opened a second Institut d'Excellence Culinaire Guillaume Gomez in Madagascar, an "Embassy of French Culinary Knowledge", which partners with a local charity to train disadvantaged young people (Présidence de La République 2022).

Gomez also bestows honours celebrating the promotion of gastronomy. He issues the domestic honour of "Chevalier dans l'Ordre Français du Rayonnement Gastronomique", such as to chef Éric Fréchon, recognising his promotion of French food (Gomez, 2024d). He equally bestows honours internationally, honouring the culinary contribu-

tions of Montu Saini, former chef to India's President (Saini, 2024). This serves as a strategic tool in France's CD arsenal. It emphasises French commitment to promoting gastronomy, whilst reinforcing France's perceived authority in gastronomic excellence. In turn, this perpetuates the notion that gastronomic prestige is France's to grant.

Finally, alongside ministers for Tourism and Foreign Affairs, Gomez led the April 2024 strategy to promote French haute cuisine, marking perhaps the most recent development in French CD. The strategy reiterates the soft power and economic potential of cuisine, aiming to "position ... France as a world leader in gastronomy" (Gouvernement Français 2024: 3). Initiatives in the strategy include a National Centre for French Gastronomy to train French chefs competing in international competitions (Gouvernement Français 2024: 7). This notably contrasts with Chef Quillot's earlier comments and suggests a new emphasis for France on both hosting and winning events. In turn, this indicates a focus on demonstrating French gastronomic strength.

The creation of an "international network of culinary schools" builds on a previous theme of GdF to encourage spreading French culinary know-how (Gouvernement Français 2024: 9)<sup>17</sup>. Other areas of activity similarly reinforce previous findings that accessibility remains a priority for France. We see a CD model geared to addressing accessibility by aiming for a broader reach and targeting the 'public' of public diplomacy. The strategy funds up to €100,000 for gastronomic events or projects taking place during the Olympics which "democratise" French gastronomy and promote French cuisine and products to the world (Gouvernement Français 2024: 10)<sup>18</sup>. It also creates a programme to support French chefs opening restaurants in key target overseas markets, to tackle concerns that French cuisine has "relatively limited accessibility" abroad, limiting its influence (Gouvernement Français 2024: 8)<sup>19</sup>.

This section demonstrates France's current CD strategy: targeting diverse audiences and investing financial and human resources, epitomised by Gomez's role. In particular, the April 2024 strategy reaffirms French conviction in increasing soft power and economic strength through cuisine and France's focus on promoting its culinary expertise and making French food accessible.

Overall, these four initiatives illustrate the different stages of CD for India and France, and the different strengths and challenges they retain. Approaching its seventh edition, GdF demonstrates a developed and multifaceted approach. It uses CD to promote cultural exchange, tourism, exports, and continued training in French cuisine abroad, whilst associating French gastronomy with accessibility, sustainability and social responsibility. Initiatives around l'Année de la Gastronomie reveal both the depth of institutionalised CD as well as the economic benefits perceived by France. Comparatively, IYM also illustrates the ability of the Indian state to strategically marshal disparate government actors and deploy these to communicate India's role as a responsible global actor through cuisine. Yet, the lack of promotion and reach of the Annapurna awards, albeit at an early stage, suggest that work is needed for India to develop a consistent approach, a view reinforced by interviewees.

<sup>17</sup> Translation 13 at Annex B.

<sup>18</sup> Translation 14 at Annex B.

<sup>19</sup> Translation 15 at Annex B.

## **4. Conclusions and recommendations**

This section synthesises the core conclusions in response to this study's research questions, and makes some recommendations for further avenues of research.

### **4.1 Conclusions**

The findings support the core hypothesis of this study; evidence suggests both countries have strong potential to use CD as a tool of cultural diplomacy to enhance soft power. France has a more comprehensive and developed existing approach, with cuisine being a more active and resourced part of its diplomatic activity, where India's approach is at a considerably earlier stage.

Returning to the overarching question of this study - to what extent India can learn from France's CD to strengthen its soft power - France may therefore offer useful best practice insight for India. However, this study also expected to find a French model focused primarily on self-promotion rather than exchange, based on France's history of projecting, rather than exchanging, its culture. Yet, contrary to the secondary hypothesis, findings indicate that exchange forms a significant part of France's approach when deploying CD, as emphasised by examples of both embassy activities and GdF. This may be of significance for India, which repeatedly emphasises exchange at the core of their cultural diplomacy aims and objectives. The French model could therefore be even more useful to India as a best practice example for CD policy than initially hypothesised.

We return to the core research questions of this study. Regarding the theoretical strength of CD as a means of increasing soft power, Part 1's academic context explores academic theory linking food, culture and emotion. This creates a convincing foundation for the argument that CD can be an effective subset of cultural diplomacy, a key tool which uses a country's cultural resources to increase soft power. Moreover, Part 2 demonstrated how, for both nations, food is deeply intertwined with culture, history and national identity, making it a particularly potent tool in the case of both France and India.

The findings in Part 3 analysed the actors, initiatives and strategies of the French state's CD model, alongside its strengths and challenges. At government level, CD is undertaken primarily by the MEAE and France's diplomatic network, including a unique culinary diplomat, alongside central and regional government tourism bodies. France routinely incorporates CD both in its traditional diplomatic endeavours through embassies and in wider nation-branding tourism activities. Moreover, it has specific initiatives and strategies, including GdF and AdIG, which focus uniquely on promoting its cuisine. A number of themes also emerged by way of strategy. First, ubiquity: the French recognition of soft-power and economic potential of cuisine translates into consistent use of CD, using opportunities from the Entente Cordiale to the Olympic games. The second is a dual approach in which France appeals to a broad audience whilst simultaneously targeting key influencers, as seen in GdF and tourism. This means engaging in both broad public diplomacy alongside curating targeted influence. Third, France sends messages through food regarding its political values,



one of Joseph Nye's soft power pillars. We have seen repeated messaging on sustainability, accessibility and inclusivity as well as social responsibility, in association with the French gastronomy. These often form part of themes in initiatives or criteria for projects funded by the French state. Fourth is resourcing - alongside a vast diplomatic network, France has a culinary ambassador and provides considerable funds for projects promoting gastronomy. These are maximised by partnerships with industry, which allow France to increase its reach and resources.

Evidence from the findings suggests India's approach draws some parallels with France, albeit at an earlier stage. The MoT and MEA, with its embassies and the ICCR, are primary government actors in Indian CD. There are similar approaches to conventional diplomatic dinners from India; both countries prioritise the enjoyment of guests whilst showcasing their food. Initiatives like the Annapurna awards evidence potential for GoI to curate how its food is seen abroad whilst IYM indicates India's ability to undertake coordinated promotion and messaging about its food, incorporating this into its nation-brand. We have repeatedly seen potential strengths for India such as vegetarianism or affordability of food. Indeed, India's link to affordable produce like millets, as well as street food, can be an asset to reaching more people through accessible food. Here, India could become stronger than France, for whom accessibility is an ongoing challenge. Findings on GdF and the April 2024 strategy on promoting French haute cuisine demonstrate the concerns France has, and therefore the priority it places on branding and making its food accessible.

However, the findings also highlighted the challenges India may look to address in its CD journey. Interviewees note that embassy approaches vary in innovation, and a more uniform promotion of food could increase CD efficacy. Another key difficulty for India is infrastructure issues, including the need for training and hygiene education to facilitate tourism. India may need to have the infrastructure in place before it can further promote itself as a gastronomic destination. However, interviewees have confirmed that where changes have taken place, perceptions have not shifted, underscoring a considerable challenge for India on how it communicates to overseas publics. Evidence on both Incredible India and the Annapurna awards suggests resourcing, both human and financial, hampers this communication. India may want to consider the return on investment that increasing resources could bring, through both tourism and trade within CD.

If then, France is a reigning culinary superpower re-shaping and moulding itself to modern global sensibilities, India demonstrates the makings of a prospective and emerging culinary superpower if it chooses to focus its resources and strategy. In doing so, India would wield an ability to convey a rich, diverse and complex culture through a cuisine of the same nature - the essence of CD.

## 4.2 Recommendations for future research

This study was limited by the time and length constraints of a master's thesis. As such, the areas covered in this study would benefit from further exploration and ana-



lysis to support specific policymaking. In particular, a picture emerges of a French strategy which continuously balances a two-pronged approach to both audience and messaging. It targets both as wide an audience as possible and more narrow key influencers, as well as brands French gastronomy as both inclusive and accessible, whilst prestigious and luxurious. Further study could build a clearer picture of this model and explore whether it could be replicated in other countries.

Given India's challenges regarding financial and human resourcing of its diplomatic endeavours, two other areas could be of further research interest regarding India's CD: diaspora and geographical indications (GIs).

A 32 million-strong diaspora provides India with a considerable resource and network worldwide (MEA website 2024a). The Indian government and ICCR have all already encouraged a role for diaspora in promoting culture, tourism and cuisine abroad, as well as enhancing India's soft power (Kumari 2022: 24 and ICCR 2024a: 7). However, future research could explore how the Indian government could further leverage diaspora in the specific context of cuisine, looking at what takes place independently of the government and how the government might choose to enhance activity strategically.

Annex C provides an initial overview of how GIs and quality designation labels can be used as part of nation-branding exercises, to bring both economic benefits and support CD. Further study could explore how France markets and protects its GI products through the lens of CD. Comparing this with the landscape for India could be useful in understanding where India might use GI labels more strategically to enhance its nation-brand and soft power, as well as trade benefits.

Despite perennial resource challenges faced by governments, the last four years have seen increased CD government activity in France and India: the ICCR announcement in May 2021, AdIG in 2022, the IYM in 2023, and in April 2024, a French strategy to promote haute cuisine, which emphasises the importance of cuisine in the context of soft power. This indicates the weight governments place on culinary diplomacy. Indeed, whether enhancing a country's reputation, increasing its tourism and trade, fostering cultural exchange or even providing solutions for our global future through millets, culinary diplomacy may provide a powerful tool to improve our international relations.

"Gastronomy is the art of using food to create happiness" - Theodore Zeldin (Wharton 2010: 73).

## Annexes

### Annex A. Relevant Actors and Campaigns

|                                    |                                                                                                                                                                                                                                                                      |
|------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Alliances Françaises</b>        | The Alliances Françaises aim to promote French language and Francophone culture, with 832 branches worldwide.                                                                                                                                                        |
| <b>Atout France</b>                | France's national tourism development agency, with primary policy responsibility for tourism. Currently, Olivia Grégoire is the Minister responsible for tourism policy, sitting within the Ministry of the Economy, Finance and Industrial and Digital Sovereignty. |
| <b>Choose France</b>               | France's national nation-branding campaign. It encompasses Invest in France, Explore France, Institut Français, Agence France de Développement and Taste France.                                                                                                     |
| <b>Explore France</b>              | France's national tourism campaign, led by Atout France.                                                                                                                                                                                                             |
| <b>ICCR</b>                        | The Indian Council for Cultural Relations is the primary government organisation responsible for India's external cultural relations. It has 38 Indian Cultural Centres across the world and reports into the MEA.                                                   |
| <b>Institut Français</b>           | The Institut Français leads French cultural diplomacy abroad. It reports to the MEAE and the Ministry of Culture. There are 98 across the world.                                                                                                                     |
| <b>MEA (India)</b>                 | India's MEA is responsible for India's foreign policy and diplomatic relations.                                                                                                                                                                                      |
| <b>MEAE (France)</b>               | The MEAE has responsibility for foreign relations and policy abroad.                                                                                                                                                                                                 |
| <b>Ministry of Tourism (India)</b> | The Ministry for Tourism has policy responsibility for national tourism policy in India, and runs India's tourism campaign, Incredible India.                                                                                                                        |
| <b>Missions</b>                    | Missions (also called posts), include embassies, consulate generals, high commissions and representation. These are states' diplomatic outposts abroad. They are run by the MEAE in France and the MEA in India.                                                     |

## Annex B. Table of Translations

| Number | Original text                                                                                                                                                                           | Author's Translation                                                                                                              |
|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| 1      | <b>French:</b> "de faire de la diplomatie d'influence un élément à part entière de la politique étrangère"                                                                              | to make influence diplomacy an integral element of foreign policy                                                                 |
| 2      | <b>French:</b> "Nous, on est là [...] pour les réconforter dans la gastronomie française [...] ce qu'on veut c'est qu'ils passent un bon moment"                                        | we're here to comfort them with French gastronomy [...] what we want is for them to have a good time                              |
| 3      | <b>French:</b> "Contribuer à la promotion et au rayonnement de la France"                                                                                                               | to contribute to the promotion and projection of France                                                                           |
| 4      | <b>French:</b> "la pérennité de la culture gastronomique française dans le monde"                                                                                                       | the sustainability of French gastronomic culture across the world                                                                 |
| 5      | <b>French:</b> "la dimension sociale"                                                                                                                                                   | the social dimension                                                                                                              |
| 6      | <b>French:</b> "l'origan fait la référence à la pizza [...] les gamins ils adorent"                                                                                                     | oregano references pizza [...] kids love it                                                                                       |
| 7      | <b>French:</b> "c'est du Loukoume"                                                                                                                                                      | it's Turkish Delight                                                                                                              |
| 8      | <b>French:</b> "ils sont sensibles à ça les Britanniques"                                                                                                                               | it's important to British people                                                                                                  |
| 9      | <b>French:</b> "On nous attend dans les très grands salons, un petit peu pompeux un petit peu luxueux [...] mais on nous attend pas dans une prison, on nous attend pas dans une école" | We're expected in grand dining rooms, with a bit of pomp, a bit of luxury [...] you don't expect us in a prison [...] [or] school |
| 10     | <b>Spanish:</b> "Porque nos encanta la cocina francesa, porque nos gusta Francia, y porque el martes, todos somos franceses"                                                            | Because we love French food, because we like France and because this Tuesday, we are all French                                   |
| 11     | <b>French:</b> "Ambassade du Savoir Culinaire Français"                                                                                                                                 | Embassy of French Culinary Knowledge                                                                                              |
| 12     | <b>French:</b> "positionner [...] la France comme leader de la gastronomie dans le monde"                                                                                               | position [...] France as a world leader in gastronomy                                                                             |
| 13     | <b>French:</b> "réseau international des écoles de la gastronomie"                                                                                                                      | international network of culinary schools                                                                                         |
| 14     | <b>French:</b> "democratiser"                                                                                                                                                           | democratise                                                                                                                       |
| 15     | <b>French:</b> "relativement peu accessible"                                                                                                                                            | relatively limited accessibility                                                                                                  |
| 16     | <b>French:</b> "Espace délimité dans lequel une communauté humaine construit au cours de son histoire un savoir-faire collectif de production"                                          | Defined space in which a human community built during its history a collective production know-how                                |

## Annex C. Quality designations: Geographical Indications and Restaurant Guides

Quality designation and labels play an important role in how France brands and denotes the value of its gastronomy to the world. If UNESCO recognition of French gastronomy could be seen as the highest form of international quality designation, France strategically uses a myriad of labels underneath this to reinforce perceptions of high quality in association with its food.

The primary findings of this study note how France's tourism sector creates specific labels to brand tourist destinations, such as Vignobles & Découvertes for wine tourism or la Vallée de la Gastronomie. These are designed to provide a guarantee of

quality gastronomic destination and experience. This annex provides a brief overview as to how France uses geographical indications (GIs) and restaurant guides strategically to reinforce an association of high quality with its gastronomy. It further outlines work India is doing in this area. Further study should be done to better understand how these and other 'quality designations' can be incorporated into culinary diplomacy strategy by policymakers.

## Geographical Indications (GIs)

Geographical indications (GIs) provide a key means of quality designation for France, incorporated into the branding and promotion of its gastronomy. The European Union (EU) defines GIs as “a distinctive sign used to identify a product whose quality, reputation or other such characteristics relate to its geographical origin” (European Commission website). These include protected geographical indications (PGI), protected designations of origins (PDOs) and Traditional Specialities Guaranteed (TSGs)<sup>20</sup>. Examples include Roquefort cheese, Le Puy Green lentils or perhaps most famously, Champagne (EU Intellectual Property Network website). France has a long history of protecting its products, dating back to 1905 laws to combat fraud (Institut National de l'Origine et de la Qualité website). In 1935, a French decree created both the concept of Appellation d'origine contrôlée (AOC) and the national body which manages these labels, l'Institut National de l'Origine et de la Qualité (Institut National de l'Origine et de la Qualité website). The idea of AOCs has its origins in the French concept of 'terroir', which the INAO describes as creating a product's uniqueness and a “defined space in which a human community built during its history a collective production know-how” (Institut National de l'Origine et de la Qualité 2016)<sup>21</sup>. Chef Quillot (2024) emphasises the importance of terroir for the French, stating that protecting their environment and agriculture is inherent to French gastronomic culture.

As of 2024, 765 French products were registered as GIs under EU law (EU Intellectual Property Network website). France continues to list new products, with five new protections sought since August 2023 (EU Intellectual Property Network website). The economic benefit is significant. According to an EU study in 2017, France had the highest sales value of GI products of any EU Member State, worth €26.7 billion, 72% of which were wine sales (European Commission 2019: 70). This is over €10 billion more than its closest EU competitor, Italy (European Commission 2019: 70).

Such high sales numbers may be attributed to the perceptions of what these GI labels mean. These protections are often seen as a marker of quality and authenticity

<sup>20</sup> Note: PGIs are referred to as IGP in French, whilst PDOs are sometimes referred to as appellation d'origine protégée (AOP), France's equivalent national term which denotes a European-level of protection. Appellations d'origine contrôlée (AOCs) meet the standards required of AOPs/PDOs but are protected at French state (not European) level. For more information see: “Appellation d'origine protégée/contrôlée (AOP/AOC),” Institut National de l'Origine et de la Qualité, accessed April 30, 2024, <https://www.inao.gouv.fr/Les-signes-officiels-de-la-qualite-et-de-l-origine-SIQO/Appellation-d-origine-protegee-controlee-AOP-AOC>.

<sup>21</sup> Translation 16 at Annex B.

(Brand Dialogue 2019: 9), and correspondingly fetch higher prices than non-labelled equivalents (European Commission 2019: 102). This may translate into a wider French reputation for quality and authentic produce, something the French government appears to capitalise on.

Policy documents indicate that the French government sees GIs as a significant asset for France. The MEAE's 2021 Roadmap for Soft Power and Atout France's 2022-2024 Tourism Road Map both underline the "739 AOP/IGP/AOCs" that France has, as key attributes (Atout France 2022: 9 and MEAE 2021: 22).

The Paris 2024 Food Vision document - a strategy to highlight French gastronomy during the Olympic Games - cites a key commitment to "showcase the 51 French cheeses, butters and creams that have been granted Protected Designation of Origin (PDO) status" (Paris 2024, 2022: 20). Reminding foreign audiences of the number of French GIs is equally prevalent through government websites and social media. Under 'French Products', TasteFrance's online magazine immediately highlights to users PDO and PGI-labelled cheeses and wines (Taste France website). The French Embassy in the US posted on Instagram for New Year's Eve; "If you pour a glass of bubbly this weekend, just remember that #Champagne only comes from the Champagne region of France" (Embassy of France in the U.S. 2023).

India is also pursuing quality designation through GIs, though in keeping with the findings of this study, it remains at an earlier stage than France in these endeavours. As previously mentioned, the Annapurna certificates are seen by ICCR and the industry stakeholders involved as a chance for the Indian government to shape the narrative around the quality of its food.

However, GIs are another interesting avenue for India in building its gastronomic brand to wield CD. Protections are considerably more recent than for France. India's GI Act dates from 1999 with the first listing of Darjeeling tea in April 2004 (Intellectual Property India 2024: 1).

In terms of international recognition for India, the EU recognises just two Indian PGIs - Darjeeling and Kangra Tea (EU Intellectual Property Network website). Comparatively, the EU recognises 131 from Japan, with whom it has a trade agreement, and 110 from China, with whom it does not (EU Intellectual Property Network website). This likely reflects the fact that GIs are a challenging aspect of trade negotiations. They have formed a particular point of contention in both ongoing UK and EU trade negotiations with India, which only recognises 23 EU GIs of thousands (IP Helpdesk 2023). When promoting cuisine to an international audience, international recognition, such as that of the EU, seems desirable. Yet, as we have seen with France's AOCs, national-level labels and protections can also be used to create associations of high quality with certain products. India has such systems in place; as of 2024 well over 500 domestic GIs were registered by India (Intellectual Property India 2024). Unlike European schemes, a significant part of these are handicrafts. However, India also recognises well over 200 agricultural and food GIs, like Sundarban Honey from West Bengal, Tirupati Laddu, an Indian sweet from Andhra Pradesh as well as 13 different mango varieties (Intellectual Property India 2024).



There are also initiatives in India to marshal branding around these, in order to reinforce their cultural and economic importance and promote this to foreign audiences. In 2018, India's Ministry of Commerce and Industry created a GI logo to be placed on products, along with the slogan "Invaluable Treasures of Incredible India" (Ministry of Commerce & Industry 2019: 2). The policy intention was to facilitate consumer recognition of authentic products as well as "assist in effective branding and promotion of GIs" (Ministry of Commerce & Industry 2019: 2). It also creates a clear link with India's Incredible India tourism campaign, indicating it is targeted, at least in part, to a foreign audience.

For the last three years, there have also been government-run GI Fairs in India, designed "to promote GI products in India and abroad" and publicised by Indian embassies worldwide (Press Information Bureau 2023d). Mangos have been the subject of particular promotion. New Delhi's tourism organisation has run a Mango Festival since the 1980s, which will this year celebrate more than 300 varieties (Delhi Tourism 2023). A private initiative, the National Media Club's Mango Festival, similarly celebrates the fruit, aiming to "highlight its diverse varieties, cultural significance, and economic value and promote the agricultural heritage of our nation's mangoes" (Indian Mango Festival website). This is attended by a number of government ministers, horticulturalists and "mango enthusiasts" (Indian Mango Festival website). India's Consulate General in San Francisco organised a Mango Festival in 2022, which specifically used GI-tagged Banganapalli mangoes (CGI San Francisco 2022). India's Agricultural and Processed Food Products Export Development Authority also ran "GI Mango Promotion and Tasting" events with embassies in Brussels and Copenhagen (Press Information Bureau 2023d).

However, GIs do not appear as an evident part of Incredible India's promotion through its website. Moreover, references by state tourism boards appear limited. Karnataka's tourism website makes just a single reference to its GI-tagged Dharwad Peddha (Karnataka Tourism website). Tamil Nadu, the most visited Indian state (Ministry of Tourism 2021: 26), highlights nine cuisine types on its tourism website (Tamil Nadu Tourism website). Yet it did not appear to make any explicit reference to GI tags for its food stuffs, despite possessing the highest number of total GIs per state (Hindu 2024).

By way of comparison, Auvergne-Rhône-Alpes, France's second most popular tourist region after Paris/Ile-de-France (Statista website), created the culinary tourist trail *la Vallée de la Gastronomie* in 2017 (Vallée de la Gastronomie 2021). Its website repeatedly offers experiences which are designed around AOP/AOC products (Vallée de la Gastronomie website 2024a), and the press kit equally highlights 165 AOP/AOC on its territory (Vallée de la Gastronomie 2023: 6). Moreover, the selection criteria for business to be eligible to participate in *la Vallée de la Gastronomie* as a tourist experience includes prior designation from a list of possible labels, guides and brands (Vallée de la Gastronomie 2021).

Therefore, GIs appear to be a notable element of how France brands its food, as well as a key economic asset. Once more we see that India is at an earlier stage in using GIs as part of its nation-brand. Further strategic use of GIs, which can bring con-



siderable economic benefits, is worth considering. This may particularly be the case when considering India's noted lack of funding for the MEA and cultural diplomacy (CEA 2023: 4).

## Restaurant guides

Restaurant guides can also play a role in associating a cuisine with quality. Although governments cannot formally control the content of privately-owned guides, they can choose to highlight accolades provided by restaurant guides, and states often benefit from perceived prestige.

As noted in this study's introduction, the number of Michelin-starred restaurants in France was cited in Portland's Soft Power 30 2019 report as a key source of French cultural soft power strength (Portland 2019: 39). This has raised a point of academic debate regarding the legitimacy of soft power rankings. Academics Chang Zhang and Ruiqin Wu contend that France's move in the Soft Power 30 from fifth place in 2016 to first place in 2017 reflects the fact that a nation's number of Michelin-starred restaurants was added in 2017 as a 'sub-indicator' of soft power (Zhang and Wu 2019: 191). Zhang and Wu argue that this undermines the accuracy of the rankings, since Michelin is "biased" and "Europe-centric", and assumes "the supremacy of French culinary culture" (Zhang and Wu 2019: 191). Yet, they also note that "the Michelin Guide ... has been shown to shape 'global fine dining culture' with the ideal of French haute cuisine" (Zhang and Wu 2019: 191). This may reinforce a point that Zhang and Wu did not intend. In 2024, just over 20% of the 144 three-starred Michelin restaurants were in France (Michelin Guide website). That number increases significantly when accounting for restaurants in other countries which serve French cuisine or are run by French chefs (Michelin Guide website). If we accept Zhang and Wu's own contention that Michelin shapes "global fine dining culture" any bias towards French cooking has seemingly not negated Michelin's ability to influence and shape the perceptions of others" (Zhang and Wu 2019: 191). Rather this bias is useful for France, and for the French government promoting their gastronomy. Michelin can be seen to act as a key influencer, since its accolades (Michelin stars) are seen associated with quality and it chooses to bestow many of those accolades upon French cuisine. This is particularly important for CD and for reaching foreign audiences. According to the Michelin guide's director, giving evidence to the French Senate in 2008 on French cuisine's UNESCO listing, three stars enables restaurants "to attract an international clientele" (Dumas 2008: 67).

The French government seems to recognise the value of associating its gastronomy with Michelin. Michelin-starred chefs and restaurants are consistently cited in its promotional activities. The website for *la Vallée de la Gastronomie*, reminds readers that these are "ranked in the top 4 Michelin-starred regions in France" ((Vallée de la Gastronomie website 2024b). The press kit for the 2019 edition of *Goût de France* similarly reflects that the Michelin-starred label for chefs is an important selling point for France. It states that starred chefs will preside over cooking competitions in Por-

tugal, host dinners at their restaurants in New York, and prepare a gala dinner in Seoul and “prestige” dinners at French posts in New York and in Brussels (MEAE 2019: 9). It also emphasises that Provence, the region being celebrated in 2019, is home to 18 Michelin-starred restaurants (MEAE 2019: 12).

As mentioned, governments do not formally control the contents of private restaurant guides. However, from a policy perspective, they can choose to highlight the association of their cuisine with particular restaurant guides. This may even create a self-perpetuating circle of prestige; the French government cites Michelin stars as a selling point of its gastronomy, and the perceived status of Michelin as influential is reinforced by being the primary guide used by the French government to denote quality of its gastronomy to international audiences. Moreover, the very fact that Michelin is a French guide may reinforce France’s position as an authority on gastronomic excellence, as we saw with Guillaume Gomez bestowing honours.

There may be drawbacks to this association between Michelin and French gastronomy as well. As we have seen in the main findings, French food has been seen as inaccessible (Gouvernement Français 2024: 8) and “elitist” (Embassy of France in Manila 2021). Association with Michelin could reinforce such a view and care may therefore be needed when considering messaging around food in relation to Michelin. Nevertheless, we have seen the influence Michelin can wield, and therefore its utility as a tool for nation-branding within culinary diplomacy.

When looking at restaurant guides for India, it is worth noting that the Michelin guide does not cover India. Given the use of Michelin restaurants as a measurement of soft power, this may contribute to India’s lower performance in soft power rankings. Where restaurant guides do not cover a country, an alternative policy option is to create a new guide. As discussed in the main study, this is being considered by the Indian government. Such a guide could be useful in conjunction with the Annapurna awards, to reinforce the association of quality with Indian food abroad. It could also be useful internally, particularly as the Ministry of Tourism intends to develop cuisine as a core tourism product, as indicated in the 2022 Draft National Tourism Policy (Ministry of Tourism 2022: 44). However, there are challenges, and particularly for areas like street food. Such guides in India can only be useful if the infrastructure is there. Arbind Singh (2024) explains that an app is being worked on to link street vendors to customers, but zoning - India’s way of dividing areas into different ‘zones’ to map out locations - is still not complete, making this difficult. A guide, says Singh (2024), is not particularly helpful if it doesn’t help locate the vendors. However, there has been improvement with zoning and Singh (2024) is optimistic on progress; “India is a country of potential”. As infrastructure strengthens, restaurant guides could form a useful tool for India in reinforcing associations of quality with its cuisine.

This annex has given a brief overview of the role of GIs and the Michelin guide for France as key instruments to create a positive association of quality with its gastronomy. It has further explored India’s approach, and how India might consider further deploying these tools on its culinary diplomacy journey.

## **List of Abbreviations**

AdIG - l'Année de la Gastronomie

CD - Culinary Diplomacy

CEA - Committee on External Affairs, in the Lok Sabha (India's lower parliamentary chamber)

DG - Director General

Gol - Government of India

GdF - Goût de France / Good France

ICCR - The Indian Council for Cultural Relations

IYM - The International Year of Millets 2023

MEA - India's Ministry of External Affairs

MEAE - France's Ministère de l'Europe et des Affaires étrangères

MoT - India's Ministry of Tourism

NASVI - National Association of Street Vendors of India

UNESCO - The United Nations Educational, Scientific and Cultural Organization

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By God's grace, I had been invited to the Embassy of France to officially confer this award/ decoration in the presence of CCC Founder Chairman Gilles BRAGARD and CCC President Christian GARCIA by envoy Guillaume GOMEZ on behalf of the President of France Mr Emmanuel Macron on 23rd February 2023 at the French Embassy, Chanakyapuri. I have become the first Indian Chef to be honored with "Officier du Mérite Agricole de la République Française" [Instagram post]. Instagram. <https://www.instagram.com/p/CpR4jzCII40/?ref=menu&hl=af>.

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## **Irish Becomes “A Truly European Language”: How Ireland’s first language waited almost half a century for EU recognition**

Maeve Carolan

### **Introduction**

For centuries, Irish has been a secondary language in Ireland, spoken by a minority. It was only in 1922 that Irish became an official language of the newly independent Irish Free State, equal in status to English. The 1937 Constitution enhanced this status further, Irish became the first official language of the state.

Since 1973, Irish does not exist solely on a national level. It is also part of wider European Union [EU] language planning. The EU committed in 1958 to represent the official, national languages of its member states in its institutions. The first round of expansion in 1973 posed a challenge to this commitment, as three new countries brought their languages to the institutions. Given the preferential legal treatment of Irish, it is logical to assume that the state would submit Irish to be considered for official, working status in the European Economic Community [EEC] when negotiating its accession in the early 1970s. This was not the case. Irish is the only official national language of an acceding member state not to be considered for official, working status. The Irish government did not reverse this policy and pursue official status until 2004. This was granted in 2005, and as of January 2022 Irish is an official, working language of the EU. Why did Ireland not seek official, working status in 1973? What caused the state to change its policy in 2004? And what made this policy change successful?

To answer these questions, it is necessary to analyse Irish language policy before EU membership and compare it with language policy changes following membership. This thesis will analyse language policies from 1922-2005, to identify common policy themes and key changes. Data from primary sources, and interviews with Irish civil servants involved in the language sector and in the Irish representation to the EU, bolster this research and offer a closer look into Irish language policy.

The challenge of language planning has multiplied as the EU continues to expand. When Ireland submitted its application for official, working status in 2004, it followed the largest round of accession in EU history. Multilingualism and multilingual planning within the EU are unique, and the status of Irish is a case study of how the EU develops and manages its language policy. This thesis is also a case study of bilingual language planning, and the effects of joining a multinational regionalist



group on language policy. Furthermore, this research identifies a new framework for analysing language policy changes in Ireland, refining the approach taken in previous literature.

## Limitations

This thesis addresses the approach to Irish language planning in the Irish Free State/Ireland and omits language developments in Northern Ireland. Irish became an official language in Northern Ireland in 2022 and is therefore not within the scope of this research. Moreover, there are additional exceptions to Northern Irish language planning that are not comparable to the case in Ireland. For example, language rights campaigners in Ireland were operating within a system that recognised Irish as the first official language of the state. This was not the case in Northern Ireland. Further research could examine the cross-border language planning experience on the island and the effects of EU membership on Irish as a minority language in Northern Ireland.

Since the early 2000s, there has also been a significant increase in inter-European migration to Ireland. Ireland transformed from a net-emigration to a net-immigration country, with most incoming immigrants speaking English as their second language. Further research could investigate the extent to which increased immigration has impacted Irish learning and numbers of Irish speakers. However, that is beyond the scope of this research.

## Literature Review

Three key texts form the background of this research – Brian Ó Cuív’s “Irish language and literature, 1845–1921,” Diarmaid Mac Giolla Chríost’s *The Irish Language in Ireland*, and Tadhg Ó hÍfearnáin’s “Irish- Speaking Society and the State.” Ó Cuív specialised in Celtic and Irish studies, and his work demonstrates how the roots of the early state’s language policy were based on late nineteenth century Irish nationalism. Mac Giolla Chríost’s work informs much of the first chapter, as he outlines the chronological development of the state’s language policy. He also provides necessary background from the seventeenth, eighteenth and nineteenth centuries to supplement Ó Cuív’s analysis. Finally, Ó hÍfearnáin divides Irish language policy into distinctive phases. Pre-EU membership, he considers the policy in two discrete sections: the early state (1922–56) and the reform period (1956–1970s). This research makes use of a similar framework and supports the analysis of multiple policy phases, albeit amending the periods that Ó hÍfearnáin outlines. Rather than abide by the 1922–56, 1956–70 split that Ó hÍfearnáin defines, this research will instead consider the periods according to the political and social shifts that began in 1950. These crucial developments happened earlier than Ó hÍfearnáin outlines: although nominally the policy changed in 1956 with the Second Inter-Party Government, the shift in social attitudes predates this.

Florian Coulmas’ text *A Language Policy for the European Community: Prospects and Quandaries* is a seminal source in examining EEC/EU language policy. Published

in 1991, Coulmas' work serves as evidence on language-policy thinking in an EEC framework at the time. His text serves as both a primary and secondary source – primary, in the sense that it demonstrates academic thinking at the time, which is vital for this analysis, and secondary, in that it offers an historical account of the EEC language policy. Máiréad Nic Craith offers additional analysis on EU policy, Irish state policy, and other external European language policies. Her two texts are integral to this research, as they examine both EU and Irish language policy, as well as how Irish language policy fits into wider European language planning.

The final aspect of the literature is the primary sources. Both newspaper reports and opinions form essential elements of the argumentation. Of the interviews, the most important is the input from Ambassador Anne Anderson, former Permanent Representative of Ireland to the EU, who worked extensively on negotiating Ireland's bid for official, working language status in 2004. Her account of the negotiations, and the difficulties that the Irish government faced in convincing their European peers, is the foundation of the third chapter. In addition, material from the National Archives of Ireland offers first-hand insight into the challenges of domestic language planning, particularly in the 1980s and 1990s.

## Outline

There are three chapters in this thesis. The first provides necessary background to the state's language policy, beginning in 1695 with the introduction of the Penal Laws and concluding in 1973 with Ireland's accession to the EEC. The breadth of the timeline is necessary to examine the erosion of the Irish language, as well as the national revival movement in the nineteenth century. Both elements had significant impact on the Irish Free State's approach to language planning, and themes presented by the nineteenth century linguistic nationalists have recurred throughout Irish language planning.

The second chapter analyses two elements – EEC/EU language planning from 1958-2000, and Irish language policies from 1973-2000 – to explain how Irish fits into existing EEC/EU frameworks. It evaluates the 1972 decision not to submit Irish for consideration as an official, working language in the EU, and contextualises it within a broader phase of Irish language planning. Furthermore, it situates domestic language planning in the changing economic landscape brought on by EU membership, and the effects of positive economic changes on language policy.

The final chapter focuses on the new millennium, when the greatest shift in Irish language policy occurred. Within this, there are two key decisions – the Official Languages Act 2003 and the 2004 application for official, working language status in the EU. This chapter also analyses the impact of international developments on domestic language planning, principally the Canadian example of bilingual language planning and the impact of EU expansion in 2004 on Irish language planning. Finally, the chapter analyses Ireland's negotiations with the EU to elevate Irish to official, working language status.

## **1. Chapter One**

The status of Irish as an EU language is rooted in longer-term developments reaching back to the late nineteenth, if not to the late seventeenth, century. Nineteenth century romantic nationalism had a profound effect on the early state’s language policy. It is therefore useful to offer a background to the Irish language. This chapter will analyse the role and use of Irish over the last three centuries, from the introduction of the Penal Laws in 1695 until 1972, the year before Irish accession to the EEC. It is split into three sections; Irish before the Irish Free State, the early years of the Irish Free State, and the policy shift pre-EEC membership.

### **1.1 Before the Irish Free State: 1695 – 1922**

Many analysts cite the Great Famine (1845-49) and its demographic impact as the cause of the Irish language decline (Mac Giolla Chríost 2005: 113). Others point to the omission of Irish from the National School Curriculum in 1831. In reality, the decline of the Irish language has its roots as early as the seventeenth century. There are several reasons for this, as Diarmaid Mac Giolla Chríost outlines. First, technological advances favoured English, the most important being the development of the printing press. While many manuscripts in Irish were created and copied during the Middle Ages, the printing press stimulated and favoured the production of books in English. Second, the increasing English colonial presence dismantled the societal structures of Gaelic Ireland. One example of this was the replacement of the traditional Brehon law with the British Common Law system in the seventeenth century. Moreover, the use of English as the administrative language triggered the gradual obsolescence of Irish. Mac Giolla Chríost outlines the use of translation services as proof of this – as the use of the Irish language declined, the number of interpreters needed in the criminal and civil courts did too. The final reason for the early decline of the Irish language was the introduction of the Penal Laws in 1695, and their stringent enforcement in the eighteenth and early nineteenth centuries. This code restricted the rights of Irish Catholics (O’Connor 2018: 260), who were the vast majority of Irish-speakers, and aimed to instruct Irish schoolchildren in English alone (Corcoran 1931: 88). Therefore it is certain that the status of the Irish language was already compromised before 1845.

The Penal Laws ended in 1829 with the Catholic Emancipation Act, but this did not cause an immediate resurgence in the use of Irish (Ó Tuathaigh 1974: 23). Catholic emancipation resulted from decades of political pressure from the Irish Catholic population. Its main figure was Daniel O’Connell, the ‘Liberator’ – but he did not believe that the Irish language was an important part of this:

I am sufficiently utilitarian not to regret its gradual abandonment [...] although the Irish language is connected with many recollections that twine round the hearts of Irishmen, yet the superior utility of the English tongue [...] is so great that I can witness without a sigh the gradual disuse of Irish.

Instead, the early and mid-nineteenth century brought small victories for the language, rather than its revival. In 1838, Trinity College Dublin, Ireland's oldest university, founded its Chair of Irish<sup>1</sup>. This was a result of wider academic interest in Dublin on Celtic culture. The Royal Irish Academy, founded in 1785, also studied the Irish language. Nevertheless, they did so with the understanding that it was a dead language, useful for studying history and culture but little else (Mac Giolla Chríost 2005: 99). In this regard, Irish was similar to the study of Latin or Ancient Greek. These small victories, and renewed interest, in the Irish language did little for its use beyond academia – the principal change came from the Irish nationalist movement of the late 19<sup>th</sup> century.

Irish nationalism was not a new phenomenon – there were significant revolts against English rule as early as 1641 and 1798. However, the romantic national movement of the nineteenth century was a significant departure from that of earlier centuries. Romantic nationalism defined the distinct natural character of a nation, whose people form part of a “collective national personality” (Schmidt 1956: 409). It was akin to the sanctification of the national identity (Costigan 1973: 131). In Ireland, this new school of national thought relied on the language to develop core elements of the Irish national identity.

The rise of romantic nationalism in Ireland led to the failed 1848 Young Ireland Rebellion, which emphasised the reinstatement of Irish as the national language (Gwynn 1948: 7). Though a failure, the Young Ireland Rebellion did have an effect on domestic politics. Irish nationalist politicians began to push for Home Rule as a political solution, which would afford the Irish government greater independence from London and restore parliament in Dublin. Simultaneously, the romantic nationalist movement grew and agitated for total independence from Britain, albeit with less support than the Home Rule movement. Under pressure from Irish politicians, the 1878 revision of the National School system included the instruction of Irish (Ó Cuív 2012). The overall increase in nationalist sentiment, both moderate and extreme, had a positive impact for the Irish language.

The foundation of *Conradh na Gaeilge* [the Gaelic League, generally shortened to *Conradh*] in 1893 marked a further significant shift in nationalist attitudes to the Irish language. Its first president, Douglas Hyde, was a key figure in the language revival movement. Educated in Trinity College, Hyde was a passionate Irish speaker (Ó Lúing 1973: 246)<sup>2</sup>. *Conradh* was founded on the premise of Hyde's 1892 speech, 'De-Anglicising Ireland', where he outlined the importance of speaking Irish as a method of separating the Irish identity from its British counterpart (Mac Giolla Chríost 2005: 102-103). It was successful in gaining members, although these came disproportionately from outside the *Gaeltacht* areas (Mac Giolla Chríost 2005: 25). *Conradh*'s successes included its presence in a House of Commons debate in 1900, its pressure for the inclusion of Irish language entry examinations for matriculation in the new University of Ireland, and its influence on the education system. However, in the 1910s, *Conradh*

<sup>1</sup> Trinity College was founded by Elizabeth I to solidify English rule in Dublin and designed to educate the Anglo-Irish elite. Teaching Irish was a major shift in its ideology.

<sup>2</sup> He was also the first president of the Ireland (1938-45).

began to fracture as more of its members became involved in the Irish Republican Brotherhood [IRB]. The IRB was a secret, oathbound nationalist movement dedicated to Irish independence and involved in the 1916 Easter Rising (Sayers 2018: 64). By the early 1910s, a significant number of *Conradh*’s prominent members were in the IRB. This internal pressure led to a split in the organisation, with Hyde leaving *Conradh* in 1915 after criticising the deep politicisation of the language.

Such nationalist political developments intensified in the 1910s, from the 1916 Rising to the formation of the First Dáil in 1919. The First Dáil was an illegal meeting of representatives elected to Westminster in the 1918 general election, and their first meeting was predominantly in Irish – the first use of Irish as the main language for political proceedings since the reign of Henry VIII (Ó Cuív 2012). This set the tone for the later foundation of the Irish Free State, wherein Irish became a vital factor in establishing the sense of Irish national identity.

## 1.2 The early years of the Irish Free State: 1922 – 50

In 1922, Ireland gained independence from Great Britain as *Saorstát Éireann* (the Irish Free State). A romantic nationalist approach characterised the early years of the state’s language policy. Within this, there are several areas: the legal position of the Irish language, *Gaeltacht* policy, the role of Irish in the Civil Service, and education.

Under the 1922 Constitution, Irish was one of the two official state languages, holding parity with English for the first time. The landmark 1934 case *Ó Foghludha v McClean* refined this position, when the Chief Justice ruled that the state was obliged to “establish and maintain [Irish] as the National language” (De Blacam 2014: 92). This definition of Irish as the national language had a significant impact on the 1937 Constitution, which stated in Article 8 that Irish was the first official language of the state. English became the second official language of the state. The definition of Irish as the *first* language coloured every aspect of the state’s language policy thereafter.

The 1926 Gaeltacht Commission was the state’s first point in the Irish language policy (Ó hÍfearnáin 2009: 542). Its role was to define the areas of the *Gaeltacht* – areas where Irish was the predominant language. Despite their dispersion across Ireland, these areas are collectively referred to as the *Gaeltacht* (Kearns 1974: 82). The 1926 Commission defined a two-tiered system: *Fíor Ghaeltacht* [true *Gaeltacht*], where over 80 percent of the inhabitants spoke Irish as the vernacular, and *Breac Ghaeltacht* [partial *Gaeltacht*], where between 25 and 79 percent spoke Irish as the vernacular. The goal of the Commission was to outline policies supporting the linguistic and economic development of these areas.

This shows a key aspect of early Irish language policy. The core concept was that, by defining two types of *Gaeltacht*, these Irish-speaking areas would expand (Ó hÍfearnáin 2009: 561). The *Breac* would be incorporated into the *Fíor*, and use of Irish across the country would increase. However, this policy was idealistic and ill-suited to the reality of the situation. The population within the *Gaeltacht* was small and the economy of those areas was underdeveloped, the *Gaeltacht* areas being among the



most deprived areas in Ireland (Denvir 1999: 21). Furthermore, several later state policies implemented to support the *Gaeltacht* hindered its development. Finally, the population in the *Gaeltacht* continued to decline – evidence that this policy was not working. By 1939, the number of native speakers was 100,000 fewer than that of 1922 (Mac Giolla Chríost 2005: 117). The state's expansionary vision for the Irish language, though impassioned, lacked the necessary structures to encourage the use of Irish.

The civil service, along with the educational sector, made up the bulk of the state's language policy. Civil service reforms included Irish language competency tests on the entrance examination (1927-31), the introduction of incentives for civil servants to learn Irish (1933), priority for candidates who spoke Irish (1935), the creation of *Coimisiún i dtaobh na Gaeilge sa Státsheirbhís* [The Commission on Irish in the Civil Service] to monitor the implementation of Irish language services, and the introduction of Irish language examinations for civil servants of over five years (1937) (Ó hlfearnáin 2009: 547-550). The emphasis on Irish continued into the 1940s, where Irish language competences were necessary for consideration of a promotion. These policies aimed to increase the availability of public services through Irish. Despite the state's holistic approach, the actual number of those using these services failed to live up to expectations. This is a further example of the idealistic and expansionist approach to the Irish language, where the state expected Irish to eventually supersede English as the vernacular.

Furthermore, the state actively promoted the use of Irish in National Schools. One key development was the role of Irish in teachers training. In 1927, the first *Coláiste Ullmhúchán* [Preparatory College] opened its doors to secondary school students (Ó hlfearnáin 2009: 551). These Irish-language boarding schools were designed to educate students in Irish and prepare them for careers in primary school education. By 1930, there were seven operational preparatory colleges, five of which were located in the *Gaeltacht*. Through supporting the education of young people in the *Gaeltacht*, the state was able to support the use of Irish in its National Schools while simultaneously supporting the economy of the *Gaeltacht*. This project was so successful that the *Coláistí* had to close their doors from 1939-42; they were full.

Further developments in the education sector included the introduction of Irish as a compulsory subject for state examinations at both Intermediate and Leaving Certificate level (1928 and 1934, respectively), along with the simplification of the spelling norm in 1947 (Mac Giolla Chríost 2005: 117). The focus on education was a success in the state's early years. Nevertheless, the policy shift of the 1950s reconsidered many of these policies.

### 1.3 Shift in policy, 1950 – 72

The change of government in 1954 led to a clear shift in the state's language policy, as Ó hlfearnáin argues, but the attitudinal shift predates the Second Inter-Party Government [SIPG]. One example is the Dáil debate on the 6 December 1949, where members of the First Inter-Party Government were questioned on their dedic-



ation to the Irish language. Fianna Fáil opposition deputies suspected that Clann na Poblachta deputies were weak on Irish language policy – Eamon Kissane TD asked whether the Clann na Poblachta’s opinion was “still” that “...teaching through the medium of Irish is mental murder.” Furthermore, in 1951, Brian Ó Cuív published *Irish Dialects and Irish-speaking Districts*, which criticised the state’s approach to the definitions of the *Gaeltacht*. Alongside criticisms of government policy and its commitment to the language, a group of student societies founded the first significant Irish-language pressure group - *Gael Linn*. Its aim was to preserve and protect the Irish language, and it emerged as an important pressure group in the late 1950s and 1960s (Ó hIfearnáin 2009: 571). Therefore, this attitudinal shift predated the SIPG.

Nonetheless, the SIPG introduced some key reforms that marked a departure from the expansionary idealism of the first period. This new approach prioritised realism and language maintenance, spanning across four areas: *Gaeltacht* policy, education, language policy, and role of Irish in media.

In 1956, the SIPG created a Department for the *Gaeltacht* (Ó hIfearnáin 2009: 543-544). A separate department legitimised the status of the *Gaeltacht*. In contrast, the centralisation of the *Gaeltacht* administration under one department diminished the importance of Irish in the rest of the Civil Service. While the creation of a separate ministry was designed to streamline and centralise *Gaeltacht* planning, in reality it failed to do so. It has rarely been its own, standalone ministry, with the role often combined with several others<sup>3</sup>. This undermined the position and importance of the *Gaeltacht* in state language planning.

Furthermore, the 1956 *Gaeltacht* Areas Order redefined the *Gaeltacht* areas “to better reflect the social reality of the Irish language rather than the aspirations of the nation-state builders of the 1920s” (Mac Giolla Chríost 2005: 123). This included areas in Galway, Mayo, Donegal, Kerry, Cork, and Waterford. Notably, Rath Cairn (Meath) was omitted – the state did not acknowledge it as a *Gaeltacht* area until later in the 1960s. The revision was done not through an independent Commission, as in 1926, but rather an internal government decision (Ó hIfearnáin 2009: 554). With the elimination of the *Fíor* and *Breac Gaeltacht* categories, the state’s policy was clear. There was no further desire to expand the *Gaeltacht*, but rather to maintain the areas as defined in the 1956 Order. This was a key characteristic of language planning in this second phase, focused on pragmatism and survival of the language rather than expansion.

Promoting Irish in *Gaeltacht* areas required a dual policy of language and economic planning. The state regulated this through *Gaeltarra Éireann*, the semi-state body responsible for economic development in the *Gaeltacht* (Mac Giolla Chríost 2005: 123). Designed to facilitate economic development through Irish, many of the business professionals it employed did not speak Irish, leading to criticisms that *Gaeltarra* was “anglicising” the *Gaeltacht*. Despite this new approach, the state’s intervention failed to have a significant positive effect on either the linguistic or economic aspect of *Gaeltacht* life.

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<sup>3</sup> At the time of writing, the *Gaeltacht* currently falls under the jurisdiction of the Department of Tourism, Culture, Arts, *Gaeltacht*, Sport and Media.

Another crucial departure was in the state's approach to education. Teacher-training changed in 1958 to a more standardised process, rendering the *Coláistí* useless. The old system was interview-based, in which preparatory college students had a distinct advantage (Ó hlfearnáin 2009: 551). The new admissions system had no interview element, relying solely on Leaving Certificate results. By 1960, they were all closed. This had a negative effect on the use of Irish in National School classrooms, which was previously so strong.

However, there was a new innovation introduced in the 1960s – the *Naíonraí* [Irish-language preschools]. Born of a community initiative in the *Gaeltacht*, the first *Naíonra* opened in 1968 (Mac Giolla Chríost 2005: 129). The involvement of local communities in Irish-language education became a feature of 1980s policymaking, but its roots came from this period of change.

Aside from the changes in *Gaeltacht* and education policy, the overall shift in attitude towards Irish was pivotal. Departing from the expansionary early years, this period sought to maintain the language and ensure its survival in the areas still using it. There were two core policy elements to this – the *Caighdeán Oifigiúil* [Standardised Irish, *Caighdeán*] and *An Coimisiún um Athbeochan an Teanga* [Commission for Language Revival].

The *Caighdeán*, which came into effect in 1958, was a new, standardised Irish language. It used the Latin script instead of the traditional script and amalgamated several dialects from the different *Gaeltacht* regions (Mac Giolla Chríost 2005: 112). Previously, the state relied on the spelling reforms of the 1940s. The new standard drew criticism from some academics, who viewed it as undermining the richness of the language (Ó hlfearnáin 2009: 567). Nevertheless, it is crucial to note that its main aim was to modernise the language through standardisation. Implementing Irish as an EU language would be impossible without a clear, standardised version of the language.

The Commission for Language Revival operated from 1958 until 1963. Its mandate was to identify core issues in the state's language policy, and to propose amendments to the government for the revival and restoration of Irish. Its final report, published in 1965, outlined 288 proposals for the government (Mac Giolla Chríost 2005: 125). It promoted a bilingual Ireland; a clear shift from early state policy, where Irish was expected to supersede English as the national language. As Ó hlfearnáin explains, the government's reception of the report was not warm – the Commission had succeeded in identifying its weaknesses, and there was little change enacted to rectify them (Ó hlfearnáin 2009: 571). This highlights the paradoxes forming in state policy; although commissioned to improve Irish provisions, the state disregarded most of the Commission's recommendations.

The Commission was a part of a larger state initiative to understand social attitudes to Irish and better harmonise them with state policy. It led to the creation of several institutes to carry out social research, including the Committee on Irish Language Attitudes Research [CILAR] and *Institiúid Teangeolaíochta Éireann* [The Linguistics Institute of Ireland, ITÉ]. Nevertheless, the area of state policy most affected by these initiatives was the broadcast media.

*Raidió Éireann*’s [Radio Ireland] first broadcast had gone live as early as 1926, but by the 1950s, pressure was mounting to revise the official state broadcaster. One crucial element in these calls for revision were the inclusion of the Irish language in broadcasting – *Gael Linn* submitted proposals for increased Irish-language content in both 1958 and 1959 (Ó hlfearnáin 2009: 571). It was eventually successful. In 1960, the Broadcasting Authority Act created *Raidió Teilifís Éireann* [Radio Television Ireland RTÉ]. Furthermore, the Act recommended RTÉ to “...bear constantly in mind the national aims of restoring the Irish language and preserving and developing the national culture” and endeavour to achieve those aims.

However, this success was hollow. RTÉ was legally separate from the state, meaning the recommendation to use Irish in its broadcasting was not binding. Given that the main vernacular of the state was English, the majority of broadcasting on RTÉ was in English. Discontent within the Irish-speaking community culminated in the creation of *Gluaiseacht Chearta Sibhialta na Gaeltachta* [The Gaeltacht Civil Rights Movement] in the Galway *Gaeltacht* in 1969 (Ó hlfearnáin 2009: 572). Its activists claimed that, as Irish citizens, they were entitled to access broadcasting in the first official language. Under pressure, the government encouraged RTÉ to introduce more Irish language broadcasting – prompting the creation of *Raidió na Gaeltachta* [Radio Gaeltacht] in 1971.

The decline in use of Irish as the vernacular has its roots long before the twentieth century. Nevertheless, it was during that time that the Irish nationalist movement crystallised, using the language to distinguish itself from the British identity. Furthermore, there was a desire among these language campaigners, particularly *Conradh na Gaeilge*, to encourage the use of Irish and eventually establish it as the vernacular again.

This attitude can be seen clearly in the early years of the Irish Free State, where the main pursuit was linguistic expansion. One illustration of the expansionary language planning vision was the *Fíor* and *Breac Gaeltacht*, wherein the *Gaeltacht* areas should spread across the country. Regardless, this policy was, as Ó hlfearnáin describes, both unattainable and undesirable, given the importance of speaking English on a global scale.

The policy change of the 1950s and 60s, then, seems far more pragmatic. However, this regressive period in Irish language policy may have damaged the number of Irish speakers – given the decline in population of the *Gaeltacht*, the revision of 1956 had a negative impact on the preservation of the language. In 1971, the population of the *Gaeltacht* was half of that in 1911 (Mac Giolla Chríost 2005: 117). It is in this period of relative realism, where the state focused on maintaining, rather than expanding, the language, that Ireland became a member of the EEC.

## 2. Chapter Two

The first expansion of the EEC brought significant social, economic, and linguistic challenges. The Treaty of Rome established a linguistic *status quo* which remained unchallenged until 1973. Now, the EEC faced the addition of three potential new languages.

Ireland's accession to the EEC delivered the most significant social and economic change since independence in 1922, with the "...influence of European legislation and thinking on Ireland" being all-pervasive (Ó hÍfearnáin 2009: 574). EEC membership called many areas of state policy into question, and language was no exception. It also triggered extensive social change in Ireland. The drive to revise language policy came from civil society, which pushed for further recognition of the language. This was a direct result of the changing demographic of Irish speakers, as the country's social and economic strata shifted following accession.

This chapter will assess two elements. First, it is necessary to understand the EEC's language policy to understand how Irish might fit into this complex network. Second, the changing language policy of the Irish state will be assessed to analyse the situation heading into the twenty-first century. The European Charter for Regional or Minority Languages [ECRML] will serve as an example of the paradox in state policy, and how it played out on an international level.

## 2.1 EEC Language Policy: A Brief Overview

The Treaty of Rome created a new Customs Union between six countries – France, Belgium, the Netherlands, Luxembourg, Italy, and the Federal Republic of Germany [West Germany]. Besides the economic challenges, there was also a linguistic question – whose language should be spoken and recognised by the new community? The answer was simple, as outlined in Council Regulation no. 1 from April 1958: between the six countries, there were four languages<sup>4</sup>, and each would have equal recognition as official, working languages of the (Coulmas 1991: 5).

The term "official, working language" has its roots in the League of Nations, which outlined several languages to be used in official meetings and documents (Nic Craith 2006: 40). Each language had equal legal consideration, and business could be conducted in any of the listed languages. The EEC implemented the same system. In reality, French emerged as the most dominant language of the EEC, with German as the second language. Such relative French hegemony is rooted in its historic status as the language of diplomacy. This status lasted until the end of the First World War, at which point English emerged as the dominant language of international diplomacy, under American influence. Despite languages having equal status in the EEC, it was relatively uncommon for Dutch or Italian speakers to request the translation of unofficial documents into their respective languages (Nic Craith 2006: 46). The term unofficial is vital here: all official documents were translated into the official, working languages regardless, but unofficial documents were predominantly in French. This led to some tensions, with German-speaking officials resenting the lack of German representation in unofficial documents. Thus, the language policy of the EU was multilingual, albeit with an emphasis on French.

The first wave of expansion in 1973 disrupted the established language parity.

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<sup>4</sup> In Luxembourg, French and German are recognised as official languages: Luxembourgish was omitted from consideration, given that it did not become the national language of Luxembourg until 1984.

The candidate countries of the United Kingdom [UK], Denmark and Ireland meant the potential addition of three new official, working languages. This was met with some scepticism, prompting fears that the addition of these languages would strain the system to the point of exhaustion (Coulmas 1991: 6). Moreover, French representatives were concerned that the addition of English would displace the established French dominance. President Pompidou even went as far as insisting on “the pre-eminence of French as the dominant language of EEC institutions” as a condition of French acceptance of UK membership in 1972 (Nic Craith 2006: 41). Danish, in particular, caused some concern, as it was considered too small a language to be included in the official, working languages of the EEC. There were several suggestions made to rectify this, including the Danish delegation’s suggestion to limit the official, working languages to only English and French, with the stipulation that no official could use their mother tongue (Nic Craith 2006: 45). Though this would limit everyone to the same disadvantage, the French and British delegations rejected it. The Danes successfully negotiated inclusion of their language in the EEC. Ireland’s decision not to include Irish as an official, working language made considerations for the EEC a lot simpler (Mac Giolla Chríost 2005: 126). However, this decision also created a new status of ‘Treaty Language,’ whereby all Treaties had to be published in Irish (Ó Riain 2009: 49). Therefore, a two-tier language status arose in the EEC – an unintended consequence of Ireland’s membership.

Irish and British accession to the EEC further changed the language balance within the Community. From 1973 onwards, the now considerable number of native English speakers challenged French hegemony within the EEC (Nic Craith 2006: 47-48). Throughout the 1980s and 1990s, English gradually usurped French to become the dominant language of the EU. The wave of accessions in 2004-2007 further cemented this, as Eastern European states tended towards English rather than French (Ó Gadhra 2004: 82).

Linguistic considerations remained dormant, until further expansions in 1981 (Greece) and 1986 (Spain and Portugal) increased pressure on the EEC translation services (Coulmas 1991: 6)<sup>5</sup>. The Commission’s translation staff rose by 12.5 per cent with the addition of Greece, for example, and this burden rose further in 1986 (Nic Craith 2006: 45). Nonetheless, there were some factors that justified the EEC’s multilingual policy.

First, as Coulmas outlines, the EEC was a collection of wealthy nations. Although the cost of translation services seemed astronomical, the member states could afford it. Second, the EEC prided itself on its status as a multi- and plurilingual institution. This was rooted in both idealism and pragmatism – linguistic homogeneity was not considered a viable option for creating an integrated Europe (Strubell 2007: 150). Multilingualism was at the core of the EEC’s mandate since the 1958 Council Regulation. Despite repeated requests for the consideration of shortening the lists of official,

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<sup>5</sup> With one exception – in 1974, MEPs van der Hek and Pliijn asked the Commission to consider the use of Latin in its dissemination of information and in the European Parliament’s sessions, as it was the first European language. The Commission deemed itself incompetent to answer this question, and the issue never progressed further.



working languages, the institutions remained firm. This included a French request as late as 1995 to limit the number of official, working languages to five – the motion was defeated in the European Parliament (Ó Riain 2001: 13). These new linguistic questions surfaced in two landmark developments: the 1986 Single European Act [SEA] and the 1989 LINGUA programme.

The SEA set the ambitious goal of establishing a single market within the EEC by 1991. Key to establishing this economic integration was the removal of remaining visible trade barriers, along with invisible trade barriers. Among these was languages, which the EEC identified as an invisible barrier to inter-European trade (Ó Riagáin 1991: 271). The labour market was linguistically limited – many migrant workers coming from France, for example, could not easily work in Germany, because they were limited by their language skills. As Coulmas outlines, several European states recognised the importance of language-learning as a quantifiable export with significant economic returns (like the *Goethe Institut* in Germany, or the *Alliance Française* in France). This was the first time the EEC considered its multilingualism as a commodity, in line with the SEA (Kraus, Kazlauskaitė-Gürbüz 2014: 518, 530). In order to address this, it was necessary for the EEC to develop a trans-European language programme – LINGUA.

LINGUA offered financial support for second language-learning across the EEC, for an initial period of five years. The programme did not focus on official, working EEC languages – it was meant to encourage the learning of any language. This included Irish. Despite this, ITÉ complained in 1992 that applicants seeking support in teaching Irish were redirected by LINGUA to the European Bureau of Lesser-Used Languages, which the Irish government “would take a very serious view of” (Gunning 1992). Nevertheless, LINGUA was an answer to the invisible linguistic barrier quandary, by promoting a plurilingual EEC.

The programme encountered some difficulties. The EEC has limited competences in the field of education, which is primarily a member state competence. This made it difficult to implement the policy to the extent which the EEC may have wished. Moreover, some member states directly challenged the programme. Margaret Thatcher, Prime Minister of the UK, was vocally critical of the project and cut its funding by a fifth (Coulmas 1991: 24). Not only did she view it as a waste of EEC (and therefore UK) budget, but also it had a direct negative effect on the status of English in the EEC, given the increased use of English within the EEC institutions. While LINGUA was ambitious and marked a watershed in the consideration of languages in the EEC, it ultimately fell short of achieving its goals.

Before 1973, the EEC’s language policy followed a natural path towards French hegemony. Expansion forced a policy reconsideration. This continued throughout the 1980s, with the addition of a further three languages. By 1999, there were nine official, working languages within the EU, meaning a total combination of 72 language pairs for translation and interpretation. Several arguments favoured maintaining national languages as official, working languages. First, the SEA considered multilingualism as an economic asset. This consideration defined the next period of EEC



language policy in the twenty-first century, as it aimed to encourage plurilingualism. Second, although the nine languages were equal, English and French dominated proceedings, with English surpassing the use of French. Finally, the necessity of maintaining the working languages was also an issue of harmonisation. EEC law is binding in each member state, meaning it would be translated into national law regardless of official, working language status. Keeping the national languages as official, working languages allowed for greater harmonisation of EEC law and minimises the chances of conflicting legislation. Therefore, economic and legal considerations underpinned the EEC’s multilingualistic language policy.

### 3.2 Irish Language Policy, 1973 – 2000

When negotiating accession in 1971, it was the state’s position that Irish be included as an official language, and the EEC was prepared to accept this. It was an expression of the regressive attitude of the 1970s language policy in Ireland, coupled with logistical concerns, that prompted the state’s decision not to include Irish as an official, working language. Lack of sufficient translators was the main motivator. This left Ireland in a unique situation – Irish was not an official EEC language, but it was a recognised Treaty language.

Furthermore, the decision not to include Irish as an official, working language created a paradox in domestic language policy. Irish was the first official language of the state, but it was not an official language in the EEC; with one crucial exception. The Court of Justice of the European Communities [CJEC] accepted Irish as a case language, as outlined in its Rules of Procedure 1987. European case law is effective in Ireland, meaning it legally must be translated in Ireland. In any discrepancy between Irish language law and English language law, Irish language law takes precedence. This could lead to a situation in which Irish language European law was in conflict with English language European law – meaning the Irish courts would have to consult the Irish language version. This is a clear harmonisation issue, explaining why the CJEC acknowledged Irish as a case language.

EEC membership had a significant impact on the Irish economy and, for the first time, the private sector in Ireland grew rapidly (Ó Riagáin 1991: 267). While the roots of this growth came from the 1960s, with T.K. Whitaker’s *Programme for Economic Expansion*, EEC membership accelerated it with new market access and financial support. As Peadar Kirby emphasises, the push for European integration in the 1980s was seen as an opportunity for Ireland to “open up”. This new economic outlook directly led to the economic prosperity of the 1990s, known as the Celtic Tiger, and created a new social mobility and a new middle class. The period also marked a further decline in the use of Irish. Before the growth of the private sector, Irish language proficiency was necessary for the public sector – predominantly for admittance to any of the National Universities of Ireland, or for a teaching career (Ó Riagáin 1991: 267). The growing private sector eroded the need for Irish skills in professional life to a new and sustained extent.

In addition, the 1973 decision to remove Irish as a compulsory language for the Leaving Certificate exam demonstrates the move towards a 'laissez-faire' approach to Irish language planning. Education had long been the state's main instrument in delivering language policy. However, the decision to lessen state support for Irish language education increased community support of the *Gaelscoileanna*. Parents seeking Irish-language education for their children and local communities in *Gaeltacht* areas were the driving forces behind this community mobilisation (Ó hIfearnáin 2009: 576). While the state did fund new *Gaelscoileanna*, it was simply support for community initiatives. This was the beginning of the reactionary phase of language planning. Rather than initiate policy, the state responded to community measures and supported public opinion, which became a common approach throughout the 1980s through to the early 2000s.

In 1978, the Irish Government established *Bord na Gaeilge* [Irish Language Board], a semi-state body designed to promote and plan Irish language policy (Ó hIfearnáin 2009: 574). This marked a further change in Irish language planning – the state began to outsource its language planning. *Bord na Gaeilge* acted as an intermediary between the state and communities seeking better resources. The best example is the *Gaelscoileanna* movement, where *Bord na Gaeilge* acted as a broker in acquiring funding for new schools and assisting communities with the planning.

*Bord na Gaeilge's* mandate was to ensure the survival of the Irish language. Although most Irish people supported the Irish language, this support was largely passive (Mac Giolla Chríost 2005: 132). For example, according to a 1993 survey on attitudes towards Irish, 78 percent of those surveyed agreed that the state should increase funding for Irish-language organisations, and 69 percent agreed that the state should improve the teaching methods of Irish. According to the same report, 51 percent of those surveyed disagreed that Irish could be revived as a common means of communication, and only 25 percent agreed that it was more important that school-children learn Irish rather than a foreign language. The paradox in public opinion reflects the paradox in state policy. In this setting of public passivity, expanding the *Gaeltacht* was impracticable – the focus was entirely on survival.

Mac Giolla Chríost argues that *Bord na Gaeilge* reflected the wider economic model of the 1970s and 1980s. The state essentially treated the citizen as a customer, with Irish-language services the commodity for sale. This approach fits into the general European trend of language planning – the commodification of the Irish language is evidence of the EEC influence on the state's treatment of the language as an economic asset.

*Gaeltacht* areas suffered under this period of reactionary policy. The economic shift towards the private sector favoured cities, and the lack of state investment and policy in the *Gaeltacht* meant that the population dwindled, and with them, the language. *Gaeltacht* areas were rural and lacked economic investment, and the population there was too small to "have a ...significant economic weight" (Ó hIfearnáin 2009: 577). The establishment of *Údarás na Gaeltachta* [Gaeltacht Authority] in 1979 aimed to address both economic and linguistic concerns by encouraging entrepren-

eurship in the *Gaeltacht* through Irish. The initiative was community-led. Combined with ministerial appointees, each *Gaeltacht* area had the right to elect a representative to sit on *Údarás*’ board. Despite this, the economic schemes in the *Gaeltacht* did not increase the use of Irish (Mac Giolla Chríost 2005: 130). Therefore, the state failed twice over – both in economic investment and in preservation of the language.

Another example of community-based language planning was the role of Irish in the media. Demand for public broadcasting in Irish grew over the 1970s and 1980s. Rather than create a dedicated television channel, the state simply amended the Broadcasting Act and created an obligation for RTÉ to provide at least one hour of Irish-language television broadcasting per day. Nonetheless, the demand for a dedicated Irish-language television channel persisted through the 1980s, culminating in a pirate television station broadcasting from Cnoc Mordáin in the Connemara *Gaeltacht* from 1986 until 1987 (Ó hlfearnáin 2009: 580). The pirate station undermined the state on two fronts: not only was it a blatant challenge to its broadcasting authorities, it also rendered the Department of Finance’s arguments of the financial unviability of an Irish-language television station moot. Under mounting pressure from Irish-language pressure groups and several Irish politicians, including current President Michael D. Higgins, the state founded an Irish-language television station in 1993 – TG4 (Hughes 2001: 122). Nonetheless, public support in the non-Irish-speaking sector for the language, while positive, remained passive.

The 1970s was a period of extreme social and economic change in Ireland, and this effected the language policy. Over the period 1973-2000, the state took a reactionary approach, preferring to assign semi-state bodies the role of language planning rather than exercise central control. By doing this, the state followed the EEC model of economic commodification of both the Irish language and language planning. However, this period was also marked by an increase in community involvement in language planning. This persisted over the 1990s.

Increased social mobility in the 1970s created a new middle class in Ireland, which also caused a significant increase in middle-class, urban Irish speakers by the 1990s. These middle-class *Gaeilgeoirí* [Irish speakers] spoke Irish as a second language. Many of them were parents outside of the *Gaeltacht* who sent their children to *Gaelscoileanna*, increasing the use of Irish at home. They also promulgated the movement towards a rights-based approach to the Irish language, pushing external pressure on the state.

### 2.3 The European Charter for Regional or Minority Languages: An Example of Shifting Attitudes Towards Irish and the Paradoxes in State Language Policy

The ECRML was born out of a Council of Europe Conference in Strasbourg in 1984<sup>6</sup>. It aimed to protect minority and regional languages in Europe. The ECRML was the first international rights charter focused on languages – there are no rights afforded to the minority groups or individuals who may speak the language under

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<sup>6</sup> This is not an EU document – the Council of Europe is a separate entity, not affiliated with the EEC/EU.

the charter (Nic Craith 2003: 56). There were two levels of parties to the ECRML – signatories committed to promoting the language(s) concerned and nothing more, whereas states that ratified the ECRML committed to adopting measures to improve the use of the language in justice, public services, and the media.

Some Council members initially opposed the ECRML, as they had strained relationships with their minority or regional languages. One example is France, where the state perceives regional languages (like Breton) as undermining the nation-state (Coulmas 1991: 19). Ultimately, four states abstained (Cyprus, France, Turkey and the UK) and one voted against (Greece). Ireland was initially in favour of signing and ratifying the ECRML with regards to the Irish language.

Irish is both the national language and the first official language of the state. This created some problems when confronted with the ECRML. The first paragraph of the charter outlines that official national languages are omitted from consideration as minority languages, given that the state recognises them to such a high degree. This disqualifies Irish. However, special consideration is allowed to national languages “under exceptional circumstances,” in accordance with Article 3.1 (Ní Drisceoil 2016: 52). Ireland could argue exceptional circumstances on two grounds. First, the language is spoken on a daily basis by a small minority of the population. Second, the language has a strong geographical element, with the majority of native speakers living in the *Gaeltacht*. Both of these elements warrant additional protection to ensure the survival of the language.

The legal considerations for Ireland signing the ECRML were therefore sound, if complicated. However, the social and political backlash to the characterisation of Irish as a ‘minority language’ brought further political complications. As the community engagement surrounding Irish increased, and the demographic of Irish-speakers changed too, there were increasingly vocal Irish-language pressure groups in Ireland. This reached a critical point with the announcement that the state was considering signing the ECRML. Several letters written to both the state departments and the Council of Europe denounced the decision and criticised the categorisation of Irish as a ‘minority’ language, including a report from ITÉ. The report outlined that although Irish may not be used much in daily life, it was nonetheless the national language of Ireland as well as a “...truly European language.” Moreover, ITÉ advocated for the promotion of Irish to official, working status within the EC as the only viable option for preserving the language. To these groups, the state’s initial support was a betrayal to the constitutional status of Irish.

The ECRML proved a controversial topic in Ireland and, by 1992, the Department of the Gaeltacht decided not to be party to the Convention, as the level of protection for Irish already exceeded that of the ECRML. Furthermore, the Department was concerned that recognition of Irish under the ECRML may undermine the future “possibility of developing the status of Irish” in the EU. Remarkably, with UK ratification, Irish was indeed protected under the ECRML through the British commitment. The irony of this is clear – although Ireland could have legally signed the ECRML, and dedicated further commitment to the language, it was Britain who ultimately made that com-

mitment instead. This is another example of the paradoxical status of Irish in Ireland – neither national language, nor minority language, but something in-between.

The period of 1973 onwards saw significant change in both Irish and EEC language policy. In the EEC, there was renewed focus on the language question, particularly with continued expansion. There was also an increased commodification of language planning: plurilingualism, in a European context, could be economically beneficial, if not necessary with the advent of the SEA.

On a domestic level in Ireland, there was a strong tendency towards reactionary language planning, using a dual ‘laissez-faire’ and delegation approach. The state leased out its language planning to semi-state bodies, chief among them *Bord na Gaeilge*. The new private sector also altered national demographics, introducing new social mobility. The European trend of language commodification also effected Ireland, where the state viewed the citizen as a ‘customer’.

In 1991, Florian Coulmas claimed that the inclusion of Irish as a treaty language was “an undeniable success in terms of prestige,” given the declining number of speakers. However, the 1990s saw a challenge to this opinion in Ireland. The growing community movement shifted from an education and heritage perspective towards a rights-based approach, whereby the preservation and promotion of the Irish language was a right owed to its citizens. By the end of the 1990s, “...a fresh dynamism was increasingly apparent in the area of Irish language policy, and matters of language equality and rights were central to it” (Mac Giolla Chríost 2005: 191). It is this shift to a rights-based approach, accelerated during the economic boom of the 1990s, that led Ireland to totally reverse its language policy on a European level and seek official, working status in the EU, decades after accession.

### **3. Chapter Three**

This chapter will analyse the change in language policy at the beginning of the new millennium, from 1997 to 2007. The Department of the Gaeltacht replaced the reactionary attitude of the 1990s with a new, dynamic approach involving substantial change in language planning and policy. Two events characterise this period. The first was the introduction of the Official Languages Act 2003 [OLA], which aimed to improve the provision of and access to Irish language services across the public sector. The second was the 2004 decision to seek official, working status for Irish in the EU. Both events were monumental for the state’s language policy and were the logical conclusion of the rights-based approach to the Irish language that emerged in the late 1990s.

Foreign examples influenced Ireland’s new approach to its language – the Canadian language policy and EU expansion in 2004. Canada’s bilingual language policy served as a blueprint for the Irish state when drafting the OLA. The round of EU accessions in 2004, and the addition of Maltese as an official, working EU language, brought the Irish government under significant pressure to reassess their approach to language policy. These developments were crucial for the pursuit of Irish as an official, working language in the EU.



This chapter will analyse the importance of the OLA with reference to the Canadian example. It will also examine the impact of further EU expansion in 2004 on Irish language policy. Finally, this chapter will present an in-depth account of the Irish bid for official language status, which took place from 2004-2005.

### 3.1 The Official Languages Act 2003

Criticism of the state's approach to Irish increased during the 1990s and early 2000s. Among the principal issues was the lack of centralised language planning, with the state preferring instead to allow local groups to drive the language policy through *Bord na Gaeilge*. As Pól Ó Muirí noted, following two reports on Irish language policy in 2002, "The report shows, again and again, how bad things are ... It's clear that the Department [of the Gaeltacht] has no strategic process for language planning"<sup>7</sup>. Despite the increase in the number of Irish-language schools, it was still difficult to access Irish-language services in *Gaeltacht* areas (Mac Giolla Chríost 2005: 131). There was also significant difficulty for families seeking to benefit from the *Gaeltacht* grant – this aimed to offset the living costs of *Gaeltacht* families and encourage them to stay. Nollaig Ó Gadhra linked this difficulty to the old idea of *Fíor* and *Breac Gaeltacht* – those who lived in former *Breac* areas could not benefit, and this in turn caused the overall Irish-speaking population to decline.

The new government, a coalition between Fianna Fáil and the Progressive Democrats, tackled these issues over their two terms (1997-2002, 2002-2007). Fianna Fáil, although centrist, are traditionally more nationalist leaning than their main opposition, Fine Gael. In the early 2000s, the party went through a phase of 'rebranding' as a more leftist party, opposing neoliberalism (Allen 2005: 17). Supporting the Irish language was an important element of this rebranding. During the election campaign in 1997, Fianna Fáil promised a comprehensive language act. Their Minister for the *Gaeltacht*, Éamon Ó Cuív, was a passionate Irish speaker who dramatically changed the state's language policy (Ó Riain 2024). As early as 1999, he spearheaded the initiative to reform *Údarás na Gaeltachta* [Gaeltacht Authority], to make it more accessible for the local communities. The *Údarás* supported regional development in the *Gaeltacht*, replacing the old *Gaeltarra* model in 1980. In reality, *Údarás* little more than *Gaeltarra*'s old powers, and therefore could not solve the socioeconomic challenges in the *Gaeltacht* (Mac Giolla Chríost 2005: 130). The 1999 amendment increased the local community representation on the board to facilitate policies and activities that were in line with local needs. Crucially, it also allowed the *Údarás* to request funding from the EU institutions. However, the need for more rigorous language planning was evident – the main question was how it should be organised. There were two main directions for the state: either a rights-based approach, or a discretionary-based approach. A rights-based approach focuses on legislating what ought to be, providing a "stronger basis for citizens to make claims on their states and for holding states to

<sup>7</sup> "Léiríonn an tuairisc arís is arís eile chomh holc agus atá cúrsaí... Ní léir go bhfuil aon phróiseas strauéiseach pleanála teanga laistiar d'iarachtaí na Roinne."



account for their duties” (Cornwall and Nyamu-Musembi 2004: 1416); a discretionary approach allows more flexibility in its application (Ní Drisceoil 2016: 61).

When looking for examples of bilingual language planning, the closest similarity is the approach to the French-speaking minority in Canada. The Canadian Official Languages Act of 1969 [COLA] served as inspiration for the Irish legislative body in creating its own Language Act. Under the COLA, which was substantially amended in 1988, French and English were equally official (Esman 1982: 235). Its principal aim was to increase the use of French in the public sector. Access to public services in both French and English became a legal requirement. It also established an Official Languages Commissioner in 1970, who was responsible for overseeing the implementation of the Act. The COLA was, therefore, a strong example of a discretionary approach to language policy.

The Canadian example had several points of inspiration for the Irish Act. This influence is clear in the initial Bill presented to the Dáil in 2002. The two states shared a common goal of maintaining a bilingual state, born out of concerns that the respective languages were endangered. French in Quebec relied on the local population and communities. Falling birth rates and increasing immigration to French Canada sparked fears that the language was endangered (Esman 1982: 245). Furthermore, both states also focused on protecting the areas where the language was spoken – in Quebec and in the *Gaeltacht* – while also seeking to promote the language in the state as a whole, beyond those limited areas. The COLA took a dual approach to protecting French and access to French services in Quebec, while also attempting to increase the use of French in English-speaking Canada. This was the ultimate goal of the OLA in Ireland as well.

Despite the similarities, there were some important differences in the planning approach. The COLA aimed to cultivate a bilingual and bicultural state, where French speakers were recognised as a different ethnic group (Esman 1982: 248). English speakers in Canada claim Anglo-Saxon heritage, whereas the French speakers claim a French colonial cultural background. The COLA intended to foster a bicultural Canada, where the state recognised the two cultural groups as distinct, but equal. This distinction does not exist in Ireland; Irish speakers are not a separate cultural or ethnic group, and no legislation in Ireland seeks to create a bicultural society. The focus instead is on preservation of a common national language. Moreover, the mobilisation of the French Canadians in the 1960s – the ‘Quiet Revolution’ – was a nationalist movement. This was countered by the English speakers in Canada, many of whom opposed the recognition of French as an official language, mainly due to lack of consultation. Again, this was different in Ireland – the English-speaking population were mostly either in favour or neutral on the preservation of Irish, providing a better foundation for the 2003 Act. Furthermore, the language movement in Ireland in the 1990s was based largely on a human rights approach, whereby access to the Irish language was a right protected in the Constitution. This leads to the third, and most significant, difference. The COLA was the first recognition of French as an official language in Canada. Irish, since independence, was always recognised as an official lan-

guage. Moreover, since 1937, it was the first official language of the state. The OLA did not face the same challenges to legitimacy as the COLA did. Nevertheless, the COLA served as a good basis for the creation of an Irish language act along similar lines.

The status of Irish as the first official state language necessitated some adaptations to the COLA model. The OLA was introduced in 2002 as the Official Languages (Equality) Bill and passed by the Dáil in 2003. One of the first amendments to the Bill was its name – the two languages are, in fact, not equal. Legally, Irish takes precedence. Nevertheless, the OLA enacted some radical changes to Irish language policy. Principally, it aimed to expand the availability of public services through Irish. It clarified the use of Irish in the houses of parliament, ensuring the right of both *Teachtaí Dála* [Members of Parliament - TDs] and others appearing before the Dáil to conduct business in Irish, and ensuring that all official parliament documents would be available bilingually. It also clarified the use of Irish in the justice system, where previously the use of Irish in the courts had been unclear. Under the OLA, those appearing in court have the right to choose the official language of proceedings, and the court is obliged to conduct proceedings in that language. In public life, the OLA made bilingual signposting obligatory<sup>8</sup>, and introduced further obligations for public offices to use Irish in their work. This included an obligation for public offices to include bilingual naming on their stationary.

The OLA also established the office of *An Coimisinéir Teanga* (the Language Commissioner) to implement this radical policy change. Their role was to oversee its implementation, and to investigate any breaches of the Act reported to their office. Those prosecuted under the OLA faced either a fine or a prison sentence. The *Coimisinéir* role represented a concrete commitment from the Government to implement this new act, rather than to let it languish.

The new legislation faced two setbacks. First was a lack of translation staff – there were not enough trained translators to cover all government departments (Stanley 2024). Second, there was a great deal of apathy in government departments. Many felt that the new act was unnecessary and added far more work than they believed justifiable. However, the OLA forced official services to increase their use of Irish, with some choosing to create designated Irish-language sections of their departments. This gave Irish increased visibility in public life, where previously it played a minor role.

The OLA was a substantial development in language policy from the Irish state, drawing largely from the experiences in Canada. It aimed to increase the use of Irish in all areas of public life, even beyond the *Gaeltacht*. Furthermore, the state also reassumed centralised language planning, no longer relying on localised initiatives. An amalgamation of the Canadian discretionary-based approach and the rights-based approach to language use formed the ultimate approach taken by Government. This laid the groundwork for reassessing the state's position on the Irish language in the EU.

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<sup>8</sup> This led to an interesting case in 2007 – Minister Ó Cuív insisted that, under the 2003 Act, the town of Dingle in the Kerry Gaeltacht should change its name to An Daingean and remove all English signposting for “Dingle.” This was met with outrage from locals, and eventually Minister Ó Cuív conceded that the town could remain Dingle.

### 3.2 EU Expansion

The most significant enlargement of the EU to date took place during the Irish EU presidency in 2004. Ten countries joined, bringing with them nine new official, working languages<sup>9</sup>. Of these ten new member states, there was one unusual case with implications for the Irish language – Malta.

Malta has two official languages – English, which is spoken by the vast majority of Maltese people, and Maltese, a language with both Semitic and Romance influence. Since independence from the UK in 1964, Maltese is the official language of the country, with approximately 85 percent of the 530,000 inhabitants speaking Maltese as their mother tongue. When negotiating its accession to the EU in the early 2000s, the Maltese government asserted its right to include Maltese as an official, working language of the EU. The EU granted this request, and Maltese was included along with the other eight new languages.

This left Ireland in an embarrassing situation. Malta, with its tiny population, asserted its right for consideration as an official, working language where Ireland had failed to do so (Nic Craith 2006: 44). Moreover, Maltese did not have the same national protection as Irish – Maltese and English are both equal official languages in Malta. The recognition of Maltese as an official, working language “...led to a lot of questioning in Ireland as to why Maltese was getting this status and Irish was not” (Ó Riain 2024). It was a significant motivation for Ireland to reconsider its stance on Irish at the EU level, under mounting demands from Irish-language pressure groups.

There were two key pressure groups among Irish-speaking society. First was *Conradh na Gaeilge*. The organisation drew inspiration from Maltese accession, mobilising its members to support the demand for Irish language consideration at the EU. This included its former chairperson, Íte Ní Chionnaith, who wrote in 2004 that the government had the opportunity to right the “disgraceful wrong” of not requesting official, working status in 1972. Second was the protest group *Stádas* (Status) which comprised of Irish speakers, educators and legal figures. It mobilised through online petitions and protests, held mainly outside EU offices in Dublin. *Stádas* was a successful, well organised campaign, that managed to draw public support and put significant pressure on Government (Ó Riain 2024).



Fig. 1: Advertisement in the Irish Times for a protest for official EU recognition, organised by Stádas. Source: Irish Times, April 23, 2004.

<sup>9</sup> Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

Aside from public pressure groups, there was also support from mainstream political parties to push for recognition of Irish at an EU level. This included Fianna Fáil Member of the European Parliament [MEP] Seán Ó Neachtain, who wrote to the *Irish Times* expressing his shame that his mother tongue could not be used in the European Parliament, and that he would “continue the crusade” to push the European Commission to reconsider Irish as an official, working language<sup>10</sup>. MEP Ó Neachtain’s view on the paradoxical nature of the state’s language policy on a European level is representative of the common position of all these pressure groups, who felt that the state treated them unfairly by refusing to reexamine the language status at EU level.

In 2004, the Irish government held a vote in the Dáil on whether Ireland should seek official, working language status at the EU. A strong cross-party alliance carried this vote. By July 2004, the new position was communicated to the Irish Permanent Representative [PermRep] in Brussels, Ambassador Anne Anderson. There were three main events that facilitated this change in policy – the Official Languages Act in 2003, the increased pressure from groups like *Conradh na Gaeilge* and *Stádas*, and the strong cross-party support for the motion.

### 3.3 The Road to Official, Working Status

When the state applied for official, working status in the EU, the application was well worded. Instead of demanding that Irish be recognised, the Government emphasised the need to “open discussions” with the member states and the European Commission (Anderson 2024). The state was aware that this was going to be a tough negotiation. In order to reach official, working language status at the EU, Ireland had to achieve consensus among all members of the EU. This entailed first convincing all PermReps for the other 24 member states to lobby their governments to support Ireland’s bid for official status. This was an unusual situation, with no precedence – all other member states had applied for official language status of their national languages upon accession.

The majority of the work was within the framework of the PermRep system, meaning that Ambassador Anderson was the main point for negotiations in Brussels. The Committee of the Permanent Representatives of the Governments of the Member States to the European Union [Coreper] was a unique negotiating arena, which relied above all else on personal relationships and trust between the PermReps. This created an additional constraint – time. Ambassador Anderson was in her final year of her Brussels posting, and it was preferable to complete the negotiations before her successor assumed their posting in 2005.

Despite this considerable constraint, Ireland presented a strong argument. Ambassador Anderson took time from September to October 2004 to “package [Ireland’s] case in the most persuasive way” to ensure the best possible reception at

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<sup>10</sup> When Irish became an EU language in 2007, MEP Ó Neachtain addressed the European Parliament exclusively in Irish until the end of his term in 2009.



Coreper (Anderson 2024). Chief among them was the domestic status of Irish as the first national language. Furthermore, Ambassador Anderson stressed that the situation of Irish had changed completely since accession in 1973 – there were more Irish-language services, a new Irish language act, and renewed interest in the language. Each of these developments made “...the case that things had evolved in Ireland since ...accession in 1973 in terms of enhanced usage, popularity, [and] embrace of the Irish language” (Anderson 2024). In this setting, a retroactive reassessment of Irish in the EU was not only justified; it was necessary.

The successful 2004 Irish presidency further supported Ireland’s bid. Part of the Irish presidency involved a PermRep trip to Ireland. Rather than visit Dublin, Ambassador Anderson organised a trip to the Galway *Gaeltacht*, where the PermReps were able to see and hear Irish being used as the vernacular. This supported Ireland’s claim that elevating Irish to official, working status would have tangible benefits and use. It also gave context for Ambassador Anderson to point to when negotiating official, working status. Nevertheless, some difficulties emerged during the negotiations.

The ten new member states were not expected to block the motion – they had only just achieved official language status. The main expectations were that France and Germany might oppose the bid – France out of concern for its own minority languages, Germany out of budgetary concerns. This was an issue for the Irish delegation, as the votes of these countries held significant weight. However, this was not the case. Each member state, although not explicitly supportive, declared that they would not block Irish as an official, working language. In both cases, a strong personal relationship as well as a warm diplomatic relationship between the representatives was the key in ensuring their support. This was a substantial victory for the negotiations. Despite the passive support from three heavyweight member states, Ireland still faced opposition from two member states – Spain and the Netherlands.

Spain and the Netherlands had different reasons to oppose the Irish language’s accession to official, working language. For Spain, the main concern was its own minority languages, particularly Basque and Catalan. Although recognised on a federal and national level, the Spanish government was always cautious about promoting these regional languages, as they are closely related to independence movements, particularly in the case of Catalan (Ferrer 2000: 189). As Ferran Ferrer outlines, there is a “serious legal imbalance in the [Spanish] constitution that is prejudicial against minority language rights.” The Spanish position was to link advancement for Irish to advancement for its own regional languages. This neglected the fact that Irish was not a regional language – it was the first national language. If the UK had sought official, working status for its regional, minority languages (such as Welsh or Scots Gaelic), then the Spanish concerns would carry much more weight. Therefore, while the concerns of the Spanish were understandable, they were not reasonable.

In the Dutch case, the principal concerns were budgetary. The costs of translation in the EU were already extremely high, and the addition of another language would increase those costs with very little benefit. The Dutch regarded themselves as budgetary gatekeepers within the EU, focusing strongly on the EU as a market rather

than an integrated union (De Gruyter 2020). They, too, feared that granting the Irish request would leave the EU open to further requests from other member states.

The main issue was that two countries were in opposition to Ireland's bid. It is difficult to achieve a goal when two oppose it – when there is one in isolation, it is more likely that they will concede their position. In an EU context, this is further supported by the principle of sincere cooperation, which outlines that no EU member state should unreasonably block a motion that is supported by the Treaties. This left Ireland in a dilemma, where one member state had to be convinced in the hopes that the other would follow.

Ambassador Anderson chose to pursue the Dutch case. This was based on several factors – both policy and personal. She had a good relationship with the Dutch PermRep, and they, too, held fond memories of the successful Irish presidency. Furthermore, the Spanish delegation were less likely to revisit their position, given their fears of domestic ramifications. The Dutch PermRep convinced the Dutch government to support the Irish motion for official, working language, due to evidence that the costs of translation would not be high enough to raise concern<sup>11</sup>. Furthermore, he felt confident that the Irish request was distinct from other requests that may be made. Following Dutch communication of their support, the Spanish soon conceded their position.

In Ireland, many praised the work of the Irish government and Ambassador Anderson following the announcement that Irish would become an official, working language of the EU. It was not, however, achieved in isolation. The groundwork for this European success was laid firmly in Ireland, with the OLA and the domestic push for official EU recognition. It was also an unprecedented case, met with reasonable trepidation in Brussels. The successful negotiation of official, working language status was rooted in the domestic legal basis, where Irish was the first official language, and the influence of Ireland's soft power in international politics.

There was also a practical element to the decision to recognise Irish. At the government's request, Irish would not become an official, working language until 1 January 2007. This derogation was to allow time to organise translators and interpreters for the EU institutions. It was revoked on 1 January 2022. As of 2024, over 200 Irish speakers are working as translators and interpreters in the European institutions (Ó Riain 2024).

This millennial policy phase was the most significant and successful change in Irish language policy since the establishment of the Irish Free State. It reflected the growing international outlook of Ireland, facilitated by EU membership and the economic boom of the 1990s and early 2000s. The Official Languages Act 2003 showed that the government was willing to assume their responsibility for language planning, reflecting a more mature and realistic view on the Irish language than the 1920s-1950s. The focus was no longer on expanding the *Gaeltacht*, but rather on maintaining the *Gaeltacht* while also encouraging the use of Irish in public life.

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<sup>11</sup> As outlined in the *Irish Times*, the cost would be approximately €3.5 million per annum, compared to €46 million for each other official language.



This new international outlook supported domestic developments, and it was possible to assert that Irish should be considered for official, working status at the EU. Negotiations for elevating Irish reflected the growing internationalism of Irish society, as well as a contemporary outlook the Irish language. Recognition of Irish at an EU level gave the language an economic value it lacked in centuries gone by and corrected some of the paradoxes in state language policy (Ó Riain 2024). Furthermore, it would link Irish with other European counterparts. Previously, Irish interpreters in the EU would have to learn two other languages excluding Irish. Following official, language status, Irish interpreters could link their study of Irish to another European language, opening Ireland up “...to an agenda that was more European orientated” and more modern (Anderson 2024). Far from the insular isolation of the expansionary period, Irish was now part of “that wider space where...there would be more interaction with other European influences” (Anderson 2024). No longer confined to the *Gaeltacht*, Irish could now take its place among its European peers as a modern, European language.

#### **4. Conclusion**

Distinct phases and trends have emerged throughout the first century of independent Irish language policy. This thesis analysed the domestic trends that emerged following the nationalist linguistic revival movement in the late nineteenth century, which prompted a traditionalist approach in the early Irish Free State. Furthermore, this research also examined the increased internationalist outlook of policymakers, influenced by the economic prosperity of EU membership, and how this European influence changed domestic approaches to the Irish language.

The most prominent theme is the paradoxical aspect of the state’s language planning. Despite Irish being the first official language of the state, there have been several instances where this status has not been reflected in the state’s actions. The state has rarely focused on protecting its first language, from international associations (EEC membership and the decision to withhold Irish from official, working status consideration) to the lack of strong education policy (no centralised *Gaelscoil* planning and the decision to pull Irish as an obligatory Leaving Certificate subject). This paradox between the privileged status of Irish and its diminished practical status has plagued the state since its inception.

The successful repositioning of Irish in the EU is also an example of effective soft diplomacy. Throughout the negotiating process, the Irish delegation tailored its arguments to target different concerns among the EU member states. Furthermore, by building on the solid foundation of the Irish presidency in 2004, Ireland was able to reap the benefits of its cultural diplomacy.

Ireland’s attitude between its first language underwent significant change over the first century of independence. This holds equally for civil society and government planning. Four distinct phases characterise these changes.

i. *Expansionary, 1922-1950*

Coloured by nationalism, this first phase of language planning sought to increase the *Gaeltacht* areas and increase the use of Irish in everyday life. In the early years of independence, the state focused on expanding the *Gaeltacht* areas with the ultimate goal of reinstating Irish as the vernacular. This policy flowed directly from the nationalist ideals of the late nineteenth century, which viewed Irish as the inherited linguistic tradition, central to the Irish identity and capable of revival as the vernacular. However, this policy was irrational. English had eroded and replaced Irish far before the nineteenth century, when English made significant progress through the print technology available in the sixteenth and seventeenth centuries. Although British-imposed language laws, including the Penal Laws, aimed to suppress Irish, the reality is that many Irish families were already switching to English. This was out of hope that their children could seek employment within the modern British society. By 1922, it was highly unlikely that Irish could rebound after centuries of erosion. Furthermore, the *Fíor* and *Breac Gaeltacht* system further stressed the system – instead of the *Fíor* expanding, the *Breac* became increasingly anglicised.

Beyond supporting the *Gaeltacht* areas, this first phase relied on education as the principal policy tool. In this phase of language planning, teachers in training were encouraged to pursue their qualifications through Irish, and there was more Irish being used in classrooms than in other comparative periods. Nevertheless, by the 1950s, this policy had achieved little, become obsolete, and achieved little more than slowing down the continued linguistic erosion.

ii. *Regressive, 1950-1978*

The second phase of policymaking was the antithesis of its predecessor. Embracing pragmatism rather than romantic nationalism, this regressive phase sought to enact a realistic language policy that would address Ireland's modern needs. This is also the period in which Ireland negotiated accession to the EU. Although included as an official, working language in accession negotiations, this was revoked in 1972 by the Irish government under the pragmatic presumption that there were insufficient translators available to meet the needs of the EU institutions. Under such circumstances, and in this phase of policy framework, it is clear why the government chose to omit Irish for consideration – it was in line with broader policy decisions.

On a domestic level, the state enacted a series of policies that further regressed Irish language planning. The Irish-language teacher training schools, *Coláistí Ullmhúcháin*, were disbanded, as education reforms rendered them obsolete. Irish was also removed as an obligatory Leaving Certificate subject in 1973. These initiatives, combined with the decision not to include Irish at an EU level and the decision to remove language tests for civil servants, were rooted in pragmatism. For the state, the language was no longer a priority outside the *Gaeltacht*. These developments diminished the status of Irish in Ireland, and undermined its position as first, official language. Although the goal was to reflect

the priorities of a modern Ireland, the impact of this phase on the use of Irish was significant – and negative.

iii. *Reactionary, 1978-97*

Two key tools were used to enact policy change in the reactionary phase: delegation of language planning and a ‘laissez-faire’ approach. The common theme in both was the state’s unwillingness to centralise language planning. Instead, language planning was sublet to semi-state bodies or local communities. This did not mean the state opposed Irish language initiatives – rather, it supported initiatives but instigated few of its own. The greatest success of this phase was the community-led *Gaelscoileanna* movement.

The *Gaelscoileanna* were central in changing Irish-speaking demographics. These new *Gaeilgeoirí* were predominantly middle-class, shifting the approach towards language policy to a rights-based attitude – since Irish is the first language of the state, it is the right of the Irish people to have access to Irish-language education, media, and public services. A further example of the state’s delegation approach was the emergence of demand for a state-funded television service, enacted in 1994 under pressure from Irish-speaking communities and groups. This rights-based approach led to Irish becoming a core issue in the 1997 election campaign, where the winning political party (Fianna Fáil) promised to change language policy.

The shift to a rights-based approach also reflects the changing economic demographic of Ireland – entering into the Celtic Tiger of the 1990s and early 2000s, there was much more appetite for cultural preservation. Simply put, the state could now afford to support the Irish language. The changing economic demographic, and new social mobility, was a direct result of EU membership, as Ireland’s economy opened up to the new European market and began to modernise.

iv. *Millennial, 1997 to date*

Although central to the 1997 Fianna Fáil election campaign, the promised changes in language policy did not materialise until the new millennium. In this phase, the state reassessed its language policy approach and assumed responsibility for language planning again. Under a dynamic Minister for the Gaeltacht, Éamon Ó Cuív, two transformative decisions were made – the Official Languages Act 2003, and the pursuit of Irish as an official, working language of the EU.

Both policy changes reflected the increased international outlook of Ireland in the twenty-first century – both in turning to Canada for bilingual language planning inspiration, and in reassessing the language position in Brussels. They were born out of the increased domestic pressure for language recognition on both a national and international level. Both measures aimed to harmonise the old nationalist dream of increasing Irish language use with a modern, ambitious policy, capable of success.

The decision in 2005 to include Irish as an official, working language of the EU was thirty years in the making. From nationalist expansionism to pessimistic regression, the Irish language has suffered tremendous highs and lows in the first century of independence. The state's approach to the language was often paradoxical and contrary to the legal position of the language. Pursuing official, working status thirty years into EU membership was a chance to remedy this paradox.

Under the Treaty of Rome, the EU was always open to recognising Irish as an official, working language. It was Ireland, and Ireland alone, who decided not to pursue this. Similarly, it was Ireland alone who could decide to change this policy. The decision to seek official, working status was born from EU membership – both the enormous economic changes between 1973-2004, and the examples set by other member states. EU membership was vital in Ireland's language policy, both in shaping the Irish-speaking demographic and influencing public opinion on the language. Without this, it is likely that the Irish language would have followed a different path.

Since 2005, there has been simultaneously tremendous change and very little change to the Irish language. Irish is now an official working language, but this only became a reality in 2022, because the 1972 fears of insufficient translators proved true. Looking to the future, the Irish government aims that, by 2030, 20 percent of civil servants will be able to provide services in Irish, but there are still no language requirements to join the Civil Service. The paradoxes of Irish language policy clearly remain, although diminished. The opportunity to promote Irish on an EU level provides a modern pathway for the language away from romantic nationalism. It is up to Ireland to make it count.

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## Glossary of Terms

*An Coimisinéir Teanga* – ‘The Language Commissioner.’ Role created under the 2003 Official Languages Act to oversee its implementation.

*Bord na Gaeilge* – ‘Irish Language Board.’ Semi-state body created in 1978 to propose and manage state language planning.

*Caighdeán Oifigiúil* – ‘The Official Standard.’ Official, standardised version of Irish which came into effect in 1958. Created to reflect each of the dialects in modern Irish, this is the standard version taught in Irish schools.

*Coláistí Ullmhúcháin* – ‘Preparatory Colleges.’ These institutions prepared students for teaching positions through Irish. They gave applicants a significant advantage for teacher training positions, especially given the emphasis on interview skills. First established in 1927, they were forced to shut down following the education reform in 1958.

*Dáil Éireann* – The lower house of Irish parliament, similar to the House of Commons in the United Kingdom. Often referred to as ‘Dáil.’

*Gaeilgeoirí* – Irish-language speakers.

*Gael Linn* – Semi-state body, founded in 1953. Emerged as a key pressure group in the 1950s and 1960s.

*Gaelscoileanna* – Irish-language schools. This term refers mainly to primary schools, where all subjects are taught through Irish.

*Gaeltacht* – areas, mainly in the west of Ireland, where Irish is the predominant language. These areas were first designated under the 1926 Gaeltacht Commission.

*Gluaiseacht Chearta Sibhialta na Gaeltachta* – ‘Gaeltacht Civil Rights Movement.’ Community movement in the *Gaeltacht* that emerged in the 1960s. Their principal aim was increasing the availability of Irish-language media.

Irish Free State – name of the state from 1922 until 1937, when it changed to ‘Ireland.’

*Raidió Éireann* – ‘Irish Radio.’ State-owned radio service, established 1926.

*Raidió Teilifís Éireann* – ‘Irish Television and Radio.’ State-owned Irish media company, established under the Broadcasting Authority Act 1960 to replace *Raidió Éireann*.

*Stádas* – ‘Status.’ Irish-language pressure group, spearheaded by Dr Pádraig Ó Laighin, which campaigned for official, working language status for Irish at the EU.

*Teachta Dála* [pl. *Teachtaí Dála*] – members of the lower house of parliament in Ireland, the Dáil.

*Údarás na Gaeltachta* – ‘Gaeltacht Authority.’ Semi-state body, founded in 1979 and reformed in 1999, which aimed to enhance the role of locals in *Gaeltacht* planning and policy.

# Climate tunnel vision in the EU Environmental Policies: The case of the land use, land use change and forestry Regulation (LULUCF)

Pol Revert Loosveldt

## 1. Introduction

### 1.1. The role of the LULUCF: a spearhead for climate neutrality at the center of all planetary boundaries

Drawing on John Sterman's analogy, carbon cycles can be compared to

*a giant bathtub with an open tap and an open plughole: the tub fills as new emissions pour in and empties as carbon dioxide is both taken up by plant photosynthesis and dissolved in the oceans (Raworth, 2017: 130).*

Despite steady reductions in greenhouse gases (GHG) emissions, the European Union (EU) "inflows" (emissions) still largely outmatch "outflows" (removals). In fact, projections for removals continue to decline (European Commission, 2021a)<sup>1</sup>, calling to bolster efforts to achieve the EU's objective of 310 million tons of CO<sub>2</sub> equivalent in removals by 2030 (Consolidated text of Regulation (EU) 2018/841, 2018: article 4 (2)).

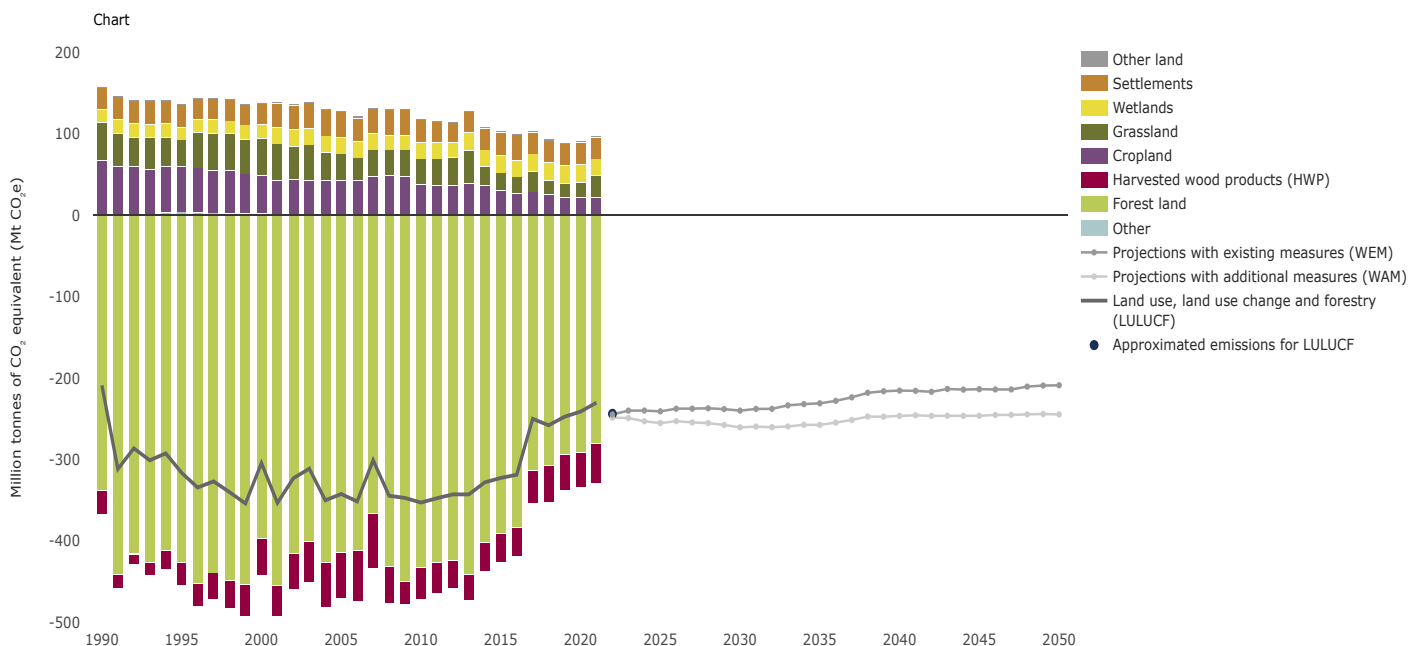


Chart - Eu emission and removals of the LULUCF sector by main land use category. Source: EEA, 2023a



According to the latest EEA Climate Risk Assessment, failing to uphold EU climate neutrality goals will result in dire consequences, particularly in Europe (EEA, 2024a). Such catastrophic predictions could even be exceeded as the further down the road of climate change, the bigger the uncertainty. Currently, a (non-unanimous) part of the scientific community is even claiming that climate change is accelerating (Hansen et al., 2023).

Moreover, the convergence of climate change with ongoing biodiversity collapse further increases risks and entropy within the Earth's system as biodiversity underpins the good functioning of ecosystems, especially to regulate climate (IPBES, 2019). Despite its importance, 81% of habitats (85% of forests) and 63% of species are in "*a poor or bad conservation status in Europe*", with 36% showing "*deteriorating trends*" (EEA, 2024b). This is compounded by unprecedented land degradation in Europe, driven by unsustainable land management such as with pesticides pollution, nutrient imbalances, etc. (Právělie et al., 2024).

Regardless, the EU's political agenda has suffered a significant backslide on environmental issues ahead of the European elections, alongside a rising far right and the instrumentalization of farmer's protests. In fact, the last European Council's strategic agenda simply "*name-checked*" climate change objectives, without a single mention of nature and biodiversity (Politico, 2024). Neglecting such "*existential threats*," as defined in the previous strategic agenda, could lead us towards uncharted territory, recklessly betting against planetary tipping points without the capacity to gauge the incurred dangers (Lenton et al., 2019).

This is where existing binding obligations intervene, as safeguards such as with the constraining objectives enshrined within the 2015's Paris agreement on climate mitigation. The EU transposed such commitments through the legislative roadmap of the von der Leyen Commission, the European Green Deal (EGD; European Commission, 2019a). The EGD led to the adoption of several binding instruments that will have to be implemented, despite a diminishing appetite to act on nature and climate. Here, this study will focus on the potential of the regulation on "*GHG removals from land use, land use change and forestry*" (the LULUCF), adopted in 2018 and consolidated in 2023 (Regulation (EU) 2023/839, 2023).

Our focus on the LULUCF regulation is justified by the fact that the land use and forestry sector lies at the convergence of all planetary boundaries, and comprises the agricultural sector, a "*major contributor*" in "*transgressing planetary boundaries*" (Campbell et al., 2017). Moreover, the LULUCF constitutes a centerpiece of the normative framework set to uphold the EU's climate neutrality objective. In fact, as organized within the "*Fit for 55*" package, the LULUCF will pay a significant contribution to climate objectives (European Commission, 2021b).

Reshaping the LULUCF normative framework will be essential to address the challenges of the Anthropocene (Steffen et al., 2011), and to rethink the overarching aim of decarbonization with a long-term perspective. Simply managing excess CO<sub>2</sub> through emissions reductions and increased removals will not change the fact that resource use and subsequent nature depletion keeps increasing globally, including in the EU (International Resource Panel, 2024).

According to the latest Global Resource Outlook “*extraction and processing of material resources*” accounts for “*over 55% of GHG emission*”, “*40% of particulate matter health related impacts*”, and “*90% of the total land use related biodiversity loss and water stress*” (International Resource Panel, 2024). As carbon remains in the atmosphere for thousands of years, and acknowledging climate change inertia, it would be senseless to use decarbonized energy to finally maintain the over-exploitation of our natural commons (i.e. “*common pool resources*” such as the land, water, air etc.; Ostrom, 1990). Thus, changing consumption patterns and our relationship towards the land will be indispensable, through an adequate framing of managing obligations upon terrestrial ecosystems.

This difficult enterprise could be undertaken at the EU level by all means available, to ensure a harmonized and coherent framework. Here, the LULUCF may have a role to play, as a steppingstone to improve the management of natural commons in the EU.

## 1.2. The LULUCF within its normative framework

As set by the “*Fit for 55*” package, the LULUCF consolidation adjusted to the EU objective of 55% reduction in GHG emissions by 2030<sup>2</sup>. More, it was inserted within the EU’s three-pillar approach to implement cross-cutting measures for decarbonization.

The first pillar, the EU Emissions Trading System (ETS), implemented reduction objectives for large and most emitting industrial activities, electricity generation, aviation, and is set to expand (Consolidated text of Directive 2003/87/EC, 2003). The second pillar revolves around the Effort Sharing Regulation (ESR), alongside other regulations on renewables, energy efficiency, etc. The ESR covers reduction objectives for most emissions not falling under the scope of the ETS (60% of EU emissions) including agriculture (Consolidated text of Regulation (EU) 2018/842, 2018). It is also destined to provide flexibility to Member States (MS’s), with transfers of emission allocations and safety reserves (Consolidated text of Regulation (EU) 2018/842, 2018, 2023: article 6 and 11). Furthermore, the ESR includes flexibility with the LULUCF as MS’s net removals “*may be taken into account*” to cover emissions gaps when evaluating compliance (Consolidated text of Regulation (EU) 2018/842, 2018: article 7).

The fungibility between emissions and removals, which will be examined later, leads us to the third pillar: the LULUCF regulation, whose contributions have been integrated into the monitoring of the achievement of the EU’s mitigation targets for 2030.

In a nutshell, the LULUCF provides the normative framework for MS’s to monitor emissions and removals from land use and forestry. It also requires them to increase removals or, at least, ensure compliance with the “no debit” obligation (no net emissions comparatively with removals), to reach the absolute -310 Mt CO<sub>2</sub> removal target by 2030 (Consolidated text of Regulation (EU) 2018/841, 2018: article 4 (2)).

<sup>2</sup> Compared to 1990 levels.

Furthermore, targets for agricultural emissions and LULUCF emissions and removals are set to be combined (European Commission, 2021a). In 2021, the EU's LULUCF sector absorbed around 7,6 per cent of total EU emissions (-230 Mt CO<sub>2</sub>), which does not even compensate for the EU's agricultural emissions.

| GHG SOURCE AND SINK                          | 1990         | 1995         | 2000         | 2005         | 2010         | 2015         | 2020         | 2021         |
|----------------------------------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| 1. Energy                                    | 3 747        | 3 521        | 3 454        | 3 569        | 3 305        | 2 967        | 2 500        | 2 663        |
| 2. Industrial Processes                      | 445          | 427          | 409          | 425          | 358          | 340          | 307          | 318          |
| 3. Agriculture                               | 485          | 419          | 409          | 389          | 376          | 384          | 382          | 378          |
| 4. Land-Use, Land-Use Change and Forestry    | -209         | -316         | -304         | -342         | -353         | -322         | -241         | -230         |
| 5. Waste                                     | 184          | 188          | 174          | 154          | 137          | 118          | 111          | 109          |
| 6. Other                                     | 0            | 0            | 0            | 0            | 0            | 0            | 0            | 0            |
| Indirect CO <sub>2</sub> emissions           | 6            | 6            | 5            | 5            | 4            | 3            | 3            | 3            |
| Memo item: International aviation            | 54           | 66           | 85           | 96           | 100          | 109          | 56           | 70           |
| <b>Total (including LULUCF and aviation)</b> | <b>4 712</b> | <b>4 310</b> | <b>4 233</b> | <b>4 296</b> | <b>3 929</b> | <b>3 599</b> | <b>3 119</b> | <b>3 311</b> |
| <b>Total (without LULUCF and aviation)</b>   | <b>4 867</b> | <b>4 560</b> | <b>4 452</b> | <b>4 542</b> | <b>4 181</b> | <b>3 812</b> | <b>3 304</b> | <b>3 472</b> |

Table ES. 5 Overview of EU GHG emissions (in million tonnes CO<sub>2</sub>-equivalent) in the main source and sink categories for the period 1990 to 2021. Source: EEA, 2023b

As emphasized by the IPCC, upholding objectives of the Paris Agreement will entail radical changes in land resource management, to reduce emissions and boost removals that will be paramount to “offset” hard to abate emissions (IPCC, 2019).

Failing to preserve and enhance carbon sinks will not only entail missing climate targets, but it would also diminish their resistance to face “feedback (loops) between climate and the biosphere” (Cox et al., 2000). In fact, at a business-as-usual scenario, continued increased emissions alongside ecosystems depletion could lead the terrestrial biosphere to act “as an overall carbon sink until about 2050, but turn into a source thereafter” (Cox et al., 2000). This would result in a catastrophic “warming of 5.5K, as compared to 4K without the carbon-cycle feedback” (Cox et al., 2000).

Therefore, decarbonization and nature restoration objectives cannot be separated knowing that biodiversity is essential for natural carbon sinks functionality and resistance (Isbell et al., 2015). Moreover, improved biodiversity obligations might entail rethinking current production and consumption patterns, which decarbonization alone might not ensure.

Despite this, the main constraining initiatives to foster biodiversity have been consistently undermined. This was made evident from the refusal to revise the Sustainable Use of Pesticides Directive, or during the watering-down of the Nature restoration Law, among others, alongside unprecedented backsliding on CAP environmental requirements. Furthermore, biodiversity requirements remain very limited inside the overarching monitoring requirements of the LULUCF and its regulatory ramifications, which mainly focus on GHG emissions and removals while disregarding biodiversity (Revert, 2024: Part 1, Chapter 1). Nonetheless, several simultaneous initiatives on decarbonization managed to enjoy a sustained support, even for land-based carbon removals as through the limited Carbon Removal Certification Framework (CRCF; Revert, 2024: Part 1, Chapter 1).

This prioritization of climate objectives over broader environmental concerns may overshadow key factors for increasing removals and a sustained conservation of carbon reservoirs, alongside a myriad of vital ecosystems functions.

### 1.3. Defining climate tunnel vision

Thinking environmental challenges through the prism of decarbonization, touching upon one out of nine planetary boundaries, poses ethical questions regarding the consideration of nature as well as effectivity concerns for a regulation that is struggling to deliver. Past failures of the CAP regarding decarbonization should serve as a cautionary tale to embrace more systemic approaches (European Court of Auditors, 2021a).

Climate tunnel vision, similar to *“carbon tunnel vision”* refers to the adoption of a narrow, sectoral focus on climate mitigation in environmental policies by disregarding other critical planetary boundaries whose restoration will be essential to deliver.

Already in 1982, psychology researcher Alan Miller described tunnel vision in environmental management as *“an oversimplification of issues and the reduction in complexity of problem formulation”* (Miller, 1982). He described that *“as problem complexity rises”, “each of us will experience information overload (...) and resort to blocking out any additional data”* (Miller, 1982). This leads to fragmented approaches where environmental managers focus on simplified proxies for action (as climate). Consequently, they are trapped in *“expanding waves of quasi solutions and residue problems”* not addressing the root causes of the issue (Miller, 1982). Further, it may cause *“unintended side-effects,”* when *“exists a tension between the pressing need for action and the importance of making well-considered choices”* (Savasta-Kennedy, 2014).

Regarding climate tunnel vision, it has been described by Abi Thilagawathi et. al. as *“a narrow and limited focus on emissions, and the impacts of the climate crisis, rather than a holistic assessment of economic structures and systems of oppression”* (Thilagawathi et. al., 2023). This vision neglects *“alternative economic paradigms”* that *“can offer possibilities for fairer ecological futures that prioritize health and well-being”* from an integrated *“One Health”* perspective (Thilagawathi et. al., 2023).

Indeed, according to former COP president Michał Kurtyka, climate became *“the proxy for discussion on environmental protection, water, land and pollution”*, as in order to tackle GHG emissions such adjacent challenges must be considered (Kurtyka, 2024). These sectoral approaches certainly influenced EU environmental law and particularly rules upon land management and soil protection, affecting their visibility, enforceability and efficiency. Indeed, land and soils (inefficient) protection derives incidentally from dispersed provisions from the nitrate’s directive, the water framework directive, the CAP etc., conversely to air and water which are protected by a unified and comprehensive regime (Heuser, 2022).

Therefore, this paper inquires on the determinants of climate tunnel vision, and how it could lead policymakers towards an *“ecological trap”* by channeling efforts towards inefficient endeavors (Garmendia et al., 2016)<sup>3</sup>. Then, I will shortly draw per-

<sup>3</sup> Drawing an analogy from ecology notions, and ecological trap is *“an idea (or vision) that attracts funding and effort from specific conservation measures that could deliver better biodiversity conservation outcomes.”*

spectives for alternative policy pathways, from a precautionary perspective in such a complex and uncertain matter<sup>4</sup>.

### 1.3. Research questions

During our contribution to the European research project Novasoil<sup>5</sup>, it was observed that the EU legislative framework on sustainable finance, agriculture, and on soils, prioritized climate objectives while neglecting the role of biodiversity (Revert, 2023). This prompted researchers Alexandra Langlais and Garance Thomas to steer me towards reflecting on what they called “*climate tropism*,” a concept akin to climate tunnel vision, which explains our interchangeable use of the term. After, when inquiring upon this issue, I demonstrated that, as aforesaid, climate tunnel vision shaped the legislative outcome of the EGD and materialized in the LULUCF as well as its adjacent regulations (Revert, 2024).

Then, trying to understand this phenomenon as well as its implications for the LULUCF sector, three specified questions emerged: *What are the main determinants of climate tunnel vision within the LULUCF? Which limitations does this narrow approach entails? What complementary actions could be suggested?*

Such questioning led us to the following hypothesis.

1. First, climate tunnel vision could be influenced by the difficulty to grasp and act on broader complex challenges such as biodiversity depletion, especially as climate action provides many co-benefits. Further, climate tunnel vision may also be driven by underlying economic interests that could be hindering the adoption of more systemic (and constraining) approaches.
2. Second, climate tunnel vision might entail certain risks, as hindering the EU’s environmental policies capacity to meet with climate mitigation objectives, the main aim of the LULUCF, and not contributing to adjacent challenges.
3. Therefore, and lastly, more comprehensive approaches could be considered, especially when operationalizing the LULUCF.

### 1.4. Methodology

Initially, this study conducted a qualitative analysis of the LULUCF and associated regulations, along with broader policy documents (including work staff documents, communications, reports, etc.), scientific and journalistic literature.

Then, with a focus on the integration of environmental considerations into high-politics, was conducted a qualitative analysis of twenty-three European Council Conclusions published since the Communication on the EGD<sup>6</sup>. Such sources of information were favored as they represent the “*only public documentary evidence of discussions and deliberative consensus in the (leading) intergovernmental bodies*” of the EU (Rosamond et al., 2021). Our objective was to assess how the holistic ambitions of the

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<sup>4</sup> In compliance with article 191 of the TFEU.

<sup>5</sup> Project 101091268.

<sup>6</sup> The methodology and results are detailed in Annex 1.



EGD where apprehended by MS's leaders, regarding its objectives to foster comprehensive sustainable land management comparatively to climate objectives.

Finally, seven interviews were conducted among Commission officials, experts, and three prominent decisionmakers in the field, aiming to scrutinize the aforementioned hypothesis vis-à-vis the empirical realities of environmental policymaking.

## 2. Discussion

As beforementioned, climate tunnel vision penetrated EU environmental regulations, particularly within the LULUCF, influenced by a range of factors that certainly carry significant caveats (2.1.). This approach overlooks alternative cost-effective policy measures that could provide more securities, enhanced overall additionality, and opportunities for a systemic reflection upon land use and forestry (2.2.).

### 2.1. Drivers and risks of climate tunnel vision in land use and forestry policies

Alan Miller signaled that difficulties in grasping environmental challenges holistically could partially explain tunnel vision, with a focus on GHG emissions and impacts as a scapegoat easier to apprehend (Miller, 1982).

Some of our interviewees agreed with that statement. One noted that *"it is easy to understand why climate policy takes more attention for politicians and politics than biodiversity. Impacts like floods, forest fires, droughts, etc., attributed to climate change, sometimes hits closer to home. Biodiversity does not have the same kind of pedagogy because the impacts of biodiversity loss are less immediately perceived by people"* (Senior Commission Official, 2024).

Also, it was underlined that *"measuring carbon is easier than biodiversity, as the latter is difficult to quantify and really measure in a credible way. (...) That's one of the reasons why the agenda for carbon will maybe be quicker"* (Commission Official, 2024). Regarding land use, it is indeed true that accounting organic carbon, although costly, is easier and provides good indicators on land functionality (Deb et al., 2015).

However, when testing this hypothesis I realized that, while being partially true, it failed to grasp a multitude of other major factors. Here, approaches underlying the predominant weight of political and economic actors in shaping legal constructs appeared to also carry a lot of importance (Jasanoff, 2004)<sup>7</sup>.

Subsequently, were identified three driving forces contributing to climate tunnel vision in the LULUCF. Firstly, pre-established normative frameworks and policy approaches upon climate change and environmental challenges (I.). Second, limitations related to policy competencies and governance structures (II.). Finally, political preferences and arbitrations between different strategic considerations (III.).

#### I. From a symptom of limited "designs on nature"<sup>8</sup> to the logical result of preexisting legal constructs

<sup>7</sup> As Sheila Jasanoff underlined for biotechnologies.

<sup>8</sup> This expression was taken from Sheila Jasanoff. The author describes here how private undertakings and public actors managed information and power leverages to shape public perceptions and deliberation, scientific expertise, institutions, decision making and the law on biotechnologies, at the benefit of their private interests (Jasanoff, 2005).



Ongoing limited “*designs on nature*” that pushed the EU to grasp environmental concerns through the prism of climate were influenced by the legal establishment of CO<sub>2</sub> as a fungible proxy to measure environmental impacts (A.), and by the prevalence of market-based approaches in environmental law (B.).

#### A. The creation of 1tCO<sub>2</sub>eq. as a fungible ‘object’ to grasp overwhelming climate change

Julia Dehm brilliantly explained that since the UNFCCC Kyoto Protocol, “*the ‘object’ of 1tCO<sub>2</sub> equivalent has become central to how we imagine the problem of climate change and its possible solutions*” (Dehm, 2018). To allow “*the operations of (Kyoto) carbon markets (...) the capacity to think about and imagine 1tCO<sub>2</sub>e as a ‘thing’ or ‘object’*” (of international law) was “*an essential precondition*” (Dehm, 2018). Indeed, “*constructing 1tCO<sub>2</sub>e as an ‘object’ is what makes it possible to think about complex, situated metabolic interactions as standardizable, exchangeable, and commodifiable, and ultimately tradable*” (Dehm, 2018).

The “*reification*” of emissions, which is anything but “*natural*”, allowed to put on the same pedestal “*‘green’ carbon emissions ‘saved’ by sequestration in ‘sinks’, such as forests and grasslands, with emission from ‘grey’ carbon stored in fossil fuels (coal, oil, and gas deposits in the lithosphere)*” (Dehm, 2018).

However, this construction does not fully integrate the fact that carbon cycles are inherently very fluctuant. Removed green carbon (in natural ‘sinks’) remains in constant exchanges with other carbon reservoirs, as the atmosphere. This occurs sometimes in very short timespans since removals permanence is highly uncertain as they can easily be reversed naturally or by human action (for e.g. climatic extremes or degrading practices). Conversely, “*grey carbon emissions are not released into the atmosphere unless a decision is made to extract (and use) the fossil fuels*” (Dehm, 2018).

Consequently, “*the danger of making it possible to express emissions ‘saved’ through sinks in equivalent terms to actually emitted GHG emissions (...) is that these two types of carbon increasingly become seen as equivalent for policy purposes*” (Dehm, 2018). This can lead to perverse amalgams with “*mechanisms to create ‘offsets’ from afforestation and reforestation projects, (...) proposals to create offsets from ‘avoided deforestation’*”, or fungible carbon removal certificates (as with the CRCF, Dehm, 2018).

These risks seemed to be well acknowledged by EU legislators, establishing that “*as removals through LULUCF are reversible, they should be treated as a separate pillar in the Union climate policy framework*” (Regulation (EU) 2018/841, 2018: 5). Nonetheless, the consolidated LULUCF allowed for (limited) interpillar “*flexibilities*” regarding emissions and removals. This is pertinent when a net (green carbon) emitter MS can acquire green carbon net removals from another MS, accounting their differences in forest coverage or topography (Regulation (EU) 2018/841, 2018: article 12). However, the revision goes further as it “*lays the ground for even more fungibility of fossil and biogenic carbon*” (Böttcher, et al., 2022).

As noted by Hannes Böttcher *et al.*, the fact that the LULUCF has been integrated in the overarching targets of the Climate Law for 2030, adding up removals and emissions reductions to evaluate the -55% emissions reduction target, came with pros and cons (Böttcher, *et al.*, 2022). On one hand, it *“significantly increases the visibility of the sector by making the LULUCF a relevant component for achieving”* emissions reduction targets, which could prompt more interest and action from policy makers (Böttcher, *et al.*, 2022). On the other hand, this fungibility came with the possibility to compensate a limited amount of excess emissions from the sectors covered by the Effort Sharing Regulation (Regulation (EU) 2018/841, 2018: article 12). This is aimed at preparing *“for full fungibility of fossil and biogenic carbon through carbon markets”* (Böttcher, *et al.*, 2022).

Thus, *“in the mid-term future”* the *“firewall” between emissions and removals from the land-use sector with emissions from other sectors* could disappear, disregarding permanence issues (Böttcher, *et al.*, 2022). According to an expert on the sector, *“it is clear that agriculture will become the next frontier”* with the LULUCF eventually *“getting linked to the ETS”* (Egenhofer, 2024). Hence, the enticing perspective to obtain flexibilities in meeting emissions reduction objectives through the use of LULUCF removals could partially explain its focus on carbon (emissions/removals). Seeing its disregard of biodiversity considerations, this emphasis on flexibilities might have been the principal objective behind its adoption rather than the enshrinement of holistic land use standards.

This could be proven dangerous for several reasons.

First, the feasibility of carbon removal targets themselves remains disputed. Initiatives like the LULUCF and the CRCF align with the *4 per 1000* UN initiative, premised on the assumption that a 4% annual increase in soil organic carbon in agricultural topsoil could offset global CO<sub>2</sub> emissions growth, assuming no further ecosystem deterioration (Wiesmeier *et al.*, 2020).

Besides those fragile assumptions, such targets have been proven to be unfeasible in Bavaria and France, representing a wide range of climatic and topographic contexts (Wiesmeier *et al.*, 2020; Martin *et al.*, 2021). The same can be said for direct air carbon capture and storage whose additionality, scalability and cost-effectiveness is still debated, due to the required energy and material resources (McQueen *et al.*, 2021).

It has to be kept in mind that *“since about 2013, the annual removals on forest land have been decreasing at roughly 12 MtCO<sub>2</sub>eq per year”* in the EU due to forests reaching harvest maturity and increased disturbances (European Commission, 2021a).

Acknowledging such limitations, one could question whether such flexibilities and potential offset mechanisms should be allowed. Indeed, integrating LULUCF removals into nationally determined contributions, *“comes also with an increased risk of non-compliance both for EU and individual Member States as some categories of inventory data on LULUCF show significant levels of uncertainty”*, due to monitoring difficulties and reversal risks (Böttcher, *et al.*, 2022). Additionally,

increased fungibility may reduce economic incentives to maintain natural sinks or reduce emissions as the inclusion of nature-based removal certificates *“could exert downward pressure on the overall market-based price of carbon”* (Burke and Gambhir, 2022).

Second, such fungibility makes comparable emissions and removals that are not, including saved, actual and counterfactual emissions, such as within the LULUCF and the CRCF. Taking the example of removals from peatland restoration or rewetting programs, they provide a myriad of side benefits regarding biodiversity, water storage, microclimate regulation and overall ecosystem integrity (Stachowicz et al., 2022). Therefore, making them equivalent to less additional removals, as technology based or saved emissions from high emitting undertakings (as livestock producers), could drive down green premiums for carbon certifications. More, this does not allow a gradation of certifications additionality to reward *“best in class”* practices, accounting all the provided ecosystem services and depending on the nature and place of the action.

Likewise, fungibility of permanent emissions (as from using fossil fuels) with impermanent removals could be questioned. For example, several *“emissions savings”* from REDD+ projects were negated by perturbations, such as illegal logging or fires, while they had produced carbon credits enabling buyers to artificially *“compensate”* emissions (Pearse and Dehm, 2011). In such cases, emissions that will remain in the atmosphere for thousands of years were produced on the basis of allowances rendered null.

Therefore, applying the precautionary principle, the law should be very wary of allowing fungibilities between grey carbon and uncertain removals whose permanence is based on *“speculations and assumptions about projected and alternative futures”* (Dehm, 2018).

This tendency to ‘reify’ natural elements (as CO<sub>2</sub>), envisioning them as comparable and tradable assets, is also driven by the preponderance of market-based instruments in environmental regulations, including land-use.

## **B. A narrow prism facilitating the prevalence of favored market-based instruments**

As beforementioned, enshrining carbon as a fungible ‘object’ *“is central to complex international and transnational carbon markets and emission trading schemes that have become a dominant climate change mitigation strategy”* (Dehm, 2018). Especially in the EU were the ETS constitutes the spearhead of EU climate action. The goal is *“to bring emissions within the frame of economic calculation by giving them a price”* and thus a cost (when emitting) or an opportunity cost (when selling extra allowances or removals; MacKenzie, 2009).

The rise of market-based instruments is founded by the following rhetoric: *“the presumed inadequacy of regulatory and prescriptive instruments, and conversely, the effectiveness of so-called market instruments, which are now presented as a more effective solution to the challenges of biodiversity conservation than prescriptive, or so-called “command and control” instruments”* (Broughton and Pirard,

2011). Private actors, imbued by the search of profit, are presumed to be more efficient by enabling an *“optimal allocation of efforts and a better revelation of information”* (Broughton and Pirard, 2011). Additionally, these instruments are also favored by public actors as they *“have the capacity of relieving public spending, or of providing new sources of revenues”* (Broughton and Pirard, 2011), an important factor in a context of tightening fiscal discipline in the EU.

Such dynamics are correlated by a diminishing drive since 2009 for *“binding environmental acts”* in the EU, as for nature preservation (Rüdiger et al., 2020). And MS's don't seem to have an intention to divert from such trend, as they recently instructed the Commission to *“prevent over-regulation”* and more proactive MS's to avoid *“over-transposition”* (European Council, 18 April 2024). Further than the EU, *“the increase in (environmental) policy stringency has slowed over the past ten years”* across OCDE countries in favor of consensual market-based instruments (Kruse, 2022). This approach also comes with several caveats, as the effectivity of carbon markets and removals schemes will rely on voluntary engagement in certification schemes, depending on land managers preferences. With such reliance on market-based instruments, environmental law diverges from its core purpose to *“act for the progressive improvement of the environment”* through constraining obligations for the sustainable use of natural commons (Michel, 2019).

Besides, one could doubt on the capacity of such instruments to foster long-term moral commitments for sustained virtuous land management practices (Baggethun et al., 2010), added to *“the myriad (of) practical and ethical problems with putting a price on the environment”* (through certifications; Derbyshire, 2005). If market-based instruments were fit to deliver upon decarbonization objectives such as with the EU ETS<sup>9</sup>, those successes cannot be necessarily replicated for broader and more complex concerns such as biodiversity depletion.

Still, governance limitations also played a decisive role in shaping such regulations which, due to their narrow prescriptive scope, led to a limited integration of environmental issues into land use policies.

## **II. Competence and governance constraints hindering more comprehensive approaches**

When trying to adopt a fitting protective regime, the intimate link between the land, property rights and sovereign prerogatives (A.), added to limited governance structures (B.), further contributed to perpetuate fragmented approaches.

### **A. The EU's competence limitations over land management and the use of property rights**

Firstly, the difficult framing of the land by EU law stems from the fact that it constitutes *“a particular element of State sovereignty”* limiting the competences of the EU upon this politically sensitive sector (Lefebvre, 1985). And as *“deliberative and consensual approach(es)”* are, since Lisbon, *“the default group norm”* for EU

<sup>9</sup> See the yearly “State of the EU ETS” Reports.

decision-making it became harder to go beyond the lowest common denominator in this policy area (Bickerton, 2015). This certainly hindered the scope of agreed obligations to regulate land use and forestry undertakings, pushing for a strict interpretation of the subsidiarity principle regarding this shared competence, as land protection falls under the area of environmental policy<sup>10</sup>.

On the other hand, the land has an infrangible link with private property, being *“without a doubt the first true object covered by property law”* (Bosc, 2018). It is therefore characterized in the law as a mere object of exclusive property, denying its material existence as a complex, living, and rather unknown living habitat. This legal fiction establishes land owners as (almost) total sovereigns upon such ecosystems, allowing the commoditization, accumulation, and deterioration of this natural common. Thus, land biodiversity, just as soil quality, becomes *“an attribute of the owned property, nothing more”* (Bosc, 2018). Care for its integrity remains at the whim of the land owner, who sometimes has exorbitant prerogatives to dispose of it in the most absolute way (the *abusus*), even if it means damaging it<sup>11</sup>.

Accordingly, *“regulations concerning private land use (...) remain the weakest link in the environmental protection legislation of the EU”* (Stankovics et al., 2020). In fact, for the abandoned Soil Framework Directive blocking MS's objected *“that as most lands are privately owned, they should not fall under the remit of public governance”* (Stankovics et al., 2020). Indeed, *“there is no exclusive or shared competence of the EU on land property rights”* as shown for the issue of land take (Stankovics et al., 2020). Further, such regulations have far reaching *“ramifications in other politically sensible areas of the acquis – such as agriculture, forestry and renewables from biomass – in which the EU has historically exercised limited competences”* (Savaresi et al., 2020).

This certainly made the land use sector particularly *“difficult to regulate, and not only in the EU”* (Savaresi et al., 2020). And the EU would have a hard time interpreting extensively its competences to condition the abusive use of property rights upon the land, further than limited CAP statutory requirements and climate mitigation requirements.

This hindrance was further compounded by limited governance settings, with pluralists' decision-making to break away from silo approaches.

## **B. Flawed governance structures and conflicts of interest driving sectoral approaches**

Besides compartmentalized institutional settings within the EU decision-making bodies, such as within the Commission, the unbalanced interest representation of pressure groups in the EU certainly played a role, especially for agriculture. As described by Sheila Jasanoff, the *“EU (is) a center of calculation”*, for large and influential lobbying networks conveying their dominant perceptions

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<sup>10</sup> See article 5, (3) TEU, and article 4, (e) TFEU.

<sup>11</sup> Here we refer to the fact that property is an absolute right, at least in French law (see article 544 Civil Code), albeit with fairly circumscribed limitations.



of the world, focused on economic growth, competition etc. (Jasanoff, 2004). And if limited industrial lobbies *“have woken up to consider biodiversity loss as a serious concern and risk for their own sustainability”*, there are still *“several that work intensively towards maintaining the status quo, or worse, if you want to be a bit more charitable”* (Senior Commission Official, 2024).

Here, former Commissioner for the Environment Potočník also claimed that *“First of all, we would need to fix the governance. As long as Agriculture and Fisheries Council in the Council and AGRI Committee on Agriculture and Rural Development in EP, where many are direct receivers of CAP support, are instrumental in decision making process, it is hard to expect the needed CAP changes. One could even talk about a conflict of interest existing there”* (Potočník, 2024).

The dominance of the agribusiness lobby in the land use governance should not be overlooked, as they exert considerable pressure to limit or reduce environmental constraints (Chambers, 2016). This was made visible for the last reform of the CAP where only *“four main EU-level farming organizations”* were involved in a *“ad hoc consultation process that lasted one week”*, leading to a proposal to reduce environmental conditionalities without any impact assessment (COM/2024/139 final, 2024: Section 3).

More broadly, another leading EU official stressed that *“mostly big cooperatives and federations on food production and foresters are involved”* in the LULUCF, calling for a better representation of smaller vulnerable stakeholders and environmental interests (EEA senior Official, 2024). Otherwise, environmental ambitions on agricultural land *“only reach a certain stage after massive pushing of the big lobby”* which probably influenced the scope and ambition of the LULUCF, limiting it to consensual obligations upon decarbonization (EEA senior Official, 2024).

Withal, the recurrent lack of a *“robust long-term planning for coherent governance”* in the LULUCF sector (Böttcher, et al., 2022) adds up to another major determinant of climate tunnel vision: namely the separation, in high politics, of biodiversity and nature objectives from other strategic priorities.

### III. The political decorrelation of strategic priorities and environmental challenges beyond decarbonization

As noted during our analysis of European Council Conclusions, although the holistic approach presented in the EGD was met by MS's endorsement, this support appears contained beyond decarbonization objectives (A). Moreover, such backing came to be driven by *“strategic”* short-term considerations (B), which had repercussions on the prescriptive scope of agreed EGD legislations.

#### A. The cautious reception of environmental ambitions further than decarbonization in the EU high politics

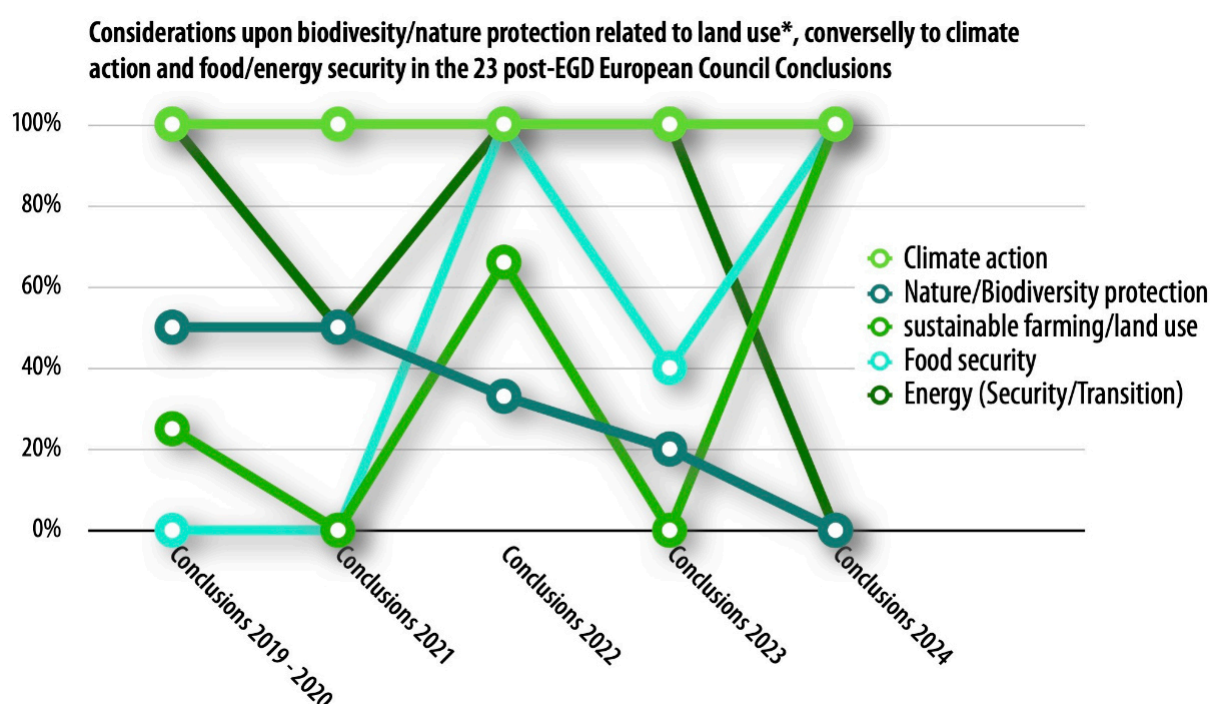
Since 2018, climate change has been the *“second most prominent issue mentioned in the European Council conclusions”*, featuring in 91% of the Conclusions and in every Conclusion since the publication of the EGD<sup>12</sup>. Climate priorities are

<sup>12</sup> Annex 1.

no longer relegated to the Council of the EU, penetrating the sphere of “high politics” as an integral part of MS’s leaders’ political priorities (Rüdiger, 2020).

Support for climate action also endured major crisis (i.e. Covid-19 and energy), where MS’s leaders’ involvement in “climate governance” remained a priority (Jeffrey and Dupont, 2021), conversely to the previous disengagement that followed the financial crisis (Dobbs et al., 2021). Indeed, the pandemic was perceived as an “opportunity to accelerate the sustainable transformation and modernization of our economies and to gain competitive advantage” (European Council, 11 December 2020)<sup>13</sup>. Similarly, the energy crisis, stemming from the unjustified military aggression of Russia to Ukraine, prompted MS’s to increase investments in the energy transition to reach “the dual objective of European energy sovereignty and climate neutrality” (European Council, 21 May 2022, 18 April 2024).

Yet, the European Council never adequately addressed the Commission ambitions upon improving land management sustainability. The same can be said regarding biodiversity collapse, with nebulous mentions on biodiversity action when calling underachievers to uphold new engagements of the Convention on Biological Diversity (European Council, 21 July and 11 December 2020, 22 October 2021, 21 October 2022 and 30 June 2023).



\*Land use was only addressed through the prism of farming as other land uses were not mentioned

According to former COP President Michał Kurtyka, this might be partially explained by the fact that climate ambitions appear to be perceived as “overarching goals tacitly covering care for the planet in general” (Kurtyka, 2024). Further, it is

<sup>13</sup> A dynamic noted by Dupont et al. (2020).

*“evident that in terms of vocabulary and policy making” this approach “surely crowded out other topics” (Kurtyka, 2024).*

This prioritization of decarbonization objectives over nature conservation imperatives, which was translated into the lack of normative action on nature protection, also seems to be driven by strategic geopolitical priorities and narrow economic interests.

## **B. Limited strategic considerations neglecting the broader systemic implications of the environmental crisis**

As summarized by the latest European Council Conclusion, *“the green deal aims at staying competitive globally and increasing energy independence”* (European Council, 18 April 2024). In a context of high prices on energy, dependency on Russian gas, and global competition, efforts for decarbonization appeared to be geared towards strategic economic priorities, through secured energy supply with renewables, rather than to address environmental concerns (European Council, 21 July 2020).

The challenge of food security/sovereignty, which is deeply linked with unsustainable land management, was also perceived similarly. When expressed the will to *“increase local sustainable food production so as to reduce structural dependencies”* the aim was more to *“promote a more efficient use of and alternatives to (gas-intensive) fertilizers”* rather than fostering sustainable production methods (European Council, 31 May 2022). This diverts from the original conception of food sovereignty, which is *“the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems”* (“Déclaration of Nyéléni”, 2007).

Therefore, pure geopolitical considerations (i.e. energy costs, Russia’s instrumentalization of food transport corridors, etc.) emerged as the principal impetus behind EGD endorsement. Again, this neglects the fact that food security is likewise (or more) pressingly affected by biodiversity depletion and inadaptation to rising extreme climatic events (FAO, 2021).

This reticence to address broader environmental imperatives became apparent with farmers’ protests in 2024, which resulted in a dramatic regression of CAP’s environmental standards (Gadbin, 2024). Here MS’s urged the Commission (which complied) to focus on providing flexibilities to *“reduce the administrative burden and achieve simplifications”* for farmers, or the *“compliance burden”* for companies (European Council, 18 April 2024), an argument often used to justify regressions in environmental law (Doussan, 2016).

Political turmoil in agriculture, a major part of the LULUCF, brought into light the decoupling, in decision-makers priorities, of long-term economic, energy or food security concerns from nature preservation. Biodiversity enhancements are sometimes perceived as a tradeoff and put into opposition with other strategic objectives (Politico, 2024).

This was already foreseen in 2022 during the dramatic rise in prices for a large number of agricultural productions, as MSs were given the possibility to authorize the recultivation of fallow lands classified as areas of ecological interest (Gadbin, 2022). Here, the idea was that suspending environmental requirements would *"free up production potential"* (Gadbin, 2022).

When asking about the perception of biodiversity investments as a trade-off with other strategic priorities, a senior Commission official reasserted that this is *"nonsensical"* as *"all the moto of addressing biodiversity is because we humans need more ecosystem services"* (Senior Commission official, 2024). From an anthropocentric point of view, ecosystem's health constitutes the foundation of our economies as it underpins the delivery of many ecosystem services to deliver raw materials, clean water and air, as well as to ensure food security.

Furthermore, biodiversity enhancements will also be crucial to ensure natural carbon sinks functionality and removals permanence by limiting insect outbreaks, increasing resistance to droughts, heatwaves and extreme climatic events (besides several *"co-benefits"*; Luan et al., 2024). As stressed by a senior official from the European Environmental Agency *"the idea that you can have strong nature-based solutions (such as carbon farming) based on weak nature is an idiotic idea"* (EEA senior official, 2024). Thus, the (enduring) agenda on climate neutrality will not be attainable without comprehensive biodiversity improvements.

Hence, most promising scenarios for the LULUCF contributions, which rely on *"changes in lifestyle and consumer choices"* (including diets), increased afforestation, carbon farming and a *"more circular economy,"* also call to go further than carbon tunnel vision to embrace more systemic approaches<sup>14</sup>.

Indeed, *"thinking about climate mitigation (and other environmental issues) in terms of (the carbon) 'object' can distract attention from the social and economic conditions that produce emissions"* among other environmental damages (Dehm, 2018). Moreover, focusing on the 1tCO<sub>2</sub>eq. 'object' *"might (also) obscure political and ethical concerns, such as the need to distinguish between 'luxury' and 'subsistence' emissions or demands that those countries or companies that did the most to cause the problem of climate change take the lead in mitigation"* (MacKenzie, 2009).

This tropism could allow *"to avoid thinking seriously about what a low-carbon future would or should look like and the complexities of path-dependent trajectories"* (Dehm, 2018). Thus, it could contribute in neglecting the systemic implications of transitioning towards sustainable land use management, especially in European agriculture where path dependency is particularly strong (Kay, 2003).

As stated by the physicist and philosopher Aurélien Barrau, attempting to *"solve the climate problem"* through decarbonization alone, *"is roughly akin to directing the fire extinguisher at the top of the flames or treating cancer with paracetamol"* (Barrau, 2023). Indeed, he asserts that *"the crisis is fundamentally systemic"* as there are *"very strong correlations between the various subsystems of the biosphere"* (Barrau, 2023). Then, he emphasizes that biodiversity depletion *"threatens us much more*

<sup>14</sup> See Annex 2.

*than climate change, in reality. Even if the latter was to be contained, we would still remain in the sixth mass extinction,"* and there is no adaptation or reversibility to the extinction of life (Barrau, 2023). Not recognizing its central role would be like *"if the patient's death was considered by the doctor as a symptom among others and not as the precise issue against which he - or she - is working"* (Barrau, 2023).

For example, separating climate and biodiversity allows companies like Syngenta (Syngenta, 2024), Bayer (Bayer, 2024) or BASF (BASF, 2024), to disclose efforts towards "carbon neutrality" without questioning their productions, despite being global leaders in pesticides production whose use constitutes a major cause of the ongoing 6<sup>th</sup> mass extinction.

Also, fighting the issue systemically would mean *"looking at behavioral patterns and decoupling well-being and economic growth"*, further than decarbonization, which poses a deeper challenge as it leads to questioning growth altogether (Po-točnik, 2024). Especially as at the moment *"there is no empirical evidence supporting the existence of a decoupling of economic growth from environmental pressures"* and that *"such decoupling appears unlikely to happen in the future"* (Parrique et al., 2019).

Nonetheless, our strong economic, institutional and cognitive *"path dependence"* to growth make it very challenging for any decision-maker to adopt truly comprehensive approaches in the law. Withal, these serious hindrances should not refrain us from envisioning a LULUCF regulation that puts biodiversity at its center, to enhance its visibility and incentives for MS's to engage into real *"transformative change"*<sup>15</sup>.

Seeing the potential of nature-based solutions and the narrow apprehension of environmental challenges through uncertain carbon monitoring, this study followed recommendations *"to focus on resolving these uncertainties before broadly scaling implementation,"* as through an improved integration of biodiversity (Buma et al., 2024). Thus, despite the limited scope of this demonstration, and without any pretense of exhaustiveness, I will attempt to draw a few avenues for action to broaden the scope of land use policies.

## 2.2. Complementary holistic policy interventions to improve LULUCF contributions

As underlined by the EU Biodiversity strategy, from an anthropocentric perspective *"natural capital investments, including restoration of carbon-rich habitats and climate-friendly agriculture"* offer *"high economic multipliers"* (European Commission, 2020). Investing in ecosystem conservation or restoration is highly profitable and, in some cases, it can reach an overall benefit/cost ratio of at least 100:1 (Balmford et al., 2002). Regarding land degradation *"the cost of action is much smaller than the cost of inaction"* (Nkonya, et al., 2016). More, recent data underscores a preference for comprehensive action by farmers, such as the adoption of conservation or regenerative agriculture, rather than narrow carbon farming (Pettry et al., 2023). This preference

<sup>15</sup> As promoted by the IPBES (IPBES, 2024).



arises from the recognition that such practices offer benefits in terms of enhanced land value, cost reduction and long-term yields in an increasingly perturbed world. Nonetheless, this transition will necessitate support to offset initial short-term costs.

Recognizing the limited feasibility of LULUCF objectives, focusing on biodiversity (I.), improving contractual securities and governance structures (II.), and prioritizing holistic land policies alongside other supportive policy instruments (III) appears attainable, to bolster its long-term contributions to environmental objectives.

## **I. Enshrining biodiversity requirements as an “insurance” for LULUCF contributions**

If the adoption of new regulations to fulfill the ambitions of the EGD remains at the discretion of MSs, the consolidated LULUCF already offers prospects for improvement. Indeed, the Commission was conferred the competence to adopt delegated acts supplementing LULUCF rules for monitoring and MS's reporting, which could be improved to ensure removals additionality (Regulation (EU) 2018/841, 2018: Article 15, within the limits of article 16). The same goes for the proposed Carbon Removal Certification Framework regarding reporting requirements and certification methodologies (COM/2022/672 final, 2022: Article 7). Therefore, the Commission could extensively interpret its delegated powers to establish complementary biodiversity indicators.

Besides this legal basis, such endeavor could be justified by application of the precautionary principle, regarding uncertain removals, which takes precedence over the principle of legal security, especially for biodiversity conservation (ECJ, 2024: Case C-308/22)<sup>16</sup>. This is compounded by the obligation of the EU to “*ensure consistency between policies*” and to integrate “*environmental protection requirement into the definition and implementation of the Unions policies*” (Articles 191, 7 and 11 of the TFEU). To uphold such obligations, the difficulty to monitor biodiversity should not be used as a delaying excuse, especially since the EU is already familiar with monitoring complex indicators and establishing dynamic and territorially adapted thresholds to preserve planetary boundaries, as for nitrate use (Directive 91/676/EEC, 1991).

As recognized by the European Parliament, biodiversity has demonstrated to act as a “*life insurance*” for ecosystem functionality (including carbon sinks; European Parliament, 2012). Indeed, biodiversity is a cornerstone for ecosystem productivity and resistance to climate extremes (Forest et al., 2015). Therefore, as suggested by Alix Vollet, it could function as a legal security to ensure the gradual contributions of MS's to the LULUCF, to secure the long-term additionality of carbon removal certificates, navigate uncertainty and adapt to such complex issues (Vollet, 2023). These securities are vital as carbon removals are “*prone to reversals*,” due to fragile ecosystem functionality and extreme climate events, added to the regular disclosure of “*overestimated (..) sequestration potential(s)*” by involved stakeholders (Günther et al., 2024).

To allow and incentivize such endeavors, several approaches have been suggested.

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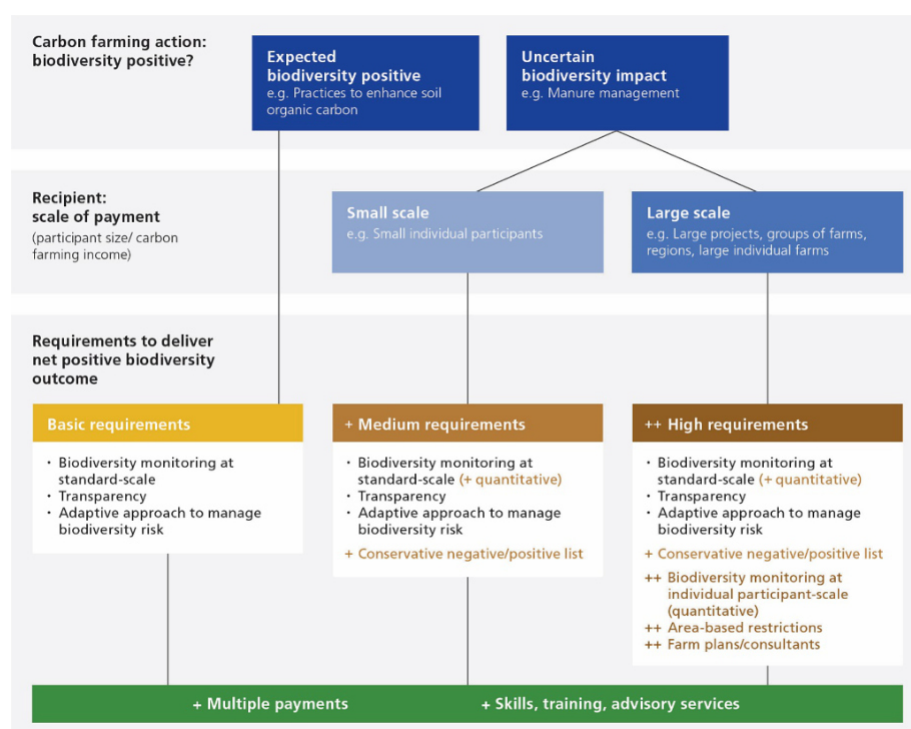
<sup>16</sup> The case was about pesticide use, a huge factor of land ecosystems deterioration.

Firstly, building up synergies with other regulations on nature protection. For example, was suggested to “*integrate the conservation status of habitats (from) the Habitats Directive into the LULUCF*” (Kuusela et al., 2022). Thus, depending on conservation trends, MS’s should be entitled to use LULUCF flexibilities (if positive trends), or not (if negative; Kuusela et al., 2022). The same study suggested to introduce the similar mechanism for species, using the Birds Directive conservation trends, among other biodiversity indicators for managed forests (such as volume of dead wood, large old trees, etc.; Kuusela et al., 2022).

Altogether, these dispositions would give more visibility to biodiversity in the LULUCF and incentives to implement conservation measures. For instance, it could serve to emphasize once more the imperative to reform pesticide policies and help overcome the current political impasse, given their significant role in land biodiversity and health decline (Finger et al., 2024). Moreover, it could incentivize MS’s to improve land planning measures for ecological continuities and land use optimization to facilitate ecosystem enhancements.

Building up on such synergies, and taking the Carbon Removal Certification Framework, it could also be suggested to insert recognized “*key indicators of the health of agricultural ecosystems*” into removal certification methodologies (for e.g., the forest diversity, farmland bird or grassland butterfly index)<sup>17</sup>. Further than the obligation to have a “*neutral impact*” on biodiversity, certification premiums could be adjusted depending on the performance of land managers upon such proxies, to differentiate conservation practices additionality (for e.g. depending on pesticide and nitrate use).

Additionally, to address the issue of an excessive administrative burden or monitoring difficulties, it has been suggested to make biodiversity safeguards flexible adapting to stakeholder capacity and compliance risks (Scheid et al., 2023).



**Recommended approach to enhance biodiversity through carbon farming funding. Source: Scheid et. Al., 2023**

<sup>17</sup> See the Proposal for a Regulation of the European Parliament and of the Council on nature restoration, 2022: (51) and (75).

Lastly, MS's will also have an interest in increasing biodiversity considerations to prompt care and investments by concerned stakeholders, as a failure to do so will expose them to non-compliance with climate objectives. This danger is associated with risks of incurring EU sanctions, which could be reinforced regarding the LULUCF<sup>18</sup>, paired with litigation risks that are starting to bite (Wong, 2024).

Nonetheless, to ensure that involved stakeholders uphold biodiversity objectives, biodiversity safeguards could be paired with additional contractual securities and improved governance structures.

## II. Allocating environmental and social purposes to the land through contractual securities and improved governance

Innovative contractual solutions must be considered as they are *"considered to support sustainable agriculture more effectively than mainstream agri-environmental-climate measures contracts"* (Kelemen et al., 2023). Added contractual securities could be mandated by certification methodologies to allow the sale (or temporary renting) of removals, in order to prevent reversals stemming from shifts in land management.

I could take here the example of *"real covenants"*, which are linked to the property itself, the land, and not to the debtor. Real covenants/contracts are often aimed at establishing obligations upon the management of the land, such as prohibiting practices hindering biodiversity (for e.g. pesticide use, tillage, deforestation...). And since such obligations are attached to the land, they endure changes in ownership/tenancy and can last up to 99 years (in France) or more (US)<sup>19</sup>. Thus, the land is *"earmarked for environmental protection"*, acting as a real long-term security for removals and ecosystem improvements (Benezech, 2021). More, this perennial protection could be also integrated into local planning documents for added visibility and to ensure regional food security (Jónsdóttir and Gísladóttir, 2023).

Also, requirements to establish value-chain contracts for certification could be considered and supported. Such contracts allow the distribution of liabilities (in case of reversals), monitoring and implementing costs along the agri-food value chain, including advisory services for carbon farming (Cardwell et al., 2020). Those contracts could also be paired with the use of blockchain technologies and smart contracts to increase transparency in food chains contractual relations (Juillet-Regis, 2024).

These innovative approaches could help ensure just prices, proportional compensations for farmers, and in identifying liabilities in case an actor along the value chain does not uphold its obligations. Moreover, collaborative schemes offer promising perspectives too as collective agroecosystem improvements provide for enhanced and more robust ecosystem functionality (Kelemen et al., 2023). Here, crop and landscape heterogeneity could be prioritized to increase

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<sup>18</sup> See the increased penalties propositions of the rapporteur for the LULUCF Regulation in the European Parliament's ENVI Committee in 2022, cited by Böttcher et al., (2022).

<sup>19</sup> As *propter rem* obligations. See the French example, set at article L 132-3 of the French code of the environment.

the attractiveness of the region, residents' well-being and land ecosystems productivity (Priyadarshana et al., 2024).

If some argue that as long as *"property rights (upon the land) are still based on possessive individualism"* they will have *"no social or environmental purpose"* (Murielle, 2018), this hindrance could be relativized by the aforementioned instruments.

Certainly, the imposition of *"real"* lasting obligations to preserve the land could limit the absolutism of property prerogatives rights over it, and potentially give those rights an environmental purpose (through conservation obligations). Secondly, greater transparency and publicity, with more transparent digitalized contractual relations in the agri-food chain, could facilitate local communities' involvement in the management of land commons, and channel attention and support for virtuous managers.

Besides structural governance improvement needs, community empowerment will be crucial to deliver on social and environmental objectives and could build up on bottom-up initiatives such as the EU's LEADER participatory programs. If such programs have proven to *"facilitate local engagement"* they could also be reinforced with increased resources and decision-making rights on land allocation, to improve the (little) results they managed to achieve (European Court of Auditors, 2022).

Indeed, it was proven that *"multi-level governance processes"* allows *"marginalized actors (to potentially) gain influence"* in the governance of collectively managed agricultural land, which may favor the integration of vulnerable actors and environmental concerns (McCarthy, 2018). Moreover, inspiring examples of communities managing *"their land and its common-pool resources better than markets did, and better than comparable state-run schemes"* should be kept in mind (Raworth, 2017)<sup>20</sup>.

Despite not being *"an infallible blueprint"*, such *"self-organizing system worked because the farmers developed their own rules for water use, met regularly in meetings and in the fields, set up a monitoring system and sanctioned those who broke the rules"* (Raworth, 2017). Given the growing tensions upon land resources for biofuels production, export-based intensive productions and others, stronger community management could facilitate arbitrating land allocation based on constituents' actual needs. This approach could be proven valuable to achieve genuine food sovereignty, while ensuring optimal and locally adapted investments allotments for ecosystem enhancements.

As underlined by Michał Kurtyka, *"biodiversity is par excellence a bottom-up challenge, calling for bottom-up policies and for a change of gear in terms of international action, as it is more a local regional issue"* (Kurtyka, 2024). And to achieve this change we will *"need to find people with enough financial means or power to support such an initiative"* by all means possible and with a systemic approach (Kurtyka, 2024).

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<sup>20</sup> Referring to Elinor Ostrom works.

### III. Further than the LULUCF: supporting sustainable land management through comprehensive investment and demand-side policies

As suggested by the European Parliament draft report on the LULUCF, multiple instruments could be used to increase *“financial support for ecosystem-based approaches in forests and agricultural land”*<sup>21</sup>. The report mentioned the CAP, LIFE funds, Cohesion Funds, the EU’s Recovery and Resilience Facility, Horizon Europe, the Just transition Fund and *“at least 5% of public revenues under the EU ETS to support land managers”*<sup>22</sup>. Additionally, one could claim that public procurements and investments should be channeled towards such sustainable endeavors, with requirements to align public investments with the EU Taxonomy<sup>23</sup>. Furthermore, could be enshrined a *“green golden rule”* for sustainable investments to exempt them from fiscal discipline (Darvas and Wolff, 2023) and State Aid rules, including tax credits for sustainable land managers.

Indeed, if *“most of the benefits”* of increasing ecosystems functionality *“go to the whole society, (only) some will benefit land managers in the long run”* (Bradley and Underwood, 2022). Thus, comprehensive support and safety nets must be implemented to safeguard vulnerable undertakings and mitigate potential public backlash due to potential unequal burdens of the proposed policies. Here, some of our interviewees underlined the need to properly reward land managers proportionally to their enhancement of natural capital (Potočnik and Senior Commission Official, 2024). To do so, natural capital should be better accounted and valued as if it remains *“without value, we will destroy it”* (Potočnik, 2024).

Janez Potočnik stressed that *“financial capital is overvalued, over rewarded, human capital is undervalued and under rewarded, natural capital is not valued at all”* and therefore maybe it should be accounted (Potočnik, 2024). However, *“major risks of financialization in agriculture and farmland grabbing in the medium and long term”* from carbon farming and natural capital accounting still require consideration (Gadbin, 2023). The same applies for risks to crowd-out intrinsic motivations to protect the land due to nature commodification (Rode et al., 2015). After, disparities between labor taxation (for land managers) and capital taxation could also be reexamined, recognizing the likelihood of sustainable land management becoming more labor-intensive.

Beyond, demand-side policies should also be considered since, as noted by the Commission, *“more ambitious polluters-pay approach trigger the price signals that are needed to also drive behavioral change at the level of consumers”* (European Commission, 2021a). Here, Pigouvian taxes and reduced subsidies upon non-sustainable land managers, including their products and actors along the value chain, could be considered to further deter unsustainable private investments and send price signals to consumers. Also, emphasis should be placed upon activities responsible for *“luxury emissions”* and other dispensable

<sup>21</sup> See the propositions of the rapporteur for the LULUCF Regulation in the European Parliament’s ENVI Committee in 2022, cited by Kuusela et. al., 2022.

<sup>22</sup> *Ibid.*

<sup>23</sup> Which establishes the criteria for sustainable investments and investments doing significant harm.



emissions to ensure a fairer taxation by an added pressure upon them and by demanding increased efforts to most responsible undertakings<sup>24</sup>.

More specifically, improved price signals could contribute in fostering dietary changes (particularly reducing animal products consumption), knowing that such changes *“can deliver environmental (and health) benefits on a scale not achievable by producers”* (Poore and Nemecek, 2018), as underlined by most promising LULUCF scenarios<sup>25</sup>. Indeed, *“shifting to plant-based diets (...) delivers potentially 40% or even higher reduction in GHG emissions while reducing global mortality by 6–10%, equaling health co-benefits of 0.4–13% of global GDP”* (Creutzig et al., 2022). Also, it could free up large amounts of land for renaturation, knowing that a major part of EU agricultural land is allocated (directly or not) to livestock production.

Additionally, consolidating marketing rules should be considered to better differentiate sustainable and resource intensive productions, as with an improved green claims framework (Bombardier and Miaux, 2024). Moreover, increased investment in education and awareness campaigns is paramount to prompt behavioral change, as emphasized by Janez Potočnik, to underline the desirability and long-term benefits of the transition, as well as reconsider our relationship with the land (Potočnik, 2024).

Finally, increased research efforts should be made to examine the implications of property rights limitations on sustainable land management (Silhyac, 2023). Adequate land planning and (re)distribution should not be neglected as *“redistributing land ownership has historically been one of the most direct ways to reduce national inequalities”* (Raworth, 2017) and that a lack of land rights is often correlated with poor land management (Richardson, 2018). This imperative is further underscored by upcoming challenges, including generational turnover among aging land managers, the ensuing expansion of the average farm size (with subsequent intensification) and increased land abandonment (Pawlewicz, 2023).

Despite these promising avenues for improvement, I remained skeptical about their potential consideration or implementation given the current political context. Here, a senior Commission official offered reassurance expressing that *“in general I think we will have a strong political leverage irrespectively of if the next political cycle is green or less green. (This) leverage comes from the adoption of the new global biodiversity framework”* and adopted EGD regulations which *“are politically binding”* and will need to be enforced (Senior Commission Official, 2024).

I sincerely hope that future developments will prove him right.

<sup>24</sup> See *Supra*, Part 1, III, (B)).

<sup>25</sup> 1.5 LIFE, Annex 2.

### 3. Conclusion

Climate tunnel vision within the LULUCF, which emphasizes the 'object' of CO<sub>2</sub> as a catalyst for all environmental concerns, has been driven by several determinants extending beyond the difficulty to apprehend complex environmental challenges.

One significant factor is the establishment of 1tCO<sub>2</sub>eq. as a fungible and tradable 'object' for the operation of carbon-markets. These market-based instruments were enshrined as pivotal means for climate action, favoring them over constraining obligations such as upon land management. Additionally, the enticing perspective to increase flexibilities for emissions reductions objectives through the use of LULUCF removals certainly influenced its prism on carbon and removals. Consequently, the objective of the LULUCF appeared to be more geared towards providing flexibilities for Member States (MS) than in committing to a comprehensive framework for land use and forestry.

Moreover, limitations regarding EU competences over the land, compounded by flawed governance structures, impaired the adoption of ambitious and pluralist decision-making processes to bring forward preoccupations beyond carbon emissions.

Lastly, these pre-existing structures facilitated the decorrelation between MS's strategic priorities and nature conservation goals in high politics. While narrow decarbonization objectives align with geopolitical concerns like energy security and competitiveness, they may not necessarily challenge unsustainable production and consumption patterns. In contrast, comprehensive land management policies aimed at fostering biodiversity will necessitate systemic transformations, including a re-evaluation of current demand, growth expectations and our relationship with the land and its inhabitants.

In fact, climate tunnel vision casts a veil upon biodiversity, a crucial factor for the success of the LULUCF as it underpins land ecosystems functionality and resistance, thus playing a fundamental role in increasing and sustaining carbon removals.

Therefore, putting biodiversity enhancements at the center of the LULUCF could act as "*an insurance*" for the delivery of climate objectives, from a precautionary stance. Moreover, improved biodiversity monitoring could increase visibility for this fundamental objective of environmental law, namely the preservation of life within the biosphere. To do so, it is imperative to better recognize and support the role of land managers, as their mission extends beyond mere carbon sink management to ensure the provision of diverse public goods while maintaining ecosystems.

Finally, deriving from the prism on climate could prompt reflections in considering more systemic approaches, to address the depletion and over-exploitation of natural commons as well as our needs and aspirations to truly embrace a perdurable sustainable transition.

## Annex 1: Qualitative analysis of the European Council Conclusions : Detailed methodology and limitations

### Methodology

Building up on a short study I completed on *“The role of the European Council on the European Green Deal: a partner or a hindrance for the green transition?”*, this thesis conducted a qualitative analysis of twenty-three European Council Conclusions. My objective was to evaluate the apprehension of different environmental challenges and their linkage with strategic considerations in high politics. The chosen methodology for that paper, as well as for the present one, was greatly inspired by the analysis framework presented by Jeffrey Rosamond and Claire Dupont for their paper on *The European Council, the Council, and the European Green Deal* (Rosamond and Dupont, 2021).

Due to the limited scope of this study, the choice was made to focus on Conclusions published after the Communication on the European Green Deal, until the conclusion of this study on the last week of April 2024.

The criteria for a Conclusion to be qualified as relevant for our analysis was that it must reflect general political/strategic orientations of the European Council. Therefore, were excluded Conclusions aimed at swiftly addressing a specific issue and not to express the general political will of EU Member States leaders. For example, certain Conclusions aimed at adopting sanctions against Russia, or to support Ukraine when facing Russia’s unprovoked and unjustified full-scale invasion were excluded from this analysis. Sixteen Conclusions, out of twenty-three analyzed, filled this relevance criteria.

When analyzing the European Council Conclusions this study aimed at finding mentions and linkages related to: *“climate action”* (including *“decarbonization”*, *“climate mitigation”* and *“climate adaptation”*); *“nature protection/improvements”* (including *“biodiversity and ecosystems protection/improvements”*); *“sustainable land use”* (including *“sustainable farming/agriculture”* as land use was not mentioned); *“food sovereignty/security”*; *“carbon removals”* (not mentioned); and *“energy security”* (including *“energy transition/efficiency”*). Such terms were chosen due to their recurrent use in the EGD and its subsequent strategies on agriculture, soils and biodiversity, but also on the regulations and staff working documents related to the LULUCF, as well as in other legislations linked to the EU normative framework on climate.

### Limitations of the study

First, this inquiry didn’t include Conclusions from the Council of the European Union, as due to its different formations (Agricultural Council, Environmental Council, etc.) this exercise would go well over the limited scope of our study. This is a major limitation as *“most day-to-day environmental policy measures are negotiated by the Environmental Council”*, and only a few of those policy areas reach the domain of *“high politics”* if their strategic importance is recognized (Wurzel, Liefferink, and Lullo,

2020). Moreover, Hillebrandt and Novak underlined that European Council Conclusions “offer no insight into internal debates” and only reflect the consensus to the lowest common denominator, not the full perception of environmental challenges by MS’s (Hillebrandt and Novak, 2016).

Still, this limited analysis was deemed interesting as it reflected how the “existential” challenges addressed in our analysis were apprehended by MS’s leaders, and how they can be sometimes (incongruously) separated and even confronted to other strategic considerations. Finally, it must be kept in mind that for 2024 only three Conclusions have been yet published, with only two that we qualified as relevant for the study.

### **Results (interpreted in Part 1, Chapter 2, III.)**

#### **- European Council Conclusion of 2019 and 2020**

Total Conclusions = 5; Relevant or non-specific/sectoral Conclusions = 4.

Conclusions mentioning the need for action on Climate = 4.

Conclusions mentioning the need for action on Nature/Biodiversity protection = 2.

Conclusions mentioning the need for action on Sustainable Farming/land use = 1.

Conclusions mentioning the need for action on Food security = 0.

Conclusions mentioning the need for action on Energy security = 4.

#### **- European Council Conclusion of 2021**

Total Conclusions = 4; Relevant or non-specific/sectoral Conclusions = 2.

Conclusions mentioning the need for action on Climate = 2.

Conclusions mentioning the need for action on Nature/Biodiversity protection = 1.

Conclusions mentioning the need for action on Sustainable Farming/land use = 0.

Conclusions mentioning the need for action on Food security = 0.

Conclusions mentioning the need for action on Energy security = 1.

#### **- European Council Conclusion of 2022**

Total Conclusions = 6; Relevant or non-specific/sectoral Conclusions = 3.

Conclusions mentioning the need for action on Climate = 3.

Conclusions mentioning the need for action on Nature/Biodiversity protection = 1.

Conclusions mentioning the need for action on Sustainable Farming/land use = 2.

Conclusions mentioning the need for action on Food security = 3.

Conclusions mentioning the need for action on Energy security = 3.

#### **- European Council Conclusion of 2023**

Total Conclusions = 5; Relevant or non-specific/sectoral Conclusions = 5.

Conclusions mentioning the need for action on Climate = 5.

Conclusions mentioning the need for action on Nature/Biodiversity protection = 1.

Conclusions mentioning the need for action on Sustainable Farming/land use = 0.

Conclusions mentioning the need for action on Food security = 2.

Conclusions mentioning the need for action on Energy security = 5.

### - European Council Conclusion of 2024

Total Conclusions = 3; Relevant or non-specific/sectoral Conclusions = 2.

Conclusions mentioning the need for action on Climate = 2.

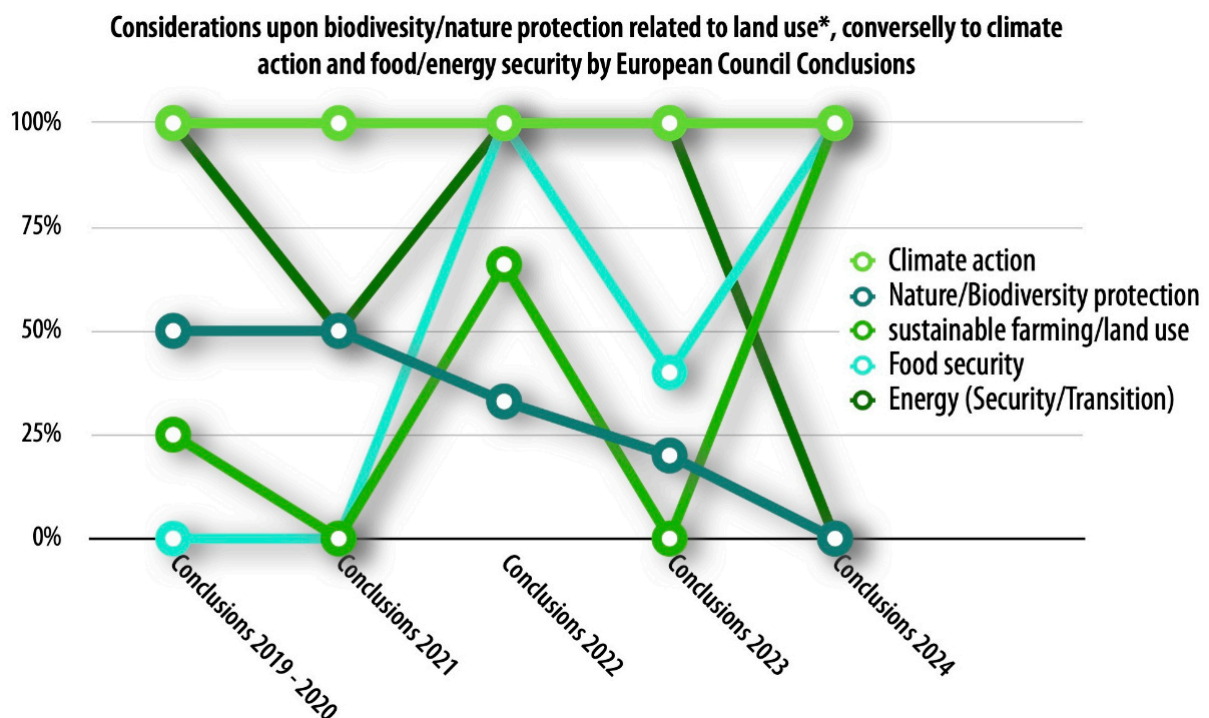
Conclusions mentioning the need for action on Nature/Biodiversity protection = 0.

Conclusions mentioning the need for action on Sustainable Farming/land use = 2.

Conclusions mentioning the need for action on Food security = 2.

Conclusions mentioning the need for action on Energy security = 0.

Graff:





## Annex 2: Overview of scenarios for the EU LULUCF regulation provided by Böttcher, H., Gores, S., Hennenberg, K., Reise, J. and Graf, A<sup>26</sup>.

| Scenario name                | Achieving GHG neutrality? | CO2 price [EUR/t CO2eq] | Net LULUCF sink 2030 (2050) [Mt CO2eq] | Assumptions and measures implemented in LULUCF sector                                                                                                                                                                                                                              | Source |
|------------------------------|---------------------------|-------------------------|----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|
| Reference 2020               | no                        | -                       | -258 (-271)                            | Forms the most recent projection of "Business as usual" in the EU based on most recent data                                                                                                                                                                                        | (1)    |
| MIX (Policy scenario)        | no                        | -                       | -256                                   | Considers changes in the biomass demand from the energy sector compared to Reference 2020 following 1.5TECH. Assumes increased production of lignocellulosic crops and wood removals from the forest.                                                                              | (1)    |
| 1.5TECH                      | yes                       | 30                      | -310 (-317)                            | Relies on an increase of all technology options, the deployment of biomass related to significant amounts of carbon capture and storage (BECCS). The LULUCF net sink is enhanced through afforestation and short rotation coppice.                                                 | (2)    |
| 1.5LIFE                      | yes                       | 80                      | -350 (-464)                            | Assumes a drive towards a more circular economy, changes in lifestyle and consumer choices, including less carbon intensive diets. Compared to 1.5TECH, it assumes an enhancement of the net sink, e.g. through increased afforestation.                                           | (2)    |
| 1.5LIFE-LB                   | yes                       | 70                      | -350 (-472)                            | Considered a "sensitivity analysis of 1.5LIFE with a strong focus on technology options other than biomass leading to an increased net sink.                                                                                                                                       | (2)    |
| LULUCF-MIX                   |                           |                         | -295                                   | Scenario variant of MIX realising additional sink potential in managed forests and afforestation.                                                                                                                                                                                  | (3)    |
| LULUCF+                      | -                         | -                       | -340 (-425)                            | Scenario including additional actions to increase the net LULUCF sink to meet the EU 2035 land sector and 2050 overall neutrality targets. It includes optimisation of forest management, afforestation and improving soil management including through rewetting and restoration. | (3)    |
| No-debit (baseline)          | -                         | -                       | -225                                   | Represents the current policy framework. It does not represent a separate scenario but an accounting perspective.                                                                                                                                                                  | (1)    |
| Forest Reference Level (FRL) | -                         | -                       | -257                                   | Emissions and removals from managed forests are assumed at the level of FRLs. Other categories are assumed to follow the development of the MIX scenario.                                                                                                                          | (1)    |

(1) Proposal for a revision of the LULUCF Regulation (COM(2021) 554 final)

(2) European Commission (EC) (2018)

(3) Impact Assessment to the Climate Target Plan (European Commission (EC) 2020)

Source: Own compilation

<sup>26</sup> Böttcher, H., Gores, S., Hennenberg, K., Reise, J., Graf, A. (2022). Analysis of the European Commission proposal for revising the EU LULUCF Regulation. Berlin: Öko-Institut e.V. [https://www.oeko.de/fileadmin/oekodoc/Assumptions\\_LULUCF\\_Proposal.pdf](https://www.oeko.de/fileadmin/oekodoc/Assumptions_LULUCF_Proposal.pdf) The authors used their own sources to provide this overview.

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## Six selected Master's theses by College of Europe students

### Guest Editor

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Les mémoires de fin d'année, dont nous proposons ici une sélection, constituent une forme de couronnement des efforts consacrés à l'obtention du Master avancé en études européennes interdisciplinaires au Collège d'Europe à Natolin.

Ces travaux ont une visée académique, mais aussi pratique, en ce qu'ils proposent des solutions et des recommandations lorsque cela est possible. Ils sont une claire manifestation de l'ethos citoyen européen.

Les critères auxquels ils obéissent correspondent parfaitement à des normes de qualité communément admises, tant sur le plan théorique qu'empirique. Ils se conforment aussi à une série d'exigences méthodologiques, déontologiques et épistémologiques. Ces exigences sont consignées dans une sorte de code de bonne conduite, mais elles font



aussi partie d'un important bloc d'enseignement appelé « Séminaire de recherche », où sont enseignées toutes les facettes de la bonne conduite déontologique (notamment en matière de politique anti-plagiat) et de rigueur épistémologique (prévention des erreurs logiques, des évidences ou des idées fixes).