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▶ **Terrorism Financing Typologies: Comparison of the  
PKK and ISIL in Turkey**

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Autonomy and the European Defence Fund through  
Institutional Dynamics**

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# Terrorism Financing Typologies: Comparison of the PKK and ISIL in Turkey

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## Abstract

*This comparative case study investigates the financing typologies of Kurdistan Workers Party (PKK) and Islamic State of Iraq and the Levant (ISIL) in Turkey. The PKK is a Marxist-Leninist organisation that pursues ethnic separationist policies in Turkey, Iran, Iraq and Syria. ISIL is a radical Wahhabi network that aspires to re-establish the Caliphate and restore the 'glory' of Sharia by defeating the 'near' and 'far' enemies. Based on primary/secondary interviews, content analysis of unclassified documents and media coverage on counter PKK/ISIL investigations, this study indicates that both organisations have been highly skilful in exploiting the regional licit and illicit enterprises. Financing methods of the PKK and ISIL were similar in complex regional underground economic infrastructure. However, the PKK has been able to develop much more sophisticated financial infrastructure than ISIL due to a longer life span and existence of specialised cadres in the Middle East and Europe. ISIL has failed to develop advanced financing infrastructure mainly due to a shorter life span, loss of territorial control and the UN-US sponsored international sanctions. Both the Marxists and radical Islamists encouraged illicit trade schemes not only to generate funds but also to avoid taxation by the 'hostile' regimes.*

**Keywords:** *financing of terrorism, financial intelligence, organised crime, illicit financial flows, PKK, ISIL*

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## **Introduction<sup>1</sup>**

The world has been experiencing different waves of terror attacks from entities that have different ideological motivations. Over five decades of research experience on Marxist, ethnic-separatist and religious extremist groups validated that lengthy terror campaigns are expensive ventures. Terror establishments need substantial amounts of funds and resources to maintain their operations. In other words, continuity of terror campaigns depends on a sustainable influx of financial resources. Available research indicates that failure to cover training, equipment, salary, propaganda and other related expenses will eventually lead to the demise of the terror campaigns (Bauer & Levitt 2020; Biersteker et al. 2008; King et al. 2018; Normark & Ranstorp 2015; Schneider & Caruso 2011).

Turkey has a long history of fighting against domestic and international terrorist organisations coming from different ideological backgrounds. This makes the country an outstanding laboratory to investigate terrorism financing typologies. The republic has experienced three waves of terrorism since the 1970s in line with the global geopolitical context. The first wave came out of the ideological battles between the Western and Eastern Blocs in the Cold War context. Leftist revolutionary groups such as the Devrimci Sol (Dev Sol), the Revolutionary People's Liberation Party/Front (DHKP/C), the Revolutionary Workers and Peasants Party of Turkey (TIKKO), and Turkish Communist Party/Marxist-Leninist (TKP-ML) resisted against Turkey's pro-western foreign policy and NATO membership (Demirel 2007). The second wave of terrorism came from ethnic separatist Kurdish groups, mainly the Kurdistan Worker's Party (PKK), whose motivation stems from Marxist-Leninist revolutionary ideology (Alptekin 2020; Sen 2021). The third wave of terrorism came from radical Islamic groups such as Al-Qaeda, Hezbollah and ISIL. Al-Qaeda and Turkish Hezbollah carried out sensationalist terror attacks throughout the 1990s and 2000s, but both organisations gradually disappeared from the scenes (Demirel 2005; Erdem 2016).

The terrorism financing landscape in Turkey has changed intensely since the US invasion of Iraq. A dramatic increase in ungoverned places in Iraq and Syria facilitated an exponential growth of illicit markets linked to Turkey. The subse-

<sup>1</sup> This article is published after Musa Tuzuner passed away. Dr. Tuzuner contributed to all the stages of writing and revising the article. He died suddenly when the article had already been accepted for publication.

quent influx of the ISIL operatives under the guise of Syrian refugees complicated the counter terrorism financing initiatives since they developed symbiotic relationships with the radical Salafi jihadists in Turkey (Bozkurt 2021; Eroglu 2018). Unlike its predecessor Al-Qaeda, ISIL cells in the Istanbul, Ankara, Gaziantep, Konya and Adıyaman provinces developed localised self-financing capabilities (Eroglu 2018). With extremely low budgets, ISIL operatives conducted sensational attacks against security forces, recreation centres and party rallies of the People's Democratic Party (HDP) in various provinces of Turkey (Bozkurt 2021; Erdem 2016; Saymaz 2021).

Financing typologies of the terrorist networks can be significantly different from each other depending on the size, geography, operational target, grand strategy, ideology and level of financial institutionalisation, and the type of administration. Within the broader research question of why terrorist organisations have different financing typologies, we sought to explore how the Marxist PKK and Wahhabi/Salafist ISIL networks generated funds on the same territories. More specifically, we investigated how both organisations have been financed via: i) criminal enterprises, ii) taxation and extortion, iii) legal enterprises, iv) non-profit organisations, v) abuse of social welfare programmes, vi) misuse of informal money transfers and vii) cash couriers.

This qualitative and comparative case study has been composed of two stages. At the first stage, we have reviewed relevant academic publications, international reports, institutional publications, unclassified investigation/prosecution documents, released court decisions, threat assessments and media coverage on terrorism financing incidents in Turkey. Throughout the desk review process, we liaised with potential experts who have significant experience in combatting the financing of terrorism. At the second stage, we conducted 38 semi-structured interviews in the Ankara, Gaziantep, Istanbul and Kahramanmaraş provinces. The communications with the pre-identified experts were made both face to face and online (via Skype, Zoom or Microsoft Teams). The interviewees have been selected from a diverse set of backgrounds: current or former law enforcement officers, prosecutors, judges, lawyers, government officials, academics, analysts from Financial Intelligence Units (FIU), and experts from the international organisations.

## **Literature review**

There is a growing body of literature on the financing and resourcing of terrorist entities. Financial strategies of the terrorist networks can be significantly different from each other depending on the size, geography, operational targets, grand strategies and type of administration (Myres 2012; Biersteker et al. 2008; Vittori 2011; King et al. 2018; Wittig 2009). According to Timothy Wittig 'financing strategies emerge organically from a sort of market violence where "investment" into the terrorist group is shaped by opportunities within a specific social,



economic and political milieu' (Wittig 2009: 146). Wittig maintains that political and economic dynamics are core independent variables in analysis of terrorism financing typologies.

According to Michael Freeman (2011: 463), terrorist networks take into account 'six criteria' while generating funding. First, they desire the largest 'quantity' of funds to conduct recurrent and fierce attacks. Second, terrorist networks look for self-perceived 'legitimacy' of the financing methods in accordance with their ideologies (Freeman 2011: 463). Some networks can involve in drug trafficking, while others may see this trade as illegitimate due to ideological disapproval. Third, 'security' of the financing methods is evaluated. Organisation leaders assess whether a particular funding method will bring about new vulnerabilities and draw the attention of the law enforcement agencies or financial intelligence units. Fourth, the networks look for 'reliability' and 'predictability' of the sources which they can count on consistently. Fifth, organisations want to exercise full 'control' over the financial resources and try to prevent external intervention. Sixth, financing methods should be 'simple' and should not require 'specialised skills' or complicated processes (Freeman 2011: 464).

Financing typologies of the terrorist organisations can also be shaped by the level of institutionalisation in their financial apparatus. In general, the networks with advanced financial establishments tend to procure finances from a diverse set of resources, while premature groups depend on simplistic financing strategies such as bank robbing, kidnapping for ransom or taxing the sympathisers (Clarke 2015; Freeman 2011). Advanced terror networks develop specialised economic intelligence units to explore and exploit sustainable funding opportunities from a diverse set of legal and criminal enterprises (Rudner 2006). The financial apparatus develops short- and long-term budget plans for administrative, operational, training and propaganda expenses (Clarke 2015; Ekici 2021). There is a general consensus among terrorism researchers that failure to establish an effective economic apparatus has been a significant predictor of the demise of the terrorist organisations (Freeman 2011; Myres 2012; Vittori 2011).

The type of the organisation may have an impact on the typology of financing and modus operandi of the networks. Graham Myres (2012) divides the terror networks into two categories: i) elitist and ii) populist. According to Myres, elitist organisations (such as Al-Qaeda) are usually 'extant social networks or kinship connections available to group entrepreneurs', on the other hand, populist organisations are 'more likely to be armed groups that emerge organically from a particular identity culture and whose members are from that community' (2012: 702). Myres claimed that the populist networks tended to employ methods that are perceived as 'legitimate' among the host communities, while the elitist groups followed methods that are approved by their geopolitical masters. In this context, Vittori (2011) found that dependency of the elitist groups on foreign state spon-

sors undermines the autonomy of their leaderships, especially when they have to report to multiple donors. On the other hand, populist groups (such as PKK, Hezbollah, LTTE) seek to develop in-house and autonomous economic initiatives that endorse the positions of the leadership cadres (Ekici 2021; Geltzer 2011).

The review of the literature clearly indicated that terrorism financing typologies should be investigated in tandem with the 'resourcing' concept. According to Vittori (2011), resources include money, liquid assets, 'tangible goods', such as weapons, ammunitions and medical supplies, and 'intangible goods', such as providing operational safe heavens, protection, training, assisting with propaganda, delivering actionable intelligence and sharing of experience. Many studies indicate that state sponsors and wealthy donors of terrorist networks have been the core actors in terrorism resourcing (Byman & Kreps 2010; Clarke 2015; DeVore 2012). On many occasions, resourcing becomes a lifesaver for the terror networks that engage in prolonged conflicts with the host governments (Vittori 2011). A group of security analysts argue that resourcing strategies of terrorist groups that have asymmetric ties to state sponsors are hardly defined by the leadership cadres (Myres 2012; Biersteker et al. 2008; King et al. 2018). Indeed, these groups tend to act as contractors to fulfil micro-level geostrategic goals of their resource donors (DeVore 2012).

Several scholars argue that state sponsorship offers profound economic advantages for the terrorist networks, but it also can provoke terminal operational, security and financial vulnerabilities (Bauer & Levitt 2020; DeVore 2012; Eroglu 2018; Freeman 2011; Sick 2003). According to Freeman (2011), state sponsorship comes along with two main disadvantages. First, a finance-providing state may seek to control the activities of the terrorist networks. This may incapacitate the decision-making powers of the organisational leaders. Second, state sponsorship may be a 'resource curse' for the terrorist networks and may hold back diversification of income generation. This turns into a deadly vulnerability when the sponsoring state collapses or shifts geopolitical priorities. In this context, leadership of the terrorist networks experiences a dilemma of either enjoying the donations from foreign masters with undermined autonomy or exercising full autonomy with limited in-house financial resources (Bauer & Levitt 2020).

There is abundant literature on the involvement of terrorist organisations from different ideological backgrounds into diverse criminal activities (FATF, 2015, 2019). These criminal activities include smuggling (drugs, weapons, humans, oil, tobacco products, antiquities), extortion, robbery, racketeering and kidnapping for ransom (Clarke 2015; Ekici 2015; FATF 2015; Normark & Ranstorp 2015; Thachuk & Lal 2018). Among all the criminal enterprises, drug trafficking has been the primary financing method of Marxist and ethnic separatist organisations such as the PKK, the Revolutionary Armed Forces of Colombia (FARC) and the Liberation Tigers of Tamil Eelam (LTTE) (Thachuk & Lal 2018). Various international organisations

reported that the radical Islamist Taliban raised millions of dollars from taxing poppy cultivation in Afghanistan (FATF 2015; UNODC 2011; World Bank & IMF 2009). Bank robberies were common among the Marxist networks in Europe and radical Islamic groups in Asia (Amicelle 2011; Ekici 2021; Horgan & Taylor 1999).

Depending on the geography, terrorist organisations may coexist with the transnational criminal networks, which may lead to different terrorism financing typologies. According to Makarenko (2004: 131) this relationship can change from 'alliances' to 'convergence' along the 'crime-terror continuum'. According to Ekici et al. (2011) this vicious interaction brings along three main advantages to the terrorist organisations. First, they impose unit taxes on all the illegal trade materials such as heroin, cigarettes or weapons. Second, they levy annual taxes on almost all the kingpins in proportion to the scale of their income. Third, the prolonged interaction enables the terrorist networks to master the illicit trade schemes, take over the smuggling activities and eliminate the rivals on the black markets.

Many scholarly works, institutional research studies and international reports found that terrorist entities get involved in large sets of legal enterprises, such as car dealerships, real estate, restaurants and furniture trade (FATF 2015; Clarke 2015; Biersteker et al. 2008). Trade-based terrorism financing schemes have been frequently used as it is very easy to justify accumulation of capital and transfer of money to domestic and international 'trade partners' (Zdanowicz 2009). For instance, Al-Qaeda raised significant amounts of money from a holding company in Africa, a construction company in Sudan, ostrich farms in Kenya, Islamic banks in the Middle East, a forest business in Turkey and agricultural production in Tajikistan, Europe and the United States (Napoleoni 2006; Schneider & Caruso 2011). Several Turkish scholars also assert that the PKK has been running numerous front companies in Europe to facilitate trade-based terrorism financing (Bayraklı et al. 2019; Cengiz & Roth 2019; Ekici 2021).

Terrorist organisations seek to exploit non-profit organisations (NPOs) to generate funding and hide their clandestine activities. According to the FATF (2015, 2021), NPOs can be exploited in five different methods: i) terror entities can divert the legitimate donations via allied employees, ii) NPO authorities can be aligned with the interests of the terror networks, iii) assistance programmes can be reconfigured to support terror networks, iv) NPOs can be turned into recruitment platforms and v) sham NPOs can be established to cover up the fraud/misrepresentation in assistance programmes. Another FAFT (2014a) study found that services of the NPOs operating in close proximity to ongoing terrorist threats are more likely to be abused and humanitarian assistance programmes to bear a high risk of dispersion.

Available research revealed that especially radical Islamic networks have been exploiting charities to diversify legally collected funds into illegal activities (Bricknell 2011; Raphaeli 2003; Schneider & Caruso 2011). According to Looney (2006),

wealthy Saudi sponsors abused the Islamic charities to deliver funding to Wahabi cells in Afghanistan, Pakistan, Southeast Asia and the Middle East. Key al-Qaeda operative – and Osama Bin Laden’s brother-in-law – Mohammed Jamal Khalifa directed the International Islamic Relief Organization (IIRO) to support terrorist organisations in Southeast Asia (Croissant & Barlow 2007; Schneider & Caruso 2011).

Several research studies indicate that popular support can generate substantial amounts of financial resources for the terrorist organisations (Freeman 2011; Clarke 2015; Thachuk & Lal 2018). According to the FATF (2015), terrorist organisations deploy different strategies to harness it. First, they can impose involuntary taxes on certain ethnic or religious groups. Second, they can establish charities and non-profit organisations to encourage donations from among the communities of sympathisers. Large terror organisations (PKK, Al-Qaeda, LTTE) tend to diversify such NPO activities across different countries and sectors to reduce vulnerability to financial supply disruptions (Bell 2007; Bricknell 2011).

Diaspora communities may function as a finance multiplier for the terrorist organisations. The TF literature demonstrated that the Provisional Irish Republican Army (PIRA), the PKK, the LTTE and Hezbollah have been benefiting from the ‘donations’ of the diaspora communities living abroad (Myres 2012; Nomark & Ranstorp 2015). According to Nomark and Ranstorp (2015), PIRA sympathisers in the US and Europe were systematically transferring funds to combatant units. The PIRA diaspora generated these funds from large sets of legal businesses, such as pubs, real estate and taxi companies along with criminal enterprises such as extortion, robbery, kidnapping for ransom and tax fraud (Myres 2012). Al-Shabab generated substantial amounts of money from Somalians working abroad (Nomark & Ranstorp 2015). The organisation relied on cash couriers and the *Hawala* remittance system to circumvent international AML/CFT measures. Large numbers of Kurdish businesses, non-profit organisations and criminal networks in Europe have been systematically funding PKK operatives in Turkey, Iraq, Iran and Syria (Bayraktar et al. 2019; Ekici et al. 2011). Similarly, the Sri Lankan Liberation Tigers of Tamil Eelam (LTTE) established a clandestine network to extract financial contributions from Tamil communities living abroad. According to Nomark and Ranstorp (2015), the LTTE enforced compulsory payments from diaspora businesses of up to USD 75,000 and the families were forced to pay between USD 2,000 and USD 3,700. Levitt (2005) reported that Hezbollah benefited from a complex web of diaspora communities that run large numbers of NPOs and businesses in Africa and South America.

Territorial control can be another defining factor for financing typology. In ungoverned or under-governed spaces terror networks tend to behave like *mafiosa* states: collecting taxes, cultivating drugs (cannabis, coca and poppy), manufacturing synthetic drugs (ATS, methamphetamine), looting historical sites and export-

ing natural resources (Thachuk & Lal 2018; Clarke, Bauer & Levitt 2020). Failure to comply with the economic requests of the terrorists is harshly penalised by de-facto 'security institutions' and 'courts' (Ekici 2021; Clarke 2015). Territorial control allows the networks to implement social welfare programmes, form alternative governance systems, promote their 'legitimacy', gain the loyalty of the local populations and wage battles against their enemies (Bauer & Levitt 2020; Freeman 2011).

Availability of natural resources has a defining impact on the terrorism financing methodology (Bauer & Levitt 2020; Farah 2004; FATF 2015). Terrorist organisations in resource-rich countries tended to exploit the smuggling of these resources into regional or global underground markets. Douglas Farah (2004) found that the smuggling of 'blood diamonds' in African countries has been a prevalent method of financing for different terrorist groups. According to Thachuk and Lal (2018), oil smuggling has been a primary method of terrorism financing in resource-rich countries, such as Iraq and Syria. Al-Qaeda-affiliated groups perceive foreign control of hydrocarbons as looting of national resources by a coalition of 'corrupt' government officials and 'neo-imperialists' multilateral corporations (Kancherla 2020; Scheuer 2011). Therefore, they try to control and export the hydrocarbons to third parties from the territories under their control (Kancherla 2020). However, the control of oil smuggling schemes turned out to be extremely costly for ISIL as it provoked massive military operations by the host governments and the coalition forces (Dadpay 2020; Ekici 2021; Holland-McCowan & Basra 2019).

There is a large body of literature on the money transfer systems used by the terrorist organisations. The formal banking system continues to be exploited by the terrorist networks with extreme caution: transferring money under reporting thresholds, structuring the deposits, using intermediaries to hide the beneficiary owners, using sympathisers without criminal records, and choosing locations with weak AML/CFT compliance (FATF 2015). However, many security scholars and institutions reported that alternative (informal) remittance providers (mainly *Hawala*) or money service businesses (MSBs) have been the most popular transfer system among the terrorist networks in the Middle East, Europe and Asia (Bunt 2007; Bauer & Levitt 2020; FATF 2015; Schneider & Caruso 2011). Money service businesses functioned as an intermediary between the modern banking systems and the cash-based local economies in the developing countries. The bulk of the MSBs and informal transfer systems has functioned outside the global AML/CFT regulatory frameworks and compliance requirements since they remain unregistered (de Bunt 2008). The prevalent use of the MSBs obfuscated the financial transactions by the transnational organised crime groups and terrorist networks. Al-Qaeda and ISIL skilfully exploited the established informal MSBs for transfer of funds. For instance, the Rawi network of hawaladars in Iraq was frequently used

by the Al-Qaeda and ISIL operatives to stay off the radars of the global and regional financial intelligence units and the sanctions regime (Bauer & Levitt 2020).

Ideology can play an important role in the decision-making process of the terrorist financing (Hansen & Kainz 2007; Napoleoni 2006, 2016). If an organisation aspires for self-autonomous ideology, it will be less likely to be dependent on state sponsors that aim to control the operational activities with conditional aids (Bauer & Levitt 2020). Terrorist groups are more likely to succumb to donor demands when they have ideological admiration for the political systems of the state sponsors. For instance, Shiite groups in Iraq or Lebanon are more likely to accept state sponsorship of the Iranian regime due to ideological affiliations (Frankel 2012). On the flipside, Sunni Al-Qaeda and ISIL networks are less likely to engage in asymmetric economic relations with Iran due to drastic differences in ideological orientation (Hansen & Kainz 2007).

Ideology can also have a defining impact on justification of immoral financing methods, such as drug trafficking, kidnapping for ransom, human trafficking and prostitution. According to mainstream scholars, Islam is strictly against the production, consumption and trafficking of drugs (Ghiabi et al. 2018). 'Islamic' organisations are encouraged to stay out of these profitable, but immoral financing schemes. However, reinterpreted Wahhabi ideology embraced a Machiavellian principle that every method is justifiable in the war against the *near enemies* (local governments) and the *far enemies* (Western governments) (Gerges 2011; Scheuer 2011; Stern 2003). Indeed, Salafi clerics campaign for the complete overthrow of the existing moral order which 'resembles' the norms of pre-Islamic *jahiliyya* societies (Khatab 2006). Mainstream Salafi clerics, such as Sayyid Qutb and Ayman Al Zawahiri, assert that the 'believers' currently live in *darulharp* (warzones) which grants them the justification to employ extraordinary precautions that are prohibited in the *darulislam* (Islamic lands) (Hansen & Kainz 2007). Sayyid Qutb believed in an inevitable clash between the *jahiliyya* and Islam. Qutb called for joining the fight (*jihād*) for the global supremacy of Islam and the termination of the *jahiliyya* (Hansen & Kainz 2007). This justification has been used for plotting suicide bombings in the Middle East and taxing the heroin production in Afghanistan.

Marxist ideology has been embraced by many terrorist organisations in the world, such as the FARC, the LTTE, the PKK and DHKP-C (Alexander & Pluchinsky 1992; Ozgul 2014). Marx and Engels (2009) believed that the existing laws and government systems serve to the interests of the capitalist bourgeoisie class that inhumanely exploits the labour of the proletariat and resources of the developing countries. They argued that a compromise between the bourgeoisie and the proletariat is impossible. Therefore, Marx and Engels called for a revolution that would overthrow the domination of the capitalist class, eliminate private property and bring an end to exploitation of the worker class. The existential nature of this struggle leaves no room for moral or ethical principles. Marxists have been

also encouraged to resort to every possible method to cast a blow to the capitalist system. According to several Turkish scholars, the PKK's Marxist ideology provided justification for generating funds via every possible means, including drug trafficking, in the fight against the Turkish government and the wealthy feudal class in Southeastern Turkey (Akkaya 2020; Cengiz & Roth 2019; Sen 2021).

### **Methodology**

This research project applied a comparative and qualitative methodology to understand the terrorism financing typologies in Turkey. The research has been composed of two stages. At the first stage, we reviewed relevant academic publications, international reports, institutional publications, non-classified official documents, court decisions, threat assessments, incident reports on media and secondary interviews with the experts and former members of the PKK and ISIL organisations. Throughout the desk-review process we reached out to potential experts who have first-hand experience with combating financing of terrorism.

At the second stage, we conducted 26 face-to-face interviews with the identified experts in the Ankara, Istanbul, Gaziantep and Kahramanmaraş provinces between October 2020 and December 2022. Moreover, we carried out 12 online interviews (via Skype, Zoom or Microsoft Teams) with the experts who lived abroad or were not available for physical interviews due to COVID-19 restrictions. The interviewees have been selected from a diverse set of backgrounds: current or former law enforcement officers, prosecutors, judges, government officials, academics, analysts from Financial Intelligence Units (FIU) and experts from international organisations. All interviews have been conducted in a semi-structured format, which allowed for probing into individual and specific experiences. Code names have been given to each interview to prevent the interviewees from being targeted by the terrorist organisations.

### **Research findings on the financing of the PKK and ISIL**

This research indicated that both ISIL and the PKK attempted to diversify the sources of funding through engaging in a large set of criminal and legal enterprises. The PKK has developed sustainable financing schemes as it managed to survive over four decades. The long lifespan allowed the organisation to set up advanced financial settlements in Iran, Turkey, Iraq, Syria and Europe. However, ISIL failed to develop sustainable financing infrastructure due to several reasons. First, the UN Security Council implemented a large number of sanctions on ISIL operatives and affiliated groups. The sanctions limited the influx of financial resources to the network members especially after 2017. Second, air strikes in Iraq and Syria destroyed the oil facilities, arsenals, warehouses and operational compounds of the organisation. The bulk of the ISIL resources was either destroyed or confiscated during the concerted operations of the coalition forces.

Third, loss of territory undermined the taxation capacity of the ISIL leadership. Even though many ISIL members moved into other countries under the guise of ‘political refugees’, the organisation lacks sophisticated financing mechanisms. Lone wolf ISIL attacks at populous places in Turkey were all low-cost. Therefore, this research contradicts the arguments that portray ISIL as the ‘richest’ terrorist organisation (Clarke 2015; Napoleoni 2016).

**Table 1.** Comparison of PKK and ISIL financing typologies

	<b>PKK</b>	<b>ISIL</b>	<b>Difference</b>
<b>Criminal Enterprises</b>	Advanced, Long Term, Well Institutionalized	Less sophisticated, Short Term, Poor Institutionalization	PKK is much advanced in all illicit trade schemes. ISIL involved only short term and suffered from lack of experience
<b>Taxation and Extortion</b>	Advanced, Long Term, Well Institutionalized	Advanced, Short Term, Modereate Institutionalization	PKK imposes taxes on Turkish borders with Iran, Iraq, Southeast Anatolia and Europe. ISIL only managed short term taxation in Iraq and Syria
<b>Legal Enterprises</b>	Advanced, Long Term, Well Institutionalized	Less sophisticated, Short Term, Lack of Institutionalization	PKK concentrated in Southeast Turkey and Europe. ISIL concentrated in Ankara, Gaziantep, Istanbul, Adiyaman and Europe
<b>Non-profit organizations</b>	Advanced, Long Term, Well Institutionalized	Less sophisticated, Short Term, Modereate Institutionalization	PKK exploits ethnic NPOs. ISIL exploits Salafi/Wahhabi charities
<b>Abuse of social welfare programs</b>	Advanced, Long Term, Well Institutionalized	Less sophisticated, Short Term, Modereate Institutionalization	PKK exploits welfare programs (WP) in Southeast Anatolia and Europe. ISIL exploits WP in Southern Turkey and Europe
<b>Misuse of Informal Money Transfer Systems</b>	Advanced, Long Term, Well Institutionalized	Less sophisticated, Short Term, Poor Institutionalization	PKK exploits Kurdish havaladars, ISIL exploits Islamic havaladars. Language and ethnicity matters
<b>Cash couriers</b>	Advanced, Long Term, Well Institutionalized	Less sophisticated, Short Term, Poor Institutionalization	PKK has advanced clandestine cash transportation systems. ISIL mostly used militants to move cash across border

Source: Authors

The qualitative analysis of the open and axial codes revealed that state sponsorship, criminal enterprises, taxation and extortion, legal enterprises, misuse of non-profit organisations and charities, misuse of informal money transfer systems, abuse of social welfare programmes and exploitation of cash couriers have been the primary issues (axial codes) raised by the interviewed experts on terrorist financing typologies in Turkey.

### *Criminal enterprises*

Our research indicated that regardless of ideological orientations, both the PKK and ISIL sought to exploit Turkey’s underground economy and the illicit trade with the neighbouring countries. Particularly, the collapse of the states in Iraq and Syria had tremendous collateral impacts on schemes for financing terrorism that were employed by criminal enterprises. The exponential growth of the black markets in the bordering states increased the flow of unlawful goods into the



Turkish market via the Gaziantep, Sanliurfa, Hatay, Sirnak, Mardin and Hakkari provinces (Interview GA1 2020). According to the interviewee (GA4), numerous entry points along the Turkish borders with Iran, Iraq and Syria enabled infiltration by the criminal nodes of the PKK and ISIL terrorist organisations (Interview GA4 2020). Even though the PKK and ISIL came from completely different ideological backgrounds, their modus operandi in the illicit markets have been quite similar, especially in desperate situations.

#### The PKK as a criminal network

This research revealed that the PKK's Marxist-Leninist ideology played a significant role in the group's involvement in criminal enterprises. The PKK has been ideologically motivated to fight against the coalition of the Turkish State (which they saw as the spearhead of Western imperialism) and the wealthy land-owning Kurdish families that 'oppressed' the 'Kurdish peasants' and the 'worker class'. According to the interviewee (ON3), the organisation perceived the Turkish constitution, criminal and penal laws, and tax legislations as tools of oppression and exploitation (Interview ON3 2021). Therefore, they encouraged smuggling all types of goods to circumvent taxation by the government. Even though the PKK banned the use of drugs among its members and sympathisers, the organisation made large volumes of money from all stages of the illicit drug business (Interview KA2 2021).

The PKK has a long history of engagement with criminal enterprises. Turkish, European and American government sources, international (UNODC, Interpol, FATF) reports and academic studies demonstratively documented the PKK's involvement in criminal activities. According to interviewed Turkish security experts, the PKK played a significant role in the trafficking and smuggling of drugs, humans, oil and weapons. The organisation developed advanced systems to carry out these criminal enterprises.

There is a consensus among the interviewed security experts that the illicit drug trade has been the largest source of revenue for terrorist and organised crime groups. There are various estimates about the volume of PKK financing coming from the illicit drug trade. According to General Engin Saygun, the former deputy chief of Staff of the Turkish Armed Forces, 50 to 60 percent of the annual revenues of the PKK were generated by illicit drug business (Laçiner & Doğru 2016). According to Cengiz Erisir, the former director of the Turkish Monitoring Center for Drugs and Drug addiction (TUBIM), the PKK received 1 to 3 billion US dollars from the illicit drug business annually (Laçiner & Doğru 2016).

The PKK initially developed asymmetric symbiotic relationship with notorious Kurdish drug networks, such as the Baybaşın, Canturk, Konuklu, Ay and Buldan families that were controlling the Turkish and European heroin markets

(Interview ON6 2020; Interview AN30 2021). The relationship was primarily based on the economic exploitation and taxation of the heroin trafficking schemes by PKK operatives (Interview AN30 2021). Later, other substances, such as cannabis, captagon, morphine base, chemical precursors, tobacco product and petroleum products, were added to the repertoire of trafficking. Various interviewees indicated that the PKK has been the strongest organised crime establishment in Turkey, which maintained its criminal activities for decades (Interview ON1 2020). The PKK's involvement in drugs increased qualitatively and quantitatively after the 1980s. The organisation gradually took control over illicit trade in Turkey's southeastern parts that border with Iran and Iraq.

The investigation files of Turkish law enforcement indicated that the PKK has been involved in several stages of the illicit drug trade (Ministry of Interior 2017). According to the Ministry, the first engagement took place in the Beqaa Valley (Lebanon) when they escaped from military crackdown on 12 September 1980. In partnership with the Palestinian networks, PKK leadership cultivated cannabis and used the money to purchase weapons from international traffickers. During the early 1980s, PKK operatives produced around 60 tons of drugs in the Beqaa Valley annually (Interview ON2 2020). Drug money was a lifesaver for the organisation which was suffering a severe financial crisis due to extreme security measures put in place after the military coup of 1980. After the crackdown ended in 1985, the PKK gradually moved to cultivate cannabis in Southeastern Turkey, where it employed large numbers of Kurdish peasants for the industry (Interview D1 2011).

Several tons of cannabis resin, marihuana and cannabis seeds were seized at PKK shelters and safe houses by Turkish security forces. Seizure of the seeds and statements of arrested individuals clearly demonstrated that the PKK actively engaged in spreading cannabis cultivation in Southeastern Turkey (Interview ON4 2021). According to a former police chief in the city of Lice of Diyarbakir Province, many convicted cannabis growers stated that the seeds were originally introduced to the region by PKK operatives (Interview ON4 2021). The organisation delivered seeds during the planting season and reappeared at the harvesting period to collect the taxes. Occasionally PKK operatives controlled the transportation of cannabis to consumption markets in Ankara, Istanbul, Izmir, Adana, Mersin and other large cities in Turkey. Some experts believe that the PKK channelled the money from cannabis business to the construction of apartment complexes in Hakkari, Diyarbakir, Izmir, Istanbul and many other provinces (Interview AN26 2021). A statement by the interviewee (ON4), clearly illustrate the scale of cannabis business in Diyarbakir Province:

There are endless cannabis fields in Northern towns Lice, Hazro and Kulp [of Diyarbakir]. Cannabis is grown in 80 villages where Gendarmerie rarely visits. Only this year the production is estimated to be over 500

tons. The entire production is made under the supervision of the PKK. It is impossible to plant cannabis without paying taxes to the organization. Cannabis fields are burned if they try to do so. Only last year their income from these three towns was estimated to be over 50 million dollars. . . . The money goes to Kandil via jewelers or other large business owners in Amed [Diyarbakir]. Police and Gendarmerie seize only a fraction of what is produced. The rest of the cannabis goes to big cities, like Istanbul, to poison the youth (Interview ON4 2021).

The PKK has been playing a significant role in the production and trafficking of heroin along the Balkan route. Indeed, the organisation sought to eliminate intermediary organisations to widen the profit margin. The heroin trafficking makes several folds profits on its way from Turkey's border with Iran to Western Europe without the intermediaries (Interview ON7 2021). According to the Department of Anti-Smuggling and Organized Crime (KOM) (2005), the PKK organisation runs countless heroin labs on the Turkish-Iranian border. More than 20 heroin labs under PKK-affiliated individuals were dismantled in various provinces of Turkey (mainly Hakkari, Van and Istanbul). The precursors have been procured from Russian, Eastern European and Iranian suppliers. The KOM report in 2005 highlighted that joint operations of the KOM-DEA presented solid evidence of the PKK's precursor supply chain originating in Russia (KOM 2005). Once the heroin is produced in Northwestern Iran or Southeastern Turkey, it is transported to the warehouses in Western Turkey. The PKK either transports the heroin by specially deployed cells or it levies taxes on the transnational crime syndicates that take over the transportation process from Eastern Turkey (Interview D1 2011).

Some interviewees draw attention to the arrests of PKK operatives by the European law enforcement agencies for wholesale heroin trafficking (Interview ON2 2020). For instance, Murat Cernit, the PKK's top operative in Moldova, was arrested with 200 kg of heroin as a result of a joint operation of Turkish, Moldovan and American counter-narcotics units (Interview ON2 2020). The US Department of Treasury placed PKK members Murat Cernit, Zeynettin Geleri and Ömer Boztepe on the OFAC list (US Department of Treasury 2022).

According to senior police officials, PKK operatives and sympathisers played a significant role in the distribution of drugs in metropolitan Turkish cities, such as Istanbul, Ankara, Izmir, Adana and Mersin. For instance, Mustafa Çalışkan (2019), former police commissioner of Istanbul, reported that police units arrested 30 PKK members in 12 cases of poly-drug distribution in Istanbul between 2016 and 2018. Çalışkan emphasised that PKK members were cooperating with the other distribution networks in cafes, restaurants, tea gardens and fast-food chains. The organisation used these locations to connect with potential sympathisers and new recruits.

Human smuggling and trafficking have been a significant source of revenue for transnational crime syndicates and terrorist networks. Turkey has been exposed to large flows of illegal immigrants from Southwest Asia and the Middle East. The research indicated that the PKK has been smuggling individuals across Turkey's eastern, southern and western borders (Interview ON1 2021). The PKK uses extensive clandestine networks to facilitate the transportation of individuals and groups. The PKK imposes taxes on the human smugglers that cross the mountainous terrains along Turkey's borders with Iraq and Iran. The amount of taxation ranges between USD 2,000 and USD 8,000 in accordance with the associated risks, border location and target country (Interview ON3 2021).

However, not all the human-smuggling schemes were profit-oriented. The PKK smuggled out thousands of operatives and sympathisers that were on the watchlist of the Turkish security institutions (Interview AN34 2021). These individuals were gradually moved to refugee camps to start the asylum procedures. In partnership with the HDP representatives, the PKK smuggled Kurdish children to be trained and deployed at terror compounds in Iran, Iraq, Syria and Europe, especially during the 'peace process'. According to the interviewee, the PKK engaged in the forgery of passports and national ID documents to facilitate illegal border crossings (Interview GA4 2020). Over the years, the PKK was able to establish a large number of civil society organisations in Europe that functioned as financing and propaganda tools for the leadership. Once the immigrants arrive in Europe, the PKK registers them in one of the Kurdish Associations to fulfil the official procedures for refugee status. The PKK's financial apparatus provides food and shelter until the Kurdish immigrants are granted refugee status and able to apply for legal jobs.

Since the early 1980s, the PKK has forged a partnership with the smugglers of small arms and light weapons (SALW). The organisation needed a constant supply of rifles, pistols, rocket launches, mines and ammunition. Interviewed experts noted that the PKK was able to procure weapons from a diverse set of organised crime groups. Bulgarian, Czechoslovakian, Yugoslavian and Soviet intelligence establishments sub-contracted criminal networks to supply SALW to the PKK and other Marxist terrorist networks (Interview ON5 2021). However, there is no strong evidence that the PKK was involved in the systematic and prolonged trafficking of SALW to generate funds.

This research found that the smuggling of natural resources has been a key income for the terrorist organisations regardless of their ideology. Turkey is not a resource-rich country, but it is surrounded by major hydrocarbon exporters, such as Iran, Iraq, Syria and Russia. According to the Global Petrol Prices website (2020), the price of gasoline is USD 0.91 in Turkey, USD 0.06 in Iran and USD 0.63 in Iraq as of 31 August 2020. The oil barrel price is USD 10.32 in Iran and USD 100.11 in Iraq and USD 144.37 in Turkey. These figures indicate that there is a 14-

fold profit opportunity for the oil smugglers operating on the Turkish-Iranian markets. Terrorists and transnational criminal networks frequently steal the oil from state pipelines and wells. As one interviewee put it succinctly, there is always a demand for cheap oil in Turkey and this demand is met by a complex set of actors, including terrorist networks (Interview ON3 2021). The field research indicated that the PKK exploits the oil smuggling along Turkey's borders with Iran and Iraq. The PKK levies taxes on the motor and animal-powered transport carrying illicit oil to the Turkish market.

Turkey has a large illicit market of cigarettes due mainly to over-taxation of tobacco products. According to Mehmet Eryilmaz (2013), a former chief inspector at Turkish Customs, illicit supply constitutes 20% of the overall domestic cigarette market. The PKK's criminal establishment smuggles contraband cigarettes into the Turkish and Iraqi markets (Interview AN34 2021). Moreover, illegal taxation units at the mountainous borderlines impose taxes on all cigarette smugglers who seek entrance to profitable Turkish black markets.

#### ISIL as a criminal network

Wahhabi/Salafi groups perceive the regional governments as *tağuts* (oppressive regimes) and the secular laws and international conventions as 'illegitimate' dictates of *jahiliyya* (Interview GA7 2020). Members of these groups are strongly encouraged to involve in *jihad* to bring into force the *Sharia laws*, 'which will end the economic exploitation of the Muslim societies' (Interview GA7 2020). However, until this aim is accomplished, members can employ *takiyya*, which means pretending to be law-abiding citizens in *darulharp* zones. Very similar to the PKK, Salafi groups seek to circumvent secular tax laws and encourage smuggling not only to generate funds but also to avoid financing the 'oppressive regimes'.

This research found that the ISIL is more involved in criminal enterprises in Turkey than its predecessor Al-Qaeda. ISIL operatives have been extensively present and active in trafficking oil, drugs and antiquities. These illicit goods predominantly originate in ISIL controlled areas in Iraq and Syria. Turkey has been a significant market for the illegal merchandises imported from the ISIL territories. Once the illicit goods are sold in Turkey, the proceeds are mostly transported back to Syria via cash couriers (Interview GA18 2020).

Wahhabi groups have been strongly against 'exploitation' of the regional energy sources by multinational corporations. For them, ISIL became the 'legitimate' rulers of the hydrocarbon resources as they took over Iraqi-Syrian territories. They never perceived oil exports as 'smuggling schemes' but the 'rightful trade of the real owners of those lands' (Interview GA4 2020).

ISIL leaders hoped to earn substantial amounts of money from the looted hydrocarbon fields. However, the organisation lacked the legitimacy, economic connections and the experience to export the resources in highly interconnected

global energy markets since the international energy companies suspended their operations in ISIL controlled territories. ISIL responded by re-deploying former petroleum engineers at state companies and even paying higher salaries than the Iraqi and Syrian governments (Interview GA1 2020). The group also captured the refineries and transportation lines to potential markets of the confiscated hydrocarbons. Smuggling, then, appeared to be the only solution to generate funds to finance the brutal campaigns (Interview GA1 2020).

Turkey has been the most profitable regional market for illicit oil with high demand and high prices. Oil sales at the black market continued to grow exponentially due to the extreme taxation policy with regards to energy products (Interview GA18 2020). Interviewed experts are in consensus that the largest portion of ISIL gasoline entered Turkey. ISIL cut down the price of oil to be more competitive at the Turkish underground market. They quickly forged partnerships with intermediaries and transnational criminal networks for distribution of gasoline. However, there are no publicly available criminal prosecution files that document how this trans-border illicit trade was facilitated by a diverse set of actors (Interview GA2 2020). Moreover, there is only superficial information on the identities of Turkish intermediaries involved in the clandestine oil trade.

The resource boom and financial euphoria did not last long for the ISIL leadership. The US surgical air strikes and subsequent military operations nullified their control over Syrian and Iraqi energy resources. These strikes played a significant role in disrupting the supply chain of illicit oil trade between Syria and Turkey (Interview GA20 2020). The potential revenue from the control of energy resources dried up to a great extent for the terror organisation. On the Turkish side of the border, air strikes against the tankers were never considered an option. Turkish law enforcement agencies arrested many oil smugglers but the oil smuggling schemes between ISIL controlled areas and Turkish criminal networks need further assessment (Interview GA20 2020).

Kidnapping for ransom (KFR) was a significant source of revenue for ISIL in Iraq and Syria. The FATF (2015) reported that ISIL operatives requested ransoms ranging from EUR 600,000 to EUR 8 million for each kidnapped individual. The FATF estimated that 5–50% of the annual revenue of the organisation came from this activity. Statements of Turkish experts confirm the FATF reports on ISIL's KFR activities. One expert noted that ISIL formed an 'intelligence apparatus' in the region to determine the targets of kidnapping operations for political and economic reasons (Interview GA14 2020). This apparatus allowed them to identify large sets of vulnerable individuals such as Western journalists, Assyrian Christians, truck drivers and diplomats.

As one interviewee put it succinctly, ISIL used kidnapping to gain bargaining power with the other states (Interview GA14 2020). For instance, ISIL attacked Turkey's Mosul Consulate in June 2014 and kidnapped 49 Turkish diplomats and

consulate staff. The hostages were released after the parties (Turkish Government and ISIL leadership) reached an agreement for exchanging the consulate staff with 180 arrested ISIL operatives. Moreover, ISIL kidnapped a large number of Turkish truck drivers for different purposes. In June 2014, 32 Turkish truck drivers were kidnapped in Mosul by ISIL control units. These drivers were released 23 days after the kidnapping incident occurred. Nevertheless, not all the truck drivers were lucky. Many drivers who failed to pass the 'religious test' were executed. ISIL burned large numbers of Turkish trucks at road checks.

Some security analysts indicated that the looting of antiquities was a major source of revenue for ISIL (Interview GA4 2020). The organisation controlled 2,500 historic sites in Iraq and 4,500 sites in Syria at the peak of its power (Center for Analysis of Terrorism, 2016). ISIL operatives generated significant revenues from antiquities business in several respects. First, the organisation issued permits for excavations at archaeological sites. Second, looters were taxed in accordance with the value of found artifacts. Third, ISIL operatives actively engaged in excavation of the historical artifacts with their own machinery and equipment. Fourth, ISIL smuggled the artifacts to potential markets, including Turkey and Europe.

The artifacts stolen from the museums, storage locations, historical sites and private collectors were then transported across the border. ISIL has sold large numbers of cultural properties to intermediaries in Turkey (Interview GA18 2020). According to the interviewee, at the beginning, ISIL depended on Turkish brokers to market the stolen artifacts, but later the organisation established connections with dealers in Europe, particularly British collectors. This argument has been substantiated by international researchers. For instance, Daniela Deane (2015) reported that ISIL was able to smuggle nearly 100 Syrian artifacts to Britain, which included pieces from the Byzantine and Roman eras. Direct connections to the antiquities market in London dramatically increased the profit range for the terror organisation. Even though artifacts generated a short-term boost to the ISIL budget, it is not a long-term sustainable source of revenue due to the scarcity of goods.

Turkish authorities report increasing involvement of human traffickers of Arabic origin who have facilitated the transborder movements between Turkey and the EU. The role of ISIL in trafficking Yazidi women is well documented in Iraq and Syria, but the Turkish side remains controversial. In 2015, the Northern German Broadcasting (NDR) channel broadcasted a video documenting that ISIL established slave brokers in Gaziantep to facilitate trade of captured Yazidi women. According to the NDR (2015), ISIL brokers used a local office to negotiate with the potential customers and handle large sums of money. Local law enforcement units raided the business centre where the alleged trade took place. In Gaziantep, police seized 370,000 US dollars, many foreign passports and 1768 pages of money transaction documents in Arabic (Ekici 2021). The

Gaziantep Heavy Penalties Court launched an adjudication process with charges of financing terrorism and being an ISIL member. Investigations revealed that the network used the informal money transmittance systems through jewellers and exchange offices. Arrested individuals claimed that they wired the money through informal mechanisms due to the collapse of the formal banking system in Syria. The case was closed due to 'lack of evidence' for the sale of Yazidi sex slaves in Turkey.

Some analysts noted that ISIL facilitates human smuggling or trafficking via the Mediterranean Sea (Interview GA19 2020; Interview AN24 2021). For them, ISIL imposed heavy taxes (50%) on the boats sailing along the Mediterranean route. Media content analysis revealed large numbers of incidents with involvement of Syrians in human trafficking schemes. However, it is not clear whether the Syrian human traffickers act on behalf of ISIL leadership. There is no intelligence or law enforcement threat assessment reports on ISIL's systematic involvement in human trafficking schemes.

International sources shed important light on ISIL engagement with drug trafficking. According to some international researchers, ISIL benefited from the cannabis trafficking from Iraq and Syria to Europe via Turkey (Clarke 2015). Turkish authorities did not confirm trafficking of cannabis by the network members, but they reported arrests of ISIL operatives on grounds of heroin distribution. According to the Ministry of Interior (2017), Turkish counter-narcotics units seized 167 grams of heroin from ISIL members in Konya province in 2017. Similarly, Iraqi authorities reported that ISIL ran heroin laboratories at Musul University and other locations (Lal 2018). According to Iraqi sources, ISIL deployed Afghan individuals who had extensive experience in heroin manufacturing. Turkey has been the primary transit destination of heroin produced in Northern Iran. Rollie Lal claims that 'heroin from Afghanistan and Da'esh controlled regions is often transported through Iran into Turkey' (2018: 54).

Italian authorities discovered a drug trafficking scheme extending from Libya and Egypt to Europe. The scheme was coordinated by a network of ISIL operatives extending from Iraq and Syria to Europe via Libya and Egypt (Paoli & Bellasio 2017). Italian law enforcement also reported seizing over 280 tons of hashish headed for the Balkans region through Libya and Egypt. Experts believe that these maritime vessels were taxed by ISIL operatives (Lal 2018). Spanish police seized around 20 tons of cannabis in a ship which was destined from Turkey to Libya in October 2016. Police investigations revealed that Syrian nationals were linked to Moroccan and Spanish networks. Drugs and weapons were carried in the boats interchangeably (The Middle East Eye 2016).

One interviewee emphasised that ISIL operatives used amphetamine type stimulants (ATS) to relieve pain and gain resistance and courage for fearsome battles with adversaries (Interview KA2 2021). Captagon became the notorious



'jihad pills' and was widely used by ISIL operatives during armed clashes. Turkey is an important production, transit and consumption market for the ATS, mainly captagon tablets. Former counter-narcotics officials reported a significant increase in captagon seizures since the inception of the Syrian conflict (Interview ON2 2020).

ISIL used forged passports and documents extensively to facilitate movement of fighters between Europe, Turkey and the Middle East. Daily Mail reporter Nick Fagge traced the passport forgery process along this line. According to Burford (2017), ISIL fighters were systematically using forged documents to penetrate into Europe. Passport forgery allowed them to wipe off their criminal records and possibilities of arrest along the route. Fagge highlighted that the passports, ID cards and drivers' licenses were originally stolen from government officials on dead people, and ISIL changes the pictures on the original documents. Fagge was able to buy himself a Syrian passport for USD 2,000 in Turkey and had it ready four days after he paid.

ISIL operatives stole large numbers of pickup trucks (mainly Toyota Hilux) and SUVs from a diverse set of countries. Quite interestingly, vehicle theft schemes were even reported by Canadian and Australian authorities. Some of these vehicles were transported to Syria via the territory of Turkey to be used in the *jihad* against the coalition forces (Interview GA2 2020).

### *Taxation and extortion*

Extortion has been a significant source of revenue for both PKK and ISIL entities. The PKK has been extorting Kurdish businessmen throughout Turkey and Europe. Some of these 'businessmen' were Kurdish drug traffickers who gained enormous wealth with their extensive clandestine networks. Similarly, ISIL implemented extensive extortion schemes in Syria and Iraq. According to the FATF (2015), ISIL placed a 50% tax on the salaries of government employees who lived in the territories under their control. ISIL also imposed taxes on the local communities for movement of goods, trade activities, cash withdrawals from banks, vehicles and even for school registration for the students (FATF 2015). However, our interviews indicated that ISIL has not been able to implement comprehensive taxation and extortion schemes in Turkey.

### The PKK's taxation and extortion schemes

Over the years, the PKK has developed an advanced economic intelligence network in the Middle East, Turkey and Europe. The third congress in Lebanon (1986) was a turning point for the financial strategy of the PKK leadership, where they decided to impose taxes on the sympathisers, business owners, traffickers and organised crime groups. As the interviewee reported, the organisation monitored regional licit and illicit economic activities and the salaries of sympathisers

(Interview ON3 2021). The financial apparatus of the PKK levied taxes proportionally to the monthly and annual earnings of the individuals and companies.

This research revealed that the PKK's taxation and extortion policy has been implemented in several ways. First, the PKK has been coexisting with trans-border traffickers in Southeastern Turkey, Northern Iraq and Northwestern Iran. The organisation established de-facto customs check points at Turkey's borders with Iran and Iraq. According to the interviewee, who previously served at the PKK taxation units on the Turkish-Iranian border, traffickers have been taxed in accordance with the type and amount of the substance (Interview D1 2011). Thousands of arrested traffickers gave statements regarding this illegal taxation. Taxation receipts with PKK (or the People's Defence Forces, HPG) stamps were found during body and vehicle searches. According to the available evidence from law enforcement investigations, the PKK imposes a 10% tax on the drug traffickers and cigarette smugglers along Turkish-Iranian borders (Interview ON3 2021). Human traffickers have also been systematically taxed at illegal border crossings. Illegal immigrants who don't have the money to pay the PKK border units are reportedly beaten and female immigrants are raped (Interview ON3 2021).

Second, the PKK's intelligence units monitor the incomes and properties of Kurdish businessmen profiting from licit and illicit trade. For instance, in the Hakkari, Diyarbakir, Van, Şırnak and Mardin provinces, the PKK imposed annual 'patriotic taxes' on heroin kingpins (Interview AN26 2021). Content analysis of the statements of arrested drug lords indicated that the annual taxation eventually went up to several million dollars (see Pek & Ekici 2007). Many of these kingpins moved to Istanbul to avoid PKK pressure and develop better connections with the wholesale heroin markets in Europe.

**Table 2.** PKK taxation on different materials

Unit	Location	Amount
Heroin (by vehicles and horses)	Turkey's borders with Iran, Iraq	10%
Tobacco (Per horse)	Turkey's borders with Iran, Iraq	\$3
Illegal immigrants (per person)	Turkey's borders with Iran, Iraq	\$800-1000
Illegal immigrants (per person)	Turkish-European Border	\$8,000-10,000

Source: Interviews with security experts

The PKK's taxation policy has been extended over the legal businesses in South-eastern Turkey. During the 'Peace Process', KCK and HDP members visited local shop owners and requested taxes on behalf of the PKK (Interview GA4 2020). Non-compliant businessmen were kidnapped and tortured based on the trials at

de-facto PKK courts in rural parts of Southeastern Turkey (Interview AN7 2020). The taxation has not been limited to the shop owners but it extended over the entire Kurdish-populated cities and Kurdish neighbourhoods in metropolitan cities. One interviewee described the taxation as following:

When I was there [in Southeastern Turkey], we learned that PKK militants were supplying daily needs from nearby villages and towns. Every farmer and business owner were forced to contribute in accordance with the type of their activities and size of their incomes. For instance, restaurant owners were forced to provide food for special activities, militants, and the families of deceased PKK members. Owners of gas stations refilled the tanks to be used at rural PKK camps. Grocery shops were asked to provide vegetables and fruits. Bakery shops supplied their breads. So, all their daily needs were met for free by the local people. Even the shop owners who seemed very close to the state provided what the PKK asked for (Interview ON3 2021).

There is abundant investigative evidence on the PKK's collection of revolutionary taxes from the wealthy Kurdish businessmen. This taxation takes place in Turkey, Iran, Iraq, Syria and Europe. A former member of the PKK noted that the PKK's intelligence units collected economic indicators on the potential incomes of businessmen within their neighbourhood. According to the interviewee, an amount of tax is determined for each businessperson at the PKK's local board meetings (Interview D1 2011). Then the PKK sends a representative with a 'sealed letter' from the armed wing of the organisation (HPG). The letter demonstrates the requested amount, period and method of payment. Failure to pay the requested amount usually leads to kidnapping and trial at illegal self-proclaimed PKK courts. Once the businessman is kidnapped, the PKK contacts the family of the person and requests a particular amount of payment to be wired in the desired way (Interview ON1 2020). Kurdish people know that the PKK escalates the punishment measures until the payment is received. In many cases, the PKK burned the construction machines of the contractors who failed to pay the ransom. Only in rare occasions were the businessmen able to stand firm, but punishment often escalated to the point of murdering the target. For instance, the PKK killed the owners of the CKP Construction Company for failing to pay the requested amount of ransom (Ozdemir & Pekgozlu 2012). The murder took place in Istanbul far away from the construction site. The businessmen usually try to avoid any conflict with PKK operatives as they are highly aware and afraid of the PKK punishment methods. Kidnapped businessmen are released once the PKK receives the requested payment.

The PKK often used other affiliated networks, such as the HPG and the HDP, for taxation and extortion. The Peoples' Democratic Party (HDP) is a 'legal' political party which campaigns for the rights and interests of Kurdish minorities in Turkey. As of January 2023, the party has 56 seats at the Turkish Grand Assembly. However,

many senior government officials, judges, prosecutors and security experts believe that the party has been highly infiltrated by PKK operatives. According to the Attorney General's office of the Supreme Court (2021), the PKK sought to create an 'alternative governance system' in Southeastern Turkey using HDP-governed municipalities as proxies. According to the prosecution office, the organisation generated significant funds from these municipalities in several ways. First, the PKK imposed a 10% tax on the salaries of the workers on a monthly basis. The money was collected in cash and no traces of the transactions were left behind. Second, the PKK imposed taxes on the companies that were awarded municipal tenders. Companies were forced to pay a significant tribute to the PKK after each contract. Moreover, the PKK coerced the mayors to render the contracts to affiliated companies. Third, the PKK used the machinery and vehicles of the municipalities for its social programmes. At the funerals of PKK militants, municipal vehicles were used for transportation. Mayors organised parades for PKK militants with municipal budgets. As a tribute, relatives of the killed terrorists were employed at the municipalities.

The PKK's taxation and extortion of the businessmen extended to Europe. Lieutenant Colonel Abdulkadir Onay noted that

two PKK members were arrested in France in 2006 for money laundering aimed at financing of terrorism. At the end of 2005, three members of the PKK were arrested in Belgium and another one in Germany suspected of financing the PKK. In Belgium, the authorities seized receipt booklets indicating that the arrested suspects were collecting 'tax' from their fellow countrymen (Onay 2008: 1).

Philip Wittrock (2008) reported that the PKK collects millions of euros from the sympathisers and donors to finance their fight for the 'freedom' of the Kurdish ethnic groups. Based on the information from German domestic intelligence agencies, Wittrock asserted that

the organisation usually demands that its supporters donate one month's wages per year, and those unwilling to cough up are expressly reminded that they must pay this 'tax'. It is uncertain where exactly this money then goes. The lion's share is assumed to be funneled towards the movement's European institutions and its extensive propaganda apparatus (Wittrock 2008).

#### ISIL's taxation and extortion schemes

Once ISIL started to control significant portions of land in Iraq and Syria, the organisation immediately imposed taxes as if it was a legitimate state. There is abundant evidence on ISIL 'road taxation' in Syria and Iraq. According to the FATF (2015), the taxation was a cover-up name for comprehensive protection rackets. Brisard and Martinez estimated that ISIL earned around USD 360 million annually

through taxation and extortion from the areas it controlled. According to Loretta Napoleoni (2016), ISIL taxation of human flow across the Turkish border reached an estimate of a half a million dollars in summer 2015.

The ISIL taxation policy in Iraq and Syria was implemented in several ways. First, the organisation set up checkpoints around the borders. Drivers had to go through these checkpoints and pay varying amounts of taxes, which ranged from USD 200 to USD 1,000 (Eroglu 2018). Second, ISIL imposed business taxes on all shops that sell a wide range of goods from electronics to pharmacy and farming products. The shops were also forced to pay *zakat* taxes to the ISIL operatives. Third, ISIL imposed utilities tax on water, electricity and communications. Fourth, ISIL imposed protection tax *jizyah* on ethnic minorities, such as Christians and Yazidis (Ahram 2015).

However, this field research revealed that ISIL members were not able to impose a similar taxation and extortion policy in Turkey as the organisation does not control any territory (Interview AN10 2020). Currently ISIL members try to keep a low profile and avoid committing any offences that may draw the attention of Turkish law enforcement and intelligence organisations (Interview AN14 2020). This compels the organisation to lone wolf low-budget attacks to largely populated areas in metropolitan cities.

### *Legal enterprises*

Interviewed experts noted that both the PKK and ISIL have been involved in large sets of legal enterprises, such as car dealerships, bookstores, real estate, restaurants and furniture trade in Turkey and Europe. Several interviewees asserted that the PKK has been running numerous front companies in Europe and Southeast Turkey to facilitate trade-based financing of terrorism (Interview ON7 2021). ISIL-affiliated Salafi groups, on the other hand, have been running bookstores, teahouses and clothing stores in the Ankara, Konya, Istanbul, Adiyaman and Gaziantep provinces (Interview AN10 2020). The interviews showed that large numbers of businesses, including jewellers, exchange offices, furniture shops, supermarkets, electronic stores and restaurants located in Southeastern Anatolia, have been owned by PKK sympathisers. These businesses have sophisticated trade relationships not only with Turkish metropolitan cities, such as Istanbul, Ankara, Mersin, Adana and Izmir, but also with neighbouring countries that have large Kurdish populations. Beyond paying taxes to the PKK, these businesses have been facilitating the movement of people, money and goods between Turkey, Iran, Iraq and Syria (Interview D1 2011). As another interviewee (ON1) noted, legal enterprises in Kurdish dominated cities were controlled by PKK operatives during the 'Peace Process':

The peace process allowed the PKK to exert more influence on the shop owners. . . . We learned that the PKK operatives were visiting the houses of shop owners during the nights. Throughout the Kobani protests we saw

that all shops were closed in the city by the order of the PKK. Whenever there were funerals of PKK militants, shops were also ordered to close. They [shop owners] are fully aware of the consequences of disobedience and act in accordance with the balances of fear logic. It is not easy to live there. Everyone knows that the state can put them in prison for a few years, but the PKK not only can kill them but also can terminate their entire families with torture (Interview ON1 2020).

The booming construction industry in Turkey has often been associated with money laundering and corruption. Some interviewed experts noted that in Southeastern provinces, mainly Diyarbakır, Van, and Hakkari, PKK sympathisers and members involved in illicit trade schemes (mainly drug production and trafficking) were heavily investing in the construction business. According to one interviewee, the bulk of the contractors was paying project-based tributes to PKK operatives. In this context, construction projects created not only a stream of revenue for PKK operations but also established a large number of potential safe heavens (Interview ON4 2021).

Europe-based businesses have been a core pillar of the PKK's financing campaigns since the 1980s. In Germany, Netherlands, France, UK and Spain, PKK operatives and sympathisers run various legal enterprises, such as restaurants, grocery shops and supermarkets. One interviewee noted that the PKK established the Kurdish Businessmen Association (KARSAZ) to monitor and control the financial activities of the affiliated companies in Europe. According to the interviewee, the KARSAZ has also been a platform for laundering the proceeds of predicate offences, mainly drug trafficking (Interview ON8 2021). The PKK imposes 'patriotic taxes' on the salaries of the employees in Kurdish companies in Europe. The collected funds have been primarily sent to the PKK camps in Iraq, Iran and Syria via cash couriers and money service businesses.

Salafi groups run large numbers of bookstores, tea shops, supermarkets, groceries, restaurants and clothing stores in the Ankara, Istanbul, Konya, Gaziantep and Adiyaman provinces (Interview AN16 2020). ISIL was especially well-organised at religious bookstores and teahouses around the Gaziantep province and the Hacibayram district in Ankara, where the research team conducted a series of interviews. These stores were used for indoctrination, radicalisation and collection of financing for jihadist movements. Even though none of these businesses has a substantially high turnover, a donation campaign can provide sufficient resources to carry out a terror attack.

Syrian refugees have opened numerous businesses in Turkey after 2011 and, thus, have become a significant actor in the Turkish economy. According to Euronews, Syrians opened 6,589 companies which employ around 100,000 individuals in Turkey (Yagci 2018). The total turnover of the Syrian companies reached 179 million Turkish liras. Syrian business owners voiced their unwillingness to

return to Syria and expressed a desire to become Turkish citizens due to the more favourable economic environment in the country. Several counter-terrorism investigations in Gaziantep revealed that Syrian businesses were sheltering ISIL militants as employees (Interview GA2 2020). However, there is a strong need for a comprehensive threat assessment study on potential risks of financing of terrorism posed by the Syrian-owned businesses in Turkey.

### *Non-profit organisations and charities*

The PKK ideologues presented the movement as a ‘Kurdish Enlightenment’ based on Marxist doctrine and a revolt against the Turkish and Islamic domination in Southeastern Turkey. According to the interviewee, the ideological orientation of the PKK is incompatible with the practice of religious charities (Interview ON8 2021). The bulk of PKK operatives came from grassroots Kurdish families who have been living in impoverished conditions. They detested the rich Kurdish landowners who had developed feudal relations with the Turkish state since the era of the Ottoman Empire. In this context, charities have not been a common financing practice for the PKK. Instead, the organisation tried to appeal to the ethnic sentiments while collecting donations from the Kurdish communities via NPOs.

The PKK has managed to establish many civil society organisations in the European Union to coordinate political and economic activities. Bayraklı et al. (2019) found that there are 563 PKK-affiliated civil society organisations in Europe. These NPOs function as a public diplomacy tool for the PKK to organise events, make publications, deliver media broadcasts, concerts and protests. Non-profit organisations also raise funds from PKK sympathisers, affiliated businesses and foreign donors. The funding from the European civil society organisations functioned as a lifesaver for the PKK especially throughout the troubled years in the immediate aftermath of the Cold War (Interview ON8 2021). These NPOs have been hierarchically and financially connected to the PKK’s European leadership. The PKK seeks to monopolise the civil-society arena by eliminating other Kurdish NPOs (Interview ON8 2021).

Jihadist networks, mainly Salafis, have been adept at exploiting Islamic charities in Turkey since the 1990s. According to a report released by the Istanbul Police Department (IPD), the number of Salafis increased to 20,000 in Turkey (Saymaz 2021). The IPD report noted that Salafi groups are concentrated in the Konya, Ankara, Adana, Istanbul and Gaziantep provinces. The Salafi groups are organised around civil society organisations (*dernekler*) to gain legal status. According to a recent estimate by the Islamic scholar Ahmet Mahmut Ünlü, there are around 2,000 Salafi NPOs in Turkey and members of these organisations are armed with pump-action shotguns (Erdem 2022). Based on extensive interviews, we have found that ISIL financing schemes have been organised by civil society organisations in Ankara, Istanbul, Konya, Gaziantep and Adıyaman. These or-

ganisations collected charities for the wars in Iraq and Syria. There is abundant evidence that they collected donations from radicalised communities in Turkey. More importantly, these NPOs provided logistics and facilitated transfer of new recruits (both Turks and internationals) to the ISIL camps in neighbouring countries (Interview AN10 2020).

Both ISIL and the PKK have been skilfully exploiting crowdfunding via social media and encrypted communication platforms to generate revenue from a larger number of potential online sponsors and sympathisers. According to the interviewee, PKK operatives in Europe have been collecting donations via social media campaigns (Interview ON8 2021). Even though the UN sanctions regime placed key ISIL members under strict control, large numbers of other jihadists in Europe and the Middle East continued their crowdfunding activities. ISIL members and sympathisers communicated via secret chat rooms in the application Telegram to collect money. These funds were transferred to potential jihadists via different remittance systems. Western Union was frequently used to transfer money to the Turkish border provinces.

#### *Abuse of social welfare programmes*

Many government officials in Turkey believe that humanitarian assistance programmes have been exploited by ISIL members to finance their networks. According to the Ministry of Interior, there are 143 humanitarian associations operating in the near proximity to the Turkish-Syrian border (Hacaloğlu 2017). Turkish Minister of Interior Suleyman Soylu claimed that the international aid organisations function as 'agents' of foreign intelligence agencies that finance anti-state groups and deploy individuals who target the national security of Turkey (Hacaloğlu 2017).

Many ISIL members have immigrated to Europe, where social welfare programmes are comparatively better. Families with children receive enough money to live without economic desperation. Some analysts claim that ISIL operatives use social welfare programmes for terrorist financing (Nomark & Ranstorp 2015a). There is evidence that European social welfare funds were transferred to Syria via Turkey to be used in terrorist activities. Belgian authorities investigated 29 sympathisers under social welfare programmes and found that they were not living at the registered addresses (Ranstorp 2016). According to Ranstorp (2016), these fighters accessed their accounts to withdraw cash around the Turkish border with Syria.

Even though the EU enlisted the PKK as a terrorist group in 2002, its focus has gradually deescalated in recent years. Some experts highlighted that the PKK exploits the EU humanitarian assistance programmes for civil society organisations (Interview ON8 2021). According to a former risk manager at a European humanitarian organisation, the support to Kurdish civil society



organisations increased after the eruption of ISIL terrorism in the Middle East. The interviewee (GA1) asserted that resources of the European aid programmes can be easily funneled from the Kurdish NPOs to the terror organisation itself (Interview GA1 2020).

### *Misuse of informal money transfer systems*

There is evidence that both the PKK and ISIL used formal banking systems for limited numbers of activities. For instance, HDP officials transferred money to the families of arrested PKK militants via formal banking systems (Supreme Court 2021). These types of money transfers are conducted upon orders from PKK regional leaderships. Investigators observed that both organisations were extremely careful to stay below the reporting thresholds for financial transactions. Some interviewees noted that ISIL operatives in Europe wired money to Turkish banks close to the territory of Syria. The interviewee put it succinctly: Gaziantep has emerged as a significant financial centre that hosts the bank accounts of refugees, international donors and ISIL operatives who move back and forth between Turkey and ISIL territories (Interview GA2 2020). Once the jihadists arrive in border towns, they withdraw the money and cross the borders to join the ISIL camps.

However, according to most interviewees, the PKK and ISIL preferred to move money via informal banking and alternative transfer systems. In addition, Western Union was quite frequently used by the ISIL members who moved to the Syrian battlefields via Turkish territory. Both the PKK and ISIL have been using a large web of regional *hawaladars* for transfer of funds. Lack of effective oversight over *hawala* networks and weak AML/CFT practices in the Middle Eastern countries encourage both organisations to keep using the system. Until the end of 2022, none of the *hawaladars* in Turkey have been convicted on the grounds of financing terrorism.

Experts believe that the defeated ISIL operatives moved the cash from the lost territories to Turkey in three ways. First, they exploited large numbers of MSBs operating between Syria and Turkey. Second, they used cash couriers. Third, many ISIL members moved to Turkey under the guise of refugees and brought the money with themselves being aware of the lack of cash reporting requirements at the Turkish border gates.

Several interviewees noted that both ISIL and the PKK have profound financial connections with the United Arab Emirates (UAE), where there are large numbers of *hawaladars* (Interview GA1 2020, Interview AN24, 2021). State sponsors and wealthy individuals transfer money to these networks via money service businesses mainly located in Dubai and Abu Dhabi. Experts also noted that the UAE functioned as a meeting point for the financial apparatus of the organisations with their foreign sponsors.

### *Cash couriers*

This research indicated that cash couriers have been used frequently both by the PKK and ISIL along Turkey's borders with Iraq and Syria. The organisations chose the couriers among the low-profile and low-risk sympathisers. Lack of cash reporting requirements and currency detection x-rays make it extremely easy to move funds along the border with the couriers. The interviewee asserted that Turkey's friendly visa regime has been exploited by many couriers that transported the cash on behalf of the PKK and ISIL networks (Interview ON1 2020). The couriers have been selected among a diverse set of individuals including elderly people, pregnant females and children.

ISIL-related charities have been using cash couriers to transfer large sums of money from European NPOs to Syrian battlefields via Turkey. For instance, German and Belgian authorities found that three cash couriers affiliated with banned Islamic organisations in Germany were systematically transporting funds from Europe to Syria (FATF 2015). Many ISIL members transported large amounts of cash with themselves while they were travelling to Syria via Turkey. For instance, an ISIL member in Frankfurt Germany donated EUR 9,500 to the organisation when he travelled to Syria in 2012 to join the battle but he returned to Germany as he was wounded (FATF 2015). In another case, three cash couriers were arrested at the custom's check point at a French airport as each of them were carrying EUR 9,900 to be delivered to FTFs (FATF 2015).

PKK operatives have been exploiting Turkey's traditional trade relationships with Iran, Iraq and Syria. There is a constant flow of goods and cash among the Kurdish companies that are registered close to the border. Many Kurds in border provinces travel to neighbouring countries with their vehicles to import and export legitimate goods. According to the interviewee, these vehicles and individuals have been occasionally misused to transfer money among PKK operatives in Turkey and the neighbouring countries (Interview ON3 2021).

### **Conclusion**

This study indicated that the PKK developed the most sophisticated financing mechanisms among all terrorist organisations operating in Turkey. Indeed, the organisation created an advanced financial branch to supervise legal and criminal enterprises in the Middle East and Europe. Widespread PKK cadres in Iran, Iraq, Syria, Turkey and Europe have been proactively engaged in the financing and resourcing process. The PKK's enhanced power projection in rural parts of Southeastern Turkey during the peace process facilitated collection of funds, food and equipment. On the other hand, ISIL failed to complete its financial institutionalisation process despite short-term appointment of designated officials. Loss of territorial control and concerted military and law enforcement operations stalled the composition of a fully-fledged financial branch.

The organisations that diversified the sources of finance (i.e. the PKK) have been able to survive in shifting geopolitical circumstances, while the networks depending on a sole financing mechanism (i.e. DHKP/C and TKP-ML) failed to persist against the government AML/CFT responses. Financial failure was a significant factor for the gradual decline of the TKP-ML, the DHKP/C, the TIKKO and the Hezbollah terrorist organisations in Turkey. Both ISIL and the PKK attempted to diversify the sources of funding to alleviate dependence on state sponsors. The PKK has been extremely successful in the diversification efforts as they managed to survive over four decades. The long lifespan allowed the organisation to set up advanced financial settlements in Iran, Turkey, Iraq, Syria and Europe. However, ISIL failed to diversify the economic resources due to its short lifespan and concentrated international AML/CFT measures against it.

Illicit trade schemes have been the largest source of revenue both for the transnational crime syndicates and terrorist networks in Turkey. ISIL and the PKK got extensively involved in illicit trade activities along Turkey's borders with Iran, Iraq and Syria. Indeed, the PKK and ISIL were able to merge licit and illicit enterprises skilfully as they mutated into transnational trafficking enterprises in highly profitable conflict zones. Regardless of the ideology, both the PKK and ISIL turned out to be poly-criminal networks that often intersected with transnational crime organisations. This research indicated that the PKK has benefited profoundly from the regional illicit trade schemes, such as smuggling drugs, humans, oil and cigarettes. ISIL benefited from trafficking oil and antiquities for a limited period. Their methods were very much like those of the profit-oriented organised crime networks. ISIL and the PKK created sub-structures and cell-type economic intelligence units to exploit transborder illicit trade opportunities. Lower echelons of the organisations were mostly unaware of the criminal enterprises and were isolated from the massive influx of criminal cash. Both terrorist groups were able to eliminate the rival groups within the criminal realm. However, ISIL operatives failed to develop sustainable international connections to run sophisticated trafficking schemes during their short lifespan.

Territorial control or psychological superiority bolster terrorist financing from taxation, extortion and criminal enterprises. The terror hubs not only function as incubators for radicalisation but also as economies where terrorist groups impose taxes and control the flow of legal and illegal goods. Terrorist organisations navigate conflict environments while easily exploiting all forms of revenue streams. In the controlled territories, the PKK and ISIL engineered the conditions to maximise profits in illicit markets. Both organisations gradually eliminated rivals and intermediaries to make the highest profits from trade schemes. Despite their divergence in ideological orientation, the PKK and ISIL employed similar modus operandi in the controlled territories.

Turkish and American experiences indicate that military victory is a core element of success against financing of the PKK and ISIL. Once these terrorist organisations were militarily defeated and removed from the sanctuaries, it became less likely for them to generate funds from legal and illegal sources. Moreover, foreign contractors became increasingly reluctant to finance the defeated organisations. Sympathisers withheld donations as the coalition forces assumed both territorial and psychological control.

The costs of sensational terrorist attacks were astonishingly low in Turkey, regardless of the ideological orientation of the terror syndicates. Hezbollah, DHKP/C, TIKKO, TKP-ML, the PKK and ISIL conducted bewildering attacks with budgets under USD 1,000. Even though the international AML/CFT regime was effective in stemming large-scale Al-Qaeda-type terrorism financing schemes, both the PKK and ISIL were able to conduct sensational attacks with limited budgets. The vulnerability to self-financed small cells and lone wolf radicals remains significant. Unlike its predecessor Al-Qaeda, ISIL cells in the Istanbul, Ankara, Gaziantep, Konya and Adiyaman provinces developed partially localised self-financing capabilities. Many statements of the ISIL members clearly indicated that local cells generated funds to cover travel, accommodation and equipment expenses of jihadists attending the war in Syria.

Use of alternative banking systems is very prevalent among the terror networks coming from different ideological backgrounds. Exchange offices and jewellers are the most prominent non-bank financial institutions used by the criminal and terrorist networks. Informal transactions, unregistered money flows and the clandestine nature of the business make it highly difficult to present incriminating evidence at the courts for the investigators and financial intelligence units. Law enforcement agencies must carry out extensive physical and electronic surveillance on money transmitting centres to find evidence of illicit financial transactions. The surveillance may not lead to identification of the actors as traffickers often use nicknames and use local dialects.

This research indicated that both the PKK and ISIL have been highly intelligent to circumvent the national AML/CFT measures. Regardless of their ideology, both organisations implemented similar counter financial intelligence measures. First, they predominantly use alternative remittance systems. Second, they skilfully hid the beneficiary owners and by using 'unsuspicious' individuals that do not have criminal records or overt affiliation with the kingpins. Third, they developed an effective cash courier system along Turkey's borders with Iraq and Syria. The amount of confiscated money from both organisations have been dramatically low in comparison with their annual incomes.

This research indicated that countering terrorism resourcing has been equally important to cut down the operational capabilities of the PKK and ISIL organisations. Experts noted that airlifted or containerised delivery of large sums of

weapons, ammunitions and military equipment are the real force multipliers for these terrorist organisations. However, it is extremely hard to find concrete evidence of resourcing schemes as it is mostly carried out by professional intelligence organisations.



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# Half-Hearted or Pragmatic? Explaining EU Strategic Autonomy and the European Defence Fund through Institutional Dynamics

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## **Abstract**

*In 2016, the EU Global Strategy introduced the ambition of strategic autonomy, referring to the ability to protect the Union against external threats autonomously. To realise this ambition, the EU also launched various capability development initiatives, in particular, the European Defence Fund (EDF). Much of the available literature presents rationalist explanations of the EU's development of strategic autonomy and the EDF. These studies attribute strategic autonomy ambition to external conditions and consider it as an act of strategic hedging or bandwagoning. However, the subsequent limited progress in actual capability development casts doubt on these explanations. By drawing on historical institutionalism, this study examines the EU's current approach to strategic autonomy to see whether internal factors would offer an alternative explanation to the disjunction between the ambitions and actions. For this aim, the study scrutinises the evolution of the EDF as an instrument and the role of the Commission as an agent of change. Based on primary and secondary data, the analysis shows that even though external crises have created critical junctures that compel the EU to reorient its goals, the endogenous elements of institutional change have significantly influenced the EU's choice of means and redistribution of resources.*

*The findings reveal that the Commission's ability to reinterpret the original rules and exploit gaps and ambiguities in their local enactment in a path-dependent manner has considerably affected the outcome of this change.*

**Keywords:** *European Union, strategic autonomy, CFSP, CSDP, European Defence Fund, historical institutionalism*

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## **Introduction**

Over the past decade, Europe's security environment has changed drastically. The security of the southern members has been significantly affected by the disruptive consequences of the Arab Spring. Russia's war of aggression against Ukraine seriously confronted the security of the northeastern border. The war put traditional security concerns back onto the agenda of the EU and the North Atlantic Treaty Organization (NATO) whereas the transatlantic alliance has already been strained by the explicit calls for a more equitable burden-sharing. These developments have created a new security environment in which the EU has to 'learn to speak the language of power' (Borrell 2020).

In June 2016, in the midst of this existential crisis, Federica Mogherini, then-high representative of the European Union for Foreign Affairs and Security Policy/vice-president of the European Commission (HR/VP), presented the Global Strategy on Foreign and Security Policy (EUGS). The EUGS introduced the ambition of strategic autonomy referring to the ability to autonomously deter, respond to and protect the Union against external threats, which requires the EU to enhance its defence and security capabilities (European Union External Action 2016). As the definition itself was primarily about external threats, the initial deduction was that it was a response to the aforementioned crises. Likewise, much of the available literature presented rationalist explanations attributing this renewed activism to external actors and conditions, considering this ambition as either an act of strategic hedging (Fiott 2018; Ringsmose & Webber 2020; Didier 2021) or bandwagoning (Cladi 2022).

The subsequent developments in the security and defence realm, or the lack thereof, however, have cast doubt on the initial explanations. Strategic autonomy requires capability and 'strategy without capabilities is nothing but a hallucination' (Coelmont 2016: 11). The EU has notable capability shortfalls in the land, naval and air domains even though all current capabilities of the member states are included (Barrie et al. 2018). Yet, the recent mechanisms developed to boost the EU's operational capability – namely the Revised Capability Development Plan (CDP), the Coordinated Annual Review on Defence (CARD), and the Permanent

Structure Cooperation (PESCO) – do not promise the fulfilment of this strategic ambition (Giegerich 2016; Duke 2019; Cladi 2022). This ‘halfhearted approach’ to strategic autonomy is seen as the biggest weakness of the EUGS (Techau 2016). In the absence of a common assessment of its security environment and tangible means to achieve its declared strategy, the EU is even regarded as ‘astrategic’ (Cottey 2020).

Strategic autonomy is not a novel idea in the European context. Such aspirations have occasionally been raised since the UK and France officially declared this ambition in the 1947 Dunkirk Treaty. Considering that it has never been fully accomplished and the member states’ divergences in strategic interests and cultures obstruct coordinated action, why is the EU putting this ambition at the forefront again? Strategic autonomy is a multi-dimensional concept with political, military and economic/industrial implications. In the EU context, the third dimension seems more promising thanks to the remarkable hyperactivity in the defence industry realm. In narrow terms, (defence) industrial autonomy means having the capacity to access and/or build the defence technologies to conduct military operations (Kempin & Kunz 2017). For political and economic reasons, industrial autonomy is often seen as ‘a desire instead of a reality’ (Round, Giegerich & Mölling 2018: 4). Autarkic concerns regarding the acquisition of military equipment from third countries make the defence industry a delicate policy area as strategic interdependencies between international actors generate vulnerabilities. Dependences on major powers, specifically on the critical infrastructure as the ‘chokepoints’, hamper strategic autonomy efforts of the Union (Poutala, Sinkkonen & Mattlin 2022). Economic stakes are also high as public investment in the defence sector not only legitimises military expenditures but also forms the backbone of industrialisation and sustainable economic development through the creation of jobs and technological advances (Barrinha 2010).

In light of the aforementioned challenges, the EU’s recent defence industrial initiative, the European Defence Fund (EDF), is seen as a game-changer (Fiott 2017; Haroche 2018; Ianakiev 2019). It is even regarded as a revelation of a ‘paradigm shift’ within the EU, demonstrating the increasing supranational activism in security and defence matters (Csernatonì 2021). The novelty of EDF as a Commission-led initiative arouses an interest to seek alternative explanations for the EU’s handling of the strategic autonomy ambition. Other than its external environment, what kind of change would explain the prominence of this initiative? So far, few studies have explored the contribution of endogenous factors to this change and even fewer studies focused on the role of specific initiatives and agencies. Among them, sociological explanations focus on the construction of certain imaginaries. Martins and Mawdsley state that the EDF is the outcome of a ‘sociotechnical vision or imaginary of the future’ based on the fears of technology gaps and dependencies (Martins & Mawdsley 2021: 1459). Their study, however, does not

give agency to any specific supranational body; rather it focuses on the narratives as a collective creation of various sub-units within the EU. Another study pays attention to the power dynamics within the EU and focuses on the Commission as a key stakeholder. However, this study treats strategic autonomy as a general concept which floats in the EU policy-making processes as a 'purposeful device' to give meaning to the creation of hegemonic imaginaries in the governance of certain policy areas (Csernatonì 2022: 399). Neofunctionalist studies, on the other hand, mainly suggest that the bureaucratic involvement of the Commission in defence research and spending as manifested by its political entrepreneurship in the establishment and execution of the EDF confirms a functional spillover (Haroche 2019; Håkansson 2021). These studies, however, fail to respond to the general caveat of neo-functional accounts that the expectation of spillover, a core assumption of neo-functionalism, is seriously challenged by the lack of political integration (Bulmer 2009).

Once a senior European External Action Service (EEAS) official stated that the EU has been dealing with external crises with the same method of bureaucratisation for fifty years (Interview 1 2019). The statement is predictably based on the years-long observation that the EU's rationale behind policy-making is partly experience-driven. Considering the institutional nature of the EU, adding a historical approach to the topic in question seems promising. European integration is a long-term and ongoing process. Any attempt to explain it from a single point in time can only give a 'snapshot' and may crucially distort reality (Pierson 2000: 263). Likewise, CSDP is an evolving policy area and any attempt that does not touch upon its historical background resembles 'shooting at a moving target' (Bickerton, Irondelle & Menon 2011: 3). Hence, an approach of historical institutionalism (HI) would 'expose the reality behind functionalist or other teleological stories' (Fioretos, Falleti & Sheingate 2016: 61).

Against this backdrop, this study aims to present a complementary explanation of the EU's current approach to the notion of strategic autonomy by adding a historical perspective. Based on the observation that the current state of relevant initiatives cannot be explained as the mere outcome of external change, the paper specifically aims to unravel whether and how the endogenous elements of change contribute to the fulfilment of the strategic autonomy ambition. In pursuit of this aim, the remaining of the paper proceeds as follows. The following section provides an overview of HI as the theoretical perspective and informs the reader of the utilisation of data in line with the indicators given in the theoretical framework. The third section elaborates on the developments that have led to the establishment of the EDF with a specific focus on the role of the Commission as an agent. The study shows that even though external crises have created critical junctures that compel the EU to reorient its goals, the endogenous elements of institutional change have significantly influenced its choice of means and redis-

tribution of resources. The findings reveal that the ability of the Commission to reinterpret the original rules and to exploit gaps and ambiguities in their local enactment in a path-dependent manner has considerably affected the outcome of this change. It is hoped that this research not only complements earlier studies on the EU's strategic autonomy but also contributes to a deeper understanding of the functioning of the supranational bodies, specifically the Commission.

### **Theoretical framework and methodological reflections**

Historical institutionalism focuses on the role of temporality to analyse how institutions originate, why and how their governing authority changes or persists, and how they influence the policy fields they govern. Scholars of HI assume that temporal processes can develop and reinforce actor preferences, power relations and patterns of resource distribution. Temporality brings three key concepts: critical junctures, path dependence, and sequencing. One strand of HI defines a critical juncture as a crisis that disturbs the status quo and creates a disequilibrium. The equilibrium model attributes change to an exogenous, abrupt shock (Fioretos, Falleti & Sheingate 2016). Another approach posits that the pressure for change does not need to come from outside as a crisis is a 'necessary, but not sufficient, condition for institutional change' (Krapohl 2007: 28). Framing change as an abrupt moment does not adequately capture the reality because institutional change may occur gradually in 'moments of seeming stability' (Rixen & Viola 2016: 14). Equilibrium may not be achieved because historical processes may occur at a slower pace than the changes in the political environment and 'history cannot be guaranteed to be efficient' (March & Olsen 1984: 737).

Originating from either exogenous or endogenous factors – or coexistence of both – distinct critical conditions create the need for change in the usual functions of the institution. A sequence of events, stemming as a response to the new conditions, trigger institutional transformation. The triggering event or events create various options to choose from and this choice would be shaped by the collective behaviours of the past, i.e. the institutions' path-dependent nature (Fioretos, Falleti & Sheingate 2016; Rixen & Viola 2016). Institutions are 'the carriers of historical dynamics': they evaluate their options based on their previous choices (Delreux 2015: 158). Just as the notion of increasing returns, each step taken in a certain path increases the probability of further steps down the same path. As in the tree metaphor, 'the branch on which a climber begins is the one she tends to follow' (Pierson 2000: 252). Nevertheless, increasing probability does not necessarily mean the actor is predisposed to a single path. Over-emphasising the pattern and thinking of it as simply a reproduction of previous steps downplays the potential of institutions to change and evolve in time (Aspinwall & Schineider 2000). As Weaver and Rockman state, 'institutions are not static; and institutionalisation is not an inevitable process; nor is it unidirectional, monotonic or irreversible' (cited in March & Olsen 2011: 163).



Institutional change has different paces, mechanisms and implications. The typology drawn by Streeck and Thelen (2005) demonstrates this variety. They challenge the common acceptance of institutional transformation as either stability or an abrupt change. This bifurcation limits the observation of real change because ‘change and stability are in fact inextricably linked’ (Mahoney & Thelen 2010: 9). Political institutions are constantly exposed to ongoing skirmishes as their constituents interpret the institutional settlement in line with their expectations. This ongoing contestation together with the inherent ambiguities in the institutional design – the gaps between rules and their local enforcement – creates a dynamic political process. Hence, transformative change takes place incrementally and to analyse it, one needs to scrutinise the unfolding of these processes (Streeck & Thelen 2005).

Streeck and Thelen identify five modes of institutional change: *displacement*, *layering*, *conversion*, *drift*, and *exhaustion*. Four of them are particularly relevant to this study<sup>1</sup>:

1. *Displacement*: Displacement occurs when the founding arrangements of the institutions are replaced by new ones. Displacement happens either endogenously through the activation of formerly suspended or suppressed alternatives or through invasion, meaning that foreign elements may assimilate the existing ones. Displacement might occur as a rapid breakdown or as a slow-moving process. In either case, it is activated by the entrepreneur actors who are aware that the prevailing arrangements do not oblige with the emerging external conditions and are willing to establish a new institution that serves best their interests.
2. *Layering*: Layering occurs through reforms that include revisions of or additions to the original rules (often) when there is a lack of capacity to alter them. Layering does not happen in a revolutionary mood but the outcome can recast the original logic of behaviour depending on the substance and accumulation of these changes.
3. *Conversion*: Conversion occurs when the original rules are reinterpreted or redirected in a way that converts the institution towards new strategic goals. The redirection of institutional resources might be the response to external changes or the result of the power contestations within the

1 The last mode that Streeck and Thelen identify, *exhaustion*, is not included in the analysis. When the original rules of the institutions becomes delineated from the reality, the institutional set up becomes self-undermining and leads to gradual breakdown eventually. The current status of the subject in question makes this mode irrelevant.

institution. In either case, redirection would still be attached to the old structure. The gaps and the ambiguities between the original settlement and their local enactment are purposefully exploited or the new gaps are created by the actors of change to pursue the goals and functions favourable under the new conditions. The sources of gaps may be *unintended consequences* of the institutional design; *compromise* between different coalitions due to changing power relations; *subversion* of the marginal constituents or low-order actors such as the interest groups; and time as institutions often survive long enough to outlive the original coalitions and conditions.

4. *Drift*: Drift occurs when the institution neglects the changes in its environment or is unable to respond to them and hence tends to keep the original settlement. Inaction may be covered by institutional stability at first. However, when the existing setup does not practically serve the emerging conditions, the institution will inevitably lose its grip (Streeck & Thelen 2005: 18–30).

**Table 1:** Types of Institutional Change

	Displacement	Layering	Conversion
Removal of old rules	Yes	No	No
Neglect of old rules	-	No	No
Changed impact/enactment of old rules	-	No	Yes
Introduction of new rules	Yes	Yes	No

Source: Mahoney and Thelen (2010: 16).

In their elaboration, Mahoney and Thelen argue that the characteristics of both the political context and the targeted institution influence the expected mode of change. Variations of their coexistence shape the type and strategies of the ‘dominant change agent’ in the institution (Mahoney & Thelen 2010: 15). The degree of veto possibilities (either strong or weak) determines the characteristic of the political context whereas the would-be agent’s level of discretion in interpretation and/or enforcement of rules determines the characteristic of the targeted institution. When agents of change face strong veto possibilities in the institutional structure, it is not likely to see displacement or conversion as it would be difficult to mobilise the principles for direct changes. In such cases, the agent’s level of discretion determines whether the original rules will be reformed with the introduction of amendments or cause a political drift.

The principles having weak veto possibilities leaves more room for the agent for strategic openings. In such cases, an agent with a high level of discretion increases the expectancy of conversion whereas the original rules would simply be replaced (gradually or abruptly) in the absence of such power (Ibid: 19–22).

**Table 2:** Sources of Institutional Change

		Characteristics of the targeted institution	
		Low level of discretion in interpretation/enforcement	High level of discretion in interpretation/enforcement
Characteristics of the political context	Strong veto possibilities	Layering	Drift
	Weak veto possibilities	Displacement	Conversion

Source: Mahoney and Thelen (2010: 19).

Based on these indicators shown in Tables 1 and 2, the remainder of the article unveils the mode(s) of institutional change that the EU, specifically the Commission as the designer and executor of the EDF, has undergone; and discusses how this change has reflected in the EU’s strategic autonomy ambition. Ontological assumptions of HI imply a methodological preference for qualitative in-depth studies of events and cases (Rixen & Viola 2016; Fioretos, Falletti & Sheingate 2016). Accordingly, this study is based on a qualitative case analysis using primary and secondary data triangulation. The study initially analyses the secondary data derived from relevant EU official documents to establish the context. These documents include Council Conclusions, Commission and joint communications, security and defence-related strategy documents, and commissioned/ad-hoc group reports starting from the early 1990s, when the EU bodies launched the defence industry discussions. The primary data is based upon the interviews with the political elite who actively contributed to the conceptualisation and governance of the mechanisms developed for strategic autonomy. The author also interviewed the experts (academics and policy analysts) who had been researching, publishing and convening events and had taken part in the EU-commissioned works on the topic in question. Based on participatory observation, the researcher had prior information about the positions involved in the strategic autonomy discussions. Therefore the sampling started with the purposive method and then continued with the snowball method. The interviews were conducted face-to-face in a semi-structured format, allowing

the interviewee to relieve enough detail, depth and insight while still being guided by the pre-determined questions.<sup>2</sup>

### **The EDF and EU's industrial and strategic autonomy**

Since the Treaty of Maastricht, the legal authority to adopt decisions on foreign and security policy issues lies in the Council. The general rule is that the Council takes these decisions by unanimity except for specific issues that qualified majority voting is applicable (Articles 24(1) and 31(1) of the Treaty on European Union - TEU). For defence-related issues specifically, the legal provisions are more restrictive. Article 43(2) TEU establishes the legal basis for Common Security and Defence Policy (CSDP), laying down the decision-making power to the Council in constant contact with the Political and Security Committee. However, Article 31(4) exempts decisions with military or defence implications from the scope of Article 31(2), ensuring that such decisions are not made by a qualified majority.

As one analyst succinctly stated 'with bottom-up without the top-down, you stay at the bottom and with top-down without going to the bottom nothing happens' (Interview 3 2019). Despite the intergovernmental nature of decision-making in CSDP, the involvement of supranational bodies is crucial for the EU's credibility and effectiveness in these matters. These bodies act as agents that support the member states in formulating and implementing their decisions. Hence, in parallel with the progress in European integration, the role and resources of these bodies have expanded (Maurer & Wright 2021). Specifically with regard to the Commission, the existence of a strong bureaucratic body is significant to prevent deviations from the agreed rules (Wessel et al. 2022). The constituents of an institution often place some control on independent bureaucratic bodies. The concern over the possibility of political drift in the future justifies their choice of design (Keleman 2002). The infringement procedure (Article 258 of the Treaty on the Functioning of the EU - TFEU) stands as a clear example in this sense.

As a bureaucratic agent and the driver of European integration, the Commission's power originates in the 'labyrinths of regulatory policy-making' (Pierson 1994: 23). The EC has direct involvement in the functioning of bodies dealing with specific policy areas with an external dimension such as enlargement, climate action, energy and fisheries (Furness 2013). This supranational body gradually acquired considerable influence in security and defence-related issues by acting as a policy entrepreneur and a broker due to the meritocratic nature of policy-making processes (Vachudova 2007; Blauberger & Weiss 2013; Riddervold 2016).

2 In order to protect the anonymity of the interviewees, the owners of the statements were presented only with their affiliated institutions. Further information will be provided upon request.

Nathalie Tocci, the penholder of the EUGS, once stated that the bureaucratic touch on the EUGS made it more realistic (Tocci 2017). This section demonstrates the existence of this bureaucratic touch through the examination of the Commission's role in laying the groundwork for cooperation among the member states in defence research and spending, which contributes to the fulfilment of strategic autonomy ambition.

*The original setup: a market-oriented perspective*

Until the late 1980s, strategic autonomy was not a highly relevant concept on the EU agenda as NATO dominated the European security and defence structure. The 1978 Klepsch Report by the European Parliament (EP) called for a single market for armaments, a defence procurement agency, and common research, development and standardisation of weapons. With a Europeanist approach, the EP stated that NATO's dominance in defence cooperation would intensify the imbalance in arms trade between the US and the member states. According to the EP, 'only the European Community had the organisational ability to create a structured market for weapons within the context of an industrial policy' (Wyatt-Walter 1997: 114–115). As a response, the EC presented the Greenwood Report, which was moderate to envision coordination in arms production yet remained cautious of the Parliament's proposals (Ibid). According to Article 296 (formerly Art. 223) of the Treaty establishing the European Community (TEC), defence procurement was exclusively under the member states' competency 'for the protection of the essential interests of its [any Member State] security' (EUR-Lex). The Commission was aware of the member states' reluctance towards a common action in defence; hence, it approached the issue from a market perspective. Its key argument was the predicted functional gains from eliminating market fragmentation and economic inefficiencies. However, the member states had a common position to keep this matter outside the EU's common market policy (Blauberger & Weiss 2013).

The political and social unrest in the aftermath of the Cold War forced actors to turn their faces to the 'real-world developments' (Hellmann 2009: 638). In this new order, states guided their foreign policies by a greater pragmatism instead of 'heroic' ideologies (Hyland 1991/1992: 45). The security vacuum stimulated the debates on strategic needs. The negative impact of autarchic tendencies in defence acquisitions, multiplied by the peace dividends, resulted in a dramatic reduction in capabilities (Camporini 2017). The deliberation for a common security policy swiftly turned into a binding commitment when the member states adopted the Common Foreign and Security Policy (CFSP) 'including the eventual framing of a common defence policy' in the Maastricht Treaty (Title V-Article J.4). The adoption of the CFSP was important, yet embryonic, in the sense that it did not refer to the operational aspect the EU needed. The same

article acknowledged the delicate balance between the European and the Atlantic interests stating that the Union would ‘respect the obligations of certain Member States under the North Atlantic Treaty’ (Council of the European Communities 1992: 126). The EU kept its *longue durée* balance between dependence and autonomy in the following years. Indeed, the nature of the ESDP has shifted subsequently to include civilian matters instead of the early stress on the military aspect (Menon 2011). Sticking with the Alliance while developing and pooling European capabilities was seen as ‘a pragmatic and politically sensible choice’ (Shepherd 2000: 17).

Given the limits of its bureaucratic functioning, the EC had chosen whichever way was practical to accelerate the integration process. In the 1990s, mainly because of the single market initiative, the Commission had an exceptional opportunity to expand its regulatory role. In its competency areas, the EC imposed direct influence. For example, after the 1989 Tiananmen Square massacre and the subsequent arms embargo on China, the Commission assumed a pragmatic stand on EU-China relations. Even though it was hard for the EU to find a credible balance due to its idealistic legacy, the EC made efforts to find a compromise between the divergent views of the member states and industrialists as well as the Chinese leaders and the Union (Wood 2011). In areas out of its direct competency, the EC found alternative ways to pursue its regulatory aims such as delegating the technical work to independent agencies. These agencies would at least function in areas that would otherwise not be dealt with at the European level at all. Still, being aware of the member states’ reluctance to transfer additional power and resources, the Commission drew a management scheme for the agencies making them responsible for the functioning of the agencies together with the director and the scientific committee (Kelemen 2002).

The Commission coherently reflected this approach to defence industry-related initiatives through the 1990s. At that time, the European defence industry was reorganised through the merger of giant defence companies such as British Aerospace and GEC Marconi into BAE Systems, further consolidation of big companies such as the European Aeronautic Defence and Space Company, and the expansion of companies via integrating smaller firms such as Thales (Barrinha 2010). The EC advocated liberalisation because the reforms would inevitably increase the volume of intra-EU transfers in defence industries and thereby decrease the cost for member states (Fiott 2015b). It also presumed that it would be the regulating body of the liberalisation of the defence market (Fiott 2015a). In its 1996 Communication, the EC stated that losing the international competitiveness of the European defence industry was largely the result of obstacles to cross-border mergers and the inability to benefit economies of scale due to fragmentation (Commission of the European Communities 1996). Communication was important in the sense that even before the 1998

Saint-Malo Declaration, it mentioned a 'sufficiently autonomous, competitive industrial and technology base' as a requisite for European defence. Defence industry-related actions would have political implications as Europe's security depended on 'western European countries' capacity to form a centre of stability and integration' (Ibid: 11). Hence, the EC called for actions utilising the existing Community instruments possibly in a combination of the CFSP tools 'in the light of the security needs and of the political guidelines to be defined within the framework of the CFSP' (Ibid:11).

One year later, the Commission proposed the Council adopt the Common Position on Framing a European Armaments Policy, which was drafted with reference to the ex-Article J.2 of the Treaty on European Union (Commission of the European Communities 1997). This meant that the EC linked the industrial dimension to the provisions of the CFSP. Indeed, the Draft Position (Annex I) established a link between issues such as intra-community transfers, public procurement and employment, which normally dealt with Community instruments in trade, competition and innovation policies, with the CFSP. With a resolution in January 1999, the Parliament called on the Council to adopt the draft Common Position. Yet again, there was no action by the member states. The EC later referred to these inactions as 'perhaps, that the proposals were before their time' (Commission of the European Communities 2003: 3). Indeed, when Martin Bangemann, then-Commissioner for Industry, proposed member states coordinate national defence research programmes with the Commission's programmes, they opposed this proposal arguing that it would be an infringement to the intergovernmental domain (Haroche 2019).

The 1998 Franco-British Summit produced the first major political statement to develop autonomous action capacity so that Europe could respond to international crises and 'make its voice heard in world affairs' (CVCE.eu n.d.). The 1999 Franco-German Summit in Toulouse produced a similar joint declaration emphasising European autonomy. The EU took incremental steps such as the integration of Petersberg Tasks with the Amsterdam Treaty in 1997, the adoption of the European Security and Defence Policy (ESDP) at the Cologne Summit, and the adoption of the Helsinki Headline Goals in 1999. Yet, despite the strategic needs, operational aspirations could not be materialised fully. The failure was attributed, first, to the consensus-based decision-making in CFSP and CSDP (then ESDP), which prevented the EU from engaging in large-size capability development initiatives (Menon 2011). Also, the member states contested over the substance and degree of autonomy. Whereas the Europeanist members supported joint defence acquisition and capability development within the ESDP framework, the Atlanticist/Euro-Atlanticist members supported strengthening European capabilities under the NATO framework and keeping the acquisition and research programmes open to NATO allies (Batora 2009).

From the theoretical perspective, a combination of external and internal circumstances mentioned above explains the source of institutional change. The developments in the aftermath of the Cold War were influential on the characteristics of both the political context and the change agent. With the adoption of the CFSP, the legal setup of the EU made the principles' veto possibility even stronger in security and defence matters. The insurance of the exclusive competency of the member states on security and defence issues left less room for strategic reinterpretation. Meanwhile, the external pressure to increase competitiveness demanded the redirection of goals and means. This pressure was accompanied by regulatory hyperactivity on the Commission's side to establish the single market. However, the reluctance of the member states to take common action in matters with defence implications, together with the lack of legal authority, made the Commission act prudently. The Commission's low level of discretion at that time shows that displacement was not an option. However, the proposals for a change in the communications and common positions – backed by the EP – signalled that layering would have been expected.

#### *Signs of change: strengthening the defence-competitiveness nexus*

The EU adopted its first security strategy (European Security Strategy-ESS) in 2003. With the ESS, the Union made a 'high-flown promise' to make a robust contribution to global security, including increased defence spending to devote more resources to civilian and military operations (Mälksoo 2016: 378). The guiding perspective of the ESS was unsurprisingly reflected in the Commission's efforts. The 2003 Communication referred to the European defence equipment policy instead of the armament policy. It was stated that the EC was 'determined to make progress at once wherever this may be possible' (Commission of the European Communities 2003: 3). The Commission emphasised the defence equipment market and research as areas to be handled with Community instruments and proposed to work on an EU Defence Equipment Framework, which would include collaborative programmes, research and technology programmes and off-the-shelf procurement, to be managed by an Agency (Ibid). This proposal was realised one year later with the establishment of the EDA. Hence, the Commission contributed to the creation of this intergovernmental body to facilitate defence integration including operational/military aspects. The establishment of the EDA, in this sense, resembles the Commission's preference of delegating issues out of its direct competence to technical agencies so that these issues are at least included in the EU policy-making processes.

In 2004, the Group of Personalities, co-chaired by Commissioners Philippe Busquin and Erkki Liikanen, developed proposals for an EU security research programme. The report indicated a security perspective on research and technology development in Europe. The Group suggested incentivising research and technology



for the protection of territory, sovereignty, population and critical infrastructure of the member states; and it stressed the increasing overlap between civil and defence-related technologies. Based on the 'duality of technologies' and 'multi-functionality of capabilities', the Group proposed that the EU have a stronger role in defence-related research (European Commission 2004: 14). The proposals in the report legitimised the need for a Community funding programme for capability-driven projects, the basis of which was already formed by the enduring competitiveness-driven perspective of the EC. The existing nexus between security and competitiveness was clearly stated by Commissioner Liikanen when he said that restructuring the European defence industry, increasing its competitiveness and creating a single market for defence products was vital for ESDP (European Commission 2002).

The EC's proposal for a directive on intra-EU transfers of defence products in the 2007 Communication showed the decisiveness of this renewed approach to the defence industry (Commission of the European Communities 2007). The proposal was brought to life in 2009 when the EC issued two directives (2009/81/EC and 2009/43/EC) to regulate and support European defence equipment procurements. Adoption of these Directives was seen as the Commission's pledge to become a central actor in procurement policies and consequently in European defence policy (Haroche 2019). The ambitious role of the EC was even considered a deliberate action to circumscribe the role of the EDA (DeVore 2015). Despite the member states' long-time reluctance, the Commission's overall dissatisfaction with the intergovernmental approach to market integration and its consequent efforts paved the way for this secondary legislation (Blauberger & Weiss 2013).

To ensure compliance with the Directives, the Commission used multiple, sometimes even conflicting, ways against the member states. The EC successfully used the supranational judiciary to warn them when Spain was sued before the ECJ for its broad interpretation of Article 296 TEC (now Article 346 TFEU), which allowed the member states to have exemptions from procurements. The Court declared that Spain had failed to fulfil its obligations under the Directive. The ECJ ruling made it clear that derogations under Article 296 TEC would be limited to exceptional cases (InfoCruia n.d.). Similarly, in 2010, the EC coerced Greece with the ECJ prosecution for acting against the procurement regulations during the tender to supply submarine battery kits (European Commission 2010). At the same time, the Commission made sector-specific concessions to push the member states into common procurement. First, the procedure for public tenders was designed as more open and competitive to allow deviations from EU procurement legislation. Second, the Commission admitted exemptions from the Directives in specific cases such as joint research and development programmes between at least two member states. Although they seemed to contradict the purpose of the Directives, the concessions were justified by their overall contribution to defence industry goals (Blauberger & Weiss 2013).

From the HI perspective, tracing the developments in the first decade of the 2000s offers much to understand the Commission's changing role in security and defence issues. Even though the efforts to catch up with the global security developments – as manifested in the ESS – remained mostly unfulfilled, the Commission successfully seized this momentum to reflect its security perspective. Through its emphasis on research and technology development as well as the dual use of capabilities, the Commission reiterated the industrial dimension of defence and strengthened the defence-competitiveness nexus. It can be inferred that the dedicated efforts of the Commission to reflect its approach to the defence industry increased its level of discretion for possible reinterpretations and enforcements. Meanwhile, its strategic use of the ECJ legislation as an implicit menace towards the member states loosened their veto possibility against the 2009 Directives even though the original rules remained unchanged. The adoption of secondary legislation was a solid response that reflect the characteristic of the political context and the institution; hence a sign of conversion as a mode of change.

#### *Getting involved: 'the geopolitical Commission'*

Under-investment and fragmentation, particularly in research and technology development, has always been a significant challenge for the European defence industry. The economic crisis of 2009 crushed the defence budgets so hard that it took ten years for the European countries to reach their pre-crisis level of defence spending. The 2017 CARD Trial Run findings revealed that 81% of the total EU defence investment was conducted by 12 member states, and 95% of the expenditure on research and technology development was made by eight members (European Defence Agency, n.d/b). Despite the potential, in 2021, only 9% of the research and technology development in defence was conducted in cooperation (European Commission 2021).

The reality of the European defence industry pushed the Commission to increase its efforts. In 2011, Michel Barnier, then-commissioner for Internal Market, established a Defence Task Force. It consisted of officials from relevant DGs of the Commission, the EEAS and the EDA. In its 2013 Communication, the Commission proposed the Council 'consider launching a preparatory action for CSDP-related research focusing on those areas where EU defence capabilities are most needed' (European Commission 2013: 5). This would serve as the basis of the EDF as Philippe Brunet, then-director of Aerospace, Maritime, Security and Defence Industries, later stated: 'In the Commission's budgetary jargon a Preparatory Action is a generic budgetary term used to describe the testing of a new policy approach requiring financial resources, outside the existing legal base' (European Defence Agency 2015: 11).

The decision to establish the Preparatory Action on Defence Research (PADR) was officially adopted by the Council in 2013. In the Conclusions, the Council

defined strengthening Europe's defence industry as a priority (Article 4). More importantly, the Council mandated the HR/VP to make a strategic assessment of the EU's challenges and opportunities in close cooperation with the Commission (European Council 2013). Hence, from the very beginning, the Commission was officially involved in the EUGS process upon the member states' reiteration of such necessity. The effort for 'joined-up EU foreign policy' was further institutionalised when the president of the EC reactivated the Commissioners' Group on External Action in November 2014. The HR/VP's office would have control over the EU's external budget (Rettman 2014). The HR/VP moving back to Berlaymont was symbolic yet significant to show how the internal and external dimensions had increasingly become intertwined and how the institutional set-up reflected the comprehensive approach towards security and defence policy. This joined-up approach continued in drafting the EUGS through formal consultations between the EEAS, the EC, the Council Secretariat and the European Council in the form of working groups and regular meetings (Tocci 2015).

After taking office, President Juncker made clear that he would focus on security as a priority (European Commission 2014). In April 2015, the Commission delivered the European Agenda on Security. The Agenda stated that a competitive EU security industry would 'contribute to the EU's autonomy in meeting security needs' and that the Commission was considering actions to achieve this (European Commission 2015: 12). Two months later, the Council referred to the Agenda recalling the need to ensure appropriate funding for the preparatory action on CSDP related research. The Council also stated that the EU funds should be used for 'fostering greater and more systematic European defence cooperation to deliver key capabilities' (European Council 2015: 6). That critical decision to use the EU budget for defence-related spending, most importantly for capability development, was later acknowledged by a senior EC official:

in 2015 there was a European Council meeting where the member states, heads of states and governments, agreed on stronger defence cooperation . . . the Council does give political direction and for us, this was a strong signal. . . This is where the Commission picked up: 'We have to do something from our own competence'. We only have restricted competence, mainly in industrial affairs and in research. So, we took the defence area from the industrial angle (Interview 2 2019).

The Commission launched PADR in April 2017 with a total budget of EUR 90 million. The grant agreements with the participants from the 17 member states were signed in 2018. The biggest impediment to the Commission's involvement in defence was Article 41.2 of the Treaty on the European Union, which prohib-

its the use of the EU budget for defence spending. The PADR was a milestone achievement to 'break down the barrier represented by the Legal Service' (Harroche 2019: 10). The Commission carefully reinterpreted Article 41.2 for funding defence research, and justified its involvement in the defence industry 'like any other industry' (Ibid: 5). The Commission used Article 173 TFEU as its legal basis, which allows the EU to engage in measures to 'ensure that the conditions necessary for the competitiveness of the Union's industry exist' (Official Journal of the European Union 2016).

Along with the PADR, the EU launched three capability-oriented mechanisms to transform words into deeds: CDP, CARD, and PESCO. The CDP aims to increase coherence in national defence planning, encourage cooperation between the member states and facilitate the development of defence capabilities in line with the Capability Development Priorities (European Defence Agency n.d./a). For the operationalisation of the CDP, the EU endorsed the CARD in May 2017. Its objective is to present the overall picture of the capabilities, assess the aggregate defence capability level of the EU, and steer the level of implementation by gathering national capability development and defence spending plans. The CDP and CARD are the outcomes of an output-driven approach but, eventually, they depend on the political commitment of the member states. These initiatives are implemented voluntarily and there is hardly any measure other than naming and shaming to penalise those who do not comply. As one EDA official states, compliance is 'a tough political choice' (Interview 6 2019) but without compliance by the member states, the CSDP becomes 'a forum within which they can specialise in talking a good game' (Menon 2011: 95). There is also the budgetary concern as another interviewee observes:

(Member states) have no intention of actually doing them because that is in a way an exercise in a void because it is detached from the budgetary debate. . . . The CDP is like you and me having a discussion supposing you do not need to take into account the money (Interview 4 2019).

The deficiencies of intergovernmental governance in defence policy are even more prevalent in the case of PESCO. Following the joint notification of 23 member states for stronger cooperation in line with Article 42(6) TEU, the Council adopted Decision (CFSP) 2017/2315 establishing PESCO on 11 December 2017. As in President Juncker's famous statement, 'it was time to wake up the Sleeping Beauty of the Lisbon Treaty' (European Commission 2017). With PESCO, participating states made binding commitments to increase the share of expenditure allocated to defence research and technology, and to increase joint and collaborative capability development projects to be financed primarily by the member states themselves (Official Journal of the European Union 2017). However, the early assessments revealed a disappointment as the projects selected and funded

under the PESCO framework do not promise the required level of improvement in capabilities, leaving major capability development projects to bilateral cooperation (Duke 2019; Biscop 2018; Giegerich 2016). The institutional structure cannot be neglected at this point:

A good draft, the first input that makes sense to all member states is the real contribution. If we contradict, the document is dead . . . we cannot publish something that is against the member states' interests. In that sense, there is a clear difference between trade and defence for example. In trade, the Commission can say: 'This is in the Treaty'. Strategic autonomy as a concept, as a headline, is clear. Military perspective is clear but the link between them is not crystal clear (Interview 5 2019).

The constraints of intergovernmental initiatives made it clear that the fulfilment of the defence aspect of strategic autonomy would require the solid contribution of a supranational body. After all, the Commission had bureaucratic and budgetary experience in technical matters. As one interviewee stated: 'We have all the instruments; we have all the pieces of the puzzle but who is to bring them together? . . . Perhaps, I would say, a commissioner on security and defence could help into the Commission.' (Interview 3 2019).

Meanwhile, the Commission displayed an enthusiasm to push the member states for common action. In September 2017, in his State of the Union speech, President Juncker proposed the member states consider moving from unanimity to qualified majority voting (QMV) in foreign policy issues. The 2018 Communication suggested the Council use QMV in three specific areas: human rights issues, sanctions policy, and civilian Common Foreign and Security Policy missions (European Commission 2018: 11). In this conjuncture, it was not unexpected that the proposal to establish the EDF came from the top: the cabinet of Elżbieta Bieńkowska, then-commissioner for Internal Market and Industry (Haroche 2019). The member states were prepared for this development. As Inge Ceuppens, then-EDA project officer, stated in 2015, 'the MS have clearly pointed to the need for something new, namely defence-oriented research' (European Defence Agency 2015: 12). The industrial representatives were especially demanding, pressuring the institutions to put the EDF in place (Major & Mölling 2018).

On 29 April 2021, Regulation (EU) 2021/697 established the EDF. The Fund is designed as a Commission initiative to foster competitiveness and innovation in the European defence industry through supporting cross-border defence collaborations among the member states. The EDF has two dimensions: research and capability development. By delivering financial support to collaborative actions in the research and development phases of defence products and technologies, this initiative aims at enhancing the technology autonomy of the Union in the defence industry; thereby contributing to its strategic autonomy. The EDF is

directly implemented by the EC with a work plan prepared in collaboration with the EEAS, the EDA and the member state representatives in the EDF Programme Committee (Official Journal of the European Union 2021). As of November 2022, out of 134 proposals, 41 joint defence research and development projects with a total budget amounting to EUR 832 million are found eligible for EU funding (European Commission 2023).

EDF regulation refers to Article 173, Article 182, Article 183, and Article 188 TFEU as the legal basis. It is worth mentioning that, in terms of the *acqui communautaire*, the EDF was established as an instrument to enhance the competitiveness of European industry and research policy. That is why the integration of the EDF into the 2021–2027 Multiannual Financial Framework was a significant development as the EU budget would be used directly to support defence-related research and programmes for the first time (Cops & Buytaert 2019). Even though its scope falls into the defence area, the EDF was carefully designed to ensure compliance with Article 41 TEU. The restriction to use EU funds for operations having military or defence implications was circumvented by the research and technology window of the EDF. The prudent attitude of the Commission not to exceed its legal authority was later acknowledged by a senior official:

By stimulating the defence industry to develop capabilities for the military, we want to make our contribution to stronger defence cooperation in Europe. As a secondary objective, so it is not a primary objective, we see that this can lead to greater strategic autonomy. So we really look at strategic autonomy from a technological and industrial perspective. This is our pragmatic way of doing it. . . . All these initiatives are separate. We do not want them to spill over to one another (Interview 2 2019).

The EDF was welcomed by many as an instrument to establish the link between defence priorities and capabilities. Even the EUMC stated that the EDF would not only provide financial support to the defence industry; but it would also ‘guarantee the security of supply and, finally, to realise the all-important strategic autonomy of Europe’ (Chairman of the European Union Military Committee 2017). As one interviewee observes, the EDF was the outcome of ‘the more communitarian way of law-making and generation of an upward trust convergence in industrial terms in an area which was not covered by the single market before’ (Interview 7 2019).

Since the launch of the EDF, the Commission has adopted the strategic language of the EU and kept its proactive role in the defence industry. While introducing the College of Commissioners to the EP, President von der Leyen announced ‘the geopolitical Commission’ that ‘Europe urgently needs’ (European Commission 2019). The industrial strategy prepared under the auspices of her presidency acknowledged that strategic autonomy was about reducing

dependence on others on most critical materials and technologies in strategic areas. Hence making the EU industry more competitive would enhance Europe's strategic autonomy (European Commission 2020). The creation of the DG Defence Industry and Space (DG DEFIS) is a solid example of its increasing engagement. To support the competitiveness and innovation of the European defence industry, DG DEFIS holds the responsibility to implement and oversight the EDF. Its creation is seen as a shift towards supranational governance in the European defence sector (Sabatino 2022).

The most ambitious step, to date, is perhaps the proposal for a regulation establishing the European defence industry reinforcement through common procurement act (EDIRPA). The proposal came in the wake of the Russian military aggression against Ukraine. In the words of Chancellor Olaf Scholz, the war in Ukraine has created a new era in which 'the world is facing a *Zeitenwende*: an epochal tectonic shift' (Scholz 2023). The EU leaders met at the Versailles Summit on 11 March 2022 and agreed to bolster the Union's defence capabilities to ensure autonomous action against possible aggressions. The leaders pledged to take decisive steps such as increasing defence expenditures, incentivising the member states for joint defence procurement, investing in critical and emerging defence technologies, and supporting the SMEs (European Council 2022). A few days later, the leaders reiterated their pledge in the Strategic Compass, the most comprehensive action plan of the Union in security and defence.

Upon the request of the Council and with the contribution of the EDA, in May 2022, the Commission presented the analysis of defence capability gaps in air, land, maritime, cyberspace and space domains (European Commission 2022). The proposal to establish the EDIRPA came as a remedy to defence capability gaps. The EDIRPA shares the legal basis of the EDF (Article 173 TFEU); however, its scope is entirely new and different. The EDF targets joint research and development of defence equipment at the 'pre-commercial' phase whereas the EDIRPA is to be the first initiative to establish an EU fund for joint procurement of final defence products (Clapp 2023: 5). The EDIRPA is part of a comprehensive scheme to replenish the stocks reduced by the donations to Ukraine (Council of the EU 2023). In this sense, it complements the Act in Support of Ammunition Production (ASAP): the recent Commission proposal to step up the EU's production capacity to respond to the urgent need for ground-to-ground and artillery ammunition, and missiles (Clapp 2023). In December 2022, the Council confirmed the proposal and called for the swift adoption of the EDIRPA regulation. In May 2023, the Parliament agreed on its mandate for negotiations. The legislative procedure is in progress.

From a theoretical perspective, the challenges posed by the economic crisis and the Russian aggression have significantly altered the conditions in which the EU operates. In terms of defence policy, the pressure for competitiveness

and the reappearance of traditional security concerns have mutually created the need for a redirection of goals and means. This need was repeatedly manifested in the strategy documents as well as the conclusions and positions of various EU bodies. However, a closer examination of the internal developments reveals that the EU's responses to this pressure are considerably shaped by internal changes. Reactivation of the Group on External Relations, the involvement of the Commission in the EUGS, the defence capability analysis and establishment of Commission-led funding are a few illustrations of the Commission's empowerment in security and defence issues. Starting with PADR, the Commission strategically interpreted the gaps and ambiguities in the legal provision and used them to establish the EDF and EDIRPA. With its particular focus on research and technology development as part of the defence policy, the Commission has decisively followed the steps it took in the 1990s, thus creating a path to follow. The pressure of external factors weakened the principals' veto possibility whereas the path-dependency of the Commission increased its level of discretion. The coexistence of these two trends created the environment for conversion, which has been realised with the reinterpretation of the relevant treaty articles and the introduction of new regulations.

## **Conclusion**

The point of departure for this study was the puzzling observation that, despite the rationalist expectations, the EU's recent initiatives to develop operational capabilities do not fulfil their promise to contribute strategic autonomy whereas the defence industrial initiatives have gained an unexpected prominence. Drawing on this puzzle, the study aimed to scrutinise the EU's current approach to this ambition to see whether endogenous elements would offer an alternative explanation to this observation. For this aim, the study employed a historical perspective and analysed the evolution of EDF as an instrument and the role of the Commission as an agent of change. The study borrowed the conceptual tools developed by Streeck and Thelen (2005) and Mahoney and Thelen (2010) to analyse primary and secondary data.

In line with the expectation of HI, it can be inferred that a series of external crises since the end of the Cold War has created critical junctures that considerably affected the conditions which the Union has been operating in. The collapse of the bipolar order in the late 1980s, the war on terror in the early 2000s, the economic crisis and the subsequent debt crisis around 2010 and finally the Russian aggression in the European borders since 2014 have triggered the need for reorientation of the goals and means in external relations. The principles' acknowledgement of this need is repeatedly manifested in the Council Conclusions as binding political commitments. The EU has developed responses towards this need and strategic autonomy ambition is one of them.



However, historical reading of the autonomy efforts reveals that institutional change is not merely the outcome of external crises. The aim to make the EU's voice heard in world affairs has been reiterated by the member states various times since 1948. Likewise, the EU has constantly restated its aim to develop autonomous action capability.

The findings of this study show that what differentiates the current approach from previous 'promises' is the choice of means for the fulfilment of autonomy ambition. Institutions do not behave arbitrarily when they prefer one option over the others; rather that choice accommodates the remnants of its history. In our case, the EU has developed various options, i.e. initiatives, that would contribute to strategic autonomy. The defence capability planning and development initiatives are designed as intergovernmental options whereas defence industrial initiatives are designed as supranational options. The reason why EDF – similarly the PADR as its forerunner – as a supranational option has proved to be game-changing is because they are the steps of an experience-driven path. The EDF is the outcome of the Commission's consistent and deliberate efforts for defence integration through market liberalisation and common procurement since the 1990s. Its growing dissatisfaction with the non-compliance and underachievement in common defence procurement coupled with its increasing discretionary power as a policy entrepreneur and regulatory authority have made the Commission a dominant change agent. The EC has gained its pivotal role with its determination to push the member states into, first common procurement through 2009 Directives, and then into capability development through funding research and technology spending in the defence sector. Through the introduction of new regulations, the Commission successfully reinterpreted the original rules and exploited the gaps and ambiguities stemming from their local enactments as in the case of Article 173 TFEU. Hence, despite the initial expectation of layering, through conversion, the Commission decisively and considerably contributed to the formulation of the means to declared ends.

The CSDP is an intergovernmental area. One needs to stay cautious of over-emphasising the role of institutions and downplaying the role of power contestations between the principles. However, the fact that national planning and spending are still prioritised while the intergovernmental mechanisms do not offer much-added value in strategic terms leaves doubt on whether the EU will successfully translate its words into deeds. In this vein, it is a fair expectation that EDIRPA and ASAP, as the most recent steps of the path, will strengthen the Commission's role in defence matters.

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Interview 3, Senior policy analyst from the Egmont Institute, 04 July 2019, Brussels.

Interview 4, Senior policy analyst from the Egmont Institute, 04 July 2019, Brussels.

Interview 5, EUMS official, 15 July 2019, Brussels.

Interview 6, Senior EDA official, 15 July 2019, Brussels.

Interview 7, Senior policy analyst from the European Union Institute for Security Studies, 17 July 2019, Brussels.

# EU's External Action and Russia: How Can Institutionalisation Affect Decision Making?

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## Abstract

*The independent role of international institutions has been taken to be the core of the debate between institutionalists and realists. This study explores the EU's relations with Russia in two cases as a testbed for this debate. Institutional independence, meaning restriction on the ambitions of powerful states on the one hand, and the impact of less powerful states on decisions on the other, are taken here to be the opposite of the power politics of realism. Two cases are studied to show how the EU safeguards the rights and interests of small members and restrains the ambitions of powerful ones to make the case for the institutionalists' argument. The article also shows how a supranational entity like the European Commission is relatively more successful than an intergovernmental one like the Council of Europe in furthering institutionalisation, even in high-profile cases which are lynchpins of the EU's Russia policy. This is in line with institutionalists' argument about the significance of institutionalisation, as the European Commission, through its regulatory mechanism, sets overarching rules and links issues, brings transparency by forcing information sharing, dispels the fear of cheating and paves the ground for more comparative empirical research to evaluate the depth of institutionalisation in supranational and intergovernmental institutions.*

**Keywords:** *EU integration, institutionalisation, supranationalism, Lithuania, intergovernmentalism, Nord Stream, EU's Russia policy*

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## **Introduction**

To have a role in world politics, the European Union (EU) must be able to align its member states (MS) with a common decision-making procedure. This applies to various areas but is more critical in foreign policy as it has been universally regarded as a national affair. In particular, EU-Russia relations is even more critical since it is 'the most divisive factor in EU external relations policy' (Schmidt-Felzmann 2008: 170).

In maintaining alignment, institutionalism regards institutions as potentially capable of acting independently, while many realists see them as nothing more than a mirror of the balance of power. This debate between neo-realism and institutionalism needs to be addressed empirically (Waever & Neumann 1997: 22). The EU, and, in particular, its foreign policy decision-making, can be regarded as a good case to study. On the other hand, as in institutionalism and the studies on integration in Europe, intergovernmentalism and supranationalism are two major mechanisms discussed as having some taming effect on the power of individual member states, we need to see which one is more effective in practice. Thus this article attempts to answer two questions: 1) In two cases of the EU's relations with Russia, i.e. Lithuania's dispute over the PCA and the rift over Nord Stream, were the decisions taken by the EU independent of power distribution inside the Union? 2) What were the differences between supranationalism and intergovernmentalism inside the EU regarding the depth of institutionalisation and hence constraining the effects of individual states' power on its decisions?

To cite the EU as an example of institutions' being independent of power politics, Maria Viceré explored the role the EU's high representative played in consolidating a common position of recognising Kosovo's independence among the EU members. Member states' national interests were so divergent that it would not have produced that outcome was it not for the EU's institutional capacity (Viceré 2016). Basically, the fact that between 1993 and 2008 the EU took more than 1,000 common decisions reveals the independent role of the EU in world politics because common positions could hardly be reached by power politics and consonance is rare in world politics (Thomas 2009: 341). As another example, Lisa Martin took the Falkland Crisis as an example and held that it was for the EEC that a country like Greece imposed sanctions on Argentina sooner than the US. Normally, one would expect the US to have stepped in first as it had much stronger ties with the UK than a country like Greece (Martin 1992: 153).

In these studies, the independent role of institutions is uncovered in cases where the results are different from the expectations rising from power politics. One of the manifestations of power politics is that 'the strong do what they can and the weak suffer what they must' (Thucydides et al. 2009: liii). So, institutions can assert their independence when they protect the weak and restrict the strong. In that sense, one needs to find cases where small and powerful members have divergent views on the EU's foreign policy. Cases like Russia's sanctions after the annexation of Crimea in 2014 are not revealing as they pit powerful members like Italy against other powerful members like Britain.

Additionally, to have more convincing and more generalisable results, one should investigate extreme cases where conflict of interest happens between the smallest and the most powerful members. Moreover, to compare supranationalism with intergovernmentalism, one needs cases where different types of organs inside the EU are involved. Also, those cases must be old enough so that they would have disclosed their final results. Following these measures, we have chosen Lithuania's veto in 2007 to test intergovernmentalism and the dispute over Nord Stream to test supranationalism.

In what follows, we first lay the theoretical foundation and define 'institutionalisation' by scrutinising Robert Keohane and John Mearsheimer's debate on the role of institutions in world politics. Second, process tracing as the research method is shortly discussed. In the third section, Lithuania's veto in the Council of the European Union and the subsequent negotiations are traced, so that we can draw the timeline and discover the process that the Council went through to settle the dispute. In the fourth part, the same process is traced to the dispute over the Nord Stream project. Finally, the findings of the two cases will be compared to draw a comparison and conclusion.

### **Institutions: autonomous actors or mirroring power relations?**

In search of the role that the EU plays in world politics, one group believes that power politics is the independent variable and institutions are just a mediating factor. For example, Julian Clark and Alun Jones discussed how 'political elites mediate Europeanization through their EU decision-making and decision-taking' (Clark & Jones 2011). Or, Jonas Tallberg underlines that institutional and individual capacities are just a mediator for the 'structural power asymmetries' inside the EU (Tallberg 2008). As another example, Anke Schmidt-Felzmann said that as long as EU members' interests have not been homogenised, they will not stop giving priority to their bilateral relations with outside countries like Russia and institutions cannot change the situation (Schmidt-Felzmann 2008).

Another group believes that institutions can have an independent role for various reasons. For example, from a normative point of view, Andreas Warntjen discussed how much 'norm-guided behaviour', compared to the rational choice

models, plays a role in the EU decision-making procedure (Warttjen 2010). Or, from a rational point of view, Kenneth Abbott and Duncan Snidal argued that centralisation is one of the system characteristics that brings independence to an institution (Abbot & Snidal 1998).

This difference constitutes the core of the debate between realism and institutionalism. While rationality and utilitarianism are the fundamental assumptions for both realism and institutionalism (Keohane & Martin 1995: 39), they hold different views on the role of institutions. Mearsheimer contends that institutions are only a reflection of power distribution and do not have an independent impact on states' behaviour. They are only mediating variables (Mearsheimer 1994/95: 13). He argues that empirical evidence can support institutionalism only if it shows that cooperation could not have happened without a given institution (Mearsheimer 1994/95: 24).

The viewpoint that trusts individual entities to supply public goods comes from the classical economy. Adam Smith, in his famous book *'The Wealth of Nations'*, claimed that 'an order is spontaneously formed from the self-interested acts and interactions of individual units' (Waltz 1979: 89). This idea lays the foundation of neo-realism and its reliance on the balance of power as an ordering mechanism. It dismisses Wilsonian idealism and mechanisms of collective security (Waltz 1979: 203).

Robert Keohane, on the other hand, maintains that institutions are important because they facilitate cooperation by mechanisms like issue linkage and information sharing and dispel the fear of cheating (Keohane & Martin 1995). Since Waltz considered realism as analogous to the free market economy (Waltz 1979: 91), one can consider idealism as analogous to the planned economy, and liberal institutionalism as analogous to the Keynesian economy. Introducing the low-level equilibrium trap, Keynes showed that market equilibrium might not be reached by just an invisible hand (Miller 2008: 75). Institutions are necessary to remedy market failures. By the same token, there can be times when cooperation in international relations cannot be ensured, even though all players are cooperative. In such circumstances, institutions are necessary to remedy the failure of power politics and stabilise the system.

As the Keynesian Economy does not intend to overthrow the free market system but only to remedy its failures, liberal institutionalism in IR does not intend to overthrow power politics but to remedy its failures. In fact, liberal institutionalism transcends the dichotomy between realism and idealism. Moreover, Keohane did not claim that institutions matter in every single case and under any circumstances, but the burden is on the shoulders of social sciences to show where and when international institutions are important (Keohane & Martin 1995: 40–42). This article will show that the EU succeeded in acting against the imperatives of the balance of power.

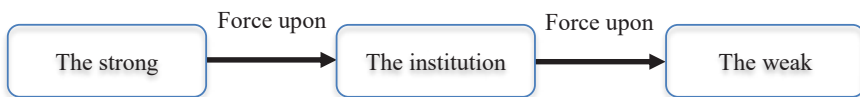
**Table 1:** Political Economy versus Theories of International Relations

Political Economy		
Free Market Economy	Keynesian Economy	Planned Economy
International Relations		
Realism	Liberal Institutionalism	Idealism

Source: Authors

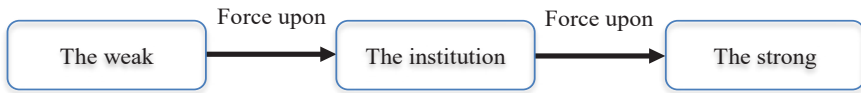
Since issues in IR are mainly multifaceted, the methodological problem is how one can separate the outcome of the balance of power from those of institutions. Keohane admitted that it is not easy to find an ideal quasi-experimental condition to test the independent role of institutions (Keohane & Martin 1995: 47). One solution he suggested was to look for times when changes in underlying conditions, i.e. the balance of power, do not coincide with the evolution of institutions. Institutions usually lag behind their surrounding conditions. Different factors, like uncertainty, transaction costs or institutional barriers to change may account for this inertia (Pollack 1996: 438). In such circumstances, the role of institutions can be disentangled from power relations. But for the EU, since its institutions constantly change by negotiating new treaties, these institutional barriers are relatively low, compared to, for example, the United Nations Security Council which has not changed for nearly 80 years. So, one cannot just wait for those moments to come.

In the case of the Falkland crisis, Lisa Martin maintained that if power politics dominated the relations, the US would have stepped in sooner than some EEC members like Greece. By this method, she separated the role of institutions from the results of power politics. She compared the outcome of a given institution with what should be expected from power politics (Martin 1992: 153). This is how we measure institutionalisation too. In power politics, as Figure 1 suggests, one expects that a powerful player must be able to force its interest upon the weak player, and institutions like the EU are only a transmission belt to transmit that force.

**Figure 1:** Expectations from power politics

Source: Authors

In this study, institutionalisation is defined as a dynamism that works in the opposite direction in which the weak can force their aim upon the strong through institutions (see Figure 2).

**Figure 2:** Expectations from institutionalism

Source: Authors

### Research method

To find the processes through which institutions reverse power politics (i.e. supranationalism and intergovernmentalism), process tracing is employed. It is mainly used for the analysis of interactions rather than structures (Checkel 2008: 116). So, it is useful for studying negotiations inside the EU institutions. In process tracing, the timeline of important decisions and events will be drawn up to the moment when the dependent variable appears. Here, it is the time when the failure or the success of institutionalism becomes evident. Thus, theoretical expectations determine the beginning and the end of the timeline (Ricks & Liu 2018: 843).

The type of process tracing here is theory-testing (Beach & Pedersen 2013: 146) as it tests the theory of liberal institutionalism introduced by Keohane, and the independent variable is a binary that has two values: intergovernmentalism and supranationalism. The dependent variable is institutionalism based on the definition provided before. Since there is no official guideline for conducting a process tracing and the method is flexible in different situations, these steps, suggested by Ricks and Liu will be followed:

- a. identify hypotheses,
- b. establish timelines,
- c. construct a causal graph, that connects independent variable to the dependent variable,
- d. identify alternative choice or event,
- e. identify counterfactual outcomes,
- f. find evidence to invalidate counterfactual outcomes (Ricks & Liu 2018: 842–845).

The hypothesis here is the independent role of the EU. So it is assumed that the Council could have secured Lithuania's position and the Commission could have restricted Germany's ambitions. The timeline must include the negotiations in both the Commission and the Council to reveal the precise mechanism that brings success or failure. The causal graphs will be built on those mechanisms. To invalidate counterfactual outcomes that could have been

produced by alternatives, one needs to investigate similar cases, just like Lisa Martin (1992) compared the outcome of the ECC in the Falkland Crisis with the delayed reaction of the US.

### **Lithuania's veto in the Council of the European Union**

The Partnership and Cooperation Agreement (PCA) was first signed in 1997 between the EU and Russia, and in ten years, was the legal basis of their relations, covering a whole range of issues from trade to energy (Delegation of the European Union to Russia 2016). As it was to come to an end in December 2007, the Council of the European Union (the Council) needed a mandate from the European Commission (the Commission) to start negotiations for a new agreement (Gardner 2014). The PCA was used to build a unified front in relations with Russia (Radio Free Europe/Radio Liberty 2008) and played a crucial role in the EU integration in CFSP.

In November 2005, Russia imposed sanctions on Poland's agricultural products, mainly meat, claiming that they fell short of the required standards (Euractiv 2007). In response, Poland, alongside Lithuania vetoed the mandate for PCA negotiations with Russia (Radio Free Europe/Radio Liberty 2008).<sup>1</sup> In November 2007, when liberals in Poland took power, the tune changed toward Russia (World Bulletin 2008) and as a result, Russia lifted its ban (Euractiv 2007). Poland too lifted its ban on the Commission's mandate (Gardner 2014). This timeline indicates that the reason behind Russia's change of mind was not Poland's veto in the Council. It was the change in the underlying circumstances and the EU institutions had no impact on it.

When Poland lifted its veto, Lithuania became the sole vetoer. It demanded Russia's cooperation for three legal cases: cooperation in investigating the Medininkai Massacre in 1990 (Pavilionis 2008: 176), cooperation in investigating the incident of deploying tanks to Lithuania in 1991 which killed 14 people and injured another 700 (Deutsche Welle 2008b), and finally cooperation in investigating the disappearance of a Lithuanian businessman in Kaliningrad in 2007

1 It is worth mentioning that while the EU admitted that Poland had ignored some of the EU standards for exporting meat, they held that the sanction was not proportionate. This sanction cost Poland one million dollars per day (Rettman 2006) and it expected support from the EU against Russia (Spiegel Online 2006). Despite intensive negotiations, Poland insisted that it would not withdraw its veto and asked for a permanent veto mechanism that could constantly block the negotiations. This was rejected, but the EU president offered a political declaration on EU 'solidarity' (Rettman 2006). What Poland looked for was a guarantee that the EU would put pressure on Russia until it lifted its sanctions but the idea was dismissed. However, the Commission president promised the Polish prime minister that the EU would stop negotiations if Russia used 'dirty tricks' against Poland and both trade and health commissioners asked Russia to take part in a trilateral talk involving Warsaw. But not much more was done.



(Times of Malta 2008). Lithuania also had two more demands: first, it looked for an end to energy security threats from Russia<sup>2</sup> and wanted to include Georgia and Moldavia's security concerns in negotiations.<sup>3</sup> The demand for Georgia was highly timely because a few months later Russia invaded Georgia. With this background information, the process tracing develops through the aforementioned steps.

a) Hypothesis 1: intergovernmentalism, through mechanisms such as organisational inertia and normative entrapment, decreases the effect of power politics.

b) Timeline: Process tracing starts from the moment Lithuania announced in the Committee of Permanent Representatives (COREPER) that it would veto the mandate for the talks with Russia until its demands had been entered into the negotiations. From then, Lithuania came under pressure from other members in order to lift the veto. The Estonian foreign ministry claimed that they had the same concerns but it was better to continue talks with Russia (Deutsche Welle 2008a). He complained that Lithuania was putting the whole block in an unbearable situation (Euractiv 2008). Spain's secretary of state for European affairs also said that there were many potential interests in negotiations with Russia and there would be long discussions ahead. So negotiations would be better to start as quickly as possible. Its British counterpart also said that the EU must start cooperation and partnership talks with Russia and that the Union's unity was of great importance (Deutsche Welle 2008a).

On the other side, the Slovenian foreign minister, whose country held the presidency of the Council, expressed that it was necessary to ensure Lithuanians that they could rely on the EU's cooperation (Gardner 2014). Therefore, on 24 April 2008, Slovenia prepared a proposal for a compromise that included Lithuania's demands. Slovenia's foreign ministry asked for further consultation with Lithuanian officials. Despite the fact that the meeting of foreign ministers in Luxemburg on 29 July was the last chance to reach an agreement, Lithuania made it clear that the Commission's mandate must be put off the table during the meeting until the final agreement on a compromise would be reached. Its foreign minister expressed his country's willingness for discussing energy security and judicial cooperation with Russia. He contended that if the

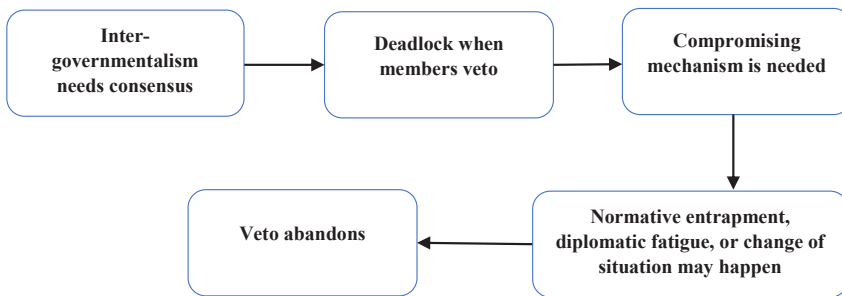
- 2 In 2006, when Lithuania sold Mažeikiai refinery to a Polish investor instead of a Russian investor, Russia stopped oil export to Lithuania with the excuse of the maintenance operation of the Druzhba pipeline and refused Lithuania's help to expedite the operation (Pavilionis 2008: 175–176). This caused a great financial loss to the refinery (Vitkus 2009: 32).
- 3 After Georgia's president warned that Abkhazia's separatists were supported by Russia, the Lithuanian foreign minister announced that the tension was highly related to Lithuania's security concerns too (Deutsche Welle 2008b).

UK inserted the Litvinenko<sup>4</sup> case in the mandate, why did they think Lithuania should not seek justice in the same manner (Times of Malta 2008)?

Despite Slovenian efforts, Lithuania did not lift its veto and the foreign ministers did not reach a deal. This caused a great commotion and frustration, especially for Slovenia which wanted the PCA to be signed during its own presidency. Other members also wanted the PCA to be signed before their first meeting with the new Russian president, Dimitrov Medvedev, as a symbol of a new start in their relations. But Lithuania's foreign minister said that the quality of the deal was more important than its schedule (Euractiv 2008). However, informal talks between Vilnius and Brussels continued (Euractiv 2008) and unexpectedly, the dispute was solved in a meeting between the foreign ministers of Poland, Sweden, Slovenia and Lithuania in Vilnius in which they agreed to put Lithuania's demands on the EU's written negotiating position, and in turn, Lithuania consented to lift its veto on the commission's mandate (Gardner 2014). Therefore, in the COREPER meeting on 21 May 2008 and in the Council's meeting five days later, the mandate was passed unanimously (Pavilionis 2008: 175).

c) Causal graph: Based on the abovementioned timeline, Figure 3 represents the causal chain.

**Figure 3:** Construct a causal graph for Lithuania Challenging the Council



Source: Authors

d) Alternative choices: Lithuania was forced to give its consent.

e) Counterfactual outcomes: The written position did not fulfil Lithuania's expectations and Lithuania did not believe in other members' arguments when it lifted its veto.

f) Evidence that invalidates counterfactual outcomes: In the EU's written negotiating position, it is said that 'the list of [the] demands would receive due

4 Alexander Litvinenko was a former officer in Russia's FSB spy agency who had been poisoned in London in 2006, but Moscow refused to extradite the main suspect to London (Times of Malta 2008).

attention in the course of the EU-Russia talks'. But the demands were written in a separate declaration, in order not to hinder the negotiations. Also, they were written in general terms, so that they could be ignored more easily (Lobjakas 2008). Therefore, it seems it was not forceful enough.

Moreover, a few months later, Russia invaded Georgia in support of separatists in South Ossetia and Abkhazia. While on 16 August, France had mediated a peace deal between them, on 26 August President Medvedev announced that Russia recognised the independence of both regions (Nichol 2009: 9). Poland and Lithuania once again tried to use their veto power to stop negotiations with Russia, but this time the EU overrode their veto. On 9 November, Poland and Lithuania admitted that they did not have the power to halt negotiation while it was underway and the Commission did not need another mandate when a mandate had already been given. On 14 November, the EU-Russia summit was held in France, but a Lithuanian representative told Reuters that Lithuania did not agree with these negotiations (Radio Free Europe/Radio Liberty 2008).

The fact that a few months later Lithuania raised its objection again reveals that Lithuania had not been content and did not agree with the argument put forward by other MSs when it lifted its veto. Also, the fact that Poland had gained nothing after two years of persisting on its demands (see above) and, in addition, the PCA had been automatically extended, showed Lithuania that it could not gain anything except some pangs of sympathy from Eastern European friends (Rettman 2006). Thus these pieces of evidence could not invalidate the counterfactual outcomes of the alternative choices and as a result, the first hypothesis is rejected which means intergovernmentalism, in this case, could not actualise institutionalism. So, this empirical study could not disprove the Realistic point of view that says institutions are just a mirror of power distribution.

### **Nord Stream: East versus West**

Nord Stream was one of the most disputable energy transition projects in Europe (Vaughan 2019). Countries in Eastern Europe were highly dependent on Russia's oil and gas, while Russia depended on them to transit gas to its customers in Western Europe. After the commissioning of this project, Russia would not need their land for the transition and this mutual interdependency would grow into a unilateral dependency on behalf of Russia. This was the main reason that these countries disagreed with the project. For the first line, the EU had not expressed opposition at first, saying that it benefited Europe by increasing the volume of gas importation to the EU (Szul 2011: 59). For the second line, the Commission's first assessment was that it was only related to countries located alongside the line, but after some objections, Brussels had to rethink its position (Keating 2017).

This assessment was contradictory to their assessment of the South Stream as they announced that the South Stream pipeline was against the EU laws and must

be stopped. South Stream could have possibly made Italy the energy hub in the Mediterranean. But by the construction of this new line, the whole of Western Europe would become dependent on the German route (Maio 2019).

With the rising tension between Russia and Europe in the aftermath of the Ukrainian crisis in 2014, a growing number of countries started to voice their concerns about Nord Stream. Ukraine's transit income was equal to its whole defence budget (Brzozowski 2018). So, by the weaponisation of gas export, Russia was able to strip Ukraine of its defence money. On the other side of the dispute was Germany, a powerful member of the EU whose clout was even enhanced after the Ukrainian crisis. Germany was not significant in terms of its military power or natural resources (Siddi 2018a: 4). Its military budget ranked third among MSs in 2014 (Perlo-Freeman et al. 2015: 2). However, its economy was stronger than other members, and since the military solutions for the Ukrainian crisis had been opted out from the beginning, Germany's military rank barely hurt its hegemonic influence (Siddi 2018a: 2). Table 2 displays Germany's superior economy at that time, compared to the most powerful EU members in 2019.

**Table 2:** GDP ranking among the five biggest economies of the EU

Country	GDP Nominal 2019 (in million US\$)
Germany	3,845,630
United Kingdom	2,827,110
France	2,715,520
Italy	2,001,240
Spain	1,394,120

Source: World Bank

Germany also carried considerable clout in the EU institutions. It had 96 seats in the EU Parliament before Brexit, well above France's 74 and the UK's 73 seats (European Parliament 2020). Additionally, Germany was the biggest contributor to the EU budget (see Table 3) and this also indicated its institutional strength.

**Table 3:** Contribution of member states to the EU budget

Country	Net Contribution to the EU Budget 2018 (in million Euro)
Germany	17,213
United Kingdom	9,770
France	7,442
Italy	6,695
The Netherlands	4,877

Source: European Commission

To liberalise the EU energy market, the so-called Gazprom clause in the third energy package (approved in 2009 and came into force in March 2011) introduced some restrictions on ownership and gave discretion to the member states to decide whether a given case was a security threat or not (Goldthau & Sitter 2014: 1464). Moreover, to separate ownership and operation, the ‘unbundling’ clause forced the pipeline owners to let other gas providers use their pipelines. The goal was to prevent the creation of a monopoly by the owners (Szul 2011: 63). But it may have doubted the economic feasibility of projects (EuropeanCEO 2019). This law restricted Gazprom’s opportunities for investment in Europe’s energy market (Maio 2016: 3).

With this background information, the process tracing develops through the following steps.

a) Hypotheses: the second hypothesis is that supranationalism can uphold institutionalism.

b) Timeline: in 2012, the Commission suspected that Gazprom breached EU laws on competition. So it started an investigation into Gazprom activities (Siddi 2018b: 1565). In 2015, the Commission raised its objection to Gazprom based on three anti-competitive practices: first, the destination clause in Gazprom’s contracts with European countries prevented them from re-exporting purchased gas to other countries; second, price discrimination which helped Russia pursue its ‘divide and rule’ policy; and third, Russia forced Poland and Bulgaria to participate in the South Stream project and to give up control of their investment in Yamal–Europe pipeline, otherwise they would be cut off from the gas supply (Siddi 2018b: 1565). At first, Russia disdained the Commission’s regulations, but when the Commission threatened to fine Gazprom 10 percent of its yearly income, they had no choice but to take it seriously and they started negotiations with the Commission (Siddi 2018b: 1565–1566).

In September 2015, a few months after a group of Western European companies signed an agreement with Gazprom to develop the Nord Stream project, ten Eastern European countries sent a letter to the Commission and complained about Western European countries’ negligence over other MSs’ interests. They asked the Commission to discuss the problem at the EU level (Deutsche Welle 2015). In 2017, the Commission passed a new law to make the third energy package applicable to the European parts of the pipelines (European Commission 2017). Germany tried to block the decision by the rule of blocking minority in the Council (Euronews 2019). To that end, it needed a number of countries that amounted to 35 percent of the EU population. Member states from Nordic, Baltic and Eastern Europe did not follow suit, and Italy and Spain did not support Germany (Euronews 2019), probably for their resentment over the cancellation of the South Stream. This made France’s cooperation very important because France was an old ally that had the third-largest population in the Union (Worldometers 2019). Without

France, Germany had only votes from the Netherlands, Belgium, Austria, Bulgaria and Hungary (all countries that benefited from the project), which altogether held only 27 percent of the population in the block (Bershidsky 2019).

At first, France, like Spain and Italy, decided to stay neutral. But later, on 5 February 2019, it expressed that the Commission directive must be implemented (Johnson 2019). This was a huge blow to Germany (Irish & Rinke 2019). Heretofore Germany could disregard criticism, but after France's turnabout, it was no longer possible (Shelton 2019). Surprisingly, three days later, the two countries came to a compromise in which Germany accepted the Commission's directive, and instead, it would reserve the right of oversight of the directive.<sup>5</sup> However, Germany's oversight was not completely arbitrary. First, its oversight should not have been 'detrimental to competition in the EU', and second, whenever it led to disagreement between Germany and the Commission, the Commission would overrule (European Parliament 2019). Before that, the oversight was at the EU's discretion, and France had supported that idea (France 24 News Agency 2019). On 6 February, one day after France stopped Germany from building a blocking minority, the two countries made a compromise on the EU copyright reform. It is said that France probably used this issue as a bargaining chip to extract concessions on some other issues in the EU, like the common Eurozone budget and debt system (Keating 2019).

Finally, on 12 February, representatives of the Commission, the Parliament and member states signed a deal based on the Germany-France compromise. On 4 April, the EU Parliament approved the deal to become law (Pressroom 2019). Then it was published in the EU's Official Journal and entered into force 20 days later. Member states had nine months to incorporate it into their national law (EU Parliament 2019). This law keeps the flow of gas through Ukraine unchanged (Vaughan 2019). Thus Gazprom filed a lawsuit against the EU executive body at the European Court of Justice (ECJ) in October 2019 (Istrate 2019) and Russia brought the issue to the World Trade Organisation (Shelton 2019). Germany first claimed that the issue was not related to the EU, and that national governments must decide on it (Keating 2019), but later, its chancellor, Angela Merkel, said that Nord Stream should not leave Ukraine 'in the lurch' (Johnson 2018).

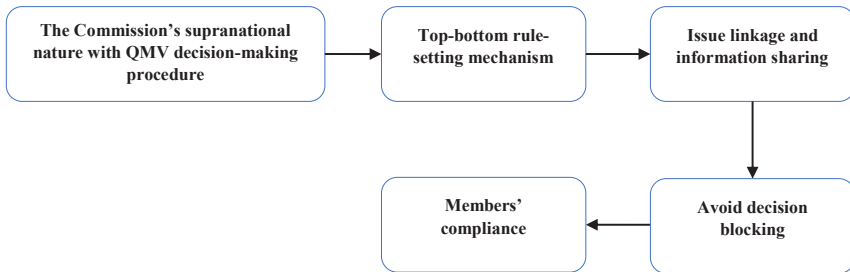
Like the case of Falkland, it is worth exploring the US reactions to the Nord Stream dispute and comparing it with other players (Martin 1992). Both Barack Obama and Donald Trump spoke against Nord Stream, although in the Trump administration, the opposition gained stronger momentum. In Stockholm on 25 August 2016, then Vice President Joe Biden asserted that Nord Stream was a bad deal (Reuters 2016). One official in Obama's administration also claimed that the Nord Stream just like Brexit weakens Europe (Crisp 2016). Germany and its ambassador

5 The exact wording of the compromise was that oversight comes from the 'territory and territorial sea of the member state where the first interconnection point is located' (Deutsche Welle 2019).

in Washington resented such statements and exclaimed that the Nord Stream was a European matter which must be decided by Europeans (Gurzu & Schatz 2016). This rhetoric grew bitter in the Trump era. On 17 May, Trump announced that ending Nord Stream 2 was one of the conditions to make a trade deal with Europe. The heaviest criticism, however, was expressed in the meeting with NATO Secretary-General Jens Stoltenberg on 11 July 2018, in which Donald Trump called Germany 'captive to Russia' (Gotev 2018). The pressure gradually increased to higher levels such as threatening to impose sanctions. On 12 July 2019, Trump, in a meeting with Poland's president in the White House, threatened to impose sanctions on the Nord Stream (Holland & Gardner 2018). That threat became reality on 1 August 2019 when the US imposed sanctions on the European companies involved in the Nord Stream 2 project (Aljazeera 2019).

c) Causal graph: Figure 4 is the causal graph based on the above-mentioned timeline.

**Figure 4:** Construct a causal graph for the Commission Challenging Germany (step 3)



Source: Authors

d) Alternative choices:

1. Germany might be a benign hegemon who willingly preferred the security concerns of Eastern Europe to its own interests.
2. The directive was not so important for Germany's energy security.
3. It was France who managed to stop Germany through its bilateral relations and a favourable balance of power.

e) Alternative counterfactual outcomes:

1. Germany's resistance was not serious.
2. The directive would not pose any significant threat to Germany's energy security.

3. Any other powerful country, no matter inside or outside the EU, could have produced the same result.

f) Evidence that invalidates counterfactual outcomes:

1. Germany seriously engaged in considerable efforts to undo the Commission's decision by building a blocking minority in the Council. It leaves no doubt that Germany single-mindedly was against the directive. So, the first counterfactual outcome can be invalidated by the evidence provided before.
2. The prolongation of the construction of the pipeline and the delay in project commissioning, caused by the Commission's legislation put the gas supply to houses and industries in Germany in danger. The project was set to be finished by the end of 2019, the year that the contract between Ukraine and Russia was going to terminate. With Germany's submission to the Commission's decision, this deadline expired. Moreover, Russia's complaints indicate that the directive had serious effects on the benefits that the pipeline had for Germany's partner, and in turn for Germany itself. Therefore, the second counterfactual outcome cannot be supported by empirical evidence.
3. Long before France's mediation, the US, which is by far more powerful, had tried to stop Germany. The result that France produced was because of its institutional position and voting power inside the EU institutions, not because of its national power. The regulatory power of the Commission, which made it capable of setting rules and regulations, enabled France to play its hand. Otherwise, France could not have achieved such a result in just three days, and even if it could, it would be humiliating for Germany to be stopped by another nation-state.

To sum up, all pieces of evidence that have been collected in the timeline, rejected alternative choices and their outcomes, and therefore, the second hypothesis cannot be rejected. This means that this case study disproves the realists' point of view that institutions are 'always' a mirror of power distribution.

## **Conclusion**

This study sought to answer the question of how the European Union can act independently of power politics by restricting the ambitions of powerful members and defending the rights and interests of smaller states. The result showed that in the EU's decision-making procedure, the EU Commission, by its supranational quality and therefore, with its regulatory power, was more successful in overcoming power politics, while intergovernmentalism of the Council did not prove



to be independent of power politics. As was shown, the regulatory mechanism of supranationalism makes issue linkage and information sharing possible and prevents humiliating enforcement by one member upon another one. But the compromising mechanism in intergovernmentalism creates unbearable normative entrapment that frustrates small members.

Additionally, the empirical results disproved the idea that international institutions are just a mirror of power politics. This does not mean that institutions always matter, but it just gives a counterexample of what Realists claim is always true. The study has other implications too. First, institutions matter even in cases where relative gains matter, not just in cases where fear of cheating matters. In the Commission's directive on the Nord Stream, fear of cheating was not the main concern, otherwise, MSs would not accept Germany's oversight. Second, institutions work on security domains too. Although Germany believed that the Nord Stream 'is a purely economic initiative' (Rettman 2018), most MSs could not help but consider the project as a security concern. Offshore pipelines are twice as expensive as onshore ones (Przybyło 2019: 9). So, this project is justifiable mainly in terms of its security benefits for Russia. Therefore, institutions matter even in security issues. Third, the study showed that the role of institutions in the security domain is to provide information, as Keohane maintained. In the case of Nord Stream, when Germany implements the directive, other members will find out how Germany interprets the directive. That is why they accepted the directive to resolve the dispute.

To conclude, one can safely say that supranationalism is more reliable for smaller members of the Union than their veto power in intergovernmental arrangements. In the same manner, powerful members must take supranationalism more seriously than intergovernmental negotiations. The important mechanism that produces such an outcome is the regulatory power that comes with supranationalism. Normative entrapment may seem to have an effect here too. It is a situation in which an actor accedes to a less preferred position or plays along just because they don't want to be seen as the black sheep of the family (Munyi 2013: 228). Although normative entrapment could have happened in both cases and perhaps both Germany and Lithuania were likely trapped, in Lithuania's case, the Council was not able to whitewash the sheep.



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We want to thank all the external reviewers who evaluated manuscripts in 2023. (Please note that the following list includes all the experts who sent their evaluations to CEJISS in 2023 regardless of when a reviewed manuscript was received and whether a given manuscript has or has not been published. We are particularly grateful to those who were willing to review more manuscripts.)

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