

Contents

7.1	Introduction	127
7.2	General Aspects of the Policies	128
7.2.1	Origin and Evolution	128
7.2.2	Legal Foundations and Objectives	130
7.2.3	Types of Measures	132
7.2.4	Division of Competence and Necessary Coordination	133
7.2.5	Institutional Embedding	134
7.3	Criticisms and Challenges	137
7.4	Conclusion	140
	References	141

7.1 Introduction

Adjacent to the external human rights policy of the EU, discussed in the previous chapter, lie its policies on development cooperation and humanitarian aid. As outlined earlier, for the establishment and maintenance of legal linkages with international partners, the observance of a high level of fundamental rights protection represents a crucial requirement, permeating most of the Union's relationships with third countries. The policies discussed in this chapter are prime outlets for setting up detailed schemes and frameworks in which that particular objective of the EHRP can be anchored. This of course serves as a typical 'carrot and stick' mechanism, whereby decent behaviour and civilised standards are encouraged by financial incentives, subjected to stringent qualifications.

From a global perspective, the EU can be seen as *the* major player in the fields of development cooperation and humanitarian aid. Yet, it operates in close collaboration with the Member States here; and most of the projects are launched, and most of the funds provided, in a joint effort. On an annual basis, the EU and its Member States dish out more than half of all assistance provided to countries in need

worldwide. This means that, in combination, they constitute the largest international donor on the planet.¹

The Treaty regime for cooperation with third countries and humanitarian aid, present in Part V, Title III of the TFEU, is three-pronged: separate rules have been put in place for, respectively, development cooperation *sensu stricto*; for economic, financial and technical cooperation with third countries; and for humanitarian aid. The second of these, the batch of provisions on economic, financial and technical cooperation with third countries, is somewhat uncomfortably sandwiched between the other two. Moreover, at first glance, the distinction between the three may not be readily apparent. All this warrants a more extensive elaboration in this chapter.

For a good understanding, we shall first look into some general aspects, investigating the origin and evolution of the policies, the legal foundations and the institutional framework (Sect. 7.2). At the same time, we will also take stock of some of their most tangible products. We then move on to discuss some of the doubts, questions and challenges currently facing the EU's development cooperation and humanitarian aid policy, especially with regard to a perceived lack of efficacy (Sect. 7.3). This discussion incorporates perspectives from the EU institutions, the Member States and third countries in equal measure.

7.2 General Aspects of the Policies

7.2.1 Origin and Evolution

In the early years of the EEC, development cooperation, financial support and humanitarian aid were largely provided on an ad hoc basis. Any concrete goals and ambitions were included in secondary law, and in international treaties adopted within individual (bilateral or multilateral) partnerships. No specific competences existed, and no coherent policies were drawn up for quite some time. Thus, development cooperation and humanitarian aid essentially started off as 'by-products' of other external policies.²

On the one hand, the policies took root and form in and through rules enacted under the Common Commercial Policy. For example, the GSP Regulation, discussed previously, guarantees an increase of export revenue for a number of third countries. Right from the start, this scheme enabled selected beneficiaries of

¹Together, the EU and its Member States account for roughly 55% of the world's official development assistance. The EU's budget amounted to € 16.3 billion in 2015, which pales in comparison to the \$ 32 billion handed out by the US that same year. However, cumulatively, the EU and the Member States allocated funds to the worth of € 69 billion. Furthermore, as a percentage of the gross national income, the EU Member States (both individually and on a combined average) exceed the 0.16 figure of the US by significant margins (see the data and statistics provided by the Development Assistance Committee of the OECD, available on <http://www.oecd.org/dac/stats>).

²Colourful sketches offer Schütze (2013) and Van Elsuwege et al. (2016).

tariff preferences to trade with the EEC countries on more favourable terms.³ On the other hand, not before long, multiple association relationships came into being, covering a broad array of interests. The first agreements that created a framework for relations between the European Community and the African, Caribbean and Pacific states touched on not only on commercial issues, but also sought to improve the economic and social development of the ACP countries more generally.⁴ In both ways, a European development cooperation policy was de facto taking shape, albeit in an unassuming and highly fragmented manner.

Box 7.1 The Post-colonial Legacy of the Early Aid and Assistance Schemes

The early assistance and aid carried a distinct post-colonial signature, in that all beneficiaries formerly found themselves under the tutelage of the EEC countries dispensing the means. Breaking with this past, in 1971, the European Parliament initiated a separate budget line for humanitarian assistance. These funds were made available for all developing countries, including those that had never been colonies of the Member States. Additional instruments were created for inter alia refugees, displaced persons, and emergency food rations. Still, in the next decades, the ‘usual suspects’ from the ACP group would continue to profit most from these schemes.

Over time, it became ever more questionable to what extent such aims could be pursued in this fashion, and to which limits the existing competences for the advancement of the CCP and association agreements could be taken. Development cooperation, financial and humanitarian aid traditionally belonged to an area of exclusive Member State competence. To be sure, some of the goals could be partially (but not primarily) promoted through supranational means. Nevertheless, the common assumption was that the supranational action could only be supportive, and that for measures with such *predominant* components or objectives, not even a shared legal basis was available on the European plane.

As to be expected, this all-important question eventually arrived at the docket of the Court of Justice. In its Opinion 1/78,⁵ the ECJ initially condoned the practice of including rules in CCP measures that sought to promote other interests. In the Court’s opinion, the conclusion of commodities agreements within the scope of UNCTAD, which envisaged helping the least-advantaged countries, could definitely fall within the scope of the Common Commercial Policy. On the other hand, despite the fact that the field covered by the agreement resided (at that point in time) within

³See Chap. 4, Sect. 4.5. For a critical review of the impact of this approach on the development of third countries, see Dickson (2004).

⁴The Yaoundé and Lomé Conventions, which were adapted in respectively 1963, 1975, 1979 and 1989. Their successor is the Cotonou Agreement, signed on 23 June 2000 in the largest city of Benin. It has been modified in 2005 and 2010, but is to expire in 2020.

⁵Opinion 1/78, *International agreement on natural rubber*.

the exclusive competence of the EEC, the Court ruled that the financing of the schemes concerned stayed within the competence of the Member States, in case the sums were charged directly to their budgets. Thus, notwithstanding the exclusivity of the CCP, to the extent that the participation of the Member States was required, the competence for adopting measures that touched upon development cooperation matters had to be a shared one.⁶ This basically meant that in this area, the autonomy of the Member States had to be respected, and that the Community was to be involved in development cooperation issues only to the extent that the measure lay (partially) within the scope of the CCP. In 1994, the Court reiterated the non-exclusive character of the competence, by virtue of which the Member States enjoyed considerable freedom to enter into commitments themselves vis-à-vis third countries, collectively, individually, or together with the Community.⁷

In its *Bangladesh* judgment of 1993, the Court appeared to express even greater reticence with regard to a supranational humanitarian aid competence.⁸ In this case, the European Parliament challenged a decision on emergency aid for Bangladesh, claiming that its budgetary prerogatives had been violated. The disputed decision had been taken by the representatives of the Member States meeting in the Council. The ECJ ruled that the measure could not be challenged, as there was no (exclusive) Community competence in the field concerned. In the Court's view, it made no difference that the decision referred to a proposal from the Commission, or that the latter was to administer the aid. Consequently, the Member States retained an autonomous power to adopt decisions in this area, collectively or individually, within the Council or outside it. Although the judgment was equivocal on this, and primary law lent no explicit support to the inference, the *Bangladesh* ruling was ultimately viewed as signalling a shared competence. This reading was confirmed by progressive Treaty amendments, so that the humanitarian aid policy retains that status up to this day.

7.2.2 Legal Foundations and Objectives

As mentioned above, with the entry into force of the Maastricht Treaty (1993), development cooperation received an official place in EU primary law for the very first time. In contrast, humanitarian aid had to wait for an official legal basis until the entry into force of the Treaty of Lisbon (2009).

Meanwhile, with the Treaty of Nice (2003), provisions were inserted to streamline economic, financial and technical cooperation with third countries. This could seem a surprising, strange and superfluous move. Yet, it becomes more easily understandable when one looks at the rationale of these rules: they aimed to create

⁶The pungency of this shared competence, at least vis-à-vis the CFSP, was underlined in Case C-91/05, *Commission v Council* (ECOWAS).

⁷Case C-316/91, *Parliament v Council* (Lomé IV).

⁸Joined Cases C-181/91 & C-248/91, *Parliament v Commission and Council* (Bangladesh).

legal bedrock for forms of cooperation with countries *other* than developing countries. There is therefore, at least on paper, no question of overlap of the latter regime with the rules on development cooperation. In contrast, EU humanitarian aid may be granted in *all* types of situations where that would be helpful—irrespective of whether developing or developed third countries are the beneficiaries.

Nowadays, the three policies are neatly tucked away in separate chapters, contained in Title III, Part V of the TFEU, spanning respectively Articles 208–211, Articles 212–213 and Article 214. Evidently, as with e.g. the EEP and EHRP, all three policies have to be conducted within the overall framework of the principles and objectives of the Union’s external action, included in Chapter 1, Title V of the TEU.⁹

As Article 208(1) TFEU spells out, the main objective of EU development cooperation is the reduction of poverty in the world. However praiseworthy this may be, it only qualifies as a short- or medium-term objective; for the same provision states that the wholesale eradication of poverty constitutes the EDCP’s long-term goal. In the *Philippines Framework Agreement* case, the ECJ connected this with the European Consensus on Development (a prominent piece of soft law) to underscore that poverty eradication is a multifaceted concept. A successful achievement will require taking into account economic, social and environmental dimensions, within a broader context of sustainability.¹⁰

Box 7.2 The European Consensus on Development

The European Consensus on Development was produced jointly by the Commission, Parliament and Council in 2005. It quickly established itself as the leading soft law document in the field, committing the Union to building a fairer and more stable world, identifying shared values, principles and commitments that are to be implemented at both the national and the supranational levels. A revamped Consensus was approved in mid-2017, offering a blueprint for aligning the EDCP with the 2030 Sustainability Agenda of the United Nations (in particular the Sustainable Development Goals, which also aim for a wholesale eradication of poverty). It envisages an ambitious collective policy that addresses the Agenda’s main orientations in an integrated fashion (the five catchwords being people, planet, prosperity, peace, partnership), placing a keen emphasis on the role of the private sector as a vital link in the chain.

⁹As the second sentence of Article 208 TFEU informs, in all the EU policies likely to affect developing countries, the Union has to take account of the objectives of development cooperation. This closely resembles a ‘policy linking clause’ (cf. Articles 7–14 TFEU). Article 212 TFEU extends this requirement *expressis verbis* to all forms of economic, financial and technical cooperation with third countries. On balance then, Chapter 1, Title III, Part V TFEU seems the more important, outweighing its sibling Chaps. 2 and 3.

¹⁰Case C-377/12, *Commission v Council* (Philippines Framework Agreement), paragraph 49.

As remarked earlier, alongside the main focus on poverty reduction, the EDCP features secondary targets too. Most importantly, it purports to contribute towards the development and consolidation of democracy and the rule of law, and also serves as an overarching condominium to improve the respect for fundamental rights.

The EU engages in economic, financial and technical cooperation without any grander objective than those principles and aims that govern EU external action in general; at least, this is the only conclusion that can be drawn on the basis of the black-letter text, since the Treaty lists no other goals or ambitions. Generally, the legal basis for this type of cooperation is used for concluding agreements with countries that are prospective EU members.¹¹

In contrast, according to Article 214(1) TFEU, EU humanitarian aid operations aim to provide ad hoc assistance, relief and protection for people in third countries that are victims of natural or man-made disasters. The operations undertaken within this sphere attempt to relieve the greatest plight, and as far as possible, address humanitarian needs arising in the wake of unexpected calamities.

7.2.3 Types of Measures

The binding measures on development cooperation, economic, financial and technical cooperation, and humanitarian aid are adopted on the basis of, respectively, Article 209, Article 212(2), and Article 214(3) TFEU. In all these cases, the ordinary legislative procedure applies. Measures can take the form of either multi-annual programmes, programmes with a thematic approach, or targeted (regional) action and support schemes. Examples are the Regulation on food aid,¹² the Regulation on aid for uprooted people,¹³ or the Regulation concerning rehabilitation and reconstruction operations.¹⁴ Consonant with Article 214 (5) TFEU, the Parliament and the Council adopted a Regulation to establish the European Voluntary Humanitarian Aid Corps.¹⁵

As remarked, the policies can also be pursued through bilateral or multilateral international agreements: Articles 209(2), 212(3) and 214(4) TFEU render the EU competent to conclude treaties and conventions with either third states or international organisations. Yet, these provisions also state that all three competences have

¹¹Cf. Article 212(8) TFEU. The Partnership and Cooperation Agreements with former USSR states have however also been concluded on this legal basis, as well as the UN Convention against Corruption.

¹²Regulation 1292/96 on food-aid policy and food-aid management and special operations in support of food security, OJ [1996] L 166/1.

¹³Regulation 2130/2001/EC on operations to aid uprooted people in Asian and Latin American countries, OJ [2001] L 248/1.

¹⁴Regulation 2258/96/EC on rehabilitation and reconstruction operations in developing countries, OJ [1996] L 306/1.

¹⁵Regulation 375/2014 establishing the European Voluntary Humanitarian Aid Corps, OJ [2014] L 122/1.

to be exercised without prejudice to the competence of the Member States to negotiate and conclude such agreements themselves.

We have just seen how even soft law can acquire significant authority in this domain. Alongside the European Consensus on Development, there has been a European Consensus on Humanitarian Aid since 2008. The latter has equally succeeded in becoming a major reference point, reaffirming the EU's attachment to key principles like humanity, neutrality and independence.¹⁶

7.2.4 Division of Competence and Necessary Coordination

The aforementioned sections already shed some light on the nature of the policies concerned. The founding Treaties seemed to suggest a supporting or complementary status at most, keeping the Member States in the driving seat. The Court progressed to categorise the powers as concurrent between them and the EC.¹⁷ At present, measures on development cooperation, economic, financial and technical cooperation, as well as those on humanitarian aid, unequivocally reside within a domain of shared competence. True, Articles 208(1), 212(3) and 214(1) TFEU do state that the Union's policies in these fields and those of the Member States are meant to complement and reinforce each other. Yet, they have all been consciously included in Article 4 TFEU, the central provision that lists the areas of shared competence.

As a matter of fact, the nature of the powers is slightly more complex, as we are here stumbling upon 'shared parallel' competences. This entails that, in the fields concerned, the EU may conduct an autonomous policy, which does not prevent the Member States from enacting policies of their own: the respective powers coexist, and are not meant to clash or overlap. As a direct corollary, the occurrence of pre-emption is ruled out. We thus encounter no real rupture with the past here: as indicated above, in its earlier pronouncements, the Court never regarded these policies as anything other than non-exclusive.

At the same time, the fact that the policies are referred to in a separate subparagraph of Article 4 TFEU, instead of the general list of shared competences, may lead some to doubt the correctness of this assertion. Indeed admittedly, the key provisions could have been rather more straightforward, as provisions such as Article 209(2), Article 210 and Article 211 TFEU convey the impression that the competences are merely supporting and supplementary. Perhaps the shared and coexistent nature of the competences was more clearly more visible in the past; Article 181 TEC, for instance, used to stress that the Community and the Member States were to cooperate 'within their respective spheres of competence'.

In any case, one must not be tempted to conclude that, pursuant to the 'parallel' character of the policies, the Member States are free to go at it in whatever way they

¹⁶European Consensus on Humanitarian Aid, OJ [2008] C 25/1.

¹⁷See e.g. Case C-316/91, *Parliament v Council* (Lomé IV).

please. As discussed, post-Lisbon, the requirements of coherence and consistency crop up abundantly throughout the Treaties, signalling that there are definite limits to the Member States' discretion. Also, all three Chapters of Title III, Title V TFEU presume that only a close coordination between the EU and the Member States ensures that the actions undertaken are truly efficient—and that the European and the national policies in the respective fields are truly reinforcing, instead of overlapping, counteracting, or cancelling out one another.

At the supranational level, next to Articles 3(5), 7 and 21(3) TEU, a self-standing requirement of coherence is visible in Article 208(1) TFEU. It provides that the Union shall take account of the objectives of development cooperation in the policies it implements which are likely to affect developing countries. This obliges the EU to pursue coherence between EDCP and its other policy objectives. We see here a continuation of a requirement that was before the entry into force of the Lisbon Treaty encapsulated in Article 178 TEC.

In order to attune the individual national efforts, the Council regularly provides a fruitful forum for consultation (as evidenced by the *Bangladesh* case), as well as an excellent podium for the crafting of common actions. Furthermore, Articles 210 (2) and 214(6) TFEU enable the Commission to take initiatives to promote a smooth coordination. In reality, the Member States have every reason to stay involved and take note of the EU's schemes and projects: since they supply the Union with the bulk of its financial resources, they (indirectly) finance most of its aid programmes themselves.¹⁸

In all then, despite the peaceful coexistence of national and the supranational powers, and the closely related idea of reciprocal non-intervention, the Treaties enjoin that a great deal of synchronisation takes place. With an eye to guaranteeing an optimal equilibrium in practice, the division of labour is spelled out in closer detail in a Code of Conduct.¹⁹

7.2.5 Institutional Embedding

That the Member States retain considerable manoeuvring space in the fields of development cooperation, economic, financial, technical support, as well as humanitarian aid, means that they can decide for themselves through which institutional channels, and in accordance with which administrative formalities, the allocated funds should be distributed. In every EU country, there exists a governmental department or cabinet office dedicated to international financial assistance.²⁰ The

¹⁸A glimpse of how Union delegations facilitate joint programming can be found in Estrada-Cañamares (2014).

¹⁹Conclusions of the Council and Representatives of the Governments of the Member States meeting within the Council, 'EU Code of Conduct on Complementarity and Division of Labour in Development Policy', Brussels, 15 May 2007, Doc. No. 9558/07.

²⁰For insight into the linkages set up by local and regional authorities, and the effective channelling of means via decentralised offices, see Bidugaren (2010).

portfolio is normally subjected to parliamentary scrutiny, the expenditure will be charged to the general budget, and the principle means buttressing the policies are derived from tax revenues. Additional funds are collected through NGOs at the national level, which have set up subsidiaries and points of contact in each of the Member States.

At the European level, as said, treaties and conventions can be adopted in the usual manner, in accordance with Article 218 TFEU. Other measures (mostly Regulations and Decisions) are adopted through the ordinary legislative procedure, whereby the Commission submits proposals, the Council decides by QMV,²¹ and the consent of a majority of the Members of the Parliament is required.

The expenditure involved with development cooperation, economic, financial and technical support and humanitarian aid is partly charged to the EU budget.²² The results are annually verified by the Court of Auditors, and the Parliament will have to grant its discharge. As remarked above however, the bulk of the means stems (indirectly) from the Member States, with a lesser part coming from EU's own resources. Another part of the funding comes from the European Investment Bank.²³ These funds are combined and streamlined in the so-called Development Cooperation Instrument (DCI).²⁴ In addition, there exists a European Development Fund (EDF), which serves as the main vessel for providing financial development assistance to the African, Caribbean and Pacific countries and the overseas countries and territories. Although the EDF is central to the Union's development cooperation policy, it has so far remained external to the EU's general budget. It is financed by the Member States, but subject to its own financial rules, and managed by a specific committee. Alongside the DCI and the EDF, there is the European Humanitarian Aid Instrument (EHAI).²⁵

On a day-to-day basis, the EU's development cooperation programmes are implemented and administered by a specific Directorate-General within the Commission. The DG is designated Development and Cooperation—EuropeAid (DEVCO), and functions under the auspices of the Commissioner that has development cooperation in his portfolio.²⁶

The full name hiding behind the DEVCO label is quite a mouthful that deserves clarification. Created in 2001, EuropeAid used to be a separate DG (officially the 'EuropeAid Cooperation Office') entrusted with the management of the Union's aid

²¹Yet, unanimity is the rule for concluding agreements on economic, financial and technical cooperation with states that are candidates for accession: see Article 218(8) TFEU.

²²To the extent that the Member States have not consented to ensure part of the funding directly: compare Article 210 TFEU *in fine*.

²³Cf. Article 209(3) TFEU.

²⁴Regulation 1905/2006 establishing a financing instrument for development cooperation, OJ [2006] L 378/41.

²⁵Regulation 1257/96/EC concerning humanitarian aid, OJ [1996] L 163/1.

²⁶Tagged 'International Cooperation & Development' in the Juncker Commission. The Directorate-General also holds the ACP dossier, which makes sense since the majority of developing countries is located in Africa, the Caribbean and the Pacific.

programmes, serving to implement the Commission's external aid instruments and ensure coherence, complementarity and coordination. In 2011, the latter purpose was thought to be more easily attainable by merging it with the Development Directorate-General.

DG DEVCO initiates all development policy initiatives, coordinates the political and financial relations with the individual countries, with regional communities (e.g. the African Union, Mercosur) and the OCT.²⁷ It supervises and manages all the Union's development assistance schemes (i.e. those funded from the general EU budget and the EDF). It should be mentioned however that the actual implementation of development aid takes place through a devolved management system, which amounts to a delegation of tasks to the offices in the respective partner countries, making the latter responsible for the identification, formulation and execution of concrete projects.

In contrast, economic, financial and technical aid is not dispensed through DG DEVCO, but in alternation via either DG Trade or DG European Neighbourhood Policy and Enlargement Negotiations, dependent on the country or region concerned. The tasking of these particular DGs is unsurprising here: after all, as explained above, this policy means to facilitate cooperation with countries *other* than developing countries.

The dispensing of humanitarian aid is assigned to a DG known as ECHO.²⁸ At present, it is entrusted to a Commissioner with the portfolio 'Humanitarian Aid and Crisis Management'.²⁹ Through ECHO, the EU deals with situations that call for immediate financial assistance and urgent humanitarian aid. It provides assistance and relief to the victims of natural disasters or armed conflicts, whereby the support is intended to go directly and quickly to those in distress, covering emergency aid, food aid and aid to refugees and displaced persons. The support not only comprises financial means, but may extend to goods and services as well. ECHO is equally concerned with ensuring the protection of citizens in a third country in the event of a major catastrophe or imminent threat thereof; if a stricken country's preparedness for disaster is insufficient for providing an adequate response, ECHO may step in and supply the necessary resources. It interacts with CSDP structures such as the EUMC and EUMS to be able to invoke military assets when necessary. As part of the Union's Civil Protection Mechanism, it operates a special monitoring and information centre.

²⁷But only in those areas that have a bearing on the DG's tasks and objectives. For the complete list of OCT, see Annex II to the TFEU.

²⁸An acronym of its former name, the 'European Community Humanitarian Aid Office'. DG ECHO is now taken to stand for 'European Civil Protection and Humanitarian Aid Operations'.

²⁹Previously, one single Commissioner was entrusted with a portfolio that encompassed development cooperation, humanitarian aid, as well as all other forms of external financial assistance.

Box 7.3 The European Voluntary Humanitarian Aid Corps

The EU offers citizens the opportunity to engage via the Humanitarian Aid Corps, launched in 2014, designed to supplement the efforts of professionals. Under this umbrella, 4000 individuals are to be deployed in the 2016–2020 period to support selected projects, strengthen the (re)building capacities of communities vulnerable to or affected by disaster, and boost their resilience. A simultaneous recruitment of volunteers takes place that are to provide assistance in a remote capacity. An intense European training programme ensures that the participants possess the right skills and prior knowledge before their deployment. The initiative also grants funding to projects submitted by consortia of EU-based and non-EU-based organisations.

In the original proposal for setting up the EU External Action Service, the EEAS was envisaged to also play a part in controlling the various external cooperation programmes. In the final decision that established the Service in 2010, its role has remained limited, with strenuous attempts at transferring the DGs EuropeAid or ECHO leading to naught.³⁰ Nevertheless, proposals for alterations and amendments to the three policies (also with regard to the DCI and EDF) are prepared jointly by EEAS and the Commission, under the responsibility of the competent Commissioner. This mainly involves identifying the funding priorities.³¹ At least with regard to this aspect then, DEVCO and ECHO need to be receptive to possible input from the EEAS. The responsibility for the management of the programmes ultimately does continue to lie with the Commission.

7.3 Criticisms and Challenges

A multitude of factors determines the success of the EU's development cooperation, economic, financial, technical, and humanitarian aid policies. Yet, in scholarly writings, political forums and public debate, repeated doubts have been expressed with regard to the progress and the methods that have been employed so far. If these sceptical voices were to gain the upper hand, they could spur a drive towards a grand overhaul—or wholesale abandonment of the policies.

To begin with, the EU's 'power base' in the fields concerned is fairly weak, with the wisdom of handing the EU a shared parallel competence being questioned on more than one occasion.³² Notwithstanding the relatively smooth interplay between

³⁰Cf. article 9 of Council Decision 2010/427/EU establishing the organisation and functioning of the European External Action Service, OJ [2010] L 201/30.

³¹Specifically, it involves the shared responsibility of preparing decisions on the three strategic, multi-annual steps within the development programming cycle: country and regional allocations, country and regional strategy papers, and national and regional indicative programmes.

³²See e.g. Pusterla and Pusterla (2015).

the national and the European levels, depicted above, calls are frequently made for full repatriation of a competence that was siphoned off to the EU too rashly. Additionally, several countries hold the view that poverty eradication should indeed be structurally pursued at the international level, but that any aid not provided by individual countries themselves should be channelled through the UN, the World Bank or the IMF.³³

The increasing variations in the level of aid granted present a further cause for alarm. In 2006, the Commission had set targets for aid spending of 0.39% of the GNI. With the intent of catching up with the pledges made in the Millennium Development Goals, this percentage was to shift to 0.56% in 2010, and to 0.70% in 2015. From 2002 to 2010, the ODA figure displayed an upward pattern; after decreases in 2011 and 2012, a positive trend resumed in 2013. However, in 2014 the ratio was still stuck at 0.42%.

Following the inauguration of the Sustainable Development Goals in 2015, the EU and the Member States renewed the pledge to increase their collective ODA, and now agreed to achieve the 0.70% figure within the time frame of the UN's 2030 Agenda. This resembled a kicking of the can down the road (albeit understandable in view of the gaping differences between the Member States, with just four meeting the original objectives and the rest lagging behind). In response, the Commission has considered including non-official, innovative sources of financing (e.g. remittances, foreign investment, technology transfer, private charity organisations). This approach has some potential, but may also serve to cloak a lack of political will. In the face of the persistent foot-dragging of some EU countries, the latter are perhaps better left to pursue their individual preferences.

Apart from the problems of vacillating support for the European competences as such, the effectiveness of Union aid has been questioned as well. The general debate on this issue has raged on incessantly for the past 20 years.³⁴ Policy-makers agree that it is not just the quantity but also the quality of the aid granted that determines its efficacy. Unfortunately, the relationship between the objectives that donor countries set and the results that are eventually obtained is tenuous and highly unpredictable. Decades of generous support notwithstanding, countless developing countries have made disappointingly little progress. Whereas most donor countries have over the years reconfigured and refined their schemes on numerous occasions, much of the aid continues to be patently ineffective, ending up in the wrong pockets, or turning out to be counterproductive in the mid- or long term. Meanwhile, despite a vibrant community of scholars, and the availability of an impressive, ever-expanding body of research, the key factors that determine success or failure are yet to be unravelled. Until public administration experts and social

³³The leading donors in the EU in terms of their GNI (Sweden, Denmark and Luxembourg) indeed channel the majority of their aid through the UN (according to the statistics drawn up by the Development Assistance Committee of the OECD; see <http://www.oecd.org/dac/stats>).

³⁴The literature on the topic is voluminous. Some hallmark contributions are Easterly (2006), Calderisi (2006), and Moyo (2008).

scientists manage to draw up a list of all dependent variables, and can indicate which are the most crucial, the malcontents are free to persist in their opposition. Moreover, if national aid already yields so disappointingly little, critics cannot be prevented from also wielding their axe at the root of the EU's competence.³⁵

Box 7.4 The (In)efficiencies of EU Humanitarian Aid

EU humanitarian aid has caught similar flak for its (allegedly intrinsic) inefficiencies. While no crisis is exactly the same and situations always differ to some degree, in many respects the actors follows a one-size-fits-all approach here. Worse, at the Union level, there exist no objective, reliable and comparable assessments of what is required in a typical scenario; the general practices proceed from multiple data collections and disparate analyses, leading to inchoate assessments and unhelpful competition between the (scarce) available funds. Civil society organisations, as well as representatives from the Commission itself, have repeatedly called for the construction of common tools to measure whether the aid given truly addresses the needs and has the expected impact.

The EU, together with other developed countries, has often been encouraged to seek refuge in debt relief. Yet, this comes down to 'virtual' aid: essentially, it is nothing more than a transfer of financial resources from the ministry of development in the donor country to the treasury of the receiving country. For the latter, the donation does free up resources, but one cannot be certain where these end up—and excess spending or other malpractices could soon resume. Moreover, even if this strategy were to present the best way forward, for engaging in debt relief the Member States do not necessarily need the EU.

Lastly, official statistics point out that, even though poverty reduction or eradication is the Union's official aim, a lot of its support does not go to low-income countries but to middle-income countries. To add insult to injury, individual Member States actually favour those countries that are geographically closest to the EU.³⁶ Basically then, at present, only a small part of the allocated funds are spent on those that need it the most, dealing a death blow to the credibility of the whole business.

The EU, in sum, faces some tremendous challenges, as its competences in the areas concerned meet with relatively little acclaim. Over the coming years, the Union will have to demonstrate that it is truly driven by results, and not merely a

³⁵In this respect, the emphasis in the European Consensus on Development of 2005 that developing countries are mainly responsible for their own development could be qualified as a first sign of retreat.

³⁶The top three net recipients of bilateral development aid are Turkey, Morocco and Serbia (see the official figures of the Development Assistance Committee of the OECD, available at <http://www.oecd.org/dac/stats>).

‘bodybuilder’.³⁷ Effective implementation and coordination of European aid on the ground remains pivotal to convince the sceptics, among which several Member States, of its added value. The incentives for making the plans work are alas less strong, since those who craft and implement the policies are not in one and the same political entity as those who profit from the latter (the recipients of the funds do not live and vote in the EU). At the same time, a Union that fails to achieve its objectives here, coupled with the limited successes of individual Member States, attracts an even greater amount of criticism from its citizens.

7.4 Conclusion

Due to their special nature as shared parallel competences, the Union’s policies in the field of development, economic, financial and technical cooperation and humanitarian aid lie in the periphery of its middle layer. This periphery is close to the ‘hard core’, made up of the Member States themselves, and the domains that are still predominantly within national competence.

The powers of the EU in development cooperation and humanitarian aid stand in marked contrast to those in the overarching frameworks of the CFSP and CCP, which can be regarded as main vehicles of EU external action. In fact, even today, development cooperation and humanitarian aid aspects can be part and parcel of CFSP and CCP measures, at least to the extent that a symbiosis is attainable. From an abstract perspective, outright conflicts between these policies might seem inevitable: after all, through the CCP, trade relations are maintained, streamlined and improved. The reduction or eradication of poverty is, however, not an objective of the CCP, whereas the contrary is true as regards the EU policy on development cooperation. Thus, despite the behest of alignment contained in Article 21 TEU, the primary objectives of the two appear to be at odds with one another.³⁸ Since the CCP is the exclusive and more encompassing policy, the inhabitants of third countries who do not participate in the trade chain are potentially put in jeopardy; if this legal basis is selected, they are in any case not the main focus or the most favoured, since other interests have been singled out as more important. Consequently, a right balance needs to be struck every time.³⁹ In the post-Lisbon era, this also flows from the overriding requirement of consistency, and the need to observe all external action goals in close harmony. Nevertheless, the current law does offer a viable template on which basis the proper choices can be made.⁴⁰

³⁷In the sense that its visible strengths—being the biggest donor and having its own institutional machinery to conduct policy—are the priority, and that efficacy aspects are only secondary.

³⁸From an institutional perspective, an associated problem could be the overly powerful position of DG Trade, which regularly outflanks the other Commission Directorates.

³⁹Cf. Case C-91/05, *Commission v Council* (ECOWAS).

⁴⁰Similarly Broberg and Holdgaard (2014).

As far as the actual output of the policies is concerned, the figures are not entirely bleak. The vaunted picture remains that of the EU and its Member States making up the largest international donor on the planet. Moreover, their good intentions stand beyond doubt, for the EU has in the past acted decisively to alleviate deteriorating humanitarian situations, and responded swiftly to numerous major disasters. Also, it has managed to mitigate the costs of prolonged crises situations on multiple occasions and various different continents. When the asylum crisis spiked, it went so far as to extend emergency assistance to refugees inside and outside the Union. There is, however, definitely scope for improvement. Better coordination of EU efforts between the Member States and the Commission looks feasible and desirable, and further steps are needed to ensure the donors' long-term commitment. Aid budgets are under increasing pressure across the Union, which creates a double quandary—first, to ensure the efficient use of limited resources, and second, to secure adequate funding for growing humanitarian needs. Reaching these objectives would allow the Commission and the Member States to keep their promise of solidarity, and fulfil their responsibility to those in need. Yet, at a time when the morality of providing assistance has never been more evident, and the gap between the haves and the have-nots widens disconcertingly, the effectiveness of the sums disbursed has never been more questioned. This feeds into the daunting challenge facing the EU, possibly more formidable than those facing any other global actor: to enhance its legitimacy both 'at home' and 'abroad'.

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