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Abstract

The EU Arctic policy, initiated in the European Commission's Communication "The European Union and the Arctic region" in 2008, was created to respond to the rising expectations that the European Union would have a bigger stake in this region which was gaining in importance due to its ecologic vulnerability, economic potential and clashing political interests of the global powers. Whether the European Union managed to establish itself as a significant actor in the Arctic through this new policy is open for discussion. Arguably, while the genuine interest and influence of the EU institutions was there to give a kick-start to this initiative, the pressure of the traditional and still dominant members of the regional Arctic system has been sufficient so far to effectively prevent it from realizing its full potential.

Introduction

The adoption of the Conclusions on the Arctic by the Foreign Affairs Council of the European Union (EU) on 12 May 2014¹ marks symbolically the end of the first half decennium of the implementation of the EU Arctic policy, inaugurated by the European Commission's Communication of 20 November 2008.² In the development of EU policies, especially the ones with a strong external component, five years cannot be considered a long time. Despite that, the Arctic policy seems to be well established in the working cycle of the EU. An attempt can thus be made to make a first assessment of its successes and failures on the background of the goals set forth in the relevant policy documents.

The EU Arctic policy as an analytic phenomenon presents some difficulties. These do, however, not concern the way it came into being, which was quite simple. It seems unnecessary to list the many authors dealing with the subject who all agree that the Arctic was bound to become at some stage an object of interest for the European Union because of the growing importance of the northern regions for the European economy (energy and transportation routes in particular) and the environmental challenges which are especially visible in the North.³ The reason for the emergence of the Arctic policy is as such quite clear – it is the way it evolved and the shape it took which is a little more peculiar and thus worth analyzing.

There are some peculiarities visible at first sight about the EU Arctic policy. The first is an uncertain stage of its development, which raises doubts if it can be really called an "EU policy" in any acceptable meaning of this term. If the answer is no, or not yet, then what possible interferences prevent it from fully realizing its potential, and how can it be labelled? The second peculiarity is a unique compass of the EU Arctic initiative presenting an unconventional internal/cross-border/external mix, in which the EU varies in competences, strength and influence. The third reason is the legal complexity of the territories on which the EU wants to operate, as the areas in

¹ Council of the European Union, "Council conclusions on developing a European Union policy towards the Arctic region", Foreign Affairs Council Meeting, Brussels, 12 May 2014.

² European Commission, *Communication from the Commission to the European Parliament and the Council "The European Union and the Arctic region"*, COM(2008) 763, Brussels, 20 November 2008.

³ For background reading see, for instance, Østhagen, Andreas, "The European Union – An Arctic Actor?", *Journal of Military and Strategic Studies*, vol. 15, no. 2, 2013, pp. 71-92; Airoldi, Adele, *The European Union and the Arctic: Developments and Perspectives 2010-2014*, Copenhagen, Nordic Council of Ministers, 2014; and especially the series of "The Arctic Yearbooks" edited by L. Heininen, to be consulted at <http://arcticyearbook.com>.

question include almost all kinds of territories recognized under international public law. This poses certain problems from the point of view of the EU influence on various Arctic issues and the homogeneity of action. The fourth peculiarity is systemic: it is precisely in the Arctic region that the European Union, which normally is a dominant actor vis-à-vis its neighbors, faces an existing "regional system", with strong actors playing well-defined roles, which puts the Union in an extraordinarily handicapped position.⁴ These four peculiarities are set out below in more detail before the different stages in the development of the EU Arctic policy are reviewed and some conclusions are drawn.

Peculiarities of the emerging EU Arctic policy

Is the EU Arctic policy a "real" EU policy or will it become one?

The "EU Arctic policy" has been labelled this way in the relevant EU documents, but if it can really be called a "policy" in any analytical sense is open to discussion. The considerable onomastic liberty the EU institutions have been taking so far in devising a nomenclature for new policy initiatives on the external border of the EU is not of much help – terms such as "strategy", "initiative", "dimension" and "policy" have been used on equal footing.

The most general description of the notion of "an EU policy" is that it is an identifiable course of a public action made at EU level.⁵ Some authors try to identify an EU "policy" by its unifying elements: it has to stem from a common need, address a common goal and serve a common interest,⁶ but all this seems too general. An "EU policy" to be worth its name must fulfill at least three criteria: establish a new course of EU action concerning a given issue, with identifiable goals, be indefinite in time (thus no seasonal actions) and normally also have its own financing. At the same time, it does not seem necessary that such an action is written down *tel quel* in primary EU law, because there have been a number of "EU policies" initiated merely through agreement between the institutions.

⁴ See especially Young, Oran R., *Creating Regimes: Arctic Accords and International Governance*, New York, Cornell University Press, 1998.

⁵ Wallace, Helen, Mark A. Pollack & Alasdair R. Young (eds.), *Policy-Making in the European Union*, Oxford, Oxford University Press, 2010, p. 4.

⁶ Moussis, Nicholas, *Guide to European Policies*, Rixensart, European Study Service, 2007, 13th edn., p. 12.

Now, the EU Arctic policy can undoubtedly be called an action “for” a given region rather than “with” a given region, for it is *per se* a unilateral action of the EU directed towards the Arctic, whatever caveats may be put in the EU policy declarations about the necessity to coordinate with other Arctic actors. In that sense, there are indeed good reasons to call it a “policy” rather than an “initiative” or a “partnership” which would presuppose a consensual or even contractual relation with another partner. As to the question whether it has new, identifiable goals, it is certainly open to discussion. The least that can be said is that this is not evident. And for now, no separate financing has been provided. The picture is thus blurred; possible reasons for this will be given later. For now it suffices to say that they must be ascribed both to the limitations of political support coming from inside “the EU box” and the outside pressure of third actors.

Various EU policies under one umbrella – do they match together?

Diana Wallis, a Member of the European Parliament, rightly observed in 2008, referring to the Norwegian lobbying in Brussels for the sake of the High North: “[The European Commission] was not sure, if this is a foreign policy? Or environmental, or energy? Or fishing? Of course, it is all of these things.”⁷ Indeed, the EU Arctic policy as read out from its programming documents strikes by its umbrella character: encompassing actions concerning climate, environment, research and development, maritime, transport, fisheries and cohesion, as well as social dialogue, to name but the most obvious ones.⁸ Missing from this list are – what is especially worth observing – security and defense issues.

Such an umbrella policy is *per se* nothing new in the development of various regional initiatives of the European Union, based legally on the interplay between articles 3-4 TFEU and chapter V TEU, in the spirit of article 21 TEU. What is perhaps peculiar in that *mélange* is that, for a typical regional policy bordering the area of the European Neighborhood Policy, the predominant idea has been normally to approximate the domestic order of the neighbors to the EU model, whereas for the Arctic policy this is out of question. What the EU mainly wants in the Arctic is to operate on the international level, to promote its vision of the international order in the Arctic by

⁷ Wallis, Diana, “Cross-border governance in vulnerable areas. Has the EU anything to offer in the Arctic?”, Speech at the Standing Committee of the Parliamentarians of the Arctic Region, Rovaniemi, Finland, 28 February 2008, quoted in Offerdal, Kristine, “Arctic Energy in EU Policy: Arbitrary Interest in the Norwegian High North”, *Arctic*, vol. 63, no. 1, 2010, p. 38.

⁸ European Commission, COM(2008) 763, *op.cit.*, p. 2.

influencing its regime. This has important tactical consequences because it focuses the EU's attention on the external elements of its policies. The EU could of course legislate independently in almost all areas of the Arctic policy, but then the consequences would be limited to the EU/European Economic Area (EEA), apart from setting a good example for other actors. That is why a more lenient approach has been taken and the EU tries to direct itself towards promoting its vision of the Arctic order as an equal partner among the big players of the Arctic family. All technical actions, like financial programs funded from various EU development assistance sources, are subjected to this fundamental tactics of a soft external policy approach. Perhaps very rightly the center of command of the Arctic Policy was placed with the European External Action Service because the external elements of the EU Arctic policy (such as climate, maritime, transportation) are so strong, perhaps even dominating, that one would be tempted to call it basically an external EU policy.⁹

It has been observed many times that the EU has at its disposal many tools to externalize its internal order, among which the tastiest "carrots" seem to be political approximation (of value mainly to the prospective candidates for EU membership), trade preferences and external assistance. The acceptance of an EU attempt to externalize its internal policy by a third partner is normally a tool to get closer to the EU, to gain more profitable trade arrangements with it or to receive more financial support. On that background, the novelty of the Arctic policy is that the EU in fact cannot use any of these methods to promote its internal order there. In the Arctic, the European Union's offer must, so to say, be judged on its own merit: because the EU cannot influence the Arctic partners by the above mentioned tactics, it must convince them that its proposals can be valuable and useful for them.

Peculiarities of the territorial dimension of the EU Arctic policy

Among the various constraints that the EU Arctic policy faces, the question of its territorial scope can perhaps show best some inherent difficulties connected with its implementation. The Arctic is defined by the EU itself as an area situated north of the

⁹ For instance, Degeorges, Damien, "The Arctic – A Region of the Future for the European Union and the World Economy", *European Issues*, no. 263, 8 January 2013; Wallace, Pollack & Young, *op.cit.*, pp. 489ff; Bomberg, Elizabeth, John Peterson & Richard Corbett (eds.), *The European Union: How Does It Work?*, Oxford, Oxford University Press, 2012, pp. 215ff; and Orbie, Jan (ed.), *Europe's Global Role: External Policies of the European Union*, Aldershot, Ashgate, 2009.

polar circle, which is an exact repetition of the definition used by the Arctic Council. The area is extremely varied as concerns its legal affinity, for it encompasses both territories belonging to EU member states as well as to the states associated with the EU through the EEA, to third countries, and territories not subject to the sovereignty of any country (the open sea) and finally one territory having special international status – Svalbard, governed by the Paris Treaty of 1920. This is a complicated territory for the EU to operate. Of course, there are opinions that the territorial approach is not quite relevant for the Arctic and instead a purpose-oriented approach should be taken, because the goals the EU wishes to achieve in the Arctic go beyond traditional notions of state boundaries.¹⁰ On the other hand, from a tactical point of view, the existence of various territorial regimes is a very strong factor for any conceivable EU Arctic actions.

For the EU such a complicated territorial patchwork is again a known phenomenon while considering that all the EU regional/neighborhood initiatives to date – the Union for the Mediterranean, the Northern Dimension or the Black Sea Synergy – have been operating on similarly difficult legal terrains. However, all of them differ from the EU Arctic policy in that they have been based on reciprocity and contractual relations, or at least attempt to engage the partner(s), whereas the EU Arctic policy is basically a proposal of EU action for the Arctic region and no contractual element is foreseen. This puts the EU in the inherent difficulty of trying to operate largely on a foreign ground without asking for the consent of the locals. And that in practice means that the continuum of the EU's influence in the Arctic can extend from the EU territory (strong, but still limited by individual policies of the EU Arctic states), through the European Free Trade Association (EFTA) (weaker) to the non-state territories like the open seas where the EU can try to shape international rules together with other global partners (weak), and with practically no influence on the biggest part of the Arctic territory which is subject to the sovereign rights of third states.

System-level influences on EU Arctic policy: the EU institutions vs. big players' game

Some interesting observations can be drawn also at the level of systemic analysis, or, so to say, at the level of external influences. It is obvious that the external actors really played a decisive role in shaping the concrete form which the EU Arctic policy finally

¹⁰ Koivurova, Timo, Kai Kokko, Sebastien Duyck, Nikolas Sellheim & Adam Stępień, "The Present and Future Competence of the European Union in the Arctic", *Polar Record*, vol. 48, no. 4, 2012, p. 361.

took. Of course, every EU policy with an external dimension operates in a given international environment and encounters various external forces trying to shape, to limit or to expand it. The peculiarity of the EU Arctic policy is, however, visible in that the EU encountered a very specific “regional system” in the Arctic, composed of eight states, the Arctic states or the Arctic Eight as they call themselves: Russia, USA, Canada, Denmark, Norway, Sweden, Finland, and Iceland. Among those, five (the USA, Canada, Russia, Norway, and Denmark) have special interests connected with the authority wielded over parts of the Arctic seas. Now, this is, as one can easily observe, a “concert of powers” model: few strong, unitary state actors with articulated national interests, who follow, at least in that part of the globe, the traditional sovereign state-to-state approach (absolute territorial integrity, opposition towards sub-state or inter-state networks taking over parts of national decision-making powers, and limited trust in international regimes, even those traditionally established through multilateral legal instruments). This observation holds true, in general, both to the non-EU as well as the EU states, though in the second case a slight conflict of loyalty must appear and these countries must draw a fine line between their EU and Arctic allegiance. This system of actors has elaborated a stable, though not very much formalized, institutional network, based on exclusivity, containing both legal and organizational elements. The institutional part revolves around the Arctic Council and its subsidiary bodies, and this is the maximal level of cooperation the actors have been ready to accept. The multilateral legal framework for managing the open seas acceptable for all these states (except for the United States) is the UN Convention on the Law of the Sea (UNCLOS).

It is pertinent to observe at this stage that states forming such a traditional regional system may be interested not only in keeping the status quo, but in developing their potentials and maximizing their gains. To this end some of them can be ready to allow third actors to their systemic games, albeit on their own (limited) terms. This will be perfectly visible when we analyze the reactions of the Arctic states vis-à-vis the attempts of Norway to engage the EU in Arctic affairs in the years 2007-08.

It has been mentioned earlier that the EU offer in the Arctic is mainly the externalization of its internal policies. It can be added here that due to the systemic constraints of the “concert of Arctic states”, this externalization cannot be promoted straightforward, as it was the case with the European Neighborhood Policy. In order to influence Arctic governance, the EU has to present itself as an “objective” actor

(and benefactor), as a responsible, neutral and even altruist member of the global community, in other words, as a realizer of the “milieu goals” in the meaning of Wolfers:¹¹ promoting the multilateral order, supporting regional integration and environmental protection – rather than a promoter of Duchêne’s “civilian power Europe”.¹² It has, so to say, to “attack” the Arctic system from above – from the level of global governance, multilateral arrangements or any format that breaks the exclusivity of the Arctic states in managing the region.

The development of the EU Arctic policy: from high hopes to compromise

Whereas the emergence of the EU Arctic policy must be rightly ascribed to the initiative of the EU institutions, especially the European Commission, it is equally true that some intertwining external and internal factors led to the emergence inside the EU of the “critical mass” necessary to initiate this policy in 2008. The way to the new proposals to better coordinate the EU activities in the Arctic was paved by the efforts of several Nordic EU presidencies at the turn of the century. The two presidencies of Finland, in 1997 and in 2006, which led to the creation of the EU Northern Dimension (later redefined as the Northern Dimension – an initiative of equal partners: the European Union, Russia, Norway and Iceland) are especially worth mentioning. Even if, as Njord Wegge rightly observes, the Northern Dimension had no significant Arctic component, except for the Northern Dimension Arctic Window established during the Danish Presidency in 2002, still the efforts of the Northern presidencies firmly established the position of the Nordic countries trying to attract the EU to the problems of their region.¹³ It is also worth noting that all these presidencies saw the added value of the EU more as a helper than a rule-setter, and they wanted the EU to engage in concrete assistance programs rather than to propose changes on the methods of governance of the High North areas which they themselves saw as being

¹¹ Wolfers, Arnold, *Discord and Collaboration, Essays on International Politics*, Baltimore, The Johns Hopkins Press, 1962.

¹² Duchêne, François, “The European Community and the Uncertainties of Interdependence”, in Kohnstamm, Max & Wolfgang Hager (eds.), *A Nation Writ Large? Foreign-Policy Problems before the European Community*, London, Macmillan, pp. 1-21. Among the ample literature see, for example, Orbie, Jan, “Civilian Power Europe, Review of the Original and Current Debates”, *Cooperation and Conflict*, vol. 41, no. 1, 2006, pp. 123-128; and Manners, Ian, “Normative Power Europe Reconsidered: Beyond the Crossroads”, *Journal of European Public Policy*, vol. 13 no. 2, 2006, pp. 182-199.

¹³ Wegge, Njord, “The EU and the Arctic: European Foreign Policy in the Making”, *Arctic Review on Law and Politics*, vol. 3, no. 1, 2012, p. 14; Airoldi, Adele, “The European Union and The Arctic, Policies and Actions” *Report to the Nordic Council of Ministers*, ANP 2008:729, Copenhagen, 2008, pp. 19ff.

adequate. Equally important was the lobbying of Norway, which adopted its own "High North Strategy" in 2006¹⁴ and since then tried to engage the interest of the European institutions towards more visible activity in the North, which resulted, among others, in the series of enhanced political consultations between the European Commission and Norway in 2007-08.

The immediate impulse for the new engagement of the EU in the Arctic issues stemmed from the critical mass of international events, which convinced the Barroso Commission of the necessity to take the Arctic agenda more seriously. Among multiple international events and processes which focused the attention of the European public opinion on that particular region, one has to highlight political events such as the renewed attempts to assert sovereignty on the Arctic territories by several Arctic Eight countries, the symbolic expression of which was the placement of the Russian flag on the North Pole in August 2007; environmental and economic developments, such as the influence of global warming on the Arctic nature and new possibilities for its commercial exploitation, also by the excavation of fossil fuels and maritime transportation, and finally legal ones, such as prolonging legal disputes on the interpretation of UNCLOS norms applied to some Arctic territories.¹⁵ At the same time, the EU was preparing itself for the UN Conference on climate change in Copenhagen in December 2009, and the issue of the Arctic was treated as a litmus test for the success of the negotiations. One also has to mention another problem perhaps marginal in the global context, but nevertheless important for the EU: the question of the lack of EU representation in the Arctic Council, while three EU member states and two EEA/EFTA members are represented there.

All these factors contributed to the European Commission sensing a favorable political climate to consolidate the Arctic questions under one umbrella policy. It was a considerable novelty since before that the European Commission did not pay much attention to Arctic issues. Kristine Offerdal rightly points out that the Arctic issues were, at least until 2006, treated by the Commission more as a niche subject, belonging in principle to the sphere of ecology, maritime governance and climate.¹⁶

¹⁴ Norwegian Ministry of Foreign Affairs, *The Norwegian Government's High North Strategy*, 1 December 2006, retrieved 13 January 2015, <https://www.regjeringen.no/globalassets/upload/ud/vedlegg/strategien.pdf>.

¹⁵ See for instance Anioł, Włodzimierz, "The Arctic: An Area of Conflict or of Cooperation?", *The Polish Quarterly of International Relations*, no. 4, 2010.

¹⁶ Offerdal, Kristine, "Arctic Energy in EU Policy: Arbitrary Interest in the Norwegian High North", *Arctic*, vol. 63, no. 1, 2010, pp. 30-42.

Also, in spite of the new significance devoted to the European energy policy at the EU summit at Hampton Court in 2005, the energy resources deposited in the Arctic were not an issue for broader analyses of the European Commission.¹⁷ This was also visible at the bureaucratic level in this institution, where separate questions related to the Arctic were dispersed among several line Directorates-General.

The preparations for the Swedish EU presidency in 2009 presented another occasion for the European Commission to advance with the Arctic agenda. Results of some earlier work on parallel issues were used for this purpose, in particular the outcomes of the deliberations on the Communication on the integrated maritime policy which appeared in October 2007, in which the Commission mentioned Arctic issues in the context of global warming.¹⁸ In March 2008, a joint paper of the European Commission and the High Representative was published on climate change and international security, in which a great novelty was included, because both institutions made an unequivocal plea for a new EU Arctic policy, which should take into consideration among others "access to resources and transport routes".¹⁹ These formulations paved the way to start preparations for the first Arctic Communication entitled "The European Union and the Arctic region", published in November 2008.²⁰

At the time, a critical mass of support in the European Union necessary for pushing this new policy through the Brussels machinery was undoubtedly there. Nevertheless, given the real significance of the subject and its connections to some global issues, it has to be said that the reaction of other EU actors to the Communication was surprisingly low-profiled. This was particularly the case for the three Nordic countries, Sweden, Finland and Denmark. These countries, while supporting the new policy, had rather limited expectations about its contents, clearly preferring a policy of a supplementary nature rather than any strategic change, especially concerning the management of natural resources. They were also averse to any possible attempts to replace, or weaken, their role as exclusive members of the Arctic Eight through a united EU policy or representation. Especially Denmark could be pointed out as a country which, belonging as it is to the informal inner circle of the five Arctic coastal

¹⁷ *Ibid.*, p. 36.

¹⁸ European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "An Integrated Maritime Policy for the European Union"*, COM(2007) 575, Brussels, 10 October 2007.

¹⁹ "Climate Change and International Security, Paper from the High Representative and the European Commission to the European Council", S113/08, 14 March 2008, pp. 8, 11.

²⁰ European Commission, COM(2008) 763, *op.cit.*

states, strove to limit the ambitions of the emerging EU policy. This country had natural objections to any possible introduction of EU regulations through the back door to the territories of Greenland and the Faroe Islands, which were so far excluded from this influence.²¹ On the other hand, which may be less peculiar than it appears at the first glance, the new EU Arctic initiative was supported by many EU member states from outside the Nordic circle, sincerely interested in the emergence of an EU Arctic policy, perhaps not least because they immediately saw potential profits stemming from breaking the exclusivity of the Arctic states and gaining an additional channel of influence in that region.²²

As concerns the European Parliament, the interest of this body for Arctic policy was quite marginal, though it would seem that it grew a little in the run-up to the Swedish Presidency in 2009. The effect was a visible domination of the “green” circles in the parliamentary debate on the Arctic issues. In autumn 2008 a special discussion on the Arctic was held at the European Parliament and a formal resolution was passed on 9 October 2008.²³ This resolution had, at least at one point, far reaching consequences because it called on the European Commission to “promote the opening of international negotiations leading to adopting an international treaty for protection of the Arctic, inspired by the Antarctic Treaty”.²⁴ Introducing this postulate meant nothing less than that the European Parliament all of a sudden positioned itself on the radical wing of the debate about the future of the Arctic, and moreover, that it made an endeavor to place the European Union as a reformer of the Arctic regime. Indeed, this postulate provoked many negative reactions in the Arctic Eight and did not contribute to the cause of more EU engagement in Arctic issues. Another important plea of the European Parliament resolution worth mentioning requested the European Commission to “ensure” (without actually precising by what means this could be done) the introduction of proper amendments to “regulations”

²¹ See, for example, Daemers, Julien, “The European Union in the Arctic: A Pole Position?”, *Bruges Regional Integration and Global Governance Papers*, no. 4, 2012, Bruges, College of Europe and UNU-CRIS, p. 8; Maurer, Andreas, Stefan Steinicke, Arno Engel, Stefanie Mnich & Lisa Oberländer, “The EU as an Arctic Actor? Interests and Governance Challenges”, *Report on the 3rd Annual Geopolitics in the High North – GeoNor – Conference and joint GeoNor workshops*, Berlin, 22-24 May 2012, p. 17.

²² Pélau-deix, Cecile & Thierry Rodon, “The European Union Arctic Policy and National Interests of France and Germany: Internal and External Policy Coherence at Stake?”, *The Northern Review*, no. 37, 2013.

²³ European Parliament, *Resolution of 9 October 2008 on the Arctic governance*, P6_TA (2008) 0474, Brussels.

²⁴ *Ibid.*, point 15.

of the International Maritime Organization regarding the security of maritime transport in the Arctic region.²⁵

The reactions of the non-EU Arctic actors to the emerging ambitions of the European Union were, to say the least, reserved. The radical postulates of the European Parliament contributed to the lack of trust on the side of the Russian Federation and Canada. Even Norway, which was the main promoter of the growing EU activity in the Arctic region, was not happy. Canada and Russia had special reasons not to approve of the new EU policy, because they had themselves strengthened their expansion in the Arctic region and regarded their own parts of the Arctic as terrains of their own responsibility and huge potential profits. The most unequivocal verbal reactions disapproving of the role of the European Union in the Arctic came from Russia: The Russian ambassador to the European Union stated that there were no EU member states within the Arctic states (having in mind probably the Arctic Coastal Five) and that Russia was satisfied with the current model of Arctic governance.²⁶ Canada did not openly disapprove of the new European Union documents of 2008 and 2009, but a resolute position of the administration of Stephen Harper on the necessity to limit the influence of third partners on the management of the Arctic was widely known.²⁷ The United States, for their part, which *nota bene* adopted in 2009 a new presidential directive aimed at the revision of their Arctic policy,²⁸ took a more conciliatory stance than Canada. But also for this country the added value the European Union was able to bring to the management of the Arctic boiled down to enhanced support for scientific cooperation and, to some extent, building a partnership with the EU on environmental issues. Besides that, Washington had no intention to allow for any deeper changes in the governance of the Arctic, and the status quo approach was a principle deeply rooted in the US Arctic policy.

The contents of the 2008 Arctic Communication

The EU Arctic policy presented in the Communication of 2008 and corroborated in the Council Conclusions of 2009 had all elements of a compromise, with an overall

²⁵ *Ibid.*, point 10.

²⁶ "Russia: Arctic is no EU affair", *Barents Observer*, 19 May 2009, retrieved 13 January 2015, <http://barentsobserver.com/en/node/18866>.

²⁷ Dolata-Kreutzkamp, Petra, "The Arctic Is Ours, Canada's Arctic Policy – Between Sovereignty and Climate Change", Friedrich Ebert Stiftung, Washington Office, *Focus Canada*, no. 2, 2009.

²⁸ "National Security Presidential Directive and Homeland Security Presidential Directive, Arctic Region Policy", Washington D.C., 9 January 2009.

purpose of not antagonizing the non-European members of the Arctic Council and presenting the European Union as a constructive actor, who wished to contribute positively and practically to addressing the Arctic problems. In the 2008 Communication the European Commission and the High Representative have defined three formal goals connected with: 1) the protection of the Arctic resources together with the local population; 2) the promotion of a sustainable use of resources; and 3) the participation in the enhanced management of the Arctic.²⁹ The realism of the three elements was not of equal magnitude, one can say that especially the third goal was more a wish than a basis for any future action plan. That is why there were three real thematic areas in the Communication where the EU institutions declared concrete and measurable goals. These concerned: *primo*, influencing the technical rules on resource management and the environment; *secundo*, support for the transportation routes in the North through new norms and engineering tools (such as satellite systems), and *tertio*, support for the well-being of the indigenous peoples by various economic and aid means. One can hardly resist the temptation to observe that in most, if not in all, areas covered by the Communication, actions were to be conducted by means of prolongation and extension of already existing initiatives carried out or financed by the EU, mainly by the European Commission or the specialized agencies, and not by launching any substantially new actions. Perhaps the most telling were the questions on which the Communication did not touch or spoke in a laconic manner. Such was the case of the most controversial issue for all the Arctic actors, that is a possible new, comprehensive Arctic regime, on which the Communication was very reticent, saying only that the system of the Arctic governance must be based on UNCLOS (sic!), and that any possible new legal instruments must have a supplementary character. Besides, the President of the European Commission José Manuel Barroso was quick to deliver a *Roma locuta* kind of statement as he said at the press conference after the meeting with the Prime Minister of Norway Jens Stoltenberg in 2008: "We can say in principle that the Arctic is a sea, and a sea is a sea".³⁰ This statement, hardly in line with the whole philosophy of the Arctic Communication and the projected policy, which took as a departure point that the Arctic encompasses "all areas north of the polar circle",³¹ so not only and even not first of all the sea, was

²⁹ European Commission, COM(2008) 763, *op.cit.*, pp. 3-9.

³⁰ Phillips, Leigh, "Commission backs Norway's Arctic vision: no new treaty", *EU Observer*, 13.11.2008, retrieved 30 October 2014, <https://euobserver.com/news/27104>.

³¹ European Commission, COM(2008) 763, *op.cit.*, p. 2.

intended to rule out any possibility that the Commission would follow the European Parliament in its plea for an "Arctic Treaty". The declaration by José Manuel Barroso only partially appeased the Arctic Eight members. Besides, other members of the European Commission sometimes expressed themselves in quite a different way. For instance, Commissioner Damanaki, responsible for maritime affairs, often used comparisons and allusions connected with the Arctic as a "common responsibility", which were interpreted as referring *volens volens* to an Antarctic Treaty concept and language (even though she later started to use more balanced language on that matter).³² Anyway, these hints never materialized into a specific policy proposal.

Another very sensitive matter for the Arctic states, the rules of access to the natural resources, was reduced in the Communication almost exclusively to the methods of the excavation of fossil fuels, first of all gas and oil. It was evident that the European Commission did not want to put forward a more ambitious agenda in that case, as it only signaled the necessity to promote implementation of non-binding guidelines of the Arctic Council concerning the methods of exploring fossil fuels and declared that it would be supporting research on the development of relevant technologies.³³ Supportive methods were announced by the European Commission on the issue of Arctic transportation – the European institutions were supposed to promote the implementation of existing commitments in the framework of the International Maritime Organization. The Commission declared also, for its part, to support a more secure navigation of vessels in the Arctic region through the development of a satellite system on the polar orbit. More concrete goals were declared for Arctic research and support for local populations.

The 2008 Communication situated the European Union as an actor which did not have, or at least did not declare, any open ambitions to shape independently the strategic framework of the Arctic regime. Nor did it postulate any significant reforms thereof. The role of the European Union would rather be to support the creation of a soft system of rules, norms and institutions concerning the economic and scientific activities in the Arctic region. It was characteristic that the European Union did not decide to create any special financial instrument to support its emerging Arctic

³² See, for instance, Damanaki, Maria, European Commissioner for Maritime Affairs and Fisheries, "Arctic footsteps in Brussels", 9th Conference of Parliamentarians of the Arctic Region, European Parliament, Brussels, 13 September 2010; Damanaki, Maria, European Commissioner for Maritime Affairs and Fisheries, "The Arctic: a test bench for international dialogue", Berlin, 17 March 2011.

³³ European Commission, COM(2008) 763, *op.cit.*, p. 7.

policy. As before, funds were supposed to come from various chapters of the EU budget, namely, from the regional programs, the Cohesion Fund, some instruments of external assistance, especially from the European Instrument for Democracy and Human Rights and the European Neighborhood and Partnership Instrument, as well as, for the research activities, from the 6th and 7th Framework Programs. Also within these programs no internal reprogramming of the available resources was visible – the frequently quoted amount of 1.14 billion euro³⁴ programmed by the European Commission to support the sustainable development of the Arctic had an indicative character and resulted from summing up of all available programs and activities of the EU for this region programmed for the years 2007-13, that is, before the Arctic policy was officially launched.³⁵

This soft, technical, supportive approach to the issue of Arctic governance has determined the way the Communication was implemented after it was accepted with little discussion by the Council in 2009.³⁶ It is sufficient to read the reports attached to the second Communication of 2012 to make up one's mind on that.³⁷ The general impression after reading these documents is that the European institutions, both the Commission and the (meanwhile established) European External Action Service, in most cases did not take new activities, but strengthened the lines of action already conducted and attributed this to the impulse given by the newly established EU Arctic policy. A good case in point is, for instance, a long paragraph on the actions taken so far by the European Union on various global fora to fight climate change.³⁸ No doubt, in many cases the key for the Arctic issues lies beyond the Arctic, but one can hardly prove that the emergence of the EU Arctic policy in 2008 led in a visible way to undertaking new directions or initiatives in the EU's

³⁴ See, for instance, "Fact sheet on the EU Arctic Policy", issued in occasion of the Europe Day celebration, Brussels, 9 May 2014.

³⁵ See, however, the new EU Instrument for Greenland established for the period 2014-20 amounting indicatively to 217.8 million euro. "Council Decision 2014/137/EU of 14 March 2014 on relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other", *Official Journal of the European Union*, L 76/1, 15 March 2014.

³⁶ Council of the European Union, "Council Conclusions on Arctic issues", Foreign Affairs Council Meeting, Brussels, 8 December 2009.

³⁷ See European Commission & High Representative, *Joint Staff Working Document, "The inventory of activities in the framework of developing a European Union Arctic Policy", Accompanying the document Joint Communication to the European Parliament and the Council: Developing a European Union Policy towards the Arctic Region: progress since 2008 and next steps*, SWD(2012) 182, Brussels, 26 June 2012.

³⁸ European Commission & High Representative, *Joint Communication to the European Parliament and the Council, Developing a European Union Policy towards the Arctic Region: progress since 2008 and next steps*, JOIN(2012) 19 final, Brussels, 26 June 2012, p. 13.

activities on the climate issue. Similarly, the efforts to place the Arctic issues widely on the agenda of the dialogues that the EU was leading with key Arctic partners materialized visibly only in mentioning the Arctic *en passant* at regular political meetings held with the USA, Canada and Russia. And the limited degree to which the European Union was able to use this channel to strengthen its position as a prominent Arctic actor, treated by these states as an equal partner, could best be observed in the case of the EU's application for observer status in the Arctic Council. This application was purposefully kept unresolved throughout the years of the EU Arctic policy implementation,³⁹ mostly because of the opposition of Canada, and which was partially alleviated only recently, during the Arctic Council Ministerial meeting in Kiruna in May 2013.⁴⁰ Along with this setback for the European Union, since in parallel seven other observers were admitted to the Arctic Council, the issue proved beyond doubt that the Arctic states had no intention to yield to the attempts of the "Civilian Power Europe" to broaden the scope of its normative order to third parties.

It would be equally difficult to show any enhanced influence of the European Union on various international regulatory efforts connected with the rules of fossil fuels exploration and transportation safety at the Arctic sea routes. Perhaps one traceable effect was an initiative on new security standards on the excavation of gas and oil, announced in the Communication of the European Commission⁴¹ and brought into practice by the Directive 2013/30/EU.⁴² Its significance was all the bigger since it was applicable to all the EEA member states, that means, including Norway, even though this was one of the rare occasions where the EU decided to pursue its Arctic policy by unilateral legislation. Of course, the scope of maneuver for the European Commission outside the EEA area was quite limited. One can estimate, after all, that in the field of security of fossil fuels exploration, there has been an increase in exchange of good practices between the main producers of oil and gas and their associations. However, it does not seem that the European Commission played a significant role in that process. More concrete effects of the EU's activities

³⁹ Koivurova *et al.*, *op.cit.*

⁴⁰ "Kiruna Declaration on the occasion of the Eight Ministerial Meeting of the Arctic Council", 15 May 2013, Kiruna, Sweden, p. 6.

⁴¹ European Commission, Proposal for a Regulation of the European Parliament and of the Council on safety of offshore oil and gas prospection, exploration and production activities, COM/2011/0688 final – 2011/0309(COD), Brussels, 27 October 2011.

⁴² "Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC", *Official Journal of the European Union*, L 178, 28 June 2013, p. 66.

in the Arctic region can be traced in different research and technical activities co-implemented or co-financed by the EU institutions. At least one such activity was completed successfully before the year 2012 and thus merits being mentioned, even though its implementation did not stem directly from the 2008 Arctic Communication. This was the Arctic Footprint and Policy Assessment of 2010, which constituted the first thorough analysis of the effects made on the Arctic environment by the activities coming from the territory of the European Union.⁴³

It must be also mentioned in passing that the European Union scored some progress as to the methods and frequency of relations with the indigenous peoples. Even though it can hardly be said that the European Union became a dominant actor for organizing support for these groups, it undoubtedly started a more systematic approach to this matter. In that context, it initiated, as a first step, a series of so-called "Indigenous Peoples Dialogues", which were inaugurated in Brussels in 2010 and carried on in Tromsø in 2011 (the next meeting from this series was held in 2013). The meetings proved, quite unexpectedly, that there were a lot of unresolved subjects to discuss, going beyond the famous hunting of seals issue, and ranging from economic and cultural issues to some very basic misunderstandings and perception difficulties. This was the case when some Inuit representatives had difficulty to grasp the essence of objections of some EU member states (among them France) to the use of the term "indigenous peoples" in official UN documents.

Continuation of the soft policy: the 2012 Arctic Communication

The continuation of the soft approach to the Arctic issues, with all strategic limitations imposed in 2008 and 2009, was retained also in the second Arctic Communication of 26 June 2012, entitled "Developing a European Union Policy towards the Arctic Region: progress since 2008 and next steps".⁴⁴ In this revision, the European Parliament characteristically took a more lenient stance, passing two resolutions in January 2011⁴⁵ and March 2014,⁴⁶ both rather conciliatory, referring mostly to the existing forms of cooperation (without mentioning any controversial Arctic treaty).

⁴³ "EU Arctic Footprint and Policy Assessment", Final Report, 21 December 2010, Ecologic Institute Berlin.

⁴⁴ European Commission & High Representative of the European Union for Foreign Affairs and Security Policy, JOIN(2012) 19 final, *op.cit.*

⁴⁵ European Parliament, *Resolution of 20 January 2011 on a sustainable EU policy for the High North*, P7_TA (2011) 0024, Brussels.

⁴⁶ European Parliament, *Resolution of 12 March 2014 on the EU strategy for the Arctic*, P7_TA (2014) 0256, Brussels.

Relieved from the strategic ambitions of the Parliament, the Commission and the EEAS produced a document which was widely assessed as a corroboration of the nuanced and technical approach to the Arctic governance and a decisive breakup with any possible ambitions to introduce revolutionary ideas to the international Arctic regime.⁴⁷ Some, perhaps with a little exaggeration, perceived it even as abandoning any ambitions by the European Union to influence the discussion about strategic developments in the Arctic.⁴⁸ It was anyway evident that the authors of the 2012 Joint Communication decided not to repeat the hints at a possible imperfection of the Arctic regime and the necessity for enhanced governance, present in the first Communication. Instead, both institutions concentrated on the program for the future, focused on three thematic areas: knowledge, responsibility and engagement.

About the contents of these three chapters we can but repeat what was said before about the inherent difficulty the first Communication had with discerning specific Arctic activities. It was obvious that a big effort had been done to rebrand various activities more or less loosely connected with the Arctic under a single policy document to fit the Arctic policy purposes. Traditionally, whatever had a link to the climate policy was *per se* possible to qualify as a part of the EU Arctic policy, and this could be perceived already while analyzing the first heading “knowledge”, which described not only the EU’s participation in the post-Kyoto process, but also, for example, financing research on climate under the Horizon 2020 program. In more technical issues, promises were made of continuing some processes already launched, such as improving maps of the seabed and the possible use of the European satellite system Galileo to trace safe transportation routes.

Under “responsibility” a traditional patchwork was offered, encompassing existing programs financed from the whole panoptic of EU sources, such as the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development, the European Fisheries Fund, as well as the European Neighbourhood and Partnership Instrument/European

⁴⁷ See, for instance, Weber, Steffen, Cécile Pelaudeix & Iulian Romanyshyn, “Commentary: EU’s New Arctic Communication: Towards Understanding of a Greater Role”, in Heininen, Lassi (ed.), *Arctic Yearbook 2012*, Akureyri, Northern Research Forum, 2012; Śmieszek, Małgorzata, “The European Union in the Northern Latitudes”, in Boening, Astrid, Jan-Frederik Kremer & Aukje van Loon (eds.), *Global Power Europe, vol. 2: Policies, Actions and Influence of the EU’s External Relations*, Berlin-Heidelberg, Springer-Verlag, p. 175.

⁴⁸ See, for instance, Østhagen, *op.cit.*

Neighbourhood Instrument and the Instrument for Pre-Accession Assistance (for Iceland). It would seem that the Commission was hereby declaring that *primo*, it was satisfied with this variety; and *secundo*, no significant increase in spending on the Arctic should be foreseen. What could be new in that system is that the European Commission would be prepared to enhance dialogue with the “member states” (that must mean EU member states, it is however unclear why with them only) on how the financial resources from the multiannual financial framework 2014-20 could contribute to the development of the Arctic. The “responsibility” part comprised also a general goal of introducing more secure methods of fossil fuels exploitation, which was already an important part of the 2008 Communication and which would be an interesting goal to realize. From the contents of a related paragraph it could be read, however, that this goal would be pursued mainly through two lines of action: the first would be to finance research on new methods of excavation, and the second to support discussions in the relevant international organizations, especially the International Maritime Organization, and the efforts to work out the Polar Code. It was evident that the European Union perceived itself as a supplementary actor here. The third part, “engagement”, was again more informative because of the omissions than because of the content, even though it underlined clearly that the Arctic Council members played the primary role in the region and any action of the European Union had to be coordinated with them. Furthermore, for that purpose, strategic partnerships of the EU with relevant third parties, mainly the USA, Canada and the Russian Federation, were to be used.

Among this very general language, it is perhaps good to fish out a more concrete passage in which the institutions announced a formal strengthening of a partnership between the European Union and Greenland, mainly in the domain of environmental protection, according to the letter of intent of June 2012.⁴⁹ This shows that the European Commission and the European External Action Service at least are aware of the challenges and potential risks to the interests of the European Union stemming from the inherent sensibility of Greenland and its exposure to growing influence from third countries and also from non-state actors.

⁴⁹ European Commission, Press Release, “European Commission signs today agreement of cooperation with Greenland on raw materials”, Brussels, 13 June 2012, retrieved 23 January 2015, http://europa.eu/rapid/press-release_IP-12-600_en.htm. See also Airoidi, 2014, *op.cit.*, p. 27.

The attitudes of the EEAS and the Commission interplayed well with the general mood on Arctic issues in the Council which established itself at least from mid-2012 onwards, that is, since the end of the Danish EU presidency. The decelerating of the pace of works on the 2012 Arctic Communication in the Council can be attributed to the feeling of a lack of pressure for more energetic initiatives in the Arctic, the overtaking of the Arctic portfolio by the EEAS with all its bureaucratic consequences (and much to the satisfaction of some Council members), along with the emergence of more pressing international issues. The fact that one and a half year elapsed from the publication of the Communication to the adoption of the Arctic Council Conclusions at the Foreign Affairs Council in May 2014, as an "A" point (no discussion), could be seen as another proof to a *de facto* consensus on a low-profile character of the EU Arctic policy, taken over, as it is now, by the middle executive level of the EU institutions.

Conclusions

In the Arctic, the European Union has encountered, perhaps for the first time so ostensibly in its close neighborhood, a region dominated by strong, independent actors with clear interests and well-grounded ideas, who have created a stable international system leaving little space for any involvement from outside. The system has many traits of a "concert of powers", based on interests of several strong state actors and built on a light international structure using traditional instruments of intergovernmental relations. This explanation could be helpful to understand why the European Union as a functional institution with varied levels of competences does not fit so well in the system and why the scope of its influence is inherently limited. The story of the observer status of the European Union in the Arctic Council and the character of the decision made in Kiruna in 2013 shows clearly that the traditional members of the Arctic system perceive a possible extension of their group to other traditional partners playing by the "Westphalian" rules, such as China, less risky than having an institution like the European Union aboard. On the other hand, the European Union, while confronted with the "concert of powers", tries wherever possible to make its own network structures work on various non-state levels. This has been evident in all activities directed to regions, border areas with different territorial status, non-state actors like Greenland, indigenous populations in and outside the EU member states etc.

The implementation of the Arctic policy between 2009-12 shows clearly how carefully new EU regional policy frameworks should be planned, and how much consideration must be given to an adequate matching with the EU's real possibilities. It also demonstrates that good will of the institutions does not necessary suffice to continue a policy in absence of adequate support from the most interested member states. A risk of watering down and bureaucratization of the policy is in that case eminent. It was quite evident in the analysis of both Communications of 2008 and 2012 that a political demand for "performance" without precisising its contents can bring about sham activities and rebranding exercises to deliver an expected result. Of course, diminishing the EU's ambitions for the Arctic can be presented as an ultimate victory of the "collective governance" approach over that of "normative power"⁵⁰ – it would seem, however, that this explanation would be an *ex post* one.

In view of the above, any speculations on the future of the European Union policy towards the Arctic presuppose at least the knowledge of two factors: first, the direction of the overall competition among key global actors about the ways to govern the Arctic; and second, the level of enthusiasm inside the European Union to give it a visible support for these issues. In an attempt to answer at least the first issue, the categorization by Oran Young of the "dominating narratives"⁵¹ present in the development of the Arctic is useful. He has discerned three: first, the geopolitical, which presupposes the development of conflict between strong states around the Arctic and a progressive "securitization" of the Arctic problems, which could open a new field of confrontation between NATO and Russia; second, the geo-economic one, in which the future of the Arctic will revolve around the competition for resources; and third, the geo-ecologic one, in which the Arctic can become a litmus test for the global efforts to combat climate change. If we look at things from this point of view, it becomes evident that the position of the European Union is the strongest in the second and perhaps in the third narrative; it is equally visible that the EU institutions seem to be aware of this fact and are making efforts to place the EU as a "de-securitizing" actor on the Arctic chessboard, in that way preventing the Arctic from falling into the first scenario. This is, as yet, the main discernible advantage of the present EU Arctic policy.

⁵⁰ See, for instance, Van Vooren, Bart, Steven Blockmans & Jan Wouters (eds.), *The EU's Role in Global Governance: The Legal Dimension*, Oxford, Oxford University Press, 2013, pp. 39, 327.

⁵¹ See Maurer *et al.*, *op.cit.*, p. 18.

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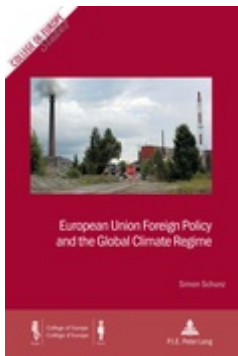
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