

## **THE EU'S LEGAL DIMENSION AND SOFT POWER IMPLICATIONS**

*Dr. Demetrios A. Theophylactou is a Senior Associate Member of the European Studies Center (ESC – SEESOX), St Antony's College – University of Oxford.*

### **Introduction**

The legal dimension of the EU, deriving from its supranational judiciary structures and institutions, in effect embodies the essence of the rule of law as a fundamental value in the heart of the European project. At a practical level, it ensures the effective and efficient implementation of the *Acquis Communautaire* (the European body of legislation). In this respect, enlargement and the accession process itself have also served a significant objective in regards to political and economic reforms as they strengthened, among others, civil society and the rule of law in transitional societies.

This paper posits that structured supranational institutions, including a unique legal system composed of numerous legal bodies and agencies whose jurisdiction overrides, to a large degree, that of national laws, promote trust and induce cooperative behavior across borders – more so than (elite) political cooperation *per se*. Monitoring state compliance via the *Acquis* inevitably necessitates traditional carrots and sticks – rewards and punishments. Nonetheless, it does provide the added value for states and peoples to voluntarily delegate sovereignty because it augments their sense of shared security in a broader community of interests, values, rules and common institutions. In this context, the supranational legal instruments – much like the supranational financial institutions – play a central role as they do indeed enhance the soft power of the EU and subsequently its image worldwide.

### **The Legal Dimension and Rule of Law**

The legal dimension of the EU model has significant positive medium- and long-term effects, albeit often without immediate, visible or easily identifiable results. Nonetheless, it helps enhance the credibility of European (supranational) institutions both among EU and non-EU citizens, as people tend to perceive both the role and functions of these institutions in a more positive light than they do view national judiciary bodies, for example. In other words, the rule of law as practiced at EU level conceivably helps to strengthen the attractiveness of the EU and, as such, it has become a model that many other actors in the international system increasingly wish to emulate. The strong desire of many states to become EU members, for example, even if they often do not share the same democratic norms, testifies to the strength of the EU model in so far as its ability to create conditions that induce cooperative behavior – legal, social, economic and political.

At a more practical level, the bilateral cooperation agreements between the EU and third countries help to assist those societies in strengthening their institutional capacity and engaging in serious reforms. In the process, they effectively attempt to approximate the *Acquis Communautaire*. This exercise is even more pronounced when candidate states engage in EU 'screening' and legal procedures (i.e., radical adaptation and implementation of reforms), as

for example the case of Turkey clearly illustrates. Indeed, the country is undergoing the most important transformation in its recent history as a result of unprecedented reforms that have been projected, and closely monitored, by European institutions with a view to its eventual EU accession.

### **The 'power' of Attractiveness and Persuasion**

The supranational legal dimension of the EU model conceivably has a persuasive effect on the citizens, who are often wary of 'politics as usual.' It is a unique legal process (i.e., it overrides national law) and impinges directly on a host of (traditionally national) policies, from stringent environmental regulations to monetary rules, all of which have an immediate effect on peoples' daily lives. For the most part, the impacts have presumably been beneficial to the majority of European citizens and, as such, they have guided people toward the adoption of a positive attitude, e.g., vis-à-vis 'justice' and the 'rule of law' over and above the national judiciary which in many countries is perceived as weak, inefficient and simply 'unjust'. Therefore it has a symbolic effect on individuals and their rights – arguably more so for the younger generations than the older ones – and, in an important sense, its significance outweighs that of European identity, which is arguably still rooted in the national rather than the supranational psyche.

There is an inherent attractive (soft power) dimension in the policies and legal aspects of the European Union, which is often more appealing to citizens outside the Union than within, e.g., French or Spanish farmers can be dissatisfied because of diminished subsidies from the EU as a result of budget redistributions designed to address other policy areas such as energy with a view to achieving a more liberal and competitive internal market. Moreover, with respect to conflict prevention, the EU model also exudes a considerable degree of soft power, if only because it is a project of peaceful collaboration. In other words, though defence is still a national prerogative, the EU conveys a particular quality or feeling (e.g., a sense of relative security) through its collective behaviour and legal strength.

### **Conclusions**

In brief, the attractiveness of the EU model – hence its soft power – is based on the institutional capacity and effectiveness of the judiciary and its legal suasion, as well as the notion that it is supranational in character, hence more 'neutral' in so far as the average citizen is concerned. Country studies and international organisations, such as Human Rights Watch and Amnesty International, routinely point to weaknesses in the legal systems of many states in the world, including in the EU and notably among the EU-12 Member States, as well as states bordering the EU (ENP countries). Citizens in these societies do not manifest high levels of trust in legal institutions, nor do they perceive them as efficient or 'just' and subsequently they are discontented with national legal remedies. In the case of EU citizens, the last resort is the European (supranational) legal justice system (including the European Court of Justice and European Court of Human Rights) but only after they exhaust all national legal means.

The 'soft power' enjoyed by an efficient regional (supranational) legal system could potentially have more sustained and lasting effects on conflict prevention than either civilian crisis management missions or military intervention alone – though those are conceivably necessary if only to contain violence in the first place. In this respect, the EU model offers a good example for other regional organisations, such as ASEAN or the African Union, to emulate.