

STUDY

Requested by the AFET committee



# The European Parliament and the new external financing instruments



Policy Department for External Relations  
Directorate General for External Policies of the Union  
PE 603.468 - November 2018

EN

## WORKSHOP

# The European Parliament and the new external financing instruments

### ABSTRACT

The mid-term review of the External Financing Instruments (2017) and the recent Commission proposal on a new Neighbourhood, Development and International Cooperation Instrument (NDICI) have given the European Parliament the opportunity to assess its current involvement in financing the EU's External Action and to prepare its negotiating position in order to get better involved under the next MFF 2021-2027. The following paper intends to highlight the lessons learned from the ongoing practice and to suggest possible improvements with a view of the forthcoming negotiations. The analysis of the role of the EP under the current External Financing Instruments indeed allows to draw a mixed assessment which encourages to think about ways of reinforcing the democratic legitimacy and scrutiny in the post-2020 architecture.

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# WORKSHOP

POLICY DEPARTMENT, DG EXPO FOR THE  
COMMITTEE ON FOREIGN AFFAIRS (AFET),  
COMMITTEE ON DEVELOPMENT (DEVE)



Monday 15.10.2018 – **16:00-17:30**  
ALTIERO SPINELLI BUILDING (BRUSSELS) – ROOM **5G-2**

## THE EUROPEAN PARLIAMENT AND THE NEW EXTERNAL FINANCING INSTRUMENTS



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## Programme

DIRECTORATE-GENERAL FOR EXTERNAL POLICIES

POLICY DEPARTMENT



For the Committee on Foreign Affairs (AFET), the Committee on Development (DEVE)

## WORKSHOP: THE EUROPEAN PARLIAMENT AND THE NEW EXTERNAL FINANCING INSTRUMENTS

Monday, 15 October 2018, 16:00- 17:30

Interpretation: DE, EN, ES, FR, IT, PL (tbc)

Brussels **Altiero Spinelli** Building, room A5G-2

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### PROGRAMME

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#### 16:00-16:15 **Introductory remarks**

Welcome by **Pier Antonio PANZERI**, Co-rapporteur for the Neighbourhood, development and international cooperation instrument 2021–2027

#### 16:15-16:25 **The European Parliament and the current external action instruments**

) Presentation by Ms. **Marie-Cécile CADILHAC**, PhD in Law and master degree in European Union Law.

#### 16:25-16:35 **The role of the European Parliament under the new proposal for a Neighbourhood, development and international cooperation instrument**

) Presentation by Mr. **Alexei JONES**, Senior Policy Officer in the European Centre for Development Policy Management.

#### 16:35-17:15 *Debate*

#### 17:15-17:30 **Concluding remarks**

**Pier Antonio PANZERI**, Co-rapporteur

## Biographies

DIRECTORATE-GENERAL FOR EXTERNAL POLICIES

POLICY DEPARTMENT



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### BIOGRAPHIES

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**Dr Alexei Jones** is a Senior Policy Officer in the European External Affairs programme at ECDPM. His work focuses on EU development cooperation and finance, including recent analyses on the future MFF as well as on joint engagement between the EU and member states. Before joining ECDPM, Alexei was policy adviser for several EU Council Presidencies (Latvia, Slovakia, Malta, Estonia) and consultant for the EU and other organisations. Alexei is also a visiting lecturer at Sciences Po Lille (France).

**Dr Marie-Cécile Cadilhac** defended last December her PhD in EU Law dedicated to “The Parliamentary Dimension of the EU’s External Action” (University of Rennes 1, France). Her work focuses on the role of the European Parliament and of the National Parliaments in the development and the implementation of the EU’s External Action, including an analysis of Parliamentary Diplomacy. Marie-Cécile was also a Teaching Fellow at University (Rennes). During the 2018 first semester, she was a trainee at the European Parliament (DG Presidency, DLA).

# The European Parliament and the new external financing instruments

by Marie-Cécile CADILHAC

## List of Abbreviations

Amdt	Amendment
Art.	Article
Chap.	Chapter
CIR	Common Implementing Regulation
DCI	Development Cooperation Instrument
EDF	European Development Fund
EFI	External Financing Instrument
EFSD	European Fund for Sustainable Development
ENI	European Neighbourhood Instrument
EP	European Parliament
EUTF	EU Trust Fund
FRT	Facility for Refugees in Turkey
IcSP	Instrument contributing to stability and peace
IDHR	Instrument for Democracy and Human Rights worldwide
INSC	Instrument for Nuclear Safety Cooperation
IPA	Instrument for Pre-accession Assistance
MFF	Multiannual Financial Framework
NDICI	Neighbourhood, Development and International Cooperation Instrument
PI	Partnership Instrument for Cooperation



# 1 Introduction

In a recent resolution dedicated to the implementation of the Development Cooperation Instrument (DCI), the Humanitarian Aid, and the European Development Fund (EDF), the European Parliament underlined ‘the importance of reinforcing democratic legitimacy in the post-2020 architecture [of External Financing Instruments] and the need to rethink the decision-making procedure’ (European Parliament, 2018a, pt. 82).

In this respect, the mid-term review of the External Financing Instruments (EFIs) (European Commission, 2017a to 2017k) as well as the release of the Commission proposals regarding the Multiannual Financial Framework (MFF) 2021-2027 and the new EFIs (European Commission, 2018a to 2018e) have given the European Parliament the opportunity to assess its current role in financing the EU’s External Action and to search for solutions in order to get better involved under the next MFF<sup>1</sup>.

The task is not easy given the complexity of the present architecture of the External Financing Instruments which directly affects its parliamentary dimension. Currently, the financing of the External Action is based on seven main instruments (thematic and/or geographic) which result from the 2014 Reform and which are subject to common rules and procedures for their implementation<sup>2</sup>: the instrument contributing to stability and peace (IcSP), the instrument for Pre-accession Assistance (IPA II), the European Neighbourhood Instrument (ENI), the Development Cooperation Instrument (DCI), the Partnership Instrument for Cooperation (PI), the Instrument for Democracy and Human Rights worldwide (IDHR), and the instrument for Nuclear Safety Cooperation (INSC)<sup>3</sup>. Beyond these recasted instruments, the EU’s External Action under the current MFF 2014-2020 has also been financed thanks to many other instruments and funds which do not necessarily fall under the EU budget<sup>4</sup>. As will be detailed below, this complex architecture is currently not accompanied by a clear and uniform involvement of the European Parliament.

While underlining the relevance and added-value of the current financing instruments, the mid-term review reports also highlighted some room for improvements in terms of streamlining, simplification, and flexibility, therefore encouraging the European Commission to break with the existing architecture and to propose to merge several of the current instruments<sup>5</sup> into the new Neighbourhood, Development and International Cooperation Instrument (NDICI). Some instruments are meant to remain separate, such as the instrument for Pre-Accession (IPA III), Humanitarian aid, or the new European Peace Facility<sup>6</sup>. Undoubtedly, the Commission proposal on the NDICI<sup>7</sup> is ambitious and intends to tackle the current challenges and concerns in order to allow the European Union to assert itself on the international scene in compliance with the principles and goals enshrined in Article 21 TEU. It aims at being more strategic and policy-driven, more comprehensive and coherent (while preserving the specificities of some

<sup>1</sup> This was the aim of the AFET/DEVE Workshop on the European Parliament and the new external financing instruments (Brussels, 15 October 2018) upon which this paper builds.

<sup>2</sup> Regulation (EU) No 236/2014 (Common Implementing Regulation – CIR). See Regulation (Euratom) No 237/2017 on the INSC that refers to the CIR.

<sup>3</sup> See Regulation (EU) No 230/2014 to Regulation (EU) No 235/2014, and Regulation (Euratom) No 237/2014.

<sup>4</sup> See e.g. the European Fund for Sustainable Development (EFSD), Humanitarian aid, the Facility for refugees in Turkey (FRT) (on the EU budget). See e.g. the European Development Fund (EDF), EU Trust Funds (EUTFs) (outside the EU budget).

<sup>5</sup> The Common Implementing Regulation, DCI, EDF, EFSD, External Lending Mandate, ENI, IDHR, Guarantee Fund for external actions, IcSP, PI.

<sup>6</sup> See also the Common Foreign and Security Policy (CFSP) budget, overseas countries and territories including Greenland, the EU’s Union Civil Protection Mechanism, the EU aid volunteers scheme, the support for the Turkish Cypriot community, the Emergency Aid Reserve.

<sup>7</sup> The paper will focus on the proposal on the NDICI (as it was the case during the workshop) even if the other proposals (especially the one on the IPA III) will be mentioned regarding specific aspects.

policies<sup>8</sup>), more flexible and responsive (especially through the Emerging challenges and priorities cushion), simpler and streamlined.

It therefore needs to be accompanied by an ambitious level of governance, including in terms of parliamentary involvement, compatible with an effective action of the EU on the international scene. In this regard, if the Commission proposal definitely revamps the architecture of the External Financing Instruments, the conclusion may not be that straight when it comes to the role of the European Parliament. Yet, the potential for improving the parliamentary dimension of the External Financing Instruments is real. Indeed, as already hinted, the analysis of the EP's involvement under the MFF 2014-2020 leads to a mixed assessment (2). Consequently, it encourages to shed light on the content of the Commission proposal on the NDICI and to identify, where appropriate, possible ways of reinforcing the democratic legitimacy and scrutiny in the post-2020 architecture (3).

## 2 The EP and the current EFIs: A mixed assessment

In order to replace the regulations on the previous External Financing Instruments that expired on 31 December 2013 (Flaesch-Mougin C., 2006), the regulations for the financing of the External Action under the MFF 2014-2020 were all adopted on 11 March 2014 according to the ordinary legislative procedure, with the exception of the Instrument for Nuclear Safety Cooperation<sup>9</sup>. Therefore, with this last exception, the European Parliament could use its co-legislator status during the interinstitutional negotiations in order to guarantee the best possible democratic legitimacy and scrutiny of these instruments. A comparison between the parliamentary (draft) reports and the EP's final position can indeed reveal what were the EP's claims in terms of parliamentary involvement and to what extent they have been included in the regulations on the new financing instruments. From this point of view, the outcome of the 2014 Reform does not entirely satisfy the EP's initial expectations (2.1). Beyond that reform, a broader overlook of the involvement of the European Parliament in financing the External Action throughout the 2014-2018 Period does not show a unique and uniform level of parliamentary involvement. It reveals that the EP's implication is scattered, depending on the instruments that are mobilized, and could be better implemented (2.2).

### 2.1 The outcome of the 2014 Reform

The 'new generation' of External Financing Instruments (Bosse-Platière I. et. al., 2014) must not have been easy to negotiate given the two years needed to achieve the procedure and given the impressive number of – unilateral or joint – declarations annexed to the regulations through which the institutions clarified their position or obtained compensations. This applies to the European Parliament whose statements already give a first overview of its claims<sup>10</sup>. Regarding more particularly the democratic legitimacy and scrutiny of the new financing instruments, the (draft) reports reveal quite a few expectations – either common to all regulations or specific to one (or only some) of them – which have not all been fulfilled. The main issues and conclusions therefore deserve to be highlighted.

First of all, some of the draft reports included – with a wording that slightly varied from one draft report to another – amendments stating that the *EU Assistance and the measures taken under the regulations should be consistent with the positions adopted by the European Parliament in resolutions or*

<sup>8</sup> See for instance the specific provisions for the Neighbourhood (Chap. II).

<sup>9</sup> Regarding the INSC, the European Parliament was consulted in compliance with Article 203 of the Euratom Treaty.

<sup>10</sup> The (joint or unilateral) Statements by the European Parliament concerned the funding of horizontal programmes for minorities, the suspension of assistance granted under the financial instruments, the Beneficiaries listed in Annex I of the Regulation (EU) No 231/2014 (IPA II), the point (ii) of point (b) of Article 5(2) of Regulation No 233/2014 (DCI), the Election Observation Missions.

*recommendations*<sup>11</sup>. In this respect, almost all the regulations contain a close idea, even if their wording can be seen as less ambitious to some extent. Indeed, they stress that the EU assistance and measures should either take due account of the EP resolutions or views, or be provided in accordance with the overall Policy framework which notably includes the relevant EP resolutions<sup>12</sup>.

Secondly, a major bone of contention during the negotiations concerned the *procedure for establishing the strategy papers and programming documents*. It was a key issue regarding the role of the European Parliament since the distinction between delegated acts (Art. 290 TFEU) and implementing measures (Art. 291 TFEU) was at stake<sup>13</sup>. Unsurprisingly, the parliamentary draft reports systematically required delegated acts in order to adopt the strategy papers and the programming documents<sup>14</sup>. In this regard, the result of the 2014 Reform was a setback for the European Parliament. All the regulations provide for the adoption of implementing acts according to the examination procedure set up in the Regulation (EU) No 182/2011<sup>15</sup>. Therefore, the European Parliament is only informed by the European Commission, regarding notably the draft implementing acts which are to be sent at the same time they are sent to the committee members (Art. 10(4) of Regulation (EU) No 182/2011). The EP can also indicate to the Commission that a draft implementing act exceeds the implementing powers provided for in the basic act (Art. 11 of Regulation (EU) No 182/2011). Given this outcome, the Strategic Dialogue with the European Commission, which is enshrined in a Commission Declaration annexed to the six instruments<sup>16</sup>, can be seen as a compensation for the European Parliament since it shall be conducted ‘prior to the programming’ of the Regulations and ‘before any substantial revision of the programming documents’. The European Commission also committed to explain, if invited by the EP, ‘where the European Parliament’s observations have been taken into consideration in the programming documents and any other follow-up given to the strategic dialogue’.

As a consequence, the adoption of delegated acts only applies to the *amendment of the Annexes* to the regulations<sup>17</sup>. In this respect, the draft report regarding DCI interestingly requested the adoption of *legislative (and not delegated) acts* in order to amend almost all the annexes to the DCI regulation<sup>18</sup>. This request, also crucial in terms of parliamentary involvement, has obviously not been satisfied. Given the choice made in favour of delegated acts in the final regulations, the EP is therefore involved at a lower level (than co-legislative) even if it can act in a decisive way by revoking the delegation of power or by objecting. Two nuances nevertheless must be underlined. First of all, during the negotiations, the EP had the opportunity to weigh on the identity and the content of the Annexes in a way that rebalanced to some extent its lack of involvement at the strategic and programming levels. Indeed, in comparison with the Commission proposals, and as requested in the parliamentary reports, new annexes regarding

<sup>11</sup> Draft reports regarding IPA II (amdt 6), PI (amdt 19), IDHR (amdt 12), IcSP (amdt 14).

<sup>12</sup> See Recital 7 and Art. 4(1) of the IPA II Regulation; Recital 23 of the PI Regulation; Recital 24 of the IDHR Regulation; Art. 2(2) of the IcSP Regulation; Art. 3(1) of the ENI Regulation.

<sup>13</sup> This distinction indeed delineates control by the legislative authority from control by the Member States.

<sup>14</sup> See the draft reports regarding IPA II (inter alia amdts 12, 15, 53, 58, 61, 62, 69); PI (amdts 21, 34); DCI (amdts 20, 102, 106, 112), IDHR (amdts 13, 14, 28), ENI (amdt 51 and following), IcSP (inter alia amdts 9, 33, 34, 38).

<sup>15</sup> Art. 6 of the IPA II Regulation; Art. 4 of the PI Regulation; Art. 15 of the DCI Regulation; Art. 5 of the IDHR Regulation; Art. 7 of the ENI Regulation; Art. 8 of the IcSP Regulation. See also Art. 5 to 7 of the Euratom Regulation on INSC.

<sup>16</sup> It does not apply to the INSC.

<sup>17</sup> See Art. 13 and 14 of the ENI Regulation; Art. 17 and 18 of the DCI Regulation; Art. 5 and 6 of the PI Regulation; Art. 6 and 7 of the IDHR Regulation; Art. 10 and 11 of the IPA II Regulation. The IcSP is not concerned since there is no annex to the regulation. The adoption of delegated does not apply to the INSC either.

<sup>18</sup> See amdts 19, 114, 119 in the draft report, concerning the Annexes I (Partner countries and regions eligible under Article 1(1)(a)), III (Partner countries and regions with a bilateral cooperation according to Article 5(2)), IV (areas of cooperation under geographic programmes), V (areas of activity under thematic programmes), VI (areas of activity under the pan-african programme), VII (indicative financial allocation for the period 2014-2020).

thematic priorities and specific objectives have been introduced<sup>19</sup>. The content of some annexes has also been enriched (especially those regarding the areas of cooperation in DCI)<sup>20</sup>. Hence, even if the European Parliament does not have a binding power regarding the definition of the strategic and programming documents, it can at least conduct a close (and decisive) scrutiny when it comes to the amendment of the priorities and areas of cooperation of the instruments that the strategic and programming documents have to be consistent with. Second of all, regarding specifically the Instrument contributing to stability and peace, the annexes on technical and financial assistance included in the Commission proposal have been reintegrated in the body of the final regulation<sup>21</sup>. Therefore, in order to modify these provisions, the ordinary legislative procedure shall apply and the EP shall act as a co-legislator.

Another issue raised during the negotiations, again essential in terms of democratic scrutiny, concerned the *possibility to suspend the EU assistance where a beneficiary partner breaches human rights or democratic principles*. Some of the Commission proposals provided for such a mechanism<sup>22</sup>, in line with some of the regulations that applied under the previous MFF 2007-2013<sup>23</sup>. The draft regulations included in this regard a right of information for the European Parliament in compliance with Article 215(1) TFEU. Almost all the parliamentary draft reports requested either the introduction of such a mechanism – when not provided for in the Commission proposal (PI)<sup>24</sup> – or a better involvement of the European Parliament, such as its association to the decision on the suspension of the assistance<sup>25</sup>. From this point of view, the final regulations do not fulfill these expectations at all since no provision has been included in order to establish a suspension mechanism. This explains why the European Parliament made a Statement (annexed to 5 of the regulations<sup>26</sup>) in which it ‘considers that any suspension of the assistance would modify the overall financial scheme agreed under the ordinary legislative procedure’ and that, ‘as a co-legislator and co-branch of the budgetary authority, [it] is therefore entitled to fully exercise its prerogatives in that regard, if such a decision is to be taken’. Yet, it remains a unilateral Statement with a political scope that cannot be compared with a legally binding mechanism that would have been integrated in the regulations.

Finally, the involvement of the EP under the current EFIs is more broadly written down in several provisions discussed during the negotiations which are dedicated to its *power of scrutiny and to its information*. Some provisions are common to all instruments, especially when they are included in the CIR – such as the annual report (Art. 13) or the mid-term review report (Art. 17)<sup>27</sup> –. Other are specific to one (or only some of the) instruments<sup>28</sup>. From this point of view, it cannot be denied that some provisions actually reflect the requests that had been included in the parliamentary draft reports. It applies for

<sup>19</sup> See regarding IPA II the new Annexes II (Thematic priorities for assistance) and III (Thematic priorities for assistance for territorial cooperation); regarding the IDHR the new annex (Specific objectives and priorities of the EIDHR); regarding the ENI, the new Annex II (Priorities for Union support under this Regulation).

<sup>20</sup> Annexes numbered I to III in the final DCI Regulation.

<sup>21</sup> This explains why the regulation on the IcSP is the only one without annexes.

<sup>22</sup> Commission proposals regarding ENI (Art. 17), IPA II (Art. 13), and DCI (Art. 16).

<sup>23</sup> See Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation, OJ L 378, 27.12.2006, p. 41 (Art. 37); Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA), OJ L 210, 31.7.2006, p. 82 (Art. 21); Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument (ENPI), OJ L 310, 9.11.2006, p. 1 (Art. 28).

<sup>24</sup> See Amdts 15 and 44 in the draft report on PI.

<sup>25</sup> See Amdt 111 in the draft report on DCI. See also amdt 75 in the draft report on IPA II; Amdt 66 in the draft report on ENI regarding the information of the EP.

<sup>26</sup> CIR, DCI, PI, ENI, IPA II.

<sup>27</sup> See also in the CIR Art. 2(3) ; Art. 3(3) ; Art. 12(1)(2).

<sup>28</sup> See e.g. regarding the IcSP Regulation, Art. 7(5), 7(7) and 8(5); regarding the ENI Regulation, Art. 7(10) and 10(4); regarding the DCI Regulation, Art. 3(10) and 10(4); regarding the IDHR Regulation, Art. 3(3) and 9.

instance to the conduct of ‘regular exchanges of views’ between the EP and the Commission<sup>29</sup>, and to the provision dedicated to the access to documents (IDHR)<sup>30</sup>. But it is also true that some claims have not been incorporated in the final regulations, such as the involvement of the EP as part of the consultations between the EU, the Member States, the donors, and the representatives of civil society throughout the programming process<sup>31</sup>.

Overall, given the outcome of the 2014 Reform in terms of parliamentary involvement, it appears that the content of the regulations on the new financing instruments does not completely match the EP’s claims. Moreover, even if the EP holds some binding and decisive powers, especially when it comes to the adoption of delegated acts<sup>32</sup>, it mostly acts thanks to non binding and non decisive powers, including its scrutiny power and its involvement in the Strategic Dialogue with the Commission. A broader overlook of the EP’s involvement during the last four years adds some complexity to the whole picture and leads to a nuanced assessment.

## 2.2 Throughout the 2014-2018 Period

Assessing the true involvement of the European Parliament under the current External Financing Instruments (from 2014 till today) is no easy task for two main reasons. First of all, the tools the EU uses in order to finance its External Action go way beyond the abovementioned financing instruments. It includes, for instance, Humanitarian aid, Macrofinancial Assistance, the European Development Fund, four EU Trust funds (EUTFs), and the Facility for Refugees in Turkey. This implies that the EU assistance is not necessarily financed under the EU budget (see the EDF and EUTFs), which explains why the role of the European Parliament actually varies depending on the instrument which is mobilized. Second of all, measuring exactly to what extent the EP is involved and can influence the financing of the EU’s External Action is not simple since, besides the transparent use of parliamentary powers (see *infra* regarding legislative, budgetary and scrutiny powers), other aspects are much less transparent such as the Strategic Dialogue with the European Commission that takes place during *in camera* meetings in AFET or DEVE committees<sup>33</sup>.

Even regarding the classical parliamentary powers – legislative, budgetary, scrutiny – that the EP has fully used during the last four years, the assessment can be nuanced.

Regarding the use of its **legislative power**, the European Parliament acted as a co-legislator in order to establish new financing instruments or to review already existing instruments. It notably applied in 2017 to the creation of the European Fund for Sustainable Development (European Parliament and Council, 2017b; European Parliament, 2017a) and to the revision of the Instrument contributing to Stability and Peace in order to use Union assistance to build the capacity of military actors in partner countries

<sup>29</sup> Regarding DCI, see Amdt 53 in the Draft report and Art. 3(10) in the Regulation. Regarding IDHR, see Amdt 11 in the draft report and Art. 3(3) in the Regulation.

<sup>30</sup> See Amdt 36 in the draft report on IDHR and Art. 9 of the Regulation.

<sup>31</sup> See regarding DCI Amdt 80 in the draft report and Art. 10(4) of the Regulation; regarding IcSP Amdt 32 in the draft report and Art. 8(2) of the Regulation.

<sup>32</sup> See also the involvement of the EP (as a co-branch of the budgetary authority) in the authorization of the annual appropriations, and its involvement (as a co-legislator) in the amendment of the body of the regulations (with the exception of the Regulation on INSC).

<sup>33</sup> See regarding the AFET committee the following minutes or draft agenda: AFET\_PV(2014)0310\_1; AFET\_PV(2014)0313\_1; AFET\_PV(2014)0317\_2; AFET\_PV(2017)0403\_1; AFET\_PV(2018)0319; AFET(2018)0416\_1; AFET\_PV(2018)0426\_1. See regarding the DEVE committee the following minutes: DEVE\_PV(2014)0303; DEVE\_PV(2014)0401\_1; DEVE\_PV(2014)0407; DEVE\_PV(2014)0903-1; DEVE\_PV(2014)0908\_1; DEVE\_PV(2017)1204\_1; DEVE\_PV(2018)0306\_1; DEVE\_PV(2018)0319\_1.



(European Parliament and Council, 2017a; European Parliament, 2017c). These were consequently new occasions for the EP to ask for the integration in the regulations of provisions regarding its involvement<sup>34</sup>.

Nevertheless, it shall not be forgotten that the ordinary legislative procedure does not cover all the financing instruments and funds the EU uses. The New European Peace Facility for example will fall under the Common Foreign and Security Policy and, therefore, will be established thanks to a Council Decision with no involvement of the European Parliament. In the same spirit, the Facility for Refugees in Turkey (FRT) was established in 2015 by a Commission Decision based on Articles 210(2) and 214(6) TFEU, without any implication of the EP<sup>35</sup>. To mention one last example, the EU Trust Funds<sup>36</sup> were each established thanks to the conclusion of an agreement between the European Commission and the donors, and to the adoption by the Commission of an implementing decision according to the examination procedure<sup>37</sup>. The EP's role was therefore limited to scrutiny (see Carrera S. *et al.*, 2018, p. 28 and following)<sup>38</sup>.

The European Parliament also had the opportunity to use its **budgetary power** during the last four years through the *adoption of the annual budget (and amending budgets)* (Art. 314 TFEU)<sup>39</sup>. As it is used to doing so, it acted in order to increase resources for the External Financing Instruments, such as in October 2017 when it decided to 'reverse almost all of the Council's cuts and to reinforce Heading 4 by EUR 299,7 million above the DB in commitment appropriations (excluding pilot projects and preparatory actions, the transfer of EUSRs and adopted cuts)' (European Parliament, 2017b, pt. 63). However, this budgetary power does not cover the assistance which is not financed under the EU budget, especially when it comes to the European Development Fund. In this respect, it is true that the EP obtained compensation through its informal dialogue with the Commission which is provided for in the 2013 Interinstitutional Agreement on budgetary discipline, on cooperation in budgetary matters and on sound financial management (pt. F). But this dialogue has not prevented the EP from calling for its 'increased political scrutiny over the 11th EDF programming documents' (European Parliament, 2018a, pt. 52) and from keeping calling for the integration of the EDF in the EU budget (European Parliament, 2018a, pt. 78).

Still from a budgetary perspective, the European Parliament was involved through the mobilization of the flexibility instrument to tackle the refugee crisis (European Parliament and Council, 2016) and through the *discharge procedure* which applies to the European Development Fund (and, therefore, to the EDF-based Trust Funds). Regarding this latter procedure, even if it allows the EP to express its position and concerns in the resolution annexed to the discharge decisions, it remains a procedure with a political scope which actually brings it closer to a scrutiny power.

This last type of power – **scrutiny** – was also fully used throughout the current legislature. It includes the traditional and basic scrutiny powers (parliamentary questions, adoption of reports and resolutions, etc) that let the EP ask for its better involvement and criticize what it considers to be weaknesses in terms of

<sup>34</sup> See e.g. regarding the revision of the IcSP, Amdt 1 in the parliamentary report (A8-0261/2017).

<sup>35</sup> Commission Decision C(2015)9500, 24.11.2015. This created a discrepancy with the EP's role as budgetary authority in the financing of the FRT from the Union budget (See P8\_TA(2018)0291, pt. 2).

<sup>36</sup> EU Trust Fund for Colombia; EU Trust Fund in Response to the Syrian Crisis (the 'Madad' Trust Fund). See nevertheless the specific rules governing the EDF-funded trust funds (i.e. EU Emergency Trust Fund for stability and addressing the root causes of irregular migration and displaced persons in Africa (EU Trust Fund for Africa) and EU Trust Fund for the Central African Republic (the 'Békou' Trust Fund)).

<sup>37</sup> See Art. 187 of the Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rule applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2002, p. 1), to be read with Art. 2(1) of the abovementioned Regulation (EU) No 236/2014 (CIR).

<sup>38</sup> See the new Regulation (EU, Euratom) No 2018/1046 on the financial rules that enhances the involvement of the EP. The Commission shall consult the EP on its intention to establish a Union trust fund for emergency and post-emergency actions. The establishment of a Union trust fund for thematic actions is subject to the approval of the European Parliament (Art. 234).

<sup>39</sup> The EP will also approve the next MFF 2021-2027 (Art. 312 TFEU).

democratic legitimacy (see e.g. regarding the establishment of EU Trust Funds, European Parliament, 2016). Parliamentary scrutiny is also conducted thanks to the EP's International Diplomacy, such as committee missions in third countries which are a useful tool to get information on how the EU assistance is implemented in the field (see e.g. the LIBE/BUDG mission to Turkey in February 2016 in the framework of the refugee crisis)<sup>40</sup>. Furthermore, the provisions dedicated to the EP's information and scrutiny which are included in EU regulations and decisions shall not be forgotten (see e.g. the provisions in the abovementioned Regulations on the new financing instruments (2014); Art. 8 of the Commission Decision on the FRT).

Nevertheless, the European Parliament requested some improvements with respect to its information and scrutiny power. It criticized for instance the 'very short deadlines allowed for Parliament's scrutiny of draft implementing measures under the DCI' and urged 'the Commission to modify the Rules of Procedure of the DCI and Humanitarian Aid Committees by December 2018 so that Parliament and the Council are given more time to exercise their scrutiny powers adequately' (European Parliament, 2018a, pt. 50; European Parliament, 2018b, pt. 49). The EP also called for 'reporting to be improved by automatically producing statistics and indicators' (European Parliament, 2018a, pt. 15). In the same vein, the role of the EP in scrutinizing the governance and the management activities of the EU Trust funds is not obvious. As revealed in a recent study (Carrera S. *et al.*, 2018, p. 47 and following), the EP 'is or will be invited as a de facto observer to the board meetings of the EUTFs' even if the constitutive agreements do not provide for a formal observer status. If this is definitely a step forward in terms of democratic accountability of EUTFs, the exact involvement of the EP would need to be clarified.

Overall, the analysis of the EP's involvement under the current External Financing Instruments allows to draw the following conclusion: The European Parliament undoubtedly holds a wide range of powers – legislative, budgetary, scrutiny – even if they do not completely meet the EP's initial expectations when the new financing instruments were being negotiated, and even if their implementation has been criticized to some extent. These powers vary depending on the instruments and funds which are mobilized by the EU, and the search for innovative ways (e.g. EUTFs) to finance the EU's External Action in order to tackle unexpected needs (e.g. the refugee crisis) adds complexity to the architecture and intensifies these variations. This picture explains why the European Parliament is currently thinking about ways to enhance its involvement in the post-2020 architecture (especially regarding the NDICI). There are, indeed, possible improvements.

### 3 The EP and the new NDICI: Possible improvements

Simplifying ways of working and enabling the EU to respond to unforeseen circumstances with greater flexibility: these are the two main challenges the European Commission intended to tackle by proposing the merger of several of the current instruments into the new NDICI (European Commission, 2018a, p. 2). Therefore, the issue of democratic legitimacy and accountability under this new financing instrument<sup>41</sup> must be addressed by keeping in mind these challenges. It is indeed the efficiency of the EU's External Action which is at stake. Yet, the Commission proposal regarding the NDICI is mostly based on the existing situation in terms of parliamentary involvement (3.1), which encourages to think about new ways forward (3.2).

#### 3.1 The Commission proposal

While comparing the Commission proposal regarding the NDICI (MFF 2021-2027) with the regulations currently in force, it cannot be denied that the Commission has introduced some specific changes which,

<sup>40</sup> See 'MEPs visit Turkey to assess response to Syrian refugee crisis', European Parliament, 08.02.2016, Ref. 20160205STO13207.

<sup>41</sup> It also applies to the instruments that are meant to remain separate.

by the way, do not necessarily go in favour of the European Parliament. On the one hand, it is true that the proposed integration of the **European Development Fund** in the EU budget is a significant improvement in terms of parliamentary involvement: it means the EP's legislative, budgetary and scrutiny powers that apply to the instruments which currently fall under the EU budget will be extended to the EU assistance that currently falls under the EDF<sup>42</sup>. It is substantial since 30 billion EUR are at stake. On the other hand, **some mechanisms governing the existing instruments have not been imported in the Commission proposal**, which can be seen as a decline in terms of parliamentary involvement. It mainly concerns the *Strategic Dialogue* between the EP and the European Commission (see *supra* 2.1) which is not mentioned in the explanatory memorandum. It also applies to specific provisions regarding the information and scrutiny of the European Parliament, such as the article dedicated to access to documents in the regulation on the IDHR (Art. 9).

From a global perspective, the role of the EP proposed by the Commission is actually mainly based on what exists today. Beyond its legislative, budgetary and scrutiny powers provided for in the EU Treaties (see *supra* 2.2), the EP is involved through the following means that already exist in the current financing instruments and that have been marginally supplemented.

Firstly, according to the Commission proposal, the relevant EP resolutions shall remain a constitutive element of the overall **policy framework** for the implementation of the regulation (Art. 7 of the proposal on the NDICI)<sup>43</sup>.

Secondly, again according to the Commission proposal, the programming documents shall remain adopted by means of **implementing acts** (Art. 291 TFEU) in compliance with the examination procedure (Art. 14 of the Commission proposal on the NDICI)<sup>44</sup>. If this scenario is confirmed, the European Parliament will remain informed by the Commission according to this comitology procedure (see *supra* 2.1).

Thirdly, the Commission proposal still provides for the adoption of **delegated acts** (Art. 290 TFEU) which implies for the EP a decisive power to revoke and to object (see inter alia recital 46 of the proposal on the NDICI)<sup>45</sup>. The scope of the delegation of power has nevertheless been extended in comparison with the current state of play. First of all, the content of the annexes which are meant to be amended by means of delegated acts has been enriched. They include, in addition to the areas of cooperation and intervention (Annexes II, III, IV of the proposal on NDICI)<sup>46</sup>, the priority areas of the EFSD+ (Annex V of the proposal on NDICI), the governance of the EFSD+ (Annex VI of the proposal on NDICI), and the list of key performance indicators which shall help measure the EU's contribution to the achievement of its specific objectives (Annex VII of the proposal on NDICI)<sup>47</sup>. Beyond the annexes, the Commission is also empowered to adopt delegated acts to supplement or to amend the provisioning rates regarding the External Action Guarantee (Art. 26(3) of the proposal on NDICI).

Finally, and from a broader perspective, the Commission proposal on the NDICI provides for the **information and scrutiny** of the European Parliament in a way that widely exists in the current instruments – even if some adjustments are suggested. It notably includes 'regular exchanges of views' between the EP and the Commission (Art. 8(8) of the proposal on the NDICI), the information of the EP regarding the adoption of action plans, special measures, technical amendments, exceptional assistance

<sup>42</sup> In accordance with the regulation that will be adopted.

<sup>43</sup> See also Art. 6 of the proposal on IPA III.

<sup>44</sup> See also Art. 7 of the proposal on IPA III.

<sup>45</sup> See also recital 32 of the proposal on IPA III.

<sup>46</sup> See also Annexes II and III of the proposal on IPA III.

<sup>47</sup> See also Annex IV of the proposal on IPA III.



measures (Art. 21 of the proposal on the NDICI), and carried over commitment appropriations (Art. 25 of the proposal on the NDICI). It also covers the establishment by the Commission of annual reports and evaluations to be sent to the EP (Art. 31 and 32 of the proposal on the NDICI)<sup>48</sup>. In the same vein, the provisions under the current regulation on EFSD regarding the information of the EP and its observer status in the strategic board (see Art. 5, 9, 12, 13 of the current EFSD regulation) have been reintegrated in the Commission proposal on the NDICI (see Chapter IV and Annex VI).

In the end, the draft regulation on the new NDICI does not break with the current level of parliamentary involvement, if we put aside the integration of the EDF in the EU budget and the absence of a Strategic Dialogue between the EP and the European Commission. Consequently, some possible ways forward could be considered.

## 3.2 Possible ways forward

Given the Commission proposal on the NDICI and given the assessment of the ongoing practice, several key issues in terms of parliamentary involvement will need to be discussed. It includes for instance the (complete and timely) information of the European Parliament (to allow a proper democratic scrutiny) and the degree of implication of the EP when deciding the political steering and when programming the EU assistance. All these issues shall be addressed while keeping in mind some cross-cutting elements, such as the respect of the legal framework and institutional balance set up in the EU treaties, the distinction between legally binding powers and non-legally binding powers (and the impact on the efficiency of parliamentary powers), and the distinction between formal and informal channel of interinstitutional cooperation. Moreover, the negotiations shall take into account the current external challenges (e.g. such as responsiveness) and some specific features (e.g. the involvement of non-EU actors) which will certainly imply the establishment of specific arrangements (for instance regarding the use of the proposed emerging challenges and priorities cushion, or the governance of the EFSD+).

In more concrete terms, the following items could provide input for the forthcoming interinstitutional debate.

First of all, **a better implementation and a clarification of the existing mechanisms** are desirable. For instance, as already mentioned (see *supra* 2.2), the European Parliament addressed criticisms regarding the too short deadlines allowed for Parliament's scrutiny of draft implementing measures. It also underlined the importance of an adequate reporting system so that it can properly assess the efficiency of the External Financing Instruments (see in this regard Ioannides I., 2018, pt. 3.6). Since these mechanisms are meant to be reproduced under the next MFF 2021-2027, there is here a potential for improvement that could be tackled when the rules of procedure of the future NDICI Committee are established<sup>49</sup> and when the Commission drafts the evaluations and reports. Regarding this last aspect, the establishment of key performance indicators (annexed to the Commission proposal) can be seen as a first step forward. Moreover, clarifying the level of parliamentary involvement will request a comprehensive approach of the financing of the EU's External Action: the forthcoming negotiations of the NDICI should particularly be an opportunity to rethink the parliamentary dimension of instruments that will not be merged into the NDICI, such as the EU Trust Funds (see Carrera S. *et al.*, 2018, p. 47 and following). A discussion in this respect is all the more needed as the proposed integration of the EDF in the EU budget will automatically affect the functioning of the EDF-funded Trust funds.

Beyond clarifying and better implementing the existing mechanisms, some of the **issues raised during the previous negotiations will necessarily need to be addressed again**. It includes the '*type of acts*' (*legislative / delegated / implementing*) to be adopted in order to establish the programming documents

<sup>48</sup> See also Art. 12 of the proposal on IPA III.

<sup>49</sup> This remark also applies to the committees which will be established in accordance with the regulations that will remain separate.

or to amend the annexes (see *supra* 2.1). This issue – essential in terms of parliamentary involvement – shall all the more be discussed as the Commission proposal regarding the NDICI does not consider a Strategic Dialogue between the EP and the Commission before adopting or reviewing the programming documents. Here, the theoretical distinction between legislative / delegated / implementing acts – provided for in the EU Treaties and detailed by the ECJ jurisprudence<sup>50</sup> – shall be the anchorage point.

In the same vein, the question of a possible *suspension of the EU assistance in case of breach of human rights and democratic principles* by a beneficiary partner – and the involvement of the EP in this regard – will have to be asked again. It seems to us that the lack of such a mechanism in the current regulations raises an issue of consistency with other EU External Action instruments that provide for ‘negative conditionality’ mechanisms, such as international agreements (with a clause ‘*éléments essentiels*’) or the Generalized Scheme of Preferences<sup>51</sup>. Beyond that, the inclusion of a negative conditionality mechanism would send third partners the clear message that the EU does not compromise with the respect of the values and principles it promotes when it acts on the international scene (Article 21 TEU).

In addition to the issues already discussed during the previous negotiations, there may have some **innovative ways forward to explore**. In this regard, it could be possible to look beyond the EP’s classical powers and to bring to the discussion the activities the EP develops on the international scene without a legal framework provided for in the EU Treaties, i.e. its *International Diplomacy*. Indeed, through its parliamentary diplomacy<sup>52</sup> (interparliamentary cooperation, committee missions, activities in support for democracy in third countries<sup>53</sup>), the European Parliament has acquired its own *expertise* regarding the situation in third countries which could be a real asset when it comes to assess the need for EU assistance in partner countries, to target beneficiary countries, to programme the assistance, or to implement the EU’s action in the field. It is all the more interesting as the EP’s international activities *de facto* match quite a few principles and goals of the External Financing Instruments – and more broadly of the EU’s External Action (Art. 21 TEU). It is particularly obvious when activities in support for democracy in third countries are concerned. Consequently, it may be time to think about possible synergies between the EP’s Diplomacy and the EU’s External Action under the forthcoming MFF. In this respect, it would be possible to build upon existing mechanisms – such as the cooperation between the EP, the Commission and the EEAS regarding Election Observation Missions<sup>54</sup> – and to conduct a structural reflexion on how to use the expertise the EP has been acquiring through its international activities in order to possibly reinforce its involvement at the political level and when it comes to programming, scrutinizing or implementing the EU assistance that will fall under the NDICI<sup>55</sup>.

Still from an innovative perspective, the forthcoming negotiations could be an opportunity to think about new *formats of cooperation*, especially when it comes to the relations between the EP and the Commission. A suggestion could be to establish a standing committee that would consist of representatives of the EP and of the Commission in order to conduct an effective scrutiny<sup>56</sup>. Such an idea appears particularly interesting since it could give more transparency to the relations between the EP and

<sup>50</sup> See e.g. ECJ, *biocides*, 18 March 2014, Commission c. Parliament, C-427/12, ECLI:EU:C:2014:170; ECJ, 16 July 2015, Commission c. Parliament, C-88/14, ECLI:EU:C:2015:499.

<sup>51</sup> See Art. 19, §1, c), Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008, OJ L 303, p. 1.

<sup>52</sup> Here understood as the EP’s external relations with actors that are not part of the EU or its Member States.

<sup>53</sup> E.g. Election Observation Missions, parliamentary capacity building, dialogue facilitation and mediation activities.

<sup>54</sup> In this regard, the EP recently called for Election Observation Mission planning to be better coordinated with Parliament’s election observation activities (P8\_TA(2018)0119, pt. 98).

<sup>55</sup> See, during the last negotiations, the references made to parliamentary diplomacy in some parliamentary draft reports (e.g. Draft report on PI, amdt 59 regarding the Transatlantic Legislators’ Dialogue).

<sup>56</sup> Idea shared by P.A. Panzeri during the AFET/DEVE workshop on the European Parliament and the new external financing instruments (Brussels, 15 October 2018).

the Commission, compared with the current Strategic Dialogue which is particularly non-transparent. This would therefore be an asset in terms of visibility of the role of the EP and regarding its accountability before the European citizens. Nevertheless, this proposal would not necessarily be easily accepted and it will certainly be necessary to find the right balance between transparency and more informal and pragmatic channels of cooperation.

This last issue is linked to the question of the *nature of the act(s) and/or document(s)* that will set up the level of parliamentary involvement under the next MFF 2021-2027. Regarding the last negotiations, the institutions combined, with a view to reach compromises, provisions in the body of the regulations (i.e. legally binding), in statements and declarations annexed to the regulations (i.e. with a less obvious status<sup>57</sup>), and in the 2013 Interinstitutional Agreement on budgetary discipline. This is certainly an issue to anticipate for the forthcoming negotiations and it is the balance between legally binding acts and more political documents that will have to be discussed.

In the end, identifying the role of the European Parliament under the next External Financing Instruments shall require both relying on (and improving) the existing mechanisms, and creating innovative ways of involving this institution.

## 4 Conclusion

The outcome of the 2014 Reform of the External Financing Instruments (MFF 2014-2020) as well as the ongoing practice teach lessons to remember in view of the forthcoming negotiations. From a global point of view, the latter shall aim at finding the right balance between the democratic legitimacy of the EU's External Action – through the involvement of the EP in compliance with the general framework set up in the EU Treaties – and its efficiency. In other words, the implication of the European Parliament through various powers and means shall be permanently reconciled with the international challenges and unforeseen constraints so that the EU can assert itself on the international scene in compliance with the principles and goals enshrined in Article 21 TEU. This perspective encourages building upon what already exists as well as searching for innovative tools. It invites to explore legally binding tools, procedures, and frameworks as well as more flexible and pragmatic channels of parliamentary involvement.

<sup>57</sup> According to the traditional ECJ Jurisprudence, it is the content of the act that determines its legal qualification.

## 5 References

*Regarding the resolutions of the European Parliament, only those expressly mentioned in the paper are listed below.*

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European Parliament (2013c) Legislative resolution on the proposal for a regulation of the European Parliament and of the Council establishing an Instrument for Stability, P7\_TA(2013)0566.

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European Parliament (2013e) Legislative resolution on the proposal for a regulation of the European Parliament and of the Council on the Instrument for Pre-accession Assistance (IPA II), P7\_TA(2013)0568.

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Powerpoint presentations

***The European Parliament and the  
current External Action  
Instruments  
(MFF 2014-2020)***

Dr. Marie-Cécile Cadilhac

15/10/2018

1. **The 2014 Reform:** Mixed results in terms of parliamentary involvement
2. **The 2014-2018 Period:** A nuanced assessment of the involvement of the European Parliament



## 1. The 2014 Reform

### *- Mixed results in terms of Parliamentary involvement -*

- Instrument contributing to stability and peace (IcSP)
- Instrument for Pre-accession Assistance (IPA II)
  - European Neighbourhood Instrument (ENI)
  - Development Cooperation Instrument (DCI)
  - Partnership Instrument for Cooperation (PI)
- Instrument for Democracy and Human Rights worldwide (IDHR)
  - Instrument for Nuclear Safety Cooperation (INSC)

### *What involvement of the European Parliament in...*

#### ❖ **Establishing the Strategy Papers and Programming the EU Assistance?**

Implementing Acts (art. 291 TFEU)

Strategic Dialogue with the European Commission as a compensation (Declaration)

#### ❖ **Amending the Annexes to the Regulations?**

Delegated Acts (Art. 290 TFEU)

❖ **Suspending the EU Assistance in case of breach of Human Rights and democratic principles?**

Statement by the European Parliament on the suspension of assistance granted under the financial instruments (only)

❖ **Scrutinizing (more broadly) the implementation of the Regulations?**

Several provisions regarding the information of the EP (Annual reports, regular exchanges of views, etc)

## **2. The 2014-2018 Period**

*- A nuanced assessment of the involvement of the European Parliament -*

## ***What use of the European Parliament's...***

### **❖ Legislative Power?**

- Establishment of new instruments/funds (or revision of existing instruments) through **Ordinary Legislative Procedure**

*E.g. IcSP; European Fund for Sustainable Development*

- **But does not cover** all financing instruments / funds

*E.g. EU Trust Funds; Facility for refugees in Turkey*

### **❖ Budgetary Power?**

- Adoption of the **annual budget** (art. 314 TFEU) and approval of the **Multiannual Financial Framework** (art. 312 TFEU)
  - *When the assistance is financed under the EU budget*
  - *2013 Interinstitutional Agreement on budgetary discipline: Informal Dialogue with the Commission regarding the European Development Fund*
- **Discharge procedure** (art. 319 TFEU)
  - Includes the European Development Fund*

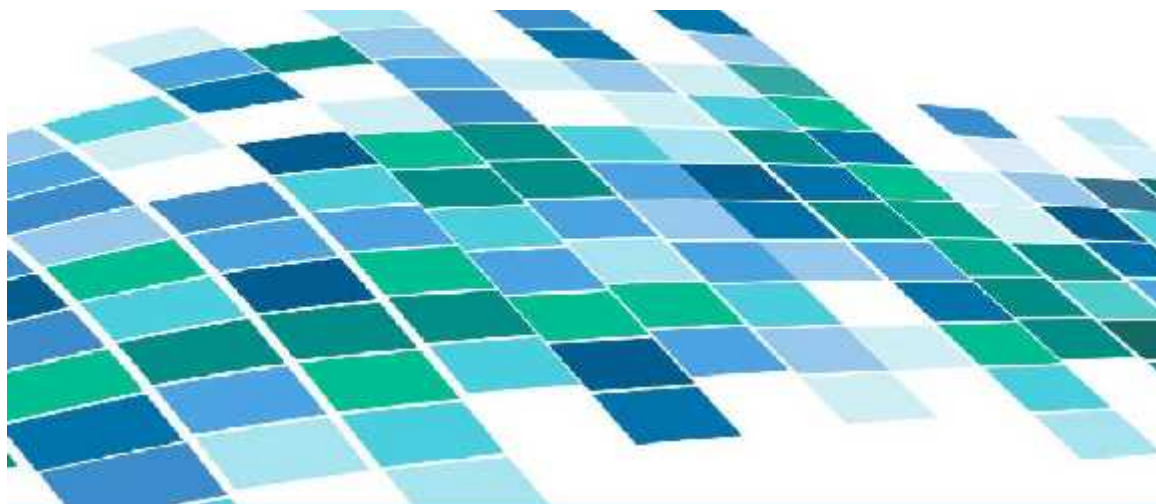
## ❖ **Scrutiny Power?**

- **Provided for in EU Regulations/Decisions**  
E.g. Information regarding the Draft implementing measures  
*(some criticisms in this regard)*
- **More broadly, classical scrutiny powers:** Parliamentary questions; adoption of resolutions; reports; hearings, etc.
- **Parliamentary diplomacy**  
E.g. Committee missions in third countries
- What scrutiny of the **EU Trust Funds**?

## **Conclusion**

- EP's wide range of powers: legislative, budgetary, scrutiny
- Unequal powers depending on the instruments/funds
- Complexity and mixed conclusions linked to the complex architecture of the EU External Financing Instruments





**What future governance arrangements for the proposed Neighbourhood, Development and International Cooperation Instrument?**

AFET/DEVE workshop on the European Parliament and the new external financing Instruments

European Parliament, Brussels, 15/10/2018

Alexei Jones - Senior Policy Officer

**ecdpm**

Research and analysis informing the presentation...work in progress



## 1. Key features of the NDICI and governance challenges

3

### NDICI a bold proposal for EU external action

#### Seeking to address shared concerns and priorities

- ✓ More strategic and policy driven
- ✓ More comprehensive and coherent
- ✓ More flexible and responsive
- ✓ Simpler and streamlined
- ✓ ...and more control?

**How to reconcile legitimate requirements and concerns – without losing sight of need for more effective EU external action?**

4

## More coherent and strategy-driven

**Engaging strategically and coherently** with partner countries

Implies looking at the bigger picture...

> having complete overview of EU external action and strategic cooperation with partner countries (beyond development, including HR, peace and security, migration, trade)

> framing and steering cooperation in line with foreign policy objectives

**What decision-making for a more integrated and coherent EU external action?**

*ecdpm*

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## Flexibility

Different stakeholders (EU MS, EC, EP, Civil Society) see flexibility differently

Flexibility = **swift responsiveness to unforeseen events**

BUT other meanings too:

... reserves

... agility to move between budget headings

... potential leverage of additional resources

... ability to (re)orient funds to certain type of partners

**Is there a willingness to give up influence for increased flexibility?**

*ecdpm*

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## 2. What new governance structure?

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### Key questions

- **Potential trade-offs**
  - policy-driven AND preserving specificity of geographic /thematic approaches
  - flexible & responsive AND predictable & long-term
  - simplified oversight system AND guaranteeing sound scrutiny + accountability
- > **More details needed on**
  1. *emerging challenges and priorities cushion*
  2. upstream steering of geographic/thematic choices
  3. performance indicators and reporting
  4. NDICI committee

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## Prevailing EFI Regulations and the NDICI proposal

- Several provisions of the existing EFIs on information and scrutiny rights of EP + strategic dialogue with the EC have not been imported in the NDICI proposal
  - > EP rights limited to Treaty + existing regulations
- *Budgetary and scrutiny powers* of the EP extended by the **incorporation of the EDF into the budget**
- **Recitals:** Implementing powers and delegated acts
- **General principles:** *Information and regular exchanges of views (art 8.8)*
- Specific governance arrangements for **EFSD+**

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## EP powers and involvement

- Legislative and budgetary procedures
  - Consent and co-decision
    - Implementing powers, Delegated acts, MTR
- Democratic scrutiny
  - Timely consultation and complete information
    - Monitoring and evaluation (annual report)
- Policy shaping
  - Strategic Dialogue
    - More upstream for political steering

### A missing piece to frame multiannual programming?

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## A way forward

- Addressing loose wording in the draft Regulation
- Drawing lessons learned from existing practice
- Revamping and clarifying (inter-)institutional agreements
- Going beyond legal governance arrangements

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# Thank you!

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ECDPM's dossier on MFF  
<http://ecdpm.org/dossiers/multiannual-financial-framework-mff/>

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