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Paper 7

The European Parliament and development cooperation: Democratic participation in the 'low politics' of EU External Relations

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Abstract

The European Parliament enjoys an array of powers in development cooperation, ranging from legislative and budgetary powers to scrutiny and democratic oversight. However, its role has largely been overlooked and generally been absent from the key debates in the EU foreign policy literature. Partly this stems from the 'low politics' nature of development cooperation, when set against the 'high politics' of EU external relations as typified by CFSP/CSDP and trade. This article combines a legal analysis of the EP's post-Lisbon powers in EU development cooperation with an examination of the Multiannual Financial Framework, European Consensus on Development and interinstitutional interactions to assess how the EP has succeeded in gaining a more significant role in this policy field. The article argues that the 'low politics' of EU development cooperation is highly susceptible to the EP's institutional assertion and empowerment in overall EU external relations.

Keywords: Budget; Development cooperation; External relations; European Parliament

Introduction

The European Union (EU) takes pride in its position as a major donor of development aid and agenda-setter in global development cooperation. A direct connection is often made in the official discourse of EU institutions between the Union's core values, as defined in Article 2 of the Treaty on European Union,[i] and the rationale for supporting development overseas. Since one of the core values in the Treaty is 'democracy', it is perhaps surprising that it is only recently that the sole directly elected institution of the EU, the European Parliament (EP), has played a more prominent role in development cooperation.

The EP enjoys substantial powers in this field. Whilst the changes introduced in the Lisbon Treaty might seem, at first glance, to be only marginal, they are more significant than they appear (Delputte and Verschaeve 2015, 39). These powers are legislative, as the 'ordinary legislative procedure' applies in development cooperation, and budgetary. The EP has a critical role to play in the adoption of the Development Cooperation Instrument (DCI), the prime policy mechanism in this area that carries a budget of no less than EUR 19.6 billion for 2014-2020 (European Parliament 2014, 16). But its role has been largely overlooked in the literature. Although there is no shortage of analysis of the EP's global engagement (Wessel & Takács 2017), much of the literature focusses on its involvement in CFSP/CSDP (Rosén and Raube 2018), European Neighbourhood Policy (ENP) (Kaminska 2017) and 'headline-grabbing' or 'high politics' issues. The latter issues include relations with third countries, salient EU international agreements on data exchange (Eckes 2014) or more recently trade (such as the EU-Canada Comprehensive Economic and Trade Agreement (CETA) (Roederer-Rynning 2017) and the EU-US Transatlantic Trade and Investment Partnership (TTIP) (Jančić 2017a; Meissner 2016)) and role in the Brexit process (Paper 6). The wide-ranging research on 'Normative Power Europe' has generally not brought the European Parliament's role to the fore (with some exceptions, including Birchfield 2011). Yet, even before the EP's powers in

development cooperation were increased via the introduction of the ordinary legislative procedure in the Treaty of Lisbon, this institution has quietly exerted its influence on both law and policy. A decades-long official of the European Commission and its former Director-General for Development reveals how this influence was achieved:

> 'Parliament, which is a genuine protagonist of development cooperation policy, has always used all the resources that it has available to promote that policy. Without its political support, many Commission initiatives would have come to naught; Parliament has also drawn on its budget powers and has taken many initiatives to strengthen and even create budget lines to support its priorities'. (Frisch 2008, 50)

This article explores the relationship between the EP and EU development cooperation. It argues that by having worked largely in the shadows, the Parliament has helped shape the governance of this area of EU external relations. On this basis, we argue that the 'low politics' of EU development cooperation is highly susceptible to the European Parliament's institutional assertion and empowerment. We use 'low politics' to indicate development cooperation as a policy which does not attract high levels of scrutiny or public debate. By contrast, 'high politics' would be best represented by TTIP, migration policy, aspects of CFSP/CDSP and to some extent international environmental policy with a focus on the EU's role in climate change agreements. We recognise that the 'high/low politics' distinction may be applied differently, such as to the budgetary amounts needed for policy implementation, and this would likely place development cooperation in the 'high politics' category. However, this would not change the nature of this policy as one that is scarcely politicised.

The article employs a legal analysis to demonstrate the multiple channels of the evolution of the Parliament's role in development cooperation. The inquiry goes beyond an analysis of Treaty provisions and addresses the means by which the Parliament has sought to exert influence. This influence has two dimensions: on the one hand, the search for greater coherence

in EU external relations; and on the other, the search for an appropriate institutional balance in terms of democratic participation and tighter accountability for the decision-making outcomes. The article examines the use of the powers gained in the post-Lisbon era, both through the adoption of resolutions and political positions and through challenges to different aspects of development cooperation law and its overlap with other areas of EU competence before the Court of Justice of the European Union (CJEU).

The analysis begins by examining the evolution and nature of EU development cooperation law and policy in order to demonstrate how they have shaped the EP's competence within the Treaties (2). The article then traces the Parliament's legal powers and its interinstitutional interactions in development cooperation. This part inquires whether the changes to its formal powers occurred because of its increasingly important informal role, or whether the Parliament's formal empowerment spilt over to development, thus raising a 'chicken and egg' question (3). Finally, the article considers the interface between the legal competences and the political developments since the Lisbon Treaty, particularly the Multiannual Financial Framework (MFF) (2021-2027), the European Consensus on Development, and Parliament's resolutions on development cooperation as a prism through which we can understand the nature and application of the Parliament's post-Lisbon powers (4).

The European Parliament and the search for competence in development cooperation

Development cooperation has always been part of the European project. The Schuman Declaration referred to the development of Africa as an 'essential task', a provision now largely ignored (Heywood, 1981; Bartels 2008; Hansen and Jonsson 2011). Yet, it was only in the Treaty on European Union that a specific competence was devoted to development cooperation. Previously, development cooperation was only part of (but also subservient to) other areas, notably the Common Commercial Policy (CCP). Its evolution was intrinsically

linked to the independence movements in former colonies in Africa and elsewhere (Broberg 2011).

The shared nature of development cooperation between the EU and its Member States is threaded through all Treaty articles where it is mentioned. The general principle, in Art 4(4) TFEU, states that the Union has competence in development cooperation and humanitarian aid, adding that 'the exercise of that competence shall not result in Member States being prevented from exercising theirs'.[ii] The special nature of development cooperation is also acknowledged in that the Treaty does not list it among the 'principal areas' of shared competence, such as the internal market and agriculture. Instead, along with research, technological development and space, development cooperation is carved out as what could be called a 'non-principal' area of shared competence. This apparent lower ranking of development cooperation contributes to its 'low politics' status among the other policy areas of EU external relations.

In the specific provisions (Articles 208-211 TFEU), we also find that the EU's and the Member States' competences shall 'complement and reinforce each other'.[iii] Furthermore, although the Union's right to conclude agreements with third countries and international organisations shall be 'without prejudice' to Member States' own powers to do so,[iv] there is a requirement for the EU and the Member States to coordinate and consult on their respective policies on development cooperation and aid programmes.[v] And if this was not sufficient enough already, the final subsection reminds us that the EU and Member States shall cooperate with third countries and international organisations.[vi] This set of provisions can be contrasted with the preceding section on the CCP (Articles 206-207 TFEU), where the words 'Member States' appear only twice (though in the same sentence) and merely serve to prohibit harmonisation in areas not covered by the Treaty. Furthermore, while development cooperation is shared, CCP is an exclusive competence of the Union. The difference between these two major externally-focussed EU policy areas is stark. The greater emphasis on Member States in development

cooperation suggests that this policy is still considered as belonging to the 'core state powers' (Genschel and Jachtenfuchs 2013; Paper 6; Paper 10). Yet, while the important budgetary implications of development cooperation may cast this policy area as pertaining to core state powers, we argue that it remains within the realm of 'low politics' due to significantly lower degree of political contestation than in other areas of EU external relations. However, the fact that development cooperation has tangibly stronger participation of national institutions does not mean that the EU institutions necessarily have more limited competence. Rather, development cooperation has been subject to an incremental process of formal change. The Treaty of Lisbon in particular made two changes to the text and scope of the provisions.

First, Article 209(1) TFEU introduced the ordinary legislative procedure into this area for the first time, enabling the EP to co-legislate with the Council. In this respect, even though development cooperation was already subject to co-decision under the previous Treaty regime, this change represents an affirmation of the Parliament's institutional status. In terms of European integration, development cooperation has moved away from other spheres of the Treaty, most notably the Common Foreign and Security Policy (CFSP), which is generally characterised as a largely intergovernmental policy, with limited roles for the CJEU and Parliament (Cardwell 2013). Development cooperation has traditionally also been regarded as an area where Member States are reluctant to pool sovereignty, partly due to its foreign policy dimension, but also due to the large sums of money involved (Younas 2008). With this in mind, the incremental increase of the EP's powers is remarkable and suggests a governance shift in this area.

Second, the substantive scope of the Treaty provisions has also changed. Previously, the EC Treaty referred to fostering 'sustainable economic and social development of the developing countries', the integration of the developing countries into the world economy, and the campaign against poverty.[vii] Post-Lisbon, there is only a reference to the eradication of poverty

as a primary objective of development cooperation.[viii] This difference is a consequence of a general push in the Lisbon negotiations for greater coherence in EU external action. As a result, development cooperation aims now fall within the *general* provisions on EU external action (Articles 21 and 22 TEU) which are designed to promote coherence between its externally-focussed policies. Also, the EU and the EP are under an obligation promote values externally (Cardwell 2016; Jančić 2017b, 29).

Although the discussion above focussed on explicit competences in development cooperation, the EU has long had the ability to enter into agreements with third countries which are largely developmental. The prime example is the Cotonou Agreement with African, Caribbean and Pacific (ACP) countries. This agreement illustrates the crossover between policies on trade, development and even democracy promotion and human rights protection. The traditional exclusion of the EP from substantive powers in concluding agreements has gradually been eroded (Eeckhout 2011, 210). Furthermore, the Parliament has sought to exercise influence in diplomatic ways within interparliamentary forums, albeit often with limited political impact (Delputte 2012). However, 'law' is not merely constituted by the passing of legislation. Forms of 'soft' law, such as benchmarking and peer-review, have also been used since the 2000s (Gänzle, Makhan and Grimm 2012). While the EP is not generally a key actor in these types of instruments, they demonstrate a certain richness to the governance of development cooperation (as well as many other areas of European integration), albeit one which is beyond the scope of the present analysis.

The role of the European Parliament in development cooperation therefore has a strong relationship with the search for coherence in EU external action, because the level of its involvement is contingent on the policy area and decision-making procedures concerned. Carbone (2008) has referred to this as 'mission impossible'. The evolution of the EU as a specific type of non-state actor has exposed the fractures in attempting to separate different

areas of legal competence and 'actorness' in an international system designed by, and for, nation states (Cremona 2008). This is a legal expression of the 'who speaks for Europe?' question. Importantly, questions of competences are not merely technical but have significant consequences for the way in which development cooperation and other policies operate in practice. Legislative and policy-making processes are differentiated according to the area(s) of the Treaty relied upon. This in turn also determines the degree of budgetary powers exercised by the institutions, including the Parliament. For certain Member States, the overlap of different areas can also risk conflicting with national positions and can thus prevent integration or cooperation on a range of areas of EU external action, in particular defence and security policies. Drawing a dividing line between what is 'development cooperation' and what is 'foreign policy' is not a straightforward task, especially when, as is common, conditionality is applied in relationships with third countries. Although we often assume that in a national context 'foreign policy' is the preserve of the executive, the fact that development cooperation is wide and disposing of large financial resources has underlined the claim by the Parliament for greater involvement.

Inter-institutional influence: 'chicken and egg'?

The argument made in this article is that the European Parliament has undergone incremental empowerment, thus increasing both its legal powers and its capacity for political influence over development cooperation. Far from being an institutional newcomer in development cooperation, the European Parliament has demonstrated a consistent interest in this policy area since the very establishment of the European Economic Community (European Parliament 2011, 15; European Parliament 2010, 17-18).[ix] From a legal perspective, three dimensions help to support an assertion that the Parliament has successfully defended its interests and overcome opposition to having a greater role in this area. The first is reflected in the interinstitutional

muscle-flexing over the establishment of the European External Action Service (EEAS), the second concerns the European Parliament's recourse to the CJEU, and the third addresses the Parliament's budgetary and oversight powers as its core prerogatives in development cooperation.

Interinstitutional muscle-flexing

Of the changes made in the Lisbon Treaty, the interinstitutional disputes about external relations were most controversial in development cooperation (Koutrakos 2012). Although primarily charged with diplomatic representation and provision of assistance to the EU High Representative in the shaping of CFSP and CSDP, the institutionalisation of the EEAS gave rise to significant claims-making of relevance to development policy too. This was for three key reasons: the tight nexuses that exist between development and foreign and security policies (Merket 2012; Furness and Gänzle 2017); the responsibilities that the EEAS has in the programming of the financing of development cooperation; and the uncertainties regarding the new Service's remit, powers, and institutional make-up.

Concretely, while the Commission was concerned about losing 'turf' to the EEAS if development cooperation was brought within its ambit, the European Parliament fought a twofold battle (Koutrakos 2012, 198). On the one hand, it sought to preserve the Community method of decision making in this policy area from intrusion by intergovernmental means of cooperation envisaged within the EEAS. On the other hand, it tried to impose democratic control over the Service's budget and over the appointment of its Heads of Delegation. Notably, the Parliament's influence on the EEAS negotiations is empirically traceable with the outcome resulting in a 'compromise rather than consultation' (Wisniewski 2013, 100).

The EEAS saga could therefore be seen as an episode of 'covert integration' (Héritier 2013) through 'micropolitics' (Wiesner 2018), unravelling on the margins of the formal decision-

making processes. The Parliament's resistance and assertion of rights has thickened the checks and balances between EU institutions. However, while the institutionalisation of the EEAS is well-documented in the literature, the Parliament's utilisation of the judicial, budgetary and oversight routes to empowerment, to which we now turn, are far less so.

Litigation before the CJEU

Over a long period of time, dating back to the immediate aftermath of the Treaty on European Union (Treaty of Maastricht), when development cooperation policy became an EU competence, the Parliament has consistently and vigorously used its powers of referral to the CJEU to defend itself against any perceived side-lining by the other EU institutions. Against the background of multiple potential competences being engaged in the highly intertwined areas of development and trade, the case law exemplifies the direct impact that interinstitutional litigation has had on the discussion and position of the Parliament in relation to development. As will be shown, the Parliament's efforts to gain prominence in development cooperation were an uphill struggle.

First, in a classic case of institutional turf-war, the Parliament challenged the granting of 'special aid' to Bangladesh in 1993.[x] Instead of using the Treaty provision which would have involved the Parliament as a budgetary actor, the act bypassed the EP by its adoption as 'the Member States meeting in the Council' (i.e. not the Council itself). The challenge was unsuccessful, with the Court recognising the wide powers enjoyed by the Member States in development cooperation. A similar outcome unfavourable to the Parliament was reached in the EDF case in 1994. The Parliament sought annulment of a financial regulation related to the implementation of the Lomé Convention, adopted pursuant to a procedure that excluded the Parliament. Despite the EP losing these cases, the latter show a clear, early parliamentary

endeavour to ‘communautarise’ action in development cooperation (Van Vooren and Wessel 2014, 322-323), with its budgetary power as the weapon.

In a similar vein, in 1996 Portugal challenged an EU-India Cooperation Agreement on Partnership and Development, concluded on the joint basis of the CCP and development cooperation provisions. The crux of the argument was that the EU lacked the legal basis for some of the content of the agreement, including a human rights clause.[xi] The CJEU rejected the claims, finding that development cooperation provisions were a sufficient legal basis for the entire agreement. This wide judicial interpretation of development cooperation prevented individual Member States from blocking a development-related agreement, but at the same time risked reducing the European Parliament’s role since it was only to have been *consulted*.

However, the Parliament has gradually found a friendly ear in the CJEU in cases where its role might be under threat. In a pre-Lisbon case of 2008, the Parliament brought an action against the Council to annul a decision concerning a guarantee granted to the European Investment Bank against losses under loans for projects outside the Community.[xii] In this case, the Parliament won the argument. The Commission, and the Council, acting on its proposal, should have relied on an additional legal basis that would have allowed the Parliament to be a *co-decider* with the Council (under former Article 179 EC which referred to former Article 251 EC), instead of it being merely *consulted* (under former Article 181a EC). The Parliament fought for its recognition as a co-equal decision-maker in development cooperation and successfully used its institutional prerogatives to question the choice of legal basis. This links to the preceding discussion of competence, and is evidence of the manner in which the Parliament has used one power (to bring actions before the CJEU) to enhance another (in development cooperation policy).

Finally, the CJEU had the opportunity to clarify the post-Lisbon parameters of development cooperation in a case where the Commission challenged the Council concerning the

Framework Agreement on Partnership and Cooperation between the EU and the Philippines due to its multiple aims.[xiii] The judgment confirmed and even further extended the interpretation of competence in development cooperation policy (Broberg and Holdgaard 2015, 563). Importantly, the risk of 'the limitation of the institutional rights of the European Parliament' was specifically argued before the Court.[xiv] This illustrates the awareness of the former's growing role in this policy area and the latter's willingness to confirm this within the specific institutional setup of this policy area. The judicial route to empowerment thus eventually proved beneficial to the EP's institutional affirmation in the area of development cooperation.

Budgetary and oversight powers

The European Parliament exercises considerable influence in development cooperation through its budgetary power. Although this power remains limited (Benedetto, this issue), the Parliament uses three key mechanisms of involvement.

First, the Parliament's vote on the Union's external financing instruments within the EU budget includes development-related components. Both the EU's annual budget and the Multiannual Financial Framework are adopted via the special legislative procedure.[xv] The annual budget is decided by the Council after consulting the Parliament, while the MFF provides for co-decision which immediately moves to conciliation if the Parliament amends the Council's text.

Second, the specific financing of development cooperation flows from national, supranational and intergovernmental sources. The supranational funding (from the budget described above) is implemented through the Development Cooperation Instrument (DCI).[xvi] The DCI, established in 2007, is adopted by a Regulation under the ordinary legislative procedure, thus enabling the EP to exercise full legislative power. This Instrument is divided into geographic and thematic programmes, including (since 2014) the 'Pan-African' programme.

Intergovernmental funding comes directly from Member States, whose resources are pooled into the European Development Fund (EDF). The EDF, established in 1959, is adopted by an international agreement and focuses on implementing the EU's financial duties towards the ACP countries under the Cotonou Agreement. This Fund does not form part of the EU budget and only partially uses the Union's institutional framework. The EDF is a *sui generis* international agreement, because it is an 'internal agreement' concluded by Member State representatives meeting within the Council, after consulting the Commission and the European Investment Bank, but not the Parliament. Contrary to EU-third country international agreements, which require the Parliament's consent, the EDF agreements do not. Other than granting discharge for the financial management of the Fund, the EP has no influence over the Fund's expenditure. These differences between the sources of development funding crucially determine the level of the Parliament's participation in and impact on development cooperation budgeting. However, the separate regimes of the DCI and the EDF are likely to change with the new MFF (2021-2027), the proposals for which foresee the integration of the EDF into the EU budget.[xvii]

Third, the Parliament possesses a number of significant rights of democratic oversight, which concern comitology legislation, reporting duties, strategic dialogue and budgetary discharge. The Parliament may use its prerogatives under the comitology procedures to oppose the Commission's legislation that aims to implement EU development cooperation law.[xviii] Any such opposition, however, only obliges the Commission to review its action but not necessarily to abandon it, because the latter may decide to amend it or maintain it unamended. In political practice, the value of this right lies in enabling MEPs to scrutinise the aforesaid Strategy Papers or Annual Action Programmes, which they have engaged in with limited success because its opinions are not binding on the Commission (Van Seters and Wolff 2010, 23-24).

Furthermore, there is a general duty referring to all external action financing that obliges the Commission to provide the Parliament with an annual report and evaluation reports.[xix] More specifically, pursuant to a 2013 interinstitutional agreement, the Commission and Parliament have an informal dialogue on all issues of development cooperation policy regardless of their source, encompassing both those flowing from the DCI and the EDF. This voluntary equalization of the treatment of the EDF enhances Parliament's access to information and its ability to scrutinize effectively. As an undertaking that favours both institutions and with a view to 'enhancing the democratic scrutiny of development policy',[xx] the Commission also expressed its intention to propose the incorporation of the EDF under the EU budget, an intention which, as mentioned above, it realised in proposals for the new multiannual budget. The proposal for a new interinstitutional agreement that will accompany the MFF (2021-2027) continues this informal dialogue.

In 2014, a little over three months after the interinstitutional agreement was signed, the second DCI (2014-2020), unlike the first, included a Commission Declaration on the strategic dialogue with the Parliament.[xxi] This arrangement provides for wide-ranging discussions between the two EU institutions *prior* to the programming of the DCI, after the initial consultations with relevant beneficiaries, and during preparation for mid-term review of the DCI. The Commission also undertook to explain its positions before the Parliament, if invited. Similarly, the Parliament now holds hearings for Commission candidates. As an increasingly politicised process, it led to the standing down of Rumiana Jeleva, a Bulgarian candidate for the post of Commissioner for International Cooperation, Humanitarian Aid and Crisis Response in 2010.[xxii]

The budgetary discharge procedure constitutes a further instrument of *ex post* accountability and provides an opportunity to hold the Commission to account by examining its accounts and deciding whether to grant discharge for the preceding financial year. The Parliament also

exercises control over EU development cooperation expenditure through actions before the CJEU. For instance, in 2007 the Parliament was successful in effecting the annulment of a Commission Decision which had approved a project aimed at curbing terrorism and international crime in the Philippines, but which was based on a regulation concerning financial and technical cooperation with Asian and African countries.[xxiii]

To exercise the said budgetary and oversight powers, the EP requires adequate internal institutional capacity. In this sense, the Parliament's scrutiny of development cooperation policy is concentrated in the Committee on Development (DEVE).[xxiv] Besides taking the lead in interinstitutional legislative and budgetary negotiations, this committee oversees the Commission, EEAS and recipients of EU funds, and evaluates the effectiveness of EU aid programmes. It provides opinions to the Committee for Budgetary Control during the annual budgetary discharge process. A notable task of the committee is to assess the relationship and coherence between national and EU policies. This task is indeed of great importance: according to a 2013 study, better coordination between EU donors could have brought about total savings of some €9.2 billion, amounting to 16.4% of EU development aid.[xxv] Externally, the committee members engage in bilateral and multilateral political dialogues with developing countries, including within international interparliamentary forums.

Taken together, the Parliament has gradually succeeded in exerting significant influence using a variety of tools at its disposal. As the only directly elected EU institution, it has reinforced democratic participation in the decision-making processes in development cooperation. The following section builds on this finding by examining how, on the basis of its legal empowerment, it has been able to place itself at the heart of the main political developments in this policy area.

Political developments

This section considers three aspects of the interface between legal competences, as examined above, and what are termed 'political developments'. These are the novelties brought about by the proposals for the multiannual budget for the period 2021-2027; the conclusion of the European Consensus on Development; and the resolutions of the European Parliament on development cooperation issues.

Multiannual Financial Framework (MFF) 2021-2027

The implications for the European Parliament of the new MFF proposals published in May 2018 are significant. While parliamentary control over the EDF had already increased informally, its integration in the EU budget under the new MFF will represent a legal formalisation of this evolution. A corollary of this is that the regular budgetary powers of the Parliament will become applicable as a matter of law rather than as a matter of a political undertaking.

The new MFF proposals also envisage a restructuring of the financing instruments. The DCI will be subsumed under a single broader Neighbourhood, Development and International Cooperation Instrument with worldwide coverage. This, however, is unlikely adversely to affect the Parliament because the MFF proposals foresee an increase in the budget commitments for development cooperation. This makes democratic oversight even more necessary and the Parliament's vote of approval even more weighty. To wit, of some €108.9 billion for the 'Neighbourhood and the World' budget, some €79.2 billion would go to the new unified Instrument, a figure roughly the same as the nominal GDPs of Estonia and Croatia combined (IMF estimate for 2018). This increase, however, goes hand in hand with the increases in commitments in other policy areas.

European Consensus on Development

The first European Consensus on Development was a joint statement adopted by the Parliament, Council and Commission on 20 December 2005. It stated that human rights and democracy are preconditions for development and that such development must be sustainable. The Consensus was the successor to a 1991 Council Resolution (Leino 2008, 279) and the Parliament's own resolution of 2000, which called for the adoption of strategies on the coherence of development with other policies and annual progress reports.[xxvi] The Consensus was adopted soon after an inter-institutional agreement between the Parliament and Commission, which set out an enhanced role for the former in the process of negotiating international agreements by the Community: the Parliament was able to express its views, which were to be taken into account 'as far as possible' (Thym 2008, 205). A similar consensus on humanitarian aid followed in 2008.

The rationale for such agreements between institutions is to 'ensure the discussion, adoption and implementation of common approach, positions and operational action' (Cremona 2011, 75) due to, or perhaps in spite of, the fragmented Treaty landscape and problematic search for coherence (Carbone and Keijzer 2013). Although they are not legally enforceable, the language employed is 'couched in binding terms' (Cremona 2011, 75). The Consensus is a prime example of this approach.

Moreover, the revision of the European Consensus on Development, carried out in 2017, was an opportunity for the politicisation of the development cooperation policy. While the new Consensus was adopted thanks to the votes of support by the two largest political groups in the Parliament (the EPP and S&D), the smaller groups of ALDE, Greens, GUE/NGL and EFDD tabled their own resolution rejecting the Consensus. The latter's main criticism was that excessive emphasis was being placed on migration, because this could, they argued, divert attention away from the goal of poverty elimination towards achieving the Union's own self-interest in the area of security.[xxvii] Albeit the latter resolution was unsuccessful, it exposed the

proposed philosophy of EU development cooperation policy to public scrutiny. Both resolutions, however, used the occasion to call for accountability mechanisms to be put in place for monitoring the attainment of the 0.7% GNI target for the Union's collective commitment to development assistance during the timeframe of the UN's 2030 Agenda, not least through annual reporting to the Parliament.[xxviii]

If contrasted with the exclusion of the Parliament from the first major EU document outlining policy objectives and strategies of development cooperation (Delputte and Verschaeve 2015, 38), the evolution driven by the European Consensus on Development is pertinent. The European Parliament's involvement in the crafting of the Consensus underlines its engagement as a strategic player, actively participating in the charting of the future trajectory of EU development cooperation rather than merely reacting *ex post*. It is also a recognition of the Parliament's institutional standing as a key interlocutor contributing to a unified EU vision for development policy in line with the global agenda focused on achieving the Sustainable Development Goals under the 2030 Agenda.

Resolutions on development cooperation

As transpires from the foregoing, the European Parliament is a pro-active participant in EU development policy making, and to this end it frequently adopts resolutions, which carry political weight without being legally binding.

The Parliament frequently uses resolutions to pressure other EU institutions, above all the Commission, to commit to tougher scrutiny and accept more stringent oversight. For example, in its review of the UN's 2030 Agenda, MEPs urged the Commission to develop 'effective monitoring, review and accountability mechanisms' for the Agenda's implementation and to regularly report to the Parliament, concomitantly highlighting the need for an increased parliamentary scrutiny, potentially through 'a binding interinstitutional agreement' via Article

295 TFEU.[xxix] A similar request for an interinstitutional agreement on transparency, accountability and parliamentary scrutiny was issued in April 2018 with respect to the post-2020 architecture of the DCI and the EDF.[xxx] The Parliament's insistence on greater information sharing and improved monitoring arrangements is not only directed at the Commission, however, but also at the international actors and initiatives, such as the Global Partnership for Effective Development Cooperation.[xxxi] Concerning the DCI, the Parliament has also expressed dissatisfaction with the 'very short deadline' left to it for scrutiny of draft DCI implementing measures and called upon the Commission to amend the DCI Rules of Procedure by the end of 2018 to allow more time for this type of oversight.[xxxii]

A further instrument at the disposal of the Parliament is budgetary discharge resolutions. Whereas these to a great extent rely on data provided by the Court of Auditors, MEPs regularly use them to highlight errors in the Commission's management of development finances, and assess the performance and control frameworks of the latter's Directorate-General for International Cooperation and Development (DG DEVCO).[xxxiii]

Such parliamentary pronouncements are not a guarantee of influence. For example, the aforementioned resolution on the 2030 Agenda shows that the DEVE Committee's request for the Commission to publish a communication to serve as a basis for the common EU position ahead of the relevant meeting of the High-Level Political Forum on Sustainable Development had fallen on deaf ears.[xxxiv] On a later occasion, the Parliament regretted gaps in reporting.[xxxv] Nevertheless, these considerations are testimony to the swings and roundabouts of the political process, where the nature of much of the outcomes depends on mutual concessions, party politics, and the relative institutional power. What is important for the analysis here is that in each instance, the Parliament has demonstrated that it is a 'player' in development cooperation that cannot be ignored and will flex its institutional muscles through both judicial, legislative and democratic control mechanisms where necessary. In this respect, the law and the politics

of development cooperation operate in parallel to reinforce the Parliament's voice in decision making.

Conclusion

This article has made the case that development cooperation is an instructive way of understanding how the EP has incrementally increased its powers in an important, but not highly politicised, area of European integration. By employing the different means at its disposal, including competence-related litigation before the CJEU and the maximisation of its institutional pronouncement via budgetary powers, the EP has gained both a stronger formal legal-institutional position and more palpable political influence owing to its greater informal involvement in interinstitutional bargaining.

However, whilst this paints an optimistic picture of development cooperation as a forum where the EU's only democratically elected institution has used a foothold to wield both power and influence, a note of caution is required. First, although its legal-institutional position has changed over time, it can only fully be regarded as successful if visible effects can be seen on the policy area itself. Understanding the outcomes of EU development cooperation if the EP was not involved requires a much deeper examination of the substance, which is beyond the scope of the present analysis. Taking this point further, development cooperation represents an instance of 'soft' Europeanisation, where there has been a move beyond information-sharing towards strategy-building, but with few visible results in terms of how this has impacted on the Member States (Orbie and Lightfoot 2017, 2004). Therefore, understanding what, if any, policy influence the EP has exerted as merely one actor within the EU institutional framework merits further exploration (Paper 6). Although the Treaty of Lisbon is approaching its first decade in force, the institutional challenges emerging from the Treaty, including the Parliament's role,

the establishment of the EEAS, and the search for policy coherence, are only starting to be resolved.

The foregoing analysis documents the variety of changes experienced by the European Parliament. Our findings nuance the view of Delputte and Verschaeve (2015, 36) that 'in contrast to the Maastricht Treaty, the Lisbon Treaty did not substantially alter the competences of the EP in development cooperation, suggesting continuity rather than change'. While we agree that this is correct, our analysis also indicates that Parliament has utilised informal channels to raise its profile among other EU institutions. This, however, often took place with the blessing of the Commission, because the latter saw the Council and the Member States as the key institutional opponent. Therefore, the 'low politics' nature of development cooperation has in fact facilitated the Parliament's raised profile. This positive institutional development, however, does not guarantee actual influence on the policy outcomes; rather, it increases the *potential* for the Parliament to exercise its powers, for it to be asked for opinion, for other EU institutions to be more alert to the Parliament's arguments, and for these arguments to alter political practices as vectors of broader institutional changes benefitting the Parliament.

Yet there is little doubt that development cooperation has not merely been used as a testing ground for increasing either the Parliament's power or its influence. To suggest this would undermine the genuine interest of the Parliament and its Members over a long period in ensuring the attainment of the goals of development cooperation and in fulfilling their democratic mandate of overseeing the use of a significant part of the EU budget.

Finally, although we characterised development cooperation as 'low politics', because of the comparatively lower amount of public salience when set against other external policies, the search for coherence indicates that development cooperation is not necessarily destined to remain in the realm of 'low politics'. On the one hand, this is because of the frictions and interinstitutional disputes that may arise in the Union's pursuit of such coherence, especially

where the Parliament adopts approaches and attitudes that fundamentally diverge from those of the other EU institutions. On the other hand, the rising salience of migration may put development cooperation much more markedly on the EU agenda as an important tool for its containment.

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[i] "The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights"
[ii] Article 4(4) TFEU
[iii] Article 208(1) TFEU
[iv] Article 209(2) TFEU
[v] Article 210(1) TFEU
[vi] Article 211 TFEU
[vii] Article 177(1) EC
[viii] Article 208(1) TFEU
[ix] This included the establishment of the Committee on Association with Overseas Countries and Territories (OCTs) within the then European Parliamentary Assembly on 20 March 1958, immediately after the latter's inaugural sitting. In the context of the process of decolonisation, the Assembly was an active participant in shaping the relationship between the European Economic Community and the newly independent states in Africa, the Caribbean and the Pacific. For example, one of the Assembly's first pronouncements was a resolution of 31 March 1960 calling for an intergovernmental conference to be held between Assembly members and OCT representatives. As a further illustration of active involvement in policy making, during the period 1958-1973, the European Parliament adopted a total of 102 reports on development cooperation issues.
[x] Cases C-181/91 and C-248/91 *Parliament v Council and Commission (Bangladesh)* [1993] ECR I-3685.
[xi] Case C-268/94 *Portugal v. Council*, EU:C:1996:461.
[xii] Case C-155/07 *European Parliament v Council (EIB guarantee)* [2008] ECR I-08103.
[xiii] Case C-377/12 *European Commission v. Council of the European Union (Philippines PCFA)* [2014], EU:C:2014:1903.
[xiv] Case C-377/12 European Commission v. Council of the European Union *(Philippines PCFA)*, EU:C:2014:1903, para 22.
[xv] Articles 312-314 TFEU.
[xvi] Other external financing instruments in the second DCI (2014-2020) are: Instrument for Pre-Accession Assistance, the European Neighbourhood Instrument, the Instrument for Stability and Peace, the European Instrument for Democracy and Human Rights, the Instrument for Development Cooperation and the Partnership Instrument.
[xvii] See Commission Communication, 'A Modern Budget for a Union that Protects, Empowers and Defends The Multiannual Financial Framework for 2021-2027', COM(2018) 321 of 2 May 2018, p. 18.
[xviii] Article 11 of Regulation (EU) No 182/2011 (the 'Comitology Regulation') states that, where the ordinary legislative procedure has been used, either the European Parliament and the Council 'may at any time indicate to

the Commission that, in its view, a draft implementing act exceeds the implementing powers provided for in the basic act', after which the Commission 'shall inform the European Parliament and the Council whether it intends to maintain, amend or withdraw the draft implementing act'. This Regulation is currently being amended, see the Commission's Proposal COM(2017) 85.

[xix] Articles 12-13 of the Regulation (EU) no 236/2014 of the European Parliament and of the Council of 11 March 2014, OJ L77/95.

[xx] Point 26 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, OJ C373/1.

[xxi] Regulation (EU) no 233/2014 of the European Parliament and of the Council of 11 March 2014, OJ L 77/44, p. 74.

[xxii] EurActiv, 'Bulgarian EU hopeful bites the dust in Parliament', www.euractiv.com/section/central-europe/news/bulgarian-eu-hopeful-bites-the-dust-in-parliament, 13 January 2010.

[xxiii] Case C-403-05 *Parliament v Commission (Philippine Border Mission)* [2007] ECR I-9045.

[xxiv] Annex V to the Rules of Procedure of the European Parliament (8th parliamentary term), January 2017.

[xxv] European Parliament, 'The Cost of Non-Europe in Development Policy: Increasing Coordination between EU donors', doc no. PE 494.464 and CoNE 1/2013, p. 7.

[xxvi] European Parliament, Resolution on the coherence of the various policies with development policy [2000] OJ C 339/208.

[xxvii] European Parliament, Motion for resolution on the new European Consensus on Development "Our World, Our Dignity, Our Future", doc. no. (2017/2586(RSP), 29 May 2017, point 5.

[xxviii] European Parliament, Resolution of 1 June 2017, "Our World, Our Dignity, Our Future", doc. no. P8_TA(2017)0241, 1 June 2017, point 4. The same provision is contained in point 4 of the alternative resolution, see note 28 above.

[xxix] European Parliament, Resolution of 12 May 2016 on the follow-up to and review of the 2030 Agenda, doc. no. P8_TA(2016)0224, point 14.

[xxx] European Parliament, resolution of 17 April 2018 on the implementation of the Development Cooperation Instrument, the Humanitarian Aid Instrument and the European Development Fund, doc. no. P8_TA(2018)0103, point 56.

[xxxi] European Parliament, Resolution of 22 November 2016 on increasing the effectiveness of development cooperation, doc. no. P8_TA(2016)0437, points 10, 12, 15 and 16.

[xxxii] European Parliament, Resolution of 17 April 2018 on the implementation of the Development Cooperation Instrument, the Humanitarian Aid Instrument and the European Development Fund, doc. no. P8_TA(2018)0103), point 50.

[xxxiii] See e.g. European Parliament, Resolution of 18 April 2018, doc. no. 2017/2146(DEC).

[xxxiv] European Parliament, Resolution of 12 May 2016 on the follow-up to and review of the 2030 Agenda, doc. no. P8 TA(2016)0224, point 1.

[xxxv] European Parliament, Resolution of 14 February 2017 on the revision of the European Consensus on Development, doc. no. P8_TA(2017)0026, point 94.

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