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EUROPEAN INTEGRATION, DIGITALISATION AND THE *BRUSSELS EFFECT*.

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EUROPEAN INTEGRATION, DIGITALISATION AND THE *BRUSSELS EFFECT*[1].

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1. INTRODUCTION: THE INTERNAL MARKET AS AN INSTRUMENT OF EUROPEAN INTEGRATION

Economic integration has been the driving force of the European Union (EU) since its origins. This goal was apparent in the three initial Communities: the European Coal and Steel Community (ECSC, 1951), the European Economic Community (EEC, 1957) and the European Atomic Energy Community (EAEC or Euratom, 1957)[2], since they all shared a common purpose: to establish common markets in the fields they covered. As the EEC was broader in scope, it aimed to establish common markets in an unspecified and ever-growing number of economic sectors.

A long and intense academic discussion has been conducted over the years on the field of European integration.[3] The ambitious scope of the seminal Schuman Declaration adopted on 9 May 1950 certifies its political nature. It primarily concerned the ECSC, but embraced the more ambitious project of an ever-closer union, which later led to the European Union[4]. The political goal was apparent in this document, where economic integration was conceived as a means to achieve the former. Thus, it was therein highlighted that "Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a de facto solidarity". And this should be accomplished through an internal market leading to economic growth.

[2] For those readers less familiar with EU law, it should be noted that the European Union was created by the Treaty on European Union or Maastricht Treaty, signed on 7 February 1992 and in force since 1 November 1993. The Maastricht Treaty created a structure with three pillars, one of which was constituted by the three Communities. It also profoundly reformed European institutions and European law and, in particular, introduced changes in the Rome Treaty, i.e. the Treaty establishing the European Economic Community. Other Treaty reforms followed, until the Treaty of Lisbon which, in an ambitious move, defined the contents, name and structure of the Treaties as they stand today. Treaties in force today are the Consolidated Version of the Treaty on European Union [2012] OJ C326/01 (hereinafter TEU) and the Consolidated version of the Treaty on the Functioning of the European Union [2012] C 326/47 (hereinafter TFEU). For the sake of clarity, references to articles of the Treaties in this article will be made in reference to the existing version of the Treaties, also when mentioning the state of affairs before 2012, as the relevant content has not changed in those particular articles.

[3] Paul Craig and Gráinne de Búrca, *EU Law. Text, cases and materials* (7th edn. Oxford University Press 2020) 26 (hereinafter Craig and De Búrca, *EU Law*). The authors also explain that the distant origins of the EU can be traced back to the seventeenth century, when the creation of a European Parliament was proposed by a prominent English Quaker, William Penn. Since then, and until the effective creation of the European Communities took place, various partial attempts or instances of the desire to cooperate between States on European soil have existed. Yet it was only after World War II that a truly non-nationalistic and international spirit set the conditions to promote a stronger cooperation between States both at European and at international level (Craig and De Búrca, *EU Law* 2).

[4] Critical of the evolution of the integration process back in 1993, just after the Treaty of Maastricht creating the EU was adopted, and critical of what the author considers steps backwards, Deirdre Curtin argues that "[b]uilt into the principle of an 'ever closer union among the peoples of Europe' is the notion that integration should only be one way". Deirdre Curtin, 'The Constitutional Structure of the Union: a Europe of Bits and Pieces' (1993) 30 (1) CMLRev 17.

European integration[5] has been described as a "*perpetuum mobile,* in constant evolution as a result of its productive interactions".[6] Politics, economics and the law in the EU do reflect broader (international) as well as narrower (national) inputs. European integration has gone through ups and downs, yet the trend in the long run can be described as an ever-deeper integration, where the internal market has played, and continues to play, a decisive role.

The internal market in the EU context thus has a specific, complex - and not always precise - meaning.[7] Eventually, the concept could be placed in the category of "oxymora", which are understood by some authors as paradoxes, even if the expression "internal market" is not an oxymoron in the strict sense.[8] This is so because it implies a clear tension between not only the EU and the States (more integration vs less integration)[9], but also between different approaches to the concept from different actors (the Commission and the Court of Justice of the European Union/CJEU, for instance) [10]. Also, it has evolved over time in relation to other values, rights and policy goals. Constitutionalism in the EU is an opportunity to reconcile divergent forces.[11] Thus,

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[5] The expression "European integration" was widely circulated after the seminal work of Pierre Pescatore, *Le droit de l'intégration: Émergence d'un phénomène nouveau dans les relations internationales selon l'expérience des Communautés européennes* (A. W. Sijthoff/Institut Universitaire de Hautes Études Internationales, 1972), based on a series of lectures presented in 1971 at the Institut Universitaire de Hautes Études Internationales in Geneva. For more in relation to this chapter see Fabian Amtenbrink, Gareth Davies, Dimitry Kochenov and Justin Lindeboom, *The Internal Market and the Future of European Integration* (Cambridge University Press 2019).

[6] Julio Baquero Cruz, *What's Left of European Integration? Decay and Resistance in European Union Law* (Oxford University Press, 2018) 2.

[7] Stephen Weatherill, 'The several internal markets' (2017) Yearbook of European Law 36, 125; Stephen Weatherill, *The Internal Market as a Legal Concept* (Oxford University Press, 2016). For its economic content, see Jacques Pelkmans, 'Economic Approaches of the Internal Market' (2008) Bruges European Economic Research Papers 13, where six different economic meanings of the internal market are presented and analysed. It is argued that "[t]he EU is itself one of the leading "globalisers" and the IM supports such moves forcefully. It is very hard to understand how the IM with a huge market and such diversity could not be a useful preparatory ground for globalisation" (at 43).

[8] Rostam J. Neuwirth, 'The European Union as an Oxymoron: From Contest via Contradiction' in Julien Chaisse (ed), *Sixty Years of European Integration and Global Power Shifts. Perceptions, Interactions and Lessons* (Hart, 2019) 51 (hereinafter Neuwirth, 'Oxymoron'). From a broader perspective, see Rostam J. Neuwirth, *Law in the Time of Oxymora. A Synaesthesia of Language, Logic and Law* (Routledge, 2018).

[9] It has also been critically argued that the concept of internal market has developed following a particular approach of original EU Member States in a concrete economic context opposed to socialism. The accession of post-socialistic countries to the EU may have helped define new contours of the internal market, which would allegedly still be an uncompleted project. See Silvia Ručinská and Miroslav Fečko, 'The Past and Future of the European Union Internal Market – Visegrad Group Perspective' (2016) 4 (1**)** Central European Papers 82. This is a contentious issue, however. See Jukka Snell, 'The internal market and the philosophies of market integration' in Catherine Barnard & Steve Peers (ed), *European Union Law* (3rd edn., Oxford University Press 2017) 334, 346 (hereinafter Snell, 'The internal market').

[10] For the sake of clarity, in all cases in this paper references will be made to the CJEU, by which we also mean its predecessor, the European Court of Justice (ECJ).

[11] Neuwirth, 'Oxymoron' (n 8) 62.

placing the internal market in a constitutional framework provides a richer approach not restricted to pure economic and market issues.[12]

The EU's internal market is therefore not *any* internal market. It is the internal market conceived in particular in the framework of European integration, as such encompassing not only economic but also other interests and policy goals, as a result of history and of political forces. It has been argued that a parallel to the US exists, since the latter could provide evidence of a large integrated economy.[13] Yet differences between both models are also apparent and to a large extent this is due to differences in their respective constitutional and institutional traditions.[14] Nevertheless, these differences do not camouflage the fact that both experiences have exerted – and still do exert – a strong influence on the shaping of the international law of economic integration.[15]

The concept of the internal market is not static; it has evolved over time.[16] It could be argued that the internal market is primarily an instrument envisaged to reinforce Europe's role in the international arena. In this framework, through regulation of various economic sectors, in some fields it has promoted changes in other areas of the world, consequently making a significant contribution to the international law of economic integration. It may therefore be considered a good example of the so-called *Brussels Effect*[17], which will be discussed below. Through the *Brussels Effect*, the EU in a sense promotes international economic integration tinged with the special flavour of European values[18] and policies.

This chapter will focus on the following aspects. Firstly, an overview of the origins and evolution of the internal market will be provided, focusing also on the relationship between the internal market and international forces. Secondly, the main elements of the internal market will be further developed: free movement of goods,

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[12] Scepticism on the potential of the EU to develop a truly social internal market, due to intrinsic institutional features, in Floris de Witte, 'The architecture of the EU's social market economy' in Panos Koutrakos and Jukka Snell (ed), *Research Handbook of the EU's Internal Market* (Edward Elgar, 2017) 117. It is stated that while the internal market necessarily had to become a social market economy at least after the Treaty of Lisbon, EU institutions are in a difficult position when it comes to effectively conducting this process. Therefore, the consolidation of such a social market economy (and I would add also a social internal market) can only happen if substantive policy autonomy is (further) deferred to the national level, where social concerns are better represented and dealt with.

[13] Michelle Egan, 'The evolution of single markets in Europe and the United States' in Panos Koutrakos and Jukka Snell (ed), *Research Handbook of the EU's Internal Market* (Edward Elgar, 2017) 500, 501 (hereinafter Egan, 'The evolution').

[14] Egan, 'The evolution' (n 13) 502.

[15] For a comprehensive theoretical approach to the concept of international economic integration see Armand de Mestral, 'Economic Integration, Comparative Analysis' [2011] Max Planck Encyclopedia of Public International Law (MPEPIL).

[16] Snell, 'The internal market' (n 9) 334.

[17] Anu Bradford, *The Brussels Effect. How the European Union rules the world* (2020 Oxford University Press) (hereinafter Bradford, *The Brussels Effect*). The concept was coined by Bradford in a previous article, namely 'The Brussels Effect' (2012) 107 (1) Northwestern University Law Review 1.

[18] On European values and the role of judges to promote them, see Susana de la Sierra, 'Enhancement of Common Values in Europe: The Role of Judges' (2021) 33 (1) European Review of Public Law, 109.

services, persons and capitals, as well as free competition. A mention to public policy goals other than economic ones will be made, and attention will also be devoted to certain areas of the public sphere which are related to the internal market, such as public procurements and public aid, both being areas of interest for international organisations such as the World Trade Organisation and thus also of interest for the international law of economic integration. The discussion on the *Brussels Effect* will be then presented and linked to the overall topic of this paper. Finally, digitalisation and artificial intelligence (AI) will be addressed, in order to explain how the internal market operates in this new scenario, what the challenges are and how, through regulation, the EU may also influence regulation of digital transformation and AI on a global level.

Much literature has been devoted to the relationship the concepts of internal market, common market and single market have to one another, and on whether they are different or similar categories, with various degrees of political weight, or associating each of them to different stages of European integration. We should make clear that from now on, all three will be used as equivalents for the purposes of this chapter, as the Court of Justice of the European Union has tended to do.[19]

2. THE PRE-HISTORY OF THE EU'S INTERNAL MARKET

The Schuman Declaration was an ambitious statement and led to attempts to create both a European Defence Community (EDC) and a European Political Community (EPC)[20]. The Treaty creating the EDC was signed in 1952 by the six ECSC States (Belgium, France, Germany, Italy, Luxembourg and the Netherlands), but the EPC was perceived as too bold a movement in European politics. It therefore failed, leading to the failure too of the EDC, after the French National Assembly refused to ratify the EDC Treaty in 1954.

The Member States of the ECSC held a Conference in Messina (Italy) in 1955, where foreign ministers met and agreed on partial economic integration in certain areas and on the establishment of a common market, along with the harmonisation of their social policies.[21] To this end, common institutions were to be created and gradual full merging of national economies was expected. Besides this, they also agreed on the creation of an organisation to develop nuclear energy for peaceful purposes. All this would place Europe in a competitive position in the global arena. Indeed, these steps were taken as a consequence of a common perception of the ever-decreasing role of Europe in the international framework. Economic integration was hence a means of promoting a new role for Europe in international economic (and political) relations.

The design of both the EEC and Euratom was conferred to an intergovernmental committee chaired by Paul-Henri Spaak, at the time Belgian foreign minister. This

[19] Snell, 'The internal market' (n 9) 341.

[20] Craig and De Búrca, *EU Law* (n 3) 3 -4.

[21] Materials from the Conference can be found at the website <https://www.cvce.eu/en> (accessed 14 November 2023).

committee produced the so-called Spaak Report[22], which was submitted to the Governments of the ECSC Member States on 21 April 1956.

The first part (out of three) of the report focused on the common market and commenced as follows:

"The purpose of a European common market is to create a large area committed to a common economic policy, constituting a powerful complex of industries and ensuring a continual gain in economic strength and stability, a more rapid rise in living standards and the development of harmonious relations between its component states".

The common market responded in this way to a political will, and this was materialised in the drafting of the subsequent two treaties, the Treaty of Rome and the Euratom Treaty. The intention underlying both Treaties was to promote Europe's presence in the world by reinforcing its economic capabilities, while at the same time providing a high level of social standards.

At this point in time, in addition to free competition, the main components of the common market were already the abolition of customs duties and quotas, as well as of other measures of equivalent effect, and with them the establishing of four fundamental freedoms: freedom of movement of goods, of services, of workers and of capital. As has been argued, the internal market has a circular relationship with the four fundamental freedoms[23]. This is to say that the internal market in the EU can only be understood in connection with the four fundamental freedoms and vice versa. Indeed, the case law of the CJEU and also political inputs to develop the internal market have fostered the widening and enforcement of these fundamental freedoms.

3. ELEMENTS OF THE INTERNAL MARKET: FREEDOMS OF MOVEMENT AND FREE COMPETITION

The essential pieces that make up the EU's internal market since the founding Treaties (in particular, the EEC Treaty) are thus the four freedoms of movement (goods, persons, services/establishment, as well as capital) together with free competition.[24] The degree of sophistication of each freedom - and thus the level of integration - varies, not lastly because of reluctance both from Member States and from private interests, which – among other things - may have lobbied in asymmetric ways.

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[22] The report can be found at <https://www.cvce.eu/en> (accessed 14 November 2023).

[23] Snell, 'The internal market' (n 9) 334, who moreover refers to Stephan Weatherill, 'The Court's Case Law on the Internal Market: 'A Circumloquacious Statement of the Result, Rather than a Reason for Arriving at It'?' in Maurice Adams, Henri de Waele, Johan Meeusen and Gert Straetmans, (ed.), *Judging Europe's Judges: The Legitimacy of the Case Law of the European Court of Justice Examined* (Hart Publishing 2013) 87.

[24] See mainly article 26.2 TFEU on the scope of free movement of goods and article 101.1 TFEU, which prohibits certain agreements considering them incompatible with the internal market.

This is not the place to provide a comprehensive approach to these basic elements of the internal market, as they represent independent topics in their own right.[25] Nevertheless, a very brief overview of their contents will be provided here for readers who may be less familiar with it.

Free movement of goods is the freedom that was first developed, and all Treaty provisions in this respect became effective by the end of 1969, if not before.[26] It was – and still is – based on a space with no custom duties or charges having an equivalent effect (today, art. 26.1 TFEU) and taxes are also covered by this freedom.[27] The CJEU soon faced the challenge of interpreting concepts such as the notion of "goods"[28] and "charges having an equivalent effect", as well as addressing exceptions to the prohibitions as listed today in article 36 TFEU, and those not included in the list but accepted by the Court. Both direct and indirect discrimination are covered by provisions regulating the free movement of goods.

The TFEU (following the path of its predecessors) devotes Title II of Part Three (Union Policies and Internal Actions) to free movement of goods, immediately after Title I on the (general questions of the) internal market. After addressing Agriculture and Fisheries in Title III, Title IV refers to free movement of persons, services and capital. All three freedoms are encompassed under the same legal umbrella and they have evolved as the EU has, integrating more ambitious political goals.[29] For instance, the conception of free movement of workers as a pure economic freedom (as they all were at the beginning) explains that the Treaty refers to "workers", while the concept has been broadened through time, so as to include persons beyond the concept of worker strictly speaking.[30] Thus, free movement of workers would turn into a more general free movement of persons, where the notion of citizenship is the key.[31] Finally, freedom of establishment (art. 49 TFEU) and freedom to provide services (art. 56 TFEU) have also evolved and are now to be understood in the digital context, which will be subject to analysis at a later stage in this paper.

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[25] For a thorough analysis see, among others, the seminal Craig and De Búrca, *EU Law* (n 3).

[26] Peter Oliver and Martín Martínez Navarro, 'Free movement of goods' in Catherine Barnard & Steve Peers (ed), *European Union Law* (3rd edn, Oxford University Press 2017) 365, 395 (hereinafter Oliver and Martínez, 'Free movement').

[27] Peter J. Wattel, 'Taxation in the internal market', in Panos Koutrakos and Jukka Snell (ed), *Research Handbook of the EU's Internal Market* (Edward Elgar, 2017) 319.

[28] On the meaning of "goods" see Oliver and Martínez, 'Free movement' (n 27) 368.

[29] Craig and De Búrca, *EU Law* (n 3) 666.

[30] Catherine Barnard, 'Free movement of natural persons and citizenship of the Union' in Catherine Barnard & Steve Peers (ed.), *European Union Law* (3rd edn, Oxford University Press 2017) 397.

[31] On the tense relationship between internal market and European citizenship, see Catherine Barnard, 'The day the clock stopped: the EU citizenship and the single market' in Panos Koutrakos and Jukka Snell (ed), *Research Handbook of the EU's Internal Market* (Edward Elgar, 2017) 102. The author argues in page 103 – in the context of recent crises such as the Eurozone crisis, the migrant crisis or Brexit - that "[t]he appetite for the flowering of EU citizenship was waned. In times of difficulty, the EU reverts to the uncontested core of the EU project and that core is the single market".

Finally, free competition is guaranteed by articles 101 to 109 TFEU. Conducts prohibited in the Treaty and markets are supervised by national competition authorities, which form a network governance system together with the European Commission and constitute an example of mixed administration of EU law.

These provisions have clearly had an impact on classical categories and areas of law. In particular, the State and its law have been challenged through norms that have questioned how public bodies shall act.[32] This is the case mainly of State aid[33], public services[34] and public procurements[35].

From the perspective of international law of economic integration, both State aid and public procurements are particularly relevant, as specific agreements exist at the World Trade Organisation (WTO). WTO agreements have of course had considerable influence on EU law[36] and one might wonder, conversely, to what extent a certain *Brussels effect* has also taken place in this framework. In addition to this, some authors have long argued that the WTO has also gone through a process of positive integration[37], one similar to European economic integration, i.e. based not only on the removal of obstacles, but one in which legal changes are promoted and common goals are pursued.

Normative action in relation to public procurements was undertaken at a very early stage of the European project, even though this was not a matter expressly foreseen in the founding Treaties. Yet its direct connection with free competition and freedoms of movement justified normative approaches by European institutions. The first Directives were passed in 1971 and 1976 and have been amended, completed and extended over the years. The most recent ones were passed in 2014 and have been transposed into national law through different regulatory techniques.[38] Relevant in these Directives today is - among other aspects - the fact that public procurement is expressly conceived as a policy instrument, and therefore useful for various goals of public interest such as environmental

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[32] Paul Craig and Gráinne de Búrca, 'The State and the Common Market' in Craig and De Búrca, *EU Law* (n 3) 1148.

[33] Jorge Piernas López, *The Concept of State Aid under EU Law From Internal Market to Competition and Beyond* (Oxford University Press 2015). From an international perspective with WTO relevance, mention should be made of the White Paper of the European Commission on levelling the playing field as regards foreign subsidies, 17.6.2020, COM(2020) 253 final (understanding by "foreign" subsidies those granted by non-EU governments to companies in the EU).

[34] Marise Cremona (ed), *Market Integration and Public Services in the European Union* (Oxford University Press, 2011).

[35] Albert Sánchez Graells, *Public Procurement and the EU Competition Rules* (2nd edn. Hart 2015).

[36] On how the WTO GPA has influenced EU law, see Bedri Kamil Onur Tas, Kamala Dawar, Peter Holmes and Sübidey Togan, 'Does the WTO Government Procurement Agreement Deliver What it Promises?' (2019) 18 (4) World Trade Review, 609 See further Sebastiaan Princen, 'EC Compliance with WTO Law: The Interplay of Law and Politics *(2004) 15 (3) European Journal of International Law* 555.

[37] Ernst-Ulrich Petersmann, 'From "Negative" to "Positive" Integration in the WTO: Time for "Mainstreaming Human Rights" into WTO Law?' (2000) 37 (6) *Common Market Law Review* 1363.

[38] A trend towards more harmonisation in this realm is apparent. See Brigitte Pircher, 'EU public procurement policy: the economic crisis as trigger for enhanced harmonisation' (2020) 42 (4) Journal of European Integration, 509.

or social protection. This is again an example of how the internal market has progressed from pure economic elements to contain more sophisticated ones.

4. TOWARDS THE CONSOLIDATION OF THE EU'S INTERNAL MARKET

The 1970s brought a new political and institutional momentum and as a result a paradigm shift affected the internal market, due to the input of the European judiciary.[39] The CJEU made an active contribution to European integration through its rulings. It did so with the understanding that the four freedoms, with the exception of capital (freedom of movement of goods, persons, services, as well as freedom of establishment) were directly applicable without the need to pass secondary legislation and through the principle of mutual recognition, which was created by the Court. This triggered a process whereby the concept of the internal market was extended by other European institutions as well, since the European Commission decided to follow the CJEU's path and proposed an agenda based on this approach.

Thus, after several common declarations by Member States, the Commission prepared a White Paper on the completion of "a fully unified internal market"[40], to be achieved by the end of 1992. The Commission highlighted the fact that the EEC was already composed of ten member States, soon to be twelve, with the accession of Portugal and Spain in 1986. The thereby renewed internal market would be an expanding – and not a static – one. This implied that more member States were envisaged to contribute to a bigger internal market, and at the same time through these measures Europe would gain weight in the international sphere.

Following the leading role of the Commission, the Single European Act (SEA) was adopted in 1986 as a Treaty modifying the Treaty of Rome. It integrated the case-law of the CJEU and proposed a new framework for the internal market, which should be accomplished by 1992. In the new context harmonisation would be left for the essentials and standardisation would take the lead, to grant common health, safety and environmental protection, among other public policy goals.[41]

The Treaty on the European Union or Treaty of Maastricht created the European Union once it entered into force in 1993. Among other goals, it implied the accomplishment of the internal market as aspired to by the SEA, as well as an economic and monetary union. Yet as a consequence of the evolution of the EU, not least due to a considerable enlargement process in 2004, new concerns arose as to how best to approach the legal framework of an increasingly complex organisation. The Commission changed its strategy again and opted for more harmonisation through regulations and not directives, i.e. without leaving much space for Member States to act.[42] Various crises, i.e.

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[39] Snell, 'The internal market' (n 9) 343.

[40] "Completing the internal market", White Paper from the Commission to the European Council, COM (85) 310 final, 14 June 1985.

[41] Snell, 'The internal market' (n 9) 344.

[42] Snell, 'The internal market' (n 9) 347.

the 2008 economic crisis and more recently the crisis caused by the COVID pandemic, have led to discussions on the role of the EU in general, and of the internal market in particular.

The Commission recently addressed a Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on "The Single Market at 30".[43] After highlighting that "the Single Market is one of the greatest achievements of the EU", it continues by arguing that it "is much more than a legal framework or indeed a market: it is an area of freedom, progress, opportunity, growth, shared prosperity, resilience and a means of geopolitical projection". As of today, it is officially conceived as a political project with a geopolitical mission, linked also to the green and digital transitions. One of the key elements of its capacity of attraction is the fact that it has "a predictable and simple regulatory framework", something which connects to the aforementioned *Brussels Effect,* a concept which will be developed further over the following lines.

5. THE INTERNAL MARKET AS THE CORE OF THE EUROPEAN INTEGRATION PROJECT AND THE *BRUSSELS EFFECT*

The legal configuration of the internal market is not only relevant inside the EU. It has also an impact on the international arena, thus influencing economic regulation beyond European frontiers. Defenders of the so-called *Brussels Effect* argue that through regulation, "the EU has become the global regulatory hegemon unmatched by its geopolitical rivals, without endorsing or criticizing the EU for the regulatory power it possesses".[44] Interestingly, this is not as a direct consequence of a will to lead the world, but through a series of interactions between EU regulations and market forces, i.e. private powers. Both public and private intermingle in a process that generates various dynamics. Thus, besides a *de facto Brussels Effect*, whereby markets adjust their behaviour to European regulations, a *de iure Brussels Effect* implies that companies lobby European institutions, in order to actively influence future regulations.[45]

The way in which the EU influences global markets is manifold, starting with competition law, one of the cornerstones of the internal market. European competition law has proved to have extraterritorial effects on major issues, such as in sanctions against leading foreign companies (Google and Microsoft, for instance)[46]. Other areas in which *the Brussels Effect* can be identified - areas connected to the internal market - are consumer health and safety as well as digital economy.

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[43] 16.3.2023 COM(2023) 162 final (hereinafter Communication "The Single Market at 30").

[44] Bradford, *The Brussels Effect* (n 17) ix.

[45] Bradford, *The Brussels Effect* (n 17) 2 – 3.

[46] Bradford, *The Brussels Effect* (n 17) 99.

Consumer health and safety is one of the fields into which market regulation has integrated concerns other than strictly economic ones.[47] Limitation to the free movement of goods and services was accepted from early times when consumer protection was at stake. The expansion of these protection standards to other areas of the world has occurred, e.g. in relation to the food industry and food safety, as well as in the area of chemical safety.[48] Indeed, consumer protection in many aspects is placed at the forefront of the Commission's explanation of how the single market has improved lives of citizens and businesses, accompanying the green and digital transitions. Coherent with this, the Commission's Communication "The Single Market at 30" expressly refers at the outset to the abolition of roaming surcharges, consumer products and food, the common charger for electronic devices, passenger rights and consumers' access to credit (at 3).

The influence of the EU beyond its borders is not limited to the *Brussels Effect*, though, as it is also connected to the Union's specific competence on common commercial policy and, more recently, since the Treaty of Lisbon, on external relations. This could lead to an external dimension of the internal market[49] which may be worth taking into consideration in the analysis of the international law of economic integration. External relations extend to bilateral agreements – which seem to be a trend in the recent global behaviour of the EU[50] – and to the active engagement of the EU in international fora.[51] For instance, the EU's negotiations in the framework of the World Trade Organisation (WTO) may have led to specific clauses or approaches in agreements on public procurements and public aid, strongly influenced by European traditions.[52]

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[47] Geraint Howells, 'European consumer law' in Catherine Barnard & Steve Peers (ed.), *European Union Law* (3rd ed., Oxford University Press 2017) 704. See also Irene Sobrino Guijarro, 'Spatial Configurations of Welfare in the EU: The Case of Cross-border Healthcare' in Julien Chaisse (ed.), *Sixty Years of European Integration and Global Power Shifts. Perceptions, Interactions and Lessons* (Hart, 2019) 109, as well as Vassilis Hatzopoulous, *Healthcare in the internal market*, in Panos Koutrakos and Jukka Snell (ed.), *Research Handbook of the EU's Internal Market* (Edward Elgar, 2017) 139.

[48] Bradford, *The Brussels Effect* (n 17) 171.

[49] Marise Cremona, 'The internal market and external economic relations' in Panos Koutrakos and Jukka Snell (ed.), *Research Handbook of the EU's Internal Market* (Edward Elgar, 2017) 479.

[50] See Jan Wouters/Akhil Raina, 'The European Union and Global Economic Governance: A Leader Without a Roadmap?', in Julien Chaisse (ed.), *Sixty Years of European Integration and Global Power Shifts. Perceptions, Interactions and Lessons* (Hart, 2019) 193, where the authors conclude that "if the Union is serious about multilateralism, the first step should be the formulation of a comprehensive strategy for coordinating with its Member States in order to display a united front before global economic governance bodies" (216).

[51] Marise Cremona and Joanne Scott (ed.), *EU Law Beyond EU Borders. The Extraterritorial Reach of EU Law* (Oxford University Press 2019) 1.

[52] This is nevertheless not self-evident and it has been analysed in literature, such as in Dominique Sinopoli and Kai Purnhagen, 'Reversed Harmonization or Horizontalization of EU Standards: Does WTO Law Facilitate or Constrain the Brussels Effect?' (2016) 34 (1) Wisconsin International Law Journal 92. For more specific views on State aid, see Luca Rubini, *The Definition of Subsidy and State Aid. WTO and EC Law in Comparative Perspective* (Oxford University Press, 2009). On the particular case of tax incentives as state aid and on the legal context both at the WTO and the EU, see the early article by Vanessa Hernández Guerrero, 'Defining the Balance between Free Competition and Tax Sovereignty in EC and WTO Law: The "due respect" to the General Tax System' (2004) 5 (1) German Law Journal 87.

6. THE INTERNAL MARKET TURNS DIGITAL: LAW AND GOVERNANCE OF THE DIGITAL INTERNAL MARKET

Digital transformation is one of the key features of the European Union today, as it is for most States and international organisations.[53] Indeed, President Von der Leyen's Commission opted for a strong leadership stance on digitalisation, together with the Green Deal, as an axis of her political agenda. "A Europe Fit for the Digital Age"[54] is not only a motto in itself, but is - significantly - the name bestowed on one of the two main Vice Presidencies of the Commission.

The EU's digital agenda according to this framework was soon presented – in February 2020 - through the document "Shaping Europe's Digital Future"[55]. Several of the key actions mentioned in this document referred directly or indirectly to the internal market, and some of them proposed specific legal measures which were to be adopted. This is also coherent with the Commission's Communication "The Single Market at 30", where the green and digital transitions were presented as drivers of changes in the internal market.

In particular, the following legal instruments were envisaged by the Commission in 2020: a Digital Markets Act[56], a Digital Services Act[57] and an Artificial Intelligence

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[53] See, for instance, the United Nations Development Programme "Digital Strategy 2022 – 2025" <https://digitalstrategy.undp.org/documents/Digital-Strategy-2022-2025-Full-Document_ENG_Interactive.pdf> accessed 14 November 2023. This document highlights the central position of digitalisation in today's society and acknowledges how powerful digital technologies are both for economic development and for the functioning of public institutions. Yet at same time it insists on a human-centered approach that takes the digital divide into careful consideration, as well as in general, inequalities and other human rights concerns that could arise in this context. Similar views are shared by other international institutions, such as the World Bank (see <https://www.worldbank.org/en/topic/digitaldevelopment> accessed 14 November 2023) or the World Trade Organisation (see <https://www.wto.org/english/tratop_e/dtt_e/dtt-development_e.htm> accessed 14 November 2023). On a regional level, institutions such as the Asian Development Bank (<https://www.adb.org/what-we-do/topics/digital-technology> accessed 14 November 2023) and MERCOSUR, which has been working on a Digital Agenda (<https://www.mercosur.int/temas/agenda-digital/> accessed 14 November 2023). Non-economic concerns or, expressed in different terms, the introduction of social concerns into the economic international agenda, is apparent in all these cases, where digitalisation is viewed as the key element of present and future economic development. It therefore echoes the approach adopted in the EU on the internal market.

[54] Calling for tough legal rules and a strong governance system, Andrea Renda, 'Making the digital economy "fit for Europe"' (2020) 26 (5-6) European Law Journal 345.

[55] <https://commission.europa.eu/system/files/2020-02/communication-shaping-europes-digital-future-feb2020_en_4.pdf> (accessed 14 November 2023).

[56] Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) OJ L 265/1 (hereinafter DMA). The main part –with only a few exceptions – of the norm applies from 2 May 2023.

[57] Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) OJ L 277/1 (hereinafter DSA). The norm applies from 17 February 2024.

Act [58]. The first two have already been passed, while the third one is now in progress, and all three should contribute to a vibrant, fair and protective digital internal market, together with other policies, such as those related to data protection and digital skills.

6.1. Digital sovereignty: a digital Brussels Effect

One year after the "Shaping Europe's Digital Future" strategy was presented, in 2021, after the pandemic had dramatically advanced digital transformation processes, the Commission updated and completed the agenda through its Communication, "2030 Digital Compass: the European way for the Digital Decade" (hereinafter, Digital Compass).[59] The pandemic the world was going through had been a driver of digitalisation. The benefits, but also risks thereof, were apparent and the Commission was determined to push forward a human-centered, sustainable and more prosperous digital future, thus encompassing the internal market.[60]

In the first page of the 2030 Digital Compass it was also recalled that, in the State of the Union Address in September 2020, "President von der Leyen announced that Europe should secure digital sovereignty with a common vision of the EU in 2030, based on clear goals and principles". The European digital strategy was consequently to be placed in the international context, as it was linked to "sovereignty", i.e. a distinct entity with common values.

The notion of sovereignty has a broad meaning which is not, of course, restricted to the economy, but in the EU context it could be argued that, not being a State, sovereignty is used here in a loose sense, and is very much linked to markets. Digital markets are by definition interconnected markets, both inside and outside the EU, and both from a hardware and from a software perspective. Equipment, devices and programmes are indeed internationally intertwined. Therefore, digital market integration in the EU is to be understood also in the more general framework of international economic integration. The fact that one of the strongest economic actors in the world, the EU, proposes a type of regulation of digital markets and services, i.e. of digital economy, is not meaningless. On the contrary, it can be argued that the leadership adopted by the EU in this realm may in addition imply a digital *Brussels Effect*, something which is already being discussed.[61]

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[58] Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) and amending certain Union Legislative Acts, 21 April 2021, COM(2021) 206 final (hereinafter AIA).

[59] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2030 Digital Compass: the European way for the Digital Decade, Brussels, 9.3.2021 COM(2021) 118 final (hereinafter 2030 Digital Compass).

[60] 2030 Digital Compass (n 60) 2.

[61] Conference "*A 'Brussels Effect' for EU Digital Governance? Legal, political, and economic considerations*, Brussels, 27 – 28 April 2023, jointly organised by University of Lausanne, École Polytechnique Fédérale de Lausanne (EPFL), University of Groningen, LUISS, Université Libre de Bruxelles and Wallonie-Bruxelles International. Previously, Bradford had already addressed some of the

6.2. Principles, goals and values: the EU's human-centered approach (also) to the digital internal market

Digital markets and, more generally, digital governance are therefore placed within the larger notion of digital sovereignty conceived as a space in which certain principles and goals operate. This implies, among other aspects, that economic integration should still be fostered, but values and rights are also meant to play a decisive role. Public goods and interests other than those that are purely economic should be balanced against other elements. Following the path of some Member States, such as France, Italy, Portugal and Spain[62], on 26 January 2022 the European Commission proposed a European Declaration on Digital Rights and Principles for the Digital Decade[63], which was later signed by both the Parliament and the Council. In the Communication Establishing a European Declaration on Digital rights and principles for the Digital Decade, the Commission stated that "[t]he Declaration has the potential to become a global benchmark for many emerging societal and ethical questions that the digital transformation brings. The same principles will be at the core of EU actions towards its partners and in the framework of international organisations".

The radiating effect of the European Declaration can already be detected in other areas of the world, such as in the Iberoamerican space. Thus, on 25 March 2023 the Iberoamerican Summit of Chiefs of State and Government adopted in Santo Domingo (Dominican Republic) the Iberoamerican Charter on Rights and Principles for the Digital Environments.[64] In the Ibero-American Charter it is expressly stated that the Summit assumes international legal regulations guaranteeing rights online, in the same way as they are guaranteed offline. In particular, Ibero-American States "take note" of initiatives, such as the Lisbon Declaration on Digital Democracy with a purpose,[65] and the European Declaration on Digital Rights and Principles for the Digital Decade. Among its goals,

issues concerning the digital economy in Bradford, *The Brussels Effect* (n 17) 131. See more recently Anu Bradford, *Digital Empires* (Oxford University Press 2023).

[62] Commission Staff Working Document "Report on the stakeholder consultation and engagement activities" accompanying the document "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Establishing a European Declaration on Digital rights and principles for the Digital Decade (COM(2022) 27 final)", Brussels, 26 January 2022, SWD (2022) 14 final. In this document the Commission mentioned various initiatives on digital rights and principles that had been analysed and taken into consideration in the drafting process of the proposal. As well as various European and international documents, the Commission referred to the French Digital Republic Bill, the Italian Declaration of Internet Rights, the Portuguese Charter on Human Rights in the Digital Age and the Spanish Digital Rights Charter. As a member of the group of experts appointed by the Spanish member, I had the pleasure of contributing to the drafting of the Spanish Charter, which also deals with AI and neurorights. Some reflections on the process and on the nature of the Charter (in Spanish) can be found in Susana de la Sierra, 'Una introducción a la Carta de Derechos Digitales' [An introduction to the Digital Rights Charter], and in Lorenzo Cotino Hueso (ed.), *La Carta de Derechos* Digitales [The Digital Rights Charter] (Tirant lo Blanch 2022) 27.

[63] Brussels, 26.1.2022 COM(2022) 27 final.

[64] <https://www.segib.org/wp-content/uploads/Carta_iberoamericana_derechos_digitales_ESP_web.pdf> accessed 14 November 2023.

[65] <https://www.lisbondeclaration.eu/> accessed 14 November 2023.

under heading 8 on an "inclusive and safe digital economy", States undertake the commitment to foster an Ibero-American digital economy and transborder electronic commerce, where skills, technical assistance and good practice stimulate and generate fair and inclusive development.

6.3. The Digital Markets Act and the Digital Services Act

Digital environments – and this is also valid for the digital internal market - change rapidly. Therefore, legal challenges include the need to produce "future-proofed legislation" which is flexible enough to encompass the technical developments and social demands associated thereto, however difficult this may be.[66]

The DMA and the DSA are two of the main legal instruments of the EU's digital agenda, and help to define the digital internal market. They build the general reference framework for the digital economy in the EU and beyond, together with other norms (such as, for instance, the European Chips Act[67], the norms regulating the European Digital Identity[68] or the legal framework for the working conditions of people working through digital labour platforms[69]). This is so because digital markets, as has been argued, are *per se* international markets and know no frontiers. And moreover, because economic actors willing to operate in the digital economy in the EU will have to comply with the European requirements, something which may have a *de facto* influence in other areas of the world, even if no particular norm has been adopted elsewhere replicating the European legal framework.

The DMA and the DSA focus on different aspects of the digital internal market and pursue different public goals. The purpose of the DMA is "to contribute to the proper functioning of the internal market by laying down harmonized rules ensuring for all businesses, contestable and fair markets in the digital sector across the Union where gatekeepers are present, to the benefit of business users and end users" (article 1.1 DMA). The rationale behind it is to protect economic actors and consumers from situations in

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[66] Sofia Ranchordás and Mattis van´t Schip, 'Future-Proofing Legislation for the Digital Age' in Sofia Ranchordás and Yaniv Roznai, *Time, Law and Change. An interdisciplinary study* (Hart, 2020) 347.

[67] Regulation (EU) 2023/1781 of the European Parliament and of the Council of 13 September 2023 establishing a framework of measures for strengthening Europe's semiconductor ecosystem and amending Regulation (EU) 2021/694 (Chips Act).

[68] Commission's Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No. 910/2014 as regards establishing a framework for a European Digital Identity, Brussels, 3.6.2021, COM(2021) 281 final, 2021/0136(COD).

[69] Proposal for a Directive of the European Parliament and of the Council on improving working conditions in platform work, Brussels, 9.12.2021, COM(2021) 762 final 2021/0414 (COD). It would be interesting to add that the Commission has also adopted some guidelines on the application of EU competition law to collective agreements of solo self-employed people (Communication from the Commission 2022/C 374/02. The Commission considers that even if article 101 TFEU prohibits agreements between undertakings that restrict competition within the internal market, other goals of EU law are also to reach a highly competitive social market economy, full employment and social progress. Also, article 28 of the Charter of Fundamental Rights of the European Union recognises the right of collective bargaining and action, where rights and interests of workers are defended and protected.

which online platforms act as "gatekeepers". An undertaking, according to article 3 DMA, shall be designated as a gatekeeper if it meets the following criteria: (a) it has a significant impact on the internal market; (b) it provides a core platform service which is an important gateway for business users to reach end users; and (c) it enjoys an entrenched and durable position, in its operations, or it is foreseeable that it will enjoy such a position in the near future. The European Commission plays a significant role, since it has the monopoly on designating and controlling gatekeepers.

The DMA is ultimately a norm on competition in the internal market, even though it affects what is a specific, new environment with players that generate novel challenges. They assume a *de facto* monopoly for others not only to gain access to the relevant market, but also to engage in the desired activity. Such a situation poses a wide array of legal questions, some of them economic, but others that go beyond the pure economic debate. Thus, the gatekeeper position may imply a monopoly incompatible with competition rules, but also with basic fundamental rights, such as freedom of expression and information, if the gatekeeper operates in a market that offers communication and information opportunities.[70] Indeed, if online platforms are devoted to promoting dialogue between parties or allowing the sharing of opinions and information, freedoms of expression and information can be curtailed according to the internal platform rules. The power assumed by companies in this case is paramount, and could be compared in intensity to the powers traditionally granted to public bodies. In both cases, power needs to be adequately controlled and therefore the exercise of those powers cannot be left to private law arrangements alone.

As far as the DSA is concerned, this norm is related to rules to protect general citizens in the digital space. As described by article 1 DSA, it is intended to "contribute to the proper functioning of the internal market for intermediary services by setting out harmonised rules for a safe, predictable and trusted online environment that facilitates innovation and in which fundamental rights enshrined in the Charter, including the principle of consumer protection, are effectively protected". It is thus a market-oriented norm, yet underlying other public goals and, in particular, the effective protection of fundamental rights.

The DSA replaces the e-Commerce directive[71] with a more ambitious approach and follows the path of the Services Directive[72], i.e. an overall norm to encompass

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[70] A lack of hard substantive law, which is both clear and comprehensive, has led courts to grant protection through case-law. See Evangelia Psychogiopoulou and Susana de la Sierra (ed.), *Digital Media Governance and Supranational Courts. Selected Issues and Insights from the European Judiciary* (Edward Elgar 2022). See also Oreste Pollicino, *Judicial Protection of Fundamental Rights in Internet. A Road Towards Digital Constitutionalism?* (Hart Publishing, 2021). See too, on digital constitutionalism, Giovanni de Gregorio, *Digital Constitutionalism in Europe. Reframing Rights and Powers in the Algorithmic Sociey* (Cambridge University Press, 2022).

[71] Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce), OJ L 178/1.

[72] Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, OJ L 376/36. It should be noted that the Directive was strongly contested, in essence

liberalisation of services in the EU, but also to grant consumer protection. Due to the evolution of EU law, where non-economic values and goods have acquired increasing importance, this umbrella regulation – the DSA – is now also more protective of citizens' rights. In particular, the DSA establishes 1) a framework for the conditional exemption from liability of providers of intermediary services; 2) rules on specific due diligence obligations tailored to certain specific categories of providers of intermediary services; and 3) rules on the implementation and enforcement of this regulation, including in relation to the cooperation of and coordination between the competent authorities.

On 18 April 2023, the European Parliament adopted a Resolution on eGovernment accelerating digital public services that support the functioning of the single market.[73] The focus was placed on the public sector, as a driver of a strengthened single market through digitalisation. A user approach is fostered, and this initiative could be linked to the governance system of the digital internal market, which will be explained further on.

6.4. The impact of artificial intelligence on the internal market: the Artificial Intelligence Act

The AIA is still a legal document in the making, at the time of writing these lines. A public consultation was first opened to identify the main issues that may require public action. It was conducted between 20 February 2020 and 14 July 2020, i.e. at the height of the pandemic caused by coronavirus *SARS*-CoV-2, a period in which digitalisation was stimulated dramatically for obvious and sad reasons. During this period a White Paper on AI was proposed, and questions were posed as to the different policy approaches that the EU might take.

1216 feedback instances were received from individuals, companies, universities and other entities, some of them from countries such as the US, Switzerland, Japan, India or China. The international dimension of a legislative process internal to the EU is therefore not irrelevant. A specific feedback period was stipulated, between 23 July 2020 and 10 September 2020, and 131 valid feedback instances were submitted, of which instances from the US and the UK were in the top five positions. Finally, once the Commission made its proposal public, a second public consultation to assess the contents of the Commission's proposal was held between 26 April 2021 and 6 August 2021. 304 submissions were received, with submissions from the US and the UK occupying the fourth and the fifth places respectively in the ranking of submissions. Some submissions, although far fewer, were also received from China, Japan and Switzerland. If and how the EU regulates the use of AI is clearly a major question beyond the EU's frontiers as well.

After several concerns were raised by different actors, including the European Parliament, the rotating presidency of the EU Council (Slovenia) circulated a revised

because of the fear of labour markets being affected by the massive arrival of workers from other Member States and also by the fear of levels of protection being lowered.

[73] 2022/2036(INI). Regarding the use in particular of AI to provide public services, see Anna Maria Chiariello, 'AI and Public Services: a Challenging Relationship Between Benefits, Risks and Compliance with Unavoidable Principles' (2021) 2 (2) European Review of Digital Administration & Law 185.

version of the initial proposal. On its side, the European Parliament not only contributed with reports. It also started taking part in the negotiations through two of its committees: internal market and civil liberties.

Regulating AI is a contentious question, as some consider that regulation may hinder innovation and propose a non-legal, ethics-based approach. The EU is committed to technological advancement, but also to values, rights and principles. It is therefore concerned with establishing a framework for trustworthy AI[74], in particular in areas of specific risk.

The goals of the proposal for an AIA are the following: 1) to harmonise rules for the placing on the market, the putting into service and the use of AI systems in the Union, i.e. to harmonise the AI internal market; 2) to set out specific requirements for high-risk AI systems and obligations for operators of such systems. The proposal defines what a high-risk AI system is and identifies the particular obligations and prohibitions in each case; 3) to harmonise transparency rules for AI systems intended to interact with natural persons, emotion recognition systems, and AI systems used to generate or manipulate image, audio or video content; and 4) to set out rules on market monitoring and surveillance.

The scope of the AIA is ambitious, and the norm is meant to play an important role in regulating AI not only in the EU, but also beyond. Inputs and feedback during the public consultations reveal awareness and perhaps concerns about its potential effect. The AIA is to be applied to the following categories: 1) providers placing on the market or putting into service AI systems in the Union, irrespective of whether those providers are established within the Union or in a third country; 2) users of AI systems located within the Union; and 3) providers and users of AI systems that are located in a third country, where the output produced by the system is used in the Union. As a consequence of this scope of application, it is clear that EU regulation will affect how AI is used in other areas of the world.

6.5. Governance of the digital internal market

One thing common to all three norms – DMA, DSA and AIA - is the relevance bestowed on public governance.

In the DMA, articles 37 to 39 DMA include mandates of cooperation with (1) national authorities in general, (2) national competent authorities enforcing competition rules and (3) national courts. Finally, a high-level group for the Digital Markets Act is foreseen, composed of the following European bodies and networks (each of them with an equal number of representatives): 1) the Body of the European Regulators for Electronic Communications, 2) the European Data Protection Supervisor and European Data Protection Board, 3) the European Competition Network, 4) the Consumer

[74] Antonio Estella, 'Trust in Artificial Intelligence. Analysis of the European Commission proposal for a Regulation of Artificial Intelligence' (2023) 30 (1) Indiana Journal of Global Legal Studies 39.

Protection Cooperation Network and 5) the European Regulatory Group of Audiovisual Media Regulators.

Meanwhile, both the DSA and the AIA foresee a specific system of network governance, where national authorities play a relevant role. The DSA mainly addresses contributing to the proper functioning of the internal market for intermediary services (article 1.1 DSA). To this end, according to article 49 DSA, Member States shall designate one or more competent authorities to be responsible for the supervision of providers of intermediary services and enforcement of the DSA. In addition to this, they shall, by 17 February 2024, designate a specific competent and independent authority as the Digital Services Coordinator (DSC), which will be responsible for all matters relating to supervision and enforcement of the DSA in the particular Member State. They ensure coordination within the State, among the authorities which may, from one perspective or another, have competence on the issue, but also outside the State, with other DSCs as well as with European institutions, and the Commission in particular. In order to foster cooperation, among other goals, a European Board for Digital Services is also envisaged in the DSA. It shall be composed of representatives of the DSCs and chaired by the Commission. Other competent authorities may also participate in the Board, and other national authorities may be invited to meetings.

The AIA proposal includes a Title VI on Governance, with a double structure[75]. On the one hand, as in the DSA, a European body is created, namely the European Artificial Intelligence Board (EAIB). According to article 56 AIA, it is designed to provide advice and assistance to the Commission, and is indeed chaired by the Commission. It is composed of national supervisory authorities represented at the highest level, and a European Data Protection Supervisor. Other national authorities may be invited to the meetings, as well as external experts and observers.

On the other hand, as a reflection of the DSA model of governance, here too, national competent authorities shall be established or designated for the purpose of ensuring the application and implementation of the AIA. Among them, one national supervisory authority shall be designated to act as notifying authority and market surveillance authority. More than one authority shall be designated in a Member State, but only exceptionally, due to organisational and administrative reasons, and the Commission shall be informed of this.

7. CONCLUSION

The internal market is the cornerstone of the European Union. It can be argued that the European project was political ever since the European Communities were created, and even before that, due to the previous attempts to create a European Defence Community

[75] On the relevance of public authorities in the Commission's strategy for AI, see Yves Poullet, 'Artificial Intelligence and Public Services – the Role of Public Authorities in the Service of the "Third Way" Drawn up by the European Commission' (2021) 2 (2) European Review of Digital Administration & Law 129.

and a European Political Community. Yet economic integration was in any case conceived as the main tool for attaining political integration as well, and this was to be achieved through a common market with no customs or tariffs for inter-State commerce, and where freedom of movement of goods, services, people and capitals – as well as free competition - was guaranteed.

Internal market, common market and single market are not unequivocal concepts. Whereas some authors have exhaustively argued that they are not interchangeable, European institutions – in particular, the Court – seem not to distinguish them so starkly one from another. What is clear though, is that the European Union's internal market is not any internal market - it is a model of economic integration with particular features due to history, culture and values. It is also a meeting point of different State views and, in some cases, tensions. This has led in many cases to an equilibrium being reached between opposing understandings of how this subject matter should be approached and dealt with.

To say that the EU's internal market is of a particular sort does not imply that we assume it is an isolated reality. On the one hand, the creation and consolidation of the internal market was, and is still, conceived as a way to strengthen Europe's position in the world, both from an economic and (surely also) from a geopolitical perspective. On the other hand, EU regulatory action has had an influence on legal orders beyond Europe's frontiers and also on an international legal level. The so-called *Brussels Effect* has led to regulatory measures inspired by EU law in other parts of the world and in international law. All this leads to the conclusion that the EU's internal market is also a reference for the international law of economic integration.

The legal framework of the internal market has evolved over time. An approach with an economic-only orientation was later nuanced by the introduction of other public goods, which may affect the contours of the market. The CJEU was the first institution to walk down this path, and it was later followed by the European Commission. As a consequence of this, the Member States also headed in this direction and promoted changes in the internal market, which was therefore converted into a more mature political space.

Some classical areas of national law that have been compromised by internal market regulation are public procurements and public aids. EU law has been forced to strike a balance here between legitimate political concerns and purely economic arguments. Public goals such as culture, social policies and environmental protection now also define the contours of the EU's internal market.

Finally, some of the most important challenges today, in the law as well, are being posed by the process of digital transformation. The internal market has become digital, too, and specific legal concerns arise (platform governance, vulnerability, digital gaps, privacy, digital rights in general). The EU has taken the leadership in regulating these new spaces from a human-centred approach, and it has already been argued that a *Brussels Effect* may be in the making in this area as well. If international economic integration has any meaning, then it is even more significant when dealing with digital markets which *per se* do not know any frontiers. Therefore, the dialogue between the EU's internal market and the international law of economic integration is evident here.