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Dutch EU Presidency

What to Expect?

Starting from 1 January 2016, the Netherlands took over the Presidency of the Council of the European Union from Luxembourg which held it for the second half of 2015. Publications on the Presidency's [official website](#) indicate that they plan to focus on the essentials, by which they mean innovation, growth, jobs, and stronger relationships with civil society organisations and EU citizens. The realisation of these topics, however, might be hampered by a set of issues which depend on external circumstances and which the EU needs to tackle together with the third-party actors, namely the refugee and migration influx, issues related to its common energy policy and the looming question of Brexit. While these questions also feature prominently in the Dutch "State of the European Union" report as priority areas, the Presidency cannot control and influence their development to the extent it can other defined priorities. Considering their level of complexity and urgency, the question remains of whether the proposed essentials can really be the Presidency's primary focus. For that reason, this Insight provides analysis on the state of play in the issues of energy policy, refugee and migration influx and the British EU membership referendum and it looks at how the Dutch Presidency plans to manage these issues.

Dutch Presidency plans on focusing on 'essentials' - meaning innovation, growth, jobs, and stronger relationships with CSOs and EU citizens. However, other looming issues threaten to overshadow these plans.

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Humble, but realistic energy policy agenda

The process of creating a single European market, from the first days of the European project to this day, has forced Member States to gradually reduce the number of barriers to the free movement of goods, people, capital and services. However, this cannot be said about the common energy policy, which has evolved in the opposite direction – from the European Coal and Steel Community to the situation we have today: a total disarray of positions and interests between the Member States which hampers the creation of a single energy policy. Namely, a common EU energy policy would require Member States to have an internal energy market (currently there are major differences in energy prices from one Member States to another); common stances and interests on the use of different sources of energy (there are big disagreements between Member States when it comes to the exploitation of carbon fuels, nuclear energy and renewable energy sources); and lastly and possibly most importantly, a common approach to the energy suppliers.

The start of the Dutch Presidency will certainly be marked by the [announcement of the construction of the "North Stream II" pipeline](#), which was put forward after the plans for constructing the Nabucco and South Stream pipelines were abandoned, as well as following the recent cooling of Russian-Turkish relations, as they were the countries to be connected by the so-called Turkish Stream. This development poses a risk, as there will be fewer potential energy suppliers on the market and a lack of competition which will endanger the energy security of Member States. In current circumstances, as long as opposing geopolitical interests exist in the EU, the goals which encompass the ["Energy Union"](#), which the European Commission's Directorate-General for Energy announced so enthusiastically, appear to be an unattainable ideal. The Dutch Presidency seems to be aware of this, therefore their goals will focus on strengthening the common electricity and renewable energy markets. The question remains whether and to what extent the outside developments in the following six months will reshuffle its defined energy agenda.

Dutch Presidency and the Refugee Influx: Offering Feasible Solutions?

Migration and international security are one of the priority areas confirmed for the Dutch Presidency. In general terms, the Presidency will focus on ensuring common border control, asylum and migration policy. Similarly, the previous Presidency held by Luxembourg made exhaustive promises with regards to this issue given that one of [its seven priorities](#) was managing migration, combining freedom, justice and security. While the Luxembourg Presidency had emphasised increasing legal channels for migrants to arrive to the EU in the very beginning, nowhere was it elaborated how these legal channels would be achieved, nor were they actually implemented during the second half of 2015. Could the Dutch Presidency offer an implementable humanitarian solution? The Dutch currently seem to be offering identical solutions to those of Luxembourg, namely protecting borders, combating smuggling and human trafficking, and managing the influx. Unfortunately, the details of these umbrella solutions indicate a departure from humanitarian solutions, as the one important novelty in focus is actively denying asylum and returning refugees to so-called safe third countries. As is stated in the Presidency edition of the Dutch “State of the European Union” report:

Refugees need to be offered future prospects in their own region: opportunities to become self-reliant, for example, until such time as they can return safely and permanently to their country of origin. With this, it becomes possible to deny applications for asylum in Europe on the basis of European law on safe third countries.¹

The Dutch Presidency seems to hold that Europe’s refugee influx can be resolved by returning refugees to countries which are already taking in millions, such as Turkey where the current number of refugees amounts to 2.7% of its total population. It is in fact still argued whether Turkey is a [safe country of origin](#), given that 23.1% of Turkish nationals who apply for asylum in the EU are granted protection. While the question of whether Turkey is a safe third country for refugees or even a safe country of origin for its own citi-

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Turkey is a safe third country for refugees or even a safe country of origin for its own citizens is still debated, the only legal basis for keeping refugees and migrants there remains the EU-Turkey Action Plan. The justification behind keeping refugees out of the EU and in the countries neighbouring Syria is that the region, once its capacities are increased, will be able to offer adequate protection to refugees. For the region to become apt at providing protection to refugees, it will be necessary to invest extensive resources and time, and the Presidency will need to clarify how this solution is a feasible one within the current “crisis mode.”

A commendable aspect of the Dutch Presidency’s plan within this priority area is the planned evaluation of and possible amendments to the Dublin system. Nonetheless, it should be noted that the work on the reappraisal of the Dublin system is currently being conducted by the Commission and that there have previously been many extensive [evaluations of the Dublin system, as well as amendments based on its identified shortcomings](#).² Hence, it is unclear how the Dutch Presidency plans to engage with this process. In their report, they state that they will contribute to the process “by means of an integrated European approach,” but without outlining how they plan to achieve this goal. Overall, the Presidency’s proposal on how the refugee influx should be handled is vague and poses more questions than it answers. Only time will tell whether these formal promises are able to produce results which are beneficial for Member States and in line with refugee rights granted by the EU’s asylum package.

¹ “State of the European Union 2015 – Presidency Edition,” the Presidency Edition of the State of the European Union, presented annually to the Dutch Parliament by the Minister of Foreign Affairs, December 2015, p. 10, <https://goo.gl/UcT9Kb>.

² Some of the potential amendments include: an EU-wide asylum status and centralised EU agency; a system of collective responsibility and distribution of asylum-seekers between Member States; joint processing schemes; mutual recognition of positive asylum decisions; a free choice approach with financial compensation, etc. See: <http://goo.gl/7FfPoK>.

³ “State of the European Union 2015 – Presidency Edition,” p. 18.

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Brexit or No?

The question of whether the United Kingdom will remain in the EU, widely known as Brexit, will be a hot topic during the Dutch presidency, as the British Prime Minister announced at the last EU Leaders' Summit that an in-out referendum might be held as early as June 2016. It should be noted that the issue of the withdrawal of a Member State from the EU is a question for heads of states and governments, not ministers who sit in the Council, and therefore is not directly under the auspices of the presiding country, the Netherlands, but the President of the European Council, Donald Tusk.⁴ As a reminder, while the Council of the EU has multiple formations and discusses questions depending on the policy (home affairs, economics and finance, environmental, etc.) and is led by the presiding state, the European Council (EC) is an institution made up of heads of Member States that discuss contestable issues that were unsolved at meetings of the Council of the EU, as well the questions of the utmost importance for the functioning of the EU, such as Brexit. Since Brexit represents an unprecedented issue for the EU in times of major turbulences in its functioning, this topic might dominate the EC meetings in the next six months and thus overshadow other topics on the EC agenda that are related to the Dutch presidency priorities.

Analysts claim that the decisive factor for the success by the Conservative party of the current British Prime Minister David Cameron in May of 2015 was due to the promise of holding a referendum on whether to remain in the EU, initially announced for 2017. Discussions on the costs and benefits of staying in the EU have been intensive on the Island in the past few years, however, as the announced date draws near, the stakes are that much higher and the debate grows more interesting. Favourable conditions for free trade was the main reason for the UK to join the European Economic Community in 1973, and the economic calculations remain the main argument for those who argue for the UK to remain in the EU, seeing that the European Single Market makes up [45% of British exports](#). David Cameron has been faced with strong pressure from the British business community, a stronghold of his voters and allies, who would lose out from Brexit. On the other hand, those who argue for Brexit, maintain that in a global economy where third countries such as China, India and Bra-

zil and are increasingly becoming more important actors, the UK could profit as a lone negotiator of trade agreements, considering the years long hold ups the EU had as a legal entity while negotiating complicated free trade agreements with the USA, Mercosur and others. Aside from this, as many times in the past, the contribution to the EU budget and the hostility towards the excessive EU regulation has been in the heart of the discussions in the UK.

While the discussion on economic benefits has been held rationally and is based on facts, the question of immigration and economic and social rights of immigrants has in fact dominated the Brexit debate, and has been the subject of manipulation and populism. Those who argue for Brexit claim that the UK has had great losses from obligations which stem from the freedom of movement of workers within the EU, and would have greater economic gain if it limited the number of workers from the EU and focus on cheaper work labour from third states, where they would not be bound by strict European rules in the area of social policy. Besides, the unrelenting and unresolved "refugee crisis" in Europe has definitely helped those in favour of Brexit, as it has increased the fear voters have of foreigners and showed, at the same time, the lack of unity and functionality within the EU to manage such large challenges.

Public opinion polls show that if the referendum was held tomorrow, [most British voters would vote in favour of Brexit](#). Recently the former head of British diplomacy William Hague, also a member of the Conservative party and a moderate Eurosceptic, warned that Brexit [would lead the UK to breakup and destabilization](#) as it would lead to another referendum and the cessation of Scotland, which also happens to be the stronghold of those in favour of the UK remaining in the EU. [No one outside of the UK benefits from Brexit](#) – which has given the current Prime Minister a good negotiating position about the conditions of Britain remaining in the EU. During the last meeting of the European Council, Cameron

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⁴The last amendments of the Treaty on the Functioning of the EU (the Lisbon Treaty), which came into force in 2009, formally introduced the possibility for a Member State to leave the EU. Article 50 of the EU Treaty prescribes that a state which intends to leave the EU should notify the European Council, with which it will conclude an agreement on all the conditions of the withdrawal. See: <http://goo.gl/CXC28R>.

requested reforms in four areas: greater flexibility of the EU when negotiating trade agreements; greater roles for national parliaments at the EU decision making level; guarantees that non- Eurozone member states would not be discriminated against; and, most controversially, the limiting of “social benefit tourism” for foreign workers from other EU Member States. While the first three requirements have been widely defined and therefore seem solvable, the last will present a big issue, as undertaking it would breach some of the founding principles of the EU (i.e. four freedoms and non-discrimination of the EU citizens). The following six months will be key for the question of Britain in Europe, and will show how flexible the European leaders will be with Cameron and whether a compromise can be achieved to solve all the issues.

Conclusion: Focusing on the Pending Issues?

While 2015 was marked by internal divisions within the European Union, it is apparent that the EU has entered the New Year with existing fundamental issues such as the lack of a common energy policy, the question of Brexit, and the refugee and migrant influx remaining unresolved. These developments might have significant implications for Serbia as a candidate country and neighbouring state. The possibility of a highly placed Member State withdrawing from the EU will strengthen the arguments of Eurosceptics and potentially affect the public’s view of Serbia’s EU integration. Additionally, a weaker image of the EU might also undermine it as an actor which provides the necessary impetus for reforms in Serbia. Concerning the refugee influx, the stance of the Dutch Presidency might be problematic for Serbia as a country neighbouring the EU. Serbia, along with other Western Balkan countries signed a 17-point-plan, where the accommodation of 50,000 refugees was agreed upon on the Western Balkans route, without any indication as to how (Serbia’s current accommodation capacities are around 3,000 at most) this is to be achieved. All in all, 2016 promises to be a turbulent year for both the EU and its neighbours, which makes it difficult to imagine how the Dutch Presidency will maintain that innovation and jobs come first in a scenario where the EU foundations are questioned.

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