UNION OF ENTREPRENEURS
AND EMPLOYERS

ZPP
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FOCUS ON EUROPE

EU COMPETITIVENESS IN A GLOBAL PERSPECTIVE

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CONTENTS

MAIN FINDINGS OF THE REPORT

- For decades, the pillar of European integration was economic cooperation (in particular, the creation of the customs union and the establishment of a common market based on the elimination of barriers to the movement of people, services, goods, and capital). This approach, along with further enlargement of the Community to include new Member States, has brought major economic benefits to the European Union, as evidenced by the fact that between 1970 and 1980, the European Union's GDP grew significantly and reached a level higher than that of the United States.
- After 2008, the European Union's GDP in nominal terms fell significantly and did not return to its value of that year until 2021, while at the same time both the U.S. and Chinese economies were growing steadily. The lack of significant expansion of the common market to new countries (only Bulgaria, Romania, and Croatia joined the EU at the time) and the focus on pursuing a unified policy on many non-economic issues did not produce good economic results for the EU.
- As of early 2022, the Wealth of Nations Index (WNI) of all European Union countries is without exception lower than that of the United States[1]. Thus, it is clear that American society is, as a rule, richer than EU society. Within the European Union itself, the differences in WNI between particular Member States are significant—as far as Poland is concerned, its WNI is 64.4, which means that Poland is among the 10 poorest countries in the European Union, while also being almost twice as poor as the United States (WNI of 111.6).
- Of particular importance in the context of innovation is the regulatory environment, which is far less conducive to innovation in the European Union than, for example, regulations in the United States. This makes the European Union less and less competitive with economies such as the United States, at a time when innovation is an important factor in economic development. It is therefore important to reduce the burden of regulatory requirements on EU entrepreneurs, which seems an inevitable step if we want the European Union to become the most innovation-friendly economic area in the world.
- As for demographics, the EU is facing a major crisis in this area. Without far-reaching automation, it is hard to imagine that far fewer people of working age would be able to maintain economic output at similar levels to today. However, the EU is not isolated in its demographic crisis—it is a widespread problem in the global North.
- Due to its complex governmental status, the European Union faces difficulties in implementing coherent policies. What is needed is a simplification of the rules of lawmaking and decision-making at the EU level, as well as a broader consensus on the direction of the policy than at present. Such a consensus can only be achieved in a situation where all European Union countries have a real influence on its shape.
- The European Union's regulatory requirements for the technology sector are among the most extensive in the world. On the one hand, this provides greater protection and control over the data processed by businesses, but on the other hand, it makes it difficult to undertake innovative activities without analysing regulatory requirements and mitigating risks.
- Central to the technology area is the processing of personal data, which is subject to significant legal requirements in the European Union. Globally, only a few other regions have opted for such far-reaching regulations in this regard. Particularly taking into account the development of artificial intelligence, there is a need to better balance fostering innovation with protecting privacy, which would best be done in the spirit of transatlantic cooperation.
- The European Union is certainly facing all sorts of challenges regarding innovation and digital transformation. Key ways to increase innovation seem to be rethinking access to data, ensuring greater openness and standardisation, and taking advantage of the potential of global companies.

1 *WNI for China is unavailable.*

RECOMMENDATIONS

The European Union's role on the international stage can be enhanced in particular through:

- focusing primarily on ensuring equal and free access to the common market for all the Member States, as well as ensuring that the EU common market is a competitive economic area in a global perspective;
- increasing the transparency of the requirements of EU law, which can be achieved by enacting fewer but directly applicable laws (greater role of EU regulations at the expense of directives);
- liberalisation of the EU single market, including by removing excessive regulations and ambiguities in EU law (e.g. the unclear subject-matter scope of the GDPR, which negatively affects business development);
- respecting and promoting equal competition among the Member States;
- increasing the role of transatlantic cooperation, including in particular in the technology and energy sectors;
- increasing the role of "smaller" Member States in the European Union (including more significant representation of representatives of Central and Eastern Europe in the institutions).

INTRODUCTION

The European Union's role on the international stage is changing, which is, among other things, a natural consequence of various key geopolitical events, such as Brexit, the COVID-19 pandemic, and the war in Ukraine. The report aims to show the current state of the European Union in global terms. In particular, an analysis of the changing way in which European integration has been carried out over the decades is conducted in order to show which actions have brought the best results to the EU in a historical perspective. Furthermore, using the example of the technology sector, the report provides examples of areas where the requirements of EU law place such requirements on entrepreneurs, especially smaller ones, that are difficult to meet in practice, especially in the implementation of innovative projects in which the time to market is of key importance.

The development of this report will allow for identifying areas of European Union law that need improvement in the context of the current condition and competitiveness of the European Union in the global market.

1. DEVELOPMENT OF THE EUROPEAN UNION OVER THE YEARS

- As early as the 1950s, the first ideas of deeper European integration emerged in the spirit of creating a European federal state with a common army and a common government. Those ideas did not come to fruition, so economic cooperation became the driving force behind European integration.
- The pillar of the European Economic Community (the organisation from which the European Union developed) was the creation of a customs union and the pursuit of a common market based on the elimination of barriers to the movement of people, services, goods, and capital. This approach, along with further enlargement of the Community to include new Member States, has brought significant economic benefits to the European Union, since between 1970 and 1980, the European Union's GDP grew significantly and reached a level higher than that of the United States.
- After 2008, the European Union's GDP in nominal terms fell significantly and did not return to its value of that year until 2021, while at the same time both the U.S. and Chinese economies were growing steadily. The lack of significant expansion of the common market to new countries (only Bulgaria, Romania, and Croatia joined the EU at the time) and the focus on pursuing a unified policy on many non-economic issues seem to negatively affect the European Union economy.

1.1. Origins of European integration

The fundamental motivation for starting the process of European integration was the tragic experience of World War II. As a result, concerted efforts were made in Western Europe to promote peace and security, mainly through democracy promotion, human rights protection, and economic cooperation. The first stage of economic integration involved cooperation in coal and steel, which was intended to prevent any uncontrolled use of those industries for war purposes. The first stage of European integration involved just six countries (Germany, France, Italy, the Netherlands, Belgium, and Luxembourg), which formed the European Coal and Steel Community (ECSC) in 1951.

> ***"The pooling of coal and steel production should immediately provide for the setting up of common foundations for economic development as a first step in the federation of Europe, and will change the destinies of those regions which have long been devoted to the manufacture of munitions of war, of which they have been the most constant victims. The solidarity in production thus established will make it plain that any war between France and Germany becomes not merely unthinkable, but materially impossible".***
> ***Schuman declaration of 9 May 1950***

1.2. Failure of the European Defence Community and disillusionment of the federalists

It is worth noting that since the 1950s, ideas about the scope and extent to which to include new areas of state activity in European integration have not been uniform. A good example of this was the idea of creating a common European army within the framework of the European Defence Community, which in the end did not materialise. **In 1952, just a year after the creation of the European Coal and Steel Community, at the initiative of France, the six constituent countries signed a treaty establishing the European Defence Community (EDC)[2], with plans to create a common army controlled by a treaty body created for that purpose.**

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2 *The full treaty in English is available here: http://aei.pitt.edu/5201/1/5201.pdf (access: 01/06/2023).*

The European Federalists (proponents of the establishment of a single European state along the lines of the United States) hoped that deepened military cooperation among the ECSC Member States, coupled with economic cooperation on the key areas of the post-war economy, such as coal and steel, would allow for the creation of a European Political Community (EPC) that would ensure democratic control over both the EDC and the ECSC. **In essence, the European Political Community would have been a federal state with its own constitution, assuming a bicameral Parliament elected by universal suffrage and a European government in the form of an Executive Council**. Thus, as early as the 1950s, there were already ideas of full integration of European countries in a federal spirit, but there was no consent from the Member States themselves. As a result of the French National Assembly's rejection of ratification of the EDC treaty, any consideration of a common army and further integration within the EDC lost its raison d'être.

1.3. Establishment of the European Economic Community

As if in response to the failure of the plan to create the European Political Community, it was decided to carry out the process of European integration on the basis of economic integration. In this vein, another important step in the process of European integration was the signing of the Treaty of Rome in 1957, which extended the cooperation of the 6 founding countries of the ECSC into new economic fields through the establishment of the European Economic Community (EEC)[3]. The fundamental purpose of the EEC's founding treaty was to create a common market, a pillar of which was to ensure the free movement of people, services, goods, and capital. Among other things, for this purpose, the EEC Treaty abolished customs duties and introduced a single common customs duty for countries external to the EEC Member States.

Despite the enactment of the EEC Treaty in 1957, the actual introduction of a common market or customs union was significantly postponed. For example, the customs union did not really take effect until 1968, when each of the six Member States abolished tariffs for the other five Member States and adopted a common external tariff applied to non-EEC entities. **Thanks to the customs union, intra-Community trade grew significantly—from less than 40% to more than 60% of the total trade of the EEC Member States participating in the customs union[4].** The direct benefit of such an increase in intra-Community trade was that more money remained in the Community's Member States, making them wealthier.

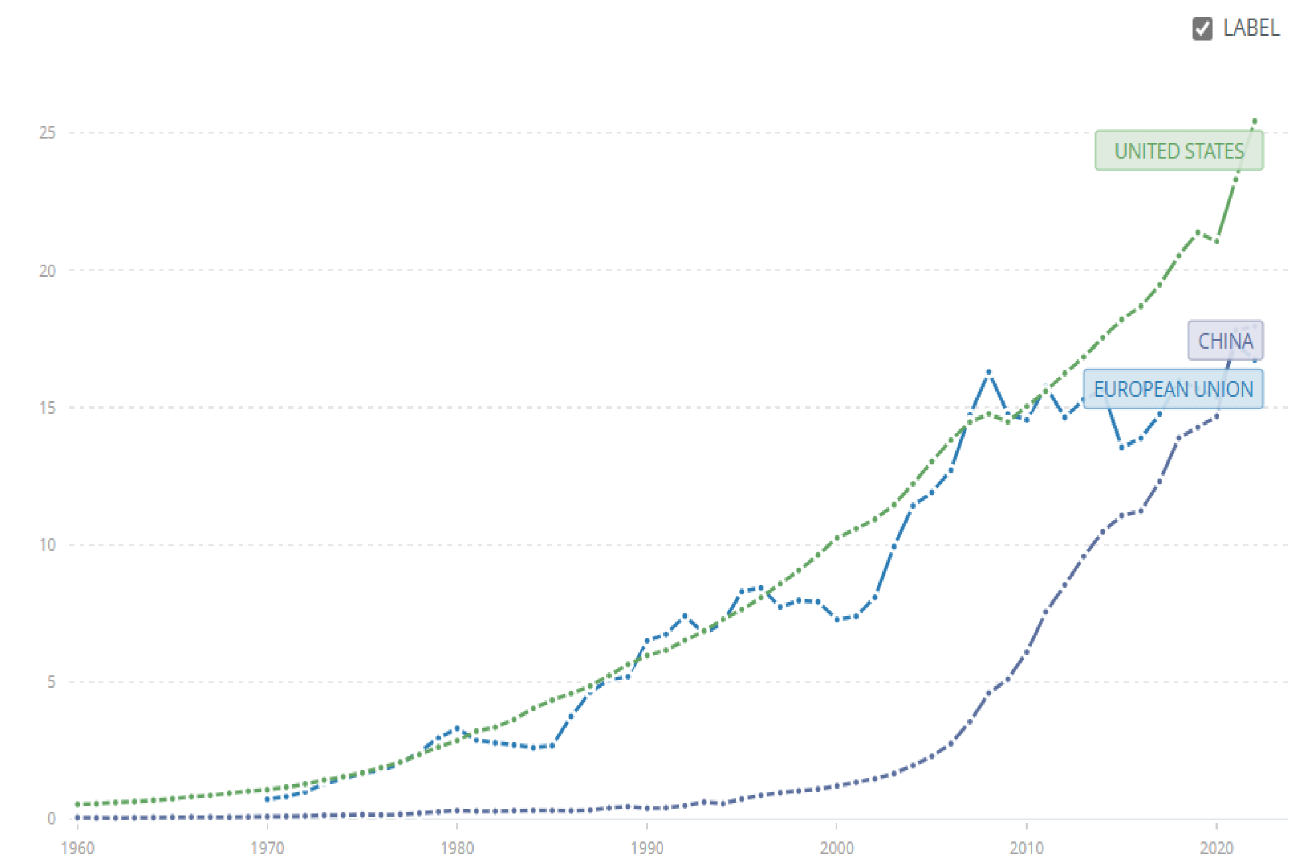
In principle, the customs union has served its purpose and ensured the free movement of goods between the Member States. However, the introduction of the other freedoms took much longer, and also not everything was completely clear with regard to the freedom of movement of goods and often required clarification by the Court of Justice of the European Union[5]. **Nevertheless, the drive to fully implement the four freedoms has been the cornerstone of European integration, and as the chart below shows, this has yielded good economic results.**

3 *Along with the Treaty establishing the European Economic Community (EEC), the Treaty establishing the European Atomic Energy Community (Euratom) was also signed—those two treaties together are known as the Treaty of Rome. The full EEC Treaty is available here: https://eur-lex.europa.eu/legal-content/PL/TXT/?uri=LEGISSUM:xy0023 (access: 02/06/2023).*

4 *https://www.econlib.org/library/Enc/EuropeanEconomicCommunity.html (access: 02/06/2023).*

5 *For example, see the judgement of 20 February 1979 in Cassis de Dijon (C-120/78, Rewe-Zentral v Bundesmonopolverwaltung für Branntwein).*

CHART 1. GDP (CURRENT US$) - EUROPEAN UNION, UNITED STATES, CHINA



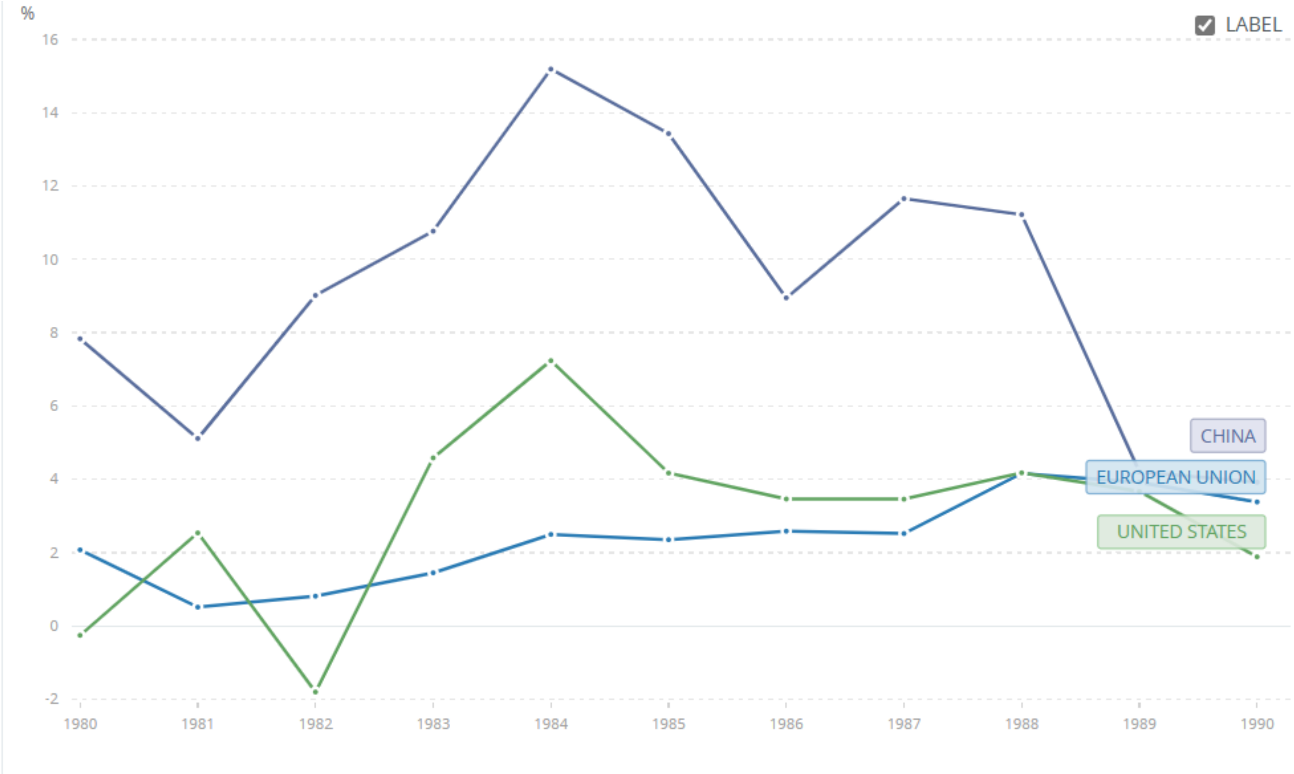
Source: World Bank national accounts data, and OECD National Accounts data files.

The chart above shows a comparison of the nominal GDP for the United States, China, and the European Union from 1960 to 1980. The European Union's GDP grew significantly during that period and reached a level higher than that of the United States. Comparatively, the chart above includes China's GDP, which in 1980 was still low compared to that of the European Union, and the GDP of the United States, although by the late 1970s, it had already begun to grow rapidly (from $149.54 billion in 1978 to $191.15 billion in 1980). **Thus, it is clear from the GDP figures that the focus on economic cooperation in the first stage of the European Union's existence yielded great results for the European Union as a whole, and consequently for its Member States.** It is worth noting at this point that since 1973, the European Economic Community already had 9 members, because in that year Denmark, Ireland, and the United Kingdom joined the EEC (which naturally also had an impact on the GDP of the entire Community).

1.4. Accelerating work on the common market and further economic integration

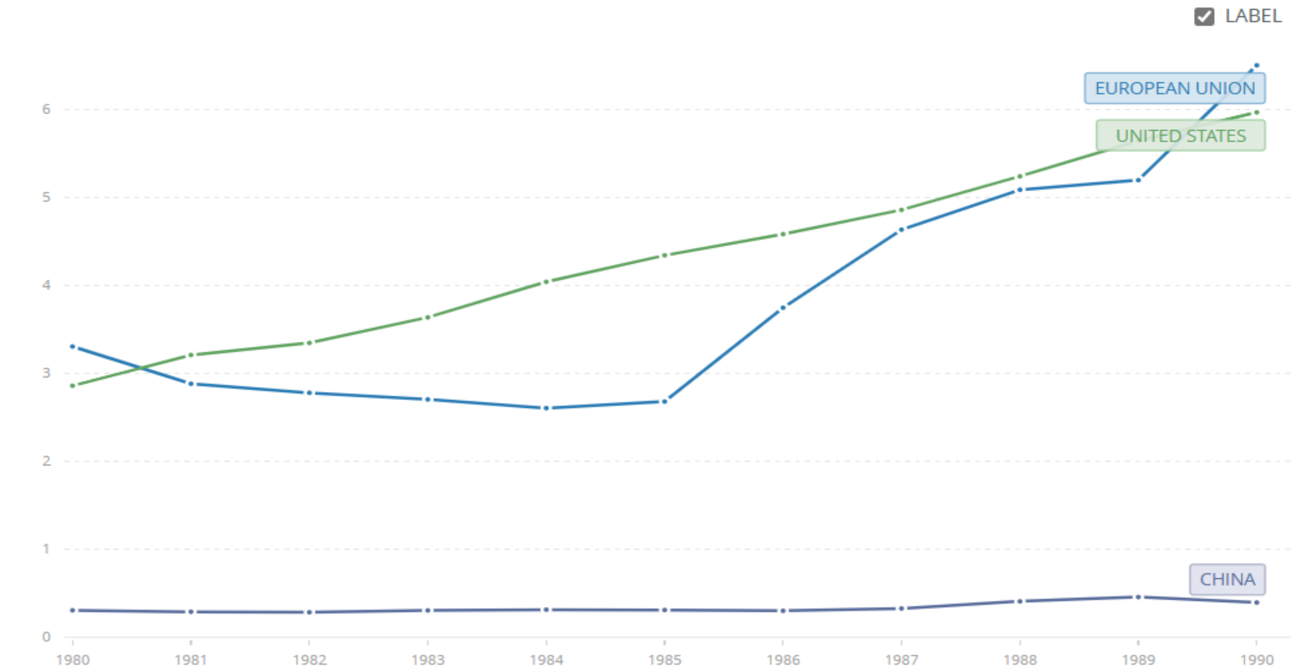
During the 1980s, the economy of the EEC countries slowed down more and more compared to other developed countries, as shown in the charts below. It can be seen that especially between 1982 and 1983, economic growth in the European Union slowed down a lot compared to China and the United States.

CHART 2. THE PERCENTAGE INCREASE OR DECREASE IN GDP OF THE EUROPEAN UNION, THE UNITED STATES. AND CHINA FROM 1980 TO 1990



Source: World Bank national accounts data, and OECD National Accounts data files.

CHART 3. NOMINAL GDP OF THE EUROPEAN UNION, THE UNITED STATES, AND CHINA FROM 1980 TO 1990



Source: World Bank national accounts data, and OECD National Accounts data files.

In the early 1980s, record levels of unemployment were recorded in the EEC countries[6]. The answer to such a state of affairs was to be further deepened economic integration, with the goal of actually creating a common market through the effective abolition of interstate barriers to trade and ensuring the validity of the four European freedoms already postulated in the EEC Treaty. Indeed, that process did not proceed as quickly as the abolition of customs duties within the customs union, so that economic cooperation between the Member States did not take place completely freely[7].

To this end, the Single European Act was adopted[8], which was intended to remove barriers to trade between the Member States and ultimately ensure the free movement of goods, persons, services, and capital. The Single European Act also expanded the European community's "focus" into new areas—including social policy and environmental issues. Finally, in 1993, as a result of the Single European Act, a single market was created within the community.

1.5. Transformation of the Community into the European Union and the economic downturn after 2008

The modern version of the European Union, on the other hand, has its origins in 1993, with the official adoption of the name "European Union" and the promise of using a common currency—the euro. It was in that year that the Treaty on European Union (the so-called Maastricht Treaty) came into effect and it has remained still in force with amendments today. In 1999, the euro began to be used in commercial and financial transactions in 11 euro area countries.

CHART 4. THE PERCENTAGE INCREASE OR DECREASE OF THE GDP OF THE EUROPEAN UNION, THE UNITED STATES, AND CHINA FROM 1992 TO 2021

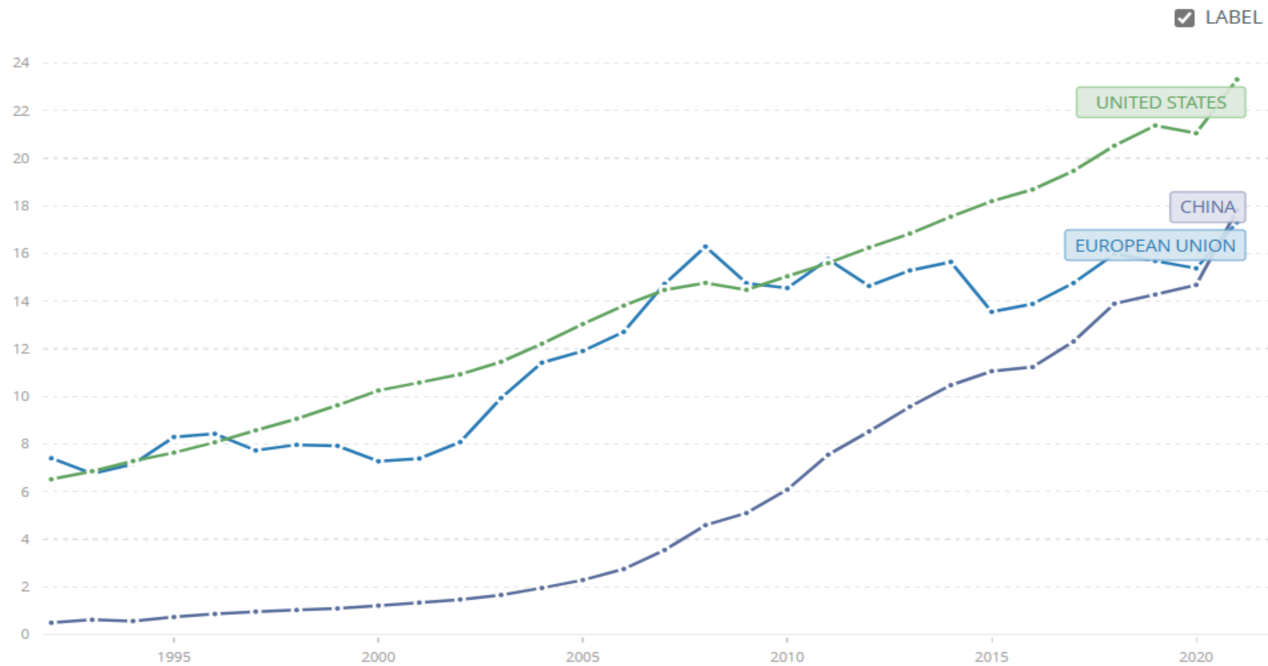
Source: World Bank national accounts data, and OECD National Accounts data files.

6 *https://core.ac.uk/download/pdf/6252244.pdf.*

7 *For a more detailed discussion of this topic, see https://repozytorium.uwb.edu.pl/jspui/bitstream/11320/8726/1/ZM_Doliwa-Klepacki_Europejska_integracja_gospodarcza.pdf, p. 141 et seq.*

8 *https://eur-lex.europa.eu/legal-content/PL/TXT/?uri=LEGISSUM:xy0027.*

CHART 5. THE NOMINAL GDP OF THE EUROPEAN UNION, THE UNITED STATES, AND CHINA FROM 1992 TO 2021.



Source: World Bank national accounts data, and OECD National Accounts data files.

Looking at the charts above, one can see that while the introduction of the common market in the 1990s gave some pro-development impetus to the European Union, the admission of new Member States in 1995 (Sweden, Denmark, and Austria) had a key impact on the EU's nominal GDP growth. A similar impact is evident after 2004, when 9 countries, including Poland, joined the European Union. It is worth mentioning here that between 2010 and 2014, the European Union's economic growth rate was negative or oscillated around zero, which was significantly different from the United States, where the economic growth was around 2% during this period, not to mention China, which grew above 7% per year.

The sheer scope of the subject matter dealt with by the Union has changed dramatically over the years. For example, the Lisbon Treaty amending the earlier treaties focused on making the EU "more democratic, efficient, and transparent, and thereby able to tackle global challenges such as climate change, security, and sustainable development."[9]

In practice, this approach means more requirements, regulations, and restrictions in various spheres of the economy, as discussed in more detail in the further sections of the report. In this regard, it is worth noting that the Lisbon Treaty was passed after the Member States rejected the Treaty establishing a Constitution for Europe, which was a document that went further in terms of the political integration of the European Union.

[9] https://european-union.europa.eu/principles-countries-history/history-eu/2000-09_pl (access: 05/06/2023).

The Lisbon Treaty, however, included many provisions from the Constitutional Treaty rejected in the referendums in France and the Netherlands, raising questions about the legitimacy of adopting those provisions against the will of the people of the EU directly expressed in the referendums. Besides, the treaty-based "democratisation" of the Union is criticised even by representatives of the EU Left[10], which seems to confirm that it was not democratisation that was the basis for the enactment of the Lisbon Treaty, but rather the implementation of a specific political agenda.

In conclusion, although the European Union is still an economic force to be reckoned with (it is the world's third largest economy after the United States and China), the pace of the EU's economic development seems to suggest that an excessive focus on non-economic issues will not necessarily allow a repetition of the economic successes of the Community countries of the 1970s and 1980s, when the driving force behind European integration was the removal of barriers to economic cooperation between the Member States.

10 *https://left.eu/six-reasons-the-lisbon-treaty-was-and-still-is-a-bad-idea/ (access: 05/06/2023).*

2. THE SINGLE MARKET AS A KEY AREA FOR THE EUROPEAN UNION

2.1. The future of the single market

As pointed out in the previous chapter, all indications are that the EU economy faces serious challenges as its growth rate after the 2008 crisis is generally slower than that of China and the United States[11]. This is one of the main reasons why a discussion is being undertaken at the EU level on the future of the single market and on making the EU economy more competitive with the United States and China. At least two major reports in this regard are currently under way—a report by Enrico Letta on the strategic direction of the single market in the coming years[12] and a report by Mario Draghi on the competitiveness of the European Union[13]. Both reports are being drawn up primarily because the European economy is losing momentum and some are saying that this is due to an excessive focus on the green transition which is being pursued at the expense of the EU businesses[14]. This is because when doing business in the European Union, entrepreneurs must comply with a number of additional requirements that, as a rule, do not exist (or exist in a more truncated form) in other parts of the world. It is therefore important to properly balance the competitiveness of the EU economy and further regulation of environmental or social issues.

Looking through a purely economic lens, the potential of the single market has certainly not been completely fulfilled yet. Research by the RAND Corporation shows that the untapped potential of the EU single market for international trade alone could be as high as between €183 billion and €269 billion in the long term[15]. The amount of €269 billion follows the most economically optimistic scenario, which assumes that the barriers to foreign investment and non-tariff barriers in the internal market were reduced to zero. Realistically, this is an unlikely scenario, but it unequivocally demonstrates the enormous potential economic benefits to the entire community from the removal of barriers inhibiting economic cooperation within the EU single market. Given the removal of barriers not only to the free movement of goods, but also to the services market, the economic potential of the European Union is even greater. Under this scenario, according to the European Commission estimates, removing barriers to the single market for goods and services has the potential to unleash €713 billion by the end of 2029[16].

In practice, in the coming years, the fulfilment of this economic potential will be determined not only by the strategic direction of the single market, which is currently being widely discussed, but also by the pace and manner in which countries actually harmonise their legal orders, and geopolitical developments affecting the EU economy to a greater or lesser extent.

In terms of the speed and manner of harmonisation of the law, significant potential for improvement is evident here. Using Poland as an example, we can see that there is a whole series of directives whose deadline for implementation has already passed[17]. The legislative acts that are behind schedule include, among others, Directive 2018/2001 on the promotion of the use of energy

11 *With the small exception of 2022, see: https://www.wsj.com/articles/eurozones-economy-outpaced-china-and-u-s-in-2022-11675161027.*
12 *https://ec.europa.eu/commission/presscorner/detail/en/ip_23_4495*
13 *https://www.reuters.com/world/europe/eu-head-asks-draghi-advise-bloc-boosting-competitiveness-2023-09-13/*
14
15 *https://www.rand.org/pubs/research_reports/RR862.html, p. 8.*
16 *https://www.politico.eu/wp-content/uploads/2023/11/28/research-and-analysis-division-special-report-life-after-30-what-next-for-the-eu-single-market.pdf, p. 4.*
17 *https://single-market-scoreboard.ec.europa.eu/countries/poland*

from renewable sources, as well as Directives 2019/789 and 2019/790 on copyright. Such delays have a very practical dimension. In the case of the said copyright directives, the failure to implement them results, among other things, in a lack of clarity on the extent to which text and data mining (TDM) can be legally carried out in Poland. This lack of certainty about the applicable law manifests itself in the fact that we have the provisions of the directive in force but we do not know how, based on these provisions, the provisions of the Polish law, which will be absolutely binding on all entities operating in Poland, will be shaped. In practice, this potentially prevents many technology companies from carrying out text and data mining to the extent that they would in a clear legal situation, which could have dire consequences for the innovation of the Polish economy in light of the rapid development of artificial intelligence.

Table 1. Access to services and services markets (Poland)

INDICATOR	2021	EU AVERAGE
Restrictiveness indicator – architect	2.7	2.5
Restrictiveness indicator – accountant	2.8	1.7
Restrictiveness indicator – civil engineer	2.5	2.4
Restrictiveness indicator – lawyer	3.5	3.4
Restrictiveness indicator – real estate agent	0.0	1.3
Restrictiveness indicator – patent agent	2.5	2.2
Restrictiveness indicator – tourist guide	0.1	1.2
Domestic priority letter prices, letter 20 g	€ 0.90	€ 0.99
Intra-EU priority letter prices, letter 20 g	€ 1.75	€ 1.61
Domestic transit times, day+1 performance, priority letters 20 g	54.0%	84.3%

Note: The EU restrictiveness indicator (EURI) measures the level of restrictiveness for the cross-border provision of services and the right of establishment for seven groups of professional services with a high share in EU firms' intermediate consumption or cross-border mobility. The level of restrictiveness is measured on a scale from 0 (least restrictive) to 6 (most restrictive).

The pace of actual harmonisation of EU law and, more broadly, the future of the entire single market are also affected by various initiatives at the EU level. For example, in February 2024, the Council and the European Parliament reached a preliminary agreement on the Single Market Emergency Instrument (SMEI). The stated purpose of this instrument is to anticipate, prepare for, and respond to the effects of future crises using the strength of the single market[18]. The mechanism is intended to strengthen the internal market in times of crisis by facilitating the movement of goods, services, and people, monitoring supply chains, and ensuring access to critical goods[19].

18 https://www.consilium.europa.eu/en/policies/deeper-single-market/#programme

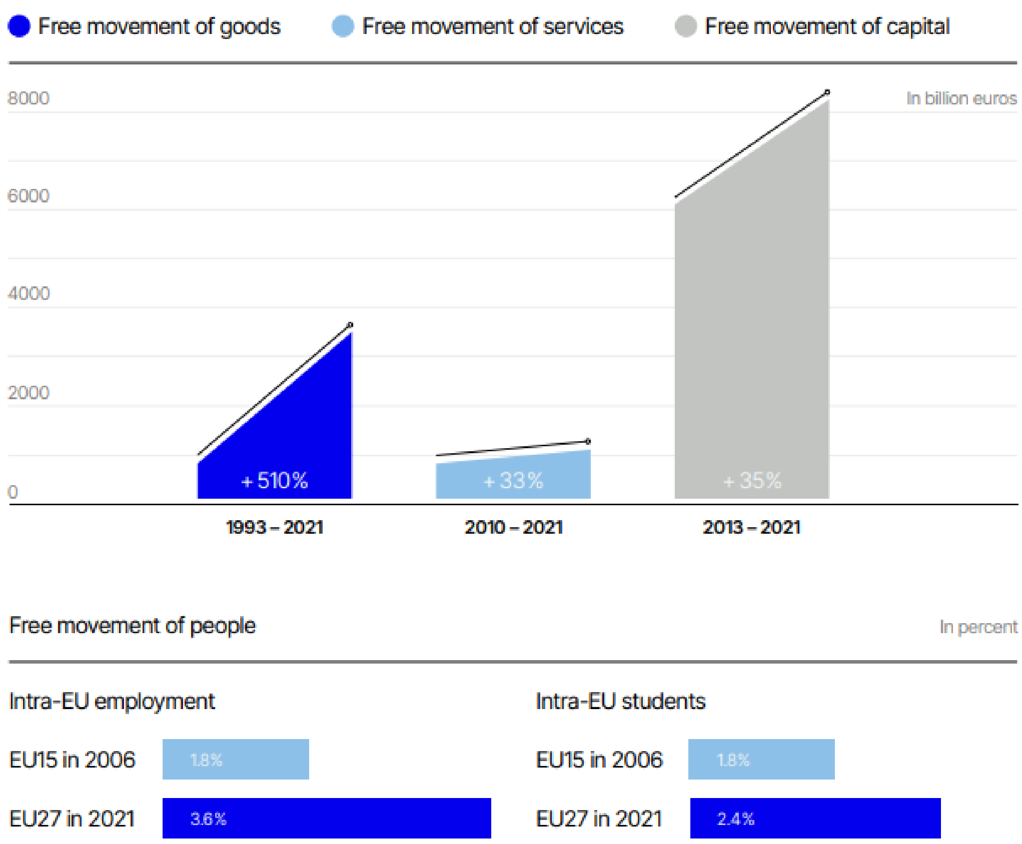
19 https://single-market-economy.ec.europa.eu/document/download/c9cd75c7-9b79-4e78-bd9a-c010b63bf940_en?filename=Staff%20working%20document.pdf

In practice, it has been pointed out that this instrument gives the EU bodies a tool to intervene in the market mechanisms[20], which is another "unpredictable" element in the EU regulatory puzzle.

The examples above show that the real effectiveness of the single market depends to a large extent on the effective implementation of the goals assumed at the EU level by the Member States and on finding the right balance between "unleashing" the economic potential of the free market and imposing further obligations to protect the collective interests of the community. In later chapters, particular attention will be paid to the first of these points, i.e. how various types of barriers can be removed step by step in practice in order to unleash the potential of the EU economy.

CHART 6. THEN AND NOW. PERCENTAGE CHANGE IN THE VALUE OF INTRA-EU EXPORTS OF GOODS, INTRA-EU EXPORTS OF SERVICES AND INTRA-EU FOREIGN DIRECT INVESTMENTS

Share of employment of persons with a citizenship of a different EU country than the one they are employed in Share of tertiary level students from a different EU country than the one they study in



Yet although 30 years is a significant milestone to celebrate, the EU single market remains an incomplete jigsaw. Its potential remains unfulfilled due to concrete barriers emerging from its complexity, inconsistencies, and uneven interpretation and application of law by EU member countries. Further, issues emerging in the absence of EU legislation demand an additional harmonized framework. These gaps have a concrete impact. Studies find that there is still between €183 billion and €269 billion per year to be realized, and the European Parliament considers that removing barriers to the single market for goods and services has the potential to unleash €713

[20] *https://www.intereconomics.eu/contents/year/2023/number/3/article/single-market-emergency-instrument-a-tool-with-pitfalls.html*

billion by the end of 2029. This untapped potential, combined with recent supply shortages prompted by crises ranging from the COVID-19 pandemic to Russia's war against Ukraine, and the race toward a digital and green transition, underline the need to strengthen the European single market. Although the European Commission is far from unaware of these challenges, progress to mitigate them remains slow. In fact, the POLITICO Research & Analysis Division found that nearly 64 percent of ongoing files related to the single market proposed by the current legislature are still undergoing the Ordinary Legislative Procedure, with merely 36 percent of the files having passed as of October 2023. The POLITICO Research & Analysis division has carried out a policy assessment of the main challenges confronting the single market 30 years on, assessing the current policy environment, and envisaging its future priorities ahead of the upcoming European Parliament election in June 2024.

2.2. Freeing up the services market as an opportunity for the single market

Services are crucial to the EU economy, as they account for about 70% of the European Union's GDP and a similar share of employment in the EU countries[21]. This is why it is so important to remove barriers for companies wishing to offer cross-border services within the single market. The potential of the single market remains unfulfilled precisely due to these barriers, often emerging from its complexity, inconsistencies, and uneven interpretation and application of law by the EU Member States, and sometimes due to insufficient harmonisation of the laws of the EU countries[22].

An example of a practical problem that hinders the actual operation of cross-border service activities is the administrative requirements for the posting of workers. This is a key element of the single market for businesses, as clear rules on the posting of workers help to create a level playing field between different EU businesses. This aspect is regulated in the EU by Directive (EU) 2018/957/EU of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services[23]. Among other things, practice points to the following practical problems related to the posting of workers:

- lack of possibility to notify multiple postings as one action: companies need to submit separate notification forms for multiple postings (a group of workers) to the same location. The same concerns multiple trips of a single posted worker: each trip requires separate notification procedure;
- diversity of national websites about the process: not all of them have an English version, and their logic and design are very different. This makes navigating them and extracting information difficult and time-consuming;
- the process of calculating the total remuneration for the posted workers and the total cost of posting for a company is unclear as workers are entitled to diverse in-work benefits in different Member States[24].

The above problems can be largely solved by introducing, among other things, an EU eDeclaration for the notification of the posting of workers—this should be a simple form allowing to safeguard the introduced data, modify them easily if needed, and process group and multiple notifications for a single worker. In addition, it has also been proposed to introduce a universal template for national posting websites—this would make the whole process more transparent and, to some extent, allow for avoiding the use of often costly legal advice on posting of workers[25].

The above example regarding the posting of workers is one of many barriers to the free and efficient operation of the EU market for services. The release of national restrictions in the area of many services and professions would stimulate the development of internal competition in the EU market, which would benefit the entire EU economy.

21 https://single-market-economy.ec.europa.eu/single-market/services_en
22 https://www.politico.eu/wp-content/uploads/2023/11/28/research-and-analysis-division-special-report-life-after-30-what-next-for-the-eu-single-market.pdf
23 https://eur-lex.europa.eu/legal-content/PL/TXT/?uri=CELEX%3A32018L0957.
24 https://www.businesseurope.eu/sites/buseur/files/media/position_papers/internal_market/2023-05-31_examples_of_single_market_barriers_for_businesses_-_package.pdf
25 https://www.businesseurope.eu/sites/buseur/files/media/position_papers/internal_market/2023-05-31_examples_of_single_market_barriers_for_businesses_-_package.pdf

3. THE CURRENT STATUS OF THE EUROPEAN UNION ON THE GLOBAL STAGE

- As of early 2022, the Wealth of Nations Index (WNI) of all European Union countries is without exception lower than that of the United States (the WNI of 111.6)[26]. Thus, it is clear that American society is, as a rule, richer than EU society.
- Within the European Union itself, the differences in the WNI between European Union countries are significant, ranging from 108.1 for Norway to 49 for Bulgaria. The WNI for Poland is 64.4, which means that Poland is among the 10 poorest countries in the European Union, while being almost twice as poor as the United States.
- Of particular importance in the context of innovation is also the regulatory environment. It seems that the European regulatory environment is more onerous for entrepreneurs than the one in the US, which is not conducive to innovation. It seems from the EU perspective, that the most benefit would come from enhancing transatlantic cooperation on innovation. The European Union should therefore work with the United States to create the closest possible legal and economic conditions for creating innovation.
- One of the key problems of the demographic crisis in the European Union, but also in the world, is the decreasing number of people of working age, i.e. the people who contribute most to the economic development of countries. Without far-reaching automation, it is hard to imagine that far fewer people of working age would be able to maintain economic output at similar levels to today.
- Due to its complex governmental status, the European Union faces difficulties in implementing coherent policies. The paradox is that, on the one hand, such a coherent policy is being implemented in some areas, sometimes even against the will of some Member States, resulting in discussions about the actual level of democracy in the European Union. On the other hand, many issues are among the areas excluded from the competence of EU bodies, resulting in European Union not having effective methods to conduct policy on them.

3.1. Economy

The previous chapter of the report used data related to the best-known measure used to measure a country's economic strength, GDP, to assess the economy. The main advantage of this approach is that changes over the years can be assessed on the basis of this indicator, as GDP data is generally available and cover a wide time horizon. Its drawback, on the other hand, is that this indicator tells little about the actual wealth of societies over the years —as it does not take into account, for example, the purchasing power of money, which changes over time, or even the social policies pursued in a country that allow residents to save in real terms.

Due to the above, a more effective way to measure the wealth of societies is, for instance, the Wealth of Nations Index (WNI), developed by the Warsaw Enterprise Institute[27]. This index is the sum of the public expenditure component and the private expenditure component, which takes into account, for example, the purchasing power of money or the quality of public expenditures made.

26 WNI for China is unavailable.

27 https://wskaznik.wei.org.pl/ (access: 05/06/2023).

As of early 2022, the WNI of all European Union countries was without exception lower than that of the United States (the index of 111.6)[28]. Thus, it is clear that American society is, as a rule, richer than EU society. At the same time, the differences in the WNI between the European Union countries are significant, ranging from 108.1 for Norway to 49 for Bulgaria. The wealth gap between these countries is therefore more than double. **The WNI for Poland is 64.4, which leads to the conclusion that Poland is among the 10 poorest countries in the European Union, while being almost twice as poor as the United States.**

Therefore, the European Union is economically still a very uneven territory when it comes to the wealth of societies. However, as a whole, the European Union is a very important player on the economic map of the world. This is because it is a market with uniform yet far-reaching regulatory requirements, offering access to more than 400 million consumers in need of quality goods. Today, virtually no company operating globally can afford not to do business, even if only to a limited extent, in the European Union. This obviously has a positive impact on the EU economy, but it is an open question whether this state of affairs will continue in the future.

3.2. Innovations

The role of innovation in today's economy is essential. **Many economists predict that innovation will be a key driver of economic growth in the coming years**[29]. **The role of innovation for the EU Member States is fundamentally important due to the relatively high wage costs and low availability of natural resources.** As one leading consulting firm points out in its research, European companies account for one-quarter of total industrial R&D in the world[30]. However, over the past decade or so, companies from the United States have significantly strengthened their global leadership in this area and China has caught up strongly. This global competition for innovation is challenging the European Union's ability to maintain its economic growth model in the long term.

Of particular importance in the context of innovation is also the regulatory environment. It seems that the European regulatory environment is more onerous for entrepreneurs than the one in the US, which is not conducive to innovation. In particular, regulations related to environmental issues, technology, and labour laws can increase the costs associated with innovative product development, thereby making it more difficult for companies to compete effectively with rivals operating in other parts of the world.

A good example of an EU piece of legislation that imposes extensive obligations on the EU businesses is the Corporate Sustainability Reporting Directive (CSRD). The directive contains detailed requirements for corporate reporting on social, environmental, and corporate governance issues. It is indicated that the reporting system introduced by this directive is based on 1,444 data points throughout the supply chain[31]. Besides defining environmental, human rights, and labour standards, it also includes fuzzy issues, such as "work-life balance."[32] At the same time, there is also the CSDD on supply chain due diligence at the EU level. There is some overlap

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28 *WNI for China is unavailable.*

29 *https://www.mckinsey.com/~/media/mckinsey/featured%20insights/innovation/reviving%20innovation%20in%20europe/mgi-innovation-in-europe-discussion-paper-oct2019-vf.ashx (access: 05/06/2023).*

30 *https://www.mckinsey.com/~/media/mckinsey/featured%20insights/innovation/reviving%20innovation%20in%20europe/mgi-innovation-in-europe-discussion-paper-oct2019-vf.ashx (access: 05/06/2023).*

31 *https://www.gisreportsonline.com/r/free-europes-economy/ (access: 12/06/2023).*

32 *https://www.gisreportsonline.com/r/free-europes-economy/ (access: 12/06/2023).*

in the subject matter of these two directives, which in practice requires the EU businesses to report twice on meeting very similar regulatory requirements.

In the context of over-regulation, it is also important to point to ongoing scientific research that clearly shows that regulation has a negative impact on the development of innovation. For example, analysing the requirements of French labour law, Philippe Aghion unequivocally proved that the innovativeness of companies on which more regulation was imposed dropped sharply[33].

Based on the above, it is clear that within the European Union, the number of regulatory requirements should be rationalised so that innovative companies can develop quickly enough. Furthermore, from the EU perspective, it seems that the most benefit would come from enhancing transatlantic cooperation on innovation. Looking at the list of the most innovative companies compiled by Forbes, one may notice the large number of representatives based in the United States[34]. **The European Union should therefore work with the United States to create the closest possible legal and economic conditions for creating innovation.**

3.3. Demographics

Another area determining the European Union's position on the international stage that is worth analysing is demographic issues. According to Eurostat, the EU's statistics office, by 2100 more than 31% of the European Union's population will be over the age of 65—up from 21.1% in 2022[35]. This demographic shift represents a major political and economic challenge for Europe.

One of the key problems in that matter is the decreasing number of people of working age, i.e. the people who contribute most to the economic development of countries. Moreover, as older retirees leave their jobs at a faster rate than new employees come in to replace them, there may be problems with business continuity and know-how transfer in sectors that particularly require specialised skills. **Without far-reaching automation, it is hard to imagine that far fewer people of working age would be able to maintain economic output at similar levels to today**.

Notwithstanding the above, in the long run, a smaller population inevitably means a shrinking economy—fewer people means fewer needs to be met, and therefore a smaller GDP. In terms of meeting needs, there will, of course, be a whole sphere of social welfare programs (including pensions or health benefits) left to handle, which will require more expenses.

The European Union countries are testing different approaches to dealing with the demographic crisis. Some of them have implemented a number of policies aimed at increasing the fertility rate (such as Poland's "Family 500+" programme, which, however, has not in principle resulted in an increase in fertility[36]) or encouraging immigration, which, as practice shows, leads to various kinds of inconvenience in the long run.

At the same time, it is worth noting that not only the European Union is facing a demographic crisis, but in other countries, as a rule, it is not as drastic as in the EU countries. As for the United States, a positive birth to death ratio is projected until 2040. Adding the projected, relatively high, level of immigration, the U.S. population will not shrink until 2050[37]. However, the problem of ageing populations is global and affects the United States as well[38].

[33] *https://www.nber.org/system/files/working_papers/w28381/w28381.pdf (access: 12/06/2023).*
[34] *https://www.forbes.com/special-features/innovative-companies-list.html (access: 12/06/2023).*
[35] *https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Population_structure_and_ageing#Past_and_future_population_ageing_trends_in_the_EU (access: 12/06/2023).*
[36] *https://www.rp.pl/budzet-i-podatki/art36015231-pan-program-500-nie-zwiekszyl-dzietnosci-tylko-inflacje (access: 12/06/2023).*
[37] *https://www.cbo.gov/publication/58612 (access: 12/06/2023).*
[38] *https://www.imf.org/en/Publications/fandd/issues/2020/03/the-future-of-aging-guide-for-policymakers-scott (access: 12/06/2023).*

3.4. Political system issues

Due to its complex governmental status, the European Union faces difficulties in implementing coherent policies. **The paradox is that, on the one hand, such a coherent policy is being implemented in some areas, sometimes even against the will of some Member States, resulting in discussions about the actual level of democracy in the European Union. On the other hand, many issues are among the areas excluded from the competence of EU bodies, resulting in European Union having limited resources to conduct policy on them.**

Such problems stem from the fact that the essential foundations of the EU system were developed in 1957, when the Community had only six states. A good example of the political system issues paralysing to some extent the effective operation of the Commission—the most important executive body of the Union—is the need to appoint a commissioner from each Member State. This rule, invented in 1957 for the use of six Member States, has become unwieldy with 27 Member States.

Thus, the most obvious problem is that there are far more commissioners than needed. To get around this problem, since 2014, the Commission assigns several persons to the same offices, which is also an artificial solution and one that is difficult to find in any other state or supranational executive body. The problem of too many commissioners should be solved with a view to taking into account the interests of the less developed Member States. However, solving this problem requires amending the EU treaties, which is not a simple task. It is also worth noting that prior to the Lisbon Treaty, the EU treaties were amended fairly regularly every 8-10 years or so. **Meanwhile, now the European Union has not adopted a new treaty in more than a decade, and this is certainly needed to reduce the EU's sprawling bureaucracy**[39].

3.5. International and defence affairs

The European Union's influence on international affairs is closely correlated with its relationship with the United States and its capacity for dialogue. **This is another argument for expanding transatlantic cooperation, as the EU is heavily dependent on the United States for international policy and defence issues**.

The EU's defence capabilities derive primarily from the military strength of its members. It is also not insignificant that most of the EU members belong in parallel to NATO, which is the strongest military alliance in the world. This status of NATO, on the other hand, is due to the military strength of not only the European Union countries that are members of the alliance but primarily of the military strength of the United States. From this perspective, Zbigniew Brzeziński was right, noting that the perception of Europe as a heavyweight player in military and geopolitical affairs was becoming increasingly illusory—Europe, once the centre of the West, has become an extension of the West, with the United States as the main player[40].

However, opinions on the sheer significance of the European Union's lack of military power for its position on the international stage are divided. On the one hand, there are claims that without a strong military, the European Union will never become a superpower[41]. On the other hand, it has been pointed out that full integration within the EU in the field of international affairs and defence is not needed to achieve such status because military affairs are receding into the background in the 21st century. It seems that in light of the growing number of armed conflicts and their escalating intensity, the first view is more appropriate, making closer transatlantic cooperation with the EU's strongest military ally advisable.

39 *https://berlinpolicyjournal.com/the-eus-broken-commission-model/.*
40 *Zbigniew Brzezinski, Strategic Vision: America and the Crisis of Global Power, New York: Basic Books, 2012.*
41 *https://archive.globalpolicy.org/component/content/article/173-sovereign/30500.html (access: 12/06/2023).*

4. COMPETITIVENESS OF THE EUROPEAN UNION ON THE BASIS OF THE TECHNOLOGICAL AREA

- The European Union's regulatory requirements for the technology sector are among the most extensive in the world. On the one hand, this provides greater protection and control over the data processed by businesses, but on the other hand, it makes it difficult to undertake innovative activities without analysing regulatory requirements and mitigating risks.
- Central to the technology area is the processing of personal data, which is subject to significant legal requirements in the European Union. Globally, only a few other regions have opted for such far-reaching regulations in terms of personal data. Particularly taking into account the development of artificial intelligence, there is a need to better balance fostering innovation with protecting privacy, which would best be done in the spirit of transatlantic cooperation.
- The European Union is certainly facing all sorts of challenges regarding innovation and digital transformation. Key ways to increase innovation seem to be rethinking access to data, ensuring greater openness and standardisation, and taking advantage of the potential of global companies.

The economic development of the European Union Member States is largely dependent on what strategy the European Union adopts toward disruptive technologies. Various studies estimate that the next wave of technological pioneers, such as artificial intelligence, the Internet of Things, and blockchain, among others, has the potential to provide a breakthrough in productivity. In order to create the conditions in the European Union for pioneering projects using these technologies, it is necessary, first of all, to create regulatory conditions for such activities. Only in this way can the European Union be a competitive space for innovative activities.

4.1. Regulatory conditions for data processing in the European Union

Almost every innovative activity in the technological field is based on data processing. The key piece of legislation in the European Union is the 2016/679 Data Protection Regulation (GDPR). While the GDPR is praised in principle for providing extensive protection for individuals' privacy rights, it undoubtedly reduces Europe's competitiveness when it comes to researching and implementing solutions based on big data processing, such as artificial intelligence.

One of the main objections to the GDPR concerns the availability of data. That's because this Regulation shapes demanding rules on how companies can collect, store, and use the personal data that artificial intelligence systems often rely on as the so-called input data. This means that artificial intelligence developers in the European Union are, in practice, finding it difficult to access the large data sets required to train machine learning models or develop predictive analytics tools without violating the GDPR regulations.

This is caused, among other things, by the relatively broad definition of personal data adopted in the GDPR. Since even pseudonymised personal data is subject to some protection under the GDPR, it is relatively difficult in practice to unambiguously prejudge what is personal data in a given case and what is not. This results in the need for legal analysis, often notoriously precluding the possibility of using different datasets as inputs to machine learning models early on in the project. In practice, therefore, innovators have to conduct legal analysis instead of doing the actual innovative work.

Uncertainty about what constitutes "personal data" within the meaning of the GDPR could make companies in the European Union—lacking funds for legal support early on—more reluctant to take the risk of exploring innovative applications of artificial intelligence or similar technologies. This is because in such a situation there will be regulatory ambiguity, which could "taint" the entire product in the eyes of customers or investors in the future. In this case, the easiest solution from the entrepreneur's perspective is usually to change the jurisdiction for the project to one where the GDPR does not apply[42].

Moreover, because the GDPR in many cases requires explicit user consent before any personal data can be collected or used by third parties—including those working in academia—it makes it difficult for persons developing artificial intelligence to do their jobs.

Separate from the GDPR, other EU legislation is also expected to apply to data processing in the European Union, such as the Data Act Regulation which aims to further harmonise the rules for access to and use of data. Personal data is also to be covered by the so-called ePrivacy Regulation which is intended to supplement and detail the GDPR. Also of importance in the context of data processing for the development of artificial intelligence models is the Artificial Intelligence Regulation (AI Act) which will introduce various kinds of requirements in this regard. In addition to the above legislation, regulatory requirements stemming from the judgements of the EU Court of Justice must also be added. In the context of personal data, a good example is the Schrems II judgement[43], in which the Court imposed additional requirements relating to data transfers from the European Union to the United States.

As can be seen from the above, **the processing of personal data in the European Union is subject to significant legal requirements and the design stage involves many additional requirements**. **Globally, only a few other regions have opted for such strong regulations in this regard[44]. Particularly taking into account the development of artificial intelligence, there is a need to better balance fostering innovation with protecting privacy, which would best be done in the spirit of transatlantic cooperation.** This is because it would make it possible to harmonise to a greater extent the conditions for developing innovative businesses between the EU and the United States.

4.2. How to improve the competitiveness of the European Union on the basis of the technological sector?

The European Union is certainly facing all sorts of challenges regarding innovation and digital transformation. A key challenge in this context seems to be rethinking access to data so that innovative companies are not at a disadvantage compared to larger global data platforms, while protecting the citizens' right to privacy. Achieving this would require greater transparency on how collected personal data is used, shared, stored, destroyed, and processed, as well as better educational efforts to raise awareness of the importance of the cybersecurity threats that both individuals and organisations are currently facing, regardless of the regional differences observed around the world.

Another measure leading to increased competitiveness may be greater openness and standardisation. By better connecting local ecosystems and creating conditions to attract highly skilled workers from around the world, the European Union could cement its role as an attractive destination for innovative projects.

Third, it is necessary to think about leveraging the potential of global companies that operate in the EU. By attracting these companies to invest more in the European economy through tax incentives or other measures such as patent protection, they can help create jobs, spur innovation, thereby making the region competitive again with rivals around the world. However, this requires careful monitoring and oversight, given the potential risks associated with the increased concentration of influence held by large international players.

42 *https://www.cato.org/publications/policy-analysis/eus-general-data-protection-regulation-gdpr-threatens-digital-innovation, https://www.forbes.com/sites/forbestechcouncil/2020/01/27/gdpr-and-artificial-intelligence-opportunities-and-challenges/?sh=6b8f7e5a22f9.*

43 *CJ judgement of 16 July 2020, C-311/18, EU:C:2020:559.*

44 *An example of this is the CCPA in force in California.*

In a dynamically evolving world with technology being an integral part of our lives, the Digital Single Market is the foundation of the future of the European economy. Each of the technological breakthroughs observed over the past few years – from the introduction of fifth-generation networks to the development of artificial intelligence – has caused significant changes in the economy and, above all, changed the way that businesses operate. Today, it is the technological innovation that shapes the business landscape and determines the competitive edge of companies.

The development of digital transformation is particularly important for small and medium-sized enterprises (SMEs), which are the backbone of the Polish economy. Of the 2.3 million enterprises operating in this country, as many as 99.8 percent of the entities are classified as SMEs. These companies account for half of Poland's GDP and provide employment for nearly seven million people. The Digital Single Market plays an important role in their development, facilitates foreign expansion and consequently affects the level of innovation in the European economy.

Regulation of the digital aspects of the economy has become one of the priority actions on the European Union's agenda. As a result, in May 2015, the Digital Single Market Strategy for Europe was announced with a view to enabling the free movement of people, goods, services and capital in Europe's digital environment. It is based on the concept of a common market and the elimination of trade barriers between Member States to increase economic prosperity and create "even closer ties between the peoples of Europe." The strategy is expected to help accelerate the development of digital services, thereby building the competitiveness of European companies and strengthening the global significance of Europe in the field of new technologies. The COVID-19 pandemic proved the importance of the Digital Single Market in sustaining the EU's economy and trade relations, as it made it possible to successfully combat the crisis and subsequently, to carry out economic recovery.

Although the implementation of the Digital Single Market principles in their current version brings about tangible economic benefits and stimulates GDP growth within the EU, its full potential for SME development remains untapped. Digital over-regulation, impediments to the exchange of goods and services, uneven implementation of common regulations –this report outlines the main barriers that stand in the way of Polish SMEs planning to expand abroad, especially through digital sales channels. Eliminating these barriers will not increase only the level of development of economies of individual Member States, but most importantly, will boost the economy of the European Union as a whole. Our publication also aims to inspire EU institutions and bodies to take new initiatives that can contribute to the effective functioning of the Digital Single Market. We wish you an interesting and inspiring read.

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