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Questionnaire

Topic III – Strategic Autonomy and Legal Constructions of European Industrial Policies

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Introduction

In recent years, successive economic crises such as those caused by the pandemic and the Russian attack on Ukraine have become a new normal, and the EU is pursuing a degree of 'strategic autonomy' to protect its resilience during future shocks and to shore up its industrial basis in existing and emerging technologies. In this paradigm, competition is reconsidered. Perceived policy needs include ensuring EU competitiveness in the global context, compensating for unfair competition from third countries, developing the EU's 'strategic autonomy', or the resilience of the internal market. Proposed solutions have included control of direct investment, the pushing of European champions, national state aids, EU-level subsidies, coordination between competitors, special conditions in public procurement rules that protect European undertakings as well as instruments that level the playing field such as the Foreign Subsidies Regulation or trade policy instruments. Industrial policy, policy regarding the supply of goods and services that are necessary for the functioning of the European economy, is being revisited. This links the internal market to broader questions of strategy and ensuring the European capability to act and to have agency in shaping its own future.

Questions (questions in bold, explanations in italic):

Part 1: EU and Member State measures to support Strategic Autonomy

1. **Which elements of the law of your jurisdiction attempt to provide some form of 'strategic autonomy' on the national level? How would they be defined? How do these provisions relate to EU law regulating the internal market and foreign trade beyond the EU/EEA?**

   This question seeks to identify whether a form of strategic autonomy exists in the national debate as a distinct aspect from European Strategic Autonomy and, if so, how such national notions of Strategic Autonomy are understood. If it is recognised and used in the national discourse on EU law, does it carry its own meaning in terms of national law? What are the connotations? How are the potentially competing notions of openness and strategic autonomy balanced? What kinds of mutual dependencies are seen as unacceptable from the perspective of strategic autonomy?

2. **Does the discussion concerning strategic autonomy in your jurisdiction differentiate between internal and external autonomy?**

Internal autonomy would refer to such matters such as energy independence, supply of natural resources, the resilience of the financial system, the functioning of the government in times of crisis, and the resilience of the regulatory system.

External sovereignty would emphasise external sovereignty through trade policies and defence/security-related matters. In case only limited or no discussion is conducted nationally in terms of 'Strategic Autonomy', does a comparable differentiation exist within fields such as industrial policy, competitiveness, or crisis preparedness?

3. **Are provisions designed to implement an industrial policy in your jurisdiction regarding physical and digital parts of the economy linked to notions of Strategic Autonomy?**

   This question explores how Strategic Autonomy is embedded within the overall industrial, information and knowledge agendas, reflecting priorities and the level of strategic planning involved. It is linked to questions 1 and 2 and tries to deepen the search for national policies.

   The question also concerns which elements of industrial policy, if any, are primarily covered in the discussions and whether certain sectors or policy areas are identified as 'strategic' and how? Does the term refer, for example, to independence in critical technologies, data and information (discussing such notions as 'digital sovereignty')? Does it refer to supply chain provisions and security of raw materials and the supply of critical inputs into production? Is economic competitiveness seen as an element of strategic autonomy? Does the discussion also refer to broader economic sovereignty, regulatory approaches within the system, state aids and subsidies, or the creation of infrastructure? What kind of national legal measures, instruments or policies appear most clearly connected to the European goal of Strategic Autonomy?

4. **Which coordination mechanisms, if any, exist in your jurisdiction to ensure coordination between national provisions on strategic autonomy and the European dimension of that notion?**

   This question seeks to explore the legal frameworks enabling cooperation among various government levels and with the EU, which is crucial for policy coherence. How far is strategic autonomy to be pursued at the European level or the national level?

5. **Is there an alignment with EU strategies? Does it work?**

   This question seeks to understand how national policy frameworks legally transpose or adapt EU strategies promoting Strategic Autonomy, ensuring consistency. It also aims to determine whether, in the reporter's view, cooperation works in practice.
   The question is also an open question to assess whether the various complex cooperation and coordination mechanisms generally work, and whether there might be simplification concepts to suggest.

6. **How are new initiatives and proposals identified and assessed from the perspective of strategic autonomy?**

   This question seeks to uncover the mechanisms and structures through which the strategic autonomy dimensions are taken into account in industrial policy-making more broadly.

7. **Are there specific national funding and incentive schemes in place to support national strategic autonomy, and how do they relate to EU law and EU funding and support schemes?**

   This question looks at whether dedicated funding lines, subsidies, tax incentives, or grants are legally embedded to support industries relevant to strategic autonomy and the funding of such schemes.

8. **Are there any rules and practices on foreign investment controls in your jurisdiction designed to protect strategic interests? If so, how do they relate to their EU counterparts? (e.g. the *Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019* establishing a framework for the screening of foreign direct investments as amended)**

   This question aims to detect national laws restricting or screening foreign investments in strategic sectors to safeguard autonomy and security interests and their functioning (see a list of existing national provisions on direct investment at https://policy.trade.ec.europa.eu/enforcement-and-protection/investment-screening_en). Are there other provisions serving these purposes? How will the reform of the 2019 FDI directive affect the national policies? (please note that at the moment of writing of this question, the reform was in discussion and only draft texts and consultations were available).

9. **How do courts in your jurisdiction balance EU Law and notions of national sovereignty?**

   This question explores how courts interpret the interplay between EU supremacy and national prerogatives in strategic industrial matters.

Part 2: Outlook and Recommendations

10. **What other main questions concerning EU Strategic Autonomy in terms of the EU's industrial policy should be taken into account that are not so far considered?**

    This question gathers expert suggestions for legal or policy improvements to strengthen the European strategic base in line with autonomy objectives. One possible line of discussion could be a reform of the EU State Aid regime and the question.

11. **What suggestions for reform of national and European policies do you have to improve the pursuit of public policy objectives in this field?**

    Should the EU be given new competences to better pursue Strategic Autonomy? Are there existing competences that should be exercised more intensively from this perspective?