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Is the Power On or Off? Normative Power Europe in the European Union's Digital Policy Towards the Eastern Partnership

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**IS THE POWER ON OR OFF? NORMATIVE POWER
EUROPE IN THE EUROPEAN UNION'S DIGITAL POLICY
TOWARDS THE EASTERN PARTNERSHIP**

MA Thesis

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TABLE OF CONTENTS

Chapter 1	Introduction.....	3
Chapter 2	Literature review	5
	Digital policy	7
Chapter 3	Methodology	10
	Normative digital themes	13
Chapter 4	Analysis.....	17
	Part 1 Digital norms internally	17
	Part 2 Digital norms externally	20
	Inclusivity and reflexivity	23
	Diffusion mechanisms	24
	Part 3 Outcomes	25
	Summits	26
	GDPR vs BDPL	27
Chapter 5	Conclusion	31
References	34

CHAPTER 1 INTRODUCTION

European Union (EU) citizens are growing increasingly concerned with the role digitalisation will play in our society. At the same time, most of them are unaware of the importance of their rights being respected online, with 82% finding that the European Commission (EC) should define common European digital rights (EC, 2021g). Accordingly, Ursula von der Leyen, the current President of the EC, believes that the 2020s will be the decade ‘when Europe becomes a global leader in the digital world’ by aiming to ‘promote its human-centred digital agenda on the global stage and promote alignment or convergence with EU norms and standards’ (EC, 2021d, 2021h). Therefore, it is apparent that rights, norms, and values are becoming an increasingly salient topic in the context of the digital age. Thus, the EU has an opportunity, a necessity, and a wish to shape the online world according to its own norms, values, and rights. In other words, there is an opportunity for it to exercise Normative Power Europe (NPE).

NPE is a theory that conceptualises the EU as having the power to shape international norms according to its own internal norms and values via diffusion (Manners, 2002). Applied to the digital policy, and the topic of this thesis, this would entail the EU having the power to form its neighbours’ digital policies to be in line with its own digital norms, values, and rights. Therefore, this thesis aims to determine to what extent NPE is at work in the EU’s digital policy towards the Eastern Partnership (EaP) countries, and more specifically the Belarusian Data Protection Law (BDPL). Subsequently, the research question and sub-questions posed in this thesis are:

- To what extent does NPE explain the EU digital policy in the EaP?
 - To what extent does the EU include norms and values in the internal and external aspect of its digital policy?
 - To what extent is the EU successful at exercising NPE in the BDPL?

Answering these research questions is academically relevant. This is because even though NPE is an avidly researched theoretical approach, it is rarely applied to the digital policy and digital norms. In addition, it is debated whether the EU is successful in using said power and shaping the international norms. Therefore, this thesis will contribute to the gap on digital policy and digital norms research and add to the wider academic debate. Moreover, looking at the BDPL, will shed light on the effectiveness of NPE in relation to a country that is arguably the least engaged in the EaP. Even though it is not possible to draw overarching generalisations based on Belarus, this paper will nevertheless contribute by bringing an example, suggesting

possible conclusions, and provide an interpretation that can guide further research. Furthermore, what makes this topic relevant is the impendent rivalry of Western and non-Western models in the digital space. Thus, in order to assess and provide insights into enabling the EU's normative power in the digital era and its role on the international stage, the effectiveness of NPE and this topic must be researched.

To answer these questions, the thesis will employ thematic content analysis methods together with Manners' (2008) original tripartite method of judging NPE. Following this introductory Chapter, Chapter 2 will present the literature review, identifying the main debates, conclusions and the gap on the topic. Chapter 3 is concerned with explaining the methodology of the thesis. In addition, the normative digital themes that will guide the analysis will be established here, based on the EU digital policy internally. Chapter 4 is the analytical chapter, which is further divided into 3 parts in accordance with the tripartite method (Manners, 2008). Part 1 is concerned with the EU's digital norms internally by applying the normative digital themes to the EU itself. Part 2 looks at the EU's digital norms externally, by first analysing the EU's internal digital policies' external outlook and second the digital policy towards the EaP. Part 3 is focused on the outcomes by looking at the relevant summit conclusions. In addition, the BDPL is zoomed into with a view to its normative language and convergence with the EU General Data Protection Regulation (GDPR). Overall, this analysis is concerned with looking at the normative rhetoric contained in the official policy documents, policy websites, summit conclusions, and data protection legislation.

The main finding of this thesis is that NPE is not able to explain the EU's digital policy in the EaP to the full extent. To specify, it is clear that the EU includes normative digital rhetoric in both its internal and external digital policy, aims to diffuse the digital norms, and includes them in EaP policy documents. It is not successful, however, in living up to these norms itself to the full extent and cultivating the inclusion of digital norms in the BDPL.

CHAPTER 2 LITERATURE REVIEW

To start, the EU is evidently an actor on the international stage which tries to shape the nature of the world through its policies. According to article 21 of the Treaty on European Union ‘[t]he Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world’ (2008). Therefore, various theories of the EU’s power on the world stage have been conceived, such as market power Europe, civilian power Europe, and NPE (Damro, 2012; Duchêne, 1972; Manners, 2002). As this thesis will be focusing on norms and values in the EU digital policy, civilian and NPE theories are most appropriate.

More specifically, the theory of NPE will be focused on. This is because, NPE builds on the civilian power approach, focuses on norms, is based on what the EU is, and is ultimately rooted in its identity (Manners, 2002). The theoretical concept is described as the EU having the power to shape international norms according to its own values such as peace, liberty, democracy, rule of law, human rights, social solidarity, anti-discrimination, sustainable development, and good governance (Manners, 2002). Here, power is defined as the ability to have ‘ideational impact’, have ‘power over opinion’ and ideas, in other words, to have the ability to shape the international ‘normal’ (Forsberg, 2011; Manners, 2002). This diffusion takes place through mechanisms such as contagion, informational diffusion, procedural diffusion, transference, overt diffusion, and cultural filter (Forsberg, 2011; Manners, 2002). The diffusion mechanisms most relevant for this thesis are elaborated on in Chapter 3. Following these definitions, NPE is the appropriate theory for the research at hand, since the thesis will be concerned with the EU digital policy norms and values.

It follows that, NPE has garnered academic critique, most often for its lack of analytical tools. Sjursen (2006), for example, critiques NPE’s empirical concepts’ lack of precision which ‘do not provide any criteria or assessment standards’ (p. 236). Merlingnen (2007), similarly, adds that NPE research ‘would benefit from being scaled down to micropolitical sites’ (p. 439). However, these critics do not fully disregard the theory but rather call for more rigorous research. These concerns have, in response, been addressed by for example, Bicchi (2006) and Forsberg (2011) who refine the theory further. Birchfield (2013, p. 911) has usefully justified the usage of the NPE theory arguing that a specific policy must be focused on and that NPE ‘is a theoretical grounding that guides analytical work attempting to make sense of and explain the role of the EU as a global actor’ (p. 911). In light of this, the critique of the theory will help

to refine the research at hand by including the authors' suggestions such as reflexivity and inclusivity (Bicchi, 2006), the diffusion mechanisms (Forsberg, 2011), and zooming in on a particular policy (Birchfield, 2011; Merlingen, 2007). Despite the critique, NPE is nevertheless a useful theoretical approach to understand the EU's power on the world stage and for the topic at hand.

Since NPE is also concerned with the EU's external aspects, the literature mostly surrounds the EU's external relations. Consequently, there are studies that look at NPE in the EU external partnerships (Bicchi, 2006; de Wekker & Niemann, 2009; Pace, 2007; Panebianco, 2006). To exemplify, Panebianco (2006) finds that the EU is unsuccessful at exporting norms in the Mediterranean due to the voluntary basis, scarcity of funds, and 'institutional schizophrenia' (p. 143). Similarly, de Wekker and Niemann (2009) found norm change in Moldova to be moderate and labelled the EU as a 'strategic normative hegemon' (p. 36). In addition, when it comes to NPE in the EU's European Neighbourhood Policy (ENP) it is argued that the promise of membership is the most effective carrot on a stick through which 'the EU can exert the strongest normative influence on its partners' (Haukkala, 2008a, p. 1604). Hence, the EU's normative aims are dampened in the cases where this promise of enlargement and its legitimising effect are absent (Eriş, 2012; Haukkala, 2008a). Thus, from the review of the literature, it is evident that the EU's success in employing its normative power is often unsuccessful. These findings present possible outcomes and interpretations for the analysis at hand.

In addition, literature on the EaP is most relevant for this thesis. Here, as with NPE in the ENP, the EU's normative power is questioned and not overly successful (Silander & Nilsson, 2013). This is mainly due to the influential rivalry with Russia (Haukkala, 2008b), which Pänke (2015) calls a 'clash of empires'. The way Russia is found to undermine NPE is by threatening the EU's legitimacy and by promoting its own alternative model and sphere of influence (Haukkala, 2008b; Pänke, 2015). The argument of Russia offering an alternative model is most relevant for this research, as with NPE the EU is aiming to spread its norms against this alternative. In addition to the Russian obstacle, Valiyeva (2016) states that the EU needs a better balance between its geopolitical and values based interests in the EaP as both aims have been unsuccessful. Furthermore, Korosteleva (2017) critiques the EaP for not fostering the 'shared normal' instead of 'the EU's unilateral norm transmission' (p. 332) signalling lack of inclusivity. On the other hand, Batura and Evas (2016) write that for the EaP countries the 'carrot' on the stick is access to the internal market, which covers information and communications technologies, signifying that there is a possibility for effective normative

power projection in the digital aspect of the EaP due to this incentive. Therefore, this body of literature again reinforces the argument of questioning the EU's ability to act as a normative power in its neighbourhood as was discussed earlier. However, some hints towards the opposite are also present.

Zooming in even more, Belarus is the EaP country under closer scrutiny in this thesis. It is said that the effectiveness of the EaP and Europeanisation is particularly strained in Belarus which is labelled as an 'outsider of the EaP' (Karliuk, 2014; Kascian, 2018, p. 88). This is mainly caused by its incompatible wish for a relationship with both the EU and Russia, no EU membership promise or wish for it in the country, and no valid incentives (Karliuk, 2014; Kascian, 2018; Rotman & Veremeeva, 2011), while Bosse (2009) brings in the dilemma between the promotion of values and securing security interests. In addition, Dimitrova, Boroda, Chulitskaya, Berbeca and Parvan (2016) argued that even though the EU presents itself as a normative power in relation to Belarus, effective reception of the norms is unlikely. It is clear that these conclusions are in line with the obstacles and findings of the ineffectiveness of NPE in general found in the literature above, which makes this a persuasive argument for this thesis.

Lastly, Bosse (2012), Kascian (2018), and Korosteleva (2016) claim that in relation to Belarus, the EU has moved away from democratisation to functional, technocratic cooperation in less political and more sector based technical areas. This would suggest that cooperation in the less normative area of digital policy could potentially be successful. Nevertheless, concerning the topic at hand, in 2013 it was found that Belarus' development in the realm of data protection was lacking (Tallo et al., 2013). Overall, Karliuk (2014) stated that the effect of the EU's 'soft power on Belarus in general and on the Belarusian legal system in particular is barely visible', though 'indirect legislative approximation' due to Eurasian integration may occur (p. 245). Thus, it is evident that there are obstacles to the effectiveness of NPE in Belarus, as it is more often than not found to be ineffective.

Digital policy

Turning particularly to the literature on the EU digital policy, it is apparent that the research is not concerned with the external or normative aspects of the policy, as most scholarship surrounds the EU digital policy internally (Giannone & Santaniello, 2019; Mărcuț, 2019; 2020; 2020). Conversely, for the purposes of this thesis, literature on the external aspect of the EU digital policy is most relevant. Here, Mărcuț (2020) looks at EU actorness and its digital

leadership on the world stage, where the EU is acknowledged as ‘...an actor in regulatory matters, so much so that the rules have been exported to other jurisdictions...’ (2020, p. 83). The article also concluded ‘that targeted analyses on the EU actorness in digital issues have not been identified’ meaning that more research on this feature of the EU digital policy is needed (p. 83). Therefore, it is clear that the body of literature on the external aspect of the EU digital policy is not as vast, signifying the need for more research and the gap that is aimed to be filled by this contribution.

Nevertheless, some scholarship regarding the EU’s external normative power in its digital policy is present. More broadly, the literature often surrounds the concept of ‘cyber-power’, which is concerned with cybersecurity rather than the normative power of the ability to shape the ‘normal’ (Dunn Caverty, 2018; Sliwinski, 2014). In addition, there is some research on the digital aspect of the EaP. For instance, Misnikov (2016) writes that the democratising potential of ‘e-Democracy is not adequately exploited’ within the EaP (p. 78), while Nyman-Metcalf and Repytskyi (2016) similarly found that the EaP has been more successful at developing technical rather than normative matters (p. 97). Thus, it is evident that, while there has been some technical success in the EaP digital dimension, the same cannot be said about the normative side of the policy. This is relevant to the research question at hand, as the digital policy under investigation is both technical and normative, which may imply similar contestation of the success of the NPE side.

As the second analytical chapter of the paper is concerned with the GDPR, literature on this regulation is also relevant. It is argued that ‘the GDPR is rapidly evolving into the transnational gold standard of data protection’ (Rustad & Koenig, 2019, p. 453). In particular, research has been done into the GDPR triggering changes in many third country laws because in order to process European data, the country must comply with these standards, while the global nature of technology is also a contributing factor (Bradford, 2020; Fazlioglu, 2021; Makulilo, 2021). Wang (2020), on the other hand, exemplified the limit of the GDPR’s ‘Brussel’s effect’ due to domestic values and identity, through the EU-Japan GDPR Adequacy Agreement. Therefore, it is evident that the GDPR has a significant transnational effect on data privacy laws throughout the world. This paper will explore this effect on the Belarusian data protection law. This case is intriguing since the relationship between the EU and Belarus has been strained, culminating in the Belarusian suspension of their participation in the EaP (European Council, n.d.). Thus, the merit of this case choice is the ability to look into whether what is otherwise seen as effective also applies to a country that has a strained relationship with the EU. Additionally, data protection is the appropriate policy to do so since it is a fundamental

human right, thus falling under the NPE theory. Consequently, this thesis will also compare the two with a view to their normative language.

From this literature review, the following conclusions can be made. Firstly, scholarship on NPE in the areas of ENP, EaP, and the digital policy, most often finds the EU's normative power to be unsuccessful. Moreover, similar conclusions are made about the EU's normative influence in Belarus. In addition, possible reasons identified for this are a lack of incentives such as a promise of membership, geopolitical priorities, the presence of the alternative Russian model, and lack of inclusivity. Taking this into consideration this thesis situates itself in line with this side of the debate and asks whether this finding of normative power ineffectiveness also manifests itself in the digital policy and the BDPL. Nevertheless, there are some favourable results found in less political and more technical areas, such as the effect of the GDPR. Thus, this thesis will look into to what extent NPE is able to explain the EU digital policy against this debate. All in all, these wider conclusions and contrasting debates will guide the research at hand, and allow to reflect on them in the end.

Secondly, it is noticeable that research looking at normative power projection through the EU digital policy is scarce, especially so in relation to Belarus. Therefore, there is a possibility for this research paper to contribute to this field. More specifically, the theory of NPE will further be tested and the argument of normative power being unsuccessful will be assessed. Subsequently, this will contribute to filling the gap of research on the external dimension of the digital policy and digital norms, while also tying it together with the NPE theory. Guided by this literature review, the next chapter sets out the methodology of this thesis.

CHAPTER 3 METHODOLOGY

Taking into account the findings of the literature review, this chapter describes the methodology of this thesis. It begins by laying out the approach taken and introducing Manners' tripartite method. Next, the primary sources that will be under investigation are presented. In addition, the normative digital themes necessary for the analysis will be established based on the EU digital policy. This will be deductively guided by the theoretical framework of NPE, while the specific themes will be gathered from the policy documents. More specifically, this means that themes that fit the theory will be identified (Hawkins, 2018). Lastly, the chapter ends with a table (Table 1) which summarises the methodology.

To begin with, the thesis is guided by Manners' (2008) original tripartite method of judging normative power. This approach argues that we must analyse the EU's 'principles, actions and impact' in order to judge its normative efforts (Manners, 2008). This means that this thesis revolves around the EU rhetoric and action. Alongside this, a qualitative thematic content analysis will be conducted when examining the primary documents. To explain, this means that, first, normative digital themes will be established based on the EU digital policy. Second, they will be applied to the EU itself to determine whether it lives up to these norms. Third, they will be looked for in the external aspect of the EU digital policy, the EaP documents, and the BDPL. When looking for the themes, the convergence between internal and external rhetoric will be based on similar wording and policy goals in the documents. Following the tripartite method, the analysis will be divided into three parts: digital norms internally, digital norms externally, and outcomes.

In addition, the analysis takes a constructivist approach, in that norms 'are constitutive for actors identities' (Sending, 2002). More specifically, the approach taken here sees action, rhetoric, policy, and policy documents as significant because they convey 'norms and identities that shape foreign policy directly through the logic of appropriateness', thus identities dictate action (Diez, 2014, p. 30; March & Olsen, 2009). The logic of appropriateness means that with their action, in this case policies and the corresponding policy texts, '[a]ctors seek to fulfil the obligations encapsulated in a role, an identity, ...and the ethos, practices, and expectations of its institutions' (March & Olsen, 2009, p. 689). In this view, actors advocate for their norms and 'push a particular discourse' (Diez, 2014, p. 30). In addition, analysis of texts is appropriate as this 'rests upon the assumption that policies and forms of behaviour are enabled and constrained via their constitution in discourse' meaning that it is not simply empty rhetoric

(Rosamond, 2014, p. 211). Thus, the texts analysed in this thesis should reflect the EU's identity and norms and, therefore, the basis for its normative power. Next, each part of the tripartite method is described in more detail.

Firstly, the tripartite method finds it necessary to examine 'the constitutive principles of the EU and how these become promoted as aims and objectives of the EU in world politics' (Manners, 2008, p. 55). In other words, the norms it seeks to promote must be identified, which is done in the 'normative digital themes' section of this chapter. In addition, the method stresses the importance of the EU 'living by example' and consistently complying with the norms that it promotes externally (Manners, 2008). Therefore, Part 1 of Chapter 4 will also examine whether the EU lives up to the digital norms itself internally.

Secondly, what must be looked at is 'how the EU promotes its constitutive principles as actions and policies in world politics' (Manners, 2008, pp. 57–58). To investigate this, in Part 2 the EaP policy documents are looked at to see whether the digital normative themes identified internally are also promoted externally based on the rhetoric of the policy documents. This external analysis being based on the internal themes, is justified by the NPE concept of external action being based on 'what it [the EU] is' (Manners, 2002). In addition, following Bicchi (2006), Manners (2008, 2010), and Manners and Diez (2007) attention will be paid to the inclusivity and reflexivity of the digital norms which means looking for the inclusion of dialogues, differentiation, and revisions in relation to the normative aspect of the policy. As a result, it will be possible to conclude whether NPE explains the rhetoric of the EU external digital policy and whether NPE is projected through the EU external digital policy. Furthermore, in this section the policy initiatives will be looked into, determining which NPE diffusion mechanism is at work (Forsberg, 2011; Manners, 2002). The diffusion mechanisms under consideration and their definitions are as follows.

1. Contagion – 'diffusion of norms results from the unintentional diffusion of ideas from the EU to other political actors', 'leading by virtuous example' resulting in emulation and imitation by others (Forsberg, 2011; Manners, 2002, p. 244).
2. Informational diffusion – persuasion that results from 'strategic communications, such as new policy initiatives by the EU, and declaratory communications, such as initiatives from the presidency of the EU or the president of the Commission' (Forsberg, 2011; Manners, 2002, p. 244).
3. Procedural diffusion – occurs under the 'institutionalisation of a relationship' and includes the possibility of invoking norms as they are institutionalised in normative clauses (Forsberg, 2011; Manners, 2002, p. 244).

4. Transference – ‘diffusion takes place when the EU exchanges goods, trade, aid or technical assistance with third parties through largely substantive or financial means’ (Manners, 2002, p. 245).

Additionally, two diffusion mechanisms are outside of the scope of this thesis, namely, overt diffusion and cultural filter (Manners, 2002). This is because overt diffusion would require investigating what goes on in the EU delegations and its presence on the ground, while the cultural filter mechanism would require analysis of identity, culture, and political learning in the subject countries of norm-diffusion. Thus, this thesis limits itself to the 4 mechanisms introduced above.

Thirdly, the tripartite method states that ‘the impact and outcomes of EU actions taken to promote its constitutive principle’ should be investigated (Manners, 2008, p. 58). Here, outcomes will be focused one more closely. This is because looking at impact would require analysing how the policies change the partners’ underlying views and identities (Manners, 2008). Such a wide analysis is not possible within the scope of this research, which is why the effects within the outcomes will be the target of analysis. Subsequently, Part 3 will focus on the EaP meetings and on the EU and Belarus data protection laws. This means that the normative digital theme of embedding the fundamental right to data protection in the digital policy will be focused on. Thus, the EU GDPR and the BDPL will be compared with a view to their normative language. This focus is justified by the fact that the fundamental right to data protection is the most prominent theme in the EU digital policy, as will be demonstrated below. In addition, Belarus was a target of the joint EU and Council of Europe (CoE) initiative of supporting its data protection law development. This will allow to analyse the success of the EU's aims and determine the existence of normative power in this case. Altogether, this three step analysis according to Manners’ (2008) tripartite method will help to answer to what extent the NPE theory can explain the EU’s external digital policy in the EaP.

The time frame chosen for this analysis is October 2014 (publication of Commission President Juncker’s political guidelines) until June 2021 (Belarusian suspension of their participation in the EaP). This choice is made based on the finding that during this period numerous digital initiatives of the EaP were set up. Regarding the choice of primary documents, since the goal is to analyse official EU rhetoric, in identifying the normative digital themes, in Part 1 and Part 2 official policy documents and websites of the EU will be analysed. Those will for example be two Commission Presidents’ political guidelines for their time at the helm of the Commission (Juncker, 2014; von der Leyen, 2019). These documents are appropriate for the analysis since they set out the priorities of the Commission and display the

internal themes for the research at hand. In addition, with a view to internal goals and themes, official EU websites for the Digital Strategy and various digital benchmarks such as the Digital Economy and Society Index (DESI) will be analysed (e.g. EC, n.d.-b, 2021b). In Part 2 of the analysis EaP policy documents and external digital policy initiatives such as the EU4Digital Initiative (EU, n.d.), and EaP policy goals and reviews (Council of the European Union, 2017; EC, 2015c, e.g. 2020b, 2021e) will be analysed. In addition, the internal digital policy documents will again be analysed with a view to external policies and the themes. Lastly, the third part will be concerned with the official data protection law documents – the GDPR and the BDPL (EC, 2016; Pravo, 2021) and the EaP meetings (Council of the European Union, 2015, 2017, 2021; EC, 2015b, 2017b, 2019a, 2019c; CoE & EU, 2017, 2018).

Normative digital themes

Following the thematic content analysis method, it is necessary to establish the themes that will be employed in the research. The themes are identified through analysing 2014-2019 and 2019-2023 Commission Presidents' political guidelines and the EU internal digital policy documents relevant for both periods. Said sources are deductively read according to NPE. Formulating the themes will enable to define what constitutes NPE in the digital policy and provide a uniform framework for effectively comparing the digital policy aspects in all 3 parts of Chapter 4.

Firstly, Commission President Jean-Claude Juncker's political guidelines overall focused heavily on further developing the 'Connected Digital Single Market' (Juncker, 2014, p. 6). More specifically, in the fundamental rights section, the fundamental right to data protection and its importance in external relations is emphasised (Juncker, 2014). When it comes to the EU digital policy during the Juncker Commission, the Digital Single Market (DSM) and GDPR policies were the most prominent (Juncker, 2014). From the documents pertaining to these initiatives, it is apparent that the normative language had also mostly to do with the fundamental right personal data protection. For instance, the Commission's 'Digital Single Market Strategy for Europe' (2015a) communication stated that '[a]s regards personal data and privacy, the EU is committed to the highest standards of protection guaranteed by Articles 7 and 8 of the Charter of Fundamental Rights' and that the digital single market must safeguard these fundamental rights (p. 9, 13). Conclusively, the DSM was aimed to be 'anchored in our core values and fundamental rights and freedoms', while the GDPR was seen as 'an essential tool to safeguard individuals' fundamental right to the protection of personal data in the digital age' (EC, 2017a, pp. 6, 22). Thus, it can be concluded that this period

contained a significant amount of normative digital rhetoric, of which the most prominent was surrounding the fundamental right to data protection.

Secondly, moving onto the current Commission, Commission President Ursula von der Leyen's guidelines declare that 'Europe must lead the transition to a...new digital world' and stressed the need to evolve human and ethical artificial intelligence (AI), privacy, and data protection standards (von der Leyen, 2019, pp. 4, 13). The document also reads that the digital age transformation will be successful if it builds 'on our strengths and our values' and that '[w]e will jointly define standards for this new generation of technologies that will become the global norm' (von der Leyen, 2019, pp. 13–14). Moreover, the current EU digital policy documents also demonstrate normative language. To exemplify, the Digital Compass Communication and the proposal for the 'Path to the Digital Decade' programme, similarly state that '[d]igitalisation can become a decisive enabler of rights and freedoms', fully 'respect EU fundamental rights', and help with the achievement of sustainability goals, while striving for gender equality in the digital sector (EC, 2021a, pp. 1, 2, 13, 2021f, p. 23).

In addition, the 'European Declaration on Digital rights and principles for the Digital Decade' sets out how 'values and fundamental rights should be applied in the online world' fostering a 'values-based digital transformation' (EC, 2022b, p. 1, 2022a, p. 4). It follows a similar line with the addition of other values such as sustainability, and once again the fundamental right to data protection (EC, 2022b). Overall, the digital policy is based on the 'European way' which means that a 'human-centred, secure and open digital environment should comply with the law, but also further enable people to enforce their rights, such as the rights to privacy and data protection, freedom of expression' (EC, 2021a, p. 12).

Therefore, the above demonstrates that the EU's internal digital policy includes a significant amount of normative rhetoric. Tying this to NPE, would entail the EU having the power to shape international digital norms according to precisely these values and norms in the digital sector. Thus, a deductively guided reading, according to NPE, of the documents above allows to establish the normative themes present in the EU's digital policy, which will guide the analysis in the following sections of this thesis. Accordingly, the normative digital themes, and their specifications, according to the digital policy documents presented above (EC, n.d.-b, 2021d, 2021a, 2022b; Juncker, 2014; von der Leyen, 2019), are:

1. Taking a human centred approach to digitalisation.

More specifically, this theme means putting people in the centre of digitalisation, making sure it is beneficial to mankind, developing citizens' digital skills, and training more ICT specialists.

2. Embedding fundamental European values and rights in the digital policy and digitalisation.

This entails building digitalisation and the digital policy in accordance with fundamental rights and values and including them in the policies. Throughout the EU internal digital policy documents a common line of emphasis on the fundamental right to data protection is present. Thus, this theme can be specified further with a subtheme of:

- a. Embedding the fundamental right to data protection in the digital policy.

3. Enabling fundamental European rights and freedoms through digitalisation.

This differs from theme number 2 in that, here, digitalisation should further foster the presence and respect of said rights and freedoms. In addition, it is possible to specify this theme further with sub themes. This is because NPE also specifies the specific EU values according to which it can have the power to shape the normal, as do the digital policy documents presented above. Therefore, the subthemes here are:

- a. Digitalisation as supporting sustainability.

This means aiming for digitalisation to aid in the green transition, following the EU Green Deal targets, climate-neutrality, UN Sustainable Development Goals, the Paris Agreement, and building sustainable digital infrastructure.

- b. Digitalisation as supporting democracy.

This would entail enabling participation, inclusive policy-making, free online democratic debate, tackling illegal online content and disinformation, ensuring respect of freedom of speech, media pluralism, and developing digitalisation of public services such as e-voting.

- c. Fostering gender balance in the digital sector.

Thus, these are the themes that will be employed in Chapter 4. Having established the theoretical and methodological framework, following Table 1 the thesis will turn to the analysis.

Manners' (2008) tripartite method	Analysis structure	Analysis actions	Primary sources
Principles	Part 1: Digital norms internally	Applying normative themes established in Chapter 3 to the EU	EU internal digital policy documents and websites Various digital benchmarks
Actions	Part 2: Digital norms externally	Searching for the normative digital themes Evaluating inclusivity and reflexivity Identifying diffusion mechanisms	EU internal and external digital policy documents and websites EaP policy documents
Outcome	Part 3: Outcomes	Searching for the normative digital themes Comparing the two laws	EaP meeting documents GDPR and BDPL

Table 1: Summary of the methodology

CHAPTER 4 ANALYSIS

As introduced in the methodology, this analysis chapter will be applying Manners' tripartite method of judging normative power (Manners, 2008). Therefore, the chapter at hand is divided into 3 sections: Part 1 digital norms internally, Part 2 digital norms externally, and Part 3 outcomes. Part 1 once again presents the normative digital themes established in Chapter 3 and applies them to the EU itself. In Part 2, the normative digital themes will be looked for in the external aspect of the EU digital policy and the EaP. Part 3 will be concerned with the outcomes by looking at the EaP summits and meetings as well as comparing the GDPR with the BDPL. Conclusively, the three parts of the chapter will allow to answer the research question of 'to what extent does NPE explain the EU digital policy in the EaP?'

Part 1 Digital norms internally

The first step of the tripartite method is concerned with the principles and norms the EU seeks to promote on the world stage (Manners, 2008). These were established, and elaborated on, as the normative digital themes in Chapter 3, where it became apparent that the EU emphasises its norms and values as an integral part of its digital policy. More specifically, the norms, or normative digital themes, the EU aims to follow and also promote externally in the digital policy are:

1. Taking a human centred approach to digitalisation.
2. Embedding fundamental European values and rights in the digital policy and digitalisation.
 - a. Embedding the fundamental right to data protection in the digital policy.
3. Enabling fundamental European rights and freedoms through digitalisation.
 - a. Digitalisation as supporting sustainability.
 - b. Digitalisation as supporting democracy.
 - c. Fostering gender balance in the digital sector.

However, NPE is also based on the premise of the EU living up to these norms and principles itself, thus, 'living by example' (Manners, 2008, p. 46), which is why this chapter now turns to applying the themes identified to the EU itself to determine whether it follows said declarations. This will be done by consulting indexes and benchmarks such as the DESI (EC, 2021b) which assesses EU progress towards the Digital Compass targets. In addition, the Women in Digital Scoreboard (WiD) (EC, 2021i), the eGovernment benchmark (EC, 2021c), the Fundamental

Rights reports (European Union Agency for Fundamental Rights, 2020, 2021), review of the GDPR (EC, 2020a), as well as the media pluralism monitor (Bleyer-Simon et al., 2021) will be applied.

Firstly, is the overarching normative theme of the EU aiming for a human centred approach to digitalisation which more specifically means developing digital skills in citizens, for example. The DESI found that the EU is lagging behind on the development of the digital skills of the citizens as ‘[a] large part of the EU population...still lacks basic digital skills’ and that there is a need for more ICT specialists (EC, 2021b, p. 15). A positive finding of the DESI was that the availability of digital public services has been growing steadily (EC, 2021b). Thus, even though acceleration of action is needed as regards meeting the human centered results, positive trends can also be seen.

Secondly, it is claimed that fundamental European values and rights will be embedded in the digital policy and digitalisation, which is a goal that the EU is clearly successful in achieving. This is because, as evident during the formulation of these normative themes in the methodology chapter, EU digital policies make sure to include the importance of European rights and freedoms. Moreover, the 2 year review of the GDPR by the Commission found that ‘the GDPR has successfully, met its objectives of strengthening the protection of the individual’s right to personal data protection’ and that it has enabled the EU to ‘act as a global standard-setter’ in this field (EC, 2020a, pp. 3–4). Nevertheless, some fragmentation was present among the member states (EC, 2020a). In addition, an example of a positive development of the inclusion of fundamental rights in EU digital policies is its AI policy. While in its 2020 fundamental rights report the Fundamental Rights Agency found that the effect AI can have on fundamental rights ‘gets limited attention’, in the 2021 report it was stated that the EU increasingly embeds fundamental rights in its AI policy initiatives (European Union Agency for Fundamental Rights, 2020, 2021).

Thirdly, digitalisation is also seen as a tool to further enable European fundamental rights and freedoms. To reflect on the norm of media freedom and freedom of expression, which contribute to democracy, the Media Pluralism Monitor of 2021 is the most appropriate source, as it specifically looks these issues in the digital era (Bleyer-Simon et al., 2021). The report found that in the EU the protection of fundamental rights in the digital sector (such as freedom of expression, journalists’ digital safety and data protection, internet access, among others) was at higher risk than the level of protection offline (Bleyer-Simon et al., 2021). In addition, the DESI states that there is a ‘severe gender balance issue’ in the ICT sector and that these numbers have not improved over the last few years (EC, 2021b, p. 16, 2021i). On the

other hand, positive developments were seen in the provision of digital public services as the number of eGovernment users has been growing and 75% of digital public services for citizens and 84% for businesses are being offered online (EC, 2021b, p. 66). However, it was found that transparency could be increased in such services (EC, 2021c). Thus, concerning this normative theme, progress has been mixed in the different aspects.

In conclusion, it can be said that there is mixed evidence on the EU living up to the goals related to the digital normative themes that it has set out itself. Namely, developing citizens' digital skills, living up to freedom of expression, the safety of journalists', and gender equality in the sector, require further development. However, the EU is successful in meeting the normative digital theme of the fundamental right to data protection and embedding European fundamental values and rights in its digital policy and digitalisation. Additionally, its actions aim at further meeting the remaining normative themes. Therefore, the EU is performing well in living up to some of its normative themes while improvement and accelerated action is needed in others, nevertheless, it is taking action and formulating policies that are aimed at reaching said goals.

According to the Manners' tripartite method (Manners, 2008), this first part of the analysis requires examining the normative principles the EU promotes and whether it is 'living by example' 'ensuring that the EU is both normatively coherent and consistent in its policies' (Manners, 2008, pp. 46, 56). This is what was looked at in this part of the analysis, allowing to conclude that these conditions are partly met in the realm on digital norms. This is because, normative digital themes were consistently identified in internal EU digital policy documents. However, even though the action is consistent with the principles and norms, evidence on the EU successfully meeting the targets it sets out is mixed. There is a gap between the action, which is consistent with the rhetoric and digital norms, and the results this action delivers.

Therefore, concerning the 'power' aspect of NPE, based on the theory there is grounds to question the potential of the EU exercising its power of shaping the normal in the digital realm due to it itself not complying with the normative results and norms consistently. Nevertheless, the EU has clearly defined the digital norms it seeks to promote and aims to ensure them with the help of digitalisation. Thus, this aspect for analysing NPE is partially met which is why there is still merit in analysing whether these norms and normative themes are present in the external digital policy rhetoric to determine whether we may observe the EU exercising its normative power in the international digital space. This is precisely what the next section of the analysis will do.

Part 2 Digital norms externally

Next, this analysis will now turn to the external aspect of the EU digital policy. First, the internal digital policy documents will be investigated with a view to their external outlook and action. Second, EaP policy documents, reviews, and digital initiatives will be closely examined. In the course of this, the normative digital themes identified above will be looked for in order to determine whether there is convergence between the internal and external normative aims of the EU digital policy. Moreover, at this stage, the policy will be looked at with a view to its inclusivity and reflexivity. Lastly, the diffusion mechanisms will be determined by comparing the action to the definitions of the diffusion mechanisms as presented in Chapter 3 of this thesis.

To start, the documents which established the normative digital themes in Chapter 3, also include external aspects. To begin with, the mid-term review of the Digital Single Market stated that in the context of ‘the global digital economy and society’ ‘[t]he Commission will continue to seek access to markets in third countries, while looking at means to protect the EU’s strategic interests and fundamental values’ (EC, 2017a, pp. 22–23). Next, the Digital Compass states that ‘digital policy is never value-neutral, with competing models on offer the EU now has an opportunity to promote its positive and human-centric vision of the digital economy and society’ (EC, 2021a, p. 18). Additionally, the Digital Compass and the European Declaration on Digital Rights declare the EU’s wish to have a global leader role in ‘upholding fundamental rights online’ and that its ‘international digital partnerships will promote alignment or convergence with EU regulatory norms and standards on issues such as data protection, privacy and data flows’ (EC, 2021a, pp. 18–19, 2022a). Through this it is evident that the EU wishes to build alliances for a value based digital world including with its Eastern partners (EC, 2019b).

Therefore, the constant repetition of these declarations clearly demonstrates that the EU wishes to promote the digital norms identified internally, in the external aspect of its digital policy as well. In addition, following the wording these goals are in line with all of the digital normative themes, which makes the rhetoric on external normative action coherent with the rhetoric on internal action. This presence also means that the EU aims to exercise the power of shaping the international normal according to its own norms. This gives grounds to exploring the question of whether the normative digital themes identified in Chapter 3 are present in the specific EaP policy documents as well, to which this section of the thesis will now turn.

To start, the original EaP Communication did not include any normative digital themes and was, overall, lacking a digital aspect (Commission of the European Communities, 2008).

Notably, it did aim to assist the EaP states ‘in setting up an effective data protection regime’ but this was done in a security context for the purpose of sharing information with Europol and Eurojust rather than a normative, data protection as a fundamental right, context (Commission of the European Communities, 2008, p. 7). Similarly, the 2015 ENP review, which is relevant as the EaP is under the ENP, and the 2017 EaP ‘20 deliverables for 2020’ initiative also did not include any normative digital themes or normative rhetoric in relation to their digital aspects (Council of the European Union, 2017; EC, 2015c). What is instead prioritised in these documents is addressing the issue of refugees, energy crises, conflict prevention, ‘counter-terrorism and anti-radicalisation policies’, as well as, strengthening institutions, economic development, sustainability, and people-to-people contacts (Council of the European Union, 2017; EC, 2015c). This is evidently caused by the context surrounding this period namely the 2015 Paris terrorist attack, the refugee crisis, and the annexation of Crimea by Russia in 2014. The overarching theme is, thus, increasing resilience in light of the various crises which subsequently overshadows the focus on the normative aspect of digitalisation and exercising normative power in this realm. Security versus values is something that was also flagged in the literature by Bosse (2009).

Next, in the ‘Eastern Partnership policy beyond 2020’ Communication and the ‘post 2020 Eastern Partnership priorities’ document, more normative digital rhetoric is starting to become evident. Namely, the themes of embedding fundamental European values and rights, such as the right to data protection, in the digital policy (2, 2a), aiming for gender balance in the sector (3c), and taking a human centered approach (1) are present. To demonstrate, the Communication sets out that ‘[t]he EU will further support the partner countries to address the digital skills gap with particular focus on gender equality and social inclusiveness’ and that ‘[t]o ensure a high level of protection of the fundamental rights to privacy and data protection, the EU will continue to engage with Eastern partner countries to promote further converge [sic] with EU and international data protection standards’ (EC, 2020b, pp. 14–15). Moreover, the EU wishes to see the digital transformation in the EaP countries being ‘in line with EU legislation and best practices’ (EC, 2020b, p. 13). In addition, eGovernance and online public services initiatives support the normative theme of (3b) digitalisation as supporting democracy. Lastly, digitalisation as enabling sustainable development (3a) is also stressed (EC, 2020b, 2021e).

Therefore, the EaP policy reviews that occurred in 2020 and 2021 include all normative digital themes. This is included in the context of resilience, addressing common challenges, ‘delivering economies that work for all’, and pandemic recovery (EC, 2020b, p. 4, 2021e).

Moreover, the inclusion of digitalisation, together with the normative themes, as a separate section in the policy is significant as it means that this is seen as one of the important aspects contributing to the overarching goals.

In addition, the CoE and the EU have a Partnership for Good Governance. The first period of the partnership, specifically aimed to aid EaP countries in making sure their national digital legislation was in line with the European Convention on Human Rights and included an objective of supporting the ‘development of right-based legislative and regulatory frameworks on data protection’ for which seminars, conferences, and training events were held (CoE & EU, n.d.-b, n.d.-a). Therefore, there are steps taken to foster the development of legislation that follows the normative themes of 2, 2a, and 3. To exemplify, the report on the outcomes of the first period, concluded that knowledge of ‘respect for the protection of human rights online’ was increased (CoE & EU, 2018). However, the second period of the Partnership with the CoE did not demonstrate an emphasis on promoting digital norms.

Moving forward, besides official EaP documents, all relevant EU digital initiative websites are also analysed here. The EU4Digital initiative aims to harmonise the digital markets, while EaPConnect focuses on its main goal of assisting and connecting digital researchers (EU4Digital, n.d.; EU, n.d.). These initiatives rhetorically focus more on the technical aspects of the digital transformation, over the normative ones. Nevertheless, the EU4Digital Facility, did mention promoting ‘key areas of the digital economy and society, in line with EU norms and practices...’ (EU, n.d.).

However, looking at the document which provides insights into the financing of EU4Digital reveals more emphasis on the norms (EC, n.d.-a). One of the objectives of the financing of the action is to support ‘the development of digital skills and digitally empower citizens, businesses and governments in the Eastern Partnership countries’ (EC, n.d.-a, p. 9). This corresponds to the normative digital theme of taking a human centred approach to digitalisation (1). Furthermore, the document states that ‘addressing gender equality within the digital transformation of the Eastern partner countries is a significant objective’, ‘[t]he activities under this action will be implemented following a right-based approach, with a view to respect for all human rights and fundamental freedoms’ and that attention will specifically be paid to the respect of ‘digital fundamental rights and data protections’, environmental sustainability, as well as increasing democracy and participation (EC, n.d.-a, p. 12). Moreover, it seeks to ‘identify opportunities where digital transformation can support change in these areas’ (EC, n.d.-a, p. 12). Thus, this demonstrates that all normative digital themes are on

display here which signifies that normative rhetoric is also being supported by action and financing.

All in all, it can be concluded that normative digital themes have increasingly been included in the EaP policy documents as all of them are present starting the 2020 ‘Eastern Partnership policy beyond 2020’ Communication. Furthermore, the inclusion of these themes is meaningful as they are seen to be supporting the other overarching goals and are backed by the financing of EU4Digital. According to the tripartite method, this section looked at how the EU promotes its principles externally based on rhetoric, since normative power relies largely on persuasion (Manners, 2008). Thus, there is further evidence to the EU being able to exercise normative power in relation to digital norms in the EaP since it clearly aims to do so and articulates its digital norms in the EaP policy documents. The next sections will focus on the inclusivity and reflexivity of the policy’s digital norms as well as the diffusion mechanisms.

Inclusivity and reflexivity

Another aspect that is a criteria for judging NPE is the inclusivity and reflexivity of the policy seeking to shape the normal, in this case the digital policy and digital norms. Manners (2008) labels this as ‘being reasonable’ meaning that two-way dialogue, discussions, and regular communications take place (p. 58). Notably, the EaP is a policy which heavily emphasises shared ownership, aims to be ‘flexible allowing for substantial differentiation, tailor-made approaches and incentive-based enhanced cooperation’, inclusive, based on dialogues, ‘recognising that not all partners aspire to EU rules and standards, and reflecting the wishes of each country concerning the nature and focus of its partnership with the EU’ (EC, 2015c, 2020b, 2021e). In addition, reviews of the policy, ministerial meetings, summits, and informal dialogues take place (Council of the European Union, 2017). Furthermore, the EU4Digital initiative, for example, undertook a comprehensive gap analysis after which it came up with recommendations based on EU best practices for innovation in EaP ICT policies (EU4Digital, 2020). Thus, it appears that the EaP strives to be inclusive and reflexive.

However, despite being seemingly inclusive and reflexive it cannot be said that this applies to the normative aspect of the digital policy. Namely, the EU repeatedly mentions diffusing its own digital model ‘in line with EU norms and practices’ (EU, n.d.). The inclusivity of the policy suggests that the EaP states have the option to not to take on board the normative language, but the norms themselves will not be changed or tailored according to their wishes. Therefore, it cannot be said that the EU is ‘being reasonable’ (Manners, 2008) when it comes to the inclusivity and reflexivity of diffusing its digital norms. This corresponds to the

arguments in literature about the EU being a ‘strategic normative hegemon’ (de Wekker & Niemann, 2009, p. 36) and ‘the EU’s unilateral norm transmission’ (Korosteleva, 2017, p. 332).

Diffusion mechanisms

Lastly, an important part of NPE are the mechanisms the EU may employ to diffuse the norms. Chapter 3 of this thesis defined the possible mechanisms, which will now be applied to the EU activities in its external digital policy. It can be argued that in this case the mechanisms at work are contagion, informational diffusion, procedural diffusion, and transference (Manners, 2002).

Contagion is described as the EU leading by example (Manners, 2002). As demonstrated above, the EU heavily emphasises normative themes in its digital policy internally. This leads to the possibility of imitation by others based on the normative nature of the EU digital policy. However, it was also concluded that the EU’s record of living up to these normative commitments is insufficient in some areas. Nevertheless, there is a possibility of unintentional contagion as some commitments, such as embedding fundamental rights in the digital policy and ensuring the protection of the fundamental right to data protection, are followed. Similarly, when it comes to informational diffusion, persuasion occurs as a result of strategic communications such as the Commission presidents’ political guidelines and EU policy initiatives and declarations (Forsberg, 2011; Manners, 2002). As Chapter 3 showed, both of the Commission presidents’ guidelines and internal policy documents under scrutiny, included normative digital themes. Additionally, the EU documents analysed aimed at the EU promoting and being a ‘global leader of a human-centred and value-based approach model in the digital age’ (EC, 2022a, p. 7). This, according to the definition of the mechanism, gives grounds to the presence of informational diffusion of the EU digital norms through its policy declarations.

In addition, procedural diffusion occurs when the relationship is institutionalised and the normative language is included in the agreements (Forsberg, 2011; Manners, 2002). As demonstrated above the 2020 and 2021 EaP documents included all digital normative themes in the policy documents. Thus, normative language is also institutionalised. Lastly, it can be argued that transference is taking place. In the case of transference, diffusion takes place during the exchange or technical assistance or financial means (Manners, 2002). As shown in the analysis of the EU4Digital funding document, normative digital themes are present, which means that funding is tied to striving towards living up to the digital norms. Therefore, based on the rhetoric and the documents analysed it can be said that the EU demonstrates to be

meeting all of the diffusion mechanisms, that are relevant to the scope of this thesis, of its normative power as regarding diffusing its digital norms.

All in all, having looked at all relevant digital and EaP policy documents, Part 2 of this chapter allows to draw some conclusions. Through the external aspect of its internal digital policy, it is apparent that the EU wishes to spread its normative digital themes in its international relations, including with the Eastern partners, thus exercise normative power of shaping the international digital norms. To sum up, up until this point the characteristics, according to Manners (2008), for judging the EU's normative power in shaping the digital norms in the EaP countries are partially met. Namely, the EU has clearly defined the norms, rights and values it wishes to diffuse (the normative digital themes identified in this thesis), it partially lives up to the norms itself, it includes the same digital themes in the language used for EaP policy documents and reviews, and evidence for the usage of all relevant diffusion mechanisms was found. However, the aspects that are fulfilled partially are the EU living up to the norms to the full extent itself and the inclusivity and reflexivity of the norms. Following this, the next part of this chapter will move onto the final step of the tripartite method, namely, by looking at the outcomes.

Part 3 Outcomes

This final section of the analysis and the tripartite method is concerned with the outcomes. While the preceding sections looked at the normative principles and the way they are promoted in the rhetoric and actions, this section looks at 'the way in which policies change and shape the partners and targets of such actions' (Manners, 2008, p. 58). To investigate this, this thesis will look for the normative digital themes in the outcomes, namely the EaP summit conclusions, the EU and CoE partnership, and the BDPL. First, the EaP summit and digital economy ministerial meeting conclusions will be analysed with the same aims as the sections above – to search for the normative digital themes identified to determine whether the aims translate into action. These constitute as outcomes as they follow and take stock of the policy, establishing the ways forward. Second, the two data protection laws will be compared according to their normative language. Here, the themes of embedding fundamental European values and rights in the digital policy and digitalisation (2) and embedding the fundamental right to data protection in the digital policy (2a) will be focused on more specifically. This is because as evident from the above, these themes were present the most prominently in the documents analysed. Conclusively, this part will allow to determine whether the diffusion

mechanisms identified above are at work effectively, whether the EU does exercise normative power by shaping the digital norms in the BDPL and the EaP summits, ultimately answering to what extent NPE can explain the EU digital policy.

Summits

Firstly, during the period under analysis 3 EaP summits took place (Council of the European Union, 2015, 2017, 2021). Even though there are mentions of the digital policy and the harmonisation of digital markets, it is evident that in all 3 summits normative digital language is absent. Even though the summits do state that they are based on fundamental rights more broadly, these are not tied to the digital agenda in the way they are internally with EU policies. Thus, these passages cannot be classified as signifying normative digital language. Instead, the 3 summits revolve around security, prosperity, stability, economic and social development, education, research, youth, and sustainability (Council of the European Union, 2015, 2017, 2021). In addition, special emphasis is put on respecting territorial integrity and ‘peaceful settlement of unresolved conflicts in the region’ (Council of the European Union, 2015, 2017, p. 3). This is similar to the EaP review documents against the context of Russia’s actions towards Ukraine in 2014. This echoes the literature review findings where it was said that NPE is often unsuccessful due to the unbalanced relationship between the geopolitical and normative interests of the policy (Valiyeva, 2016).

Secondly, the first, second, and third Eastern Partnership Ministerial Meetings on the Digital Economy are appropriate for analysis as they centre around the topic at hand (EC, 2015b, 2017b, 2019c). It is apparent from these meetings that the amount of normative digital themes included lessened over time. Namely, the 2015 meeting addressed the normative themes of embedding fundamental rights, such as the right to data protection, in digitalisation (2, 2a); and digitalisation as supporting democracy and sustainability (3a, 3b). To exemplify, ‘the importance of keeping the Internet as a single, un-fragmented network, subject to the same laws and norms that apply in other areas of day-to-day life; where individuals can benefit from their rights’ is stressed (EC, 2015b, p. 5). The 2017 meeting simply contained normative themes number 2 and 2a by stating that action should be in compliance with ‘the principles related to citizens' rights, data protection, security and confidentiality and the General Data Protection Regulation’ (EC, 2017b, p. 3). The most recent 2019 meeting, however, interestingly did not include a single normative digital theme. Nevertheless, the document does reaffirm the commitment to the preceding EaP initiatives such as the EU4Digital brand which itself promotes the normative digital themes, as was seen through its financing in Part 2.

To recall, there is an EaP Partnership for Good Governance between the EU and CoE, of which one of the objectives was to ‘further development of right-based legislative and regulatory frameworks on data protection’ (CoE & EU, 2017). In that framework Belarusian representatives took part in 6 events where ‘the need for Belarus legislation on data protection to be in line with international standards, among which the CoE Convention 108 and the EU General Data Protection Regulation’ was stressed and expertise on the law and the data protection authority was provided (CoE & EU, 2017). To exemplify, as a result of a Strasbourg visit in 2019, the Belarusian delegation stated that both parties agreed on the necessity of the Belarusian law to be ‘maximally unified with the CoE convention № 108’¹ (Nacionalnyj centr zakonodatelstva i pravovyh issledovanij Respubliki Belarus, 2019). As a result, it was concluded that Belarus would thus prepare their national legislation based on this advice and the European norms (CoE & EU, 2018). However, Belarus is not member of the CoE nor a signatory to the CoE convention № 108 (CoE, n.d.). Consequently, there is grounds for the EU’s digital norms to be present in the BDPL due to these seemingly fruitful learning contacts, however this is doubtful as Belarus is not bound by CoE membership or the CoE Convention.

All in all, it is apparent that normative digital language is not something that is overly prioritised in the EaP summits. What is prioritised instead is security, prosperity and stability, while in the digital policy more technical aspects such as eTrade, eCommerce, eHealth, eCustoms, ICT innovation, infrastructure, and telecom rules, are stressed. This would suggest that the power of shaping digital norms in the EaP is not something that is at the forefront during these meetings. Nevertheless, the first two ministerial meetings did demonstrate the inclusion of some normative digital themes and rhetoric, while the third meeting referred to other initiatives that did so. In addition, evidence of such language and action aimed at specifically aligning Belarusian data protection law with European rights was present in the meetings organised with the collaboration of the CoE and the EU. Conclusively, it can be said that when it comes to these outcomes, the normative themes are present, though inconsistently.

GDPR vs BDPL

Next, the final outcome, namely, the BDPL is looked into in relation to its normative language. As demonstrated above, the theme of the fundamental right to data protection was heavily emphasised and specific actions and events took place in order to align the Belarusian law with

¹ All translations from Russian to English are done by the author of this thesis.

EU norms and standards, which gives the possibility for the EU to exercise its normative power of shaping the BDPL according to its norms.

To begin with, the GDPR is embedded in the principle of data protection being a fundamental human right. Namely, this is done by referring to article 16 (1) of the Treaty on the Functioning of the European Union (2008) and article 8 of the Charter of Fundamental Rights of the European Union (2000), both of which define data protection as a fundamental right. Beyond the recitals, this premise is also embedded in the legally binding part of the law in Chapter 1 article 1 (EC, 2016). These recitals and articles match with the normative digital theme of (2) embedding fundamental European values and rights in the digital policy and digitalisation and (2a) embedding the fundamental right to data protection in the digital policy. Moreover, as this law provides the fundamental right to data protection, the normative theme of (3) enabling fundamental European rights and freedoms through digitalisation, is also present here. In addition, recital number 4 reads ‘[t]he processing of personal data should be designed to serve mankind’ (EC, 2016, p. 2). This signifies the normative digital theme of (1) taking a human centred approach to digitalisation. Therefore, it is apparent that normative language, thus normative digital themes, are present in the GDPR and that the EU is living by example in this case.

Comparatively with the GDPR, the BDPL contains no normative language. More specifically, the BDPL does not contain any recitals that would refer to any human rights charters. Notably, Belarus is not a signatory to any such charters. Nevertheless, the first sentence of the law hints towards a normative commitment. It reads ‘the present law is directed at providing the protection of personal data, the rights and freedoms of natural persons in the processing of their personal data’ (Pravo, 2021, p. 1). However, this passage does not explicitly present the protection of personal data as a fundamental right or a human right. Instead, it refers to the protection of rights and freedoms in the course of the processing of their data. Moreover, a similar statement was made in the law that preceded the BDPL, namely the law ‘About information, informatisation and the protection of information’ (Etalon Online, 2008). Here, article 4 stated that the law is based on the principles of ‘protection of information about personal life of natural persons and personal data’ (Etalon Online, 2008). Therefore, it is evident that the principle of data protection remained not being presented as a fundamental right, consequently it does not align with any of the EU normative digital themes.

However, the second part of the first passage does talk about the rights and freedoms that relate to the processing personal data. Evidently, when comparing the specific rights concerning processing of personal data, more convergence between the two laws is found.

Namely, the BDPL includes ‘the right to withdraw consent on personal data subject’ (article 10), ‘the right to obtain information concerning the processing of personal data and to change personal data’ (article 11), ‘the right to obtain information about the provision of personal data to third parties’ (article 12), ‘the right to request the stopping of processing of personal data or their erasure’ (article 13), ‘the right to appeal against the operator's actions (or inaction) and decisions related to the processing of personal data’ (article 15) (Pravo, 2021, pp. 8-11). This means that the BDPL echoes almost all of the rights specified in Chapter 3 ‘Rights of data subject’ of the GDPR, except for the ‘right to data portability’ and ‘right to object and automated individual decision-making’ (EC, 2016, pp. 39, 45). Notably, these rights were not present in the previous legislation (Etalon Online, 2008). However, this convergence is most likely caused by the Brussels’ effect of the GDPR, as most often described in the literature. Therefore, it cannot be said that NPE has been effective here to the full extent. Namely, it has not successfully shaped the Belarusian law to include any normative themes or to conceptualise data protection as a fundamental right. It has however, fostered the BDPL to define the data subjects’ rights along the GDPR lines.

Next, the external aspect of the GDPR is also concerned with the Union’s normative language and commitments. For example, article 50 of the GDPR which is concerned with the EU’s ‘[i]nternational cooperation for the protection of personal data’ states that mutual international assistance will be provided in relation to ‘the protection of personal data and other fundamental rights and freedoms’ (EC, 2016, p. 65). Furthermore, when judging said decisions the first condition that is taken into account is:

the rule of law, respect for human rights and fundamental freedoms, relevant legislation, both general and sectoral, including concerning public security, defence, national security and criminal law and the access of public authorities to personal data, as well as the implementation of such legislation, data protection rules, professional rules and security measures, including rules for the onward transfer of personal data to another third country or international organisation... (p. 61)

This notion is also brought out in recital 104, where it is said that the assessment of the third country should be conducted ‘[i]n line with the fundamental values on which the Union is founded’ (EC, 2016, p. 19).

Turning to the external aspect of the BDPL, a section on the cross-border handling of personal data is also present (Pravo, 2021, art 9). However, conversely from the EU counterpart, no mentions of normative benchmarks in order for a third country to be seen as an appropriate destination for personal data handling are made. It simply states that the criterion

that will be considered is the appropriateness of the data protection law in the third country (Pravo, 2021, pp. 7–8).

To sum up, this final section allows to conclude that the EU was not able to exercise its normative power in relation to the data protection norms in Belarus to the full extent. Namely, protection of personal data was not constructed as a fundamental right nor was any normative rhetoric included in the Belarusian law. Moreover, normative aspects were not a concern when evaluating compatibility with third country laws in the way they are in the GDPR. Thus, the diffusion mechanisms are not at work successfully. An explanation to this limitation can be the lack of incentives, the lack of inclusivity (as demonstrated in Part 2), and the Belarusian affinity for the alternative Russian model, as was described in the literature review. To exemplify, a hint of this can be found in the preceding Belarusian information law which referred to the law being also regulated by the Eurasian Economic Union laws (Etalon Online, 2008), where Russia is an important player. Therefore, due to this tension there is reluctance to align with the EU digital norms.

On the other hand, there was success in shaping the specific rights in relation to data protection such as the right to erasure, for example. These findings are in line with what was found in the literature review on the topic. Namely, the BDPL matches with the GDPR on the more technical aspects such as the specific articles, but not the normative fundamental rights considerations. Thus, it is evident that the Brussels effect is at work even in the context of a strained relationship such as the EU-Belarus one.

Having completed the three steps of the tripartite method, conclusions may now be drawn. Part 1 and 2 of this chapter showed that the circumstances for the EU being able to exercise the power of shaping the international digital norms were mostly suitable, except for the EU fully living up to the norms itself and the inclusivity and reflexivity of the digital norms. Compounding this with Part 3, adds to the argument of NPE being unsuccessful in the digital policy as fostering normative language in the BDPL was unsuccessful. This follows the line of the position this thesis took regarding the debate in the literature which also overwhelmingly came to a similar conclusion. Moreover, similar obstacles as in the literature have been identified in this case. Reflecting on the larger implications, this ineffectiveness does not bode well for the EU's position and role on the world stage. In order to withstand the alternative models on offer in the digital space, NPE must be able to shape the neighbours' digital norms and rights according to its own.

CHAPTER 5 CONCLUSION

To sum up, the topic explored in this thesis is highly relevant as the issue of the respect of fundamental human rights, values, and norms in the digital era is becoming increasingly pertinent. As an actor on the world stage, the EU, thus, holds the opportunity to contribute to shaping the digital space according to its own norms. Following these considerations, this thesis aimed to research the EU's NPE in the digital policy internally, externally, and towards the EaP, more specifically as regards the BDPL. In addition, it applied the NPE theory and the tripartite method (Manners, 2002, 2008). Overall, it was sought to contribute to the gap in research on the normative aspect of the EU digital policy, consequently shedding light on the EU's normative power and actorness on the world stage more broadly. The following conclusions, and answers to the research question and sub-questions, were reached.

Firstly, the sub-question of 'to what extent does the EU include norms and values in the internal and external aspect of its digital policy?' was answered in Part 1 and Part 2 of Chapter 4. As a preparation for the analysis, the normative digital themes were first identified from the EU internal digital policy in Chapter 3, by deductively reading the documents in accordance with NPE. This showed that the EU's internal digital policy contains a considerable amount of normative rhetoric. In addition, when applying the digital norms the EU seeks to diffuse to the Union itself, it was found that while it consistently includes digital norms in its policies and actions, the results of the actions present mixed evidence on the EU living by example. Thus, since 'living by example' is a crucial aspect for NPE to be at work, the first step of the tripartite method (Manners, 2008), concluded that whether the EU is able exercise its normative power of shaping the international digital norms is doubtful.

Following this, Part 2 sought to determine whether the principles, or normative digital themes, the EU seeks to promote and successfully includes in its digital policy internally, are also included in the rhetoric on the external aspect of the digital policy. It was found that, the EU clearly aims to diffuse its internal digital norms and values externally as well. Moreover, all of the normative digital themes were identified in the 2020-2021 EaP policy documents investigated, and all relevant diffusion mechanisms were found to be potentially at work. However, the policy was not found to be inclusive and reflexive in regards to the digital norms. Thus, the second step of the tripartite method (Manners, 2008) found that these characteristics of NPE and the EU being able to exercise its normative power in the EaP digital norms were met, except its inclusivity and reflexivity. Therefore, to answer the first sub-question, the EU

includes norms and values in both its internal and external aspect of the digital policy to the full extent. However, it only partially lives up to the norms itself, partially includes them in the summits, and the norms cannot be said to be inclusive and reflexive.

Secondly, the sub-question of ‘to what extent is the EU successful at exercising NPE in the BDPL?’ was reflected on in Part 3 of Chapter 4. It became evident that the GDPR contains a significant amount of normative language by stressing the importance of data protection as a fundamental right and including norms and rights in its external aspect. The BDPL, on the other hand, did not include any normative language as data protection was not presented as a fundamental right, nor were norms and rights a consideration when it came to the cross-border handling of data. The BDPL is, however, in accordance with the GDPR specific rights of the data subject. Nevertheless, it is not possible to conclude that the EU was able to exercise NPE in shaping the BDPL to be in accordance with the normative digital themes and the norm of data protection being conceptualised as a fundamental right, more specifically.

Thirdly, all three parts of the analysis, allow to answer the overarching research question of ‘to what extent does NPE explain the EU digital policy in the EaP?’. It can be concluded that NPE partially explains the EU digital policy in the EaP. On the one hand, it does explain the EU meeting the NPE and tripartite method characteristics of clearly defining and including digital norms and rights in its digital policy rhetoric internally as well as externally in the EaP rhetoric. In addition, it was found that all diffusion mechanisms are identified to be potentially at work. On the other hand, the EU does not live up to following said digital norms and rights itself, is not inclusive and reflexive when it comes to the norms, and is not successful in fostering the inclusion of normative language in the BDPL or the summits. Therefore, it can be concluded that the EU is successful at defining, aiming to spread, rhetorically emphasising, and taking initiatives to diffuse its norms in the digital policy, but is not successful in having the power, meaning the ability, to shape the digital norms in the BDPL. Consequently, this points to the bigger conclusion of there being a gap between rhetoric and action, and the results.

These findings match with the position the thesis took in relation to the literature. Namely, this is accordance with the finding that NPE is most often found to be unsuccessful, thus this argument also applies to NPE in the digital policy. Furthermore, similar obstacles as in the literature were found. For instance, there is a lack of membership incentive, a rivalry with the model offered by Russia, and lack of inclusivity and reflexivity. On the other hand, the thesis proved that the alignment with the GDPR’s data subjects’ rights was successful in

the BDPL. This shows that its successful effect presented in the literature, is also at work even in a strained relationship.

It is apparent that all aspects and implications of the topic at hand could not be covered within the scope of this thesis. Namely, the method at hand focused mainly on normative rhetoric contained within the documents analysed and remained on the policy level. In addition, the analysis limited itself to looking at the legislative outcome and not its implementation or impact. In order to move beyond this, future research should look into impact by analysing the possible change in EaP policy makers' opinions (by conducting interviews or analysing parliamentary debates for example), the media debates, the society's perception of the issue, and the implementation of the BDPL. Moreover, the outcomes in other EaP countries and other aspects of their digital policies can be looked at. All in all, this thesis provides a starting point to these future possibilities.

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