

# The Future of Europe

## THE REFORM OF THE EUROZONE AND THE DEEPENING OF POLITICAL UNION

*Coordinators*

*FAUSTO DE QUADROS AND DUSAN SIDJANSKI*

LISBOA  
2017



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## **Introduction**

*Fausto de Quadros*

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Jean Monnet Chair ad personam in European Constitutional Law  
Coordinator, with Professor Dusan Sidjanski, of this Jean Monnet Project  
on the Future of Europe*

### **1. How this Jean Monnet Project was born**

At its Summit in December 2012 the European Council asked the European institutions and the Member States to discuss how the European Union, including the Eurozone, should be deepened in order to overcome the economic and financial crisis which affected the Union, and to present their proposals on that subject. Therefore at the 2013 Jean Monnet Conference the President of the European Commission, José Barroso, asked Professor Dusan Sidjanski and myself to collect the opinions of the Jean Monnet Professors on the main issue of the 2013 Jean Monnet Conference, that is, “*How we might recover from the economic and social crisis through European integration deepening*”.

Therefore some weeks later we sent the Jean Monnet Professors an inquiry on the subject. The Directorate-General for Education and Culture of the European Commission provided us the list of the Jean Monnet Professors. In the inquiry we set out the following two questions:

1. What is the best institutional framework for the Eurozone, in order for it to function in the most efficient, transparent and democratic manner?
2. Blueprint for a Political (federal) Union beginning with the Eurozone.

The inquiry collected responses from about eighty Jean Monnet Professors, who expressed quite different conceptions on European integration and its future but shared the common idea that European integration must be pursued and deepened. The great difference in the responses reveals, however, that these issues deserve urgent clarification and debate within the EU space since, as expressed in some of those responses, both EU and Member States must learn from the lessons of the crisis. I presented the content of the responses in summary form at the 2014 Jean Monnet Conference held in Brussels (see [http://ec.europa.eu/education/events/2014/20140110-jean-monnet-conference\\_en.htm](http://ec.europa.eu/education/events/2014/20140110-jean-monnet-conference_en.htm)).

Following this, Professor Sidjanski and I, on behalf of the Universities of Geneva and Lisbon and with support of the Rectors of both Universities, applied for a Jean Monnet Project on the Future of Europe in order to discuss the proposals included in the responses and to publish them. Joining us in this Project were Professors Maria José Rangel de Mesquita and Paula Vaz Freire, respectively Professors in European Law and Economic Law at the University of Lisbon School of Law, and Professor François Saint-Ouen, Senior Lecturer at the Global Studies Institute of the University of Geneva. The Project organised two Colloquia, one in Geneva, in May 2016, and another in Lisbon, in March 2017. The two questions of the inquiry were widely debated at both events, on the basis of those proposals. At the same time, some of the respondents updated their responses. As we proposed within the framework of this Project, we are now publishing all the responses in paper and digital versions, in order to promote a wide debate on the future of European integration.

This Jean Monnet Project was engaged in analysing, from a scientific and academic perspective, the strengths and weaknesses of the European integration process, and contributing to new perspectives on how to strengthen the political, economic and social dimension of the European Union. In this domain, public debate is often based on poor and distorted information, misconceptions and ideological bias. The context of the crisis affected all European Union Member States but, in particular, Eurozone members, such as Greece, Portugal, Ireland, Italy and Spain. Public opinion in these countries recognises the European Union as a “safe harbour” in difficult situations, when its aid can be requested, but, simultaneously, demonstrates negative reactions as national constraints are regarded as European impositions.

This imbalance seen between the advantages and the commitments of the European project is often the result of a lack of knowledge, which needs to be combatted and countered with up-to-date dissemination of clear and objective information.

The dissemination of the results of this Project through this book is very timely. In fact, at the beginning of 2017 the European Commission presented a White Paper on the Future of Europe which proposed a debate on some scenarios for development of the Union. Later, in last September, in his speech to the European Parliament on the State of the Union, the President of the Commission presented some very bold proposals, including at the institutional level, to strengthen the Eurozone and deepen the Political Union. In disclosing the results of our Project we hope to contribute to this debate at such an important time for reflection on the future of the Union.

At this time when the Project is reaching its conclusion, I would like to say what a great joy it has been to co-coordinate this Project with Professor Sidjanski. He is one of the founding fathers of the former European Communities, and European integration owes a great deal to his knowledge and thinking. I would also like to thank Professors Maria José Mesquita, Paula Vaz Freire and François Saint-Ouen for their excellent participation in the Project, which was very important in order to achieve its end. I would like as well to acknowledge the contribution of Professor Ana Soares Pinto, Professor in European Law at the University of Lisbon School of Law, to the publication task that has revealed to be sometimes difficult regarding the gathering of all the answers to be published in this book.

But, above all, I would like to express my recognition of the several dozens of Jean Monnet Professors who responded to our inquiry. With their excellent responses they make very important contributions, in this book, to the reflection on the future of Europe.

At the wish of the respondents, the form they have given to their texts and the university titles and academic situations they have indicated have been respected.

Now I would like to express my personal opinion on the two questions of our inquiry.

## 2. The Reform of the Eurozone

First it must be said that the issue is the reform of the Euro, and not its abolition. I am in agreement with all those who responded to our inquiry and who consider that the continued existence of the Euro must not be questioned. The Euro appeared in order to bring an end to the constant and unpredictable variations in the exchange rates of the national currencies, particularly of the weaker currencies. Financial and economic relations between the States, companies and citizens in the Eurozone benefited greatly from the confidence which the Euro brought them.

The reform of the Eurozone, in order for it to function in the most efficient, transparent and democratic manner, requires action in the following areas:

– *Completing the Economic Union.* On this issue, we anxiously await the measures to be announced by the Commission in December of this year. However, it is possible to predict that those measures will include substantial expansion of the Internal Market and the revision, albeit in stages, of the Common Agricultural Policy.

– *Deepening the Monetary Union.* This deepening must take place by means of the following actions: a specific own budget for the Eurozone; completion of the Banking Union; progressive convergence on matters such as harmonisation of taxes and charges and the creation of a minimum wage; creation of a European rate for financial transactions; an increase in the powers of the ECB in order to bring it closer to being a truly federal bank by means, namely, of affording it effective powers to supervise and coordinate the monetary policies of the Member States; creation of a European Monetary Fund, based on the current European Stability Mechanism, deliberating by qualified majority, which, for some, should occupy, either in whole or in part, the current position of the ECB and the European Commission in negotiating financing programmes for States, particularly in emergency situations; creation of a Minister for Finance and Economy, who coordinates the financial instruments of the European Union, especially when a Member State enters a crisis. This Minister should be elected by the European Parliament and should combine this role with that of President of the Eurogroup. He or she should be Vice-President of the Commission, with a status similar to that currently held by the High Representative for Foreign Affairs and Security Policy.

– *Maintaining Monetary Union as enhanced cooperation.* Contrary to that which has sometimes been argued of late, the aim should not be to require all the Member States of the European Union to be members of the Eurozone. This would be an artificial solution, since not all the Member States meet the requirements to adopt the Euro, or wish to adopt it, for political or economic reasons, this being the case of Sweden and some of the Eastern European States. The Eurozone must continue to be enhanced cooperation, as the Treaties now set out. In turn, there must not be different speeds within the Eurozone. Monetary Union requires internal cohesion, structural coherence and a convergence effort, and all of this will be affected if there are two or more speeds within it. This does not prevent less strict or more flexible solutions from being adopted, for certain more sensitive matters, which allow the States, predominantly in situations of major emergency, to find a solution to their difficulties, without leaving the Eurozone.

– *Giving EMU a strong social component.* EMU should contribute to strengthening social cohesion or, at least, to not widening the gap in the social structure in EMU which was a consequence of the recent crisis. In order to do this, structural reforms are needed which will reduce unemployment and increase flexibility in labour markets. In addition, as has been proposed, a European Unemployment Insurance Fund should be set up, which is not more than 1% of the Eurozone's GDP.

– *Strengthening solidarity within the Eurozone.* This means that States can count on each other to overcome their difficulties, particularly in crisis situations, but for this to work, it will also be necessary for States that receive aid to comply with the rules by which they are bound. In other words, solidarity has to be reciprocal. Each State must understand that solidarity implies reciprocal rights and duties.

– *Making the right institutional reforms to strengthen democratic legitimacy at the heart of the Eurozone.* This is achieved, above all, by enhancing the powers of the European Parliament in this area and by promoting the active participation of the ECB in the legislative process.

### **3. The Deepening of Political Union**

Regarding the second question on our inquiry, the Blueprint for a Political (federal) Union, in order for the Eurozone to be more efficient, political integration will need to be deepened.

At this stage of the integration within the EU there are six reasons for political deepening.

The first reason is very simple. The economic and financial crisis shook the enthusiasm of many sectors of public opinion with regard to the Union. Proof of this can be seen in the growth of trends and movements against the European project. Most of these movements, which are situated at the far left or far right of the political spectrum of the Member States, are, in a more or less disguised form, reviving the former nationalist and isolationist sentiments that were so harmful to Europe in the last century. Those movements do not hide the fact that their aim is to bring an end to the common European project, even if they propose no alternative for the future of Europe. Nationalism and isolationism will only be defeated by strengthened integration. Hence, deepening of political integration will give a new boost to European integration. But this has to be properly explained to public opinion and European citizens must be called on to take part in broad-ranging discussions on the meaning and extent of this deepening.

The second reason is that it is necessary to quickly put economic integration and political integration at the same level, in order to provide economic integration with the means it needs to survive and go on. The recent crisis in the Eurozone shows that EMU does not have the political background it needs to support the monetary union already achieved. For example, despite recent progress in this area, as stated above, the ECB still does not have enough supervisory powers to act as a truly federal bank in the Eurozone and, as such, to control the national financial and budgetary policies.

The third reason is the need to extend integration to new subjects. This is one of the meanings we speak of when calling for “more integration” for the EU. The Member States cannot complain that there is too much intergovernmentalism in the EU and at the same time be against extending the EU’s competence to new subjects that are still included, total or partially, within the national competences. It is true that the Union itself could have more competence in some areas, such as defence and security, energy, tax harmonisation, migration and refugees, and globalisation. But for this to happen the Member States need to change the treaties. And we must remember that only the States have competence to reform the treaties. This extension of the EU’s competence must be accompanied by improvement of the principle of

subsidiarity. For example, it will be necessary for national Parliaments to be more effective in how they use their powers of control over the application of the principle of subsidiarity, as the Treaties allow it. However, it is not sufficient for Member States to invoke subsidiarity; they must know how to use it; they must show they have the capacity to exercise the competences granted to them via subsidiarity.

The fourth reason is that the EU must be more autonomous regarding other blocs and other locations at a global level. And also in this way it must deepen its defence and security and also its energy policies. It was because of the dependence of many Member States on Russian energy companies that the EU failed to condemn Russia for the occupation of Crimea, which was clearly a violation of International Law. NATO is very important in ensuring the defence of Europe but the more than likely loss of investment from the USA in NATO, due to Trump, must push the EU to provide its own defence.

The fifth reason is that at this stage no one Member State is indispensable to the European project. Of course all reasonable efforts must be made to avoid exits or particular options regarding the Union, but in the case of an exit, the Union must be aware of the sufficiency of the Project at this stage and must adapt to the new circumstances. The way must be to go further with the remaining members and not cause harm to the *acquis communautaire*. And it must be made clear that no State which leaves the Union, however important it might be, can maintain a political or economic status in relation to the Union which is more favourable than that of the States which wish to continue as its members.

Finally, the sixth reason is to deepen European citizenship. This includes deeper respect for the Charter on Fundamental Rights, above all social rights, broader access of the citizen to the ECJ to complain about violations of EU Law, and the accession of the EU to the ECHR under the terms stipulated in Protocol no. 8 to the Lisbon Treaty, which means in particular, without prejudice to the Union's own characteristics and to the integrity and coherence of European Union Law.

One important point to stress is that we must not be afraid to use the words 'federal' or 'federalism', provided we know in advance what we are speaking of. In Comparative Constitutional Law we can find many different applications of federalism and of the federal method. For example, the United States, Germany and Switzerland are all federal States but are very different to each other. As I see it, the political model

that should inspire the European Union, and which must know how to adapt to its specific characteristics, is Germany's model of decentralised federalism, in the form of cooperative federalism, provided that it is heavily based on the principle of subsidiarity.

All this means that, of the scenarios proposed by President Juncker for the future of the Union, I favour the one which leads to consolidation of what is already the *acquis communautaire* and to the advance, albeit progressive and controlled, of economic and political integration.

In addition to all the care which has been mentioned above, this advance must respect two basic conditions. The first is preservation of Europe's cultural heritage, which is imposed by the Preamble to the Treaties. This heritage includes, first and foremost, the principles of primacy of the Human Person, of freedom, of democracy, of the Rule of Law, and supremacy of the Law.

The second condition lies in the inviolability of the values which are today contained in Article 2 of the TEU. These values are part of the essential core of the Union's constitutional identity. Both the Union and the States failed the first two tests following the inclusion of those values in the written provisions of the Treaties (see my contribution to the Jean Monnet Conference of November 2015, *Supremacy of values in the European Union. The tests of the financial crisis and refugees*, <http://jeanmonnet.ning.com/>). The Union failed when, on the pretext that some of the States had not fulfil their financial obligations as part of EMU, it imposed on them measures which were disproportionate for the social rights, particularly of the most disadvantaged. The Member States failed when many of them demonstrated a deep lack of sensitivity to the plight of the refugees from the Middle East and North Africa, forgetting that those values, by express provision of the Treaties (Article 3(5) of the TEU), also bind the Member States with regard to their external relations. Greater loyalty of the Union to its values constitutes an essential condition for bringing European citizens closer to the Union and its institutions. It is from this point of view that we must say that it is not enough for us to want more Europe, we must also want a better Europe. This is what we must mean when we speak of re-founding Europe or when we propose a "New European Order" (see my intervention at the Jean Monnet Conference of November 2013 *The political implications of European economic integration – towards a political Union*, in European Commission (ed.), *The political*

implications of European economic integration – towards a political Union, Brussels, 2014).

Regarding the Union's institutions, I have already mentioned above some of the main reforms which deepening of the Union requires. What remains to be said is that all the proposals which seek to make the Commission more efficient and to make its decision-making power more transparent deserve our support. On the other hand, I am against any merger of the Presidencies of the Council and of the Commission. In 1957 a very well-thought-out balance was achieved between three legitimacies: the legitimacy of the States, in the Council, the legitimacy of the peoples, in the European Parliament, and the legitimacy of the general interest of the Union, in the Commission. To now mix up the Council and the Commission, even if only regarding their presidencies, would be to subvert the purity of that system. They must continue to be separate, despite being complementary in the Union's decision-making process.

In conclusion, the deepening of the integration must strengthen the union and solidarity between the European States and consolidate economic, social and territorial cohesion between the peoples, bringing the institutions closer to the citizens and thereby strengthening the democratic legitimacy of the supranational power in the Union. Only in this way will the Political Union be a stable, strong and cohesive Union. And only in this way will the EU progress in order to continue to make an important contribution to peace and progress, firstly, within itself, and afterwards, in the world, and fully perform its role as a important global player.

Lisbon, October 2017



## **Avant-propos**

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Jean Monnet sur l'avenir de l'Europe*

### **I. Présentation:**

#### **1. Mes relations avec les Chaires Jean Monnet**

Ces relations datent de la Présidence de la Commission par Jacques Delors. A plusieurs reprises, j'ai eu des invitations à participer et à intervenir aux Conférences Globales Jean Monnet ainsi qu'à diverses réunions, colloques et conférences de l'ECSA Europe et de l'ECSA monde, en présence du Président de la Commission. Par la suite, en ma qualité de Conseiller spécial du Président de la Commission, José Manuel Barroso (2004-2014), j'ai pris une part active lors des nombreuses réunions des Chaires Jean Monnet. A titre d'exemple, ces interventions ont porté sur : « Le Traité modificatif et l'avenir de l'UE » (Bruxelles, 2007), « A Europe of achievements in a changing world » (Bruxelles, 2008), « The role of Education and Training in the New European Economy » (Madrid, 2010), « The European Union after the Treaty of Lisbon » (Bruxelles, 2010), « The Eastern Partnership and the Europe 2020 Strategy: Achievements and Future » (Bruxelles, 2010), « European Economic Governance in an International Context » (Bruxelles, 2011), « Sustainable Growth in the European Union – The Role of Education and Training » (Bruxelles, 2012), « The Political implications of European Economic Integration – Towards a Political Union » (Bruxelles, 2013).

## **2. Les activités du Centre de compétences Dusan Sidjanski en études européennes**

En octobre 2016, l'Université de Genève a créé le « Centre de compétences Dusan Sidjanski en études européennes » (CCDSEE) au sein de l'Institut d'études globales (Global Studies Institute). Placé sous le Haut Patronage du Recteur de l'Université, le Centre vise à développer la recherche européenne, ainsi qu'à participer à l'enseignement au niveau de la Maîtrise en études européennes du Global Studies Institute. Le Centre octroie des subsides à des doctorants et post-doctorants de l'Université de Genève de même qu'à des chercheurs qualifiés. Il a la mission entre autres d'organiser des séries de grandes conférences européennes, d'inviter des enseignants de renom, des personnalités politiques et des hauts responsables de l'Union européenne. En outre, il a la faculté de confier des mandats à des chercheurs de haut niveau. Dans cette perspective, il développe des réseaux et pratique des échanges avec les institutions suisses, européennes et internationales qui se consacrent aux études européennes. L'objectif principal du Centre consiste dans la promotion et le développement de la recherche de pointe et de l'enseignement des études européennes, plus spécialement consacrés aux domaines suivants : l'Union européenne, l'Europe face à la globalisation, les intégrations régionales, le fédéralisme, la vocation fédérale de l'Union européenne, ainsi que les relations de l'Union avec la Suisse. En substance, le Centre a pour mission principale de proposer des solutions face aux défis auxquels est confrontée l'UE. Cette démarche s'inspire de l'esprit et de l'approche des expériences du fédéralisme, tels que présentés dans les études et les publications de Karl W. Deutsch et dans la pensée fédéraliste de Denis de Rougemont.

C'est à ce titre que le Centre organise des colloques, dont le premier a porté sur « Union de valeurs? La mise en œuvre des valeurs et principes fondateurs de l'Union européenne ». L'ensemble des contributions sera publié dans un volume à paraître prochainement sous la direction de Dusan Sidjanski, Constantin Stephanou et François Saint-Ouen. En outre, le Centre organise des conférences et invite des personnalités du monde académique et politique. Ainsi a-t-il eu pour conférenciers Sandro Gozi, Secrétaire d'Etat aux affaires européennes du gouvernement Italien; Dimitris Avramopoulos, Commissaire européen pour la migration, les affaires intérieures et la citoyenneté; Viviane Reding, députée européenne et ancienne Vice-Présidente de la

Commission européenne; Jean-Marc Ayrault, ancien Premier ministre et ancien Ministre des affaires étrangères français. Tous les conférenciers ont animé en parallèle des réunions et des débats à huis clos, en présence des enseignants et doctorants, ainsi que d'autres participants des milieux intéressés. Quant à Jean-Marc Ayrault, il a inauguré son enseignement au Centre de compétences qu'il reprendra au printemps 2018. Au cours de l'année académique 2016-2017, le Professeur Constantin Stephanou a été invité au Centre où il a assumé la direction d'un séminaire sur la gouvernance économique mondiale et sur la gouvernance de l'Union, et a participé à la préparation du premier colloque du Centre.

## **II. La crise globale : que faire ?**

### **1. La Zone euro et au-delà**

L'Union européenne vit une crise existentielle multiforme. À quelques nuances près et à des degrés différents, il existe un consensus sur les menaces et les principaux défis auxquels l'Union est confrontée. En revanche, pas d'accord concernant les réponses face à ces menaces et défis. Quelques exemples, en commençant par la Zone euro : la question de la réforme de la Zone euro, de la sortie définitive de la crise et de l'austérité qui a laissé des traces profondes dans les sociétés des États membres de l'euro. Notamment, l'austérité imposée par l'Allemagne a donné lieu à une guerre psychologique entre les médias grecs et allemands.

La question de la paupérisation et des inégalités accrues, le chômage élevé et la dette publique ont déstabilisé les liens de solidarité et porté atteinte à la démocratie, pas seulement en Grèce, mais principalement dans les pays du Sud de la Zone euro. La question s'impose, à savoir : comment les Etats-Unis ont-ils pu dépasser rapidement la crise qu'ils ont provoquée, alors que la Zone euro en particulier peine à retrouver le niveau d'avant crise ? Merkel et Hollande étaient d'accord que l'échec de l'euro sonnerait la fin de l'Union.

### **2. Les menaces intérieures**

La résurgence du national-populisme, des eurosceptiques et des anti-européens est souvent accompagnée de mouvements extrémistes de gauche et de droite. L'austérité a fait le lit des dérives autoritaires

en Europe centrale: Pologne, Hongrie, République Tchèque. Cette vague touche également l'Autriche, l'Allemagne, les Pays-Bas, voire la France où le Front National jette depuis longtemps une ombre sur l'Union. L'Histoire réémerge à la suite de l'éclatement de la Yougoslavie et du renforcement des clivages à l'intérieur de l'Union entre le Nord et le Sud, de même qu'entre les Etats qui respectent les valeurs et les principes démocratiques et ceux à la dérive de proche mémoire. Le Brexit confirme cette tendance qui se double des poussées indépendantistes en Catalogne comme en Ecosse.

L'Union apparaît sans boussole dans le tourbillon de la globalisation, face aux flux migratoires qui alimentent le renfermement et le refus d'accepter les migrants qui passent par les pays d'Europe centrale et le groupe de Višegrad. Pendant longtemps, l'afflux des migrants en Italie était considéré comme un problème de la responsabilité de l'Italie, la Grèce bénéficiant de l'aide de l'Union. Mais le manque de politique européenne d'asile et d'immigration fait le bonheur des partis d'extrême droite. Les 450 millions d'Européens sont réticents à héberger des réfugiés et migrants alors même que leur démographie est en chute. En même temps, se dresse la menace du terrorisme islamiste et s'aggrave l'ambiance d'insécurité alors que la chute de Raqqa ne semble pas annoncer la fin des attaques. L'Union est confrontée à une guerre idéologique, religieuse et sécuritaire.

Parallèlement, les défis s'accumulent sous la forme du crime organisé, de la menace des GAFAs qui occupent une position dominante dans le monde sans respect des règles du jeu, tandis que le numérique et les problèmes de cyber-sécurité envahissent l'Europe et le monde. Enfin, le désengagement international de l'Amérique de Trump, les conflits régionaux au Proche-Orient et la menace nucléaire de la Corée du Nord créent une atmosphère de peur rentrée et suscitent la tendance du retour aux États-Nations. À ces menaces s'ajoutent des défis concernant le climat, l'énergie et la concurrence déloyale qui contribuent à créer un climat de désordre international.

### **3. Crise globale**

Tous ces exemples de menaces pointent en direction de l'absence ou de l'insuffisance des pouvoirs régaliens au sein de l'Union, ainsi que de l'absence d'une vision globale, vision d'autant plus nécessaire que ces crises, menaces et défis connaissent une croissante interdépendance

et interaction entre elles. En s'attaquant à un problème, on crée des remous dans d'autres secteurs. D'où une crise globale. En revanche, les crises avant « la grande crise » de 2008, à l'exception de celles de la CED et de la CPE, se caractérisaient par leur aspect sectoriel. Il en va ainsi de « la chaise vide », qui concerne l'agriculture en liaison avec le vote à la majorité qualifiée. Contrairement à l'idée que l'Europe sort renforcée de ces tourbillons, je constate un affaiblissement de l'esprit et de la volonté communautaires. Dans la crise actuelle, face aux menaces et aux défis, la méthode Jean Monnet d'intégration sectorielle qui devait conduire pas à pas à l'Union politique, est arrivée à sa limite. D'où le dilemme : saut politique ou déclin de l'Union ?

En reprenant les différents exemples de convergences de crises, de changement d'environnement politique comme de climat et d'innovations numériques, la seule réponse valable est celle proposée par le Président Emmanuel Macron d'une « Europe de la souveraineté ». Cette Europe exige une action immédiate, accompagnée d'une refondation générale à moyen ou long terme. La démarche qui ressort de plusieurs propositions est le recours à « la coopération renforcée » visant à constituer un noyau doté de pouvoirs régaliens. Un exemple : la survie à long terme de l'euro dépend de la création d'une autorité politique. Or l'euro est le produit du « fédéralisme à l'envers » (Brugmans).

#### **4. L'Union a urgent besoin d'un noyau politique**

La future Union politique est la clé de la réussite de l'Union monétaire. C'est l'affirmation de la Bundesbank en 1992<sup>1</sup>. Suit son projet de « noyau dur » de Lamers et Schaüble de 1994 prévoyant un gouvernement et un législatif. Tout en préférant le terme de « noyau fédérateur », je n'ai de cesse de rappeler le leitmotiv : l'histoire ne connaît pas de monnaie unique sans pouvoir souverain. Or, l'euro s'inscrit dans l'engrenage économique dénué de cadre politique. L'étude de nombreux cas par l'équipe de Karl W. Deutsch conclut que les fédérations réussies se sont formées sous l'impulsion d'un noyau fédérateur.<sup>2</sup>

L'enterrement du « projet Schaüble », puis le rejet de la Constitution européenne par référendum en France et en Hollande marquent le début

<sup>1</sup> *Monthly Report of the Deutsche Bundesbank*, February 1992.

<sup>2</sup> *K.W. Deutsch et al., Political Community and North Atlantic Area*, Princeton University Press, 1957.

de graves crises : la crise financière importée des Etats-Unis en 2008, muée en crise économique, sociale, voire politique, déstabilisant les solidarités sociétales. En témoignent les dérives autoritaires en Hongrie et en Pologne.

De surcroît, les menaces s'accroissent : effets de l'austérité, poussées des nationalismes, vagues populistes, voire extrémistes et anti-européennes, sans oublier les peurs devant l'afflux de « masse » des migrants, des terroristes islamistes, et des guerres dans le voisinage. Autant d'épées de Damoclès qui pèsent sur l'Union. En parallèle, la globalisation jointe à la montée des superpuissances telles la Chine et l'Inde, et la destabilisation de l'ordre mondial par le Président Trump et le Brexit suscitent des craintes qui appellent un sursaut de l'Union. Des voix, dont celle de Macron, demandent la refondation de l'UE, alors que la rencontre de Merkel avec le gouvernement polonais confirme la volonté de ce dernier de récupérer des pouvoirs transférés à l'Union.

Il est temps d'admettre que l'UE a un urgent besoin d'un noyau dynamique fédérateur doté de pouvoirs régaliens, afin de redonner l'élan vital en entraînant dans son sillage d'autres membres qui en expriment la volonté. A ce titre, le traité de Lisbonne a prévu « la coopération renforcée » qui permet la création d'un noyau d'avant-garde capable de riposter au faisceau de menaces et d'assurer la survie de l'euro.

Intégré dans l'Union, ce noyau utiliserait les mêmes structures réduites à la dimension de ses membres : un Conseil européen, un Conseil des Ministres et surtout un Exécutif et la BCE, le Parlement européen des 19 et une Chambre spécialisée de la Cour de justice. Le noyau disposerait des pouvoirs régaliens et ses décisions seraient prises selon la méthode communautaire à la majorité qualifiée dans les domaines monétaire et économique, mais aussi concernant les relations extérieures, la sécurité et la défense, les projections armées à l'extérieur ou concernant encore les flux migratoires. Cet Acte décisif assurerait la survie de l'euro, la définition des stratégies communes et l'attribution de moyens grâce à un budget propre. Les détails restent à peaufiner mais l'essentiel est de resserrer la collaboration dans une structure démocratique intégrée au sein de l'Union.

Ainsi la dynamique insufflée par ce noyau fédérateur redonnerait l'impulsion à l'ensemble des 27 en intensifiant leur unité dans la diversité selon une vision fédérale. Cette initiative incombe à la France et l'Allemagne, en commun avec l'Italie et d'autres Etats de la Zone euro qui ont le courage de s'engager pour inspirer l'espoir et

la confiance à tous les 27 membres de l'Union. Il est temps de porter remède à la maladie infantile de l'Union qui depuis l'échec de la CED n'a pu se doter d'un projet politique alors qu'à présent le politique a pris la place du tout économique. C'est au prix de cette relance que l'Union européenne retrouvera son rôle de phare de la démocratie dans notre monde globalement destabilisé. Il y va, j'en suis convaincu, de la survie de notre civilisation. La création de ce noyau au sein de la Zone euro est la priorité urgente face au délitement de l'Union européenne. L'appel du Président de la République Emmanuel Macron en faveur d'une « Europe de la souveraineté » s'inscrit dans les faits.

Dans cette perspective, nous proposons de procéder en deux phases : une action immédiate engagée par un noyau fédérateur au cœur de la Zone euro susceptible de redonner de l'espoir et de l'élan à l'Union européenne; une démarche visant la refondation de l'Union à moyen terme. Ces deux initiatives ont pour but de créer une « Europe de la souveraineté ».

De surcroît, face à la vague d'innovations technologiques et du numérique, l'Union a plus que jamais besoin d'un « Haut Conseil éthique ». Les valeurs et les principes démocratiques, les droits humains, la solidarité sont appelés à retrouver leur place essentielle dans toutes les activités de l'Union européenne. Au terme d'une période de divorce entre valeurs fondatrices et activités économiques de l'Union, il est temps de réunifier ces deux éléments complémentaires qui forment l'originalité de l'identité européenne.

Le noyau politique sera doté d'une vision globale, des compétences régaliennes et des moyens requis non seulement pour la relance économique mais aussi en matière des relations extérieures, de défense et de sécurité, notamment dans la lutte contre le terrorisme, contre GAFAM et la fraude fiscale. Ce noyau dynamique en entraînant les 27 ranimera l'espoir d'une Europe unie et solidaire dans un monde destabilisé en proie à des forces national-populistes et extrémistes. La crise, l'accroissement des inégalités et la paupérisation font le lit de régimes autoritaires tant en Europe que dans le monde. Il est urgent que l'Europe, bastion de la démocratie et des droits humains, retrouve son élan vital et s'affirme dans le dialogue des cultures. Le moment est arrivé du choix entre déclin ou épanouissement de la civilisation européenne.

Genève, octobre 2017



# **A true European Constitution to recover from the economic and social crisis through political integration deepening**

Adriana Ciancio\*

## **1. Introduction**

The process of political integration in Europe is nowadays one of the most important point of view for analyzing the current, new relationship between international and constitutional law. The aim of transforming the EU from an originally purely economic Community into a full-blown political Union, consolidating the path started with Maastricht Treaty and the introduction of the European citizenship, has brought many ‘constitutional’ components into the original international structure of the EU. The most significant step is probably represented – as it is well known – by the European Charter of Fundamental Rights, that could be considered the ‘core’ of the current constitutional framework of the EU, especially after the Treaty of Lisbon came into force giving the Charter the same efficacy as the Treaty itself. Moreover, Rule 2 of the same Treaty, which declares that the Union is based on some common principles (among others: democracy, human dignity, rule of law, equality, protection of human rights, pluralism, justice and solidarity), demonstrates that the European Union is increasingly looking at itself

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as a Union of shared values rather than just a simple single market as it initially did.

However, this process has not yet been completed due to the Europeans' trouble in understanding, and hence living in full, their own status as European citizens, alongside the traditional citizenships of their respective countries of origin. Moreover, there is widespread scepticism towards the process of political integration as seen by European citizens, that led in May 2014 to the most anti-European Parliament ever elected in history since 1979, due in part to the anti-European propaganda often pursued at the national level by political elites, at times also with the support of the media. Indeed, it is easy for Governments to offload to third parties (and in particular the EU) responsibility for the economic and financial restructuring measures, adopted to contain public debt, that, even though not always sufficient, are nonetheless oppressive for citizens. This comes in addition to the recent increase in mutual distrust between citizens of countries that are still economically stable and those running large budget deficits, along with complaints from citizens of both (although for opposite reasons) towards "technocratic" decisions taken in Brussels. Here goes a summary of the well-known background debate: the deep-seated differences between the current socio-economic conditions of southern and northern European countries operate in addition to the complex relationship between Eurozone members and other Member States. Whilst some of the former have benefited from bailout mechanisms adopted in the face of initial prohibition, some of the latter have never intended to participate (including first and foremost the UK, which now calls for a repatriation of sovereignty after a referendum on the topic), whilst others are still in a growth phase (such as Poland, in the financial slipstream of Germany, although with a peculiar, recent alignment with Moscow) and consider the prospect of joining the single currency with some degree of apprehension, due to the serious economic and financial suffering of some countries that have already joined.

## **2. Issues of representation**

Moreover, the above-mentioned 'euroscepticism' is probably a result of the notorious, persistent 'democratic deficit' of the European Union, that seems has not yet been resolved, in spite of the strengthening of the

role of the Parliament after the entry into force of the Treaty of Lisbon and the new rules on the functioning of the Union. Certainly, major progress has been made on this issue compared to the previous Treaties, fundamentally as a result of the expansion of the legislative power of the Parliament and its new role as an actual co-legislator. So democracy seems to be respected, at least from a “formal” point of view, as it has long been argued by those who find the “essence” of democracy in the fact that at the very heart of the political decision-making process the constitutional setting provides bodies whose members are directly elected by the citizens through their votes and thus are representative of the people.

But this same notion of political representation and the concept of representativeness, when transposed to the European level, show some symptoms of tension, due to certain issues which have yet to be resolved.

The first concerns the failure to consolidate a structured and stable system of genuinely European political parties, thereby definitively removing election campaigns – and more radically the entire management of European elections – from national political parties, to which they are entrusted to date. In spite of recent considerable progress in this direction with rules about the status and financing of European political parties, European politics still lacks its own ‘natural interface’ between voters and institutions. This function should be provided by European parties, conveying the political will of the electorate into decision-making bodies according to a particular view of the general interests of the Union. Conversely MEPs are still nominated for European election by national parties, notwithstanding the fact that the Treaty of Lisbon has changed their mandate, making them direct representatives of the Union citizens (Article 10.2 and 14.2 TEU) instead of “representatives of the peoples of the States brought together in the Community”, as previously laid down by the Treaty establishing the European Community (Article 189.1 TCE). This peculiarity slows down the process of political integration in Europe as, in the run-up to the European elections, the different political visions and interests concerning Europe itself, its role in the global context, its policies, its future, etc. are not sufficiently presented to the electorate. Rather, election campaigns are played first and foremost in the national political arenas, leaving electors in the dark about what actual Union policies would result from their votes.

The fact that until today European citizens still vote for the European Parliament through national parties instead of real European parties represents a sharp contradiction in the nature itself of the Parliament as a truly European body and an equal co-legislator in the European Union's institutional set-up.

There have been only weak positive signs to enhance the creation of a European political party system, dating to 2014 before the parliamentary elections in the form of candidatures for the office of Commission President proposed jointly by national political parties with political affinities, as a sign of shared transnational policies. Actually, it acted as a reinforcement of the political role of the Parliament in its relationship both with the Council – due to the fact that the Treaty of Lisbon gave the European Parliament the right to elect the Commission President, instead of merely giving its consent to the Council's choice – and furthermore with the Commission itself, in line with a more parliamentary type of governance of the EU. However, despite all efforts, the leading candidates were unknown to the majority of Union citizens and for many voters even the affiliation of the national parties to the European families was unclear or even unknown.

The second (closely linked to the first) major unresolved issue relating to the essence of the representative relationship concerns the persistent lack of a uniform electoral system for the European Parliament, despite long-standing exhortations from the European institutions. Whilst these admonishments have subsequently been expressed legally (finally Rule 223, par.1 TFUE), their implementation has not yet progressed beyond the formulation of certain highly general and commonly shared principles incorporated in single acts of national legislation. No comprehensive agreement on a truly uniform electoral procedure has yet been achieved and only some convergence of electoral systems has taken place gradually among Member States, as a result of the adoption of secondary legislation. The only reform of the Electoral Act, dating back to 2002, requires Member States to abolish the dual mandate for MEPs and to conduct elections on the basis of proportional representation using either a list system or a single transferable vote system. It means that up until now the political distribution of seats in the European Parliament is not determined by one true European election, but rather by 28 national elections.

The outcome of the above-described system of European elections is that, even if the democratic legitimacy of the Parliament, and more widely, democracy itself, is “formally” respected at European level, it probably lacks effectiveness. Indeed, elections are the main instrument of democratic participation, but the current functioning of European elections points out to an unbridgeable gap between the electorate and the European Parliament, exacerbated by the fact that Union citizens are still unable to fully take part in European political debates. Actually the common perception is that in the EU there is still too much technocracy, too much bureaucracy, too much lobbying and too little politics, as clearly shown also during the last Greek crisis in July 2015, when the Parliament seemed to have “disappeared” from the scene and left at the corner in the complex management of the crisis while other institutions played the role of main characters, firstly among them the European Central Bank, although with no political legitimacy and low accountability.

To win back European citizens’ trust towards the Union, it is necessary to place politics at the core of the decision-making process in Europe, through the Parliament itself, which, being the only directly-elected political body, must necessarily be granted public-policy-decision powers. However, such evolution cannot take place unless the Parliament becomes “substantially” representative of the political will of European voters, through a major strengthening of the European dimension of European elections. From this perspective, there are big hopes for the Proposal for amending the Act of 1976 concerning the election of the MEPs approved by the European Parliament last November, 11<sup>th</sup>, 2015 and currently awaiting the Council’s final approval, aiming to enhance the common European character of the European elections.

Nevertheless, up until now European elections are still governed for the most part by national laws, electoral campaigning remains national and European political parties are still too weak – being only the “projection” outside the institution of political groups existing inside the Parliament by the reunion of MEPs sharing only some generic political affinities – to fulfill their constitutional mandate and “contribute to forming European political awareness and to expressing the will of citizens of the Union”, as required by Article 10.4 TEU. But European democracy’s effectiveness requires unitary lists of candidates, grouped

on the basis of shared European political programs elaborated by actual European political parties, presented to all European voters. Moreover, MEPs should be elected on the basis of a uniform electoral procedure in the whole Union across transnational constituencies.

However, this is unlikely to happen considering the overall allocation of seats within any given constituency, particularly since the EU expansion to 28 Member States. More realistically, a first, 'experimental' stage could be hypothesized involving such a distribution only of seats allocated within the smaller Eurozone. This would then operate, within a federal process open to gradual expansion, as a precursor to the creation of the United States of Europe, in a similar manner (apart from the different history and political background) to the formation of the United States of America, which grew from the original 13 signatories of the Declaration of Independence to the current 50 States.

### **3. Towards a Political Union**

Therefore, EU scholars should focus on constructing a first draft of a federal system which uses the Eurozone as a model of governance for the entire Union, and assumes specific decision-making powers in relation to economic policy and taxation which would also help recovering from the economic and social crisis, which has hit Europe since 2009 and is itself a weakness of the current institutional EU framework arising from the Treaty of Lisbon. This ongoing crisis clearly demonstrates that the single market is unsustainable only by means of a single monetary policy. Furthermore 19 different economic and fiscal policies have shown how ineffective the EU is in coordinating them, as the Greek 'case' has revealed. Anyway, it is a known fact that European integration has always thrived on crisis situations, as it was the case of the original Treaty of Rome, drafted against the backdrop of Europe's serious recession following the Second World War. Similar dynamics operated in the wake of the fall of the Berlin Wall and the end of tensions between East and West with the conclusion of the Maastricht Treaty. So it seems appropriate that the goal of political integration would find renewed vigor at the present time, with an increasingly urgent need to complete the monetary and banking union with a real fiscal, economic and political union which would also give citizens the vision of a new Europe based on democracy and solidarity

among people instead of competition among States. This would also address the main international problems that single Member States are no longer able to deal with, not least of which illicit immigration and international terrorism. Consequently, the EU should proceed towards a real political union aimed also at a single foreign, security and defense policy to stabilize its territories and cope with current geopolitical threats and challenges.

#### **4. The Parliament's role in the future United States of Europe**

A crucial stage in the process of constructing a genuinely federal European order, operating as a unitary player with non-Member States, involves enhancing the decision-making role of the European Parliament (after making it “substantially” representative) along with ensuring stronger dialogue with national Parliaments. This would result in numerous positive effects. First, it would reduce the traditional inter-governmental method (which has intensified both in fact and legally, also due to the institutionalization of Eurosummits), in favor of inter-parliamentary procedures whose decisions (such as wage restraints, reductions in social services and/or tax rises) would be more appealing to voters, as opposed to decisions made by institutions with weak democratic legitimation. Moreover, this would enable “common (democratic) constitutional traditions” to be respected, placing representative Assemblies at the heart of political processes. In addition, in those systems in which the upper House of Parliament is geographically representative, the participation of local government within the European decision-making process would be reinvigorated, therefore satisfying the strong demands for autonomy now made by the regions of some member States.

A connected problem is establishing a second Chamber of the EU Parliament along the usual lines of federal systems. It would be necessary to organize representation between direct legitimation (the USA Senate model) or indirectly, with a Chamber of delegates from national Parliaments. In any case, it should guarantee representation of single Member States' interests beyond the general interests of the whole Union, that would continue to be carried forward by the present Assembly, acting as a lower chamber. A second issue, strictly related to the first one, concerns the representation of the Eurozone's interests within the wider context of the Union.

## **5. Institutional dialogue and relationships between the European Court of Justice and national Constitutional Courts**

The need to deepen the dialogue between European institutions and their national counterparts in constructing a real political union is confirmed by recent developments in the relation between the Court of Justice and some national Constitutional Courts, following preliminary references for interpretations requested by some Constitutional Tribunals, among them also the German *Bundesverfassungsgericht* (BVerfG, 2 BvR 2728/13 of 14 Jan 2014). The decision by the Karlsruhe Court points to an initial ceding of ground by Germany on the drastic measures to contain government deficit levels, which had essentially been imposed by Germany on the other Member States at the intergovernmental level. This may represent a further cession of sovereignty to the Union, although subject to considerable reference – by the German Court – to the democratic principle, which has always been regarded by Germany as a limit on the cession of sovereignty, and hence on the process of European integration. Indeed, the objection to the European Central Bank’s initiatives concerning the financial operation known as OMT may be viewed in this light. It is moreover clear that the recent decision by the Court of Justice to accept almost all the arguments of the ECB (ECJ, GR. S., Dec. 16-06-2015, *Gauweiler Urteil*) makes sense as it enhances its position and scope for decision making far beyond official institutional powers, thereby endorsing prospects for a European political Union powered by the Eurozone with a common economic and financial policy as its fuel.

More generally, preliminary references (to the EJC) by the national Supreme Courts in any case represent a further – fundamental to integration – step forwards in the predominance of European law over national law, as is harmonizing national legislation, which can only be guaranteed by the predominance of European law. However, the achievements of Nice in the area of fundamental principles and rights should not be rescinded, thereby staving off a return to an era in which the protection of fundamental rights at the European level was assured by Community case law within the limits of single market goals.

On the other hand, the effectiveness of shared values, fundamental rights and common principles, achieved within national legal systems through case law, may favor the consolidation of a sense of collective identity, that acts as the premise for a ‘European people’, being more

than the sum of the EU's individual citizens and a social prerequisite for the completion of the process of political integration, through to the construction of the "United States of Europe".

An important step in creating collective European awareness is also offered by democratically controlling European choices and policies, confirming on the one hand that the European Parliament should be at the heart of the Union's political decision making and dialogue between state and supra-national institutions. On the other hand, it would stress how important are communication and exchange of information, which should be as widespread, transparent and complete as possible. This would put major responsibilities on European and national institutions, which would require them to open up and make their own decision-making processes intelligible to voters, as well as on media and journalists (and more generally on all providers of information services) to promote a public debate that is genuinely pluralist in nature and transnational in scope.

## **6. Conclusions**

The opinions expressed in these few pages have focused on the construction of a first draft of a federal system, using the Eurozone as a model of governance for the entire Union, along with its assumption of specific decision-making powers over economic policy and with fiscal and borrowing capacity based on its own resources under effective democratic control. The Parliament should be the cornerstone of this legal framework, after having been made genuinely representative of European peoples by means of a European party system and the introduction of a uniform electoral procedure, at least within the Eurozone and seats allocated to its members. In this way, the Parliament would be able to enter into an effective dialogue with national Parliaments, thereby establishing budgetary recovery measures tailored to each individual Member State. Within general European economic policy, voters (who are at the same time also consumers and end users of social services) would be more likely to digest such policies. This assumes that effective European governance of the economy is achieved by rebalancing relations between the Parliament, Council and Commission. Powers and accountability of the European Central Bank should also be redefined for determining European economic policy

through monetary and financial instruments, with which it currently appears to be equipped in any case, perhaps going beyond its role under current legislation.

Actually, there is a widespread notion that, because of the recent distrust of EU citizens towards the process of political integration, the entire Treaty of Lisbon should be reformed to build a new, stronger European Political Union beginning from the Eurozone, by drafting a new EU institutional framework with stronger democratic legitimacy in all its institutions and procedures. Among others, also the European Central Bank must be reformed, granting to it the powers of a true Federal Bank, however strengthening its political legitimacy and accountability and preserving its independence. The task seems hard, but not impossible, as shown by some recent proposals of reform, drafting a new appointing system for the ECB President, involving the Parliament itself together with the Council, among them the so-called “Protocol of Frankfurt” by Andrew Duff. Therefore, differing kinds of integration should be accommodated by the expanding Eurozone with the desire of some UE Member States of reducing their integration, conversely without allowing them, for the future, a veto power over decisions involving Eurozone Member States.

The significance of the European Court of Justice and its dialogue with national Constitutional Courts should also be highlighted, to encourage the circulation of values and principles whose ultimate goal is to consolidate genuine common constitutional heritage as a prerequisite for resuming the European constituent process.

Indeed, the development of a legal platform which is essentially constitutional in nature seems indispensable.

The purpose of this new constitutional construct will involve vesting common institutions with effective economic and financial powers along with redefining reciprocal relations based on policies adopted at the European level by the Parliament, as the only EU institution with direct democratic legitimacy. This way, European citizens would be pleased in terms of the democratic control and legitimacy of the EU and its institutions and procedures, and furthermore it would ease the Eurozone out of the crisis in which the Treaty of Lisbon seems to leave the single member States.

Nothing else can win back the trust of European citizens towards the Union. The alternative is spreading social perception of an irreversibly

declining EU, which is fostering the rise of populisms, nationalisms and xenophobia.

Actually, it's time to answer a question which could be summarized as "What kind of Europe do we want?" as important as the other "How much Europe do we need?". A response to both these questions would provide the "fundamental political decision" which is now indispensable for strengthening European integration and achieve a political Union based on a real Constitution instead of the current legal platform of the international Treaty.



# **Adaptations recentes et reformes en attente pour l'avenir de la zone Euro**

Alain Buzelay\*

## **Introduction**

### **Des succès de l'Euro aux difficultés de la zone Euro**

L'avènement de l'Euro a définitivement mis fin aux variations intempestives des taux de change au sein de la zone. Des variations devenues plus déstabilisatrices que stabilisatrices compte tenu de l'ouverture croissante des économies. Pour les États, les entreprises et les ménages, les avantages de la monnaie unique sont réels et l'Euro constitue la seconde monnaie de réserve mondiale après le dollar.

Depuis une dizaine d'années, de graves difficultés ont néanmoins affaibli la zone Euro, c'est-à-dire les économies des États qui la composent. Ces difficultés sont nées de l'accroissement des divergences nationales concernant le taux d'endettement public, le taux de croissance, le taux de chômage, l'inégalité des revenus...

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## **I – Des adaptations nécessaires pour réduire les divergences**

### **A • Une convergence monétaire sans un minimum de convergence économique**

Dès la fin des années 1960, les précurseurs d'une union monétaire dans l'Europe d'alors affirment que sa dimension monétaire doit être étroitement liée à sa dimension économique. Notons qu'une différence d'approche existait déjà entre la position allemande, soutenue par Karl Schiller, selon laquelle la convergence économique devait au préalable induire la convergence monétaire, et la position française, soutenue par Raymond Barre, prétendant l'inverse. La construction de la zone Euro, programmée par le Traité de Maastricht s'est voulue conforme à la position française. Mais la convergence monétaire n'a pas entraîné le minimum de convergence économique attendu en vue du bon fonctionnement de la zone et de sa stabilité. Sous l'effet de la crise américaine, de la crise de l'endettement public et des politiques d'austérité pour tenter d'y remédier, les divergences économiques se sont accentuées entre les pays de la zone.

### **B • Une action correctrice de la BCE aux effets peu durables**

Dès l'année 2000, la BCE s'est montrée sensible aux difficultés conjoncturelles de l'époque en baissant son taux directeur. Depuis la crise, la Banque s'est peu à peu affranchie du cadre de son action – exclusivement limité à l'objectif de stabilité des prix – en lui associant indirectement, à la marge, un objectif de relance économique par une augmentation progressive de ses financements au profit des États, des entreprises et des ménages – baisses successives des taux directeurs, taux négatifs pour pénaliser les excédents bancaires non prêtés, prêts à long terme en faveur des banques finançant les entreprises, rachat massif et régulier d'obligations souveraines, de créances publiques et privées sur le marché boursier (Quantitative easing, ou «assouplissement quantitatif»).

Mais l'action de la BCE a une portée limitée dans le temps. La baisse considérable des taux d'intérêt encourage les financements spéculatifs, au détriment des financements productifs en faveur de l'investissement. Et dans la conjoncture actuelle, l'entrepreneur préfère se désendetter plutôt que d'augmenter ses emprunts, même à faible taux, compte tenu de ses faibles anticipations sur l'augmentation de ses ventes.

Ajoutons que, la BCE n'étant pas autorisée à acheter des titres lors de leur émission, elle ne peut se les procurer que sur le marché boursier. Les liquidités qu'elle injecte profitent ainsi aux seules banques et institutions financières qui les détiennent sur ce marché et souhaitent s'en défaire. Ces liquidités ne profitent donc pas directement aux autres agents (entreprises et ménages), c'est-à-dire à l'économie dans son ensemble. Précisons enfin que ces financements, quelle que soit leur efficacité, seront progressivement réduits dès 2017.

L'action correctrice mais limitée de la BCE explique que les divergences économiques demeurent importantes entre les pays de la zone Euro, en dépit d'une timide reprise en 2016. En témoigne, entre autres, la disparité actuelle des taux de chômage : 3,9% en Allemagne, 9,6% en France, 10% au Portugal, 12% en Italie, 18% en Espagne, 23% en Grèce...

## **II – Des réformes en attente indispensables pour la stabilité de la zone**

### **A • Une Banque centrale à part entière pour une monnaie à part entière**

Si le parallélisme entre monnaie unique et politique monétaire unique est respecté, celui entre monnaie à part entière et banque à part entière ne l'est pas. Pour que cette logique soit rétablie, il faudrait qu'à l'exemple des autres banques centrales (États-Unis, Angleterre), y compris de celles qui, avant la zone Euro exerçaient leur pleine souveraineté dans chaque État membre, la BCE bénéficie d'un élargissement officiel des objectifs lui étant assignés – avec, au côté de la stabilité des prix, la lutte contre la récession, le soutien à la croissance et à l'emploi... Ces objectifs ne sont pas opposés et leur poursuite conjointe n'est pas contradictoire, sauf selon l'approche libérale orthodoxe impulsée par la théorie quantitative de la monnaie – une approche étrangère à celle des Pères de l'Europe.

À l'exemple des autres banques centrales, la BCE doit pouvoir jouer le rôle de prêteur en dernier ressort, en alimentant systématiquement de sa «monnaie centrale» le marché interbancaire en cas de graves tensions. Elle doit aussi pouvoir souscrire les titres directement auprès des leurs émetteurs, sans passer par les banques et autres institutions financières présentes sur le marché boursier.

L'institutionnalisation d'un lien étroit entre la Banque Centrale Européenne et la Banque Européenne d'Investissement paraît aussi utile pour soutenir la croissance des États membres en manque de financements internes. La BEI ne peut en effet financer plus de 50% du montant des investissements sélectionnés au profit de ces États membres.

L'Allemagne, jusqu'à ce jour, s'oppose à de telles réformes. Mais la peur d'un nouveau Brexit, du terrorisme, de la montée des migrations et d'une détérioration des équilibres politiques mondiaux vont contraindre l'Union à relancer ses politiques de défense et de sécurité. Dans cette perspective, la France a les atouts pour jouer un rôle de premier plan et convaincre l'Allemagne à plus de solidarité, en acceptant des réformes auxquelles elle n'aurait rien à perdre, en dépit de ses références doctrinales faussement sécuritaires. Dans un espace où les relations économiques sont de plus en plus interdépendantes, la reprise économique d'un autre État membre ne peut que lui être favorable.

### **B • La mise en place impérative d'instruments de régulation**

Il s'agit d'abord d'achever l'union bancaire en mutualisant à l'échelle communautaire le système de l'assurance des dépôts, puis en concrétisant le système de soutien au «Fonds de résolution unique» pour faire face au risque de propagation des crises bancaires et financières. Des crises qui peuvent de nouveau survenir sous l'effet de la dérégulation prônée par l'actuelle Administration américaine, de l'augmentation de l'endettement aux États-Unis, en Chine..., et de la haute fréquence des ordres de bourse sur la base d'algorithmes réagissant plus rapidement que l'homme pour impulser l'opération la plus rentable.

Il s'agit ensuite d'adopter un véritable budget fédéral pour l'Union, disposant d'une masse critique en référence au PIB, alimenté par des ressources venant compléter les ressources actuelles (taxes sur les transactions financières, sur les émissions d'oxyde de carbone, sur le diesel, sur le bénéfice des multinationales). Ce budget financièrement plus ample deviendrait un outil de stabilisation macroéconomique contribuant à une meilleure convergence entre États de l'Union et, par voie de conséquence, de la zone que chacun est appelé à rejoindre à terme, à l'exception du Danemark. Notons qu'aux États-Unis, 46 États

ne pourraient couvrir leur déficit et poursuivre leur croissance sans le budget fédéral. Refuser un tel budget, c'est se priver d'un outil essentiel de régulation – en cas de chocs asymétriques notamment, alors que dans un espace monétairement intégré, il n'est plus possible de recourir à la variation des taux de change et d'intérêt, d'ailleurs de moins en moins efficace. La proposition de la Commission de créer, dans le budget général, une ligne budgétaire pour la zone Euro va dans le bon sens.

Il s'agit encore de renforcer la régulation concurrentielle. La mise en œuvre d'un espace concurrentiel, voulu par le marché commun (Traité de Rome, 1957) et réaffirmé par le grand marché (Acte unique, 1985), implique une stratégie dite de dérégulation. Mais la dérégulation n'est pas l'absence, ni le contraire de la régulation. C'est la suppression des seules règles faisant obstacle à la concurrence. Elle n'exclut pas l'instauration ou le renforcement de règles destinées à faire respecter et à équilibrer la concurrence. Il en est ainsi en matière fiscale, où certaines disparités faussent la concurrence. C'est la raison pour laquelle certaines harmonisations sont en cours. Les firmes réalisant un chiffre d'affaires supérieur à 750 millions d'euros doivent adopter une méthode unique de calcul de leur profit imposable. Les impôts acquittés par les filiales des multinationales localisées dans tel ou tel pays doivent être désormais fonction de leur activité réelle dans ce pays. Sans remettre en cause la souveraineté fiscale des États, on devra rapidement convenir d'un écart maximal (limites inférieure et supérieure) afin d'éviter dumping et guerres fiscales au sein de la zone Euro et de l'Union. Actuellement, l'impôt sur les sociétés va de 12,5% en Irlande à 34% en Belgique et en France – sans tenir compte des négociations secrètes (tax ruling ! – ou rescrit fiscal).

Il s'agit par ailleurs de créer un mécanisme d'ajustement symétrique s'appliquant aux pays tant excédentaires commercialement que déficitaires. Il faut que les premiers puissent participer au soutien de la croissance de la zone Euro en fonction de la marge de manœuvre procurée par leur surplus. Les règles de fonctionnement de la zone Euro adoptées en 2011 prévoient le non-dépassement d'un excédent commercial supérieur à 6% du PIB. Celui de l'Allemagne est actuellement de 8%, mais aucune procédure de sanction ne s'est concrétisée.

Il s'agit enfin d'instaurer des stabilisateurs automatiques. Depuis le rapport des cinq présidents sur l'achèvement de l'union économique et monétaire, le débat sur la création de stabilisateurs automatiques au

sein de la zone Euro est désormais à l'ordre du jour. Le projet médiatisé d'un système européen d'allocation chômage apparaît comme un stabilisateur privilégié affirmant le rôle régulateur de la dimension sociale de l'Europe. Mais d'autres stabilisateurs automatiques ne sont pas à exclure. Nous pensons au renforcement de l'union bancaire (mise en place en 2014) pour éviter la propagation des crises bancaires ; à la nécessaire mutualisation des dettes publiques par émission d'obligations européennes pour éviter de trop fortes disparités des taux d'intérêt au détriment des pays les plus endettés.

### **C • Des réformes nécessitant un nouveau cadre institutionnel**

L'efficacité du fonctionnement de la zone Euro implique que les États en faisant partie acceptent de partager davantage de compétences dans un cadre juridique adapté. La mise en place d'un tel cadre devrait leur permettre de prendre leurs décisions au sein d'un Eurogroupe «renforcé», comme au sein du Parlement européen. Conformément aux propositions de Bruxelles, un nouvel équilibre devrait être trouvé entre la Commission, chargée d'assurer l'intérêt général de l'Union, et l'Eurogroupe «renforcé», chargé des décisions concernant l'intégration monétaire. Le fait d'avoir un ministre pour la zone Euro répondrait à cette problématique. Mais la proposition faite par Jean-Claude Juncker que le commissaire des affaires économiques et financières de l'Union puisse jouer ce rôle semble plus pragmatique. L'Eurogroupe deviendrait ainsi une formation restreinte du Conseil, dotée d'une représentation extérieure unifiée, intégrée – en tant qu'entité – au FMI d'ici 2025, ses membres devenant responsables devant leurs Parlements respectifs.

Pour parachever cette nouvelle architecture, la Commission européenne réfléchit à l'instauration d'un «Trésor» de la zone Euro, lequel serait responsable de la surveillance économique et budgétaire dans ladite zone, de l'émission d'actifs financiers «sans risques» et de la gestion d'un mécanisme de stabilisation macroéconomique. L'idée d'un «Fonds monétaire européen» garantissant une meilleure stabilité financière de la zone, et par suite son autonomie par rapport aux institutions internationales, est aussi avancée. Ce Fonds intégrerait les actuels mécanismes d'aides, en liquidité, au profit de certains États membres, et de soutien, en capital, pour des banques en difficulté, grâce au Fonds de résolution unique instauré par l'union bancaire.

Ces réformes indispensables, ainsi que le nouveau cadre institutionnel qu'elles nécessitent, exigent néanmoins une réconciliation de l'opinion publique avec la monnaie unique.

## **Conclusion**

### **Réconcilier l'opinion publique avec l'€uro**

La zone Euro est de plus en plus perçue comme responsable des difficultés socio-économiques qui pèsent depuis plusieurs années sur sa population. Difficultés engendrées par les délocalisations, les niveaux d'endettement, les politiques d'austérité. Un jugement qui révèle un malaise plus profond : celui de l'opposition d'une partie grandissante de la population s'estimant lésée par la monnaie unique, que ne manquent pas d'attiser les mouvements populistes.

Il est donc urgent de réconcilier l'opinion publique avec une zone Euro apte à gérer les problèmes de son fonctionnement, mais surtout une zone Euro capable de faire face aux grands problèmes du moment: faible croissance, chômage, inégalités, guerre fiscale... Parallèlement, il est urgent de réconcilier l'opinion publique avec une Union européenne devant faire face à la radicalisation de certaines politiques nationales, en son sein ou au dehors, pouvant garantir la sécurité, maîtriser l'immigration, maintenir sa place dans le monde.

Observons que la remobilisation de l'opinion publique en faveur de la zone Euro est étroitement liée à celle des décideurs nationaux, dont l'attitude est plus ou moins dépendante des convictions de leur électorat.

Cette remobilisation conjointe de l'opinion publique et des décideurs politiques nationaux doit cependant être amorcée et entretenue par des responsables communautaires ayant un certain charisme afin de convaincre les États membres que dans de nombreux domaines, l'échelon communautaire est le seul moyen de retrouver une souveraineté de plus en plus précaire au niveau national.

*Paris, novembre 2017*



## **Comment pouvons-nous sortir de la crise économique et sociale en approfondissant l'intégration européenne**

Alberto Delfin Arrufat Cárdaya\*

Lors des dernières années, les États membres de l'Union européenne ont souffert d'une crise économique et financière sans précédents qui est en train de devenir une crise à caractère sociale.

L'importance croissante des politiques et de la législation européenne au sein des régulations propres à chaque État membre, à mesure que le processus d'intégration européenne s'est développé et approfondi, a fait que les décisions que prennent les Institutions européennes, ne soient pas un simple complément des politiques et des régulations des États membres mais plutôt des décisions de la plus grande importance ayant un effet direct sur les problèmes liés à la crise.

Nous avons créé une Union européenne qui, malgré ses indiscutables carences, bénéficie de nombreux outils lui permettant non seulement de faire face à la crise d'origine financière et économique mais également aux problèmes sociaux provoqués par le déclin économique de la zone euro.

Il y a quelques années j'ai trouvé des travaux scolaires réalisés à la fin des années 60 par des étudiants espagnols de 15 à 17 ans. L'objectif du travail était de réfléchir sur l'Europe (pour beaucoup d'entre eux, l'Europe était la Communauté Économique Européenne). Personne ne parla explicitement de démocratie ; toutefois ce n'était pas une représentation fidèle de la réalité puisque l'Espagne n'était pas un pays membre et les élèves ne savaient pas ce qu'était un régime démocratique. Cependant cette lecture fut pour moi un apport d'énergie considérable. Le projet d'intégration du point de vue de ces étudiants, certainement influencé par celui du professeur, représentait l'idée d'un chemin engageant et révolutionnaire capable de changer la réalité

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quotidienne, d'apporter une part de rénovation et d'améliorer la qualité de vie des personnes. Un projet très enrichissant qui incluait une dose de futur et d'espérance avec une grande part de sacrifice et d'effort. Presque soixante ans après que furent rédigés ces travaux scolaires, la vie des citoyens européens (et celle de ces espagnols) est infiniment meilleure et les sociétés sont plus justes et égalitaires. Si l'on compare, il est impossible de nier que l'Union européenne est un lieu où il fait bon vivre.

Un deuxième aspect à relever est que ce n'est pas la première ni la pire crise que l'Europe ait connu dans son histoire, la capacité européenne à s'adapter et à se transformer est incontestable. L'Union européenne dispose d'un important Know-how dans la matière. Dans ce sens, n'importe quel expert en économie expliquera avec de meilleures raisons et connaissances que je puisse le faire, que pour sortir de la crise, l'Union européenne doit prendre deux types d'actions : en premier lieu, des mesures à caractère économique (a) Mesures de relances économiques, b) Mesures de contrôle des politiques nationales, c) Mesures de contrôle des marchés nationaux et internationaux et d) Mesures de contrôle bancaire); en second lieu, des mesures à caractère sociale (a) Définition et mise en marche d'une politique de l'emploi, b) Politique de soutien à la jeunesse, c) Plus forte transparence dans la prise de décision et réduction de l'influence des groupes d'intérêts). Comme les crises économiques antérieures, nous sortirons de celle-ci.

Toutefois, notre principale difficulté n'est pas la crise économique, notre principale erreur a été que **NOUS AVONS PERDU LE CITOYEN**. En effet, une meilleure disposition économique a l'habitude de se traduire par une plus grande et meilleure disposition de la part des personnes à accepter les idées mais nous ne récupérerons par l'impulsion.

Comment récupérer le citoyen?

- A) En premier lieu, nous devons stratifier les citoyens, les segmenter pour établir un profil à chacun d'entre eux. Je ne fais pas allusion à distinguer hommes, femmes, jeunes, personnes handicapées, groupes vulnérables, personnes moins favorisées, etc. et répartir un budget de manière homogène et égalitaire pour mener à bien des actions et programmes. Les maîtres de conférences pensent

que les citoyens des États membres se ressemblent entre eux et qu'il est possible de les associer ; logiquement tous ceux qui croient au projet d'intégration défendent publiquement cette idée puisque c'est une forme de vendre l'identité européenne, cependant, la réalité démontre qu'il y a une forte disparité des profils à l'échelle globale tout comme à l'intérieur de chaque état. Détecter ces contrastes permettra d'établir des objectifs individualisés, des programmes de travail comportant des obligations et des résultats à court terme. Demandons à chaque individu où il désire être ou ce qu'il souhaite faire d'ici quatre à cinq ans, croyez- moi que les personnes répondront après que l'on leur ait indiqué un chemin. C'est un excellent moment pour le faire : nous disposons de la technologie et le budget pour ça et, le plus important, une prédisposition sociale car même pas les jeunes avec une qualification élevée et un emploi (comme peut l'être mon cas), nous percevons un clair chemin. **Nous pouvons exiger un effort aux européens si, en échange, ils ressentent une fois de plus, la force transformatrice de l'Union.** Cette aspect transformateur ne doit pas se limiter uniquement aux questions du travail ou économiques, mais doit aussi s'élargir aux questions sociales ou collectives, problèmes de genre, de conciliation familiale, d'épargne, etc.

**A) Nous devons renouveler les raisons et les motifs d'un européen du XXI siècle.** À mes étudiants universitaires, la chute du mur de Berlin leur semble très lointaine tout comme l'était pour moi l'adhésion de la Grèce lorsque j'étudiais le droit communautaire. Mes étudiants sont nés dans une Europe de Paix, grâce à l'Union européenne, ils ne voient pas la Paix comme une valeur ajoutée à la vie et, malheureusement, ne considèrent pas la paix comme un motif suffisant, per se, pour estimer l'Union européenne. Le discours politique doit être renouveler et se focaliser sur les avantages concrets dont peuvent bénéficier les citoyens. La crise peut servir à l'Union pour se présenter aux citoyens comme une entité forte, et expliquer au peuple comment ses décisions peuvent avoir un effet immédiat et positif sur eux. Créer une Union européenne qui s'occupe de ses citoyens. Pour donner un exemple, la sentence du Tribunal de Justice de l'Union européenne

relative aux clauses abusives des crédits hypothécaires espagnols a eu comme impact en Espagne un renouvellement social de la fonction de juge comme garant des Droits des citoyens. **L'Union doit être capable de construire une philosophie adaptée à la nouvelle réalité du projet européen.**

- B) Nous pouvons dépenser plus dans les programmes et projets de diffusion, nous pouvons exiger l'inclusion de la référence à l'Union européenne pour chaque action financée, malgré à cela, sa visibilité ne s'améliorera pas, et, dans le meilleur des cas, une idée d'une Union européenne comme une source de ressource sera donnée, sans même être différencier des autres organisations internationales. Si l'Union veut arriver au cœur et dans la tête des européens, elle doit le faire depuis l'école. Une analyse de la situation actuelle démontre que tous les pays incluent l'Union européenne dans les contenus éducatifs des écoles et que des programmes comme EU at school ont aidé à cela, cependant **ce n'est pas la même chose expliquer l'Europe depuis les états que l'Union depuis l'Europe.** Pour cela, l'Union européenne doit gagner en matière d'enseignement et garantir que :
- a. Chaque Etat membre inclut dans ses lois sur l'éducation et ses programmes d'études une formation suffisante sur des thèmes relatifs à l'intégration européenne d'un point de vue adéquat.
  - b. Des groupes d'experts européens soient mis en place à l'échelle nationale pour déterminer les contenus les plus appropriés à chaque niveau éducatif ainsi que leurs formes puisqu'ils doivent être attractifs pour les jeunes.
  - c. Les états, sans renoncer à leurs compétences en termes d'éducation, favorisent la réunion des équipes nationales pour promouvoir la progressive harmonisation de l'enseignement relatif à l'UE lors des parcours académiques.

Je ne voudrais pas terminer sans remercier au Prof. Sidjanski et au Prof. Quadros pour cette invitation que vous nous avez faites.



## The European Confederation – New Legitimacy and new narrative by an explicit Confederal Pact

Alejandro del Valle-Gálvez<sup>1</sup>

**ABSTRACT:** Currently the essence of European integration is in crisis : the idea of an open and continuous process in the economy and in the politics. Restart the debate on the basic political model of integration and its democratic modes of articulation is also recovering the very essential aims of the integration process, and the story of the European project.

It is proposed in this paper to explicitly discuss a new model of legitimacy to Europe, through a Confederal Pact between States and citizens. The European Confederation could be a new International format for Europe, and at the same time a sound democratic new rebuilding of the EU.

The major problem in my opinion with the integration project at present is the loss of the defining element of the project: the idea of process, dynamism, and progress of an ongoing project, open to economic changes and political progress, and open to citizens and peoples of Europe. There are alarming signs that there are States that are beginning to consider that it has passed the time of an “ever closer Union” among Europeans – what amounts to put into question the European project itself.

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In this historical moment for the European project, it is required a major political gamble. In my opinion, in the current historical moment what to search is not a *constitutional format* for the EU, but an *international format* to legitimize the European project and to preserve and safeguard the achievements of the integration process. This format or model can be in my opinion the one of the international Confederation of States.

Federation and Confederation are theoretical models known since the 19th century, but have found in international reality varied applications. Examples of international practice shows that in a Confederal model can fit very different designs and structures. The conceptual approach: as opposed to the Federation, the Confederation assumes the will of survival of States and their sovereignty. Thus, a Confederation can be defined as "a governmental entity created by independent sovereign States that join together to perform some governmental functions under common authority". The requirements that seem necessary to constitute an International Confederation of States are:

- A) an international treaty
- B) a minimal institutional structure
- C) attribution of competences, particularly in external matters

In my opinion, European integration is in need of an express political option on a model or an International Law format that constitutes the comprehensible reference of the political nature of European integration for the citizens of Europe, with clear unity and visibility for the world.

If the concept and *federal model* has hovered since its origins to the European project, I believe that at present is unworkable in practice its formal consecration.

On the other hand, the *confederal option* suppose to give a recognizable political and legal drawing to the current reality of the European integration. The President of the Commission has in 2012 renewed the Jacques Delors's proposal that the EU become a *Federation of Nation States*. In fact, I understand that what was proposed is –with other words– a Confederation of States, which is the international law model that best fits the reality of the European 60 years *acquis*. This Confederal option can have a peculiar shape in the European scenario.

Therefore what we aim in these lines is not so much the confirmation or transformation of the EU into a different or a new international entity. This kind of conversion of the current EU into a Federation or a Confederation would have huge and complex institutional consequences. On the contrary, the aim is to respect the current EU, by expressly incorporating the Confederate political model as the superior and upper reference for the European project.

This Confederation choice should need an explicit Confederal Pact between the States of the EU.

If we set the Confederal Pact as an objective of governance in Europe, the explicit assumption of the Confederal model for all or part of the Member States of the EU, could take place through different ways (Treaty or Declaration). In my opinion, as the foundation of a new political model for the European project, the right way should be an international treaty with superior force to the TEU and TFEU, so that it is clear the upper hierarchical relationship above the EU Law.

In my opinion the minimum essential contents of the Confederal Pact or Covenant could be:

- A) The creation of the European Confederation, political entity that does not have to become an independent new international organization.
- B) The reference to the European Union as the means of political and economic integration.
- C) An institution or a simple institutional structure, recognizable and eligible by the European citizens, and that in practice working as the Supreme European Government (Diet).
- D) An attribution of competences mainly : for representation in foreign affairs, and for taking the major political and economic guideline decisions in Europe.

The Confederal Pact can be done with a Treaty drawn up in the most simple form possible, without modifying the TEU and the TFEU or perhaps just changing the first Article of each in order to make reference to the Confederation as the top political framework in Europe. In this way, the European Confederation could be the Supreme political entity that exemplifies the political links between the States, peoples and citizens of Europe. At the same time, the Confederation would

have to the EU as the international organization for the implementation, development and progress of the economic, legal and political issues of the integration in Europe.

Of course that this approach is very far from the initial European federal dreams, the possible United States of Europe or the European Political Union. However, the European Confederation can have significant advantages in the current historical moment without being itself a setback in the process of integration, since:

- a.– It can provide a simple top legal framework of reference for integration, and settle the European construction for the future.
- b.– It allows to create an entity controlled by citizens and States, who can give supreme guidelines and major political decisions to the EU.
- c.– It permits to separate the complex model of the EU and their technical and institutional ramifications from the ‘pure’ political union structures.
- d.– Gives recognition, visibility and democratic control by the citizens.
- e.– Allows a clear perception of the compatibility States-European project, since the Confederation guarantees the formal sovereignty that remains within the national framework of the States.
- f.– Gives external visibility as a United Europe.
- g.– Reinforce the European foreign policy and the European external actions as reflection of a single European Global Actor.

Finally, the Confederal Pact should have a simple and clear relationship with both the European Union and national Constitutions.

As regards the European Union, when articulated with the Confederal institution, the public perception would be a radical simplification, since the current EU would be erected as the International Organization to carry out the policies, actions and achievements of the integration through the EU law, and whose major decisions would be taken by the Confederation.

The functionalist theory of integration seems to have already fulfilled its mission of economic planning. It was a theory of economic construction as a means to achieve political union; but it was not its very original purpose to define this final political model. As we can

read in the The Schuman Declaration 1950 : “L'Europe ne se fera pas d'un coup, *ni dans une construction d'ensemble* : elle se fera par des réalisations concrètes créant d'abord une solidarité de fait”

So, we are at the point where political will is certainly necessary, but also to consider explicitly a decision for changing the supreme model of European organisation; providing a model or political archetype suitable to the historical moment, which respects the survival of States and the democratic control by the european citizens.

This model of the European Confederation of States corresponds well with the recurrent pattern in the Union to go to the refuge of international law in times of crisis. The Confederal model on the other hand is a recognizable element in the constitutional memory of some countries, particularly the United States, Switzerland and the German Federal Republic , where periods and Confederal formats were the prelude to the later federalization and establishment as States, single subjects of international law.

Therefore confederation is a theoretical and practical landmark in the historical construction of some Nation-States, which at present can meet two essential functions: consolidate the achievements of integration, and confirm the formal persistence of European nation States in which the peoples of the States remain the custodians of national sovereignty. Confederal model can also let keep to the European Union as international organization, and the comfortable survival of articulation with national constitutions and the constitutional courts of the members States, whenever the sovereignty of the States in this new European organization structure is formally guaranteed.

Actually, despite the simplicity of placing a “hat” on the top of the EU through this confederal Pact we propose, the Confederal model assumes a recasting of the European integration project. This consensual reform between States and citizens can bring a political model clear and simplified for European integration and the citizens, respecting States but consolidating the path of the European project and its impressive achievements made through the EC/EU, and leaving expedited the way for future developments. At the same time, allows to locate a democratically controllable headquarters where the major political, economic and regulatory decisions that Europe needs should be taken. In such a way to override the technical integration era developed with closed doors and distance from the citizens.

Therefore the proposal is to carry out a new and explicit Pact between Europeans, a new model of legitimacy for Europe, through discussion and agreement on the new political model for Europe, which respects the EU and its achievements. It's a change of approach, rather than pursue the improvement and effectiveness of procedures through greater leadership and political will, without amending the existing treaties architecture.

On the other hand, the Confederal proposal is linked to the political and sociological necessity that the European project has a recognizable story, comprehensible by citizens. If we understand by "story" an explanation and a cultural and political vision of the common values of the European project and its future, we find that the traditional European story is exhausted and in addition the crisis has had a very negative impact in narratives of the European project. The need for a new and convincing story has many aspects as the need to incorporate new narratives of shared vision of history and culture in Europe.

In this sense, the Confederal Pact can be an important piece in the construction of the new narratives that Europe needs, since it implies and assumes that Europe has a political dimension of greater significance than the EU: there has been a process with the EC / EU of great political and economic achievements, but the European "civilization process under moral principles" needs now a new pan-European model of legitimacy, a new social Pact of States and citizens offering a political future project so that European citizens can decide its model of organization and coordination with other European citizens.

But above all the European Confederation proposal allows safeguarding the soul of the European project: the idea of *open process*, in which the main aspirations and projects for Europe are something more than the current European Union. In this way the Confederal Pact and the European Confederation can allow rebuild and recover the European story, by proposing a clear political model, recognizable and democratically controllable by the citizens; a model more focused on the construction of a public space that enhances a project of shared cultural and identity values as a real project for the European citizens. In any case, a narrative that assumes that the debate on the European process must be permanent and open.

**KEYWORDS:** Integration process, European Union, Model of Legitimacy, European Federation, Confederal Pact, Confederation, European story, New European Narrative.



## **Citizenship of rights and integration process in times of crisis**

Alessandra Silveira\*

The current crisis imposes challenges to the European integration process which sees its' legitimacy questioned, above all in the eyes of the citizens of Member States undergoing intervention (Portuguese, Greek, Cypriot or Irish citizens) who live with harsh restrictions and low expectations of improvement. European citizens have never been so attentive to the developments of the European construction. And because of that, the most serious mistake of the majority of citizenship and fundamental rights analysis until today is that it tends to underestimate the systemic transformative potential of the crisis.

The main question in this context is whether the crisis shows some crucial disjunction between the expectations of Europe's citizens and the institutional forms of political integration available to them. Furthermore, to know if the developing of a broad notion of citizenship of rights («right to have rights», in Hannah Arendt's sense) could perform some role in this scenario. In this sense, the current crisis definitely questions the relation between national politics and European politics.

In a study coordinated by Miguel Poiares Maduro at the request of the European Parliament,<sup>1</sup> Maduro defends that the deep causes of the crisis are democratic problems. In other words, the origin of the crisis

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<sup>1</sup> See M. Poiares Maduro, "A new governance for the European Union and the euro: democracy and justice" (2012) European University Institute, Global Governance Programme, *RSCAS Policy Paper 2012/11* [http://cadmus.eui.eu/bitstream/handle/1814/24295/RSCAS\\_PP\\_2012\\_11rev.pdf?sequence=1](http://cadmus.eui.eu/bitstream/handle/1814/24295/RSCAS_PP_2012_11rev.pdf?sequence=1) (accessed June 13, 2013).

can be found in the democratic failures: 1) Member States' failures (that impose externalities on others in a context of economic and monetary Union and are not able to control excessive cross-border capital flows); and 2) failures of the EU governance (that has not been able to infuse its institutional system with real democratic potential).

Maduro defends that this crisis requires an effective governance capacity that the EU does not have. The Union's failure to solve the crisis is imputable to the diffuse character of its political authority and its excessive reliance on national politics. Member States, in their turn, are incapable of internalizing the consequences of interdependence generated by the Euro and integrated markets. As a consequence, the EU cannot govern effectively and its policies are prisoner to national politics. For this reason Maduro says that «the real democratic deficit is the absence of European politics».<sup>2</sup>

Then, if Maduro is right, i.e., if what is at the root of this crisis are real democratic failures, could the crisis have been avoided (or at least minimized) if the problems of EU governance (i.e., problems of convergence or coordination between EU and Member States political entities) were solved? Probably, yes. The political and legal solution for the problems that the EU is facing depends on the deepening of the federative components of the European system. Only that deepening could prevent the financial problems of a Member State from becoming a credibility problem for the Union as a whole. Only that deepening could allow the Union budget to perform economic and social functions that act as a support network for the Member States' economy.

And that deepening of the federative components of the European system must be accompanied by the deepening of the citizenship of rights. For this reason it is essential to understand the structural implications of this citizenship of rights, dealing specifically with the constitutional and political means that already exist (or can emerge) in the actual crisis scenario. The solutions for the crisis must be presented to the citizens as a response to the democratic problems in Member States (which can no longer ensure the minimum conditions of a genuine democracy and

<sup>2</sup> See M. Poaires Maduro, "A new governance for the European Union and the euro: democracy and justice" (2012) European University Institute, Global Governance Programme, *RSCAS Policy Paper 2012/11* [http://cadmus.eui.eu/bitstream/handle/1814/24295/RSCAS\\_PP\\_2012\\_11rev.pdf?sequence=1](http://cadmus.eui.eu/bitstream/handle/1814/24295/RSCAS_PP_2012_11rev.pdf?sequence=1) (accessed February 27, 2014), p.1.

social justice) but also as a response to the democratic problems of EU governance (which are two sides of the same coin). For this reason, the deepening of the federative components of the EU system (as a solution for the crisis) it is necessarily linked with the broad notion of citizenship of rights built (especially) by European courts – and this is a novelty.

As results of the General Report of the XXV FIDE Congress Tallinn 2012, studying and debating issues of fundamental rights protection is taking stock of the present stage of European integration. It is taking stock of the relations between the EU and the Member States' legal orders and the division of competence between them.<sup>3</sup> In this scenario, it is important to discuss in which measure do the fundamental rights dynamics affect the EU integration process itself – or scrutinize the potential of European citizenship in times of crisis to the integration process as a whole.

In the context of European integration the debate on citizenship arose in the 70's aiming to provide a set of civil, political and social rights to the nationals of a Member State acting upon their economic rights in another Member State, so that they were on equal terms with the nationals of the host Member State, and in this way promoting an equal standard of the legal positions of nationals of Member States. Hence, EU citizenship was always connected with the principle of nationals' equality in the different Member States – they would benefit from the rights and would be subjected to the duties set out in the Treaties.<sup>4</sup> And this idea of a community of rights and duties (established by the EU and not by a singular Member State) promotes the sense of belonging to the Union among individuals.

European citizenship, unlike national citizenship, does not entail a community to which the citizen belongs – it creates a legal community. That is, European citizenship is built and developed through the exercise of rights – and for this the ECJ case law, issued at the request for preliminary rulings by national courts, has weighed immensely. The

<sup>3</sup> See L. Besselink, "General Report", in Julia Laffranque (ed.), *Reports of the XXV FIDE Congress Tallinn 2012*, vol. 1, The Protection of Fundamental Rights Post-Lisbon: The Interaction between the Charter of Fundamental Rights of the European Union, the European Convention of Human Rights and National Constitutions (Tallinn: Tartu University Press, 2012), p.2.

<sup>4</sup> As set out in Article 9 TEU and Article 20 (2) TFEU.

recognition of European citizenship through the Maastricht Treaty led the scholars to put the following questions: 1) «what kind of political community could be created beyond the nation-state?», 2) «what relationship would it have with national political communities?», 3) «who would be its' members and what rights would they have?» – all issues that are at the core of European integration as a political project, and are still a major concern nowadays.<sup>5</sup> For this reason, the idea that EU citizenship can allow the access to the EU standard of fundamental rights' protection – and to the highest level that it promotes<sup>6</sup> – is so important in the fragile historical moment that the EU is facing.

In conclusion, what does the claimed deepening of the federative system components mean? What remains to be done to have a functional Euro? First, it lacks a common budget (a budgetary ceiling for the European Union limited to a maximum of 1.27 % of EU GDP was created since 1988). However, even in normal situations this budget would be insignificant (just to compare it with the 19% of USA GDP to the federal budget). So it is urgent to pass the EU budget from 1% to at least 5% of EU GDP (as a minimum basis for eurobonds, i.e.,

<sup>5</sup> Such questions were raised by D. Chalmers/C. Hadjiemmanuil/G. Monti/A. Tomkins, *European Union Law. Text and materials* (Cambridge University Press, 2006), pp. 561-562, where one reads: «the debate surrounding citizenship concerns the nature of political community».

<sup>6</sup> On this subject see A. Silveira, “Citizenship of rights and the principle of the highest standard of fundamental rights’ protection: notes on the *Melloni* case”, in E. Guild, C. Gortázar, D. Kostakopoulou (eds.), *The reconceptualization of European Union citizenship* (Leiden-Boston: Brill Nijhoff, 2014), pp. 285-299; A. Silveira/P. Froufe/M. Canotilho, “Portugal”, in Julia Laffranque (ed.), *Reports of the XXV FIDE Congress Tallinn 2012*, vol. 1, *The Protection of Fundamental Rights Post-Lisbon: The Interaction between the Charter of Fundamental Rights of the European Union, the European Convention of Human Rights and National Constitutions* (Tallinn: Tartu University Press, 2012), p. 715-717; M. Canotilho, “Comentário ao artigo 53.º da CDFUE”, in A. Silveira/M. Canotilho (eds.), *Carta dos Direitos Fundamentais na União Europeia Comentada* (Coimbra: Almedina, 2013), pp.606-624; L. Besselink, “Multiple political identities: revisiting the maximum standard”, in A. Silveira/P. Froufe/M. Canotilho (eds.), *Citizenship and solidarity in the European Union – from the Charter of Fundamental Rights to the crisis, the state of the art* (Peter Lang, Brussels, 2013), pp. 235-252; B. De Witte, “Tensions in the multilevel protection of fundamental rights: the meaning of article 53 EU Charter”, in A. Silveira/P. Froufe/M. Canotilho (eds.), *Citizenship and solidarity in the European Union – from the Charter of Fundamental Rights to the crisis, the state of the art* (Peter Lang, Brussels, 2013), pp. 205-217.

for partial “mutualisation” of debt). This budget could fund counter-cyclical policies like renewable energy, youth employment, support for small and medium businesses, etc.

Moreover, it lacks a fiscal union to finance that budget through a single percentage of taxes on income withdrawal to each taxpayer to fund the Union, which would create a "fiscal citizenship" and the consequent requirement of citizens in relation to the management of the budget. It also lacks a full banking union because it is unsustainable that Member States keep saving the troubled banks increasing by their sovereign debts.

And finally, it lacks an effective political-economic governance that increases democratic legitimacy. Instead, the European Union is governed by democratic principles but its citizens do not have a European constituency through which they can express their preferences. Elections to the European Parliament are still overly dominated by national political parties and European problems are not discussed. Citizens are increasingly feeling that the elections to the European Parliament do not decide the future of Europe.

So, the Economic and Monetary Union suffers from a genetic defect: the EU withdraws the sovereign power over the issuance of currency and its value (i.e., monetary and exchange sovereignty) but Member States continue to conduct their own fiscal and budgetary policies. Thus, the European crisis is a crisis created by itself. Not exactly an economic and financial crisis but a crisis of the financial and economic policies in the Union. The Union’s main problem today concerns the inadequacy of policy responses.

The end point of this story will not be a federal state (it is not desirable that it is). The state is a historical construction of modernity – and the European Union is able to offer the world a much more sophisticated model, i.e., a new form of organization of political power. It is a mistake to envisage federalism exclusively from the dogma of the federal state, i.e., as a structure and not as a process. However, federalism suggests both structure and process through balancing the centrifugal and centripetal forces. So, the survival of federative systems depends on recognition – especially by citizens – of the common benefits arising from the federalizing process.

As the EU moves according to the logic of small steps – and each step brings with it the seed of the next step – it is time to move decisively

in the direction of the designs of Shuman Declaration of 9 May 1950 (which started the process of European integration with specific reference to the term «European federation»). As Viriato Soromenho Marques (a brilliant Portuguese philosopher) says, Europeans live together since the Roman Empire – usually in a situation of domestic violence, hitting each other...They only stopped that during the sixty years of European integration process. But if the EU collapses, Europeans will rebuild it again, as they always have done...Honestly, we don't have time to lose...

# How we might Recover from the Economic and Social Crisis through European Integration Deepening

Alexandre Met-Domestici\*

## Introduction

- The EU's Political and Economic Model
  - Threatened by Current Crises
  - Still Pursued by Neighbouring Countries
  - Economic Crises: Financial + Budgetary Crises
  - Political Crises: Euroskepticism, The UK a/r the AFSJ, Brexit
  - Lingering Unemployment
  - Lack of Budgetary Federalism (Role in the US)

## Layout

### I – Strengthening the Eurozone's Institutional Framework

### II – Taking Steps towards a Federal Union

#### I – Strengthening the Eurozone's Institutional Framework

- Increasing the ECB's Powers and Independence
- Improving the Governance of the Eurozone

#### Increasing the ECB's Powers and Independence

- Broadening the ECB's Mandate (Art 127 TFEU)
  - Including full Employment as a Goal (alongside Inflation)
  - Benefit for the Citizens

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- Enhancing the ECB's Toolbox
  - Adding the Ability to Purchase Debt Directly from Member States: More Efficient QE, More Ambitious than the OMT Program
  - Existing QE: a Major Step Forward
- Increasing the ECB's Independence
  - Improved Communication Tools: Forward Guidance
  - In Return, Increased Democratic Control over Appointments to the ECB's Key Positions – European Parliament, EP Commissions –

### **Improving the Governance of the Eurozone**

- Creating a Finance Minister of the EU
  - “Finance Minister” or other Title, cf the High Representative for the CFSP and Foreign Affairs
  - A Member of both the Commission and the Council
  - Improving the Visibility of the Political Dimension of Monetary Integration

### **II – Taking Steps towards a Federal Union**

- Increasing the Union's Budget
- Taking a Leap forward towards Federalism

### **Increasing the Union's Budget**

- Transferring Resources from National Budgets to the EU's Budget
- Allowing the Eurozone to issue Eurobonds
- Mutualizing Debt
- Selling debt at low Interest Rates – thanks to Germany, France,...–
- Fostering Market Trust
- Strengthening the European Stability Mechanism
  - Which Can already Issue Bonds
  - Creating Automatic Fund Transfer Mechanisms
  - Requiring Political Approval only for Supplementary Transfers

## **Taking a Leap forward towards Federalism**

- Creating a Two-Chamber European Parliament
  - A Lower House –European Assembly directly Representing European Citizens –According to their Population–
  - An Upper House –European Senate Representing the Member States– a Fixed Number of Senators per Member State
- Electing MEPs from Europe-wide Lists and no longer National Lists
- A Single European Constituency
- An Elected Permanent President of the European Council –by both Chambers of the European Parliament, maybe in the Future by the Citizens–
- An Actual Election of the President of the European Commission by the Members of the European Assembly

## **Conclusion**

- Bold Goals, step-by-step Implementation
- Differentiation?
- Need to Amend the Treaties
- Ratification Challenges



## **Is the European Union ready for a Federation? – “Blueprint for a Political (federal) Union beginning with the Eurozone”**

Ana Soares Pinto<sup>1</sup>

Creating a federation is an aspiration present in the history of EU’s integration since the historical Schuman Declaration. Robert Schuman, the then French foreign minister, proposed on 9th May 1950, the creation of an European Coal and Steel organization, whose members would pool coal and steel production<sup>2</sup>. The Schuman Declaration was at the origin of the first European Community and it is considered the beginning of what is now the European Union. Europe’s day is celebrated on 9 May<sup>3</sup>, the date marking the anniversary of the Schuman declaration.

*“Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a de facto solidarity.”*, is one of the Schuman Declaration’s most quoted sentences. In fact, the Declaration proposed a step-by-step approach to European integration, first, the creation of an organization on coal and steel production, second, an economic integration; third, a wider

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<sup>2</sup> Available at [https://europa.eu/european-union/about-eu/symbols/europe-day/schuman-declaration\\_en](https://europa.eu/european-union/about-eu/symbols/europe-day/schuman-declaration_en)

<sup>3</sup> See Declaration 52 Declaration by the Kingdom of Belgium, the Republic of Bulgaria, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the Italian Republic, the Republic of Cyprus, the Republic of Lithuania, the Grand-Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Portuguese Republic, Romania, the Republic of Slovenia and the Slovak Republic on the symbols of the European Union. Only 16 of the then 27 EU Member States have recognized the symbols of EU.

and deeper community; and, finally, a federation. The word federation appears twice at Schuman Declaration<sup>4</sup>.

Thus, each year when we celebrate Europe's day, we celebrate the anniversary of a Declaration, which considers the foundation of a European federation indispensable to the preservation of peace and establishes as a European long term objective, achieving a federation.

Sixty-eight years have elapsed since the Schuman Declaration. European integration has widened and deepened, from an European Coal and Steel Community<sup>5</sup>, to an European Atomic Energy Community<sup>6</sup> and an European Economic Community<sup>7</sup> establishing as its objective, first the creation of a common market<sup>8</sup>, then a single market<sup>9</sup> and after an Economic and Monetary Union<sup>10</sup>, to an European Union<sup>11</sup>, enlarging from 6 to 28 Member States, but the recurring federalist objective is still longing to be achieved.

Several attempts have been made in these years to reach political integration, but weak political commitment, divisions, have frustrated

<sup>4</sup> Fifth paragraph: "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"; and eighth paragraph: "By pooling basic production and by instituting a new High Authority, whose decisions will bind France, Germany and other member countries, this proposal will lead to the realization of the first concrete foundation of a European **federation** indispensable to the preservation of peace". (Emphasis added).

<sup>5</sup> Founded by the Treaty of Paris, Treaty establishing the European Coal and Steel Community, (TECSC) signed in 1951 and in force in 1952.

<sup>6</sup> Founded by the Treaty of Rome, Treaty establishing the European Atomic Energy Community, (TEURATOM) signed in 1957 and in force in 1958.

<sup>7</sup> Founded by the Treaty of Rome, Treaty establishing the European Economic Community (TEEC), signed in 1957 and in force in 1958.

<sup>8</sup> Articles 2 and 8 TEEC.

<sup>9</sup> Article of 13 of the Single European Act amending EEC Treaty, added Article 8<sup>A</sup> to the TEEC, prescribing: "*The Community shall adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992 (...) The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty.*".

<sup>10</sup> Article 2 and Title VI "Economic and Monetary Policy" TEC. The Treaty of Rome, establishing a European Economic Community was amended by the Treaty of Maastricht and renamed Treaty establishing a European Community.

<sup>11</sup> Founded by the Treaty of Maastricht, signed in 1991 and in force in 1993.

progress towards federation. The best known example – and the one closest becoming a reality – is the European Political Community, failed as a consequence of the non-ratification of the European Defense Community, by France, in 1954.

The economic and monetary union has reached success and since the introduction of euro notes and coins in 2002, 19 Member States have joined the Eurozone. Eurozone doesn't however bring together all the 28 Member States and even if we consider only 27 (after UK's Brexit), we still have a Member State that isn't committed to join the euro at some stage – Denmark<sup>12</sup>.

The economic and financial crisis that began in 2008 has shown a lack of solidarity between Member States and exposed economic and social divergences between Member States, particularly, between the North and the South.

Despite the solidarity clause enshrined in Article 122 TFEU, conferring powers to the EU to grant *ad hoc* financial assistance to Member States when it is found that a Member State is in difficulties or is seriously threatened with severe difficulties caused by natural disasters or exceptional occurrences, Member States decided to create a new mechanism, on an international basis.

The solutions found on the ESM Treaty<sup>13</sup> – an intergovernmental agreement establishing an international financial institution, to be named the “European Stability Mechanism”, whose contracting parties are EU Member States whose currency is the euro – revealed the inadequacy of EU Treaties currently in force<sup>14</sup> to safeguard the Eurozone stability and help Member States in difficulties on a permanent basis. Further revealed Member States' incapacity to unanimously agree on an ordinary revision of the TFEU in force or on a decision on the basis of Article 352 TFEU, in order to create and incorporate in EU law a permanent financial mechanism similar to the one envisaged by ESM Treaty.

<sup>12</sup> Protocol (No 16) on certain provisions relating to Denmark.

<sup>13</sup> Treaty establishing the European stability mechanism between the Kingdom of Belgium, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Grand Duchy of Luxembourg, Malta, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Republic of Finland, concluded in Brussels on 2 February 2012.

<sup>14</sup> See judgement of 27 November, 2012, *Pringle*, case C-370/12; ECLI:EU:C:2012:756.

Believing ESM Treaty could only be concluded by Eurozone Member States if a revision of EU's treaties was agreed, Member States used the simplified revision procedure to add a third paragraph to Article 136 TFEU, allowing the establishment of a stability mechanism. Unanimous agreement was easily found once the effective establishment of a mechanism specific to Member States whose currency is the euro laid in the hands of Member States acting under international law. European Council Decision 2011/199/EU<sup>15</sup>, amended Article 136 TFEU, but later the Court of Justice ruled that the amendment only confirmed the existence of a power already possessed by Member States<sup>16</sup> and that the right of a Member State to conclude and ratify the ESM Treaty was not subject to the entry into force of the referred Decision<sup>17</sup>.

Concluding an international treaty was also the solution to enforce the budget discipline of Eurozone governments following the sovereignty debt crisis that started in 2010. Twenty-five Member States concluded, on 12 March 2012, another international agreement, the Treaty on Stability, coordination and Governance (TSCG)<sup>18</sup>. Again not all EU Member States agreed to be bind by TSCG, United Kingdom and Czech Republic decided not to ratify it – plus Croatia, that became an EU Member only on July 1, 2013.

Deeper integration in Eurozone was achieved in the margins of EU Treaties, concluding international treaties that despite recurring to EU institutions have an intergovernmental nature and do not unite all EU Member States and its peoples.

Can the alleged coordinated (!) response to 2008 economic and financial crisis by national governments, the ECB and the Commission be a blue print for a Political federal Union? I doubt it. Even if further integration regarding EMU is foreseeable<sup>19</sup>, recent developments continued to reveal a lack of a *de facto* solidarity (required to further political integration).

<sup>15</sup> European Council Decision 2011/199/EU of 25 March 2011 amending Article 136 of the Treaty on the Functioning of the European Union with regard to a stability mechanism for Member States whose currency is the euro (OJ 2011 L 91, p. 1).

<sup>16</sup> Paragraphs 68, 72 and 109 of Judgement *Pringle*, *op. cit.*

<sup>17</sup> Paragraph 185 of Judgement *Pringle*, *op.cit.*

<sup>18</sup> In force since January 2013.

<sup>19</sup> European Commission, Reflection paper on the Deepening of the Economic and Monetary Union , 2017.

Maintaining and developing an area of freedom, security and justice (AFSJ), an objective consecrated by the amendments introduced by the Treaty of Amsterdam<sup>20</sup>, following the integration of the Schengen *acquis* into the Framework of the European Union<sup>21</sup>, has also had some major setbacks.

AFSJ doesn't unite all EU Member States, only 21 EU Member States are Schengen States. United Kingdom and Ireland aren't committed to join the Schengen Area at some stage and have a special position regarding the AFSJ<sup>22</sup> and for Denmark, EU law regarding the AFSJ can only create obligations under international law<sup>23</sup>. Other Member States, like Bulgaria, Romania, Croatia and Cyprus are in the process of joining the Schengen Area. Cyprus' partition of the island precludes its full Schengen membership. Political divisions between already Schengen Member States are preventing Bulgaria and Romania to achieve full Schengen membership.

The creation of an AFSJ is based on solidarity, fair sharing of responsibility<sup>24</sup>, mutual confidence and a presumption of compliance, by other Member States, with European Union law and, in particular, fundamental rights.

<sup>20</sup> Fourth indent of Article B TEU, as amended by the Treaty of Amsterdam.

<sup>21</sup> Protocol integrating the Schengen *acquis* into the framework of the European Union

<sup>22</sup> Protocol (No 19) on the Schengen *acquis* integrated into the framework of the European Union and Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice.

<sup>23</sup> Protocol (No 22) on the position of Denmark. Acts of the Union in the field of police cooperation and judicial cooperation in criminal matters adopted before the entry into force of the Treaty of Lisbon (under the then III Pillar) which are amended shall continue to be binding upon and applicable to Denmark unchanged.

<sup>24</sup> Article 67(2) TFUE, establishes: “It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals. For the purpose of this Title, stateless persons shall be treated as third-country nationals.” Article 80 TFEU establishes: “The policies of the Union set out in this Chapter [Policies on border checks, asylum and immigration] and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this Chapter shall contain appropriate measures to give effect to this principle”.

Migratory flows aren't constant or evenly distributed by EU Member States and countries, like Greece, Italy or Malta are, due to their geographical position, particularly, exposed to them. The migratory crisis has shown a lack of solidarity between Member States and led to systemic deficiencies in the asylum procedure and in the reception of conditions of asylum seekers in frontline Member States.

In *N. S.* judgement<sup>25</sup>, the Court of Justice considered that EU law precludes the application of a conclusive presumption that Member States observe the fundamental rights of the European Union. Member States, including the national courts, may not transfer an asylum seeker to the 'Member State responsible' within the meaning of Dublin Regulation, "*where they cannot be unaware that systemic deficiencies in the asylum procedure and in the reception conditions of asylum seekers in that Member State amount to substantial grounds for believing that the asylum seeker would face a real risk of being subjected to inhuman or degrading treatment*"<sup>26</sup>. Lack of solidarity and fair sharing of responsibilities gave rise to the erosion of mutual confidence.

In order to circumvent systemic deficiencies in frontline Member States, EU institutions took numerous actions to support Italy and Greece in the framework of the migration and asylum policy – including providing substantial emergency assistance and EASO<sup>27</sup> operational support. Finally, EU institutions called for concrete measures of solidarity towards Member States, facing exceptional migratory flows, adopting relocation Decisions<sup>28</sup>. The adoption of Decision 2015/1601, establishing provisional measures in the area of international protection for the benefit of Italy and Greece<sup>29</sup>, provided for mandatory emergency relocation quotas for applicants for international protection, who were mainly arriving in these States<sup>30</sup>. The unwillingness of some EU

<sup>25</sup> See Judgement of 21 December 2011, *N. S.*, case C-411/10; ECLI:EU:C:2011:865.

<sup>26</sup> Decision of Judgement *N. S.*, *op. cit.*

<sup>27</sup> European Asylum Support Office.

<sup>28</sup> Council Decision (EU) 2015/1523, of 14 September 2015, establishing provisional measures in the area of international protection for the benefit of Italy and of Greece (*OJ L* 239, 15.9.2015, p. 146-156), replaced by Council Decision 2015/1601, of 22 September 2015.

<sup>29</sup> Council Decision 2015/1601, of 22 September 2015, establishing provisional measures in the area of international protection for the benefit of Italy and Greece (*OJ L* 248, 24.9.2015, p. 80-94) – no longer in force.

<sup>30</sup> Article 4, Council Decision 2015/1601.

Member States to contribute to fair sharing of responsibility within EU asylum *acquis* led some Member States to limit their contribution to relocation process to the minimum and it became evident, when Hungary and Slovakia, supported by Poland, brought an action for annulment against this Decision<sup>31</sup>, which they refused to apply. The Court of Justice dismissed the action<sup>32</sup>, but Hungary, Slovakia and Poland continued to refuse to apply the Decision. On 7 December 2017, the European Commission decided to refer these 3 Member States to the Court of Justice for non-compliance with their legal obligations on relocation<sup>33</sup>. On the same day, the European Commission decided to step up infringement procedures against Hungary concerning the amendments introduced in 2017 to its asylum legislation regarded as incompatible with EU *acquis* on asylum<sup>34</sup>.

On 20 December 2017, the European Commission concluded that there is a clear risk of a serious breach of the rule of law by Poland, following reforms that have been considered a threat to judicial independence in the country. The European Commission presented a reasoned proposal for a Council Decision under Article 7 TEU against Poland<sup>35</sup> and decided to refer Poland to the Court of Justice for breach of EU law, concerning the law on ordinary Courts<sup>36</sup>.

Lack of solidarity among EU Member States and national egoisms are increasing. As UN High Commissioner for Human Rights recalled in 2018: “Over two-thirds of the national Parliaments in Europe Union countries now include political parties with extreme positions against migrants, and in some cases, Muslims and other minority communities.

<sup>31</sup> The Decision was adopted by qualified majority,

<sup>32</sup> Judgment of 6 September 2017, *Slovak and Hungary v. Council*, joined cases C-643/15 and C-647/15; ECLI:EU:C:2017:631.

<sup>33</sup> Commission Press Release “Relocation: Commission refers the Czech Republic, Hungary and Poland to the Court of Justice”, available at [http://europa.eu/rapid/press-release\\_IP-17-5002\\_EN.htm](http://europa.eu/rapid/press-release_IP-17-5002_EN.htm). Cases C-715/17, *Commission v. Poland*; C-718/17, *Commission v. Hungary*; and C-719/17, *Commission v. Czech Republic*.

<sup>34</sup> Commission Press Release “Migration: Commission steps up infringement against Hungary concerning its asylum law”, available at [http://europa.eu/rapid/press-release\\_IP-17-5023\\_EN.htm](http://europa.eu/rapid/press-release_IP-17-5023_EN.htm)

<sup>35</sup> Reasoned Proposal for a Council Decision on the determination of a clear risk of a serious breach by the Republic of Poland of the rule of law (COM/2017/0835 final).

<sup>36</sup> Commission Press Release “Rule of Law: European Commission acts to defend judicial independence in Poland”, available at [http://europa.eu/rapid/press-release\\_IP-17-5367\\_en.htm](http://europa.eu/rapid/press-release_IP-17-5367_en.htm)

This discourse based on racism, xenophobia and incitement to hatred has now expanded so significantly that in several countries it is dominating the political landscape”<sup>37</sup>.

EU is now facing a values crisis. Under Article 2 TEU: “The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.”

Can the European Commission unite EU Member States and peoples? Can the European Commission enforce EU values and EU law, through the infringement procedure under Articles 258-260 TFEU and the special procedure established in Article 7 TEU? Are EU Member States’ peoples willing to accept a political federal union beginning with the Eurozone? Is the European Union ready for a federation? I don’t believe it is feasible in the short term. Remembering Schuman’s Declaration famous quote: “*Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a de facto solidarity.*”

Unfortunately, recent years have weakened the sense of solidarity among EU Member States, EU citizens and EU peoples.

<sup>37</sup> See Statement by the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein on the Annual global update of human rights concerns, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22772&LangID=E>

# **How we might recover from the economic and social crisis through European integration deepening: the proposals of Luigi Einaudi**

Angelo Santagostino\*

Luigi Einaudi in his European writings<sup>1</sup> anticipated today's EU. In particular in his two pivotal works of 1943 and 1944<sup>2</sup>.

Many of Einaudi's proposals are today embedded in the treaties<sup>3</sup>.

In this chapter I deal with the ones which have not yet been institutionalised. This proposal is not just in the horizon of how recovering from the crisis, it looks much forward.

Assuming Einaudi as "termine fisso", by far a better expression than benchmark, I articulate three proposals:

- The European Senate and the House of Europe
- The European Budget
- The European Army

Subsequently I will embed these proposals in a new structure of the Treaty.

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<sup>1</sup> Angelo Santagostino (Ed), "Luigi Einaudi, una visione liberale a guida della storia. Gli scritti europei. Il commiato", Edizioni Giuseppe Laterza, Bari, 2011.

<sup>2</sup> *Op. Cit.*, pp.47- 156.

<sup>3</sup> See, "Luigi Einaudi, the architect of Europe?", *Rivista di Studi Politici Internazionali*, July-September 2013, n.° 319.

## **The European Senate and the House of Europe**

Einaudi underlines<sup>4</sup> how it will be important to have, besides a chamber of representatives also a chamber of states. The chamber of states, working as a counter-balancing power to the federal government. With the chamber of representatives as a sole legislative power, no one could guarantee the progressive stripping of federate states of their prerogatives and the transformation of the federal state into a centralized super-State.

Taking Einaudi as “termine fisso” my proposal is that of transforming the Council of the European Union into an European Senate.

As the Council of the EU, the European Senate will be formed by the representatives of the Member States, but directly elected by the people of Europe as permanent representatives, for the whole duration of a legislative period of five years. Negotiations will determine how many senators will represent Member States. Two-three per Member State seems appropriate.

The institution of a second Chamber will call for a change in the name of the first Chamber. The proposed name is House of Europe. Consequently the European Senate and the House of Europe will constitute the European Parliament

The repartition of competences between the Senate and the House will be negotiated in the European Convention and later in the Intergovernmental Conference called to modify the Treaties.

Here we advance two options:

*First.* In order to smooth the way of such a deep reform, the European Senate will receive and retain all the present powers of the Council of the EU. An evolutionary clause will indicate the period and the modalities for establishing the new repartition of competences within the European Parliament.

*Second.* The Convention and the subsequent IGC proceed directly to define a new the repartition of powers between the two Chambers. The new European Parliament will be elected by the people of Europe just after the ratification and entry into force of the new Treaty.

In principle,

<sup>4</sup> *Op. Cit.*, pp. 210-11.

- Member state-wide issues like Common agricultural policy or local issues, like and Regional policy, could fall within the competences of the European Senate;
- Europe-wide issues, like SEM and Competition policy, could be shared among the two institutions;
- External issues, like foreign policy and Trade policy, will be attributed to the realm of the House of Europe;
- For other competences with internal and external relevance, like Budget and Defence policy (we will come later to these two points) shared competences would represent the best solution.

### **The European Budget**

An European Federation, as Einaudi repeatedly wrote need a federal budget. The principles he puts down can be validly used in the search of new own resources. A very stringent problem today.

“On taxes attributable to the Federation” this is the title of the section of Einaudi’s 1944 work where discusses about taxation. The right to taxation, he writes, has to be stated in the Federal Constitution, where the specific taxes must be listed.

The Federation holds the exclusive competence of external trade, as we know.

Consequently all custom duties on imported goods have to be credited to the Federation. At the same time, as “logical inference”, also all excise duties must be credited to the Federation<sup>5</sup>.

“Import duties and excise duties are as Siamese brothers, where the first are the seconds appear”.

Today excise are no more Siamese brothers of the duties. The second have almost disappeared, while the first have tremendously grown, as a result of the increase in public expenditures. However the idea of Einaudi to finance the Federal Budget through the excise still holds true. Inevitably on a repartition base with Member States, for the reason above mentioned: excise constitute a relevant part of fiscal revenues and their automatic transfer to the European Budget would cause a huge fiscal crisis in Member States. A repartition system will have thus to be studied and negotiated among the EU Member States.

<sup>5</sup> *Op. Cit.* p. 91.

This transfer should be coupled with a correspondent transfer of spending competences from Member States to the EU.

Common army and common finance are inseparable terms. For one year the common army could be maintained by the contributions of member states [...]. But this system cannot last. With that system nothing in common exists<sup>6</sup>.

Continuing to assume Einaudi as “termine fisso” our proposal is that these new resources, in terms of a fraction of excise and production taxes, should finance the progressive constitution of the European Common Army.

### **The European Army**

Concerning the need of an European Common Army we just limit here to observe that Defence, on the base of subsidiarity principle is a public good which can by far be produced in a more efficient way at federal than at national level. According to the theory of fiscal federalism, defence, being characterised by scale economies, should be passed to the federal level, in order to be more efficient and effective. We do not have here to spend words on the absurdity of keeping 27, and tomorrow more, independent systems of defence trough Europe. It is not just a question of efficiency but a question of how money of European taxpayers is spent. The EU level ensures a better management of these resources.

To be realistic we cannot think that this process could be involving all 27 Member States at the same time. The Common European Army has to be launched as enhanced cooperation. As we know Article 329 of the TFEU allows enhanced cooperation in the field of Common foreign and security policy under certain conditions.

### **Towards a two levels European Union**

Enlargement and deepening of the European integration process are alternative, but just in the present institutional setting. Differentiated integration is the instrument endowed with the capability to make them compatible. We can thus conceive a two levels European Union: a

<sup>6</sup> *Op. Cit.* p. 208.

confederal one and a federal one. The latter will be formed by countries considering integrations as limited to custom union and trade policy, while the upper floor will be for those seeking a federal– type political union.

### **Concluding**

Einaudi was absolutely concerned with the democratic character of his proposals for an European Federation. The European Senate will fill a democratic gap of the EU. Transfer of excise and production taxes to the EU budget will pose the first stone for the construction of the Common European Army.

A last consideration:

The time of small steps is over for Europe. Not even big steps will be enough. Now is time to jump. Probably a jump into the unknown of the differentiated integration: for that we need the courage of Jean Monnet and Robert Schuman and the vision of Einaudi.



## **Solving the Eurozone Crisis – Banking Union and Competition-based Fiscal Federalism**

Ansgar Belke\*

The North-South divide on the future of the euro is damaging the EU. In this article, a compromise is suggested by which the two sides might settle their differences to mutual advantage. However, it is also shown that this solution is no free lunch.

After the European summit of June 2012 decided to break the vicious circle between banks and sovereign states, it seemed that political leaders were at last ready to deal with the threat to the euro. But optimism was soon lost in the cacophony of rival interpretations about what had been agreed. Still, the leaders had identified the critical issue: weak banks and weak sovereign states are like two bad swimmers that are pulling each other under water.

But which one should be saved first? Advocates of the Southern view say we should start with the sovereign states, by throwing them the lifejacket of joint-issued debt. In effect, richer countries would guarantee at least part of the debt of weaker ones.

Representatives of the Northern opinion, especially Germany, reckon instead that it is better to start by saving the banks. This would be done through stronger central supervision and the mutualisation of some liabilities in the banking sector, for instance through a joint fund to wind up failing banks and provide a Europe-wide guarantee of bank

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deposits. In effect, depositors in solid banks would be guaranteeing the savings of those in more fragile ones.

The Southern view is held by countries including Greece, Italy, Portugal and Spain and, since François Hollande took office, France. The Northern approach is taken by Germany, Austria, Finland and the Netherlands and was taken, while Nicolas Sarkozy was president, by France. Both sides recognize the danger that debt mutualisation could bring moral hazard (when protective measures remove the incentive to curb risky behaviour) and higher costs for creditor countries. For the North there is no getting around these problems. For the South these risks can be removed, or at least mitigated, by a careful design of the system. For instance, the Eurozone could impose conditions on countries seeking the benefit of jointly issued debt.

The South considers the panic that can increase borrowing costs and push countries into insolvency as the main threat to the Eurozone. The North reckons that the principal menace stems from removing this market pressure too quickly, dampening the need to reform.

Both speak of the political backlash. For the South it is excessive austerity in debtor nations that should be resisted; for the North it is *excessive liabilities* in creditor states that can cause resentment.

In some ways, though, the two sides are not so far apart. The North concedes that it is necessary to have some mutualisation of debt, if only to recapitalize banks. The South accepts that debt mutualisation must be limited to avoid moral hazard.

The main argument of the South runs as follows: since the 1970s economists have warned that a budgetary union would be a necessity for a sustainable monetary union. But the founders of the Eurozone ignored this warning. It is now clear that they were mistaken and that the governments of the Euro area member countries face a hard choice. Either they move to a budgetary union or they abandon the euro. A disintegration of the Eurozone would produce huge economic, social and political upheaval. If Euro area governments want to avoid this they have to look for strategies that move us closer towards a budgetary union.

A budgetary union, such as that of the US states, appears to be far off. But perhaps there is a strategy of taking small steps that lead us in the right direction. The Southern argument starts with the basic insight that Eurozone governments issue debt in euros, which is a currency they

cannot control. In contrast, standalone countries like the UK endow bondholders with a guarantee that the cash to pay them at maturity will always be available. The fact that governments of the Eurozone are unable to deliver such a guarantee makes them vulnerable to upsurges of distrust and fear in the bond markets. This can trigger liquidity crises that drive countries towards default, forcing them to apply austerity programmes that lead to recession and a collapse of weaker banks. This is not to say that countries that have overspent in the past do not have to apply austerity. It is rather that financial markets, when driven by panic, force austerity on these countries with an intensity that can trigger major social and political backlashes. The effects are there to see in Greece, Italy, Spain and Portugal.

Proponents of the Southern view argue that some form of *pooling of government* debt is necessary to overcome this failure. Thereby, the weakest in the union are shielded from the destructive upsurges of panic in the financial markets of a monetary union.

They acknowledge that those that profit from the creditworthiness of the strong countries may exploit this by failing to reduce debts and deficits. The second obstacle is that the strongest countries will pay a higher interest rate on their debts as they become jointly liable for the debts of governments with lower creditworthiness. Thus debt pooling must be designed in such a way as to overcome these obstacles.

Moderate proponents of the Southern view agree, apparently in line with the Merkel government in Germany, that *three principles* should be followed. First, debt pooling should be *partial* – that is, a significant part of the debt must remain the responsibility of the national governments, so as to give them an on-going incentive to reduce debts and deficits. Second, an *internal transfer mechanism* between the members of the pool must ensure that the less creditworthy countries compensate (at least partially) the more creditworthy ones. Third, a *tight control mechanism* on the progress of national governments in achieving sustainable debt levels must be an essential part of debt pooling.

The Northern view holds that the mutualisation of the Eurozone's debt to bring about the convergence of interest rates will not tackle the root of the problem in the long run. Instead it has the potential to sow the seeds of an even larger crisis. This is what happened in the early years of the euro. A lack of discipline in countries such as Greece and Portugal was matched by the build-up of asset bubbles in other member

countries, such as Spain and Ireland. Structural reforms were delayed, while wages outstripped productivity growth. The consequence was a huge loss of competitiveness at the periphery which cannot be resolved by the mutualisation of debt.

Debt mutualisation can take different forms. One is to mutualise new sovereign debt through Eurobonds. Another is to absorb part of the old debt, as advocated by the German Council of Economic Advisors, into a partly gold-backed European Redemption Fund. A third means is to activate the Eurozone's 'firewall' by using rescue funds (either the temporary European Financial Stability Facility or the permanent European Stability Mechanism) to buy sovereign bonds or to inject capital directly into distressed banks. Indeed, the ECB is already engaged in a hidden form of mutualisation – of risk if not (yet) of actual debt – through its programmes of sovereign bond purchases and its long-term refinancing operations for banks.

The view of the North is that almost all these are bound to fail, either for economic or political reasons, or both. Even financially strong countries cannot agree to open-ended commitments that could endanger their own financial stability or, given that they are the main guarantors, the stability of the bailout funds. Also the danger of moral hazard is ever-present.

Then again, any form of debt mutualisation involves an element of subsidy, which severely weakens fiscal discipline: the interest rate premium on bonds of fiscally weaker countries declines and the premium for stronger countries increases. Fiscally solid countries are punished and less solid ones, in turn, are rewarded for their lack of fiscal discipline and excess private and public consumption.

If yields are too low there is no incentive for private investors to buy sovereign bonds. The countries risk becoming decoupled from the capital markets permanently and the debt problems become increasingly structural.

This is true also for the ECB's bond-buying activities. The credit risk is rolled over from the bonds of the weaker countries to those of the stronger ones, and the ECB is made responsible for its liability. Over time, the ECB's measures might even be inflationary. Having the rescue funds buy bonds is little different, except that they lack the lending capacity to be credible. If they are given a banking licence, as demanded by France's President Hollande, it would be no different from having the ECB buy bonds directly.

What about the European Redemption Fund (ERP) from the Northern perspective? This type of fund could be of particular help to Italy, which could unload half of its debt. But its partners could not force Italy to tax its citizens to ensure that it pays back the dormant debt. And with the assumption of debt, the credit rating of Germany might drop, owing to the increase in the German interest burden. The pressure on Italy and Spain to consolidate their budgets sustainably would be reduced. Meanwhile, the problems of Greece, Ireland and Portugal would not be solved, since these countries are unlikely to qualify for the ERP.

In addition to moral hazard, there are political obstacles, which would be most acute in the case of Eurobonds. Germany demands political union before Eurobonds can be considered. But it is sometimes said that this is putting the cart before the horse: a political union cannot be created simply to justify Eurobonds. Advocates from the Merkel government, like Finance Minister Wolfgang Schäuble, say treaty changes and high-level political agreements would be sufficient to make sure that Euro area member countries comply with all decisions taken at the Euro area level. This became clear when Schäuble came up with a plan to bolster the power of the EU's economic and monetary affairs commissioner. Even Mario Draghi, President of the European Central Bank, has supported this German scheme to allow the EU to intervene in countries' budgets and propose changes before they are agreed in parliaments. But the experience with Greece's adjustment casts severe doubt on the practicality of such a proposal.

The differences between Eurozone members – on everything from respect for the rule of law to administrative capacity – are so great that political union is unlikely to work, at least in the next couple of years. It follows from the perspective of the North that the basis for Eurobonds is extremely thin.

According to the Northern or German view, the introduction of Eurobonds would in principle have to be backed by tight oversight of national fiscal and economic policies. But there is no true enforcement as long as the individual Eurozone members remain sovereign.

Intervening directly in the fiscal sovereignty of member states would require a functioning pan-European democratic legitimacy, but we are far from that. Voters in Southern countries can reject the strong conditionality demanded by Brussels at any time, while those of

Northern countries can refuse to keep paying for the South. And either can choose to exit the Eurozone.

The emphasis on pushing through a fiscal union as a precondition for debt mutualisation means the debate, at least in Germany, has become a question of ‘all or nothing’: either deeper political union or *deep chaos*. This narrows the strategic options for the players and reinforces the North–South divide.

However, there is an alternative to cooperative fiscal federalism involving bailouts and debt mutualisation. This is competition-based fiscal federalism, of the sort successfully operating in the USA, Canada and Switzerland, among others. These countries have largely avoided serious and sustained public debt in their component states. Sub-federal entities faced with insolvency have the incentive to take early corrective action—without having to engage in centralized fiscal policy coordination. This seems to be a compromise between the Southern and Northern views.

To achieve this sort of federalism, it is necessary to separate the fate of the banks from that of the sovereign states. What is needed is not a fiscal union *in first instance*, but a banking union. It should be based on four elements: a European bank with far-reaching powers to intervene; reformed banking regulations with significantly higher equity capital standards; a banking resolution fund; and a European deposit insurance scheme.

A less comprehensive, more clearly delineated banking union should be more acceptable for the North than the Europeanization of fiscal policy as a whole. This is because it touches upon only a small fraction of the fiscal policy areas which have to be subordinated to central control in a fiscal union.

Obviously, a central resolution authority has to be endowed with the resources to wind up large cross-border banks. Where does the money for this come from? In the long run, the existence of a resolution authority goes along with a deposit insurance scheme for cross-border banks. This should – according to the German view – be funded partly by the banking industry.

With the banking system and the debt crisis thus disentangled, banking sector losses will no longer threaten to destroy the solvency of solid sovereign states such as Ireland and Spain. Eurobonds will then not be needed, and neither will the bailout of sovereign states. The debt

of over-indebted states could be restructured, which means that the capital market could exert stronger discipline on borrowers.

Two questions yet remain to be resolved. If the banking sector is really to be stabilized, a solution will surely have to deal with the devalued sovereign debt that some are holding. Would the banks not be better off holding at least some Eurobonds instead of, say, Greek or Spanish bonds? That said, Southern economists who advocate Eurobonds need to find a way of making them politically acceptable. And how much political union is feasible, or even desirable, just for the sake of a single currency that many never loved? Critically, where does the burden end up?

The existing banking union in the US has been very successful in managing the local real estate booms and busts that the US has experienced as well. A careful comparison of the cases of Nevada and Florida (compared to Ireland and Spain, respectively) showed that these financial shock absorbers display a higher shock-absorbing capacity than could ever be provided by any ‘fiscal capacity’ for the Euro area. The macroeconomic literature confirms this in the sense that it finds that in the US, the shock absorption provided by financial markets is much larger than that provided by the fiscal system.

Several channels can be distinguished through which regional financial shocks are absorbed at the federal level in the US. The Federal Deposit Insurance Corporation (FDIC) is the most visible one, but the system of securitization of mortgages, especially the Government-sponsored Enterprises (GSEs) contribute as well. Moreover, the large banks, which operate nation-wide, dominate the banking sector. They are capable of absorbing local losses in their overall results. By contrast, in Europe large banks which are operating in different member countries are still perceived as foreign banks outside their own home country. Integration via international groups has so far been limited in the Euro area (but has been very important for the new Member States).

The prevalent form of financial market integration across borders within the Euro area is debt which in fact does not act as a shock absorber in the case of systemic shocks. By contrast there has been much more cross-border equity outside the Euro area through large-scale foreign ownership of banks in Central and Eastern Europe.

If the really important and costly shocks are national financial boom-bust cycles, followed by a financial crisis, the question arises: What

arrangement provides the best protection against these shocks? The US experience seems to provide a clear answer: the shock-absorbing power of explicit federal transfers is rather small, but the US banking union provides important support in the case of large shocks to the local financial system.

This has one simple implication: to insure its stability, the Euro area needs a strong banking union, but not a fiscal union. The usual argument that the former needs to be followed by the latter should thus be turned on its head: an area with a well-functioning banking union has much less need for fiscal shock absorbers and does not need a fiscal union. From the latter, it follows that there is also no need for a political union.

In a banking union excessive spending by individual member states might lead to difficulties for the state concerned, but it should no longer destabilise the entire system. This implies that political responsibility for fiscal policy can remain at the national level. Technically speaking one can thus argue that a banking union much diminishes the negative external effects of excessive deficits and debts. The banking union thus represents a key element to make the original Maastricht view with its ‘no bail out clause’ viable in reality.

Two elements of the US banking union which do not exist, at least not yet, in the Euro area are widespread securitisation and the existence of large banks that operate throughout the entire area. These two characteristics of the US financial system allow it to absorb regional shocks.

But these two characteristics also incorporate their own drawbacks. Large banks tend to be more prone to generate systemic risk. Moreover, it has been demonstrated that most of the growth in the banking sector over the last decade has come from the largest banks. The drawbacks of widespread securitization also became apparent during the ‘sub-prime’ crisis when it was shown that the originating banks were subject to serious conflicts of interests as they earned fees from originating mortgages irrespective of the quality of borrower and his/her ability to service the loans.

A system that deals more easily with regional crises might thus have other drawbacks. The challenge for Europe will thus be to build a system that breaks the ‘diabolical’ feed-back loop between weak banks and their sovereign but one that is not dominated by a handful of very

large banks which are then not only too large to fail, but also too large to be saved.

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## The institutional framework for the Eurozone

Antonia Calvo Hornero\*

1) The ECB should be a central bank with the functions of a central bank: a. No single lender ultimately , also lender in the first instance in case of systemic risk b . Issuing bank c . Help reduce if not eliminate the relationship between banking and sovereign debt risk.

2) To establish a centralized Eurozone Treasury with responsibility for: a. Mutualising public debt of countries ranked according to area rating tables b. Differentiate through quality ratings of the public debt of the Eurozone countries c. Conduct test of efficiency and compliance with budgetary obligations of member countries to classify.

3) To establish a Bank or Economic Institute to grant financial support to Eurozone countries, with stimulus measures to growth and job creation. The EIB cannot meet the needs of youth employment even with his initiative: “I work for the young.”

4) The Eurozone should be representative not only of austerity and low growth. Adjustments are necessary but should never be generalized because it generates concern among citizens and backlash against the EU.

5) The citizens must see the EU as a zone of opportunities.

6) The appointment of the President of the European Council at the European elections. By universal suffrage by agreement between countries (intergovernmental).

7) President of the Commission shall be elected by universal suffrage in the European elections.

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- 8) Greater role to the Commission.
- 9) Excessive intergovernmentalism with clear predominance of the major countries and national interests.
- 10) Return to the Community method.
- 11) Addressing the segmentation of financial markets.
- 12) Create an authentic European deposit guarantee fund that is financial support for depositors Eurozone.
- 13) The Union Bank raised as this will not solve the debt sovereign – debt bank.
- 14) The ECB should continue as the crisis persists to support financial stability in the Eurozone as the lender in the first instance.
- 15) Financial system of the EU budget increase EU capacity with sufficient own resources.

**Keys words:** central bank, Eurozone, national interest, systemic risk, austerity, low growth.

*Cuius Europa, eius civitas:*  
**Advocating for a uniform European law on citizenship**

Antonio Papisca\*

**1. Why is there a single European currency but not a European citizenship as a primary citizenship?**

This is a question I have frequently found myself asking during the 2013 European Year of Citizens, when contemplating one of the many hurdles that the European Union has yet to overcome.

Sustainability is the major challenge for the Eurozone, but the response cannot be self-sustainability, as it has been so far, I mean pursued in terms of mere monetary and financial technicalities. Social cohesion, equal life conditions in the EU territorial space, and democratic legitimacy are directly affected by such negative endogeneity, and demand another way for political steering of the Eurozone.

The claim for ‘social Europe’ has become a sort of perpetual leitmotif but, although literally forseen by the Lisbon treaty, it would remain a myth if it continues to be conceived separately from the paradigm of all human rights for all, I mean separately from inclusive citizenship rights. Needless to remind that fundamental rights are both civil and political, and economic, social and cultural rights, to be realised accordingly to the principle of their interdependence and indivisibility. This precise axio-practical language should be daily shared by the Commission, the Council and the European Central Bank, so to be consistent with inclusive citizenship requirements.

Immigration and citizenship are issues that challenge the political intelligence and the capacity for good governance of European Union institutions, as well as, of course, of the governments of the member

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states. On this subject, which belongs ontically to the field of rights which inhere to the “equal dignity of all members of the human family”, it is necessary to achieve a quantum leap in the way both EU citizenship and the institution of citizenship or nationality in general are conceived, so that the *ius humanae dignitatis* (right of human dignity) prevails over other parameters, especially over the discriminatory *ius sanguinis* (right of blood).

Current international human rights law, which includes values and principles of universal ethics to which European Union law conforms, requires that protection under the human rights paradigm must be valid not only for refugees, those requesting political asylum and migrant workers, particularly in exceptional and dramatic circumstances, but also for whosoever finds themselves residing in one member state or another of the Union.

The considerations which follow move from the principle that citizenship, in addition to being a specific fundamental right, acknowledged as such by international law (Universal Declaration of Human Rights, Article 15: “1. Everyone has the right to a nationality. 2. No-one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality”), is a civil and political status which certifies the whole series of innate rights of every human being; finally it is the officially recorded confirmation that the person as such is ‘subsistent human right’ (Antonio Rosmini). This striking definition is perfectly in line with article 1 of the Universal Declaration of Human Rights: “All human beings are *born* free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood” (my Italics).

It should be stressed that when a legal system recognises human rights, it enters the advanced stage of civilisation of law that we can define of fullness of law (*plenitudo iuris*). From the United Nations Charter (1945) and the Universal Declaration (1948) onwards, international law too has entered into this stage of human-centric maturity, where the civilisation of law is stimulated to meet the civilisation of brotherhood.

The fullness of law in turn requires the fullness of citizenship (*plenitudo civitatis*), both legally and logically. By this I mean that the universality of the rights of the person postulates the universality of citizenship of those who, by *ius positum*, are recognised as original holders of those rights.

With the advent of the “new” international law – the Law of Human Dignity –, the institution of citizenship is called upon to diversify and to enrich itself, to pluralise, so to speak. Indeed, compared to historic ‘national’ citizenships, ‘universal’ citizenship acquires a primary visibility which corresponds to the internationally recognised legal statute of the human person and which is open to the grafting on of national and sub-national citizenships (e.g. regional or municipal). But in order for the graft to be successful, traditional citizenships, conceived with a view to exclusion (*ad alios excludendos*: foreigners, non-EU citizens...), must change so that they share the egalitarian and inclusive *ratio* of universal citizenship.

The current human condition, marked by interdependency at the planetary level and by the processes of globalization and multiculturalization, but also by the internationalization of human rights and the spread of the relative culture, urge rapid progress along the road of pluralizing citizenship as an answer to the twofold requirement for the respect of human dignity and for social cohesion within states.

## **2. Pluralizing Citizenship**

This operation must concern primarily the European Union, as the pioneer of pluralization of citizenship. As the original experiment in multilevel and supranational governance, the EU is not only a *legal space* – with due consideration of the breadth of its rules, which in many vitally important areas bring direct obligations for its citizens –, but it is also a *territory* which can be used to exercise fundamental rights and freedoms, including the free circulation of people, as well as of goods, services and capital.

It should be noted that this territorial space is marked by a double borderline, of the customs union and the Schengen rules, and that refugees and other migrants, whether they land in Lampedusa or in Greece or Spain, enter national territories from a formal standpoint inasmuch as these are units of the Union territory.

Current “EU citizenship”, introduced by the Maastricht Treaty which came into effect on January 1 1993, is *derived* citizenship, in the sense that an essential pre-requisite is to hold national citizenship of one of the member states, hence a citizenship the roots of which lie not in the subject as a ‘person’ but in the subject who is a ‘citizen’ of any one

of the twenty-eight member states. And so even in the broadened space of the EU, which is innovative in many ways, the primary citizenship remains the national one, often conceived by reference to *ius sanguinis*: as a consequence, EU citizenship, too, remains encapsulated within the common, traditional rationale of *ad alios excludendos*.

Note that in the EU Charter of fundamental rights itself, where the natural subject of reference cannot be anything but the human person in, as it were, the pure state of his onticity, without any kind of discrimination or distinction, blatant contradictions can be observed: the literal reference is sometimes to the ‘person’ subject (see, for example, article 2: “*Everyone* has the right to life”, and article 15.1 “*Everyone* has the right to engage in work and to pursue a freely chosen or accepted occupation”); elsewhere, when it is a question of citizenship in the registry-administrative sense, it refers to the ‘citizen’ subject from one of the member states: see article 15.2: “Every *citizen* of the Union has the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any Member State” (my italics).

Faced with a situation which is unsustainable *de iure* and *de facto*, EU citizenship must be made to evolve rapidly in line with logical, legal and moral coherency, in other words, so that it respects the dignity of the person and his internationally recognised fundamental rights. It is a question of promoting EU citizenship from its subaltern role as a derived citizenship to that of primary citizenship: and as such, full and inclusive.

This operation, aiming to found EU citizenship directly on the *ius humanae dignitatis*, having as its administrative-type parameter of reference that of a ‘European’ *ius soli*, clearly requires a reversal of the *ratio* which currently informs Union citizenship, and that the Union draw up uniform rules governing the issue.

In short, the new founding framework should produce the outcome that, being first and foremost a European citizen, one automatically becomes a citizen of the member state where is resident. With the following clarification: citizenship of the Union, as a primary citizenship, in requiring that national and sub-national citizenships conform to the supranational parameters of the *ius humanae dignitatis* and of the European *ius soli*, would not eliminate the other (historical, administrative...) citizenships, but rather, would emphasise their

cultural value together with the principle of subsidiarity. The European Union, as the laboratory where a new harmonious plural citizenship is produced, would thus bring added value to the multiple identities of the person and would stimulate awareness of the advantages of reaching a further *transcendent civic identity*.

I am fully aware that this line of reasoning may appear to be a both pointless and gratuitous jumping of the gun, if one considers, for instance, that no uniform electoral law has yet been agreed for the direct election of the European Parliament, while on the other hand, the *single currency*, deliberated on in 1999, has been circulating since 2002...

The thorny issues surrounding national(istic) rules governing immigration bear witness to the resistance that states, which hold the monopoly of the institute of citizenship, put up against the challenge of universal citizenship. Yet current historical circumstances are pressing for a start on innovation in this extremely sensitive area.

### **3. Immigrant children, pioneers of plural citizenship**

Currently, the status of children born of immigrant parents (who are not citizens of an EU member state), some of whom were born inside the EU but who in any case go to school and are developing their personality within the territory of the European Union, constitutes a sort of citizenship limbo.

The first step towards a Copernican revolution, or genetic mutation, of the institute of citizenship, requiring the rejection of old discriminatory parameters, should be taken – it is a duty and the right thing to do – especially when thinking of these children and respecting their best interests: it should be emphasised that precisely *‘the best interests of children’* is a value and a principle enshrined in article 3 of the international Convention on the Rights of the Child.

So the children of immigrants can be the trail-blazers and pioneers of primary EU citizenship, as well as promoters of the same statute of citizenship for their parents.

One could say, using evangelical language, that in virtue of this human promotion, which as previously mentioned, is fruit of the meeting between the civilisation of law and the civilisation of brotherhood (or of love, if you will), the most vulnerable and the least become the first on the European road of common good. “In the name of children” – as

“in the name of the law”, citizenship would start to be purified by the removal of the waste products of the *ius sanguinis* and a nationalistic *ius soli*, and there would be encouragement to put solidarity and equality into practice.

Contrarily to adults, children should not need to respect a minimum time (3 or 5 years, or more) of residence: citizens at once, *hic et nunc*.

This operation is of crucial political importance, because it necessitates the European Union providing itself with not only an excellent framework of norms specifically relating to citizenship for the children of immigrants, but also, as previously mentioned, a comprehensive general framework of rules on this subject, which would make the regime of citizenship uniform across all member states. Moving from this first great step, one could count on the *spill-over effect* that it would set in motion for successive broader and comprehensive developments in terms of European political unification, too: in short, *single currency, single citizenship*.

The states, currently floundering, to a greater or lesser degree, in a mire of legal provisions which, in addition to all being different from one another, are mostly discriminatory and offensive to human dignity, should be delighted at the ‘European’ perspective outlined above: on one hand, they would be relieved of political-administrative duties which foment social conflict and threaten internal security; on the other, they would be contributing to speeding up the political unification of Europe to the benefit of social and territorial cohesion throughout the whole European space.

One may expect that the gratitude of immigrants would translate into behaviours showing sincere loyalty to and identification with the symbols and institutions of the Union, reinforcing its substantial legitimacy. The existence of a “European people” would cease to be a myth thanks to the formation of a nucleus of genuinely European people, made up precisely, *in primis*, of the children of immigrants, and which would act as a catalyst for an updated European identity, to the benefit of everyone: united in diversity!

The important lesson in humanity and solidarity which would follow, developing a healthy education based on the rights of the person, is patently obvious.

#### **4. The role of local governments within the territorial space of the EU**

One could seriously suggest that, as a follow-up of the year proclaimed European Year of Citizens, it should be the Municipalities – territory, but not border – who promote the operation directed at a proper pluralisation of the institute of citizenship within the territorial space of the EU. Making a formal reference to the principle of the ‘best interests of children’ in accordance with the aforementioned article 3 of the 1989 international Convention and the principle of subsidiarity, they could approve a formal instrument to give all children who are sons and daughters of immigrants, and together with them, all the other children in their respective territories, a certificate of *plural citizenship* (European, national and municipal), accompanied by the EU Charter of Fundamental Rights, the Universal Declaration of Human Rights, the national Constitution and the Municipal Statute.

I am thinking in particular of the Municipalities in those Regions which are members of the ‘European Groupings of Territorial Cooperation’, EGTC: for example, of “*Euregio without Borders*”, made up of Veneto, Carinthia and Friuli Venezia Giulia, “*Hospital de la Cerdanya*”, “*Novohrad Nògràd*”, “*European Urban Knowledge Network*”, “*Eurorégion Pyrénées Méditerranée*” and “*Pons Danubii*”. As transnational territorial bodies, recognised as public legal entities as specified in the relative EU Regulation 1028 dating from 2006, the EGTCs represent emblematic ‘European territorial nuclei’ within the EU space, legitimated as such to contribute significantly and to give visibility to a specific ‘European’ *ius soli*.

It should be observed that with the advent of this new territorial configuration, the political morphology of the EU territory has started to redefine itself according to the requirements of *multilevel good governance* stemming directly from the fundamental pole of the dynamics of subsidiarity, precisely that of the local authority. And there is another significant consequence: the value of local autonomy at the European and international level, solemnly proclaimed by the specific Charter promoted by the Council of Europe in 1985 and also ratified by the EU member states, comes out stronger due to the fact that its supporters are transnational territorial aggregations. And since the EGTCs are by nature intercultural, and translate the aforementioned

formula ‘united in diversity’ into facts on the ground, Local Authorities which belong to them are formally legitimated, being plural citizenships themselves, to usher in the age of Sole European Citizenship.

Set out thus, the subject promises many macro political and economic consequences. Some fear that if it were to follow this path, the European Union would lend itself to mass invasion by migrants of various types, creating serious sustainability issues for the economy and domestic security. On the other hand, human rights, starting from the right to life and political asylum, are to be respected: it is a question of respecting the law, as well as ethics. How to work through it, within the cage of globalisation? Defending the *status quo*, from one situation to another, from one emergency to the next, is absolutely unsustainable. The answer must be found starting from the assumption that the responsibility to protect and realise the human rights of all must be shared at the European and world level, first of all to ensure that everyone is better off in their own homeland, and that the choice to emigrate is a free choice, not one forced upon people by the suffering inflicted by dictatorships and by economic policies which deny life and equal opportunity. And so what is needed are timely and effective international social policies, but to define these it is necessary to make the multilateral institutions function properly. And since state governments, to a greater or lesser degree, are reluctant to commit themselves to this end, in particular to establishing an effective government of the world economy in line with the requirements of social justice and the principles of the United Nations Charter, it will have to be the local authorities which mobilise directly within the international institutions. How? By practising *city diplomacy*, as theorised and supported by reputed civil society organisations such as ‘United Cities and Local Governments’ (UCLG), by penetrating and enlarging the ‘interstices’ which do actually exist within the sanctuaries of global governance: for example, the practice of consultative status and the ‘Habitat’ structure within the United Nations system, and of course the Committee of the Regions in that of the European Union.

Local Governments are fully entitled to claim and share the principle of the ‘*responsibility to protect*’, launched by the United Nations at the start of the third Millennium looking to states as the main subjects of reference. But people, families and groups have recourse to local government bodies, as the institutions closest to them, to ask

for protection, security and social services. Human rights are indeed protected or violated in the places where people live their daily lives.

On this subject, a comment written by Eleanor Roosevelt concerning the Universal Declaration of Human Rights is still relevant today: “Where, after all, do universal human rights begin? In small places, close to home – so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighborhood he lives in; the school or college he attends; the factory, farm, or office where he works. Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination”.

Since the wars and the violence which come down on these small places are decided upon in extra-national and supra-national arenas, which are not under the control of the local authorities, it is in the decision-making processes which take place in these arenas that the local authorities must be able to participate in an appropriate manner.

May I remind that an explicit legitimation for the *glocal* role of Local Governments comes from the United Nations Declaration on the “Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms”, endorsed by the General Assembly of the United Nations in 1998 and known as the Magna Charta of human rights defenders. Article 1 establishes that “Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms *at the national and international levels*” (my Italics). From this statement one may deduce that the territorial space for actions defending human rights has no borders and that the subjects who defend them are individuals, groups and ‘organs of society’. The latter certainly include local government bodies which, according for instance to the Italian Constitution, are part not of the State but of the Republic.

## **5. Conclusion: EU leading by example**

The assumption on which the reflections in this essay are based is, as the great philosopher Jacques Maritain would say, a practical, self-evident truth: the human being who, for one reason or another, moves from one country to another and intends to live in one particular

country, is a bearer of all the innate rights that current international law recognises, equally, to all members of the human family. States differ from one another as to attributes of position and legislation, but human beings “are born free and equal in dignity and rights” and it is not states that can change their vital essence. This is the ontological truth upon which the ‘new’ international law is constructed, and the EU Charter of fundamental rights is a milestone of this ethical *ius positum*.

In this globalized and interconnected world, one can see, as if in a crystal ball, the inequalities and discriminations which produce generalized insecurity and precariousness.

At the start of the third millennium, it is no longer the time of *cuius regio, eius religio*. Paraphrasing, it is the time of *cuius Europa, eius civitas*, that is: a European single citizenship as sustainability other face of the single currency.

## **Towards a political union with citizen support and through treaty change**

Beatriz Pérez de las Heras\*

Whether they are aware of it or not, Member States have consented to a large transfer of powers to the EU since the beginning of the euro crisis. The shift has been made at their convenience, either through secondary legislation (e.g. six-pack), or simplified amendment of primary law (e.g. Treaty on the European Stability Mechanism), or even through politically heterodox procedures, which entail constitutional changes (e.g. Treaty on Stability, Coordination and Governance in the Economic and Monetary Union). European leaders are currently working on plans for a bank, fiscal and economic union. Should these projects be finally achieved, an enormous step towards an economic federation would be taken. However, there is no sign that any EU political or democratic structure will be adjusted in parallel with these practical measures.

So, how can European policymakers expect to make such a leap without requiring consent from citizens and national parliaments? Beyond the euro crisis, we are witnessing a larger challenge: the sustainability of the European political project. How to retrieve the path towards the political union that began 66 years ago?

We put forward some options in this brief text, in line with other proposals advanced by scholars and think tanks that support a political union:

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## **1. Reinforcing legitimacy for European integration through greater citizen involvement**

Citizens have traditionally been called to voice their opinions through European elections, petitions to the European Parliament (EP), applications to the European Ombudsman and referendums in some countries to ratify treaty amendments. However, other channels should be made available for them to participate in political choices facing the EU.

One of them could be the European citizens' initiative (ECI). As is well known, the citizen initiative has to refer to an EU issue on which the European Commission holds power to propose legislative acts. However, with the Treaties that are in force, the EU and, therefore, the Commission, has a limited ability for political decision making and normative regulation in areas that have particularly become sensitive for citizens in the last years of economic crisis, such as social policies, employment, education or public health care, among others. Indeed, employment is an area in which the EU only has competence to coordinate national policies, as provided by article 5.2 of Treaty on the Functioning of the European Union (TFEU). Social policy is a subsidiary competence of the EU (article 4.2b of TFEU) and regarding human health protection and education, EU action only complements and supports Member States' policies (article 6. a & e of TFEU). Nonetheless, based on a literal reading of article 11.4 of Treaty on European Union (TEU) and Regulation EU 211/2011 on citizens' initiative, our opinion is that these provisions do not prevent citizens from submitting an initiative for the Commission to propose constitutive amendments with the aim to enlarge EU's powers on these areas in accordance with article 48.2 of TEU. The Commission could then elaborate a legislative blueprint on the basis of the new provisions. In this vein, the ECI could specifically serve to delve deeper into a more social and solidarity Europe.

However, the experience of the ECI in the first 5 years of functioning has demonstrated the need to improve and simplify the procedural requirements of this mechanism. If properly adjusted and handled by civil society organizations, the ECI could fully exploit its capacity as an awareness-raising tool and citizen-activating instrument. In the medium and long term, this mechanism of transnational participatory democracy could become a bottom-up instrument for political innovation in the EU.

## **2. Shaping a more genuinely European political space**

European elections of May 2014 brought along several institutional modifications that were introduced in accordance with the Lisbon Treaty. Instead, other changes of relevant democratic significance were added with no treaty reform, following the European Parliament (EP)'s proposals. One example was the election of the candidate to become President of the European Commission by direct universal suffrage, which has notably reinforced the democratic legitimacy of this position.

Other measures proposed that could indeed strengthen the political capacity and responsibility of EU institutions should be the free choice of the Commission members by the elected President and the conferral of full legislative initiative to the EP. Likewise, the EP should be attributed new powers that would strengthen its weight in the EU decision-making, such as the ability to decide on new taxes and approve new expenditure programmes, the capacity to approve the candidate elected by the European Council to become President of the European Central Bank or the power to exert political control on the Common Foreign and Security Policy and economic policies. In addition, the unification of the presidencies of the European Council and the European Commission, as some proposals have already pointed out, would indeed provide more visibility and legitimacy to the highest political representation of the EU.

These last changes in the design of institutions would require formal treaty amendments, but they would undoubtedly mark a great step towards the establishment of a democratic political union in Europe.

Nonetheless, given the current state of Euro-skepticism, regardless of how democratic and politically convenient it may be, no innovation will be sufficient in the citizens' eyes if it does not go hand in hand with relevant progress in public social policies.

## **3. Considering the design of a new European social model**

Beyond institutional renovation and full implementation of an economic and monetary union, a future reform of the treaties should make visible a supranational commitment to social progress that guarantees basic social rights and their common financing throughout the EU. Steps taken by the European leaders to address the euro crisis have not worked and the austerity measures have even made matters

worse. Living conditions have deteriorated across Europe, in particular, in the Union's periphery.

As indicated above, important progress is currently being made in terms of integration in the areas of economic and monetary union. It would now be desirable that a similar impetus could serve to consecrate a minimum level of protection at the European scale for basic public policies (employment, salary, pensions, social security, public health care and education). In the same way in which maximum limits for public debt and deficits have been imposed and the "budgetary golden rule", as well as other actions, has been introduced through constitutional reform in some Member States, a European social system should establish some legally binding minimum standards of social expenditure guaranteed by all public budgets, according to the respective GDP.

Member States should transfer the necessary political and normative power to the EU to develop social policies at a European scale financed with common funds. This would require Treaty amendments through the ordinary revision procedure (article 48. 2-5 of TEU). As a minimum, the employment policy should be shifted from article 5 of TFEU to article 4 of TFEU on areas of shared power between the EU and Member States. This new legal basis would enable the European Commission to propose harmonization Directives on employment and labour issues.

But, while awaiting a comprehensive development of the social dimension, some initiatives could be put forward, among others, the introduction of a European minimum income guaranteed and financed by the EU budget to every citizen with no job and no social protection. Though very specific, such action could serve as a catalyst for opening the way to a more social Europe, in line with the European pillar of social rights and other recent proposals. A European minimum income could also contribute to reinforcing citizens' identification with the Union as their supranational political community. With the current Treaties in force, there are several legal provisions on whose basis this largely debated initiative could be introduced (articles 1 and 34.3 of EU Charter of Fundamental Rights, article 25 of TFEU, article 153, 1h of TFEU). Only political will would be needed to boost it.

At this time of citizen disaffection and populist movements questioning the European integration, the return to a more social Europe is probably the only way to attract citizen support and raise their enthusiasm in favour of a project for political union.

#### **4. Opening a constituent process to reform the treaties through a Convention**

As a more open and democratic procedure, the Convention should draft the institutional modifications, the new distribution of power between the EU and its Member States, as well as the new constitutive bases for the European welfare society. This amendment process would also be very propitious to change the requirement of unanimous ratification for the new texts to come into force. As an alternative, a referendum at European scale to approve the new treaties provisions would provide, for the first time, democratic legitimacy and direct popular support to the process of European political construction. Should this step be finally taken, we will have begun to build Europe from the bottom up.

However, to reach this ideal horizon, it is urgent to first improve the economic and social situation of millions of Europeans: with no employment, no housing and no hope, citizens will abstain massively from any call for political participation or, if they decide to participate, they will take the chance to express their firm opposition to a Europe they blame for all their suffering even though, with the treaties currently in force, the EU does not have the political and legal power to resolve these issues.

Beyond the euro crisis, the EU is presently going through multiple crises: United Kingdom's withdrawal, refugee crisis, security concerns, institutional crisis due to the increasing weight of national governments on EU policy-making, ...But, along its history the EU has overcome difficulties and challenges even worse than the ones it is presently facing (communism, fascism, totalitarianism,...), coming out reinforced from these experiences.

Drawing on the lessons learned, the Union has to react and take a step forward towards further political integration. The European Commission, as guardian of the European integration, and the EP, as representative of the European citizens, should take the lead of this momentum. Jean Monnet stated: *Europe will be forged in crises and will be the sum of solutions adopted for those crises*. It is up to the Member States and the EU recognise this crucial moment as an opportunity and make Jean Monnet's vision to be right.

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## **Economic and Political Suggestions for Eurozone**

Belgin Akçay\*

The European Union (EU) is the most successful example of regionalism, to this day. It goes without saying that EU's success is due to the fact that from its inception it has had a very well planned institutional structure. However, Eurozone, where the economic and monetary union (EMU) is functioning still retains its position as a region of crisis. As a matter of fact although several member countries had experienced occasional economic crises since the time EU was established, none had been as widespread and as deep as the most recent one, nor had any of these crises lasted so long. In addition, this has been the first crisis since the establishing of the Eurozone.

As a consequence, like macroeconomic imbalance procedure, Euro+Pact, European Semester, Six Pack etc., several measures have been taken not only to mitigate the repercussions of the crisis but also to prevent other possible crises. Moreover, speedy efforts have been made to render the Eurozone more effective. We will not focus on preventative measures that have already been taken. Our views and suggestions to your questions will rather be for a more effective, transparent and democratic Eurozone and for the formation of a political union within this region.

### **For a most efficient and democratic Eurozone**

Despite the presence of certain issues that hinder Eurozone's effective functioning, Eurozone in itself is the greatest success of EU's economic integration, consisting of the integration of real and monetary sectors of member countries. It is believed that the implementation of

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the following suggestions would strengthen this integration, ensure the advantages of the economic union and ultimately enable a more effective and democratic Eurozone.

***Multi-Speed Eurozone:*** Eurozone consists of 19 countries with heterogeneous economic structures. Taking these heterogeneous structures into consideration, the approach of a multi-speed integration that had been adapted for economic integration of the EU can also be applied for a better functioning of the EMU.

***Establishing an Institution for Supervision of Reforms:*** After the Treaty on European Union was entered into force, the European Commission has been responsible for determining decisive principles regarding employment and economic policies, providing member countries with specific suggestions for Eurozone countries. However, this most recent crisis has proven that most of these suggestions were not followed and many of the reforms have not been implemented by many of Eurozone countries. The suggested reforms were crucial in strengthening of vulnerable economies of the Eurozone, otherwise these countries in question; increasing their competitiveness capacities, decreasing structural differences between the economies of member countries, hence, establishing economic union.

For this reason it is very important to have EU institutions monitor whether the suggestions specific to member countries are implemented or not and in certain occasions to impose sanctions on these countries. To this end a mechanism similar to “the Single Supervisory Mechanism” promoted for the supervision of the banking system can be established. The structure of this system of monitoring and supervising reforms can be made like which has been achieved in the Eurosystem. Therefore, completely independent institutions like ECB and national central banks, it can be established both on a national and Eurozone level (e.g. Institution for Supervision of Reforms). Institutions that will monitor and supervise reforms on a national level can act as branches of the Institution for the Supervision of Reforms of Eurozone.

The task of these national institutions should determine whether the suggestions are being followed; if not, it should inquire the reasons and prepare reports outlining the findings. These reports, which will be prepared annually, will then be submitted to the supranational

institution for the supervision of reforms. This institution will prepare a calendar for the implementation of the reforms taking into account the economic structures of these countries. To the countries who fail to implement the reforms without valid reason, sanctions will be imposed. Sanctions might include cutting back on financial aids and structural funds provided from the EU budget; cutting back on aid from EFTA financial mechanisms or bringing a ceiling to the project loans that will be offered by the European Investment Bank.

The reports prepared by the monitoring institutions of all member countries of the Eurozone, will then be made into one report by 'the Institution for the Supervision of Reforms' and submitted to the Council. The Council may decide to impose sanctions on countries that fail to implement reforms within the suggested time frame.

***The ECB and Legislation Process:*** The ECB, which has been assigned the task of ensuring price stability within the Eurozone, is in constant communication with the central banks of non-EMU countries, within the European System of Central Banks. As the focal point of Eurosystem, the ECB is responsible for the determination and management of two macroeconomic policies (monetary and foreign exchange rate policies). The ECB also has developed oversight policy to ensure price stability. With this aim, it has put many standards in Eurosystem. However, the ECB does not participate in any EU legislation addressed to financial markets, although this is very important for effectively implementing its responsibilities. In other side, it does not coordinate its measures with relevant institutions. Thus, the ECB should be actively involved in legislation process in order to both effectively provide for coordination and to enforce its oversight rules.

***Equal Participation to the Decision-Making Mechanism:*** The EU owes its success in great part to its granting each member country equal status and voting rights in decision making procedures of supranational institutions, regardless of their size and economic power. This, in time, has led member countries who initially had reservations about narrowing the limits of their national sovereignty to be more willing to delegate authority to supranational institutions or to allow them wider authoritative power. This in turn has made European unification more successful than other endeavors towards regionalism and has brought

about advanced economic unification levels that had initially been unimaginable. All these developments have also paved the way for the discussion of a “Political Union”.

Today, however, it can be observed that the EU is making regulatory changes which are against equal status and equal vote in supranational institutions. The first of these changes happened in 2003 when voting was changed within the Governing Council, that consists of the members of the Executive Board of the ECB and the governors of the national central banks.

This change holds that when the number of central banks that are members of the Eurosystem exceeds that of 15 in the Governing Council, the total vote cast will still not be more than 15. As from the date on which the number of governors exceeds 15 (or 21), the governors will be allocated to two groups (or three groups), according to certain economic indicators (the size of GDP of a Member State and aggregated balance sheet of its monetary financial institutions). For example, as from the date on which the number of members of the Governing Council exceeds 21, each member of the Executive Board shall have one vote and the number of governors with a voting right shall be 15. The latter voting rights shall be assigned. Therefore, in this new system all of governors of national central banks will not have equal voting right and voting will be conducted by turns. This change that has been made within the top decision making body of the ECB has paved the way for big economies to have more say about the control of monetary policies. This practice wherein member states do not have equal votes has been put into effect since 2011.

A similar case is also true for the European Commission, that is the executive body of the EU responsible for proposing legislation, implementing decisions, upholding the Union's treaties and day-to-day running of the EU. According to the change made by the Lisbon Treaty, the administration of the Commission will also be carried out via a rotation system, to be effective by 31 October 2014. Unless voted unanimously to be changed by the EU Summit, the Commission will consist of the number equal to the 2/3 of the EU member states.

It is highly likely that the unequal standing within the functioning processes of supranational institutions explained above would have the outcomes listed below regarding the deepening of economic unification and effective functioning within the Eurozone;

- The suggestions for the implementation of a “common fiscal policy”, a crucial prerequisite for EMU’s effectiveness and which has become a current issue with the recent crisis may not even be discussed at the Council level.
- The problems experienced within the Eurozone in regard to maintaining financial discipline may continue. The member states may be reluctant to implement measures towards financial discipline taken in the aftermath of the crisis (or invent new ways to bypass such implementation).
- The reluctance of member states may increase problems in terms of shared competence or other economic issues within the close coordination area. It is a known fact that the objective of creating a “Single Market” had been established towards the end of 1980s. However in spite of the 25 years that have passed, this objective is yet to be fully realized
- The unequal standing of countries within the EU management may prove to be an obstacle facing the “Single Market” objective, it may even cause some fall backs.
- EU’s wandering away from equal status and votes within the supranational functioning process may cause peoples of countries which are to be subjected of rotation to have a negative opinion about the EU. It has already been confirmed by Monti Report (2010), that the peoples of member states are generally disappointed in the EU. The unequal standing may exacerbate these feeling of discontent on a larger scale.
- Furthermore, such an approach that imposes upon member states’ restrictive effective participation according only to the number of states in the decision making mechanisms of the supranational institutions may weaken the desire of establishing a political union.

### **Political Union in the Eurozone**

At present, just as it is the case with many member states outside the Eurozone, it is highly unlikely for Eurozone member states to give up their national sovereignty. In effect, since the inception of EU as an idea, for which the acceptance of Treaty of Paris that established European Coal and Steel Community, and then the establishment of

the European Economic Community, had been the first steps towards the creation of an even closer union, the accomplishment of fullfledged economic integration, including formation of an Eurozone has not been contemplated. In other words, in terms of economic administration as well, the handing over of national power to supranational institutions and the economic integration between member states have taken quite a long time to reach their present state. Therefore, it is apparent that it will be even harder for member states to give up their national independence especially in regard to their foreign affairs. The political integration within the EU area will happen slower than the economic integration; hence it will take for the member states a long time to form a political union.

Moreover, as explained above with the examples of the ECB and the European Commission, the inclination towards not granting each member of EU/Eurozone state equal status and voting rights within the administration of the supranational institutions will weaken the ideal of political integration, and will be detrimental not only for EU but also for Eurozone in terms of political unification. No matter what their size or economic power is, it would be hard for any leader of any member country to explain his /her people the reasoning behind such inequality. It is may be more convenient to think in alternatives;

- *The first alternative:* A step to be taken might be changing the Treaty provisions mentioned above that prevent at least a number of EU/Eurozone member states to take more active part in governing and decision making mechanisms of the union in that such restrictions upon member states will certainly, hinder the ideal of political union.
- *The second alternative:* In case of reluctance in changing the Treaty provisions in question, a two layered system may be established: A parliament wherein all member states are represented (eg. a senate) and a parliament wherein all the peoples are represented (eg. house of representatives). This stratified structure may also be a step towards realizing a federal EU, something that has long been aimed at but is yet to be achieved.
- *The third alternative:* Just as it is the case at present, the number of members at the level of decision making in supranational institutions may be narrowed down. However, the establishment of a control mechanism to control these decision making bodies,

that would include all member states with equal say could be seen as a political integration friendly approach.

As long as nation states maintain their current structures it will be hard to achieve political union. However, supporting the idea of decentralized administrative mechanisms for the regions in member states will gradually strengthen the popular trend to favor the idea of a deeper political union (likewise Pais Vasco, Scotland, etc.) acceptance of the idea of a political union by peoples in the future. Therefore, strengthening the idea of decentralization in governing European regions in contrast to central governing power by way of a wider and higher efficiency offered to the regional policies and structural funds might be much more helpful on the way to political integration than could be thought in advance. Because by this way it is possible to think that when local populations came in contact with local governing bodies in time, they might prefer local ones to the central national systems of governance (proximity gives way to competence).

Another issue of equal importance, is the need to strive towards the spreading of the idea of Europeanization, for both economic and political integration. Establishing and spreading common economic, political and cultural values via education would help the solution of many problems experienced today within the EU/Eurozone. In any case, without spreading the notion of Europeanization amongst peoples, the realization of a political union is nearly impossible in the short run. Therefore any sound measure efficient in promoting European Identity as against national identities must be taken granted on the way of Europeanization.



# Integrations Engineering – Challenges for Serbia and EU

Boban Stojanović\*

## Introduction

I live in a country where most citizens, politicians, and intellectuals understand the process of European integration as the process of meeting the formal requirements for accession to the European Union (EU). The starting position deems it desirable for Serbia to become a part of the family of European countries associated in the EU.

The stated goal – accession to the EU – is not debatable, even though other options, such as neutrality or binding to the Euro-Asian integration, have been offered. Geographically, there is no alternative due to the fact that Serbia is located in Europe. Preference for accessing integrative courses as an alternative for autochthony, self-sufficiency and isolation is also indisputable.

In political and economic terms, it is possible to choose between at least two options. However, the choice has already been made, as the policy makers in Serbia, during a relatively long period of pronounced or (more often) weak dynamics have created conditions for the beginning of negotiations for accessing the EU. It is assumed that they (in the name of the people) have carried out a good *cost-benefit* analysis, i.e. realistically reviewed all advantages and disadvantages of joining the community of most European countries. The fact that the negotiations have started shows that the formal conditions have already been met.

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The essence of the process is rather controversial, as well as the perception of European integration. The dilemma is whether the process is seen as meeting the requirements of negotiation chapters or a fundamental change of society and spontaneous (i.e. unconstrained) acceptance of modern society norms. In other words, it would be ideal that the negotiations follow a comprehensive transformation of society and the relationship that a state has towards its surroundings. Like any other ideal, this one is also aspired to, but it can never be accomplished completely. Imperfect as it is, the real state of affairs should be as close as possible to the ideal. In this context, the combination of constructivism and spontaneity is fully emphasized. The first component implies the task and responsibility of European integration policy makers, while the second is a result of altered formal rules and the willingness of the majority of population to change the perception of modern organized society.

The change of institutions and consciousness should simultaneously follow the negotiations. Is this feasible, and if it is, in what timeframe? The answers to this important question are in the inventiveness and creativity of elected representatives on the one hand, and the so-called social genotype, including the willingness of people to change, on the other. Having in mind the experience of countries within the existing EU, especially those which are not (yet) outside the formal European integration, the population shows the lack of desire to change, even if the government is ready to meet the goal of a comprehensive society change. Deficit or absence of one of the two factors, which influence the fundamental reconstruction of society, gives only partial solutions. Then, as a rule, the form, not the substance of the integration process, is fulfilled.

Does the EU give ample cause for optimism in the implementation of institutional change and awareness? While answering this question, the following should be taken into consideration 1) a brief history of integration and the results, which countries, comparable with Serbia in key socio-economic criteria, have achieved, and 2) a vision of the EU in the near and distant future.

## I

After more than 25 years of the former socialist countries' integration into the EU, one can derive conclusions regarding the content and effects of the process. Volume of the changes varies from country to country.

The results of the procedures, which have been undertaken so far, also vary. These differences in the integration engineering and the effects of the changes suggest that the fundamental reconstruction of the economy and society implies deep political and economic transformation. Insight into the current results of transition in Serbia shows that significant reform activities have been undertaken, but there is still no fundamental reconstruction of the economy and society.

Clear definition of objectives, means and actors in the process of economic and social change is an important prerequisite for successful integration. In addition, the instrumentation implementation changes must be adjusted to market economies and democratic society. To achieve the objectives, it is necessary to change the institutional framework, and in certain segments, the construction of new institutions and constitution of new code of conduct.

## II

The differences in the performance of European integration process in some countries is not easy to explain due to the simultaneous effects that economic and non-economic, external and internal factors have on the course and content of the process. To achieve the goal of integration, one must take into account all the parameters relevant to the process. After reviewing the existing conditions, the change of the institutional framework and, in certain segments, new institution building, are initiated. The process should imply initial broad understanding of institutions as a set of formal and informal rules that determine the social relations through which regularities in the interactions of individuals and social groups are exhibited.

In its broadest context of new-institutionalism, attention is drawn to the analysis of free order and constructivism. Free order implies respecting the rules, regardless of the intentions of individuals or interest groups, which are formed as a result of historical processes of shaping social relations. Formed over a long period of time, such rules become laws, which are verified in everyday interactions of individuals, social groups and institutions. These general rules are based on tradition, customs, religion, culture. Since the informal rules are exhibited independently of the needs and demands of a social process, their effect on the process has parameter character. As objectively given and immune to the influence of individuals or groups' will, informal rules

are not subject to “violent” changes. Spontaneously established rules should not be changed by economic or any other interventionism. It can even be argued that interventionism is harmful because it represents a violation of the natural order. At the same time, states must ensure the respect of the rules, necessary for the operation of the spontaneous order, and their evolutionary development.

Constructivism refers to the design of standards created in the inner circles of experts and/or politicians. If one would achieve spontaneous construction of the desired state, the process would require a long period of time. Time, however, is a very limited factor. Therefore, creation and (violent) implementation of solutions that should generate new or modify the existing institutions to accelerate the process of achieving the goals, seems quite rational. Examples include newly created EU standards in monetary and fiscal policy. Is the EU, in this respect, a good role model?

### III

For eurosceptics, many problems in the functioning of the EU are evidence of powerlessness of ideas and institutions, while for eurofanatics EU is a supranational ideal community that, regardless of the short-term distortions, in the long term functions harmoniously and in accordance with established rules. More moderate supporters of European integration suggest flexibility measures and resistance to internal and external shocks. Problems with the implementation of the Lisbon Agenda, the instability of the monetary union and the lack of a unified fiscal policy and the global economic crisis have accelerated the search for an exit strategy. Faced with the imbalance between the proclaimed goals of the Lisbon agenda and the actual situation, in 2010 the European Commission launched a common platform, called Agenda 2020 with the aim of finding a way out of the economic crisis and preparing the EU for the leading role in the world in the next decade, based on the new development model. The shift toward economic issues, which take precedence over the political, is rather striking. Policy priorities are essentially economic: growth based on knowledge (knowledge, innovation, education and digital society), sustainable development (efficient production while increasing competitiveness), increasing employment and reducing poverty. However, in 2011 Greece opened Pandora's Box: the uncontrolled

budget deficit, economic dysfunction, high unemployment, huge debt, the collapse of the bond, a decline in GDP. EU citizens have begun to live in risk and uncertainty. It has become clear that the convergence of Europe 2020 objectives could not be achieved without stable monetary and fiscal union and clear binding rules of conduct. This was done in 2012 by Agreement on fiscal discipline. Eurozone tends to control the crisis, which, not coincidentally, has resemblance to Bretton Woods's reincarnation. Temporary European Financial Stability Fund has been rapidly transformed into a permanent European Stability Mechanism (ESM) with an initial capital of 500 billion euros, with the prospect of increasing. The Fiscal Compact, as an exit strategy of monetary union, gives the Eurozone the opportunity to use better ratings of the relevant agencies to eliminate concerns of the population and potential investors about the precarious and weak Europe, whose leaders have not had enough ingenuity to prevent distortions.

Agreement on the fiscal discipline requires of the Member States to include the legal limits of the budget deficit from 0.5 % of GDP and public debt from 60 % of GDP in their legislation. Temporary deviation from this "balanced budget rule" is allowed only in exceptional economic circumstances, for example during severe downturns in the economy. If government debt is significantly below the reference value of 60% of GDP, the limit for the deficit can be set at 1% of GDP.

The "debt brake" is activated automatically after exceeding the limits, which will expose the state to the punishment of the European Court, which defends the interests of the EU as a sovereign fiscal union. With this agreement on a common fiscal policy, the ESM activism, stability and economic growth in the Eurozone become possible, even probable. Prudent budgetary policy is essential to keep the level of debt under control. The question of scheduled implementation remains due to at least two problems of mismatched economic potential of member states: 1) unity in terms of monetary policy is necessary for the full fiscal union and 2) numerous consequences of sovereignty loss and (further) transfer of authority from the national level to the European Commission.

Time is a very limiting factor for the EU as well. EU must not allow the extensiveness of the implementation of commitments and disregard for common measures adopted. If crucially important documents of Maastricht and Lisbon have been stumbling, and even straying for 20 years, the implementation of 'new Maastricht' is expected to be rapid.

Proclaimed fiscal union is an important stage towards a federal political structure of the EU. This fits the long-term goals of the Lisbon strategy and the creation of the United States of Europe. However, the fact is that more intense the road to federalism has been forced by the crisis, not as a result of spontaneity. Problems in functioning are evident, at least due to the orientation of UK and Denmark not to join the monetary union. The long history of these countries has shown side problems of Greece, Spain, Portugal or Italy. But what if these countries face these or other economic or political challenges? Further problems are related to various levels of productivity and purchasing power in different parts of the EU, which prevents the desired functioning of a single market. The budget deficit, the volume of debt, unemployment, and other parameters are outside the proclaimed goals of Maastricht, and therefore the Fiscal Compact. The single market is distorted in the financial area with vast differences in, say, interest rates on government bonds. In addition, the creation of a fiscal union is a project of political leaders who articulate interests of the people. However, these people may, in changed circumstances, impose other solutions that may be contrary to the intentions of the creators of recovery plans. Constructivism, as an approach to problem solving, has to give way to spontaneity, so that the broad layers of the population could embrace measures and act accordingly. Both citizens and businesses should feel the benefits of new rules. Thus, the EU leaders would not have to explain high intellectuals that the changes have actually been accomplished in their favor.

Last but also quite important is the competition of forces of economic and political power on a global scale, which questions the realization of long-term goals of the EU as a world leader. A good example is China, which in the past twenty years has recorded much higher growth rates. Economic trends in the U.S. as the most important trading partner have traditionally been more favorable than in the EU. The difference in productivity on the world level has caused similar problems as within the EU. Many serious analyses indicate a long-term loss of EU competitive advantages, so that the leadership on a global scale is very uncertain. One of the dilemmas is whether to use the exchange rate to increase the competitiveness of the non-European markets and stimulate economic growth. According to some analysts, euro appreciation is the reason for the euro devaluation.

The Fiscal Compact is a good anti-crisis solution. However, eliminating the existing problems is not a solution for itself. There should be a permanent mechanism for anti-crisis activities. Citizens must begin to live within the limits of their possibilities. With good intentions of the Fiscal Compact and political willingness, monetary union might have a way out of its vicious cycle. Institutional, organizational and normative base should be permanently completed.

Otherwise, the EU can expect new challenges, perhaps even greater than those which have awakened it from comfortable daydreaming about harmonious functioning. The conflict in Ukraine and the latest immigrants crisis was again shown that even the fundamental principles of the functioning of the EU are vulnerable.

What is necessary for better future is a sharp approach on a wider platform of the EU, not just in the monetary union. The harder way will remove the negative effects of the past, and then individual, but supervised, implementation of recovery plans and the Covenant by States will follow. Therefore, the extracted federalism may become normal in the long run.

#### IV

The candidate countries for EU membership have faced even more challenges. Fulfillment of the requirements of Copenhagen is only a necessary but not sufficient condition for achieving the objectives of Agenda 2020. Serbia will also face many challenges of convergence. Through the implementation of the Stabilization and Association Agreement, and the started Accession negotiations, Serbia accepts the rules and adopts the *acquis communautaire*. But, is the vision of the EU at the same time a Serbian vision, since for the period covered by the strategy 2020, Serbia will not be a member of the EU? Serbian Strategy 2020 does not exist. One gets the impression that the political elite circles do not have their own vision and cannot, even formally, share the vision of Europe 2020 with other countries. Apart from that, the overall objective should be the same, in order to stabilize economic development, realize the production and export development model, and consequently increase employment, living standards and social security of citizens. If we take into account that Serbia is not affected by the Fiscal Compact measures and the fact that the budget deficit in 2014

was 7% of GDP, and the share of public debt to GDP ratio in excess of 65%, Serbian future is full of challenges.

As it does not participate in the institutions of the EU, Serbia has to formulate its own goals, which, having in mind the proclaimed convergence, are compatible with agendum 2020: 1) the establishment of a development model based on the production and export of goods and services and the rational use of natural resources, especially energy, 2) adoption of long-term program for development of entrepreneurship, re-industrialization, strengthening competitiveness and modernization of the economic structure, 3) employment increase, 4) adoption of the program of human resource development, increasing the number of high educated people, especially in the natural sciences and IT sectors, reducing the 'brain drain', 5) investment in knowledge, research and technology development work at least 2 % of GDP in the 2015 and 3 % in 2020, 6) implementation of the state program of deleveraging, businesses and individuals, 7) implementation of necessary reforms in the country, especially the territorial organization of the public administration, pension system, etc.

This holistic approach would allow Serbia to follow European political and economic trends. But for Serbia, as well as for other candidate countries, there is a *circulus vitiosus*: the output of the general economic and social problems would be faster and easier to achieve if it were an integral part of the EU which required achieving standardized performance as a condition for accession. One gets the impression that the latest EU measures have made the accession more distant. This brings us back to thinking about the integration engineering, which must rely on its own strength, with a slight help of the pursued communities. This certainly means a slower and less efficient path, and so the future of Serbia in EU becomes very distant. Other solution is fast connection of Western Balkans to the EU. It would not be a precedent, because some decisions about access have been adopted based on the dominant political criteria.

**Key words:** EU, Serbia, association, constructivism, spontaneity, future, crisis, Fiscal Pact, federalism, European stability mechanism.

## **Memo regarding Jean Monnet Action call for papers regarding measures countering Europe's economical crisis**

Carl Michael von Quitzow\*

The present economic crisis calls for extension of the Unions competences in the field of economic policy. In this respect it should also be born in mind that major extensions of competences of the Union have taken place in times of economic crises and their aftermath. The internal market program is one example hereof.

The internal market program provided market access for products, mainly on the basis of the principle of mutual recognition or the fulfillment of common standards (CE-marking). However, the market access did not affect competition relations in and between the Member States. This is a major lacunae which has become more urgent to regulate at the union level, particularly in the EMU-perspective. This will be further elaborated below.

The union has a well functioning competition towards private undertakings. However, competition policy towards state measures distorting competition can more or less be described as a "lame duck". In my book "State Measures Distorting Free Competition in the EC", Kluwer Law International, the Hague 2002 (with foreword by Prof. L.W. Gormley, Rijksuniversiteit Groningen) these issues are thoroughly dealt with. It should also be mentioned that this study was a Jean Monnet-project. One conclusion in this book is that the EMU calls for action at the union level towards state measures which fetters competition.

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The case law of the EU-Court is also insufficient and do not meet the requirements to ensure efficient allocation of products and production resources. In order to maintain stability within a currency union efficient competition must be ensured. Not only towards private undertakings, but in particular towards state measures such as public monopolies, public undertakings and anti-competitive legislative measures.

Market access is not synonymous with efficient competition, although it is the most important prerequisite for creating a market with functioning competition. In this respect, a comparison with the USA seems relevant. The U.S. is also an economic union, where production and productio factors such as labour. The production factors move between the different state due to economic prerequisites based upon undistorted competition. The movements of the production factors may sometimes be very fast, leaving behind ghost cities and unpopulated areas. USA may be one extreme in one direction, but the EU is the other extreme in the different direction. One other important problem is the lack of movement of non-academic eductated labour. The EU has a language problem which in some extents hinders movement of non-eductated labour force, which is non-existant in the USA above. This is a particular problem which must be highlighted in the perspective of the 2008 economic crisis and counter measures havet o be adopted to enhance moveability of non-educated labour forces.

As indicated above various forms of state interventions on the market fetter competition between the different market operators. Particularly, various forms of monopolies and public undertakings prevents functional competition, which collides the proper functioning of a cuurrency union, which pressuposes functionable competition for the efficient allocation of production factors. Moreover, many of the Member States go<sup>4</sup> nts expressively acts against such competition between the various systems of the Member States. But there are ways to combine interests of the Member States with the requireents of the union of functional competition.

For instance, state ownership can be replaced by concession systems which result in that market operators compete with each other regardless of the ownership situation. Other forms of anti-competitive legislation of the Member States must be cleared away by actions at the union level. This calls for a wholly new union policy against anti-competitive state action. The market access perspective of the internal

market programme must now be replaced by a competition policy towards state measures, which is supplementary to the competition policy towards private undertakings (Articles 101 and 102 of the Treaty of the Functioning of the European Union). As mentioned above this is of particular importance in the EMU-perspective (see Quitzow, *State Measures Distorting Free Competition in the EC*, p. 267pp.). Furthermore, such a policy also calls for a unification of economic structural policies and budgetary policy measures at the national level in the Member States. The sole reduction of public expenditures in the Member States having economic structural problems may also prove to be counterproductive. Unilateral budgetreductions do not affect the main problem. Lack of actions regarding economic structural problems may only lead to moving the problems forward with an uninevitable increase in costs for both the Member States concerned and lenders.

This calls for increasing the economic structural and budget policy competences of the EU. The present situation provides a favourable situation to take such necessary steps. Such decisions must not be limited to the EMU Member States but should be applicable to all Member States of the EU. Such changes in competence may strengthen the possibilities of the Member States to regulate market forces to ensure functional competition between the market operators as a whole. Thus, Member States may regain competence when acting together at the EU-level. Accordingly, it must be pointed out that an increase of union competence follows the development of global economic operators, which are more or less immune towards actions from individual Member States.

Thus, I recommend you to read my study mentioned above and to take steps towards a new competition policy towards anti-competitive state measures and to increase the competences of the EU in the field of economic policy, in particular regarding economic structural policy and budgetary policy, which not necessarily will affect the fiscal policies of the Member States. In this respect I would recommend you to make evaluations of federal and state economic policies in other federal states as the USA, Canada and Australia.



# Vers une Union européenne fédérale et politique

Carlos Francisco Molina del Pozo\*

## 1. Introduction<sup>1</sup>:

La situation actuelle dans laquelle nous vivons n'est pas la plus favorable pour développer le cadre politique et institutionnel que les pères fondateurs des Communautés européennes ont conçu dans les années cinquante. Des allusions continues concernent la désunion et la fragmentation de l'Union européenne, en plus de la création et l'apparition des groupes sociaux et politiques populistes et eurosceptiques qui sont déterminés à créer une image de nationalisme agressif au sein du contexte européen. Toutefois, le fait que l'Union européenne contient dans ses gènes la recherche de la paix, l'accord et l'unité dans la diversité est connu par tous et il est ancré dans ses principes et droits. Vraisemblablement, cette logique prévaudra sur toute autre manifestation contraire à l'avancement de l'intégration. Pour faciliter cette transition, dans une période si sensible, nous essayons d'offrir et formuler, dans les lignes qui suivent, un ensemble d'éléments pour établir un nouveau modèle européen.

En 1995, l'Union Européennve devient un groupe de quinze États membres, encore gouvernable, où les accords et les politiques communes étaient courantes et possibles, réalisant des progrès à grande vitesse.

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À notre connaissance, l'analyse erronée de la situation a commencé au moment de la non-ratification de ce qu'on appelait alors le "Traité Constitutionnel" de 2002. A ce moment-là, au lieu de rechercher les causes qui ont conduit à ce recul et d'approfondir l'analyse des divers problèmes qui avaient été constatés dans sa propre intégration, l'Union Européenne a décidé de réaliser le plus grand élargissement de son histoire. En effet, le 1er mai 2004, dix nouveaux États ont rejoint l'Union comme membres à part entière. Ainsi, dans le débat entre l'approfondissement et l'élargissement, c'est ce dernier qui a remporté la victoire. Trois ans plus tard, la Roumanie et la Bulgarie y ont adhéré (2007) et, enfin, au moins pour le moment, l'entrée de la Croatie a eu lieu en 2013.

La brève description ci-dessus est jugée nécessaire afin de mettre sur la table un premier élément que nous défendons depuis 2002, c'est-à-dire la dichotomie entre l'approfondissement et l'élargissement. Comme nous avons annoncé précédemment, la solution qui a été choisie était de procéder à un élargissement substantiel de l'Union Européenne, mais sans omettre de réaliser en même temps des réformes institutionnelles qui rendraient possibles les adaptations nécessaires afin de recevoir les nouveaux États à venir. La recherche de changements dans la structure institutionnelle des Communautés Européennes nous semblait essentielle pour établir les adaptations qui permettraient une bonne adhésion de plusieurs États sous les mêmes conditions que tous les élargissements précédents.

Les mécanismes de fonctionnement des institutions de l'UE, qui ont été conçus dès le début et qui sont utilisés depuis les années cinquante, avaient besoin de changements et de réformes qui permettraient de soutenir presque cinq fois plus d'États membres qu'initialement prévu. Par conséquent, l'une des premières conclusions que nous tirons est qu'il est inévitable de procéder à une réforme profonde de ces institutions comme un premier pas avant de continuer avec élargissements qui sont en cours. Sans doute, ces réformes constituent une «*conditio sine qua non*», parce que sans elles une Union Européenne avec plus de trente États ne serait pas gérable en aucune façon et finirait par se faire briser par un de ses éléments les plus forts et plus décisifs: celui de l'unité dans la diversité.

En définitive, un grand débat est toujours en cours entre ceux qui préconisent des réformes minimales et ceux qui ont, comme nous,

préconisé la nécessité des changements réels et authentiques en profondeur qui peuvent mener même à la création d'une nouvelle Union politique et fédérale. Nous allons discuter ce sujet plus tard, en analysant une série d'idées et d'approches novatrices que nous soutenons depuis des années et que nous avons présentés à plusieurs reprises dans des interventions orales. Ces idées et approches nous essayerons de les résumer et de décrire dans ces pages.

## **2. La réforme nécessaire:**

Aujourd'hui, il s'agit de concevoir l'avenir. Dans ce moment historique, comme tout ce que nous connaissons déjà devient faible, nous ne pouvons avancer qu'en faisant de grands sauts. Étant des européistes convaincus, nous devons agir de manière ferme et sûre afin d'achever une stabilité durable pour l'Union Européenne. Il faut adapter le système institutionnel actuel aux nouvelles réalités qui composent le panorama riche, profond et large de l'intégration européenne. Les réformes sont essentielles pour relever les défis futurs et elles doivent se faire avec toute la vigueur et la profondeur possible, imaginant un nouveau modèle qui soit utile et efficace pour atteindre les objectifs de l'intégration au sein des prochaines décennies. Pour obtenir ces résultats, il est nécessaire, comme nous avons déjà signalé, de faire des réformes profondes et de mettre de côté les réticences et d'autres approches qui justifient, entre autres choses, des tendances nationalistes. Il ne suffit pas de faire des simples retouches qui ne cachent pas la faiblesse du modèle actuel.

### **2.1. La nature juridique:**

Le modèle actuel où se retrouvent toujours la supranationalité avec l'intergouvernementalité, est-il la structure optimale pour comprendre les réalités actuelles? Ou, au contraire, avancer vers une plus grande intégration, grâce à l'introduction d'éléments qui auraient une plus grande participation dans le développement des compétences fédéralistes. Peut-être cela pourrait nous donner la bonne clé pour déverrouiller la situation actuelle.

Bien que le résultat à obtenir semble assez complexe, maintenir la tendance vers la mise en œuvre d'une nature fédérale est plus que plausible. Même si cela pourrait être considéré comme «atypique» ou

«sui generis», il ressemblerait peu, voire pas du tout, aux régimes utilisés actuellement dans des pays comme l'Allemagne ou les États-Unis. Nous trouverions une nature juridique pour l'Union Européenne typique des systèmes fédéraux et avec des tendances majeures à leur égard, même avec l'existence de nombreuses nuances qui donneraient une dimension atypique aux modèles fédéraux classiques et expérimentés. Il s'agirait de concevoir la naissance d'une fédération européenne adaptée à ce que nous voulons constituer comme axe de l'existence du modèle qui sera mis en œuvre dans le cadre de l'Union et pour une période future d'intégration réelle entre nos peuples et nos cultures communes et, en même temps, diverses dans l'unité.

## **2.2. La question des futures adhésions:**

Un deuxième élément à analyser serait les perspectives immédiates par rapport à ce que les élargissements ont été et si nous devrions continuer avec elles. Si notre réponse est positive, quelles sont les limites et par rapport à quels nouveaux modèles? Est-ce que l'adhésion des treize derniers États ferme-t-elle le processus d'adhésion de nouveaux États à l'Union? Qu'est-ce qui se passera dans l'avenir et qui seront les prochains? Les questions soulevées ci-dessus ne sont pas les seules qui peuvent être examinées. Il convient sans doute formuler d'autres questions, peut-être dans un ordre logique de méthodologie applicable. Dans ce sens, que veut dire «élargir»? Élargir vers quelle direction? Qui sont intéressés à élargir? Comment et quand? Avant de répondre à toutes ces questions, il conviendrait de mettre le point sur la nécessité d'établir des limites de caractère géographiques pour une conception sérieuse de l'avenir de l'Union Européenne et son développement, comme le Groupe des Sages présidé par l'ancien Premier ministre belge Dehaene a déjà fait il y a quelques années dans son rapport sur les implications institutionnelles de l'élargissement. D'un point de vue empirique, nous avons devant nous un exemple clair du risque associé à la faute de réflexion sur le sujet. Dans ce contexte, nous croyons qu'il n'est pas trivial du tout le fait que l'une des considérations que l'Union Européenne a dû mettre sur la table pour résoudre le grave problème actuel de l'immigration a été de faire des concessions exorbitantes à la Turquie en ce qui concerne l'accélération des négociations pour son adhésion à l'Union.

Nous sommes convaincus qu'il s'agit d'un fait qui est pertinent, car il crée des précédents qui peuvent être considérés dangereux dans le contexte des négociations normales en cours pour l'adhésion de futurs États qui devrait certainement être attendue dans les prochaines années et parce que cela montre, encore une fois, la fragilité qui caractérise actuellement le modèle de l'Union Européenne.

Nous partageons pleinement le désir exprimé dans le rapport précité dans lequel le Groupe des Sages affirme qu'il faut procéder sans plus tarder à identifier et déterminer les limites géographiques pour dresser le contour de l'Union Européenne dans les années à venir, étant donné que, dans le cas contraire, l'équilibre traditionnel et prospère qui existait entre les États membres peut tomber en morceaux, produisant une plus grande pertinence par rapport aux poids politique et économique formés par certains groupes des pays au sein de l'Union. Ainsi, même si au départ cela ne semblait pas conflictuel, il peut entraîner des difficultés entre les États membres qui forment la structure territoriale de cette Union.

Certainement, nous ne pouvons pas parler d'élargissement sans mentionner le pôle opposé de la dichotomie, à savoir l'approfondissement. En effet, le dilemme de l'élargissement-approfondissement est la référence essentielle et constitue la pierre angulaire du processus d'adhésion en cours. Cependant, il semble prudent de signaler à nouveau que l'approfondissement devrait être une condition préalable aux nouvelles arrivées qui sont prévues. Maintenant, en ce moment de notre discussion, nous aimerions ajouter un point de plus. Comme nous avons mentionné au début de cet article, notre proposition de créer un nouveau modèle est essentielle afin de tenir en compte ces nouveaux élargissements qui sans doute auront lieu dans les prochaines années. Nous sommes convaincus que la mise en place et l'existence d'une Union politique au sein de l'Union Européenne actuelle laisserait celle-ci libre de toute charge d'éléments politiques et probablement sociaux et faciliterait toutes les adhésions qui sont considérées nécessaires et dont la véritable substance serait le domaine économique et commercial. Ainsi, l'intégration de nouveaux membres serait aussi facilitée afin d'améliorer l'intégration économique qu'on essaie d'atteindre en Europe il y a soixante ans.

### **2.3. La soi-disant coopération renforcée:**

Une autre question importante qui nous rapproche de notre objectif d'établir un nouveau modèle européen est la fameuse soi-disant «coopération renforcée», connue ainsi par son inclusion dans les textes juridiques.

L'évaluation du concept peut partir du même terme «coopération». Il semble un peu bizarre que parmi les trois possibilités «solidarité, intégration et coopération» on ait choisi la dernière. Il semble clair que le terme «coopération» dans le contexte communautaire annonce un pas en arrière, un retour aux approches typiques et caractéristiques des anciennes organisations définies comme intergouvernementales. Par conséquent, l'emploi de ce terme s'avère paradoxale, au moment étant donné que l'intention et le but est précisément de réaliser des progrès pour avancer, de manière positive et pertinente dans le processus d'intégration. Dans le même contexte, le terme «solidarité renforcée» introduit par l'Espagne il y a quelques années constituerait une expression de position neutre et donc beaucoup plus conciliante avec les objectifs poursuivis. Cependant, nous pensons que le mot «solidarité» ne reflète pas correctement la dynamique du processus qui est en cours de se créer il y a six décennies en Europe, après avoir soulevé une vision sans doute correcte, mais éventuellement un peu plus statique que l'on aurait souhaité.

À cet égard, dans le cadre d'un nouveau modèle fédéral, il serait nécessaire de déterminer le mode progressif, les conditions et la manière dont les États membres doivent exécuter leurs tâches avec l'objectif d'entrer progressivement dans cette Union Politique, au sein et indépendamment en même temps, de l'Union Européenne – qui serait reléguée sur le plan opérationnel à une sphère strictement économique et commerciale. En tenant compte de la force et la clarté que cette Union disposerait par rapport aux éléments qui la soutiennent, nous affirmons que son ingrédient essentiel ou son trait le plus important serait le fait qu'elle est constituée d'une volonté politique exprimée tout au long du temps, clairement indiquée à plusieurs reprises et reflétée oralement et par écrit. Une volonté d'avancer et de réaliser des progrès considérables en ce qui concerne la construction de l'intégration européenne. En revanche, les États qui, pour une raison quelconque, ne manifesteraient pas d'une façon claire et continuée leur détermination ostensible d'avoir une vraie volonté politique conduisant à une Union politique,

logiquement, n'auraient pas rempli les conditions nécessaires pour avoir droit à l'adhésion à cette nouvelle Union et, par conséquent, resteraient de côté temporairement jusqu'à ce que les conditions pertinentes soient remplies, suivant le but qui est tout simplement d'atteindre de manière plus efficace une Europe avec une structure fédérale.

En tout cas, nous devons insister sur le fait qu'il ne s'agit pas d'une exclusion, car la possibilité d'adhésion serait toujours ouverte. Il s'agit plutôt d'un mécanisme de sécurité pour éviter précisément le blocus institutionnel et politique actuel. Aucune exception ne serait possible. A travers du renforcement de l'intégration, les États pourront s'adhérer, sans obstacles, à la formule d'une Union Politique et, par conséquent, à l'Europe fédérale recherchée. Les intégrations renforcées devraient se réaliser au fil du temps et, progressivement, les différents États membres de l'Union Européenne actuelle et future y participeraient, une fois qu'ils ont déclaré explicitement, clairement et résolument, leur volonté politique de s'adhérer et de former partie de cette Union.

Ainsi, il est nécessaire de construire un nouveau modèle capable de poursuivre et de consolider le processus de la construction de l'intégration européenne. Pour que le nouveau modèle mentionné ci-dessus soit mis en pratique, on devra tenir en compte d'une façon totale la riche et vaste expérience accumulée dans le passé tout au long des 65 dernières années. De cette manière, nous pouvons être en mesure de fournir une réponse suffisante et efficace aux défis et aux possibilités offertes par l'avenir en ce qui concerne l'architecture de l'intégration. En outre, le processus d'intégration mentionné ci-dessus, comme nous le verrons, ne sera ni se produira seulement entre les États. Les citoyens y joueront un rôle actif et important, étant donné que l'intégration doit aussi avoir lieu entre les peuples et entre les régions, afin d'achever l'établissement d'un modèle fédéral européen.

En effet, il semble opportun de réfléchir sur la conception et la création d'un nouveau modèle européen qui présente et continue le schéma fédéral. Pour ce faire, nous devons insister sur la nécessité de démontrer ce qui suit:

- La réforme doit être radicale et en profondeur.
- Pour se mettre en œuvre nous devons avoir extrêmement d'imagination, bien que les idées doivent être claires et solides, ainsi que fondées sur l'expérience vaste et riche extraite de la construction de l'intégration européenne.

- Il devient nécessaire de projeter la future construction à un modèle valable pour les décennies à venir, et pour y arriver, il est essentiel d'examiner à fond l'expérience passée et les erreurs commises au cours des dernières années pour tirer les conséquences appropriées pour l'avenir.

#### **2.4. Les bases et les autres éléments du nouveau modèle européen.**

À notre avis, il est essentiel de déterminer, tout d'abord, les bases sur lesquelles notre nouveau modèle doit se construire. En effet, ces nouvelles bases offriront un soutien suffisant pour le nouveau modèle comme suit:

- 1 – Un **environnement différent**: social, idéologique, politique et économique, composé par beaucoup d'autres pays, à savoir, le scénario que nous considérons pour notre projection future est très différent à celle d'aujourd'hui étant donné l'augmentation de nouvelles tendances dans la société et dans la classe politique où nous vivons, en plus des adhésions futures qui peuvent se produire dans les années à venir.
- 2 – La **participation des citoyens** est un élément vital à garder dans l'esprit et que l'auteur de ce document a déjà annoncé il y a quinze ans. En effet, toute nouvelle réforme ne peut pas être faite, en aucun cas, sans tenir compte des citoyens. En plus, nous devons aussi considérer la grande évolution caractérisée par la participation active de ces derniers à des forums et à des décisions communautaires. Même la Commission Européenne à travers les communications et des outils a clairement indiqué l'importance de la citoyenneté européenne dans l'avenir de l'Union. À l'heure actuelle, le principe de la participation citoyenne, en vertu duquel les citoyens constituent les architectes directs des divers changements qui se produisent dans leur société, est appliqué avec une rigueur maximale et dans son intégralité. Cela veut dire que le rôle primordial de la société civile devrait être un fait et non pas prétendre de favoriser la marginalisation des citoyens du processus de changement qui est envisagé par l'avenir de la coexistence au niveau de l'Union.
- 3 – Troisièmement, pour déterminer les bases sur lesquelles le nouveau modèle se fondera, nous devons garder à l'esprit que

l'objectif principal est constitué par la réalisation d'une **véritable intégration**. Les temps de la coopération ont été conclus pour mettre en œuvre ceux de l'intégration. Même si parfois il semble le contraire, les objectifs spécifiques de la nature intergouvernementale ont été surmontés et modifiés au profit des caractéristiques de la supranationalité. Nous parlons d'une intégration où l'on peut trouver pas seulement des politiques économiques communes ou même communautaires impliquées dans des positions des états, mais aussi des citoyens, des régions, des autorités locales, de la participation, de la solidarité, de la subsidiarité et, tous les éléments essentiels d'un modèle de coexistence pacifique et harmonieuse entre les peuples qui composent l'Union.

Après avoir établi les bases, il semble opportun déterminer les exigences minimales de ce nouveau modèle. Ainsi, nous pensons qu'afin de achever une véritable Union Politique il est important de démontrer qu'il y a une réelle volonté politique de mener à bien l'Union. Mais cette caractéristique n'est présente que dans un petit nombre d'États membres qui forment actuellement l'Union Européenne. En particulier, il paraît que seulement neuf ou dix membres indiquent clairement la volonté politique d'arriver à une Union politique, en acceptant les avantages et les inconvénients d'une telle construction au niveau européen. D'autres États membres sont très loin des positions décrites et leur attitude ne reflète aucune intention d'appartenir à une véritable Union politique européenne. Cela est signalé par l'absence complète ou presque complète de cette volonté politique nécessaire.

Conformément à la réalité décrite et en laissant en tout moment ouvert la porte à la possibilité d'intégrer tous les pays qui acceptent les conditions, les hypothèses et les éléments d'une véritable Union Politique à échelle européenne, nous sommes convaincus qu'il est nécessaire de créer et lancer une nouvelle cellule, un nouveau embryon formé par des pays qui, sans cesser d'appartenir activement à l'Union Européenne existante et connue aujourd'hui, aux simples effets économiques, essaient d'achever une Union Politique entre eux, suivant un schéma fédéral, que nous avons déjà eu la chance de décrire comme atypique, sui generis, mais où l'intégration renforcée, et non pas seulement la coopération, sera établie.

En relation avec le paragraphe précédent, sans oublier le dernier but de ces pages, il est important de nous positionner pour la création d'un nouveau Traité ou Constitution européenne qui soit en mesure d'intégrer les éléments fédéralistes qui ont été écartés en 2004. Avec le Traité de Lisbonne on a essayé de simplifier les Traités antérieurs et d'autres textes juridiques. Cependant, cette simplification implique l'adoption de quelque chose de plus, d'un Traité fondamental de nature constitutionnelle faite avec vue d'ensemble. Entre les exemples que nous pourrions offrir, nous retrouvons une correcte et plus approprié régulation du Conseil Européen, dans le Traité de Lisbonne. Enfin, nous pourrions dire que dans le Traité de Lisbonne on a trouvé une meilleure réglementation et plus précise par rapport à celle du passé; établir un système de hiérarchie des normes juridiques, en respectant les particularités de l'ensemble actuel des dispositions, s'adapterait plus au système fédéral, avec la répartition des pouvoirs sur la base des différents instruments juridiques utilisés, de manière qu'il y aurait un Traité fondamental ou une Constitution (avec l'exigence d'un référendum afin qu'il soit ratifié par les citoyens); des lois organiques (qui requièrent une majorité renforcée afin qu'elles soient approuvées); des lois ordinaires (qui requièrent une majorité simple afin qu'elles soient approuvées); des règlements d'exécution des lois (comme une sorte d'actes administratifs de caractère individuel); des recommandations et des avis (qui, comme c'est actuellement le cas, ne seraient pas contraignantes et qui, plutôt, représenteraient la manifestation de la position différente des divers institutions par rapport à toute question pertinente).

### **3. Les conclusions.**

En guise de conclusion, sans vouloir être exhaustifs et seulement avec la bonne intention d'offrir quelques points de discussion, nous allons indiquer, brièvement, certains domaines thématiques qui pourraient être envisagées pour être inclus dans l'ordre du jour des futures réunions. De manière ponctuelle, nous estimons que le sens d'un modèle d'un système d'intégration en Europe devrait être considéré sous les éléments essentiels suivants:

- Mutualisation des parcelles souveraines ou un exercice en commun de souverainetés.

- L'existence des institutions. Le système actuel de Lisbonne est, à notre avis, tout à fait épuisé et il requiert des changements drastiques vers l'insertion d'une vision fédérale.
- La détermination de la nature juridique. Nous avons fait référence à cela plus tôt. Il est nécessaire de discuter sur ce que nous voulons que soit l'Union Européenne et jusqu'à quel point nous voulons la développer pour atteindre les objectifs conçus par ses pères fondateurs il y a soixante-cinq ans.
- Fixation claire de la répartition des compétences conférées par les États à l'Union.
- Volonté politique, clairement exprimée et manifestée de façon permanente, d'avancer vers l'intégration.
- Mise en place d'une hiérarchie de normes dans le cadre de l'unification de toutes les sources de législation européenne.
- L'application uniforme des règles constituant le Droit de l'Union dans absolument tout le territoire qu'elle couvrirait.
- Présence essentielle des citoyens dans le processus. Ils doivent maintenir une participation active, au moins dans les domaines suivants: pouvoir législatif, afin de jouer un rôle clé dans la prise de décisions et dans la formation de l'Union.
- En définitive, en Europe, la création d'un modèle fédéral, d'une Union fédérale qui pourrait être caractérisée comme *sui generis* et atypique, bien que strictement européenne.
- En plus, nous proposons le suivi et le respect d'un certain nombre de principes informateurs du système d'intégration, fixés selon l'exigence d'une conformité la plus profonde et complète:
  - Légalité, y compris l'égalité.
  - Légitimité (associant les citoyens au processus de construction de l'Union). Démocratie (les représentants nationaux et régionaux des citoyens devraient participer directement au processus. Un bon exemple serait dans une future Convention).
  - Discussions et préparation des décisions d'une manière transparente: au moins celles de caractère législatif doivent être ouvertes aux médias.
  - Efficacité (les décisions finales ne devraient pas être improvisées, mais bien pensées avant leur adoption).

- Solidarité (par rapport à sa nature et dans d'autres domaines tels que l'immigration ou le terrorisme).

Nous aimerions terminer le contenu de ce texte en citant le Pape François s'exprimait comme suit le 10 Novembre de 2015 dans un de ses discours: "Nous ne vivons pas dans une ère de changement, mais dans un changement d'ère. Les situations que nous vivons aujourd'hui présentent des nouveaux défis qui sont parfois difficiles à comprendre. Les problèmes de notre temps doivent être traités comme des défis, et non comme des obstacles". Autrement dit, nous sommes certainement dans un moment où la cohésion européenne est mise à l'épreuve. La question la plus importante est de ne pas ignorer la réalité, parce que le destin de l'Union Européenne dépend de la création d'un noyau fédéral dirigé par un groupe limité d'États qui, renforcés par l'histoire de soixante-cinq années d'intégration et d'effort commun, sont prêts pour accepter la responsabilité de créer une nouvelle entité de caractère et contenu supranationaux. Une fédération européenne, basée essentiellement sur l'acceptation proclamée d'une volonté politique qui est manifestée à travers l'expression continue et vérifiable, mise en effet à travers l'intégration renforcée, créée au sein d'un groupe minoritaire, mais d'un nombre suffisant d'États, qui n'essaie pas de fermer les portes pour isoler ses actions, mais qui les laisse encore plus ouvertes, plein de flexibilité, qui est en tout moment disposé à ouvrir ses structures à d'autres États qui appartiennent à l' Union Européenne actuelle. Ces États, en répondant à tous les exigences requises, sans exception, s'affichent politiquement proches et peuvent contribuer à la réalisation des objectifs fixés par une Union Politique de tendance et caractère fédéraux.

# **The Future of European Social Policy: submission to President Barroso's call for ideas**

Catherine Barnard\*

I would like to propose three possible ideas for taking the social dimension of the EU forward:

- o A European Social Compact
- o A protocol on the structured reform of national labour law by states in a crisis situation
- o Four other more limited proposals

## **1. A European Social Compact**

Perhaps the most ambitious of the three suggestions is a European social compact to match the Fiscal compact. Ideally this would form part of the EU Treaties and apply to all 28 states but the current political climate makes this unlikely (the UK would certainly vote against, as might a number of other Member States worried about the implications of a Treaty amendment on their own national systems (think of the 'no' votes in Ireland, France and the Netherlands to the earlier treaties)). So the next best thing is likely to be some sort of free standing Treaty, like the Fiscal Compact/TCSG, which could be signed up to by interested Member States and have force under international law. Another model would be to follow the pattern of the Euro Plus Pact (EPP), agreed by interested Member States, not legally binding but which is taken into account in the various soft-law processes.

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But what would go in it? The ETUC has long been pressing for some form of social progress protocol. It suggests the following wording:<sup>1</sup>

Nothing in the Treaties, and in particular neither economic freedoms nor competition rules shall have priority over fundamental social rights and social progress as defined in Article 2. In case of conflict fundamental social rights shall take precedence.

Economic freedoms cannot be interpreted as granting undertakings the right to exercise them for the purpose or with the effect of evading or circumventing national social and employment laws and practices or for social dumping.

Economic freedoms, as established in the Treaties, shall be interpreted in such a way as not infringing upon the exercise of fundamental social rights as recognised in the Member States and by Union law, including the right to negotiate, conclude and enforce collective agreements and to take collective action, and as not infringing upon the autonomy of social partners when exercising these fundamental rights in pursuit of social interests and the protection of workers.

It is unlikely that any of the Member States would be able to sign up to such a blanket statement of the exclusive priority of the social interests over the economic.

However, some of their other suggestions might carry more weight. For example, they propose a definition of social progress which they define as meaning, in particular

The Union

improves the living and working conditions of its population as well as any other social condition,

ensures the effective exercise of the fundamental social rights and principles, and in particular the right to negotiate, conclude and enforce collective agreements and to take collective action,

<sup>1</sup> <http://www.etuc.org/a/5175>.

in particular protects workers by recognizing the right of workers and trade unions to strive for the protection of existing standards as well as for the improvement of the living and working conditions of workers in the Union also beyond existing (minimum) standards, in particular to fight unfair competition on wages and working conditions, and to demand equal treatment of workers regardless of nationality or any other ground, ensures that improvements are being maintained, and avoids any regression in respect of its already existing secondary legislation.

In the light of the experience in the bail-out countries, the last clause on non-regression from pre-existing EU standards is particularly important. The ETUC continues that

The Member States, and/or the Social Partners, are not prevented from maintaining or introducing more stringent protective measures compatible with the Treaties, when implementing Union secondary legislation, avoid any regression in respect of their national law, without prejudice to the right of Member States to develop, in the light of changing circumstances, different legislative, regulatory or contractual provisions that respect Union law and the aim of social progress.

The non-regression clause envisaged in this clause is of a different type: it stops Member States from using EU law as an excuse to lower pre-existing national standards but only when implementing EU law. It does not go so far as to propose preventing states from cutting labour standards generally when outside the scope of EU law (but possibly required as a condition of an EU bail-out).

While broadly supportive of what the ETUC proposes in respect of the non-regression clauses, I would like to go further. I would suggest the need for a clause which explicitly requires the BEPG to take account of social matters. I would also like to see the ECB's mandate to extend, like that of the Federal Reserve in the US and other central banks, to promoting economic growth and employment, not just the maintenance of price stability, as specified in Article 127 TFEU.

I would also hope for a more considered role for mainstreaming of social concerns more generally (and not just gender equality). This would

create space for the Commission and the Court, when, for example, considering state aid and competition cases dealing with restructuring, to take into account the social implications of any decision.

## **2. Structured reforms of national law in times of crisis**

The reforms to national labour law rules in Greece, introduced as a condition of financial support by the troika, have already been condemned by the European Committee on Social Rights as breaching the European Social Charter 1961. The reforms have certainly reached deep into the national systems, including in areas over which the EU does not have competence to regulate, at least under Article 153 TFEU. The ETUC has produced a number of examples of how the troika policies have trampled over social partner agreements already in place, precipitated cuts or freezing of the minimum wage and cutting compensation on dismissal below the European average<sup>2</sup> – notably all areas in which there is no EU-level floor of rights (nor is there likely to be one in the near future). The European Parliament's investigation might shed some more light on the work of the troika. It was certainly the case that with Greece, the sense of crisis was palpable and that action had to be taken very quickly to save Greece and the euro.

But the EU now has experience of four bail-out programmes (Greece, Portugal, Ireland and Cyprus) and four financial assistance programmes (Hungary, Latvia, Romania and Spain). With the pressure of an impending catastrophic implosion of the EU removed, now would be a good time for the Commission to take stock and see the lessons learned. On a macro-level there is a need for serious discussion of whether austerity based reforms are really the appropriate medicine for countries in difficulty, especially when prescribed to all Member States at the same time (Keynes' paradox of thrift).<sup>3</sup>

At a more procedural level, a protocol should be drawn up which could be used in the event of a future bailout situation. This would require, for example, that the Commissioner of DG Empl serve on the

<sup>2</sup> [http://www.etuc.org/IMG/pdf/THE\\_FUNCTIONING\\_OF\\_THE\\_TROIKA\\_finale\\_dit2afterveronika.pdf](http://www.etuc.org/IMG/pdf/THE_FUNCTIONING_OF_THE_TROIKA_finale_dit2afterveronika.pdf)

<sup>3</sup> For a forceful critique of austerity policies, see M.Blyth, *Austerity: A History of an Idea*.

troika, as well as an MEP from the social affairs committee, who can help screen proposals for compliance with the EU social acquis and the Charter. Representatives from the ILO might have observer status. More radical would be a requirement for the Court to verify that the structural adjustment programme is compatible with the EU (social) acquis, using a similar process to the PPU. Furthermore, the social partners at EU and national level need to be more actively involved; where an agreement has been reached by the national social partners, this should be respected. The troika should also be accountable to the European Parliament.

The drawing up of such a Protocol would have the advantage of making the bailout process more transparent. It would also help the EU defend itself in the case of any challenge under the Charter. The social rights (if they are indeed rights) are not absolute and can be subject to limits. There may well be public interest in the need for reforms to the labour law systems. Doing so in a more structured, inclusive way may satisfy the Court's demands for proportionality.

### **3. More modest proposals**

#### **3.1. Specialisation**

I fully accept that a Social Compact is a long shot. A protocol of the kind outlined above might be more appealing but it does not confer any meaningful rights. So what could the EU be doing to boost the social dimension in the medium term? I would suggest going back to its roots and, as it did in the 1970s, specialise. There are three areas which could be singled out as needing the EU's attention and where EU level activity might be justified given the transnational dimension of the interests at stake.

The first concerns the **employment and pensions implications of an ageing population**. This is already flagged up in the EPP:

‘Reforms necessary to ensure the sustainability and adequacy of pensions and social benefits could include:

aligning the pension system to the national demographic situation, for example by aligning the effective retirement age with life expectancy or by increasing participation rates;

limiting early retirement schemes and using targeted incentives to employ older workers (notably in the age tranche above 55).

The justification for EU involvement here relates to the key issue of sustainability of public finances which, as the Eurozone crisis has shown, is a matter of common interest. The EU has long had expertise in the discrimination area, starting with sex and then in respect of other grounds. Addressing age discrimination fits in with this and also dovetails with the EU's social cohesion agenda.

Second, there is a growing body of evidence that migrant workers are being mistreated by some employers in certain sectors, particularly meat processing.<sup>4</sup> If these workers cannot, for practical reasons, enforce their rights, there is a role for the EU to consider intervening to requiring effective remedies. Could a combination of the Posted Workers Enforcement Directive and the Employers Sanctions Directive 2009/52 provide a template?

If the EU was to devote its attention to the position of **vulnerable migrant workers**, other issues also arise. In particular are they 'workers' at all or are they classified as self-employed and thus denied employment rights? What sort of contracts are they on? Should a new type of contract be envisaged based on the ideas of a contract to provide personal service, as Freedland has proposed? Of course these are highly sensitive issues which do not attract much consensus in the Member States. Could the EU take up the cudgels of where it left off in Modernisation Green Paper and raise these issues once again. And what about rights beyond employment.

Third, **privatisation** is clearly an important part of the reform agenda for a number of Member States, some of it mandated by the troika. What are the employment law implications of this? Does the Transfer of Undertakings Directive 2001/23 need revision to provide meaningful rights to transferees in the event of the transfer and for a significant period thereafter? How does the Directive fit into the public procurement process?

### 3.2. Market mechanisms

Since market-speak has now taken over all aspects of life, should labour law think of playing the markets at their own game. In other

<sup>4</sup> <http://www.equalityhumanrights.com/media-centre/2010/march/inquiry-uncovers-mistreatment-and-exploitation-of-migrant-and-agency-workers/>.

words, should market mechanisms be used to incentivise good, socially responsible behaviour. Take transparency as an example. For firms employing more than, say 20 people, would be obliged to publish on their websites certain key information such as staff turnover, staff sickness levels; how much more, as a factor, is the highest paid worker paid than the lowest worker.<sup>5</sup> Such transparency has a cost but modern technology means that such data should be readily available to employers. And it would enable putative employees to gain insights into their potential employers which are not available in their publicity material.

There is already some support for this approach. Proposals are now at a fairly advanced stage on the disclosure by large of non-financial and diversity information (the corporate social responsibility proposal). The disclosed non-financial information will at least cover environmental, social, and employee-related matters, respect of human rights, anti-corruption and bribery matters. It will require including a description of the policies pursued, their outcomes and the risks related to those matters. The legislation will also require large listed companies to provide in their corporate governance statement the information on their policy related to diversity of competences and views of the members of administrative, management and supervisory bodies.<sup>6</sup>

## **Conclusions**

These proposals will not save the EU, far from it. But they may go some way towards addressing the legitimacy crisis that the EU currently finds itself in.

<sup>5</sup> On the problems with the widening gap between wages at the top and the bottom of a firm, see R. Sennett, *The Culture of the New Capitalism* (New Haven, Yale University Press), 34.

<sup>6</sup> <http://www.eu2013.lt/en/news/pressreleases/member-states-mandate-the-president-to-negotiate-on-directive-regarding-disclosure-of-non-financial-and-diversity-information>



# First Thoughts on the Institutional Design of the Future Euro Area

Christian Calliess <sup>1</sup>

## I. Introduction

The financial and economic crisis has confronted the European Union and more precisely the Eurozone with its structural and political deficiencies. Existing mechanisms have failed to provide for collective solutions. Decision-making was shifted to a bilateral and international level. The complex, mostly intergovernmental arrangements that have been reached have been criticised for their lack of democratic and constitutional legitimacy.

The fact that the Maastricht Treaty favoured the implementation of a Monetary and Economic Union over a Political Union explains the lack of competence for common policies in the fields of finance and economics. It is the reason why the institutional setting for the Economic and Monetary Union (EMU) is based on an **asymmetric structure**: with the introduction of the Euro the competences for monetary policy and for exchange rate policy have been transferred to the Euro area level (Art. 127 et seq. TFEU), while the competences for economic as well as fiscal policy have largely remained in the responsibility of national policy makers (Art. 4 (1) and 5 (1) and (2) TEU, Art. 5 TFEU, Art. 121 et seq TFEU).

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As the Maastricht Treaty of 1992 did not establish a supranational European economic and fiscal policy compatible with the common European monetary policy, Member States, Member States agreed on a **dual system to defend the stability** of the Euro and the Euro Area:

- **On the one hand they established – as a “first ring of defense” – a rules based approach:** Art. 121 TFEU contains the **preventive** measures trying to ensure sound public finance by multilateral surveillance. The key concept of this provision is the coordination of national economic policies within a framework set by the Council, today implemented by the European Semester and Country Specific Recommendations (CSRs). Additionally Art. 126 TFEU contains the **corrective** measures, implementing the Excessive Deficit Procedure (EDP). The Commission is to monitor the development of the budgetary situation and of stock of government debt in the Member States having regard to the ratio of government deficit and government debt to gross domestic product.
- **On the other hand – as a second “ring of defense” – Member States agreed on a market based approach.** The so called ‘No-Bail-Out-Clause’ in Article 125 TFEU stating that neither the Union nor the other Member State may be made liable for the debts of a particular Member State. The intention of this clause, together with Art. 123 and 124 TFEU, is to ensure that Member States of the Eurozone are **sanctioned through the financial markets** by higher interest rates on their government bonds in case of an increasing government debt.

With the crisis in the Euro Area it has become obvious that both, the rules based as well as the market based instruments were **incapable of fulfilling their function**, which was to prevent a systematically relevant excess indebtedness of Eurozone Member States. Furthermore, the mere coordination of the national economic policies was insufficient to achieve the – due to the existing monetary and economic interdependencies – in a Monetary Union by all means necessary policy adaptation with regard to the common monetary policy of the ECB.

Against this backdrop reforms have to address both, the rules based as well as the market based instruments.

In this regard the so called **Five Presidents' Report on Completing Europe's Economic and Monetary Union from 22 June 2015 (FPR) and the accompanying communication of the European Commission from 21 October 2015 (COM(2015) 600 final) among others** point out the urgent need *'to move from a system of rules and guidelines for national economic policy making to a system of further sovereignty sharing within common institutions.'*

The FPR further states that a

*„genuine Fiscal Union will require more joint decision-making on fiscal policy. This would not mean centralisation of all aspects of revenue and expenditure policy. Euro area Member States would continue to decide on taxation and the allocation of budgetary expenditures according to national preferences and political choices. However, as the euro area evolves towards a genuine EMU, some decisions will increasingly need to be made collectively while ensuring democratic accountability and legitimacy. A future **euro area treasury** could be the place for such collective decision-making“.*

The **Treasury of the Euro Area (TEA)** is to be understood as a **placeholder**, that allows for different institutional concepts. These can range from an intergovernmental approach with the Council and the Euro group at its heart to supranational concepts based with the Commission, ranging from a European Economic Government to a European Finance Minister. However, a detailed concept of a TEA has not been outlined by the report. The FPR locates its creation in the second stage (developments until 2025) of the completion of Europe's Economic and Monetary Union (EMU).

Moreover the FPR might be read as intending a political package deal between the TEA and the fiscal stabilisation function of the Euro Area: The latter standing for more risk sharing, the first standing for more sovereignty sharing. By bringing these both aspects together the institutional dimension of the FPR unfolds.

## **II. Aspects of a reform to be taken into account**

Hereafter, different reform proposals aiming at overcoming the deficiencies outlined above will be compared and analysed in terms of their approaches to the scope, institutional ties, mission and competences as well as democratic accountability and financing of a future TEA.

### **1. Competences**

The FPR states that Member States will have to accept increasingly joint decision-making on elements of their respective national budgets and economic policies. This implies that the TEA would have to be competent to take all necessary fiscal, monetary and economic measures in order to establish a properly democratic common economic policy. Thus, the TEA would incorporate competences that generally fall within the tasks of both the finance ministry and the ministry of economics on a national level. It should have supervising and managing functions.

The TEA could have the **competence**

- **to oversee coordination of fiscal and economic policy, especially to scrutinize and enforce the European Semester**
- **to support reform processes in the Member States by administrative and financial means**
- **to negotiate reform packages with Member States undertaking structural reforms**
- **to ensure the provision of Euro Area public goods by proposing legislation with regard to the Fiscal- and Economic Union**
- **to enforce rules of the Euro Area**
- **to manage crises in the Euro Area and counterbalance asymmetric macroeconomic shocks by a fiscal capacity**
- **to decide on bank closures**
- **to chair the European Monetary Fund (EMF), a transformed version of the ESM**
- **to ensure the unified external representation of the Euro Area**

With regard to these competences the decision to establish a TEA must not exclude the development of the ESM into an EMF. By contrast, it might be wise, that both institutions go hand in hand, when it comes to the implementation and enforcement of the competences

of the TEA: National reforms (politically) supervised by the TEA could be implemented and (where necessary) enforced by a future EMF, understood as a technical and politically independent institution equipped with the appropriate competences and expertise. This EMF could replace the ESM and take over some of its functions, while simultaneously extending its mission. The reintegration of the ESM into the framework of the EU is explicitly mentioned in the FPR. However, in addition to a short-term crisis management facility the TEA could also dispose over the EMF as a long-term support facility in exchange for reduced budgetary sovereignty. As a result, the TEA via the EMF would be able to support economic growth and further convergence by supervising structural reforms in the Member States.

In this regard the TEA together with the EMF should be equipped with graduated instruments of intervention in national budgets including – as ultima ratio – the preparation and implementation of the insolvency of a Member State. The development of a **state insolvency procedure** does not only represent the last resort of excessive sovereign debt but is also crucial for the credibility of the whole system. In the framework of an **institutionalized sovereign default** the EMF could grant time-limited credits in the case of the absence of debt sustainability in order to secure, in the interest of the financial stability of the Euro Area as a whole, a structured insolvency of the Eurozone Member State concerned.

The involvement of the TEA together with the EMF in national reform programs could be supported through a **fiscal capacity**. The establishment of a fiscal stabilisation function as part of the TEA might be complex from a political point of view. Some Member States would fear increased moral hazard in the system, permanent transfers or mutualisation of debts. However, a fiscal stabilisation function could be designed in such a way that the net transfers to each Member State are close to zero. The definition of transparent operational criteria for triggering the cyclical support would also go a long way in ameliorating moral hazard concerns. Finally, in this context, questions of democratic oversight and legitimacy inevitably arise. Against this backdrop the Five Presidents' Report emphasises that the establishment of a fiscal stabilisation capacity for the euro area needs to be preceded by achieving a significant degree of economic convergence. Therefore, the convergence benchmarks to define eligibility for the new fiscal instrument would have to be defined.

A fiscal capacity should contribute to finance European public goods. Therefore a **European investment budget**, that provides an incentive for structural reforms identified by the European Semester and Country Specific Recommendations (CSRs) could support the investment in European public goods (e.g. in energy infrastructure, border management, security measures or reforms of the labour market). It corresponds to the mission of a euro area stabilisation function as outlined in the FPR. The intended **combination of solidarity and conditionality with the objective to safeguard the stability** of the Euro Area is the political “package deal”, that during the crisis was underpinning EMU. For the Euro area all principles are explicitly mentioned in Art. 136 (3) TFEU: the granting of any required financial assistance under a stability mechanism, which can be activated if it is indispensable to safeguard the stability of the euro area as a whole, will be made subject to *strict conditionality*. In his *Pringle* judgment the European Court of Justice stated, that “the reason why the granting of financial assistance by the stability mechanism is subject to strict conditionality under paragraph 3 of Article 136 TFEU, (...) is in order to ensure that that mechanism will operate in a way that will comply with European Union law, including the measures adopted by the Union in the context of the coordination of the Member States’ economic policies”.<sup>2</sup>

Art. 136 (3) TFEU’s full legal effect unfolds in the context of the so called No-Bail-Out Clause, stipulated in Art. 125 TFEU - as another core principle of the euro area. In short this means that any sort of financial assistance granted by the Union or by the Member States to another Member State is not generally prohibited by Art. 125 TFEU.<sup>3</sup> However, also a voluntary assistance is not generally allowed. As the aim of Article 125 TFEU is to prompt Member States to maintain budgetary discipline by remaining subject to the logic of the market when they enter into debt, the provision "prohibits the Union and the

<sup>2</sup> ECJ, Case C-370/12, para. 69.

<sup>3</sup> ECJ, Case C-370/12, para. 130: “It must be stated at the outset that it is apparent from the wording used in Article 125 TFEU, to the effect that neither the Union nor a Member State are to ‘be liable for the commitments’ of another Member State or ‘assume [those commitments]’, that that article is not intended to prohibit either the Union or the Member States from granting any form of financial assistance whatever to another Member State.”

Member States from granting financial assistance as a result of which the incentive of the recipient Member State to conduct a sound budgetary policy is diminished".<sup>4</sup> This means, that under Art. 125 TFEU any sort of financial assistance to a Member State is only compatible with EU law, if it is indispensable for the safeguarding of the financial stability of the euro area as a whole, while the Member State remains responsible for its commitments to its creditors and the strict conditions attached to such assistance are such as to prompt the Member State to implement a sound budgetary policy.<sup>5</sup>

Above these core competences of the TEA, the FPR also aims at establishing a unified **external representation** of the Euro on an international level, especially in the IMF. The 2004 Constitutional Treaty had already provided for this innovation in its draft Article III-90. This task could be entrusted to the European Economic Government or a European Finance Minister, possibly together with the President of the ECB. On the one hand, this could attribute more political weight to the euro area and ensure that the interests of the Eurozone as a whole are being expressed. On the other hand, if the particular interests of the Member States are too different there is a risk that the formulated common position will only represent a weak compromise. This gives reason for concern, as the so found compromise could be less significant.

## **2. Scope**

It is essential to determine whether a Treasury should only represent the **euro area or, potentially at least, the EU as a whole**, including those Member States which do not (yet) take full part in the EMU. The answer to this question depends notably on the mission and the competences attributed to this institution. Since the adherence to the EMU is compulsory for every Member State fulfilling the criteria of convergence (except for those that concluded legal opt-outs), it seems logical to include all Member States in order to pave their way to the EMU. Considering the close coordination in both fiscal and economic policy which is to be established by the Treasury, an institution which represents euro area Member States only could create a deeper

<sup>4</sup> ECJ, Case C-370/12, para. 137.

<sup>5</sup> ECJ Case C-370/12, para. 136, 137.

gap between euro and non-euro Member States and make accession more difficult. However, the goal of the reform will ultimately be the establishment of closer solidarity and sovereignty-sharing mechanisms. If a common European approach is chosen, the accountability of and the benefits for non-euro states would have to be evaluated separately.

### **3. Position of the TEA in the institutional framework**

The position of a TEA in the institutional framework of the European Union has not been defined yet. However, the integration into the existing institutional framework – as opposed to decision-making on an intergovernmental level outside the EU as practised in the ESM or in the Fiscal Compact Treaty – is one of the main goals of the reform.

Most proposals agree that the mechanisms that have been developed in the course of the financial crisis have to be reintegrated in the existing structures. The predominance of intergovernmental or supranational elements in the new institution has direct influence on the requirements for decision-making (qualified majority vote or veto rights).

There are **three principal approaches to the question of the future institutional position of the Treasury**.

- In the **first one**, the existing structures would be left broadly untouched and a new executive authority would be added as part of the Council and the European Council. This authority would replace the Eurogroup and raise the profile of economic policy coordination. This approach is based on the understanding that the basis for common decision-making in fields as sensitive as fiscal and budgetary policy has not yet been built. For this reason, the so-called **Union Method** would be further pursued, although with important changes to the principle of unanimity: the cooperation in fiscal and economic policy could be modelled after the decision-making process in the EU's Common Foreign and Security Policy (CFSP), as both policy fields are of high political sensitivity. This would mean extending the principle of "constructive abstention" to EMU in order to prevent decisions from being blocked by the veto of a single Member State, i.e. the analogous application of Article 28 (2), 31 (1) and 36 TEU to the decisions of the economic government. At the same time

this intergovernmental authority would not have any legislative functions but would be limited to the adoption of operational measures, after consultation with the European Parliament.

- **The second approach is to anchor the future euro area Treasury on the application of the Community Method**, with a supranational mechanism and a proper fiscal capacity safeguarding the interests of the EU and the Euro Area as a whole. The TEA would then be established at the **European Commission**. In this regard **two models** could be distinguished. One could be called the model of a European Finance Minister, the other could be called the model of a European Economic Government:
  - (1) The Treasury could comprise just the Commissioner responsible for monetary union, who then would be a kind of **European Finance Minister**. In order to enhance his coordinating role, the function could be “**double-hatted**” by combining his role of a member of the European Commission and President of the Eurogroup. The new institution would be modelled after the office of the High Representative for Foreign Affairs, representing a mixed administration drawn from the Commission, the Council and even Member States. This would imply the European Finance Minister to be elected by the Council by qualified majority vote. Merging the positions of an EU Commissioner and President of the Eurogroup could give more political weight to the office, particularly in the implementation of the Excessive Deficit Procedure and the Stability and Growth Pact.
  - (2) Alternatively, in a more expanded set up, the TEA could comprise the 5 Commissioners that deal with the relevant policy fields (e.g. the Commissioners responsible for the Monetary Union, the Internal Market, Trade and Financial Stability) as well as the President of the Commission (this expanded alternative would be better described as not just a Treasury but an “**European Economic Government**” for the monetary union). The structure of the Commission would then have to be reformed to create a proper treasury facility endowed with the full spectrum of fiscal, financial and macro-economic functions.

- Based on this approach a **third approach** could be imagined, **combining the TEA as mentioned already above with a new EMF**. This would create a hybrid model which would see the Treasury emerge as part of the Commission, but with guarantees of institutional independence when it comes to control and enforcement by the EMF. The model for that functionality would be a little bit like that of the Single Supervisory Mechanism, being located at the ECB. The independent, yet Commission-anchored Treasury, would be primarily responsible for matters of budgetary surveillance and fiscal stabilisation where preventing political interference is particularly important.

#### 4. Democratic legitimacy

An institution like the TEA has to be elected and scrutinized by a parliament. With regard to its envisaged competences questions of legitimacy and democratic accountability arise. In this context, the predecessor to the FPR, the Four Presidents Report, already mentioned that *‘moving towards more integrated fiscal and economic decision-making between countries will (...) require strong mechanisms for legitimate and accountable joint decision-making.’*

##### a. The role of the European Parliament

If the purpose of the TEA is narrowed to the provision of public goods in the Euro area as outlined above, it is questionable if MEPs of non-Eurozone Member States should be allowed to vote on questions exclusively regarding the euro area. In this case, votes of non-Eurozone MEP could be excluded.

There is also the possibility to staff the future body with deputies from the European Parliament only representing Member States of the Eurozone. Such a **Euro Chamber** would have to be implemented through a treaty change. But this may run counter to Art. 10 (2) TEU according to which the European Parliament is the representative body of EU citizens and not of EU Member States.

Another possibility could be the creation of a **formally separate parliamentary assembly**, made up of directly elected representatives of the national parliaments. However, this would further complicate the already complex decision-making

mechanisms. The advantage of a Euro Chamber is that it is based on an existing institution and can be adapted quickly and flexibly. Some concepts also aim at enhancing the role of the EP or a respective Euro Chamber in the legislative process and in the European Semester. The FPR emphasizes that the role of the EP in the European Semester has to be strengthened. This could be achieved by including the EP in the Excessive Deficit Procedure. The conferral of this competence to the EP could complement the decision making process in the European Council and the Eurogroup and endow it with new legitimacy.

#### **b. National Parliaments**

As certain competences of the TEA (especially proposing legislation with regard to Euro Area public goods) would interfere with – according to the national perspective – very sensitive policy fields such as economic, fiscal, budget and social policy, it might be politically wise and with regard to constitutional constraints in at least some Member States even necessary to integrate national parliaments in the decision making process. This would compensate them as well for the implied transfer of parliamentary competences affecting their budget autonomy.

In this context, the FPR emphasizes the need to strengthen inter-parliamentary cooperation and to involve national parliaments more closely in the adoption of National Reform and Stability Programs. Insofar there are **three different approaches how to integrate national parliaments** in the process. All of them would apply only in those policy fields, that are affected by the necessary transfer of new competences (e.g. in the field of fiscal, economic and social policy) to the European level.

- The first approach could be to establish a “Euro Chamber” consisting of Members of national parliaments beside the EU Parliament and the Council. This additional **Third Chamber** should get **involved only**, when framework-legislation is passed on matters, that touch new competences transferred to the European level in the field of economic, fiscal, budget and social policy. Arguably, it is likely that such an additional institution makes the European decision-making process even

more complex. Nevertheless a Third Chamber would evolve the role of the national parliaments as it is currently funded in Article 10 (2), 12 TEU and Article 13 TSCG into a further integrated multi-level parliamentarism, which is necessary to get political and constitutional support for a Treaty Reform including a competence transfer in the field of economic, fiscal, budget and social policy. Such a Third Chamber would have to be implemented through a treaty change. This approach is also reflected in the proposal of a **bicameral parliamentary** system scrutinizing the European Economic Government. While the right to initiate new legislation would be conferred to the EP (possibly with only euro area MEPs eligible to vote), the second chamber consisting of Members of the national parliaments could take up a role comparable to the German Bundesrat.

- Another possibility that might even be achieved partly within the Treaty of Lisbon would be to establish a **veto** (orange or red card) of national parliaments specifically with regard to these sensitive policy fields. The basic idea of such a veto corresponds to the right of national parliaments to raise a subsidiarity complaint (Art. 12(b) TEU). Furthermore, it corresponds to the already existing emergency breaks, that do exist already in the field of judicial cooperation in criminal matters as another sensitive policy area such (Art. 82(3) and 83(3) TFEU). In order to ensure that one national **veto cannot block** the whole European decision-making-process for an unlimited time, the veto might be of a suspending character. The European institutions would have to consider and take into account the reasons of the national parliament. If a compromise cannot be found after a time period of six months, there could be two possibilities: either a minimum of one third of the other national parliaments supports the veto, then the proposal is taken from the agenda, or, if this minimum is not reached, the European institutions could continue with the decision-making-process. In doing so, there would need to be a unanimity decision in the Council.
- A third possibility would be to combine the above mentioned proposals concerning the Third Chamber and the veto card

to the effect, that not the national Parliaments but the Third Chamber would have a veto right with regard to the sensitive policy fields of economic, fiscal, budget and social policy. This approach is reflected in the proposal of a Joint Committee comprising 28 delegates from the EP and 56 delegates from the national parliaments (two members from each national parliament and half the number of MEP). Again, in order to ensure that one national veto cannot block the whole European decision-making-process for an unlimited time, the veto might be of a suspending character.

- For the means of the decisions of a future EMF possibly replacing the ESM, the need for direct decision-making involving the concerned Member states could be fulfilled by co-decision mechanism between the EMF board, voting by qualified majority, and the Joint Committee.
- Democratic accountability is even more crucial when it comes to the TEA's authority to intervene in national budgets. There is a consensus on this account that national parliaments have to be implied in the democratic process. **Rights of intervention in the national budgetary autonomy** may be possible on following conditions: as long as Member States comply with their obligations under the common debt rules, only **legally non-binding** recommendations are possible (as it is the case *de lege lata*). If a Member State, however, infringes the legally binding stability criteria (and therefore disregards European law), it must be possible to make **abstract, but legally binding** stipulations of how much the state has to save – but the state will keep the specific decision where to save. Only if a Member State is dependent on financial assistance by the ESM (or a future EMF), **concrete legally binding** recommendations would be possible. In a case like this it is only fair to ask, to what extent a national parliament of a Eurozone Member State that receives money from the ESM (or a future EMF) has already lost its budget autonomy.

### **III. Implementation**

The implementation of the so-called second phase of the completion of the EMU is intended until 2025. The experiences of the 2004 Constitutional Draft Treaty and the Treaty of Lisbon in 2009 have shown that a treaty revision can be politically difficult. Nevertheless – or even because of this – it is time to design a draft for an improved governance of the Euro Area, that can be explained and discussed with Member States, citizens and civil society. Citizens expect the EU and its policies to function properly. If the EU wants to regain their trust, it has to explain the need for reforms and to start a transparent debate on why we need a reform. The necessary narrative on this reform is obvious: It is about a choice citizens have to make. It is not about "more Europe" but about a better functioning Europe. If Member States and citizens want to keep the Euro, based on lessons learned from the crises, they should agree to reforms towards a better functioning and more resilient Euro Area.

# Informal Contribution Following President Barroso's Questions

Christoph Ohler\*  
Matthias Ruffert\*\*

1. In terms of **sustainable economic growth and social stability**, the following structural measures are suggested:

- *Promoting* economic growth by stabilising the confidence of market participants that the Union will continue adhering to open, free and competitive markets protected by a *clear, coherent and consistent legal order*.
- *Reducing the excessive debt burden* of Member States in the long term since it poses the biggest risk of future macroeconomic instability.
- *Reducing gradually the size of the financial sector* in the Union relative to GDP while furthering the growth of the real economy.
- *Phasing out crisis management measures* (EFSM, EFSF, ESM, SMP, OMT) to the greatest possible extent and as quickly as possible.

2. A reform of EMU requires, consequentially, a **new consensus on clear, coherent and consistent rules** avoiding the flaws of the existing system:

- *Strengthening* Commission competences vis-à-vis the Member States in budgetary matters under *Articles* 121 and 126 TFEU.

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This will include automatic and more effective sanctions against Member States not avoiding excessive deficits and debts. An effective sanction would be, e.g., that such Member States lose their privilege of zero percent risk weighing under EU banking law.

- *Integrating* the Fiscal Compact into EU primary law would help strengthening the idea of fiscal stability as a basis for sustainable economic growth.
- *Simplifying* the Stability and Growth Pact by concentrating on core concepts and effective sanctions while reducing as far as possible legal ambiguity and political discretion.
- *Sharpening* Commission powers with respect to macroeconomic imbalances. The existing system is opaque with respect to procedural and substantive criteria and bears the risk of the Commission intruding into Member States' economic policies beyond the need to avoid substantive risks for the Union as a whole.

3. In terms of **institutions**, strengthening the institutional position of the Commission within the Union is necessary to achieve efficiency, transparency and democratic legitimacy:

- The abundance of **agencies** and their growth in powers has led to a decrease of core competences of the Commission. It is the Commission, not agencies who should take the lead in formulating independent, expert-knowledge-driven policies for the Union. At least, the Commission should be vested with the right to exert legal supervision over the ever growing network of agencies.
- The Commission's economic competences related to the **European Council** should be strengthened. The European Council should refrain from quasi-legislative governance.
- The Commission should be strengthened with respect to the **ECB**. The ECB should become aware again of its core competence to maintain price stability (Art. 127 [1] TFEU), whereas the control of economic policy would be fully vested in the Commission.

4. A blueprint for a future **Federal Union beginning with the Eurozone** could contain the following aspects:

- Formalising the **Eurozone-governance** beyond the weak constitutional basis of Article 136 (1) and (2) TFEU.
- Establishing a **budgetary system** beyond the limitations of Article 311 TFEU.
- Strengthening the **European Parliament** by fulfilling the task given by Article 223 TFEU and establishing a **unified European election procedure**. This procedure should also realise the equality of the voters (e.g. by the establishment of cross-border constituencies). A consequential point of discussion would be to what extent MEP from outside the Eurozone will have legislative rights over issues of the Eurozone.
- Strengthening alternative means of co-operation with third countries and **slowing the pace of enlargement** to allow the institutional framework of the EU28 to settle after the crisis.
- Strengthening the **European Court of Justice** by bringing forward the specialized courts system.



## **How we might recover from the economic and social crisis through European integration deepening**

Chun Ding\*

It has been four years since the break out of the European Sovereign debt crisis, during which EU economy seriously suffered and unemployment, as well as other social problems, became conspicuous. Through the collaboration of both the European Union and member states, a series of aiding and economic governance measures were launched. Since the second half of 2013 the EU economy gradually moves to a sustainable recovery path, but the problem of low growth and high unemployment is still hanging there. As countermeasures, it is definitely the right way to strengthen cooperation within EU, to improve governance measures, and to deepen the European integration process. To be specific, EU can take positive steps in the following aspects:

### **A. EU and its member states should accelerate the implementation of various economic governance policies enacted in crisis.**

During the crisis, spectrum of economic governance measures, in terms of deepening fiscal and financial integration, were enacted. On the fiscal front, series operations, such as Six Pack, European Semester, Fiscal Compact, etc. were designed as cures for the disparity between fiscal and financial integration. On the financial front, ECB's capability of financial turmoil intervention has been greatly enhanced at the cost of undermining the independence of monetary policy; and the framework of Banking Union has been proposed, through which ECB shall assume the wide supervisory authority and the ultimate responsibility for all banks in the Eurozone. In Macroeconomic aspect, EU emphasizes more

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on the Prevent and Correct of the Macroeconomic Imbalance Procedure, and pictured three growth targets for its member states in the Europe 2020: smart growth--developing an economy based on knowledge and innovation; sustainable growth--promoting a more resource efficient, greener and more competitive economy; inclusive growth--fostering a high-employment economy delivering social, economic and territorial cohesion. It is undeniable that if the measures above could be implemented perfectly, EU will for sure make significant strides in its economic revival.

However, there exists some factors that may impede the execution of these measures. Firstly, the gap between the core and the peripheral member states, hindering the policy coordination, cannot be narrowed down in short time. Secondly, the partially transfer of fiscal sovereignty to EU is not yet universally supported by the general public. Thirdly, the mitigation of crisis would weaken the motives of continuous governance. Thus, what is imperative for the EU is not to prompt new integration policies, but to speed up the implementation of the current measures, to solid its integration foundation for future reform. Specifically, it is suggested as follows:

- a. Accelerate the building of Banking Union, Single Supervisory Mechanism, Single Resolution Mechanism, as well as Common Deposit Guarantee System. The formation of Banking Union would effectively reassure the financial market and break the vicious cycle between the Eurozone banks and the sovereign debts. On February 7, 2014, ECB formally announced the draft of SSM and is soliciting opinions from the public, which indicates that the promotion of Banking Union has entered into a quite important phase, and that the construction of Banking Union should be speed up and achieve its primary breakthrough in relatively less tough financial sectors.
- b. Continue to supervise the periphery members to execute all promised governance measures without moments of relaxation. But on the other hand, EU should also make full use of aiding funds on the EU level, such as current European regional development fund (ERDF) and the European social fund (ESF), and expand their scales, in order to increase the assistance to the periphery and help them speed up the economic transformation, promote employment and appropriately placate public discontent.

- c. Increase support for higher education and scientific and technological innovation. Currently, Europe lagged far behind the United States in the sphere of innovation, which would in the long term do harm to EU's sustainable development. According to report, the ratio of EU's total contribution to higher education to GDP is less than half that of the United States, and among the top 20 world university, 17 are in the United States. As for ICT investment, Google Company, US alone invested 2 billion Euros into it, while the total amount of EU's FP7 was only 1.3 billion Euros. As a result, EU must rise and catch-up, and put into more resources for personnel training and technological innovation. Now we see that Horizon 2020, proposed by EU, has a budget scale of about 80 billion Euros, 1.6 times of that of the FP7. It is really a good start. The EU needs to continue such investment. And Scandinavian and Germany, with strong science and technology strength, would benefit more, which could be seen as a compensation for their contribution in the crisis. What's more, entrepreneurship, which is also highly correlated with technology innovation, should be actively advocated.
- d. Strengthen cooperation with emerging economies such as China. Due to the European debt crisis, domestic demand of member states declined sharply, which makes the foreign economic and trade more important. The European commission can fully perform the authorization by EU to carry on foreign economic and trade negotiations, for instance, to start BIT negotiation with China, and, by strengthening cooperation with emerging economies, the development of the European economy could be effectively promoted and accelerated.

**B. EU should coordinate its political and social policy, and consolidate the public opinion basis of EU integration.**

EU citizens tend to convert their pain due to the crisis into the dissatisfaction with integration, leading to the expansion of social rifts. On the EU level, Eurosceptic emotion is aggravating; on the member state level, it is manifested as the enlargement of "democratic deficit" between elite and common people. If these phenomena were not properly handled, the foundation for further integration would be shaky and face the risk of fall by the wayside.

Possible EU's countermeasures including:

- a. Rally public support for EU and strive to win the European parliament elections on May 22 to 25, 2014. This election is the first parliamentary election since the Lisbon treaty and a total of 751 European parliaments will be elected directly by European citizens and the new President of the European commission will also be decided, which will alter European party's power distribution in the European parliament. Therefore, the parliamentary election results are likely to be a barometer for EU's future political direction. What's upsetting is that, currently, anti-EU parties are very active in Europe. For instance, UKIP, who is in support of the Britain's withdrawal from EU, is always presented and covered by Medias. The Wall Street journal even predicts that "In the new session of the European parliament, the Euroscepticism parties may account for 30% of the total seats". Thus, EU should, on one hand, rally public support, reduce democratic deficit, and stop the contagion of Eurosceptics, and, on the other hand, make its efforts and call for the policy coordination among mainstream political parties, and work together to oppose extremist. By the time of electing candidates for European commission, more communication is necessary. By winning elections, EU is able to lead public opinions and strengthen the political legitimacy of EU integration.
- b. Solve the problem of high unemployment. Currently, the European economy has shown signs of recovery, but for a long time the unemployment rate remains more than 10%, causing public outcry. And more than 20% of the youth unemployment rate has become an important factor in social unrest. EU is quite responsible to make positive efforts concerned, for example, to promote employment by increasing the ESF investment, to boost the economy by facilitating the circulation of four factors (goods, personnel, services, and capital), to advocate all kinds of flexible employment forms, and try to lower the unemployment rate to the level before the crisis as soon as possible.
- c. Top-level design of social security reform. During the crisis, many member states realized that the current social security level was unsustainable, and launched a series of reform measures. However,

social security reforms involve the vital interests of the society, and actions on the single county level would for sure increase public discontent. Thus, EU should shoulder the responsibility of the top-level design and forward-looking guidance of the reform. EU should lead public expectations for the reform by designing rational retirement age, pension system, reference standards of medical and nursing insurance payment, etc., and at the same time, strengthen member states' coordination of social security policy by deepening the cooperation of OMC. The top design and the coordination among member countries could, on one hand, deepen the European integration in the dimension of social security reform, and, on the other hand, alleviate member states' pressure from the reform, reduce the public's dissatisfaction with the welfare loss, and weaken the social foundation of extremism.

### **C. The function of EU's institutions should be strengthened.**

Multi-dimensionally, currently, it is a good opportunity for EU to strengthen its organization functions and deepen the European integration. Firstly, European parliament, elected after the Lisbon treaty, and the succeeding EU institutions could lend more legitimacy. Secondly, learning from the sovereign debt crisis, we have to admit that Europe can tackle all kinds of challenges only when the role of EU is strengthened. The successful assistance to Greece through ESM and its predecessor, EFSF and EFMS, is a convincing example. Thirdly, in the current times, the international community is faced with many problems, regional and bilateral economic cooperation, global climate change, prevention of massive proliferation, anti-terrorism, etc. Only if Europe is presented by EU, can the European have their voice heard in international affairs. Fourthly, due to the crisis, many member states squeezed their defense spending, which does no good to their external action capability. Thus, when dealing with regional conflicts, combined action coordinated by EU should be more effective.

At present, the EU institutions had better to make full use of existing institutions accreditation, and try to further establish its authority and improve the capability of European commission and other EU institutions through active participation in international economic and trade cooperation and hotspot problem solving negotiations and actions, in order to gain the substantial control of European integration.

In the economic and trade area, EU should devote to the negotiations of TTIP, BIT, etc., and play a greater role in international organizations, such as G20. In tackling climate change, EU should make its effort to promote the negation of the second commitment period of the “Kyoto protocol”, and run for the 2015 Paris congress to lock-in substantial gains. In preventing massive proliferations, EU should actively work to facilitate negotiations over the Iranian nuclear issues, and pay close attention to the evolvement of Korean nuclear issue. In global anti-terrorism issues, EU should contribute to sharing information among members, coordinating international cooperation with other countries on EU level, and intensifying escort actions in the Gulf of Aden and other risky waters. In strengthening the capability of combined action, major countries should be encouraged to build multinational quick reaction force, and “Franco-German axis” dual-core engine should be strengthened. Recently, German chancellor Angela Merkel, who was injured during skiing fall, received a cordial welcome by French President Francois Hollande. Such token of goodwill should by all means advocated.

## **How to improve the institutional framework for the eurozone: Proposals**

Cristina Elías Méndez\*

Los cambios experimentados en el modelo de gobernanza económica durante la crisis y la voluntad de profundización en la UEM requieren la profundización en la Unión política. Se plantean propuestas concretas, destinadas sobre todo a incrementar la participación del Parlamento Europeo en las decisiones de gobernanza económica, pero también a politizar y democratizar el proceso de toma de decisiones a nivel europeo, así como propuestas de amplio alcance, que afectan a la legitimidad de base del proceso de toma de decisiones.

El BCE ha adquirido un papel protagonista a la hora de afrontar la crisis. Su actitud proactiva, innovando a la par que han ido surgiendo las necesidades al efecto, le ha granjeado críticas, aunque también se han escuchado voces favorables. La necesidad de dotarse de instrumentos de los que carecía es una muestra de la falta de preparación que padecían las estructuras institucionales para poder afrontar con solvencia una crisis económica de tal magnitud, lo que justifica la necesidad de reformas para lograr una Gobernanza económica adecuada. Durante la crisis, el BCE ha venido anunciando y ejecutando potentes medidas de provisión de liquidez, en apoyo del euro y persiguiendo eliminar el riesgo de deflación. Es preciso ahora seguir avanzando para completar la unión bancaria, proporcionando un respaldo público europeo al fondo de resolución para las insolvencias bancarias, y dotando un fondo de garantía de depósitos común. Además, en apoyo de la política monetaria, por sí sola insuficiente, hay que avanzar hacia la unión fiscal. También hay que valorar y discutir sobre la introducción de eurobonos o la creación de un Tesoro europeo.

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El papel protagonista en la coordinación de la política económica corresponde al Consejo de la UE, según se deduce de la regulación del Título VIII del Tratado de Funcionamiento de la Unión Europea, con el soporte técnico de la Comisión. Sin embargo, en la práctica, en el marco de un intergubernamentalismo deliberativo, el Consejo Europeo ha venido progresivamente acaparando las decisiones de política económica, que por su trascendencia y efectos de irradiación sobre la política general han preferido adoptar los respectivos Jefes de Estado y de Gobierno, reduciendo al Consejo, junto con la Comisión, a un ejecutor de las mismas, y pasando a supervisar su actividad. El protagonismo del Consejo Europeo en la gestión de la crisis económica ha levantado suspicacias por su marcado carácter intergubernamental, que ha venido a alterar, según algunos, la inspiración predominantemente comunitaria del modelo institucional previo al Tratado de Lisboa, y el delicado sistema de equilibrio entre instituciones que ha tratado de construirse en la UE. Estas reservas han tratado de enfrentarse en la práctica convirtiendo las decisiones del Consejo Europeo en actos del Consejo de la UE, ya dentro del marco netamente comunitario.<sup>1</sup> En todo caso, hay que señalar que su actuación ha sido en gran medida en favor de la profundización de la Unión,<sup>2</sup> especialmente en relación con la gobernanza económica, y que resulta también necesaria la reflexión sobre la viabilidad de los esquemas de funcionamiento en una Europa de 28 (ó 27) Estados miembros.

La Comisión Europea requiere un análisis en profundidad para poder ir algo más allá de la percepción generalizada de que ha sido una Institución que ha perdido peso político en el marco de la gobernanza económica. Resulta más precisa la afirmación de que ha habido un desplazamiento de su función desde la dirección política hacia una función relacionada con la formulación, implementación y evaluación

<sup>1</sup> S. FABBRINI, “The Outcomes of Intergovernmentalism: the Euro Crisis and the Transformation of the European Union”, en B. DE WITTE, A. HÉRITIER y A. H. TRECHSEL (eds.), *The Euro Crisis and the State of European Democracy*, European University Institute, Florencia, 2013, pp. 101-128 (108 y 110).

<sup>2</sup> U. PUETTER, “Europe’s deliberative intergovernmentalism: the role of the Council and European Council in EU economic governance”, *Journal of European Public Policy*, 19:2, Marzo, 2012, pp. 161-178 (168). P. DANN, “Die politischen Organe”, en A. VON BOGDANDY y J. BAST (eds.), *Europäisches Verfassungsrecht. Theoretische und dogmatische Grundzüge*, 2ª ed., Springer, 2009, pp. 335-386 (373-374).

de programas económicos, lo cual supone también una parte muy relevante del diseño concreto de las políticas que se adopten.<sup>3</sup> La función tradicional de la Comisión ha cambiado, dado que su trascendencia ya no se cifra en la dirección política y en su capacidad de diseño de la agenda política, sino en la aplicación e implementación de las decisiones y procedimientos de política económica. El reto para la Comisión Europea estriba ahora en encontrar su papel y saber cómo usar y aplicar de forma equilibrada sus poderes de negociación, supervisión y coordinación en el marco del Semestre Europeo, sin generar excesivas tensiones a los Estados, pero manteniendo su capacidad de influencia supranacional, en el marco de una Europa compleja, ampliada, y sumida en una crisis no solo económica.

El Parlamento Europeo (PE) ha logrado ejercer solo un papel muy limitado en la gobernanza económica. Huelga recordar que la Eurocámara, en la medida que representa directamente a los ciudadanos de los Estados miembros, encarna el principio democrático. Los principios de democracia representativa y el pluralismo político son representados de forma central por el PE.<sup>4</sup> Esta perspectiva fundamenta las críticas relativas a las carencias de legitimación democrática que presentan las soluciones dadas a la crisis económica en la medida en que la actuación del PE se ha visto reducida. En este sentido, se echa de menos su participación en la determinación de las prioridades estratégicas, que corresponden en gran medida, como ya hemos comentado, al Consejo Europeo; y, frente a la Comisión Europea, que sí ha logrado aglutinar una serie de funciones de ejecución, es patente su marginación en el desarrollo de los distintos procedimientos. De tal modo que el papel sobre la política presupuestaria y la adopción de reformas estructurales requeridas a la UE se ha adjudicado a las Instituciones que no han sido directamente elegidas por los ciudadanos.

<sup>3</sup> M. W. BAUER y S. BECKER, “Implementing an ever stricter union: the role of the European Commission in the EU’s response to the financial and economic crisis”, *2013 EGPA Annual Conference*, PSG XIV: Permanent Study Group XIV, EU Administration and Multi Level Governance, Edinburgh Scotland – UK, 11-13 September 2013, pp. 1-24 (18 y 19). P. CALAMIA, “Evoluzione politica delle Istituzioni europee”, *Rivista di Studi Politici Internazionali*, núm. 323, julio-septiembre 2014, pp. 331-334 (334).

<sup>4</sup> J.M. PORRAS RAMÍREZ, “Article 10. Representative Democracy”, en H.-J. BLANKE y S. MANGIAMELI (eds.), *The Treaty on European Union (TEU)*, Springer-Verlag, Berlin, Heidelberg, 2013, pp. 417-447. P. DANN, *op. cit.*, pp. 354-356.

Este papel marginal del PE en la gobernanza económica es uno de los principales argumentos de quienes critican la falta de legitimidad democrática de las decisiones adoptadas para afrontar la crisis económica. En la medida que ello pone en cuestión el clásico principio de intervención del Parlamento en las políticas presupuestarias y fiscales (art. 14 TUE y, en última instancia, *no taxation without representation*).<sup>5</sup> Dicha falta de legitimidad democrática en la adopción de decisiones puede explicar la resistencia de los ciudadanos ante las políticas de austeridad presupuestaria adoptadas.<sup>6</sup> Consideramos que el PE debería tener un papel más activo. La propuesta seguramente más extendida es la de reforzar el papel del Parlamento Europeo a la par que el de la Comisión eligiendo al Presidente de la Comisión y a los Comisarios mediante las elecciones a la Eurocámara, presentando cada partido candidatos a dichos puestos (lo que se hizo solo informalmente en las últimas elecciones europeas), politizando así realmente el proceso electoral europeo.<sup>7</sup>

También se debate la unificación del puesto de Presidente de la Comisión con el de Presidente del Consejo Europeo, para incrementar a su vez la legitimación y el control político del Consejo Europeo; la creación de una nueva Comisión del PE que se encargue de los asuntos de la eurozona, compuesta por diputados procedentes de países solo de la eurozona; la sugerencia de que el europarlamentario establezca una relación territorial y personal más estrecha con su circunscripción; y el refuerzo de la cooperación interparlamentaria, ya que no solo el PE, sino también los parlamentos nacionales están llamados a ser cauce

<sup>5</sup> C. FASONE, “The Struggle of the European Parliament to Participate in the New Economic Governance”, *European University Institute Working Papers*, RSCAS 2012/45, Robert Schuman Centre for Advanced Studies, EUDO – European Union Democracy Observatory, p. 19.

<sup>6</sup> E. GUILLÉN, “Las enseñanzas del 15-M (El léxico constitucional frente a la crisis de legitimidad)”, en I. GUTIÉRREZ GUTIÉRREZ, (coord.), *La democracia indignada: Tensiones entre voluntad popular y representación política*, Comares, Granada, 2014, pp. 1-38 (7).

<sup>7</sup> M. KUMM, “Democratic challenges arising out of the eurocrisis”, p. 33, en *Challenges of multi-tier governance in the EU*, Directorate General for Internal Policies, Policy Department C: Citizens’ Rights and Constitutional Affairs, 2012, p. 7, <http://www.europarl.europa.eu/document/activities/cont/201210/20121003ATT52863/20121003ATT52863EN.pdf>

de participación de los ciudadanos y fuente de control y legitimidad del sistema mediante su control de la actuación de los gobiernos en el Consejo (arts. 10 y 12 TUE), y actuando asimismo como parlamentos europeos. Por otra parte, se ha señalado la importancia de que la UE se financie a través de impuestos propios. Otro factor relevante es que el reparto competencial entre los distintos planos debe ser transparente y estar sujeto a revisión, para que la exigencia de responsabilidad por la política de la UE pueda ser clara y exigible también en los Estados miembros y en las regiones.<sup>8</sup>

Con respecto a las propuestas de amplio alcance, cabe destacar, sin pretensión de exhaustividad, la necesidad de reformar los Tratados para acoger los cambios que se han venido realizando, pero también la necesidad de reformar las Constituciones nacionales (para permitir la homogeneidad financiera), o, alternativamente, ante la imposibilidad de avance en una Europa de 27 ó 28 Estados miembros, la formación de un núcleo europeo (una «Kerneuropa») abierta a otros Estados (que implica también una revisión de los Tratados de carácter constitucional).<sup>9</sup> Asimismo se ha propuesto la conveniencia de celebrar un referéndum paneuropeo, que permitiera legitimar las medidas de reforma de la gobernanza económica y aliviar las tensiones sobre los ejecutivos y legislativos de los Estados miembros frente a una crítica opinión pública.<sup>10</sup>

El punto de partida y cierre del análisis constitucional de la Unión Europea es la concepción de la misma como una organización democrática. A los constitucionalistas nos corresponde enjuiciar el modelo de gobernanza económica, aún en construcción, desde la óptica constitucional, y por tanto, de legitimidad democrática y de respeto a los valores y principios constitucionales europeos e internos. Como nos viene recordando Balaguer Callejón,<sup>11</sup> frente a las tesis economicistas,

<sup>8</sup> I. PERNICE, “Conclusion: what future(s) for the multi-tier governance?”, en *Challenges...*, *op. cit.*, párrafos 8 a 10. M. KUMM, *op. cit.*, pp. 33 a 35.

<sup>9</sup> J.-V. LOUIS, “Institutional dilemmas of the Economic and Monetary Union”, en *Challenges...*, *op. cit.*, p. 7.

<sup>10</sup> A. MANZELLA, “Is the EP legitimate as a parliamentary body in EU multi-tier governance?”, en *Challenges...*, *op. cit.*. I. PERNICE, *op. cit.*

<sup>11</sup> F. BALAGUER CALLEJÓN, “Una interpretación constitucional de la crisis económica”, *ReDCE*, núm. 19, Enero-junio 2013, pp. 449-454.

hay que reivindicar una lectura constitucional de la crisis económica, en lugar de una interpretación funcional de la democracia al servicio de otros intereses, sea la eficacia o eficiencia económica, legítimas sin duda, pero que en todo caso deben quedar subordinadas a la preservación de la democracia pluralista y los derechos fundamentales.

El respeto al Derecho de la Unión Europea, el refuerzo de la legitimidad democrática, la politización del espacio público europeo,<sup>12</sup> con la creación de un espacio público pluralista de libre discusión,<sup>13</sup> el respeto a los derechos fundamentales, también a los derechos sociales, constituyen, pues, los caminos por los que se debería seguir avanzando para reconducir las soluciones a la crisis a los cauces de los que nunca debieron salir, y que son los cauces del Derecho y de una Unión Europea democrática.

<sup>12</sup> P. HÄBERLE, “Europa como comunidad constitucional en desarrollo”, *Revista de Derecho Constitucional Europeo*, núm. 1, enero-junio 2004.

<sup>13</sup> F. BALAGUER CALLEJÓN, “Crisi economica e crisi costituzionale in Europa”, *Rivista elettronica del Centro di Documentazione Europea dell’Università Kore di Enna*, pp. 82-99 (84).

## **How we might recover from the economic and social crisis through the deepening of European integration**

Cristina Hermida del Llano\*

### **1. What is the best institutional framework for the Eurozone, in order for it to function in the most efficient, transparent and democratic manner?**

1) We must concentrate on true political solidarity (which implies a certain degree of mutual debt obligations). The crisis is not so much financial, economic, or revenue-related, as it is political.

2) We must achieve solidarity based on an emerging *demos europeo*.

3) We must recover economic growth by policies that stabilize the economic cycle.

4) The objective must be a credible and stable monetary union.

5) Even though the Euro has ended the currency war, there are still no common economic policies that correct imbalances. We must create such policies through dialogue between member States in order to preserve the common good.

6) We must avoid increasing differentials in competitiveness between the regions and processes that lead to unsustainable debt.

7) To allay such distrust, we as Europeans have created direct solidarity between States through financial aid (referred to in some countries as state rescue funds). Additionally, indirect solidarity is shown by the ECB buying state bonds. But this is not enough. One must avoid history repeating itself, avoid new imbalances that lead to another

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crisis, and, above all, rescue the peripheral States from the downward spiral of recession into which they have entered.

8) We have to deepen the integration of the Euro zone to build a “true economic and monetary union”, as suggested by the title of the report prepared by H. van Rompuy for the European Council.

9) We need true growth policies for Europe, as austerity without growth will lead to our downfall. Adjusting for differentials in competitiveness solely on the basis of deflation in Southern Europe, without an expansionary contribution from countries in Northern Europe that are in surplus, is not socially sustainable.

10) Excessive austerity and deflation, together with high unemployment, negative growth, and credit drought make the application of reforms impossible that could restore competitiveness in southern countries.

11) Growth should be restored rapidly to achieve stability in the Eurozone.

12) We must break the taboo that policies that create demand are intrinsically bad. New ways to increase demand should be found while maintaining a credible trajectory of fiscal stabilization (relaxing the rules regarding the co-financing of European projects, or excluding the investments from public debt to improve the balance sheets).

13) We should concentrate on exchange rates to increase external demand.

14) The people cannot support austerity policies that do not lead to tangible results in the short term.

15) It is fundamental that the internal economies of member States be dynamic. In Greece, Ireland, Portugal, Spain, Italy, now in Cyprus, but also in France, policies are being adjusted to reduce the public deficit, private debt, and bank balances.

16) Fiscal adjustments cannot justify the use of means that lead to reduced internal demand, economic activity, and employment: reduction of public investments and pensions.

17) The goal of increasing competitiveness cannot justify the reduction of salaries that end up reducing internal demand.

18) We should not seek efficacy in the adjustments by employing excessive austerity policies. The reduction in salary costs is not equalled by the increase in competitiveness.

19) The strategy of adjustment that dampens internal demand seems not very effective. Certainly, it has reduced the enormous and unsustainable exterior deficit, but at the cost of economic depression that can lead to long-lasting effects on the social and productive fabric. The case of Spain or Portugal serves as an example.

20) Euroskepticism will grow if there is no economic and social cohesion in the European Union.

## **2. Blueprint for a Political (federal) Union beginning with the Eurozone**

1) It is of fundamental importance to strengthen the role of the European Parliament and the European Commission. The role of the Commission is very limited and the Parliament has practically none. Politics still occur on the national level, and funding decisions of or adjustment measures are the sole responsibility of national parliaments.

2) All of the changes in Europe that have arisen as a consequence of the crisis, and even more those that remain to be done, imply a supra-national transfer of sovereignty that should be accompanied by the corresponding and necessary democratic control.

3) With a view to the future, we should establish a clear political model that the EU will adopt. As is well known, this could be either the inter-governmental or Community model. The crisis could have moved the EU in the direction of federalism. Events have proved otherwise, so that the inter-governmental logic has prevailed, which can be summarized, in the words of Jean Pisany Ferry, director of the Bruegel Institute in Brussels, as a collective inter-state insurance policy, accompanied by a strengthening of budget discipline in the absence of tax policy harmonization.

4) We should reassess and reflect upon the purpose of Community funds that provide financial aid to the member States that are not part of the Euro but have budget problems, while similar measures have not been adopted for Euro member states, which have advanced the furthest in Community integration. A system of mutual guarantees was put into place instead, of which the *European Stability Mechanism* is the most elaborate, governed by a group of finance ministers that is not answerable to the European Parliament.

5) We must concentrate, once and for all, on developing the federal model instead of the inter-governmental model of mutual assurance and discipline dictated by colleagues.

6) The inter-governmental model suffers from two problems: the scarce representation of general European interests and the weakness of the executive branch at the Community level.

7) Advancing federalism requires conferring upon the Union, or the Euro-zone in the vision of the two Europes (the zone with and without the Euro), resources truly of its own, of sufficient breadth to finance public European projects and stabilization measures. In addition, the EU should have the capacity to issue bonds to finance aid programs to countries or recapitalize Banks. Such Eurobonds would be issued by a European Treasury and guaranteed collectively by all countries.

8) The natural candidates for this advance in federalism are the Euro-zone countries, as they are already the most integrated. A budget for the Euro-zone should be based on financial transfers and investments timed to counter economic cycles. Unemployment insurance would be a good example, at the cost of breaking another taboo, which prohibits the EU from interfering in such transfers.

9) It is important to harmonize labour policies. In the management of the crisis, interstate mechanisms have been used, which are not truly loan transfers, as were the bilateral loans first to Greece, the European Stability Fund afterwards, or the BCE's active involvement in the secondary public debt market. Interpersonal solidarity mechanisms would defocus asymmetric shocks and distribute the load among the entire EU, as would also be the case if the EU guaranteed bank deposits. Eurobond issues would be another inter-State solidarity mechanism, which would make the poor ad-hoc decisions of the Eurogroup meetings unnecessary (see the case of Cyprus).

10) Provide moral education to European society to reach a common *ethos* or moral personality. For this purpose, it is necessary that one listen to the intellectuals as the critics of social morality, so that the European Union is not guided solely by technocrats.

11) Construct solidarity between citizens at the European level, surpassing the solidarity between States, which is limited and conditional, and reaching a solidarity based on a common *ethos*. Creating such an *ethos* should be one of the objectives and goals.

12) Re-establishing a project whose benefits would be perceived by European citizens would also be a positive development for the rest of the world. Our motto should be “the Union conveys strength”. The cause of the crisis does not lie in the economic and financial situation. Its root cause lies in a much broader problem in human relations. The social crisis we are facing – protests, violence, depression, the collapse of the educational systems, the enormous rates of divorce, drug abuse, and the current problem of greatest importance in Europe: unemployment – can only be cured through a union and unifying policies that overcome differences.

13) It is not enough to tell those countries with economic problems what they should do and condition loans to the State on the application of the suggested measures. The countries whose economies have suffered are precisely those countries whose citizens have bought products from their rich neighbours until they reached the point of bankruptcy. The solution, as a consequence, should be one of mutual sustainability and responsibility, instead of unfettered consumerism. The era of consumerism has reached its end in many countries of the Euro zone, and now is the moment to implement a new economic paradigm—one of interchange and mutual help.

**Key words:** Crisis-solidarity-demos Europeo – Common Good-integration – Competitiveness – Economic Cohesion-social – Cohesion-federalism– education– Intellectuals – Mutual help



# The EU's economic and social crisis and a constitution of social governance

Dagmar Schiek\*

*Response to the Geneva/Lisbon initiative*

## Introduction

This policy advice paper responds to the question how we might recover from the economic and social crisis through the deepening of European integration. European Commission President Barroso has asked the Jean Monnet professors, through the Jean Monnet colleagues Dusan Sidjanski (Professor emeritus University of Geneva for political science and special advisor to President Barroso) and Professor Fausto de Quadros (Professor in Law at University of Lisbon), to contribute a five page paper each to answering this question. Complying with this request offers me the opportunity to condense into policy advice some of the research publications which are direct and indirect result from Jean Monnet programme funding I received from 2008 until today.<sup>1</sup>

My work has focused on analysing substantive EU law from a critical legal studies perspective and highlights the normative commitments of the European Union deriving from its constitutional values. Given the increase of social values such as social justice, solidarity and social inclusion through a number of Treaty Reform, I have substantiated the EU's constitutional obligation to reconciling economic and social

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<sup>1</sup> These were the Jean Monnet Multilateral Research Group "Economic and Social Constitutionalism after the Treaty of Lisbon", which I led, with the participation of colleagues Ulrike Liebert (Bremen) and Hildegard Schneider (Maastricht), from 2008 to 2010 (past project page), and the current Jean Monnet *ad personam* Chair (current project page).

integration (Schiek, 2012, pp. 215-224 especially), confirming the concept of socially embedded constitutionalism (Schiek, 2012, pp. 53-74; Schiek, 2011). The more recent publications (Schiek, 2013 a); 2013 c)) moved towards analysing Economic and Monetary Union from the perspectives of social justice and substantive legitimacy. From this work derives my conviction that the current problems concerning the European Union, including its €-area, are of a substantive nature, and cannot be overcome merely by new public institutions. I am also convinced that the EU cannot move forward without the €-area and the €-area cannot move forward without the remaining European Union. After all, all Member States are expected to move into the €-area with time – presently with the exception of the United Kingdom and the Kingdom of Denmark. Accordingly, my specific proposals refer to the European Union as a whole, while including some specific ideas for the €-area.

This explains my specific approach to the questions we were asked to answer. First, considering “what is the best institutional framework for the Eurozone, in order for it to function in the most efficient, transparent and democratic manner”, I will focus on societal institutions, discussing the relationship between the states and the Union on the one hand and civil society and social actors at national and European levels on the other hand. Second, considering a “Blueprint for a Political (federal) Union” I will discuss steps towards an ever closer Union of the peoples of Europe (Article 1 TEU), which ensures the continued legitimacy of the European integration process by striving for sustainable social justice (Article 3 TEU). I believe that such a vision specific to the unique polity established by the Treaties of Rome is more adequate to achieve progress in European integration than reverting to federalism as a notion developed for nation states. This does not, of course, exclude analysing the EU as a federalist entity from the perspective of political sociology.

### **Institutional vision for the Union: transnational social governance**

There is little doubt presently that the European Union and in particular the €-area, consisting of 18 of its 28 Member States, is in a crisis initiated by the global economic crisis starting with the Lehman brothers’ bank collapse in 2008. The acceleration of policy measures

undertaken by the EU and its Member States to overcome the government debt and related €-area currency crisis have caused social hardship in the countries hit most severely by the crisis and driven their citizens out on the streets in protest. Further, national legal activists raised claims before their constitutional courts and international institutions in order to (re)claim civil and social rights impacted upon by the reforms promoted by the EU institutions and (partly) the International Monetary Fund. (Schiek, 2013 a), p. 207) This exposes the risk implied by inadequate institutional responses: citizens feel that specific details of structural reforms are imposed on their democratically elected governments by executive bodies collaborating with international agencies such as the IMF, while the economic situation in the target countries does not improve, and in particular youth unemployment soars.

Governance in the Union and the €-area has been criticised as being dominated by executives and unelected experts (Curtin, 2014, pp. 7-23, with further references); and the expansion of the €-area's institutional framework through two international Treaties has attracted criticism in particular. (Witte, 2013) There is already an array of proposals on how to better adapt the formal, public-law institutions of the European Union and a subsection of it comprising the €-area, (Maurer, 2013) to which I do not aim to add anything in this paper.

I would prefer to point towards an important oversight in relation to social institutions that are suit-able for maintaining social cohesion generally and in times of crisis. While anti-crisis measures imposed in Country Specific Recommendations and Memoranda of Understanding regularly include remarks on the desired development of wages and other means of distributing income, there is little concern with the social institutions safeguarding such distribution in legitimate ways. As regards wages, in most EU Member States trade unions and employers and their associations are important institutions in this regard. International Treaties, to which most Member States are signatories, demand that they accord these institutions a certain degree of autonomy from state intrusion. Accordingly, the measures taken by one prominent Member State in response to demands of the EU Troika and the IMF relating to the collective bargaining system have attracted the critique of the ILO supervisory institutions. (Schiek, 2013 a), p. 207)

It is fair to say that there is some consideration for the role of management and labour in crisis management in so far as institutional corporate dialogue is envisaged in the social dimension of the Economic and Monetary Union. (European Commission, 2013) This commitment could be underpinned institutionally by adding an € area dimension to the Tripartite Social Summit for Growth and Employment under Article 152 TFEU, without neglecting the necessary coordination of specific € area initiatives with the work of the Social Summit in general. Such corporatist initiatives will not, however, strengthen the institutions that can autonomously establish distribution of income. To the contrary, it may even endanger the continued existence of these institutions nationally, and inhibit their development at supranational levels. The €-area as well as the European Union as a whole can only gain from the additional potential of self-governance inherent in a functioning industrial relation system at national € area and supranational levels. While these institutions need to develop on their own accord, the Union can discontinue endangering the preconditions for such institutions to develop. One step into this direction would be to end setting targets as to the development of national industrial relation systems, as is presently typical for the recommendations adopted in the framework of the European semester. Another step would include to encourage supporting activities for exploring transnational, €-area wide and EU level industrial relation institutions.

Further, there is another institution whose potential in crisis management has not been fully explored yet: under Article 14 TFEU the European Union can establish foundations for Services in the General Economic Interest, which include Social Services of General Interest (SSGI (Neergaard, et al., 2013). The EU has not yet used the legislative competence in order to clarify preconditions of creating SSGI at EU, € area or transnational levels. Such clarifying legislation would have the potential to support activities of voluntary organisations in combining forces to combat dire social need at EU level. (Schiek, 2013 b)) Further, the potential of SSGI potentially encompasses a project which has been discussed upon suggestion by the European Commission: an institution creating an EU level or € area level element of unemployment benefit (Strauss, 2013). Presently, this initiative is mainly discussed as a macro-economic instrument. Considering the potentials of establishing a social institution supporting the European social model at the EU

level adds an additional (and challenging) dimension. New question demand answers: not only is a decision needed on where contributions are raised geographically, but also the questions of who organises the scheme and how trade unions can be involved need to be answered. Further, the EU unemployment insurance can hardly be restricted to short term unemployment, should it have the potential of constituting a social institution for an EU level social model.

This is only one example of how SSGI established within a Union framework, but relying on societal actors may contribute to a social dimension of EMU and the European Union in general.

### **Towards an ever closer Union of the Peoples of Europe**

These institutional considerations already point toward a substantive vision of how the ever closer Union of the Peoples of Europe could do justice to the grand social traditions of the European Union.

The specification of the EU's constitutional commitment for reconciling economic and social integration (Schiek, 2012, pp. 215-224) for active solidarity within the European Union (Schiek, 2013 c); Schiek, 2012) offers ample opportunities to develop policies towards that end. The constitutional framework also allows interpreting the legal bases of the € area in ways that allow resolve potential tension between the commitments to price stability and avoidance of excessive government deficits on the one hand (Articles 119, 126 and 127 TFEU) and social justice, high levels of employment and social inclusion (Article 3 TEU) on the other hand. Policies developed from these principles are also suitable for closer cooperation between the Member States constituting the € area. I will only mention a few examples.

In the political economy literature, many authors have stressed that EMU reduces the choice of instruments for national policies for dealing with cyclical shocks and will motivate states to utilise wage flexibility and reduction of social transfers as “shock absorbers” (Fernandes & Maslauskaite, 2013, p. 74). The constitutional demands referred to above lend an additional justification to political demands of identifying alternative ways. Next to defending a different set of priorities, there would also be the option to ensure that Member States are limited in seeking to rely on “wage flexibilisation” in times of crisis. One way of ensuring this would be the creation of an EU minimum wage level –

whether through legislation or collective bargaining or a combination of both. Encouraging even a relative minimum wage, the EU would prevent national policies from relying on the easiest and most damaging way of ensuring adaptation. The establishment of a legal competence on the basis of the Treaties would constitute a challenge. However, that challenge is not insurmountable – though some recourse to policy coordination instead of harmonisation legislation might be needed.

Further, there is the danger that the slogan of “structural reforms” translates to flexibilisation of working conditions much more easily than to overcoming weaknesses of enterprises in their market oriented activities. So far, the EU’s new economic governance has been accompanied by a reluctance of the EU legislator to secure minimum standards of employment conditions through harmonising legislation. (Schiek, 2013 a), p. 206; Clauwaert & Schömann, 2012, p. 6) Changing this political preference would better comply with the constitutional demand to reconcile economic and social integration. Returning to the politics of ensuring a minimum level of employment regulation could be an important lever for transnational social governance.

Last but not least, the European Union should remind itself of the prominent role that non-discrimination law and policy have played in the development of its governance model in the past. While non-discrimination law and policy cannot be characterised as an element of EU social policy (Somek, 2011), it is important that EU socio-economic policy does not betray this set of normative commitments. This has, however, happened in devising specific crisis-combating instruments for Memoranda of Understanding. For example, demands to ensure that wages or working conditions differentiate by age are common, (Schiek, 2013 a), pp. 205-206 with further references), and a thorough mainstreaming of those measures under aspects of gender equality or avoiding discrimination (Articles 8 and 10 TFEU) is absent. This lack of attention risks giving up a valuable contribution of the EU to modernising national social policies, and endangers the sustainability of the often-preached structural reforms.

## **Conclusion**

On the lines of the principles outlined above, more policy initiatives and principles for regaining social sustainability of economic and

monetary union can be developed, which would have exceeded the limited space for this contribution. It seemed more important to stress some often-neglected principles to which EU institutions and policies in the ongoing global crisis should respond if they are not to violate the constitution of social governance demanded by the Treaties. These are the need to ensure sustainable social institutions at EU level for ensuring social inclusion without over-reliance on state and public initiatives, and the need to safeguard substantive legitimacy of EU economic policy in times of crises. In regards of the second objective, it seems particularly important to ensure substantive minimum floors of rights for the most vulnerable, and to not abandon the equality and non-discrimination agenda for the purposes of crisis management.

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## EU Political and Administrative Studies

Dagmara Kornobis-Romanowska\*

As the answer to your kind invitation to contribute on how we might recover from the economic and social crisis through a deepening of European integration, please find a few general comments and remarks regarding the best institutional framework for the Eurozone and the blueprint for a Political (federal) Union beginning with the Eurozone.

### **1. What is the best institutional framework for the Eurozone, in order for it to function in the most efficient, transparent and democratic manner?**

It is probably widely accepted that current imbalances in the Eurozone are caused by some factors, like the low level of coordination of economic policies of Member States, while in future it would be difficult to exist without their partial centralization. That is not only the problem of loss of sovereignty by Member States but how to achieve the institutional framework for it. In my view we should base on existing EU institutions, increasing their powers and making the Commission the future “headquarters” of implementing it.

Another present problem is so called budgetary federalism, which should be worked on in the following decades. In future we must consider not only how the national budgets should be ruled, since this has been at least partly achieved and needs mainly improvements, but we should not get rid of an idea of the Treaty regulating some areas of EU citizens and economies financed directly by the European Budget in a similar way as national governments do now. However in such a case,

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the treaty provisions should be shaped as current art. 2 TfUE drawing rather a strict dividing line between areas where Member States are responsible for and those financed by the Union. Politically the most difficult would be to introduce some kind of a European Tax paid by citizens.

Taking into account even historical experiences of the European States, the conclusion should be drawn that only fully democratic institutions should have the power to decide on revenues and expenditures. Therefore, if the European Parliament is to be this institution, its power should be greater than the Council's. Consequently, the competences of the latter should rather be limited to the approval of the whole set without the opportunity of amendments.

## **2. Blueprint for a Political (federal) Union beginning with the Eurozone.**

The idea of full Political Union seems to be of particular importance for the future of the EU, however in the complex current political situation it is highly doubtful whether this idea can be implemented over the coming years.

Apart from these doubts, there is the idea of firm, sound basis for the Political Union through the strong political leadership. In this context, the Eurozone appears as the most wanted beginning of the political federal union in Europe. The stronger the Eurozone is, the stronger Political Union could be too. The very close financial and monetary ties between the Member States in the Eurozone are essential for its achievement. But on the other hand, leaving behind these 18 closely integrated states, one can see the problematic symptom of the two-speed Europe (or even Multi-speed Europe, when taking into account other branches of integration). One strong, efficient and united Eurozone is in this context the firm basis for the Political Union, which certainly is not surprising if we bear in mind the importance of economic issues for the overall unity of the EU.

In order to avoid future risk of creating some kind of a new organisation within European Union, the idea of the Eurozone having its own political institutions should be abandoned, even the one providing selected organs of the European Parliament. So, if we want to combine it with the need for leadership, instead of establishing new institutions

and new procedures, the role and competences of the President of the European Commission should be significantly increased: both political and economic powers. This conclusion seems to be justified since, by virtue of the art. 17 TEU, a candidate for President shall be proposed taking into account the elections to the European Parliament. It would be easier to cope with allegations relating to the democratic deficit, especially if some other measures to make such a candidate known to the public even before the elections are introduced.

It should be also taken into consideration that there are Member States, which have not (or could not) introduced the Euro so far and they also might be deeply interested in participation in the Political Union. At least some such societies might be discouraged not by such an idea itself, but by the consequences of having the Euro – the advantage of which would be taken by euro-sceptics. Therefore even if the Eurozone is to be the framework to achieve a new advanced stage of the integration, these States should receive an offer of at least conditional cooperation with or even within the Political Union, voting rights in the most essential topics of the European future included.

**Key words:**

European Union; Political Union; crisis; Eurozone; European Commission.



## **How we might recover from the current economic and social crisis by deepening European integration**

Danuta Kabat-Rudnicka\*

### **What institutional framework is needed for the Eurozone to function in an efficient, transparent and democratic manner?**

#### **General remarks**

The European Union was conceived of as an international organization which would bring about economic and political prosperity, and since it has become an almost fully-fledged economic entity, it was expected that in times of crisis appropriate measures would be taken not only by member states individually but, above all, by the European Union itself. However, as the crisis has clearly demonstrated, the European Union was not, in fact, prepared for the economic downturn, let alone the ensuing deep economic and financial crisis, and consequently took actions limited to ad hoc and legally questionable measures.

The crisis made it clear that integration processes are able to develop and flourish in the case of complementary economies. The European Union (formerly the European Community), having achieved the monetary union, departed from its fundamental principles, i.e., strict compliance with convergence criteria and commitments according to the stability and growth pact. Besides, a monetary union was created but not an economic union, as economic policy still remains the responsibility of individual member states.

The measures taken by the European Union fell into three areas: financial management, economic governance and banking union. And yet these measures are criticized since: they represent different legal regimes (communitarian and intergovernmental); formally maintained,

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but in a sense a new institutional architecture is being established, since the existing institutions were equipped with powers which go beyond those provided for in the European Union treaties; and in addition to this, new regulatory regimes were created, which escape democratic control. So, there is governance characterized by a shift in authority from representative institutions (European and national parliaments) to member states (represented in the European Council), next to a change in the European Union institutional balance, which raises the issue of democratic legitimacy for actions taken and policies implemented.

**What should be done? What is necessary and what is feasible?**

In dealing with competing aims and values, certain questions are inevitably raised, such as: who should take the necessary measures? should this be the European Union (given the risk of negative spill-over)? should it be the member states (according to the principle of subsidiarity)? or, since we are dealing with monetary policy, should it be the European Union? or perhaps the member states, as some measures fall within the scope of economic policy?

Following points are offered for consideration:

1. As far as the Eurozone institutional framework is concerned, there are already institutions in existence, and we simply need to make better use of them. Since we are dealing with the monetary union, the integrated core, European Union institutions clearly need to be involved as follows: the Council on behalf of the member states; the Commission on behalf of the European Union; the Court of Justice as the European Union adjudicator; the European Parliament representing the European peoples; the European Central Bank on behalf of the Eurozone. Additionally, within this given framework the influence of the European Parliament and the Commission should be strengthened.

2. The European Union should undertake only these measures which are necessary, leaving room for member states to act independently, especially when it comes to economic policy. However, it should be the responsibility of the European Union to coordinate actions taken by individual member states.

3. The European Union law should be simple, precise and comprehensible to anyone. Any ad hoc and legally questionable measures

as well as measures of a non-binding force and a non-permanent character should be avoided. Besides, when member states conclude agreements between them, European Union institutions should not be involved in them, since by doing so they are exceeding their authority and competences far beyond those provided for in the existing treaties.

4. Better use should be made of the given institutional framework, i.e., European Union institutions along with independent agencies, bodies and committees. They should adhere to such values as: professionalism, accountability, accessibility, openness, transparency, simplicity, predictability, cooperation, compliance, and economization.

5. Other measures should also be taken such as: better supervision, better compliance, better enforcement of commitments, enhanced cooperation not only between Eurozone countries but also between Eurozone and non-Eurozone member states, along with a better use of provisions already in existence either in the primary or in the secondary law.

## **Blueprint for a political (federal) Union based on the Eurozone**

### **General remarks**

Political union, a European federation – such was the dream of the founding fathers, and indeed the European Union has become such a federation (sic!). It is also an international organization, albeit a special one, based on treaties, the instruments of public international law. As to its formal, institutional structure, it is closest to confederation, however, as to its day-to-day work, it is a federation, a structure based on federal principles but without the status of a federal state.

The European Union is a dynamic and an evolving structure, a combination of different principles, types and forms, characterised by federal, intergovernmental and *sui generis* features. It pursues various aims (economic, social, political, legal, etc.) and it encompasses diverse states (as to their identities, history, experiences, economic and social models, etc.).

Generally speaking, the European Union should be open, transparent, comprehensible and accessible to everyone. It should be rigid but at the same time flexible, in line with the rules and principles to which both the European Union institutions and the member states adhere. Measures should be common (not unilaterally imposed) and a

better use should be made of given institutions and legal provisions. The European Union should respect member states' identities, ways of development, social models, etc., whereas member states should adhere to their commitments and work for the common good.

### **What kind of a political (federal) union?**

The European Union is already a political union (although not yet fully-fledged) and a federation since it is characterised by a self-rule and a shared-rule.

It should be said that there is not just one federal system but rather two principal models, i.e. dual and cooperative. Both solutions are present in the European Union, i.e. dual federalism, when it comes to exclusive competencies and the principle of conferral, and cooperative federalism, when we face shared competences and the principle of subsidiarity. However, due to strong national identities, in the European Union features of dual (rather than cooperative) federalism should be strengthened.

The principle of loyalty is another feature of federalism. It encourages cooperation and imposes obligations on the federal government and on the governments of constituent units to respect mutual interests. In the European Union it is known as sincere cooperation and is characteristic of cooperative federalism. Another principle is that of primacy (or rather supremacy) for although the European Union is not a fully-fledged federation in the sense of a federal state, its law prevails over conflicting national law. Another principle is that of subsidiarity, a political and a legal directive, since it refers to the allocation of powers between different levels and to the exercise of concurring powers, typical of cooperative federalism.

The European Union is already a federation, i.e., a federation where member states retain their status and at the same time accept a new entity with a legal personality, a federation based on the treaty which resembles a constitution, a federation whose law prevails in areas assigned to it – a federation without a federal state (sic!).

To sum up, the European Union is a federation, where next to the member states, an individual is a subject with rights and obligations enforceable in courts (European and national). Regarding the political dimension of the Union, there is no need to create new institutions, indeed, we already have plenty of them (regular and ad hoc meetings

of the representatives of states and governments, President of the European Council, Eurosummits, etc.). What we now need is simply to make better use of the powers assigned to them.

The European Union cannot lose its identity at the cost of short-term economic and political gains. It is a legal and political entity where fundamental freedoms are observed and human rights are guaranteed. Such European Union is (and will continue to be) accepted by European citizens, irrespective of whether it is called an international organization, a political union, a federation or a *sui generis* structure.

### **Crisis and what next?**

In the time of crisis, the European Union enacted new measures but also gave new meaning to the existing mechanisms. In principle, the institutional framework was maintained, however, the European Commission gained new implementing and monitoring powers, the position of the European Council as well as the European Parliament were strengthened, and also the powers of the European Central Bank were increased. Besides, some domains, previously national are being communitarised (or rather jointly coordinated, e.g. European semester). So, we can observe a creeping centralization of competences and the rise in importance of existing institutions (communitarian and intergovernmental). However, due to the fact that some of the institutions do not have a democratic mandate, it makes that the effectiveness prevails over the transparency of the decision-making process. Besides, some measures were taken outside the European Union legal framework, in the form of intergovernmental agreements, thus bypassing the institution of enhanced cooperation. This does not go hand in hand with a transparent and an accountable European Union.

It should also be added that some elements of fiscal federalism were brought in. One should point out to the implementation of two of its components, namely: fiscal rules, coordination of policies and supervision (six pack, two-pack) and crisis management mechanism (European Stability Mechanism). The crisis also made the Union consider issues, which previously have not been undertaken, for they fall within the domain of the member states. It also showed how much national economies are interdependent, and hence require common measures.

The European Union has not yet entered the phase of fundamental institutional reforms and the measures, it has taken, have been necessitated by the situation, so they are somewhat random, nevertheless they prove that change is possible (sic!). The Union is becoming more and more heterogeneous, however, its diversity, which denies the preached so far philosophy of uniformity, allows for a better adaptation and a greater efficiency of measures taken, especially in difficult situations, to which the recent financial crisis belongs.

### **New challenges the European Union is facing**

The financial crises, which according to some is over, while in the opinion of others is still haunting the European Union and its member states, is not the only challenge the Union is facing now. On the 23<sup>rd</sup> June 2016 United Kingdom citizens voted to leave the European Union and meanwhile the migration crises reached the Union and its member states. So, on the one hand, the European Union is making efforts to complete the banking union, whereas on the other, it must face new problems and challenges that Brexit and migration crises have caused, next to the changing nature of transatlantic relations and an uncertainty as to their future shape.

The very withdrawal of a member state weakens the whole construction and points to the shortcomings of the integration project, however, this new situation is also an opportunity to make the European Union reform and strengthen. And since the European security is now an issue, there is need for a closer cooperation, especially in an area of security and defense.

### **An ever closer Union?**

To make the European Union stronger and ready to cope with new challenges, it must strengthen its policies in an economic (banking, fiscal) and a political (security and defense) domain, thus creating an ever closer Union, a European federation (sic!).

We Europeans must work together for our common future since only *united we stand divided we fall*.

**keywords:** professionalism, accountability, accessibility, openness, predictability, cooperation, compliance, economization, supervision, enforcement, competencies, loyalty, subsidiarity, primacy, international organization, *sui generis* structure, political union, federation, identity, heterogeneity, uniformity.



# EU Economic Studies

Dieter Krimphove\*

## 1. Economical Background the Proposals

The Jean Monnet Chair “ad personam” of Prof. Dr. Dieter Krimphove aims to evaluate the entire range of phenomena’s of European state formation and integration by the means of the “The New Economical Approach” (New Institutional Economics, Economic analysis of Law). For this reason the following report relies on welfare-economic analyses.

This Economical Approach (especially the Public Choice Theory and the Economic Theory of the Democracy) assesses Law- or Political-Institutes according to their ability to reduce costs, which incurred the Community (here: The European Union) by its transactions.<sup>1</sup>

A starting point certainly offers North’s<sup>2</sup> economic theories of “states”<sup>3</sup>. North maintains that the State – by offering various transaction-facilities to his citizens – reduces the transaction costs:<sup>4</sup>

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<sup>1</sup> *Buchanan/Tollison/Tullock*: Towards a Theory of the Rent-Seeking-Society, Texas 1980 *Aslund/Boone/Johnson*: Escaping the Under-Reform Trap, International Monetary Fund Staff Paper, Bd. 48, S.88 ff. (m.w.H); *Niskanen*: Non-Market Decision Making – The Peculiar Economics of Bureaucracy, in: American Economic Review, Vol. 58 (1968), S. 293 ff.; *Barro*: Recent Developments in the Theory of Rules versus Discretion, in: Economics Journal Vol. 96, (1986) (Supplement), S. 23 ff.; *Snidermann/Theriault*: The dynamics of political argument and the logic of issue framing, in: Saris/Snidermann (Hrsg.): Studies in politic option – Gauging attitudes, non attitudes, measurement error and change, Princeton 2004; *Rawls*: A theory of Justice, Cambridge 1975, S. 284 ff.; Hare: Rawls’ Theory of Justice, in: Daniels. Reading Rawls: Critical Studies of a Theory of Justice, Oxford 1973, S. 81 ff.

<sup>2</sup> *North*: Structure and Change in Economic History, New York, 1981, Theorie des Institutionellen Wandels, Tübingen 1988, S. 21 ff.

<sup>3</sup> *North*: Structure and Change in Economic History, (a.a.O.), S. 24 ff.

<sup>4</sup> See also: *Krimphove*: The Weimar Triangle “and its multinational Role in Conflict-Management and Reconciliation – An erconomical approach, in: Kukliński, Pawłowski:

In order to manage its own life and economical prosperity the individual is to acquire raw materials, food and services from resources. Therefore the Law-Institute of “Property” or assets and even the possibility of their transfer must be defended against annexation, destruction and the unjust practice of non-owners. Several considerable transactions costs must be expended toward these defenses.

These costs are macro-economically detrimental, because they do not improve neither the quality of products and services, nor their distribution range and availability. On the contrary; financial resources (that could have otherwise used to improve R & D) will be bond by these costs. These costs will furthermore hinder the exchange of goods and services.<sup>5</sup>

In this context the Institute “State” comes to the fore, as the state guarantees by its law-system legal protection of property, assets and their transmission. The state – by its monopoly of force – grants also the legal enforcement of this law and economical Institutes.<sup>6</sup> The state offers, due to synergy-effects and the specialization of its executive-organs (police, judges, and executive officers), the possibility of this defense services far cheaper to provide than each of its members.<sup>7</sup> In other Words, the legitimacy of a state is justified by the fact that he will offer necessary protection achievements far more favorably than its individual members.<sup>8</sup>

For this reason, the state may even require contributions in the form of taxes and fees to ensure such services. He also may claim penal-sanction for any threat to the so-protected legal interests.<sup>9</sup>

A democratic system will endure only if the members have the impression that the costs paid by them are not too high and their expenditures are used only for their benefit. Otherwise their members opposite against the governmental because of their discontent (voice), or they wander over to another state that

REUPUS Recifer Eurofutures Publication Series, Vol. II, Europe – the Strategic Coices, S. 337 ff.; Wyzsaza Szkoła Biznesu; Nowy Sącz, February 2005.

<sup>5</sup> *Krimphove*: Das Europäische Sachenrecht: Eine rechtsvergleichende Analyse nach der Komparativen Institutitonenökonomik, in: Jean-Monnet Schriftenreihe: Europäisches Wirtschaftsrecht Bd. 1; S. Eul-Verlag, Lohmar, March 2006; S. 25 ff.

<sup>6</sup> *Kirstein/Schmidtchen*: Ökonomische Analyse des Rechts – Center of the Law of Studies an Economics – Discussion Paper, 2003-04, v. 15.9.2003, Saarbrücken, 2003, S. 85 f.

<sup>7</sup> *Wittmann*: Why Democracies produce Efficient Results, in: Journal of Political Economy, Vol. 97 (1989), S.1395 ff. (wh.fu.evid.); *Buchanan/Tollison/Tullock*: Towards a Theory of the Rent-Seeking-Society, Texas 1980, Kapitel 1 – 3 (further citations available).

<sup>8</sup> *North*: Structure and Change in Economic Historie, New York, 1981, Theorie des Institutionellen Wandels, Tübingen 1988, S. 23 ff.

<sup>9</sup> *Kirchgessner*: Ökonomische Theorie der Verfassung, Diskussionspapier No. 2004-17, Dezember 2004 St. Gallen, S. 10 f. (m.w.H.); also: *G. Simmel*: Philosophie des Geldes, zweite Aufl., München 1900, S. 387.

will better fulfill these economical conditions (exit).<sup>10/11</sup> To prevent risks of revolution and the emigration, the states must offer the citizens some advantages that will appeal to each remaining citizen and motivate them to stay, by:

1. lowering taxes and fees, or by
2. offering the citizens some advantages that will appeal to each remaining citizen and motivate them to stay. The last-mentioned aspect will be satisfied by the social Institutes of **Democracy** and/or **Integration**.<sup>12</sup> Mainly the “social-**Integration**” itself is able to spare transaction-costs as an efficient Integration reduces search– and information-costs.

## 2. Some deduced Proposals

### 2.1. Amendments in Transparency of European Banking-Law and Banking-Facilities

The increase of transparency has a direct influence on the increase of integration. This concerns in particular the transparency of regulations, which directly affect citizens. The efforts of the EU in the context of promoting transparency of European legal standards are up to acknowledge. However, significant gaps exist in the field of **European Banking Law**:

Both the conditions of European money traffic as well as those of investment transactions appear unknown to the consumer.

<sup>10</sup> Siehe dazu: *Hirschmann*: Exit, Voice and Loyalty: Responses to Decline in Firms, Organizations and States, Cambridge 1970; *North*: Structure and Change in Economic History, New York, 1981, Theorie des Institutionellen Wandels, Tübingen 1988, S. 27 ff.

Siehe dazu: *Wagner, Eger, Fritz*: Europäische Integration – Recht und Ökonomie, Geschichte und Politik, München 2006, S. 150 ff. (further citations available)

<sup>11</sup> A citizen chooses emigration when the costs of leaving were essentially higher than the disadvantages he will have to accept with the existing transaction costs. Such circumstances are observable within the European Union, for example is the emigration of German medical staff to Scandinavian countries: *Hirschmann*: Exit, Voice and Loyalty: Responses to Decline in Firms, Organizations and States, Cambridge 1970; *North*: Structure and Change in Economic History, New York, 1981, Theorie des Institutionellen Wandels, Tübingen 1988, S. 27 ff.

Siehe dazu: *Wagner, Eger, Fritz*: Europäische Integration – Recht und Ökonomie, Geschichte und Politik, München 2006, S. 150 ff. (further citations available)

<sup>12</sup> Siehe auch: *Tullock*: The Paradox of Revolution, in: Public Choice, 11 (1971), S. 89 ff.; *Olson*: Macht und Wohlstand, Tübingen 2002; *Tullock*: Autocracy, Doderecht 1987; *Wintrobe*: The Political Economy of Dictatorship; Cambridge; Kapitel 1,2,6 (m.w.H.); *Th. März*: Interessengruppen und Gruppeninteressen in der Demokratie, Hohenheimer volkswirtschaftliche Schriften, Bd. 12 Frankfurt 1990.

It is in particular the general ignorance of the mode of action of the European Law in its relation to the national Banking-laws. Also citizen's ignorance of European and national organizational competence in the banking, investment, and monetary arrangements leads to great disintegration. In addition, access to a structured **European or national complaints-board** is missing for investors and bank customers.

The deficiency can be countered by granting bank-customers a direct contact to **European complaint centers and European information centers**. These centers shall be installed at **ESMA, EIOPA, EBA, or/ and ESRB**.

## **2.2. New Law-setting relative to the “international repayment of state and/or EU-financial support”**

Only those individuals seem ready for integration into a law-system, who can agree with its legal standards. This is not the case, if they feel disadvantaged compared to other legal participants (viz. national or international Banks and financial institutions).

The US-American Law situation provides possibilities of **repayment of state financial assistance** (public credits and loans) delivered to banks and companies, in order to avert their insolvency. In contrary to the US-legal status European nationals are to compensate all fiscal help to resolve the banking-crisis.

The possibility is necessary on a long-term basis where fiscal help for the avoidance of the Financial-Crisis the banks and enterprise borrowed money to reclaim from these.

This system has to claim also validity for **non-European banks and enterprises**. From the basis of international law, a **European law settlement** (*European regulation*, or – by affecting interests of institutes having their seats outside the EU – an *international Treaty or Agreement*) relative to the “international repayment of state and/or EU-financial support” appears desirable.

## **2.3. Implementing a Law-Advisory Committee of the Member States**

Integration as well as the reduction of transactions costs is guaranteed not only by understandable legislation<sup>13</sup> but also by a

<sup>13</sup> see above

comprehensible jurisdiction. The jurisdiction of the European Court of Justice – especially in the context of citizens directly affecting law, e.g. Labor Law, – sometimes does not appear acceptable by nationals, because the European Jurisdiction violates national or national organic Law-standards, its cultural tradition or mentality.

It is true that the European Commission is not to interfere into the ECJ's Jurisdiction or opinions. Nevertheless – from the author's perspective – it seems desirable to set up an **Advisory Committee of the Member States** situated at the European Court of Justice. This committee may (*at the request of the ECJ*)

1. advise the Court in questions related to each national law of the 29 Member States.

The Advisory Committee (*at the request of one or more Member States*) will also

2. raise the Courts awareness of the existing national law-Institutes and of the explosive nature of its judgment to the national law.

The Advisory Committee will have only an advisory – non-decisive – function. It may support the quality of the courts decisions and options, and furthermore guarantee the application of the international/European **Principle of Subsidiarity** also in the area of jurisdiction.

#### 2.4. European News Agency

The steady increase of Information technology utilization has created a ground of state espionage. In the past European states had been strongly affected by political and economic spying. With reference to these unauthorized operation it is also an issue in current political and economical discussions.

As a protective mechanism against cyber-attacks it is recommended to set up an **European news agency** in order to establish a saver economic zone. Focusing on the level of EU citizen's rights the European News Agency can **counter the surveillance measures through non-European countries**.

According to this scheme the European data transfer, – storing and – editing will be protected. The information regarding to the EU and its citizens have a highly worth of protection.

In consequence of the deep alliance between the member states, stolen information of one particular member can affect further member states or even the entire European Union.

Supported by the national news agencies the European news agency allocates relevant information providing European security.

Similar to national security agencies, which have for instance the function to communicate humanitarian aims the European News Agency is able to enforce these measures with a greater self-assertion.

### **2.5. European economic growth due to start-up networks**

The interaction of economic growth and the deepening of European integration constitute a method to recover from the European crisis. Offering **assistance to young entrepreneur** is an approach to develop emerging markets. In addition, launching start-up businesses constitutes a method to reduce unemployment.

Systematic support for start-ups, as well as the networking of small entrepreneurs is in focus. Due to the implementation of **European networks and consulting sites**, an exchange of reinforced knowledge affords a foundation for internal growth.

The internet-based network should comprise the following categories:

- 1) **Self-presentation:** Detailed information of the company including the branch, products/services, as well as future projects.
- 2) **Meet and explore:**
  - a. Come together with potential partner companies in order to ameliorate the product-lifecycle management.
  - b. **Cooperation between different start-ups** can create new alliances and common projects are possible.
- 3) **Knowledge Transfer:** Exchange of know-how concerning to the market-information and product related details.

With regard to this database the search of partner companies in the European Union is facilitated. This concept generates new jobs and safeguards those in the long term at EU level. As a consequence the EU achieves economic growth for all its members.

### **2.6. Promotion of the education systems and the implementation of euro-wide acknowledgement of school performance**

Education and the ability to question issues independently have contributed to the development of today's world to a considerable extent. Learning from other people and cultures has always initiated

new horizons. For this reason it is important to focus on the national education systems of European states.

The following approaches are suitable to improve the European education system, expand cultural school exchanges within the EU and decrease the youth unemployment.

### **2.7. Acknowledgement of school degrees**

**School exchange programs** are already an integral part of national education systems. Especially young people are eager to learn and discover. Hence it is advisable to implement school exchange programs, which last over a longer period. Periods of at least one school term should be binding for all pupils. In contrast to the traditional exchange program, the new system is intended to encourage the self-reliance of the participants. Such school exchange programs will only have sustainable success if they are completed by Europe-wide acknowledgement of tests, exams and diplomas. In order to strengthen the social – cultural effect of school exchange programs we would prefer to introduce a complete acknowledge system of school performance, as it is set out for universities and students in the credit point system.

### **2.8. The euro-wide organization education of craftsmen and non-academics**

The above mentioned economical effects will also be granted by the implementation of euro-wide education of craftsmen and non-academics. The German system of craftsmen education is extremely elaborated and sophisticated. The high quality of this education system will cause disadvantages by the exchange of technology and people (craftsmen) from other European countries. Euro-wide organization of the education of craftsmen and non-academics will sustainably reduce unemployment by strengthening the quality of handcraft products / services and the transfer of technology in Europe. Further advantages of the above mentioned (2.6 and 2.7) are the following aspects.

1. **Understanding among nations:** Strengthening the feeling of being united in the EU. Other cultures are explored through the personal contact. The particularly long period is crucial in this context.

2. **Learning a foreign language in-depth:** During their stay abroad, adolescents improve their language skills immensely. After an overcoming of the language barrier, the students develop a deeper understanding of language.

3. **Personal development:** Exchange students have to face many challenges through which they grow beyond themselves.

Several countries in the European Union are complaining about a **skilled worker shortage**, while others suffer from **high youth unemployment**. By supporting the pupils in participating in exchange programs both defects can be narrowed. The establishment of training centers especially for youth apprenticeship seekers from other EU countries is in focus. Young people receive the opportunity for an accommodation, as well as language courses. Professional fields are trained where skilled worker shortage predominates.

## **La zona euro, nucleo di una federazione europea**

Dusan Sidjanski\*

Le elezioni europee saranno l'occasione di un bilancio generale dell'Unione europea, dei progressi nella lotta contro la crisi finanziaria e dei danni subiti dall'economia e dalla società europea. La lenta ripresa della crescita non provoca una netta diminuzione della disoccupazione; i fallimenti di imprese, l'impoverimento e la depressione dei cittadini hanno bloccato la dinamica europea. La strategia di Jean Monnet dell'engrange settore dopo settore risultante nell'Unione politica è arrivata al limite. Ancor peggio, la spirale ascendente (spillover) è stata invertita sotto lo shock della crisi e sotto l'effetto dell'austerità.

E' vero che sono state prese tutta una serie di misure che hanno evitato il venir meno della zona euro, ma rimangono senza soluzione problemi fondamentali: può l'euro sopravvivere a lungo termine senza una vera unione politica e in assenza di un federalismo fiscale e di bilancio? A maggior ragione, può sopravvivere e svilupparsi la "zona a 18" senza una Unione politica e una forte coesione sociale? E' sempre più evidente che gli Stati membri della zona sono di fronte ad una scelta definitiva: impegnarsi sulla via dell'Unione politica federale o accettare prima o poi la fine dell'euro. Dal momento in cui, da qualche millennio, è apparsa la moneta, è noto che battere moneta è un atto sovrano, simbolo del potere politico. Nessuna moneta è sopravvissuta senza comunità politica, città o Stato. Ne deriva che è urgente consolidare la zona euro ed inserirla in una Unione federale.

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## **Più unione economica**

Ora, paradossalmente, il nucleo pioniere dei 18 continua a funzionare in modo intergovernativo in una Unione in cui il metodo comunitario tende ad espandersi nel settore “comunità economica”. Da qui l’urgenza di convertire la zona euro al metodo comunitario, associando la Commissione e il Parlamento europeo nella loro dimensione a 18 al processo decisionale a maggioranza qualificata della zona. Un passo in questa direzione è stato fatto con la creazione del vertice della zona euro.

A sua volta, la BCE che ha assunto maggiori responsabilità potrebbe essere dotata in futuro di competenze in materia di debito, così come di crescita e di impiego. C’è tutta una serie di proposte che riguardano il Fondo europeo di stabilizzazione (FES), il Fondo di rilancio economico e l’adozione di un bilancio del 3% del PIL della zona.

Il dibattito sulla politica macro-economica è al suo massimo in un linguaggio incomprensibile per la grande maggioranza dei cittadini. Per questi ultimi le preoccupazioni riguardano la precarietà del lavoro, il costo della vita, in breve la vita quotidiana ben lontana dall’alta politica dei dirigenti europei. Essi soffrono sulla propria pelle gli effetti dell’austerità e delle riduzioni di bilancio nel settore sociale e nell’istruzione insieme alla diminuzione dei salari e del potere d’acquisto.

Il sogno della prosperità promessa dall’Unione dell’Europa si è tramutata in incubo, senza una speranza in vista. Non è forse arrivata l’ora di lanciare un progetto europeo ?

L’austerità fa da incubatrice ai nazionalismi di nuovo emergenti insieme alle pressioni di partiti e di movimenti estremisti nutriti dalla disperazione degli strati sociali sacrificati. Da qui la crescita sorprendente dei partiti di estrema destra come il Fronte nazionale in Francia e il suo omologo olandese, o di movimenti d’estrema sinistra di protesta antieuropea per i quali l’Unione e Bruxelles servono da capri espiatori. La situazione politica in Grecia, dove la maggioranza di governo è legata ad un filo, è drammatica. Nei sondaggi il partito Syriza dal dubbio profilo è in testa, seguito da Nuova Democrazia, mentre in terza posizione si profila la minaccia del movimento neo-nazista “Alba dorata”. Quest’ultimo si distingue per il razzismo e la violenza che riesce ad attenuare con l’aiuto nei confronti degli strati più fragili della popolazione.

## **Più Unione politica**

La culla della democrazia, sulla quale si chiudono gli occhi mentre la Troika continua a perseguire una politica di austerità, è in pericolo. Ma il caso della Grecia è tutt'altro che isolato. La recente elezione di un nazista a capo della regione di Banska Bystrica in Slovacchia è lì a ricordarci che la xenofobia e l'eurofobia inserite in una campagna anti-Rom minacciano i valori fondamentali dell'Europa. A ciò si aggiunge una pleora di movimenti populistici. Propagandosi attraverso le reti sociali, tutti sembrano convergere verso la destabilizzazione dei sistemi politici e, ancor più, dei contesti economici e sociali. Sono questi altrettanti pericoli convergenti che oscurano il cielo europeo e di fronte ai quali le misure previste si annunciano impotenti.

Forze centripete sono all'opera all'interno di parecchi paesi europei. Nel Regno Unito, mentre la Scozia si prepara a un referendum per l'indipendenza, il governo Cameron sotto la pressione dell'UKIP e di una parte della propria maggioranza ha promesso di organizzare un referendum sull'appartenenza all'Unione europea. Il Belgio non è da meno della Catalogna, il cui governo esige da Madrid un referendum per la propria indipendenza. Alla rinascita dei nazionalismi si aggiungono i movimenti independentisti delle regioni. Per soddisfare almeno in parte queste rivendicazioni che sfociano nella moltiplicazione di mini-Stati non bisognerebbe creare nel quadro dell'Unione politica un "Senato delle regioni" come quello proposto per i Laender al momento dei negoziati del Trattato di Maastricht? In tal modo, rinforzando l'autonomia delle regioni e delle metropoli, si garantirebbe la loro partecipazione alla funzione legislativa.

La crisi che minaccia la democrazia dell'Unione europea esige uno sforzo da parte dei responsabili e dei cittadini europei. E' urgente prendere sul serio gli avvertimenti della Cancelliera Merkel quando evoca il pericolo che corrono sia l'euro che l'Unione in assenza di una Unione politica dotata di un governo e di una seconda camera. A questi appelli fanno eco i discorsi del Presidente Hollande a favore di un governo dell'economia e di una strategia globale che comprenda una vera politica estera e di difesa comune in modo che l'Europa possa parlare con una voce sola. Gli interventi della Francia in Mali e nella RCA costituiscono altrettanti esempi di azioni e iniziative che in futuro dovrebbero iscriversi in una strategia globale.

## **Osare la Federazione europea**

Sul piano mondiale la nuova ripartizione di potere e le sfide rappresentate dalle potenze emergenti (Cina, India, Brasile, il ritorno sulla scena mondiale della Russia) esigono una risposta comune se l'Unione vuol essere un attore influente nel G8 e negli affari del mondo. La gravità dei conflitti nelle vicinanze dell'Unione e le minacce da parte dei gruppi terroristici e delle organizzazioni criminali costituiscono altrettante sollecitazioni per la creazione di una Federazione europea. Ciò equivale a dire che il tempo per una iniziativa da parte del motore franco-tedesco, sostenuta dall'Italia, dalla Commissione e dal Parlamento europeo, è quasi esaurito. Se è difficile concepire una Unione politica dei 28, è tuttavia urgente iniziare dalla zona euro, pur lasciando aperto l'accesso ad altri Stati membri. La storia delle federazioni che hanno avuto successo ci insegna che esse si sono formate intorno ad un nucleo federatore.

L'Unione politica contribuirebbe a far rinascere la coesione e la solidarietà fra i paesi europei e renderebbe possibile il ricorso agli eurobonds a sostegno a un New Deal europeo per il finanziamento delle grandi opere infrastrutturali e di comunicazione, di ricerca e d'innovazione che hanno come presupposto un nuovo slancio nel campo dell'istruzione e della formazione: un insieme di azioni immediate, insomma, che diano un forte impulso all'occupazione e al settore delle imprese piccole e medie, principali fonti d'impiego. Ne deriverebbe un rilancio della dinamica dell'integrazione all'interno della zona euro e, conseguentemente, anche all'interno dell'Unione europea.

Non resta che sperare che la campagna elettorale che si preannuncia si concentri soprattutto su progetti di federazione europea concisi e comprensibili e sul New Deal europeo. Temi – questi – centrali e suscettibili di far rinascere la speranza nei cittadini dell'Unione europea.

## EU International Relations and Diplomacy Studies

Elena V. Khakhalkina\*

I am not an expert in the Eurozone and can hardly offer a vision of a blueprint for a Political (federal) Union beginning with the Eurozone. But these problems, in my opinion, lie in the context of broader, deeper issues related to the development of European integration and the current problems of the European Union.

The European Union has passed all five stages of integration indicated by Bella Balassa. However, due to the failure of the European Constitution project in 2004-2005 in European and global community of experts had been tried an answer to the question whether the European Union has reached the limit of integration. It would seem that with the signing of the Treaty of Lisbon 2007 key disagreements were resolved. However, from time to time there are discussions on deepening integration – what are its limits and what areas it can not and should not cover.

I am convinced that the way out of the economic and social crisis must be comprehensive, impossible to resolve these problems in isolation from other problems of the EU. In my view, EU should focus on:

- 1) The understanding the problems associated with the Eurozone is unlikely only in the context of macroeconomic indicators. **Recipe:** need to break the look at the Eurozone, according to which strong states “swallow” the weak states. Such a view had formed not only in connection with the events in Greece, Spain,

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Italy and other countries but the recent joining the Eurozone of Latvia. Replacement of the national currency – lats – the euro has led to higher prices for food and consumer goods. But do not forget that financial support for Greece, for example, has become a financial burden for the leading countries of the European Union – especially Germany, the UK and others.

2) The growth of social tension is a direct consequence of economic hardship, expressed not only in unemployment, but leads to multiracial clashes. According to my view, two challenges before the European Union countries:

- What course of conduct towards the descendants of migrants – those migrants who began to enter European countries in circumstances of decolonization in the 1960's? The descendants of these migrants are already full citizens, but not well integrated into the local community and in some cases prefer not to work and to live on benefits.

- What course of conduct in relation to arriving migrants? In the UK, for example, made a bombshell film “Benefit Street” shown on TV in January 2014. Depressing statistics were given – 2 million children raised in families where no one has ever worked. Another example – recently Minister of Immigration UK M. Harper, resigned after he was accused of hiring a cleaning lady, a foreigner who had no work permit UK.

Now migrants are in a unique situation of dual identity – depending on the situation they have the opportunity, where it suits them, regard themselves as citizens of the country, which during the decolonization sheltered work and gave to their ancestors, where unprofitable – to demand respect for their own culture, language etc. This situation is reminiscent of the Cerdanya valley residents on the French-Spanish border of the 19th century. So, some residents of the French Cerdanya, when they were called to military service in 1870, 1914 and 1940, chose to identify themselves as Spaniards in the order not to serve (Sahlins P. *Boundaries*. 1991. P. 267-269).

However, this situation creates a certain image of Europe as a whole. It requires thinking. Europe has traditionally positioned itself as

the main fighter for democracy, but it should not lead to problems with the silencing of clashes between migrants and the local population or lead to double standards in assessing political developments.

**Recovery from the economic and social crisis through European integration deepening**, will likely lead to a backlash: the natural attempt to nation states to protect themselves and severing the deepening of integration. The British, for example, regularly returns to a discussion of the extension of the country's participation in the EU. May be it's nothing more than political speculation by David Cameron, but the situation makes rethink achieved by the EU.

**The main recipe** – do not rush with the deepening of integration.

**Other measures:** reducing corruption, the fight against the Eurocrats, strengthening of trust between people and power: through new educational programs, increasing of public awareness about the nature and purpose of the measures taken the European Commission, the possible costs – explain the meaning and direction of each action step. EU should also take into account other factors: The EU economy is strongly tied to the U.S. economy. EU needs to strengthen economic ties with the CIS countries and Russia and increase investment in the Russian economy (direct and portfolio). Russia is open to Europe. Unfortunately, recent events of the Civil war in Ukraine threatened to complicate relations between Russia and the European Union (though Russia's population doesn't support the provision of assistance to Ukraine in the amount of \$ 15 billion and to the authorities' attempts to influence events in Ukraine). **Recipe:** EU is necessary to develop relations with Russia despite political differences not only through the purchase of raw materials and energy, but also efforts to create a positive image of each other, through increased trade, cultural and social cooperation.

Ernest Hemingway did not accidentally took the following epigraph to the novel “For Whom the Bell tolls”: “No man is an island, in itself, every man is a piece of the continent, a part of the wave will carry and if the sea coast cliff, Europe is the less, and as if the edge of the cape will wash or destroy your castle or other thy death of any man diminishes me, because I am involved in mankind, and therefore never send to know for whom the bell tolls, it tolls for thee”. We are too

interdependent, and the Eurozone can not be a closed area, EU must take into account all the factors both internal and external order, which may have an impact on economic development and social relations.

*Elena V. Khakhalkina*

# **The sustainable development towards peace and cooperation: Repairing the residues of the past**

Emer Janez Juhant\*

## **1. A long-term politics**

To deal with the challenges of the modern world the grounds for more long-term politics need to be developed. The question arises how to educate people to prepare their minds for these challenges. People from all sectors of the society need to develop appropriate virtues, especially empathic capabilities. This is particularly necessary for the most influential and powerful individuals of modern society (owners of capital, politicians). Cooperation is imperative in order to prevent a Ukrainian, Syrian or other violent scenarios. We are faced with the alternative: to solve the tensions in society dialogically or to allow future perturbations or revolutions in parts or in the broader world of today. Concretely it supposes a politics oriented toward more inclusivity of ordinary people in the political processes. Furthermore the politicians and other decision-makers of the modern world need to be ready to perceive the critical voices against financial and economical lobbies. They also need to integrate the new ideas to develop a new

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socio-political order leading to the solutions of these dilemmas. In my opinion this will require additional endeavours regarding spiritual or special training which will hopefully lead to more economic and social inclusiveness or cooperation. Each person needs to see that his/her endeavour towards humanity is good and has long-term economic, political and other implications. All these will demand much more effort regarding ethical education on all levels: political, economic and pedagogical. New abilities for making good decisions are needed. This issue is now very evident in the case of Ukraine. Russia is an economic and political supporter of the former regime and at the same time an exploiter of the Ukrainian people. Although the EU supports democratic changes this includes many problems. Removing totalitarian structures and habits will lead to a problem of economic societal transition. The question arises: if the EU is (or can be) ready to support this and is it ready to accept all refugees especially assailants from Africa, Syria and other places of the world. But the EU and/other powerful factors of the world (USA, Japan, China, Russia) have only one chance to prevent undesirable development and exploitations of poor countries. The principal question arises: if especially China, Russia (look at Syria!) and Islamic states are ready to do it. In general it is impossible, if we do not have the foundations of a new sustainable and long-term economic politics, supported by the decisive economic leaders of the world. This could be the grounds of a very profound and new economic decision towards “new justice” (Sen 2010, Pope Francis 2015). Therefore EU needs to deal with this issue on the international level. The political, economic, social and cultural measures have to include an ethical and spiritual support for these efforts. The idea includes much more subsidiarity, more critical exchange, more readiness to see the problems of ordinary people and to deal with economic problems in accordance with the needs of people. In other words, it is necessary to support democratic processes especially in the transition countries, which includes that they have the possibility to take measures for the lustration’s processes. Lustration refers not as much to people but to the old (totalitarian) habits. In this sense the world policy in general needs to employ several measures for the lustration of the obsolete political, economic and social habits, procedures and sometimes even juridical forms.

## **2. Post-totalitarian realities, repair of the injustices and the role of religion(s)**

The EU was not able/ready to act politically at the right time and distinctively/ decisively enough to prevent the wars in former Yugoslavia (BIH). The role of religions and politics in the Yugoslav crisis is a very complex issue. To speak about it from an American or European point of view, without including the complexity of these topics in their own context, would lead us to many misunderstandings. If there was no basis for it our understanding would be misinformed if the Yugoslav conflict was described simply as an “ethno-religious chauvinism”, exposed as “religious violence” and stressing the need for religious education and formation for peace (Appleby, 2009:58,75). The wars in the former Yugoslavia were a social, political, national and European and international problem, which included religious implications as well. The peace-formation is not only a religious task but also an obligation of the whole society. When religion in communist countries was expelled from the societal spheres it became difficult to expect that religion would play an important role in the time of crisis. Religious education is an investment for the future. Modern societies faced a general problem regarding how to construct a new “religious” formula in the sense of a new religious illuminated humanism. What emerged is more like “*verdrängeter Humanismus, verzögerte Aufklärung*” (repressed Humanism, delayed Enlightenment). Religion was attacked and expelled several times from the societal sphere. It was difficult to quickly restore an ethical and religious consciousness. The communist revolution introduced opposing values: killing, stealing, and lying. Hidden liberal attacks and pressure (*Kulturkampf*) presented grounds for struggle. The Marxist revolutionary methods increased and legalized this struggle not only by words but also by iron means. Post-Marxist societies are unable to change it immediately. Religion, already driven out of the individual and public consciousness, remains a proper scapegoat for many societal problems.

The “ideology of success dominates” (Girard 1989, 157) and the remnants of rivalry and exclusion of class-enemies became a practice. Still Girard argued that Christianity contributed very much to the real picture of victimisation and victims, but many modern authors didn’t want to realize this. “In the future, all violence will reveal what Christ’s

Passion revealed, the foolish genesis of bloodstained idols and false gods of religion, politics, and ideologies” (Girard 1989, 212). Nazism attempted to absolve Germany and then the whole of Europe from caring for the victims; the same can be said of Marxism. The exclusion of religion via accusation and establishing of violence is a “*proprium*” of modern ideologies which reaches its full realization in the totalitarian systems. The consequence of this “bad conscience” was the burdening of religions with predictive “violence”, to diminish one’s own violence, to excuse him, to “kill” the religious tradition of brotherhood of people and to change societies with violent revolutionary methods. It had fatal consequences for the wars in the Balkans.

Bosnian Islamic theologian Enes Karić (2012, 23) states that “in the modern West Islam as a religion, Islam as a culture, and as a civilization is excluded out of concept of ‘Judeo-Christian civilization’”. Probably the same problem could be stated in many Islamic countries with the Judeo-Christian concept of society. But also in Christian countries the concept of Christian religious view is more and more questioned. Despite this in modern society religion is still seen and evaluated as a cultural power or the ground of cultural identity but there is the tendency in society of post-communist countries to diminish the influence of religion or to exclude it completely out of the societal consciousness in order to come to a “neutral” status of it. In modernity the experiences of religion were marked by many ideological and political dimensions, which were fixed by liberal: freemason, socialist or so called civil, humanistic, “neutral”, or non-liturgical (Cavanaugh 2009, 113) worldview of man. Modern understanding of religion contained more political than religious connotations. Religion was expanded in the socio-political and strategic circumstances of modern development as was the case with the religions in BIH: “The traditional religion is privatized, while the religion of politics occupies the public realm”. (Cavanaugh 2009, 116) Because of the fear of the Islamic BIH and of the political disunity, the EU allowed the political clash and oppression of the Islamic believers. The consequence was the revenge of the radical partisans of the Islamic religion which has lasted until today.

Ivo Andrić (1989) states in *Bosnian Chronicle (The Chronicle of Travnik)* that Bosnian Franciscans were not preparing people properly for the future changes in Europe. He also indirectly accuses Franciscans of not reacting at the appropriate time to implement freedom and liberty

or to assist people to equip themselves for life in freedom. He states that a big and strange struggle, which in Bosnia lasted for centuries between partisans of two religions was actually a struggle for land and power under a mask of religion, a struggle for a special way of life and ordering of the world. In these struggles the imperial powers, Turkey, Austro-Hungarian and Serbia were involved and Andrić states that BIH was (and still is) a neuralgic point of relations between East and West, between Islam and Christianity, and consequently between the nations in BIH, Turks and Bosniaks, who were known in that time as Muslims, Serbs and Croats. The territory of BIH was always crucial for the future of Europe. This importance reached its culmination in the modern liberal imperialistic competitions. WW1 began in Sarajevo. In WW2 and afterwards, the Yugoslav communists had an important role in an anti-fascist alliance. Yugoslavia in times of the “cold war” was a litmus test of European policy. It played a guiding role in the club of the “Non-Aligned Movement” which was very influential in European and world policy. Still the first Yugoslavia was pushed into these happenings through inner crisis, which profited the communists regarding revolution. They ascended to power in Yugoslavia with the support of English (and Soviet) policy. Yugoslavia as a communistic country with a so-called *social self-government socialism* was actually a big lie (or actually a lie based upon a lie) because all decisions in the society were controlled and all the details determined by the leading communistic class. The communists merely covered the problems and through the power of totalitarianism suppressed the burning national, social and mental problems of Yugoslav individuals and nations. Most of them had a background in religious education and those with roots in Catholicism were usually the most fanatical fighter against the Catholics.

Hannah Arendt’s book *The Origins of Totalitarianism*, with its highlights and downfalls, struggles and contradictions is a very instructive work on the rise of modernity in Europe. According to her the leading motif of European development was the broadening of power, in which the underclasses were usually left with empty hands. The smaller nations had no chance of success against imperialism. This occurred not only because of political bargaining but also because of the prevailing conviction that imperialism (the power of the biggest) is able to establish world ruling power and solve the problems of modern

people. In this sense the racial and pan-national movements prevailed over the concept of nation. The small ones remained without citizenship – there was no place for small nations, “e.g. Slovaks in Czechoslovakia or Slovenes and Croats in Yugoslavia” (Arendt 1951). The Wilsons idea of self-determination by nations didn’t work. The history of Yugoslavia is a history of failed promise regarding self-determination of nations (Wilson) and non-fulfilled hope of nations for liberty and cooperation. In the consciousness of Slovenes, Croats and other nations of the first and second Yugoslavia it was only a realisation for the liberal (communist) state of Serbs; the other nations did not attain their national and political rights. Therefore the conflicts came to their first crisis in WWI, then WWII and later on after the changes in the year 1989.

After the WWII Slovenian in association with other Yugoslav communists took power over the country and began to terrorize people. The victims were Slovenes opposed communism. After the War the “domobranci” (Home Guard), some accompanied by their wives and children and other civilians were returned by the British forces to the Yugoslav communists. Approximately 15.000 people were placed in communist concentrations camps and soon after most of them were killed. In Slovenia after the war, along with Slovenians there were several groups of Croatians, Serbian Chetniks and civilians who, without being sentenced by the court, were executed. In the first years of communism several actual and imagined opponents, primarily Christians, many priests, owners of enterprises, farmers etc. were expelled from the country or killed. Several ten thousands emigrated. All people had to submit themselves under the political terror and pressure of the totalitarian dictatorships. In Slovenia there are approximately 600 mass graves. Among them is *Huda Jama* where some victims were still alive, were enclosed in a 100 meter barrier shaft of concrete, steel grate, gravel and other materials. Because the victims were mummified in these underground conditions the disclosure of Huda Jama on March 3<sup>rd</sup>, 2009 shocked the people.

Many of these graves have still not been investigated. There are over 100.000 people buried in them. After the Resolution of Informbiro and the separation of Yugoslav Communist Party from Moscow in 1948 the Yugoslav communists established several concentration camps in Slovenia for the imagined and real adversaries of new regime. Goli otok is the most recognized among the settlements. The Church and Catholics

supported the suffering people under the communist occupation and a terror even though the Church was viewed as class enemy Nr. 1 and a continuing danger for the people.

The communists prepared the “final solution” for all nations by imposing total communistic rule over them. They suppressed the actual national, social, cultural and religious problems of the nations. These unjust directives violated the social and religious dimension of ordinary man and small nations, in order both to hide their inability to deal with the complex problems of society as well as to promote the hope and rights of the ordinary man. (Komarica 2001).

The Slovene mufti Nedžad Grabus (born in BIH) states that the war in BIH was a war for territories. The Muslims defended their territories first against the Serbian aggression then against the “Croat Defense Council”. There was no religious war because the people did not fight for this or that religion but primarily for territory or their survival. Therefore the wars in BIH and in other post-communist countries open the complex dimensions of social, cultural and political life of these nations under communist pressure. The political openness gave the opportunity for the people and nations to attempt to live their own life and to challenge new political national elites to realize their national aspiration. This freedom opened possibilities for articulating religious, national, social, political and individual interests. These complex interests of people were often covered by the simple term the ‘religious’ or as an identification of religious and national problems, without reflecting on the complexity of historical, social, national, international and religious dimension (Palaver 1992). The years of change (falls of the communist regimes) opened the question of individual, national, political and religious freedom. The people believed that we could implement all of this peacefully through democratic processes. Nonetheless there were few suppositions for it. The majority of the new elites were former communists and devoid of any religious attitudes but knew very well the importance of symbols for mobilisation of people. Ideological and political mass media were implemented. They were a mix of former communist rituals, new religious aspirations, attempts and hopes that the time for individual and national resurrection was coming. This was occurring internationally not only by orthodox Serbs, Catholic Croats and Slovenes. This was combined with the problem of Islam’s role in Europe and in the global World. Islam was perceived as

a foreign element in Europe and in the USA. The memory of Turkish invasions in Europe rose again and became an excuse for European and World politicians (especially those from France and Great Britain<sup>1</sup>, who were historically prone to Serbs) to provide a basis for a simplified perception of Muslims in Europe.

The European and World policy has to ask forgiveness of the people of BIH and of many other people because it didn't prevent the wars in which many people suffered and lost their life. The story of modern refugees should be a reason for a permanent questioning of consciousness of the politicians and other responsible persons in order to deal with modern conflicts with human empathy, dialogically, with understanding, and with more respect for people, their own and others. The survival of the modern world depends on such a way of dealing with the problems. Everybody is responsible for it, especially the bearers of the power.

According to Jacques Monod (1990) the exclusion of a spiritual dimension is a completely new moment in the history of humankind and the history of (post)-Marxism demonstrates that the solving of societal problems by austere means is just a temporary solution. In such difficult time of violent implementation of communism in Slovenia the bishop Anton Vovk from Ljubljana was espionaged by secret police almost every night. During his journey on January 20<sup>th</sup>, 1952, he was attacked on the train at the railway station in Novo mesto. Gasoline was poured over him and he was set on fire. He survived but the attack left him with serious health issues. During the war in BIH in Prijedor Ivica Grgić, a parish-priest, was murdered because he was a very talented and perspective Catholic cleric.

The Yugoslav crisis is a sad consequence of such societal distress. The Churches and religions were scapegoats for the unsolved problems of (post)-communist society. The believers were often and still are subjected to (verbal) attacks and violence. Similarly Christians in several Islamic countries are tools of unsolved socio-political problems. The politicians and their intellectual or religious advisers often used the

<sup>1</sup> This was confirmed by the former president of EU Commission Jacques Lucien Jean Delors to the author of this article at the XIIth IAUP (International Association of University Presidents) Triennial Conference *Touchstones for a Modern University Culture* in July of 12<sup>th</sup>, 1999.

partisans of other religions to target their political ambitions, hiding the political and imperial motives with so called “religious” ones. The respect of person is fundamental in overcoming the problems of violence. This is not only a societal but a spiritual problem, which involves the question, what does it mean to be human, and are we ready to accept our spiritual dimension. We cannot define ourselves only by negation. Rather we have to discover a positive personal ground, which is personally exchangeable and could transcend our limitations and offer us the courage to be open to each other.

### **3. The problems of employing**

The importance of employing young people was recently stressed at the conference Jean Monnet, Brussels, November 13<sup>th</sup> and 14<sup>th</sup> 2013. Rifkin (2009) emphasised that today because of the many changes in the development of the world serious modifications of the work-management should be made. The influential German social teacher Oswald von Nell-Breuning (1890-1991; 1983, 1985) suggested that change is possible. That all the people of the world live well, everyone would have to work less (according to him: just one day a week). This would be sufficient for the needs of ordinary people; but for the needs of capital we must work much harder.

As a consequence of this situation politicians need to be persuaded and they in turn need to persuade capital and financial owners to change or to better balance this disproportion towards improved cooperation. There is no possibility of steadily increasing world development, but social dialogue from within is needed. It seems to be utopic to overcome this complex economic and social tension. However, the dilemma should be dealt with because this issue is a basic problem of human development and involves several concerns regarding sustainable development. Therefore the new abilities of the *art of life* both on the individual and social level as well as a readiness for cooperation are needed. (Strahovnik 2009)

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## **La sortie de la crise économique et sociale grâce à une meilleure intégration au sein de l'Union européenne**

Emilio Castorina\*

La crise économique du début du XXI<sup>e</sup> siècle apparaît aujourd'hui comme l'exemple le plus évident des effets négatifs de l'absence d'une réelle intégration politique au sein de l'Union Européenne. Il est clair que, depuis le Traité de Maastricht, après l'intégration monétaire et économique, ce qui aurait dû être une évolution naturelle de la Communauté Européenne en «union politique» réelle et légitimée démocratiquement n'a pas eu lieu.

L'absence d'une gouvernance européenne forte et directe, aggravée par la distinction toujours plus marquée entre la Zone Euro et l'Union Européenne, semble être la cause principale des faiblesses du système européen. Elles se sont manifestées de manière flagrante avec la propagation de la crise américaine, qui a mis l'Europe face à la nécessité d'un renforcement de la gouvernance au sein de la Zone Euro, au moins dans le domaine économique. Cela a creusé ultérieurement l'écart déjà existant entre la Zone Euro et les Etats Membres qui n'ont pas adopté à ce jour la monnaie unique.

Les faits qui semblent confirmer le propos ci-dessus sont nombreux: premièrement, l'influence grandissante de la BCE, qui a davantage joué le rôle de décideur politique que celui d'une banque centrale.

Des mesures qui visaient la réduction de la pression exercée par les marchés sur la dette publique se sont succédées dans le temps à partir du Security Market Program (SMP), remplacé ensuite par le programme Outright Monetary Transaction (OMT). Autres mesures qui visaient à

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assurer un soutien aux états membres en difficulté ont été également mises en place: le Fond Européen de Stabilité Financière (FESF) et le Mécanisme Européen de Stabilité Financière (FESF), suivi par le Mécanisme Européen de Stabilité (MES). La conséquence des mesures ci-dessus a été la transformation progressive de la Zone Euro en une sorte de «communauté de risques», ce qui constitue un pas en avant significatif vers un renforcement du lien communautaire et un processus dont la nature est désormais essentiellement constitutionnelle.

Un tel processus a été marqué par une forte interaction entre institutions nationales (politiques et de justice constitutionnelle) et institutions européennes: un dialogue qui a permis l'adoption du Pacte Europlus en 2010 et par la suite des «Six Pack», «Two Pack» et «Fiscal Compact», entraînant un renforcement du rôle de contrôle de la Commission sur le budget des états membres. Un tel échange a abouti ultérieurement au traité international sur le «Fiscal Compact», à la suite duquel les états membres de la Zone Euro s'engagent à introduire dans leurs systèmes le principe «d'équilibre du budget» (E. Raffiotta, *Il governo multilivello dell'economia*, Bologna, BUP, 2013). L'introduction de ces règles et les contraintes qui en découlent ne sont pas perçues par la collectivité comme étant des décisions politiques prises à l'issue d'un processus démocratique légitime.

En Europe, ou plus exactement dans la limite de la Zone Euro, les mesures adoptées et les contraintes introduites dans l'urgence constituent un niveau d'intégration sans précédent, qui va au-delà de la stricte gouvernance économique. Toutefois, des règles économiques de nature technique, décidées par des techniciens, influencent davantage les politiques de chaque état membre que les politiques européennes: il est désormais urgent de résoudre ce «déficit démocratique» de l'UE, maintes fois signalé et toujours existant.

Il n'est certes pas facile d'envisager des solutions à la crise économique et politique qui traverse aussi – plus on moins transversalement – les états de l'Union Européenne, même s'il est souhaitable que cette crise puisse être enrayerée par l'amélioration des conditions de vie des «citoyens de l'Union» et par le renforcement de la démocratie en Europe. En définitive, la crise politique et économique des Etats nationaux pourrait permettre un pas ultérieur dans le développement de l'intégration transnationale.

Mon impression est que, aujourd'hui, l'attention de l'opinion publique est surtout attirée par la dimension économique de la conjoncture actuelle. Le côté économique, toutefois, ne constitue pas l'unique aspect de la crise, que ce soit concernant les Etats eux-mêmes ou le développement de l'Europe.

En particulier, la crise qui sévit en Italie ne dépend pas seulement de «l'état des comptes publiques», mais surtout d'une forte perte de crédibilité de la «représentation politique». Et par conséquent, pour sortir d'une telle conjoncture négative, il faudrait avant tout récupérer cette «identité nationale inhérente à (...) la structure fondamentale, politique et constitutionnelle», dont fait expressément mention le TUE (art.4.2). En fait, cette identité est essentielle, non seulement pour notre pays, mais pour le développement futur de l'intégration européenne, qui se base sur le maintien de systèmes constitutionnelles différents et variés.

En conséquence, plus que jamais, le renforcement de l'Union dépend du renforcement des mécanismes (institutionnels et constitutionnels) internes aux Etats, dont dépend à son tour une «identité constitutionnelle» bien définie. Pour l'Italie, cette identité n'est pas claire, due à l'inachèvement des réformes constitutionnelles sur la forme du gouvernement et des structures décentralisées de l'Etat. (Je me réfère en particulier à la nécessité de redéfinir au plus tôt le rôle du Sénat, afin qu'il reflète davantage le renforcement du rôle des Autonomies locales, qui lui, a déjà eu lieu).

Il y a quelques jours à l'Università degli Studi de Catania, à l'occasion de la première rencontre de la Chair, dans le cadre des initiatives du cours Jean Monnet, «Services publiques, droits fondamentaux, constitutionalisme européen», rencontre que je coordonnais, la discussion a porté sur un sujet qui peut illustrer ce propos. Une thèse a été mentionnée, thèse reprise récemment par un constitutionnaliste italien réputé (G. Zagrebelsky, *Fondata sulla cultura*, Torino, Einaudi, 2014): toute «unité politique» est fondée nécessairement sur trois éléments essentiels: l'économie, la culture et le gouvernement.

Le premier élément étant évident, je pense que, à ce jour, aussi bien l'Union Européenne que les Etats membres, dans leur rôle respectif, doivent valoriser davantage ce deuxième et la troisième élément (*culture et gouvernement*).

On s'est efforcé avant tout de rechercher une solution uniquement au problème de la récession économique-financière. Cette solution, trouvée par certains dans l'austérité, par d'autres dans une idée, pour ainsi dire, néo-keynésienne d'intervention publique dans l'économie, par d'autres encore dans la soi-disant «sortie de l'Euro», a été envisagée sans même essayer d'aborder réellement le manque certain de «participation civique» des citoyens aux activités des institutions de l'Union. La conséquence inévitable est que justement cette légitimation culturelle et civique indispensable vienne à manquer, alors que c'est elle qui peut réellement renforcer cette idée de gouvernement. Sans oublier, d'autre part, que seule un gouvernement fort, en vertu d'une légitimation aussi forte, peut mettre en place des «recettes anticrise» univoques et convaincantes.

Par conséquent: sans «prise de conscience civique européenne» il n'y a pas de légitimation (d'où essentiellement «un déficit de démocratie»); sans légitimation, il ne peut y avoir une idée forte de gouvernement; sans un gouvernement fort, on ne peut résoudre le problème de la récession économique-financière, que ce soit interne aux Etats ou à l'échelle européenne.

Il est urgent que les citoyens des Etats membres prennent conscience du statut juridique dont ils sont titulaires (la citoyenneté européenne) et puissent en valoriser le potentiel. En outre, dans un laps de temps le plus court possible, il est urgent que les citoyens aient réellement la possibilité de devenir – pour utiliser une métaphore chimique – les composants d'«une solution unique» (le peuple européen) et pas simplement les composants d'«un mélange» (l'ensemble des peuples européens). Dans cette optique, un statut commun relatif à l'utilisation des «services d'intérêt économique générale» (mais également d'autres services non économiques: je pense, évidemment, à l'administration de la justice) serait souhaitable et je dirais essentiel, justement pour marquer un pas décisif vers la construction des contenus «civiques» de la citoyenneté européenne.

C'est dans le cadre ci-dessus qu'il faut identifier progressivement et plus clairement les aspects constitutionnels liés aux principes dont le système juridique de l'Union s'inspire. Il est possible d'affirmer que le «droit constitutionnel européen» fournit les outils juridiques de médiation entre le processus d'intégration en cours et les systèmes juridiques des états membres, et cela par un parcours circulaire récurrent et d'échange mutuel.

Le «droit constitutionnel, européen» considère les citoyens de chaque état membre comme partie intégrante d'une seule et plus ample «communauté de droit». Cependant, une telle communauté n'est pas caractérisée par un système politique dans le sens strict du terme. Elle est plutôt un acteur poursuivant des dessins politiques dans les différents domaines reconnus par les Traités, domaines dans lesquels les actions des pouvoirs publics produisent des effets sur la liberté personnelle de chaque citoyen. (Je me permet de citer à ce propos: E. Castorina, *Riflessioni sul processo costituente europeo*, Torino, Giappichelli, 2010).

De ce point de vue, il semble négligeable que les individus concernés (les citoyens européens) ne constituent pas un «peuple» dans le sens technique du terme, cela à cause de la nature non politique et du sens général dans lequel en l'occurrence le concept de peuple est utilisé.

Les «politiques» couvrent des domaines de plus en plus nombreux et étendus, en dehors et au delà de la production de biens et de services. C'est le cas par exemple de la politique étrangère, de la sécurité et de la coopération judiciaire dans le domaine du droit civil (avec mesures communautaires rapprochant lois et règlements des états membres). C'est aussi le cas du droit pénal, où le Parlement Européen et le Conseil peuvent décider de l'introduction de «normes minimales», qui portent sur la nature des sujets et pas uniquement sur la forme et sur les procédures; cela dans le but d'assurer une meilleur sauvegarde des droits des individus concernés.

Si un système juridique est censé être l'expression d'une communauté, il est alors évident qu'il se doit d'exprimer un système de valeurs, auquel les décisions politiques se conforment systématiquement. C'est la clef de lecture de l'art. 2 du nouveau Traité de l'Union, qui, par l'introduction d'une «super-norme», souligne l'importance des «valeurs communes» comme fondement de l'Union. En fait, le partage de telles valeurs caractérisent les sociétés pluralistes contemporaines et jouent un rôle important dans la formation progressive d'un nouveau «démos», fruit de l'intégration sociale des différents peuples européens.

Une occasion favorable se présente: les prochaines élections européennes au printemps. Les citoyens des Etats membres devraient changer de regard sur ces élections, passant d'une vision simplement «intérieur» à une vision «commune». Pour donner un exemple: un électeur italien qui choisit de voter pour le candidat d'un parti politique

nationale devrait avoir conscience du fait qu'il exprime une préférence en faveur d'un groupe représenté au Parlement européen, auquel le dit parti national appartiendrait.

Le développement des «contenus civiques et sociaux de la citoyenneté européenne» est d'abord la conséquence du développement d'une «culture commune» des citoyens des Etats membres. Cette culture prendra forme seulement si ces derniers vivent partout dans l'U.E., dans un contexte où les mêmes droits fondamentaux et sociaux sont respectés d'une façon égale. A son tour, le degré réelle de légitimation des Institutions de l'Union dépend essentiellement de cette «culture commune», qui est justement la valeur fondamentale à la base d'une plus vaste et profonde légitimation politique des Institutions de l'Union Européenne.

Plus clairement, sur la base solide d'une investiture populaire largement participative, les Institutions auraient la possibilité (et le pouvoir – devoir) d'améliorer de manière significative notamment la stratégie anticrise.

A cet égard, il suffit de mentionner l'art 14 du TFUE, où les services d'intérêt économique général sont soumis «aux valeurs communes de l'Union», notamment en ce qui concerne le rôle positif que les dits services peuvent jouer dans la «promotion de la cohésion territoriale et sociale», qui est un des objectifs de l'intégration. Normes et règles du service public jouent alors un rôle central dans la construction de la «société européenne». La référence aux valeurs de l'Union montre la base constitutionnelle de la «communauté de droit» supranationale.

On retrouve les mêmes concepts dans l'art. 106 du TFUE, qui stipule que les entreprises chargées de la gestion de services d'intérêt économique général soient soumises aux règles de la concurrence (à différence des services qui n'ont pas de caractère économique). Toutefois, cette obligation n'a pas de caractère absolu: elle s'applique dans les limites où ces règles «n'entrave plus l'accomplissement de la mission spécifique» confiée aux entreprises. En conséquence, les Etats membres ont la faculté de faire appel aux entreprises dans le but de poursuivre leurs fins politiques, économiques et sociales, toute en recherchant en permanence un compromis avec le respect des règles de la concurrence et le maintien de l'unité du marché intérieur.

Il est notoire que le système juridique européen est caractérisé par la neutralité du régime propriétaire en vigueur dans chaque état membre

(art. 345 TFUE), et cela également vis-à-vis de la configuration juridique des entreprises publiques ou chargées, de la gestion de services d'utilité publique. En fait, le droit européen n'impose pas comme obligation absolue la privatisation des services de nature économique. Par ailleurs, les états membres décident eux-mêmes de la classification des activités comme étant de nature économique ou non.

On peut alors comprendre la nécessité de trouver un point d'équilibre entre les principes du «droit de l'économie intégré européen», à savoir d'une part le respect paritaire des droits fondamentaux et sociaux et, d'autre part, les exigences liées au marché et à la concurrence. (On rappelle ici que dans les systèmes juridiques nationaux c'est aux Etats d'assurer la protection du marché concurrentiel (art. 117, alinéa 2, lettre e, pour protéger la libre initiative économique de tous les acteurs et en même temps assurer l'intérêt général de la collectivité. On rappelle également que la définition des règles de concurrence, nécessaires au bon fonctionnement du marché intérieur est du ressort exclusif de l'Union, art. 3, alinéa 1, lettre b).

Le Traité de Lisbonne, tout comme la Charte des droits fondamentaux de l'UE, promeuvent la cohésion sociale et territoriale de l'Union et considèrent fondamental l'accès aux services d'intérêt économique général, conformément à la législation et aux usages nationaux.

L'objectif final devrait consister en la création d'un «statut européen commun des services d'intérêt économique général» mais aussi d'un statut des services non économiques. Je pense surtout à l'administration de la justice, dans le but d'accroître l'effectivité et l'efficacité dans l'application de standards communs entre les états membres. Il serait souhaitable que l'Union aille dans cette direction, car sa compétence en matière de cohésion économique, sociale et territoriale est partagée avec les états membres (art. 4, alinéa 2, lett. c, TFEU).

La construction de la citoyenneté européenne sur des fondements concrets, solidaires et donc civiques demanderait à l'Union européenne un pas ultérieur, pour aller au delà de la simple «reconnaissance» et du «respect formel des législations et des usages nationaux, comme actuellement selon l'art 36 de la Charte. Ce pas aurait le but d'assurer le même niveau d'utilisation des services publics dans les états membres et, en conséquence, le même niveau de jouissance des droits sociaux correspondants. Cela constituerait une avancée certaine par rapport à l'art 36 de la Charte de Nice.

A mon avis, sont dénués de tout fondement les objections (provenant d'observateurs, de partis politiques et de mouvements de la société civile qui soutiennent une position antieuropéenne) selon lesquelles chaque intervention (ou plusieurs interventions) des Institutions européennes équivaut (équivalent) concrètement à une ingérence dans les affaires intérieures de chaque Etat. «L'enrichissement des contenus civiques et sociaux de la citoyenneté européenne» peut constituer au contraire le seul instrument possible de légitimation des Institutions européennes, en partant de la base.

La «souveraineté nationale à tout prix» n'est plus un argument sur lequel bâtir l'avenir de l'Union Européenne, si l'on y tient vraiment.

Catania, 13 mars 2014.

## How we might recover from the economic and social crisis through European integration deepening

Evrard Claessens\*

Dear colleagues,

Please find herewith my answer to your two questions. Because of my specialty on trade, transport geography, I have focused my analysis on the second question, related to the upgrade of the committee of the regions.

1. What is the best INSTITUTIONAL FRAMEWORK for the Eurozone, in order for it to function in the most efficient, transparent and democratic way?
2. Blueprint for a Political (federal) Union, beginning with the Eurozone?

Answer:

There is a definite need for more institutional power, related to the interplay between on the one hand the *'trails'* (external trade, internal traffic and the current account) , and on the other hand the *monetary consequences of the 'European dividend'* (trade balances, both external & internal).

As is explained in the annex, especially the Eurozone suffers from structural trading asymmetries. Though the service sector accounts

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only for about 20% of total trade (visible and invisible), the visible trade allows substantial ‘embodied services’, for example in the form of value-added logistics, and so regional spillovers may occur. Therefore, the well-known monetary should be related to the geographical and, especially trading asymmetries as well.

**In terms of institutional blueprint, I suggest the rewriting of the concerned texts in the “draft TREATY establishing a Constitution for Europe”, i.e. Title VI The functioning of the Union, section 2 (The Union’s Advisory Bodies):**

- **Subsection 1: the committee of the regions. The present total number of members may be reordered to the NUTS-2 reality (e.g. ‘provinces’) with one delegate per region instead of the current list, which is a copy of the ECOSOC. Then, the draft text in the treaty can be strengthened from a purely advisory function in order to include a number of *federal* competences, related to regional development in (service) industries.**
- **Subsection 2: the economic and social committee may remain unchanged.**

The annex to this opinion statement selects three economically verifiable issues, related to regional (and monetary) inequality, i.e.

- The mainport dominance & the ‘horseshoe’ syndrome;
- The issue of trading asymmetry, especially the import dominance of some ‘gate-way’ ports,
- The general conduct of trading asymmetry, related to products (iT or Grubel-Lloyd GLP) and to member-gates (GLT).

They were presented at recent Jean Monnet conferences in co-authorship with:

- Dr. Vesna Stavrevska, my assistant to the Jean Monnet chair for the last decade, and
- Ba sc. Christophe Boogaerts, a last-year master student, conducting this research for his master thesis (due for June 2014).

This topics will also be presented in my application for a new Jean Monnet module, named “European Trading Trails”.

Sincerely yours;  
Evrard Claessens, chair Jean Monnet

## Annex

### 1. The horseshoe Syndrome

The EU external trade volumes are dominated by maritime relations. These EU **gateways** may portray a kind of *horseshoe* with the historical coasts. The mere shape of geography focusses on two *medieval rival port ranges* which penetrate the internal market, i.e. the Hamburg-Le Havre (*the ancient Hanseatic*) and the Mediterranean coast from Valencia to Genoa, including the North Adriatic. The ‘syndrome’ means that the Hamburg-Le Havre keep its excessive concentration of especially unloadings (*portrayed by the left-hand half-circles with the evident dominance of Rotterdam*). Nevertheless, other port regions, such as Antwerp and the Scan-Baltic region portray a more balanced pattern of loadings and unloading.

*Figure 1: port traffic by NUTS-2 regional detail*



Bron: Eurostat, haventrafiek per NUTS-2 Rechts =lossing, links = lading

## 2. Trade asymmetries

This discussion can be enlarged towards value trade taking all modes of transport and comparing the extra-EU trade balance with intra-EU traffic with a similar ‘balance’ within the internal market. Both balances add up to a kind of *European dividend*, revealing on which market segment performs best for each member state. So, Germany does not surprise with a dividend of about € 3,000 per capita, dominantly extra-EU (*totaling € 139 billion*) and to a lesser extent on the internal market (*57 billion*). All this reflects the *visible character* of the German economy (*visible trade*), sometimes in contrast to the other components of the *current account* (e.g. services).

What strikes is the asymmetric situation in the Netherlands with a similar total ‘dividend’ of circa € 3000 per inhabitant. The extra-EU imports of 231 miljard € obtains some “embodied services” by *value-added logistics* towards intra-European expeditions à 307miljard. This is especially an inbound transit business, including own production as well. These numbers are possibly an underestimation since ‘*simplified customs procedures*’ allow the ultimate clearance in the region of final destination.

In any case it remains striking that the Dutch ‘dividend’ of *49 billion*, necessitates a total trade flow of 930 billion, (*441 billion external and 489 billion internal*), of which the dividend represent a mere 5 %. The German dividend of *196 billion* represents almost 10% of the trade flows (*813 billion extra-EU and 1,223 billion € on the internal market*).

EU-28 trade (*in billion €*) compared to intra-EU traffic

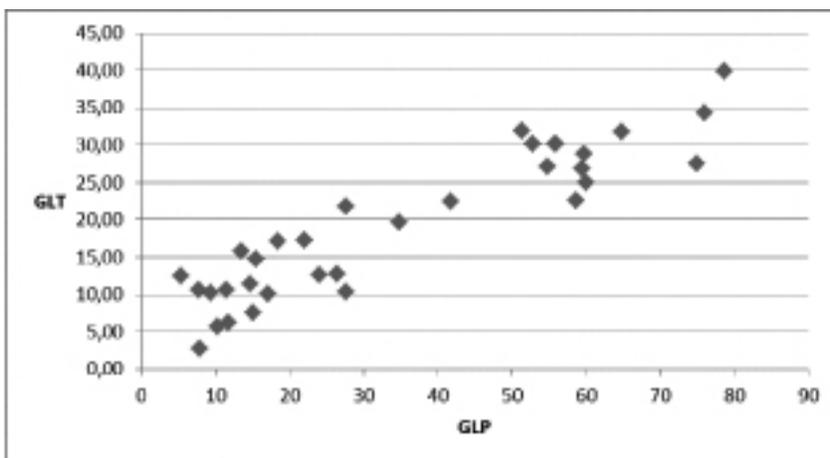
Extra-EU trade >>>>>			Euro- dividend		<<<<< Intra-EU ‘traffic’		
iMport	eXport	Balans	Total	Dividend	Arrivals	expedit.	Balans
332	471	<b>139</b>	Germany	<b>196</b>	573	650	<b>57</b>
172	181	<b>10</b>	France	<b>-77</b>	349	261	<b>-87</b>
251	181	<b>-97</b>	Un. King.	<b>-150</b>	236	183	<b>-53</b>
231	110	<b>-121</b>	Netherl.	<b>49</b>	119	370	<b>170</b>
107	95	<b>-12</b>	Belgium	<b>7</b>	228	246	<b>19</b>
21	30	<b>9</b>	Denmark	<b>12</b>	48	53	<b>5</b>
42	58	<b>16</b>	Sweden	<b>4</b>	87	75	<b>-12</b>
22	26	<b>4</b>	Finland	<b>-1</b>	37	32	<b>-5</b>
50	34	<b>-16</b>	Poland	<b>-16</b>	106	106	<b>0</b>

Note: trade-balance (extra-EU) plus (intra-EU) traffic balance = Euro-dividend (\*)

The table can be enlarged to the whole EU which extends the scope of this message. A new application for a Jean-Monnet module “trading trails” will be suggested this spring with these type of ‘visible asymmetries’ in the EU.

### 3. Intra-industry trade

A last point is the issues of intra-industry trade (iiT). Most textbooks on European integration consider trade within the same industry as source of trade growth and global competition (*e.g. American flying with Airbus and Europeans with Boeing*). The graph below pictures the top 30 external partners of the EU. The GLP measures this phenomenon by a simplified Grubel-Lloyd analysis on the horizontal axis. Most trade partners show a tendency for trading within the same industries (say  $5 < GLP < 40$ ), whereas others remain highly specialized (say raw materials etc.). What we recently discovered within the chair Jean Monnet is that the geographical asymmetry runs more or less parallel to the product Grubel-Lloyd. For this we applied the Grubel-Lloyd logic to the different gates of the EU. So the GLT (*something we invented*) is low when EU imports and exports are handled through the same ports and airports, and scores up to 40 when import gateways differ from outbound (air)ports. The correlation between the GLT and the GLP means that ‘main gates’ activate intra-industry trade.



The here-used GLT & GLP are only taking the ratio  $|X-M|/(X+M)$  instead of  $1-\{|X-M|/(X+M)\}$

These visible asymmetries may generate some monetary asymmetries as well, and hence jeopardize regional cohesion in backward regions.

## **European Union – A multilevel territorial governance: the role of local autonomies**

Fabio Zucca\*

### **Summary**

The question of a Europe of regions and local autonomies is highly topical today. Moreover, the negative effects of the globalization challenge can only be managed by creating a true European power – the United States of Europe – while also providing for strong involvement by the territories. Political as well as historical reflections on the role of the local authorities thus highlight the need to democratize the Committee of Regions, transforming the latter into a second-level elective body, adopting planning and financing measures that directly involve the regional and local authorities, and allocating supplementary resources in the area of territorial cooperation by adopting innovative methods of governance, such as European territorial agreements directly involving the municipalities. Finally, the European Union must put into play a widespread information and training policy in favour of the local administrators in order for the latter to more fully participate in governing the Union.

### **Historical analysis**

The theme of the Europe of regions and local autonomies is highly topical today. Political as well as historical reflections are becoming increasingly important even though each has a different view of the role of local governments and their importance as a political instrument for governing the profound changes which have occurred in Europe beginning in the middle of the last century.

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The process is rooted in historical events in which the local authorities, if they were not among the main protagonists, surely played a non-secondary role in the formation of Europe's political and administrative structures.<sup>1</sup> The early European Communities were created at the start of the 1950s based on the Treaties among the six sovereign nation-states: the Federal Republic of Germany, France, Italy, Belgium, the Netherlands and Luxembourg. Five of these states had centralized governments; only the FRG had a federal structure, with the *Länder* having true political and administrative competencies. The Treaty of Paris in 1951 regarding the European Coal and Steel Community (ECSC), the Rome Treaty in 1957 creating the European Economic Community (EEC) and the European Atomic Energy Community (EURATOM) did not even refer to the local authorities, apart from marginal citations of no political relevance. The preamble to the Treaty establishing the EEC merely referred to a harmonious economic development in the various countries with the objective of narrowing the differences among the European regions, which were considered more as geographical entities than political-territorial ones.

During the 1970s and '80s the European regions and local authorities began to play more of a political-administrative role as several centralized states restructured themselves by means of an increasingly marked administrative decentralization (Italy and France first and foremost, followed by Spain), while others, such as Belgium, applied a gradual federal reform to their state structure.<sup>2</sup> Moreover, in 1975 the European Regional Development Fund was created, which marked the start of an embryonic European regional policy. This policy was also spurred by the entry of new countries into the Union, such as Britain, which recognized a role for the local government level. The first Committee for regional policy was then formed within the Community,

<sup>1</sup> On the historical role of the local authorities in the European integration process, cf. Fabio Zucca, *Autonomie locali e federazione sovranazionale. La battaglia del Conseil des comune et régions d'Europe per l'unità europea*, preface by Valéry Giscard d'Estaing, Bologna, Il Mulino 2001.

<sup>2</sup> On the state and territorial structure of the various European countries and the processes presently under way, cf. Fiorenzo Ferlaino and Paolo Molinari, *Neofederalismo, neoregionalismo e intercomunalità. Geografia amministrativa dell'Italia e dell'Europa*, Bologna, Il Mulino, 2009 pp. 33-256.

and this tendency was gradually reinforced and further acknowledged when the European Parliament, elected with direct universal suffrage on June 7-10<sup>th</sup>, 1979,<sup>3</sup> convened the First Conference of the Regions at Strasbourg on January 25-27<sup>th</sup>, 1984.

At the same time the Draft Treaty establishing the European Union, promoted and drew by Altiero Spinelli and voted on in plenary session by the European Parliament on September 1983, and approved by absolute majority on February 14<sup>th</sup>, 1984, officially recognized the need for the participation of the local and regional authorities in the construction of the European Union.

The successive Treaties strengthened the presence and role of the local governments as an active part in the European integration process.

### **Models of territorial organization and of new governance**

Cultural diversity, which is Europe's great heritage, has produced a peculiar reorientation of the state/regions relationship and led to the creation of vast spectrum of regions, which can be grouped into five categories that at times overlap within the same country:

- 1) Administrative districts (Portugal and the United Kingdom have both administrative districts as well as administrative regions and, in the case of the U.K., autonomous or political regions as well);
- 2) Regions as second-level territorial entities in the form of groupings of local authorities (Germany and the Netherlands);
- 3) Administrative regions (France, Portugal, the U.K.);
- 4) Autonomous or political regions (Belgium, Italy, the Netherlands, Portugal, the U.K. and Spain);
- 5) Federated regions (Austria, Belgium, Germany).

<sup>3</sup> On the historical significance of the election of the first European Parliament, cf. the still unsurpassed study by Luigi Vittorio Majocchi and Francesco Rossolillo entitled *Il Parlamento europeo. Significato storico di un'elezione*, Napoli, Guida, 1979. On the role of the local authorities in favour of the election of the first European Parliament, cf. Fabio Zucca, *La contribution du Conseil des communes d'Europe à la première élection du Parlement européen*, in <<Historiens de l'Europe contemporaine>>, published by the Groupe de liaison des historiens auprès des Communautés, n. 1-4, 1996, pp. 23-45.

These different categories reflect the variety of actors and of international or supranational processes, and in general the profound reorganization of the state and administrative structure under way in Europe. This is the context in which we can place the independence movement in Scotland as well as the referendum for the secession of Catalonia in Spain. In the face of such events, the European Union should not take on a closed attitude and threaten expulsion. On the contrary: European institutions should play an active role in supporting phenomena that could, by signalling a strong change with respect to the past and leading to a distancing from the traditional comparative schema in favour of new conceptual models, represent an impetus in the direction of federal unification through a progressive regionalization in the distribution of political power.

It must be stressed that this impetus is in accord with the objectives of the supporters of a *multi-level governance* (MLG) of European policies as an alternative to the intergovernmental management model (IGM), which has characterized relations inside the Communities and later the Union. In the IGM model the main decision-makers are the member states of the Union, while in the MLG model there is both a shift of competencies upwards (toward the European institutions) and downwards, toward the local governments.<sup>4</sup>

If one believes in the utility of the role of the MLG in the globalization challenge, in order to guarantee a high level of economic and social co-existence in Europe, then one must hope, going back to the historical positions of the Council of European Municipalities and Regions (CEMR), that the Committee of the Regions will play a more conspicuous political role thus increasing the participation of citizens in the EU governing and in the challenges of globalization. Undoubtedly, this process should be managed so that, through the new legal instruments that exist today, such as the European Grouping of Territorial Cooperation (EGTC), created in 2006, it will become possible to respond to the present global crisis with actions that favour a conscious political and economic development that finally involves

<sup>4</sup> On the MGL see, in particular, Gary Marks, *Structural Policy and Multilevel Governance in the EC*, in *The State of the European Community*, ed. by A. Cafruny and S. G. Rosenthal, Harlow, Longman, 1993, v. 2.

European citizens in the process under way, even at the local government level.

### **Possible strategies for multilevel governance**

- Considering the decentralization process, which at times has assumed a federal aspect, under way in many European Union countries and which has led among other things to greater public investment at the local and regional levels, and thus to more strategic decisions being entrusted to the local governments;
- Considering that 75% of the European cohesion policy fund is earmarked for the objectives set forth in the Lisbon Agenda, which include actions linked to territorial policies. Moreover, the regional and local authorities represent (2009 data) 16% of the Gross Domestic Product (GDP) of the 27-member European Union, one-third of its public expenditure, 56% of public employment, and, more importantly, two-thirds of public investment in the entire Union.<sup>5</sup>

It is necessary to adapt European policy to the new challenges by defining its objectives and thus the budget necessary for their achievement; however, consideration must be given to the European local governments and their crucial role both in terms of expenditures and of economic recovery. Furthermore, the negative effects of the globalization challenge can be managed only through the creation of a true European political entity – the United States of Europe – which also entails a strong territorial involvement:

- The Committee of the Regions must be democratized by its transformation into a second-level elective body that guarantees appropriate representation for the regions, cities and small municipalities by setting quotas which are proportional as well as representative on an interregional basis;
- The planning, and thus financing, of projects for macro-regional development must begin with the involvement of the regional and local authorities in their conception and drafting in order

<sup>5</sup> Reference: *Dexia*, <http://www.dexia.be/fr/particulier/pressPressrelease20090295-localauthorities.htm>.

- that these projects respond to the true needs of the territories and involve European citizens directly in the construction of a MLG;
- The EGTC must be reviewed taking into account the experiences gained during its initial application phase, which were not always positive due to the complexity of the regulations for its creation and implementation;
  - Supplementary resources must be allocated for territorial cooperation by also encouraging innovative methods of governance, such as European territorial pacts that involve, above all, the local authorities, in particular the municipalities, through their territorial organizations as well;
  - The European Union must produce a widespread information and educational policy to enable local administrators to increase their participation in the management of the Union and in partnership activities as well as to bring citizens closer to the Community.

The European Commission, Council and Parliament must be ever conscious of the need for the local authorities to play a greater role regarding the challenges of globalization, such as climate change, energy policy and the internal market, taking account of the decentralization process (often of a federal nature) under way in many European Union countries. This process has, among other things, led to greater public investment at the local and regional levels and thus to more strategic decisions being entrusted to the local governments.

The final goal should be to utilize the European local governmental level to meet the economic challenges of globalization and to win the battle for the construction of the United States of Europe, a process in which European citizens should play a founding role.

**KEY WORDS:** Multi-level governance, local authorities

# How we might recover from the economic and social crisis through European integration deepening

Jean Monnet Conference 2013:  
THE POLITICAL IMPLICATIONS OF EUROPEAN ECONOMIC  
INTEGRATION TOWARDS A POLITICAL UNION

Felice Gnagnarella\*

## Proposals on the Following Matters:

1. What is the Best Institutional Framework for the Eurozone, in Order for It to Function in the Most Efficient, Transparent and Democratic Manner?
2. Blueprint for a Political (Federal) Union Beginning with the Eurozone

### 1. *Introduction*

These two matters can be better understood if one answers first another (and perhaps more) important question: what the European Union and the Eurozone are for? At the end of the Second World War, when in 1951 the European Coal and Steel Community was established, it was easy enough to answer that question: it was needed a “Union” among the European States in order to stop multiple and upsetting carnages that had been spreading out in the Old Continent for centuries, if not millennia. From this point of view, it is possible to say that the European integration process must be generally considered as a great success: since the end of Second World War, we have been witnessing a long period of peace, which has never been experimented in this part of the planet before. This is an indisputable fact that, as such, requires a completely changed perspective over the current EU’s purposes: given that within Europe it is not any more a problem of war and peace, it is

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necessary to understand what today – that is after more than sixty years of its life – the Union stands for.

In fact, as the EU is neither a medical order nor a dogma, it could be useful to rephrase the question: can we

live without the Union and the Eurozone? The answer is very simple: yes, of course; there are no doubts about that. Yet, we should ask ourselves about the conditions in which we will live without the EU and Eurozone. In brief, what would the economic and social consequences of the European Union dissolution be?

Apart from some eurosceptics – who believe that the EU and the Eurozone are historical tragedies, even because they are intended against the “childish myth of the State’s sovereignty” (as Luigi Einaudi called it in 1945) – the majority of analysts agree that, under the pressing phenomena of globalization and immigration, the dissolution of both the UE and the Euro would affect million of European citizens, making their situations even worse. In this sense, the current economic and social crisis shows that the European integration process finds itself at a very important juncture. In other terms, it is time to choose an alternative: European leaders have to decide whether to walk further in the path of European integration or to opt for its ultimate dissolution – that is a return to national-sovereignty States, as it was before the Second World War.

So that, if we decide to save the EU and go further in the process of European integration, it is necessary to clarify that, institutionally speaking, a more solid framework is important for both in terms of reducing the likelihood of future crises and in order to deal with the existing crisis.

In sum, from a political and juridical perspective, no credible crisis mechanism will be established as long as the institutional framework of the EU and the Euro is not strong enough to reduce the probability of future crises to an acceptable (juridical and political) level. This is more evident when taking into account the Eurozone.

## **2. Some proposals**

Some European policy-makers have been reluctant to concede that the Eurozone is institutionally flawed. Even now (2014) many of them assert that the current economic and social crisis is not one of the

Eurozone itself, but of errant behaviour within it: if certain States had not broken the rules, the Eurozone would never have run into trouble. The way to restore confidence, it follows, is to ensure that rules are rigorously enforced. It is correct to think that these claims are wrong on almost every count.

It is clear that a monetary union outside a fiscal union and without both a real Central Bank and the EU's single market is a deeply unstable arrangement; and the efforts to fix that institutional flaw with stricter and more rigid rules are making the Eurozone less stable, not more. Yet, for some European policy-makers rules (that is *governance*) exist because common institutions (that is *government*) do not. Nevertheless, not only the history of European integration process, but also the history of the Western Legal Systems demonstrates that rules are no substitute for common (political-public) institutions. Furthermore, tighter and stricter rules do not amount to political institutions.

The hallmark of integrated institution is "mutualisation" that, in financial and economic fields, implies banking Union, fiscal union, greater pooling of budgetary resources, a more integrated market, and joint debt issuance. Now, tighter rules are not so much a road to mutualisation, as an attempt to prevent economic and social crisis from happening. In this respect, it is known that the Euro is a currency union without a treasury or a lender of last resort. The European policy framework is ill-suited to a big, largely closed, economy, and the national markets are insufficiently flexible and imperfectly integrated.

For all these reasons, it is reasonable to believe that, as said before, European leaders now face a choice. They must either address the Eurozone's institutional underpinnings or risk a disorderly break-up. In order to avoid this last disaster scenario (which will produce a devastating result not only for debtor Countries, but also for Europe as a whole), it is appropriate to think that the EU needs to approve at least four interrelated reforms:

- 1) mutualisation of sovereign borrowing costs, via the adoption of a common bond;
- 2) broader mandate for the European Central Bank;
- 3) coordinated fiscal policy;
- 4) greater market integration.

None of these reforms is sufficient. But each is necessary.

It is well known that the legal, political and democratic obstacles to such a path of action are huge. Nonetheless, the Euro crisis is not just a debt crisis and a banking crisis, but also a governance crisis. Moreover, decisions regarding the institutional design of the banking union, fiscal union, and other institutions are so problematic because member States are all attempting to pursue their own (often conflicting) interests. For this, it should be right to think that the time for ambiguity and muddling through is over.

### ***2.1. Mutualisation of Sovereignty Debts***

In the longer-term only the mutualisation of debt issuance will generate the low (risk-free) interest rate, which is necessary to put the State's public finances on a sound footing and lay the basis for a return to economic growth. All Eurozone member-States should therefore finance debt by issuing bonds, which would be jointly guaranteed by all of them.

Now, the problem with Eurobonds is well known, and it is mainly related to the efficient prevention of fiscally irresponsible States. A possible solution would be for member-States to issue debt as Eurobonds up to a certain level – for example, 60 per cent of GDP – but be individually responsible for any debt above it. This would give States with high levels of public debt an incentive to consolidate their public finances. However, for a number of economies, the additional borrowing would simply be too expensive. A better solution would therefore be for a new, independent fiscal body to establish borrowing targets for each Country and for a European debt agency to issue Eurobonds (up to an agreed level) on behalf of the member-States.

These fiscal rules should be set with reference to the cyclically (adjusted) fiscal position for each State, which have to be permitted to run deficits when their cyclical positions demand it. Inappropriately pro-cyclical fiscal policies and ruinous interest rates depress economic activity and with it the investment needed to boost productivity. The Eurozone's States would no doubt struggle to agree on the composition of the new fiscal body. A board of certain number of people, one from each Eurozone economy, would be unwieldy and unlikely to win the support of the Eurozone's principal creditor Countries. At the same time, a board dominated by the creditor States would be unlikely to win

the backing of the debtor ones. A board of economists and fiscal expert, from the big Eurozone economies, the European Commission and the European Central Bank (ECB) might form a good basis.

In any case, such a reform would necessary require a high level of political integration, including a Eurozone budget and revenue-raising powers.

## ***2.2. Real European Central Bank***

The Eurozone crisis has shown that a shared currency with an increasingly integrated financial sector cannot co-exist with national regimes for supervising and rescuing banks. The problem is not just that the supervisory banking architecture is not sufficiently effective, but also that the current European system is more prone to sovereign debt crises, which is mutually alimented by member-States. Under such a system, conservatively-run banks that are located in States with weak sovereigns are vulnerable to runs on their deposits – this is evident when taking into account States (like Greece) perceived to be at risk either of defaulting or of leaving the Eurozone.

In this respect, a crucial step would be to set up a jointly-funded, the Eurozone-wide deposit protection scheme. The most stable arrangement would be for the European scheme to cover all banks. This would help to reduce the vulnerability of banks in highly indebted States.

Now, if fiscal backstops to the Eurozone's banking sector were to be 'Europeanised', then banking supervision might have to be as well. In other words, this kind of reform would necessarily require that the European Central Bank (ECB) have greater powers over national authorities than it does at present. A strengthened ECB would help to weaken the unhealthily close relationships that often prevail between local politicians, banks and national supervisors in the member-States; which encourage damaging policies of regulatory forbearance and act as impediments to fully institutional reform.

In this sense, it is useful to consider that in the last two years the EU has been developing a single set of rules for the supervision and regulation of the financial services. More specifically, in the banking union the implementation of these common rules will be centralised. Supervision and resolution of banks will move from the national to the EU level: to the Single Supervisory Mechanism and the Single Resolution Mechanism. All Eurozone member-States will automatically

become a part of the banking union. Non-euro area Countries may also join the banking union if they wish to do so<sup>1</sup>. Work is currently underway on the next piece of the banking union structure, the Single Resolution Mechanism (SRM). This mechanism will complement the Single Supervisory Mechanism (SSM). The resolution of non-viable banks will move from the national to the EU level. Should a bank supervised directly by the ECB risk becoming unviable, a single resolution authority will be in charge of its resolution.

In any case, in December 2013 the European Council adopted its position on the SRM regulation: Ministers decided that certain provisions should be governed by an “intergovernmental agreement” rather than the SRM regulation in order not to risk a conflict with some State’s Constitutions<sup>2</sup>. So, although this framework sets out uniform rules for resolution, national regulators will retain a certain degree of flexibility in applying these rules. Specifically, within certain limits they have the scope to protect groups of creditors against losses in order to maintain critical banking functions or prevent contagion<sup>3</sup>.

For this reason, that reform is a step in the right direction of a full banking union. But, in this field the institutional design is not completed yet. A banking union can only be effective if supervision, resolution and

<sup>1</sup> Under the **Single Supervisory Mechanism** (SSM) responsibility for **bank supervision** in the Euro area will be shifted from national authorities to the ECB. The ECB will supervise systemically important banks directly and national authorities will continue to carry out a number of supervisory tasks for smaller financial institutions. The process will start in the spring of 2014 with an asset quality review of the banks that will be moved under the umbrella of the ECB and will continue with EU-wide stress tests. The outcome of this exercise is expected to be known in the autumn of 2014. If it transpires that some banks need to be recapitalised, they will have to raise the required amount of capital before they move under the supervision of the ECB. This exercise will improve the transparency of the European financial system and thus ensure solid foundations on which the ECB can build when taking over its supervisory role. The SSM is expected to be fully operational as of the autumn of 2014.

<sup>2</sup> The negotiations on the intergovernmental agreement among Member States, and between the Council and the European Parliament on the Regulation, started in January 2014. The aim is to reach final agreement before April 2014 so that the SRM can be operational as of 1 January 2016.

<sup>3</sup> We have to remember that, clearly, the European Commission has presented a significantly more ambitious proposal regarding the transfer of powers to itself and regarding the establishment of a common resolution fund than some of member-States – and, by extension, the European Council – currently consider desirable.

emergency funds are established at the same institutional (European) level. Although the implementation of the current reform can reduce costs for stronger banks and taxpayers, a common resolution fund will ultimately remain essential in order to improve the stability of the Euro. And it is precisely on this crucial issue that the policy-makers (i.e. European leaders) continue to disagree.

In this sense, it must be clarified that, if the ECB had to take economic activity into account, not only would Eurozone interest rates be lower, but the European Central Bank would also be pumping money directly into the Eurozone economy. In this manner, much like the US Federal Reserve, the Bank of Japan and the Bank of England, the ECB would engage in so-called quantitative easing, the un-sterilised purchasing of government debt and other assets.

In sum, common supervision and a single European resolution mechanism are a political condition for having a resolution fund. As long as policy-makers fail to find a credible solution to the current problems, it will be difficult to see the establishment of a full banking union. As a result, the policy for both the current crisis and the policy to prevent future crises are clearly tied up together, with the unwillingness of politicians to take the inevitable losses of the current banking problems being reflected in the inadequate institutional framework.

### ***2.3. A coordinated (United) Fiscal Policy***

The member-States' fiscal policy has to be co-ordinated to ensure the maintenance of demand across the Eurozone. This requires an acknowledgement of the connection between the States' fiscal positions and their external balances in a monetary union that lacks fiscal transfers.

The Eurozone clearly needs to agree fiscal targets and a regime to monitor them effectively. But, the announcement of tough targets without any action to create the conditions under which they can be met will do nothing to prevent the future (economic and social) crisis and restore investor confidence in the Eurozone. It is almost impossible for economies to deleverage against a backdrop of economic stagnation or contraction. A new fiscal regime needs to be accompanied by a symmetric imbalances procedure.

#### **2.4. Greater Single Market**

A shared currency cannot rest on a patchwork quilt of national markets. Factors of production do not move as freely between France and Italy as say between New Jersey and Delaware. If factors cannot move freely, differences in prices and productivity will become difficult to reverse, increasing the risk that interest rates will be too high for some European States and too low for others.

Within the Eurozone, trade in goods is highly integrated, but this is not the case for services and labour. If labour were more mobile within the Eurozone, differences in wage growth between the member-States would have been less marked, addressing one of the reasons for the large trade imbalances. In order to achieve this result, the UE may establish a minimum wage for economic area, which includes some adjacent (geographically and economically speaking) European States.

Increased labour mobility within the currency union may be difficult to bring about due to language differences, but it does not mean that Eurozone policy-makers should not try.

### **3. Blueprint for a Political (Federal) Union Beginning with the Eurozone**

From the European legal system point of view, it is reasonable to believe that, beginning with the Eurozone, the implementation of those proposals would be a major step towards a true political (federal) Union. This is because they would design an institutional framework that would necessarily have to be administered by real federal bodies. Central tax resources, a fully-fledged banking union, and mutualized debt would in other words become powerful symbols of a real United (political) Europe. Besides, the need for strong democratic oversight will spur the creation of a revitalized European Parliament and (perhaps) directly elected Commission, affirming a well-proportioned relationship between *governance* (rules) and *government* (public institutions) at the European level. Which could finally evolve into the system of a United States of Europe able to stand up alongside the leading powers of the emerging multipolar and globalised world.

If the Eurozone had been a fully-fledged political (federal) union, it would not be in its current predicament. Its aggregate public debt and deficit ratios, after all, are no worse than the US's. But, the Eurozone

is not a political union, which is why it faces an existential crisis, and the US does not. The absence of such institutional framework explains why economic imbalances between as say Germany and Spain matter in a way that economic imbalance between Delaware and New Jersey do not. And this explains why some Eurozone member-States face sovereign debt crises, while States in the US do not. Unlike the US's States, Countries of the Eurozone did not assume joint liability for rescuing banks. More specifically, during the last five years financial vulnerabilities in distressed Countries have been exacerbated by both the absence of fiscal integration at European level and the difficulties of adjustment in a monetary union, which is politically (that is to say institutionally) incomplete.

On the other hand, the punishing (and self-defeating) economic adjustments imposed on debtor Countries contrasts with the self-righteous complacency shown in the creditor member-States. Not only have the latter insisted that debtor States implement the kind of structural reforms for which they have shown no enthusiasm themselves (like opening services to greater competition). But they have also been reluctant to accept the potential for write-downs among their banks. So the very States that have insisted on wrenching economic adjustments in debtor Countries have often been the ones that have done the most to conceal the fragility of their own banks. So, this asymmetry in treatment has deepened the financial-economic crisis and increased the social cost of resolving it.

It is now clear that a currency shared by fiscally sovereign member-States is more vulnerable to losses of confidence than a monetary and political union that is more fully integrated.

#### **4. Conclusion**

The Eurozone's economic and social crisis is a crisis of politics and democracy. It is clear that the Eurozone will remain an unstable, unless critical steps are taken to place it on a more sustainable institutional framework. But it is equally clear that European policy-makers have no democratic mandate in the short term to take the steps required. The reason is that greater integration would turn the EU and the Eurozone into the very thing that some European leaders said it would never be: a 'transfer union', with joint debt issuance and greater control from the

centre over tax and spending policy in the member-States. In any case, the same EU leaders have now to decide, as did the European policy-makers at the end of Second World War; even because there is not much difference between social and human costs of the current crisis and the social and human produced by a war.

As said before, the European leaders have now to decide. Either they can accept that the Eurozone is institutionally flawed and do what is necessary to turn it into a more stable institutional and legal framework; this will necessarily require some of the States to lose part of the national sovereignty, in the classical sense of the term. Or they can continue to nourish the “Euro fiction”, that confidence can be restored by the adoption of (tougher and more rigid) rules. The final vision is that that this last scenario will condemn the EU and the Eurozone as to self-defeating policies that hasten crisis, contagion defaults and eventual destroy the Union as a whole, producing intolerable social and human costs. In sum, it is time to remember that State sovereignty and the Euro’s rigid rules cannot be considered as ends in themselves, but they are simply instruments that aim at assuring a better life for European citizens in this part of the planet.

**KEYWORDS:** Eurozone; Rules; Institutions; Mutualization, Fiscal Union, Bank Union; Integrated Market; Decision-Makers; Sovereignty; Democratization.

# Economic and Political Integration in the Eurozone: a Challenge for the European Union

Francesco Sciaudone\*

## 1. Introduction

This contribution is aimed to provide some insights concerning the characteristics that the Eurozone should have in order to become a fully-integrated part of the EU legal system and to be the center of a deepened, enhanced integration.

The Euro has represented a profound change. It can be considered as *the* landmark on the European integration pathway. It is not by chance that Euro-crisis coincided with a political emergency<sup>1</sup>, during which the core itself of European integration has been put under question.

Restoring confidence in the Eurozone has been the necessary step to take in order to restore confidence in the EU as a political entity. As President Barroso stressed several times during his speech of 14<sup>th</sup> of November 2013<sup>2</sup>, regaining confidence in the Euro has needed a strong political commitment. It has been a political choice.

The same degree of commitment is currently essential in order to develop a sound Eurozone governance, capable to head future economic challenges. As also Member States outside of the Euro have been affected by the Euro-crisis, it is evident that building up a sound Eurozone governance is of vital importance for the whole European Union.

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<sup>1</sup> It is worth to remember that, in very short terms, the Euro crisis has been originated by a combination of a sovereign debt crisis and a banking crisis, fuelled by the spread between the degrees of competitiveness of the various Member States in the Eurozone.

<sup>2</sup> Barroso, J.M, *Jean Monnet ECSA World Conference 2013: Opening Speech The Political Implications Of European Economic Integration – Towards A Political Union*, 14 November 2013, Brussels.

## 2. A sound institutional framework: enhancing efficiency, transparency, and accountability in the Eurozone

The debate raised on the European response to the economic crisis has highlighted at which extent Eurozone stability is key for the future of the EU. The establishment of a more solid institutional framework for the Eurozone could no longer be procrastinated.

In these regards, can a strong political *consensus* sustain an institutional framework for the Eurozone other than the most efficient, transparent and democratic? Can Eurozone Member States opt for a system not fully consistent with the principles of accountability developed in decades of European integration? Is it prudent to build up the Eurozone governance outside the existent EU institutional framework? In my opinion, *no* is the sole answer for all these questions.

Despite the fact that economic integration was mainly prompted by a vigorous political momentum (namely, *post*-Maastricht), the most significant resistance in transferring effective sovereignty instruments to the European institutions (especially following the creation of the single currency) has surely to be appointed as the main cause of the incomplete picture of the Eurozone institutional framework<sup>3</sup>.

An erratic political will at the EU level, together with the absence of a clear political mandate to European institutions, compelled the Eurozone governance to rely on a fragile hybrid model that had dramatically shown its inadequacy.

The response of the EU to the crisis was, at least in the very beginning, mainly focused on sustaining national recovery measures<sup>4</sup>. Even when effective, those measures revealed the critical gaps of the EU architecture. As deep recession in some Eurozone States created a risk of a '*spill-over effect*', European policymakers were urged to take important actions to strengthen economic governance<sup>5</sup>: *Six-Pack* legislation, the *Fiscal Compact* and *Two-Pack* regulation.

<sup>3</sup> See. Hodson, D., Puetter, U., *The European Union and the Economic Crisis* in M. Cini and N. Pérez-Solórzano Borragán (eds.) *European Union Politics*, 4th edition, (Oxford: Oxford University Press): 367-39 (2013).

<sup>4</sup> See. Visco, I., *The Crisis of Sovereign Debts and the Process of European Integration*, in *The Federalist Debate*, 2013 (3), <http://www.federalist-debate.org>.

<sup>5</sup> Baratta, R., *Legal Issues of the "Fiscal Compact"*. *Searching for a mature democratic governance of the Euro*, in de Witte, B., Hérítier, A., Trechsel, A., (Eds), *The Euro Crisis and the State of European Democracy*, European University Institute, Fiesole, 2013.

After the summit of June 2012, a clear political *consensus* emerged, finally aimed to develop the “*specific and time-bound road map for the achievement of a genuine economic and monetary union*”<sup>6</sup> that the crisis revealed as mandatory.

As highlighted most notably in the *Four Presidents report*<sup>7</sup>, deepening economic integration and building-up a common economic policy must be accompanied by a commensurate involvement of political institutions. In these regards, the Eurozone governance model has therefore not merely to be capable to operate efficiently (and to respond promptly) but also to ensure accountability, with a high level democratic participation and transparency.

What follows is an overview of what the import of all these characteristics should be in practice.

**a) An efficient model of governance, avoiding duplication and inconsistencies**

In the last years, the Eurozone governance has surely suffered in terms of efficiency. The manifest difficulties in finding rapid and effective responses to the challenges of the global crisis in the Eurozone (also caused by a volatile political *consensus* on economic policies of wider impact) has mainly to be attributed to the inherent limits of the model originally designed in the Treaties as substantially intergovernmental<sup>8</sup>.

Even though, “*never in the past have so many competences been exercised at EU level*”<sup>9</sup>, the inadequacy of the EU institutional framework to respond to the need of an univocal and consistent governance, opened the debate around the creation of a *new* political and institutional scheme, overcoming (or, at least, re-shaping) the framework designed by the Treaties.

<sup>6</sup> European Council, Euro Area Summit Statement, 29 June 2012.

<sup>7</sup> Van Rompuy, H (with J.M. Barroso, J-C Juncker and M. Draghi), *Towards a Genuine Economic and Monetary Union*, 5 December 2012.

<sup>8</sup> Allard C., Koeva Brooks, P.; Bluedorn J-C; Bornhorst, F.; Ohnsorge F., Christopherson, K., *Toward A Fiscal Union for Euro Area*, International Monetary Fund Papers 2013 (9), [www.imf.org](http://www.imf.org).

<sup>9</sup> Barroso, J.M, *The European Way Forward: Leadership and Ownership*, SPEECH/12/351.

I share the view, as also expressed by President Barroso (in his abovementioned speech), that the need of a more stable and predictable governance cannot drive the Eurozone to a duplication of bodies. On the contrary, it is necessary for the Eurozone to fully adhere with the EU decision making process, relying on the institutional structures provided for by the Lisbon Treaty and preserving its *acquis*.

Establishing the Eurozone governance framework will have, among many others, the advantage of avoiding potential disruptive inconsistencies between economic and monetary policies (within the Eurozone) and the other EU economic policies, especially those aimed to growth.

### **b) Democratic legitimacy: which role for the European Parliament?**

The second, crucial characteristic of the Eurozone governance model lies on its full democratic legitimacy<sup>10</sup>. Whether it is undeniable that the role played by the European Council has been key in setting up measures to cope with the Eurozone crisis, it is equally true that the European Parliament has experienced a marginalization, having diminished scrutiny powers<sup>11</sup>. Such a model, with its democratic *deficit*, cannot be sustainable in the long term.

Shifting away from the Euro-crisis scenario, any approach to a sound Eurozone governance has to fully comply with the principle of democracy<sup>12</sup>. In this context, the process towards an enhanced deepened economic and monetary integration has necessarily to include the attribution of full scrutiny powers to the European Parliament, *vis-à-vis* the other institutions of the Eurozone<sup>13</sup>.

<sup>10</sup> Fabbrini, S., *After The Euro Crisis: The President Of Europe. A New Paradigm For Increasing Legitimacy And Effectiveness In The EU*, CEPS Commentary, CEPS, Brussels, June 2012.

<sup>11</sup> Wolff, G., Hallerberg, M. Marzinotto, B., *How effective and legitimate is the European semester? Increasing role of the European parliament*, Bruegel Working Papers, September 2011.

<sup>12</sup> Eleftheriadis, P., *Democratic Accountability For A Monetary Union*, in Bellamy R. and Staiger U (eds), *The Eurozone Crisis and the Democratic Deficit*, London, UCL, 2014.

<sup>13</sup> On the risks, see notably: Bini Smaghi L., *Austerity: European democracies against the wall*, CEPS, Brussels, 2013, p. 130-135.

This scenario raises various concerns. Among those, one is of extreme importance. Strengthening the European Parliament role would also imply a possible differentiation among the MEPs, limiting the voting rights only to MEPs elected in Eurozone Member States<sup>14</sup>. An ongoing debate is offering alternative solutions, even the creation of a new elected body (a sort of “Euro-parliament”).

As already mentioned, promoting a new assembly (even whether composed by members of national Parliaments) would represent a duplication that will negatively affect the Eurozone.

Moreover, any limitation to voting rights within the European Parliament should be considered extremely harmful. As the single currency lies at the foundation of European integration, the simple cut-off of a “Euro-vote”, within the European Parliament, would have a dramatic impact on the political cohesion of the European Union, excluding MEPs representing EU citizens voting outside of the Eurozone.

As a consequence, the only viable solution to strengthen the democratic component in the Eurozone governance remains to gradually enhance the role of the European Parliament (with no limitation of MEPs’ voting rights)<sup>15</sup>. It is indeed desirable to expand progressively the participation of the European Parliament, transferring the scrutiny powers that belong to the ordinary legislative procedure.

### **c) Transparency as predictability of the policy-making choices within the Eurozone**

A third essential characteristic of the Eurozone governance is transparency<sup>16</sup>. A high degree of transparency, in the meaning of openness concerning the operating methods and stability targets of Eurozone governance, is able to boost confidence in its decision-makers. Transparency allows market operators and citizens to more precisely

<sup>14</sup> For an overview, see: Maureas, A., *From EMU to DEMU: The Democratic Legitimacy of the EU and the European Parliament*, IAI Working Papers 2013 (11).

<sup>15</sup> De Schoutheete, P., Micossi, S., *On Political Union in Europe: The changing landscape of decisionmaking and political accountability*, No. 4 / 21, CEPS Essays, 2013.

<sup>16</sup> For an overview, see: Heritier, A., *Policy Effectiveness and Transparency in European Policy-Making*, in Jones E., Menon A. & Weatherill S.(eds), *The Oxford Handbook of The European Union*, Oxford, OUP, 2012, 676-689.

predict future policy moves, mitigating the risks of instability caused by the errors in the private sector<sup>17</sup>.

In short terms, concerning the characteristics of the Eurozone model able to enhance transparency<sup>18</sup>, it is worth to focus on two of them in particular.

First, it is essential for the Eurozone governance to have a predetermined and timely policy agenda. In recent years, the unsteadiness of EU policy making process has surely lowered the chance of providing a better understanding of possible actions in Eurozone governance. Avoiding both the procrastination of expected decisions, or reaching political agreement in intergovernmental *emergency* summits, is in these regards more than desirable.

Another necessary characteristic is related to the monitoring powers, in particular in favour of the European Parliament. The possibility to schedule regular hearings in which the other institutions involved in the Eurozone governance are briefed is one of the best mean to provide reliable data, fully intelligible by market operators and citizens.

### **3. Eurozone: shifting the EU architecture towards a deepened integration**

Following the model previously outlined, a sound Eurozone governance is going to have the necessary characteristic to be more efficient in: (i) coping with economic and financial distress; (ii) functioning in compliance with democratic principles and accountability; (iii) maintain a high level of confidence within the market.

By being fully integrated in the multi-level EU model, the Eurozone – the policy area with the highest level of political integration – has an impact on the integration process, boosting the EU architecture towards a more integrated model<sup>19</sup>.

<sup>17</sup> See, especially in the context of the banking sector: Gandrud C., Hallerberg, M., *Supervisory transparency in the European banking union*, Bruegel Policy Contributions, 2014 (01).

<sup>18</sup> Biefang-Frisancho Mariscal I., Howells, P., *Monetary Policy Transparency: Lessons from Germany and the Eurozone*, Bristol Business School Working Papers 20114.

<sup>19</sup> European Commission, 2012, *A Blueprint for a Deep and genuine Economic and Monetary Union – Launching the Debate*, November 30, 2012.

It is worth to stress on the fact that this process has started. Measures implementing an increased budgetary integration (notably, the *Stability and growth pact reform*, the *Fiscal compact* and finally the *Two pack*) have enhanced fiscal coordination among EU Member States. Tighten rules on budgetary issues for the sake of stability has provided the foundation of a genuine fiscal union. In parallel, European financial integration (aimed to neutralize the negative outcomes on Euro stability of national policies) has accelerated the completion of the European banking union legal framework<sup>20</sup>.

Finally, it is important to remark that Eurozone policies will coexist with (and almost surely influence) all the other EU policies<sup>21</sup>. It is indeed unrealistic to envisage – for example – the EU external policy conducted without taking into consideration the Eurozone. The same can be said for EU Enlargement or for international trade agreements<sup>22</sup>.

#### **4. Conclusions**

In comparison with the decades preceding the crisis<sup>23</sup>, European political integration has indeed accelerated: a result that has been hard to reach. It is worth to remember that, only few months ago, exit the Euro seemed a realistic scenario for some Member States.

The factors foreclosing the achievement of a sound governance in the Eurozone have been (gradually) removed only by the means of a strong political commitment, shared by the European Union as a whole (Member States and EU Institutions, together). As the Eurozone is still *in fieri*, the same solid political *consensus* (necessarily subjected to full democratic scrutiny) is even more necessary in the future.

<sup>20</sup> See, in these regards; Breuss, F., *European Banking Union*, WIFO Working Paper (454/2013), September 2013; Ioannidou, V., *A first step towards a banking union*, in Beck, T., *Banking Union for Europe: Risks and Challenges*, CEPR, 2012.

<sup>21</sup> Hinarejos, A., *Fiscal federalism in the European Union: Evolution and future choices for EMU*, *Common Market Law Review*, 2013 (6), pp. 1621.

<sup>22</sup> See, for example, in these regards: European Commission, *Eu-U.S Transatlantic Trade And Investment Partnership – Cooperation on financial services regulation* (January 2014) available on <http://trade.ec.europa.eu/>

<sup>23</sup> Hodson, D., *EMU and political union: what, if anything, have we learned from the euro's first decade?*, in *Journal of European Public Policy*, 2009 (16), 508.

A conclusive remark: it has been by responding to the crisis (deepening financial and economic integration and shifting towards a more sound and resilient Eurozone) that the EU is finding the way to become a more mature political entity, moving further along the path of integration.

*Brussels, March 14<sup>th</sup>, 2014*

# **How We Might Recover from the Economic And Social Crisis Through European Integration Deepening: Crisis Prevention Provisions, Full Employment Mandate and Beyond**

Gancho Todorov Ganchev\*

The global financial crisis revealed the macroeconomic vulnerability of the EU. Without radical change in the way the macroeconomic policies are conceptualized, implemented and coordinated, Europe will continue to lag behind the USA and the Asian countries.

The biggest EU achievement in the field of the macroeconomic coordination and regulation is the introduction of the euro. The expectations were that the elimination of the exchange rate fluctuations and the implementation of common monetary policy will accelerate growth and facilitate economic integration in the Eurozone countries. However, the results are just the opposite of what has been anticipated. The Eurozone went through dramatic sovereign debt crisis, the economic growth declined, the unemployment increased spectacularly and the eagerness to deepen integration noticeably subsided. Since the Eurozone is at the heart of the EU, the overall economic performance of the Union deteriorated and the position of the EU in the Global Economy weakened. Great Britain even rejects the very idea of being part the EU integration project.

The main reason for this negative evolution is the inappropriate monetary policy prescribed to the ECB by the Treaty on the Functioning of the European Union and the Statute of the Bank. The ECB monetary policy has been driven by superseded neoliberal and monetarist ideas.

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According to the classical dichotomy and money neutrality postulate (see Lucas, 1995), monetary and real processes can be treated separately. So the central bank must be independent and focused on price stability only. In the same time, the ECB is the only big central bank that continues to use monetary aggregates and possibly intends to continue to do so (see for example Falagiarda and Sousa, 2017), as a supplementary policy instrument in accordance with the monetarists' prescriptions.

Another theoretical underpinning of the ECB monetary policy is the so called fiscal theory of price level. According to this point of view, a strong connection exists between the government debt and the price level. As to the monetary policy, it is a kind of a game of domination between the central bank and the government. In principle, the empirical research does not confirm this point of view (see for details Daly and Smida, 2014).

Based on these deceptive assumptions, the monetary policy of the ECB has been limited just to the objective of keeping inflation down without explicit responsibility for the real sector and employment. It is believed that the EU Commission and the national governments will take care of the real sector equilibrium. In order to guarantee the central bank independence no explicit mechanism of coordination, relating fiscal and monetary policies was introduced. This is in sharp contrast with the arrangements of the Federal Reserve and the Bank of England. In the USA and the UK the central banks are supposed not only to stabilize the purchasing power of the national currency, but also to be responsible for full employment (see about the origins of the FED full-employment mandate in Baker, Rawlins and Stein, 2017).

If the EU does not broaden the objectives of the ECB monetary policy to include the real economy, Europe will continue to lag behind its main competitors. In this respect we agree, that the efforts of the EU authorities to stabilize business cycles should be strengthened relative to the activities that have been dedicated to impose structural reforms (De Grauwe and Ji, 2016). The new European Commission initiatives, related to this problem, are articulated by Dombrovskis and Moskovici (2017). Their recently published Reflection Paper also emphasizes on the need for more growth oriented fiscal policy and stronger cyclical convergence, but does not include any change in the ECB policy objectives.

Another problem is the embedded confrontation between the bank and the countries facing problems with government debt financing. In spite of facilitating public debt funding with mechanism similar to the Fed Quantitative Easing, the ECB embarked into a kind of a “chicken game” (see about chicken games in the euro area Schimmelfenning, 2015) with the problem countries with final objective to impose hard budget constraints. The result was an upsurge of problem countries public debt interest rates and further worsening of the financial position of the indebted states. The austerity measures imposed by the ECB and the EU Commission were one of the factors that led to deep recession and high unemployment in most of the Eurozone countries. This is natural result of the policy, subordinated to the rule, that price stability takes precedence in all decisions (Monetary Dialogue, December 2009). Later the ECB changed policy orientation, but it remains uncertain what kind of behavior the bank will adopt in the future, since bank’s mandate remains unchanged. Up to now the new ECB policy testifies certain positive results. Consequently, the Eurozone image improved, but is still below the pre-crisis level (Wiegand, 2017).

This is not to argue that financial discipline does not matter. It is obvious however that monetary policy is not neutral, on the one hand, and that binding coordination between monetary and fiscal policies is indispensable. This excludes the ECB independence in its present form. It is also evident that fiscal restrictions do not guarantee economic recovery. Sustainable macroeconomic environment entails the introduction of coordinated fiscal policies fully supported by the ECB on equal for all countries basis.

The EFSM (European Financial Stability Mechanism), EFSF (European Financial Stability Facility) and later (2012) the European Stability Mechanism (ESM) presuppose IMF type of financial support for sovereign bailout programs, precautionary financial assistance, bank recapitalization program, primary and secondary market support for troubled countries. This means, that in spite of assigning a new connotation to the role of the ECB, the EU introduced a kind of crisis management facility. The ESM, while necessary in case of economic emergency, does not guarantee smooth functioning of sovereign debt markets.

The real problem is not how to handle, but how to avoid crisis situations without prejudice to sustainable growth. The experience of

Poland with the IMF Flexible Credit Line confirms this conclusion (see IMF, 2016). If the objective is to secure the credibility of the ECB and the euro, sovereign debts crisis must be excluded by definition. In fact the ESM itself requires a further strengthening of the pivotal role of the ECB in countries-members government debt management. A good EU macroeconomic strategy should largely aim at transforming the ESM into precautionary financial instrument guaranteeing against tail risks.

Recently the EU introduced macroeconomic policies coordination known as European Semester. The objective was to avoid high budget deficits and to reverse the process of government debts expansion. Taking into account the connection between government debts and current account deficits, the European Semester includes requirements concerning external equilibrium. One could object however that the twin deficit hypothesis is not necessarily true and that even if correct, the causality is supposed to be from fiscal sector to current account and not vice versa. In addition, the introduction of current account constraints contradicts at least two fundamental principles of the EU integration.

First, the EU integration is supposed to contribute to stronger cohesion among countries members as the Treaty of Rome and the other fundamental EU arrangements stipulate. The capital inflow from the more developed to the less developed states is the most important channel of resolving this problem. Imposing limits in this respect goes against the natural trend towards higher income equality in the EU.

At second place the implicit control on capital flows directly contradicts the proclaimed principle of free movement of capital as one of the cornerstones of the EU integration.

The broadening of the scope of the macroeconomic restrictions as well as the over emphasize on the Maastricht criteria goes against the needs of the European economy after the global financial crisis. The after crisis economic development of the EU and the Eurozone in particular demonstrates the need for more stimulating role of the core countries' economies such as Germany. Stronger domestic demand in the Eurozone core is the best remedy for the ailing southern economies.

Another problem is the growing tax systems divergence in Europe. In terms of taxation Europe is divided into an old and a new part. In the former European communist countries flat income taxation, modest social contributions and low corporate taxation prevail. The old Europe is characterized by progressive tax systems, relatively generous

social security and comparatively high corporate taxes. This partition increases social disparities, distorts competition and makes unfair the fiscal redistribution via EU structural funds. The basic principles of taxation in EU should be harmonized taking into account the need for higher social justice and solidarity.

The new planning horizon 2014-2020 adds additional problems. For the first time the common budget declined under the pressure of Great Britain and some other countries. This is movement in wrong direction given the growing disparities among EU member and the emergence of new collective challenges such as the refugee crisis and the new defense spending requirements. The insufficient funding of the common policy objectives narrows the ability of EU to react adequately to the internal and external challenges. Efforts should be taken to increase the common financial resources.

To summarize, the protraction of the economic crisis in the EU can be essentially explained by the inappropriate conceptual basis of the macroeconomic policy of the ECB and the EC, and by the emphasis on crisis management rather than on crisis prevention. The EU needs stronger coordination between monetary and fiscal policies, bigger Eurozone, less fiscal restrictions and stronger integration in the field of taxation. Another emerging problem is the potential conflict between macro prudential and monetary policy, both under the auspices of the European Central Bank. The ECB authority is simultaneously limited in the sense of lack of explicit commitment towards the real economy (absence of full employment mandate) and overextended in terms of potentially conflicting involvement in both monetary and macro prudential policy.

In practical terms the strategic question is how the European crisis management mechanisms can be improved and strengthened. There are several relatively unconnected crisis management and prevention organizational structures in the Eurozone and EU in general. The most important is the European Central bank itself, supported by European Stability Mechanism in the context of macroeconomic adjustment. The EU disposes also with such supplementary arrangements in the field of macroprudential regulation as the Single Supervisory Mechanism and the Single Resolution Mechanism jointly responsible for the banking sector and the European Systemic Risk Board (ESRB), focused on financial system as whole.

Common feature of all these institutions is, as already mentioned, their predominantly ex post problem orientation. The only exemption to some extent is ESM where a kind of early warning system is established. This system however has very narrow objectives. It is limited to the so called program countries, i.e. countries subject to adjustment programs with the objective to guarantee the repayment of the ESM loans.

What is needed in practice is much more comprehensive approach. The Eurozone would be much more stable and predictable if a comprehensive early warning system is put in place. Such a system could cover all Eurozone member states plus EU countries outside the zone but interested in guaranteeing macroeconomic stability. This early warning system must be established under the auspices of the ESM and could work efficiently only if coordinated with ECB, EC, SSM, SRM and ESRB (see about the problems, related to systemic risk measurement and identification in Sibert, 2009). In the same time the Eurozone early warning system should function in close cooperation with the IMF which disposes with global information about the financial system risks.

When threats to the macroeconomic stability in some countries are detected, the ESM must start consultations with the European Central Bank, European Commission and the respective countries in order to prepare package of measures (including preemptive financial support in the spirit of IMF Flexible Credit Line), to counteract risks and secure economic and financial stability. This implies also broadening of the ECB mandate to include full employment objective. The suggested coordinated policies should be implemented irrespectively of whether the origin of the problems is in the fiscal sector, banking system or capital markets. Such a combination of financial resources pooling, preventive actions and coordinated efforts would rule out any significant Eurozone crisis in the future.

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# How we might recover from the economic and social crisis through European integration deepening

Gazmend Qorraj\*

The main questions to be addressed in this contribution are:

- EU institutions – mechanisms
- Productivity issues – transformation of sectors
- Education and innovations
- Western Balkans – effects from their enlargement – increase of convergence

If EU institutions ensures the long term progress and reforms or just their functioning ensures stability and emergent solutions for EU member states? Do EU member states have an active role on the process in order to create a sustainable development?

## 1. Institutions

There is a crucial need to create an institutional sustainable mechanism in order to manage fiscal policy at central level. The main steps to be undertaken within this framework are:

- a) The mechanism which could monitor the economic difficulties in member states, especially the countries of the South,
- b) The mechanism to monitor the weak policy coordination between member states,
- c) The mechanism which prevent the imbalances,
- d) The mechanism which enforces the effective implementation of SGP rules within member states,
- e) Enforcement of local institutions at EU member states level.

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- f) Common Policies in specific area (taxation, social, diplomatic, military) should involve all of the Member States in the same way- which means that there should be negotiation over the establishment of cooperation between various states to move forward in certain areas.

In general, the EU should employ a common fiscal policy that provides insurance against negative and short-term economic fluctuations and transparent regulation of national governments. Furthermore the centralization of the monetary and fiscal policies enables a more (mix-efficient policy) supporting the monetary and fiscal authorities to coordinate their instruments.

If local resources (comparative advantages) ensures a sustainable economic development in some of the EU countries. Transformation of comparative advantages from traditional resources in to creative services.

## **2. Productivity**

First, there is a need to increase of competitiveness in the EU member states, especially to reduce large productivity gap in countries such as: Greece, Italy, Portugal and Spain. The recent global financial crisis and the present difficulties in the Euro zone have highlighted the need not only for financial assistance but also for improvement of production capabilities.

Second, the real sector of the economy should be supported and transformed permanently from traditional sectors (primary and secondary) in to creative sectors (services) in order to create high level of productivity, decrease the level of costs and be able to increase the export volumes globally.

Third, the SME development should create not only employment but innovative products and services. The EU should create also more flexible and attractive business environment compare to main business competitors.

Fourth, the EU should reduce barriers such as low access to finance for SME-s in order to improve the EU's job and growth. In addition EU should increase the investments in ICT by 2020.

Finally, the wage policies in many EU countries should be followed by the increase of the convergence, respectively real sector in these countries.

If EU educational institutions can create a value added and innovations?

### **3. Education and innovations**

First, there is a need to increase financial support for the education and research respectively invest in the knowledge society in order to attract high level professionals reduce the negative effects of ageing and increase capabilities of EU to compete with US and Japan.

Second, the EU should continue with further improvement and support of Europe 2020 agenda in order to be much more pragmatic flexible, and prepared for the new demands coming from the labor market such as high qualifications profile of jobs.

Third, the EU should combine the University education with more access to training respectively in lifelong learning programmes.

If EU enlargement in Western Balkans can create a positive spillover effects for European Union?

### **4. The challenges of Western Balkans**

First, the EU should support Western Balkan countries in order to overcome the political challenges respectively improve the inter-ethnic and regional relations between Western Balkans countries.

Second, the EU should transform the ownership to Western Balkans and support these countries to benefit economically and institutionally from the European integration process otherwise the EU membership without economic convergence, democratic institutions and effective governance will hamper the functionality of these countries respectively the European Union perspective.

Third, the Western Balkan countries should increase their absorption capabilities, benefit from the regional and EU market as well as contribute to the European Union by exporting peace, stability and positive spillover effects.

**Key words:** convergence, institutions, sustainable, mechanism, innovative



## EU Economic Studies

Giulio Querini\*

Dear Professors,

My opinion is that the present exchange rate Euro-USD (1,37) is one the main causes of the actual crisis of the European Union.

These exchange rate is too hard to sustain for the Mediterranean countries of the EU.

It would be necessary divide the Euro zone in two areas: the strong area with a northern Euro (about 1,60) and the weak area with the southern Euro (1,00).

In the short term, the exchange rate between the two currencies will fluctuate. In the long run, the two currencies will return to the same value.

Best regards.

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## EU Political and Administrative Studies

Giuseppe Cataldi\*

The euro crisis has exposed deep structural flaws in the functioning of the common currency and put pressure on the cohesion of the European Union as a whole. Stagnant growth, rising unemployment and public dissatisfaction are threatening the European project. Moreover the rise of anti-Euro parties in nations once Euro enthusiastic has shown some structural weakness in the European Union project.

Nevertheless Europe, compared with the US and Japan, has the lowest level of debt of all three economic regions. The crisis is a crisis of refinancing affecting individual countries within the Eurozone, and is primarily due to some institutional inadequacy, that the implementation of Outright Monetary Transactions (OMT) by Central Bank has just partially solved.

The crisis has not come about just because individual countries have behaved badly, but is due in large measure to systemic problems. These cannot be solved by greater efforts at the national level alone; they require a systemic answer.

There are only two coherent strategies for dealing with the current crisis: a return to national currencies across the EU, which would expose each individual country to the unpredictable costs, or the institutional underpinning of a collective fiscal, economic and social policy within the Eurozone.

Only a significant consolidation of European integration can sustain a common currency without the need for a never-ending series

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of bailouts, which in the long term would strain the solidarity of the European Union. This means, however, that a transfer of sovereignty to European institutions is unavoidable in order to impose effective fiscal discipline and guarantee a stable financial system. At the same time we need closer coordination of financial, economic and social policies in the member countries, with the aim of correcting the structural imbalances within the common currency area.

If we wish to avoid both a return to monetary nationalism and a permanent euro crisis, then we need to begin the process of moving towards political union.

Future projections backed by statistical data indicate that Europe is headed for further change, destined to become a continent of shrinking population numbers, declining economic importance and dwindling political significance. The people of Europe must learn that they can only preserve their welfare-state model of society and the diversity of their nation-state cultures by joining forces and working together.

*Napoli, February the 16th, 2014*

# **An institutional approach for stability and growth in the euro zone and the European Union**

Grigore Silași\*  
Liliana Eva Donath\*\*

## **Introduction**

The Euro, as a medium of exchange and store of value encompasses the health of the underlying economies inside and outside the Euro zone, given the deep economic, financial and social interdependences among these countries fostered by the European project. But, the recent crisis took to surface a whole range of factors that undermines the proper function of the Euro zone and of the European Union as a whole. Undoubtedly, building prosperity and welfare based on the single currency, as the founding documents proclaim, brings mutual gains if the supportive economic structures are similar.

By joining the European Union and the Euro zone allowed less developed countries to access funding, thus diminishing the feeling of isolation and, in the mean time, raising the costs of leaving the Union. The integration weaved a wide web of various interests and compensation mechanisms, but the fast pace of enlargement based only on political will and disregarding the economic gap endangers the existence of the Euro zone and the European Union.

The European Union is a three tier entity: The economic area, The Schengen area and the Euro zone. The European countries are already divided by belonging either to all the tiers or only in one or two,

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meaning, at least, a double standard approach that deepens economic and social inequality. The great challenge for the European Union and the Euro zone is to create the institutional architecture that would restore solidarity and cooperation in the region by providing the necessary economic and financial tools to surpass the negative effects of the crisis on the member states. Relying only on administrative and punitive measure, as the newly envisaged institutional framework requires, undermines trust in the future of the Euro and the viability of the European Union.

The paper emphasises that the present Euro zone crisis appears to be a vengeance of economics over politics requiring a serious reconsideration of institutional and institutional governance approaches. Therefore, it is advisable to prevent bottlenecks by boosting real convergence and competitiveness as the main pillars of a healthy and stable currency since relying only on the nominal convergence criteria seems to be insufficient. In the absence of a sustainable long term development of the real economy, nominal values alone do not support economic progress and welfare. In addition, the real convergence may negatively impact on the nominal criteria (when the basic requirements are not met), raises awareness on the “Maastricht paradox”. Under these circumstances, in order to support economic development and market mechanisms, the institutional architecture of the Euro zone and of the entire European Union should pursue the requirements of good public governance, transparency and responsibility.

### **1. Good governance as a prerequisite for stability and growth**

In a celebrated book, Amrtya Sen (Sen, 2000) shows the importance of good governance and transparency, allowing it to operate on trust and showing that disclosure and lucidity are fundamental for the democratic process and instrumental freedom.

*Largo sensu*, the development of the European society is complete when incorporates, alongside economic determinants, a large area of rights, allowing the society to evolve in a harmonious manner: property rights, political freedom, public decision transparency, social security, a high quality of public institutions, etc. Under these circumstances, institutions and governance play a crucial positive as well as negative part, by offering the basic public services and the necessary support

in protecting the fundamental rights. The conceptualization of the quality of public finance as a multidimensional framework is necessary in order to reflect the complex relations between governments and the economic growth (Donath et al., 2009). A widely accepted definition of governance is given by Kaufman, Kraay and Zoido Lobaton according to whom governance means the tradition and institutions that determine how authority is exercised in a particular country (Carl Michael & Kaufmann, 2001). It could be argued that in public sector governance, it is compulsory that all the participants should play their parts in an adequate manner: *the public decision makers* to agree on the best policies serving the public interest, ensure overall transparency and promote moral values, *public institutions* to comply with the public decisions and efficiently manage public money, *citizens and tax payers* to obey and follow the provisions of rules and regulations. Under these circumstances, European institutions may play an important part in promoting accountability and credibility, further setting the foundation for a sustainable development. On the contrary, if the rules underlying proper governance are not obeyed, it can negatively impact upon the economic and social evolution. Summarised, the principles of good governance are: the need of a long term view over the public affairs in order to ensure a sustainable revenues maximization; performance appraisal and cost cutting; a proactive management and a rigorous planning of activities; clear procedures and market orientation; customers' oriented and not bureaucracy oriented approach. It is obvious that the paradigm change is extremely useful in the European context that needs stabilisation and then growth.

The underlying feature of governance is transparency. When not submitted to transparency and accountability, institutions may allow for rent seeking and corrupt behaviour, impeding innovation, private initiative and hindering the fulfilment of economic and social objectives. These problems are common, on different scales, for all the countries, irrespective their level of development. Transparency also implies the right to be informed. It prevents asymmetric information (Begovic, 2005) and raises the response of the society to the government's activity. The main difficulties can be triggered by the language ambiguities that are often misleading for the community, the voters, the academic or business communities, etc. Transparency also requires the choice of the best channels to pass the information to the public and hinder one-

sided interpretation and intentional distortions. Consequently, the most important determinants of transparency are: honesty, credibility, the possibility to disclose acts of corruption, the public consultations, the simplification of the laws, regulations and procedures, standardization of the communication language, etc.

Presently the Euro zone consists of a various range of countries having specific economic, historical, cultural, behavioural and social patterns: The Mediterranean, the Continental, the Scandinavian, Anglo Saxon and Catching up group of countries. Since the single currency *reflects the strength and weaknesses* of these economies, it means that the European institutions should be designed in such a manner as to allow the harmonisation of these economies without losing their individuality that eventually brings added value to the region as a whole. Therefore the governance of the area should safeguard the interest of the region as a whole, on one hand, and pursue and preserve the characteristics of each group of countries, on the other hand. The paper supports the idea of a small number but effective European institutions that provide the levers for a rational and equitable resource allocation through market mechanisms enhancing welfare for the entire region and alleviating inequality. The reduction of bureaucratic costs may channel funds towards human capital development (education and health) as the main source of productivity and welfare.

## **2. Back to the fundamentals. The importance of the budgetary levers**

Restoring stability and economic growth in the EU and the Euro zone requires a profound reconsideration of the financial tools. For a considerable time, the Maastricht criteria were considered as being supportive for the economic development, in times of stability and growth. Nevertheless, it should be noticed that the Maastricht criteria were consistent with certain homogeneity of developed economies, from institutional, procedural, living standards, historical precedence, culture and behaviour. Once the Euro zone and the EU were enlarged, new economies, with different economic, social and behavioural patterns joined the EU, putting the new currency under pressure and requiring a new institutional approach. Consequently, the Euro crisis that is a response to the lack of harmonised economic and budgetary policies requires a profound revision of its fundamentals.

Under the present circumstances, the real convergence criteria should be given more attention since they reflect the deep gap between the European countries. Once the differentials of productivity, labour costs, GDP/capita, the structure of the economies, unemployment rates, etc. are acknowledged, future policies should envisage the synchronisation of business cycles, the harmonisation of the economic structures, closing the gap between the GDP/capita and an equitable welfare across the Union. Unless an integrated vision on the development of the Union is adopted, imbalances will persist, inequality will deepen, undermining the existence of the Euro and the European Union. The rationale of the real convergence is the drastic limitation of asymmetric shocks; it also allows the cushioning of external shocks and contagion in a sustainable manner by encouraging economic and social structural similarities between countries. The lack of competitiveness and of real convergence drove a number of the Euro zone countries, mainly Mediterranean, to suffocate and be on the verge of financial bankruptcy. But, the process of convergence must be supported by the appropriate intervention tools in order to alleviate and prevent market failure.

- 1 – The first step would be the enforcement of the European Fiscal Compact, through the narrow 0.5% structural deficit, would bring more discipline in spending public money, stabilise the economies and keep deficits under control. The 3% of the GDP for the budgetary deficit and the 60% of the GDP for the public debt have been stated by the Maastricht Treaty, but *the close to balance or in surplus* of the budget should be strictly pursued.
- 2 – The second step: once the economic and financial balance is restored, a larger fiscal space should be designed, allowing the national budgets to be used as levers in boosting economic growth, encouraging productive, investment public expenditures that incorporate GDP growth, productivity transfer expenditure (education and health), thus increasing employment and diminishing social assistance expenditure that burden public debt. The authors think that such an approach would relax the burden of immigration, each country being able to absorb its work force in a productive manner and encourage entrepreneurship and creativity. On the other hand, it should be acknowledged that the Euro zone has no historical precedence, relying on a common monetary policy without a fiscal union while successful monetary unions are a mix of the two pillars (USA, Germany and Switzerland).

- 3 – The third step: when the European economies will reach similar levels of development and GDP, a centralised EU budget is foreseeable, that will be able to become the main financial policy tool, under a harmonised fiscal policy.

Presently, the EU budget is insufficient (1% of the GDP) and *is not* used as a stabilising mechanism; there are no fiscal transfers among the EU countries when asymmetric shocks occur and the fiscal mechanisms do not allow countercyclical measures. Therefore, to support development under the restrictions imposed by the monetary policy and inflation targeting, the national budgets should be constructed on a multiannual basis to provision the necessary funding of major, sustainable economic and human capital investments. The budgetary multiplier used under strict fiscal discipline is able to support the countercyclical approach, allowing economies to reach surplus under positive output gap, and deficit under negative output gap.

It can be argued that the European structural funding compensates for the lack of domestic capital in Catching up countries. If implemented effectively, with less bureaucracy, the outcome may support the economy temporarily and on short term. But, once these funds are not available or are granted in a discretionary manner, the domestic capital becomes insufficient for a sustainable development and countries become net contributors without benefiting of the necessary funding. Catching up countries need fiscal stimuli and automatic stabilisers to face economic and social challenges in times of distress. Therefore, though they are not members of the Euro zone, their economies should be stimulated to grow at such a pace as to narrow the gap of real convergence indicators and allow them to join the Euro zone as strong stable economies bringing added value to the welfare of the European Union. Otherwise, the peril of a two speed European Union would endanger its mere existence, and the costs would be much higher than to harmonise its consisting economies.

### **3. The Banking Union**

The architecture of the Banking Union is meant to ensure the supervision of the Euro zone banking system by the European Central bank, the other banking systems joining it on a voluntary basis. It would allow the monetary authority to intervene when banks do not follow

risk alleviating rules, preventing contagion and risk spreading. The Banking Union breaks the vicious circle which supports the bail out of endangered banks using taxpayers' money. Under these circumstances, the issue of the functional effectiveness (magic quadrilateral – a unified mechanism for crisis solution, single plan for deposit guarantee, a set of uniform rules, supranational monitoring rules) *vs.* necessity (the triangle of incompatibility – financial stability, financial integration, national monitoring) is raised.

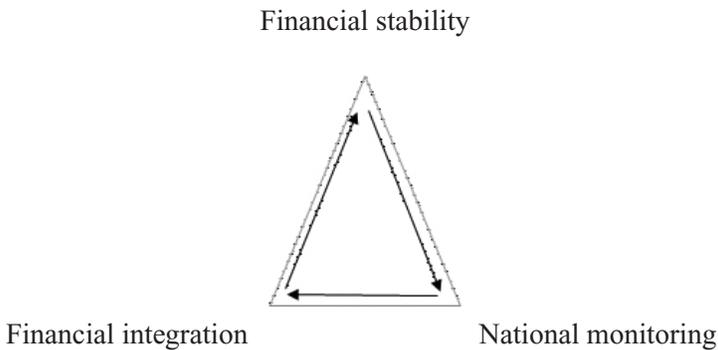


Figure no 1 Triangle of incompatibility

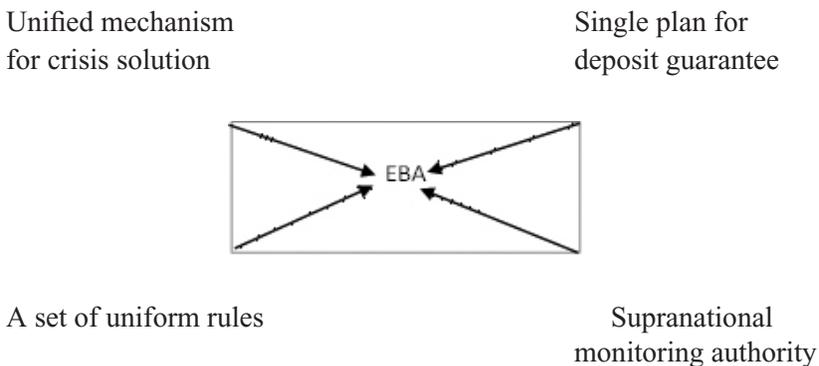


Figure no 2 The magic quadrilateral

Since the crisis has highlighted the ineffectiveness of diverging national rules, a need for a common framework issued by the European

Banking Authority, was identified to restore confidence in bank supervision. The single rule book encompasses the reduction of arbitrage between national regulations, strengthens the principle of competition neutrality/ same business, same risks, same rules, increases transparency, and a strong regulatory framework for the single market. On the other hand, it induces less flexibility and the monitoring of a great number of banks within and outside the Euro zone is a huge endeavour, leading to a possible fragmentation of the single market into participating and non-participating countries, also inducing uncertainty about the role of non-Euro zone countries in the surveillance mechanism.

### **Concluding remarks**

The characteristics of a viable successful monetary union are: an independent central bank targeting price stability, the free movement of financial funds, a harmonised fiscal system, allowing a manoeuvre margin for each country as well as fiscal discipline that promotes the *no bail out rule*, the implementation of strong mechanisms, and effective fund transfers to flatten economic cycles and prevent asymmetric shocks.

Presently, the Euro zone and the European Union as a conglomerate of different states, with their specificities, are at crossroads, requiring a long term vision. Its institutions entail huge costs, long negotiation process and too little action while the economic structure is imbalanced and does not foster entrepreneurship and savings. Therefore, in order to reach the desired outcome, a bottom up approach is advisable, allowing the social capital formation within the Union proclaiming its own mutual values and institutions. Once the economies and behaviours are harmonised by narrowing the real convergence indicators, market mechanisms allow a rational and effective redistribution of resources, and a centralised institutional architecture can be envisaged. Therefore, the existing institutions should be reorganised by pursuing the *keep it simple rule* when describing procedures, becoming cost effective, avoid over centralisation and waste of resources on too many agencies and allowing the member states to choose the intervention levers within a sustainable margin. In our opinion all countries should grant an increased volume of resources for lifelong learning and education, thus reducing unemployment and social assistance. It means adopting proactive policies for research and development in a knowledge based society. Otherwise, as recent developments show, insufficiently prepared countries, or those adopting the Euro in an inadequate time frame are at

risk of being adversely affected. Safeguarding the achievements of the Euro zone and the European Union does not rely solely in its institutions but in their legitimacy (i.e. economic and social security) effectiveness (low bureaucratic costs and greater outcome) that lead to their necessity. Institutions are important as long as they serve the purpose of economic development and welfare of all European member states.

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## Communicating EU beyond its internal/external borders as tool of the European integration deepening

Ioan Horga\*

At the invitation of President Barroso for the Jean Monnet professors to provide their opinions on "How we might recover from the economic and social crisis through European integration deepening", extended at the opening of last years' Jean Monnet conference, we respond by presenting the proposals made by the participants in the JM Multilateral Research Group project, entitled *Initiative and Constraint in the Mapping of Evolving European Borders*<sup>1</sup>.

The proposals included in the respective volume offer solutions to one of the key questions of the debate on the recovery from the economic and social crises through a deeper integration, specifically the following: "What is the best institutional framework for the Eurozone, in order for it to function in the most effective, transparent and democratic manner?"

Our suggestions fall within the logic of the affirmations made by European political leaders, such as Manuel Barroso who referred to Europe as a global actor open to trade, to ideas, migration and investment, as well as by high-level representatives of the academia, who speak not only about opportunities, but also about risks.

The recommendations aim at the way in which Europe has to communicate itself within and outside its frontiers, in order to build the

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<sup>1</sup> The proposals can be found in full in the volume *Communicating the EU Policies beyond the borders. Proposals for Constructive Neighbour Relations and the New EU External Communication Strategy* (eds. Ioan Horga & Ariane Landuyt), Oradea University Publishing House, 2013, p. 321.

best institutional framework for becoming more efficient, transparent, and democratic.

1. In regards to how the EU can benefit from the opportunities brought by migration of values and avoid sheltering within its border unnecessary poor labour force, we consider the following:

- a. Not having a clear definition of what the European identity represents might hinder the creation of a true solidarity between Member States and between EU citizens. In the future, the Member States and the European institutions should proceed in defining what being European means and which are the European borders.
- b. Until all Member States are willing and capable of implementing certain policies, they should not be encompassed in the *acquis communautaire*, as the result might be the generation of tensions between members that are within a certain circle and those that are outside it. The cases of Schengen and the Eurozone serve as example of elements of the Communitarian *acquis* that can generate a feeling of exclusion among EU Member States. This also hinders the built-up of confidence and solidarity and the creation of a European identity.
- c. If the EU cannot provide certain rights and benefits for all its citizens, then it should refrain from adopting policies that in the end could obstruct cohesion, and leave their implementation to the states under the framework of enhanced cooperation. As the cohesion policy argues, the citizens of the EU should not be discriminated by the fact that they were born on a certain territory.
- d. Building a political identity to serve the purpose of “an even closer union” is important, but it must be a project that touches all the categories of citizens and provide specific measures for those who are isolated, because of limited travel or language skills.
- e. Some consequences related to the Schengen Agreement such as illegal migration should be dealt with in close cooperation with the EU neighbours. Therefore, the EU should include as part of the Schengen Agreement a provision that obliges countries at the Schengen border adhering to the partnership to have good and effective cross-border cooperation with their neighbours, particularly on preventing illegal immigration.

- f) The EU should move away from the geopolitical-territorial perception that tends to emphasize regional interests and an inside-outside dichotomy, to focus on flexible integration based on common projects/interests. The creation of euro-spheres as common spaces of security built in partnerships could serve this purpose very well.

2. The growing phenomena of Euro-scepticism and indifference towards the EU are obvious to everyone. Many political studies and documents reveal the role of the media in disseminating misconceptions concerning the EU affairs and, furthermore, the EU's borders. We believe, that for a stronger communication, the EU should take the following actions:

- a) The EU's communication should be enhanced and shaped in a citizen-centred fashion in order to achieve more public awareness;
- b) The EU's communication service should strengthen its potential in offering easily accessible, first-hand information to citizens of Member States interested in EU's affairs, for public support;
- c) The European Union should invest in creating a functional and integrated European Public Sphere, which so far has not achieved a satisfactory level;
- d) Besides the national and sub-national levels at which the opinions are being shaped, the European Union should also act as a strong, independent opinion-builder through its own media and communication policy developed in accordance with the need for knowledge of the average European citizen (without claiming for a more appealing, conflicting framing of news communication, the information process should not be driven by an elite-oriented perspective);
- e) Pan-European media (even at its incipient state) should co-opt national and regional media in forging together a European identity, as its ambiguity is detrimental to the EU integration process;
- f) Regarding borders in particular, the European Union should follow a straightforward discourse upon the newly gained functionalities of inner and external borders, strongly delimited from any other EU policy, in order to clearly inform about the mechanisms put in motion. The transposition of the concept in

the media should follow closely the EU's direction, rather than an unconditional embrace of national perceptions; this would be definitely underpinned by the creation of a sustainable European Public Sphere capable of setting an agenda strongly anchored in supranational needs and not in national urges.

3. Which are the most effective ways of communication between the Commission and the Member States and their neighbours?

- a) Disseminate basic information on the European Union, its policies and institutions, adapting the information, in both language and content, to diverse audiences (young people, adults, people with different levels of education etc.);
- b) Continue with a decentralized approach, involving all players;
- c) Continue to take into account both Eurobarometer data on citizens' level of knowledge about the EU and enlargement in particular, and constantly monitor its own communication activities;
- d) Improve networking between information and documentation centres and increase their diffusion and involvement with the community;
- e) Boost the use of new technologies, particularly the internet, which can be used to reach a wider and more heterogeneous target audience and that can guarantee easy and direct access to information;
- f) Support activities and initiatives undertaken by young people that disseminate information and facilitate communication, such as blogging;
- g) Pay attention to the quality of information when providing content of highly symbolic value (i.e. recalling the importance of abolishing physical and conceptual barriers) and communicate in a clear and simple way;
- h) Provide objective information that is non-judgemental so that it cannot be perceived as propaganda;
- i) Increase the number of communication projects targeting certain groups of citizens, such as people living at borders or students of all types and levels (i.e. communication campaigns in the countries bordering the EU).

4. The EU has numerous global foreign missions and interests, but it is very difficult to speak about a unified policy at external level as a traditional global power does. What should be done in this regard?:

- a) Correlate national preferences regarding external players with the EU's common interests, as the discontinuity on foreign policy reflected in divergent messages in the communication process affects the image of the entire organization.
- b) The EU should put more emphasis on its communication capabilities with external partners, because in terms of soft power it is one of the international leading players. Developing its soft power capabilities, will ensure greater visibility and a better position at the negotiations table. The EU has limited hard power capabilities; however, it does not necessarily have to have them in order to be a great power. In addition, an increased level of attractiveness will also be beneficial for the European economy, as investors will be more convinced to come and develop business in one or several Member States.
- c) The Member States' national preferences are diverse and they cover almost the entire globe. Nevertheless, what can be seen as vulnerability can become an asset. A coherent communication of the foreign policy preferences of the Member States can be an opportunity for the EU to be a global player in terms of interests, but also in terms of capabilities.

5. Despite the EU's efforts to develop a strong socio-economic space, socio-economic disparities increasingly appear. Therefore, the EU must conceive new possibilities of communication to strengthen citizens' trust in the European model:

1. To develop a new model for the development of the European Union, based on harnessing the potential of the Europe 2020 strategy and applying it directly at a regional level, depending on the potential of the area affected by the elimination of borders.
2. The numerous strategies on socio-economic and territorial cohesion stress the fact that border regions and cross-border regions are among the most challenged and vulnerable in the European Union. If we look at cross-border regions within the European Union, we will infer that they used to be neighbouring regions before enlargements, at the same time benefitting from a

special relation determined by proximity and facing challenges cause by being on the periphery. Once borders were removed, so did their proximity driven special relation, being left only with the challenges. This special relation can be revived by applying the logic of the neighbourhood policy to border regions. Their socio-economic backwardness can be reduced if they could be differentiated like the countries part of the European Neighbourhood Policy, according to their territorial particularities.

3. The role of the border should be reconsidered from a neighbourhood perspective by the European Union. Considering the EU's need and priority for building a strong relation with its neighbouring countries and for creating a "ring of friends", border regions, especially those at the Eastern border of the European Union, could take advantage of the proximity relationship potential and develop stronger partnerships with their neighbours. They can be the key to the EU's need for constructive relations with neighbouring countries. Hence, constructive neighbourhood relations can be built at the border, if the border regions are directly implicated in the policy-building process.

# How we Might Recover from the Economic and Social Crisis Through European Integration Deepening

Ioannis N. Grigoriadis\*

## IDEAS

1. Prioritize fiscal union in order to heal an imbalance that ever since the introduction of the Euro has created all sorts of imbalances and moral hazard situations for member state governments

2. Give more emphasis on secondary education

a. Establish an Erasmus program for secondary education

b. support student exchange schemes or study trips to Brussels

c. contribute to the mid-career education of high school teachers

d. develop EU-level summer camps, where students from all EU member states can learn a second EU language other than their mother tongue

e. Promote such activities at European and cross-border level (e.g. Germany-Poland, Greece-Bulgaria, Finland-Estonia etc.)

f. Work on supplementary school material on European history and geography, available in hard copy in all EU member state schools and online

3. Support startup businesses by young entrepreneurs in the crisis-hit countries in sectors that could become drivers of growth

a. Highlight the underexploited or completely misused human capital in crisis-hit countries and help them develop competitive enterprises with minimal involvement of member state governments

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4. Develop strategies to deter long-term structural unemployment in crisis-hit countries that are likely to foment anti-EU and xenophobic political parties

5. Seek a modification of the Dublin II regulation on asylum applications that has disproportionately burdened southern European, crisis-hit countries and contributed to the rise of extremism

6. Establish annual, prestigious pan-European essay and art competitions and prizes for high school teachers and students featuring

- a. European solidarity
- b. Integration
- c. Tolerance
- d. Other key EU values

7. Develop a communication strategy that would highlight the benefits of European integration and countervail national government efforts to blame to European institutions for their own failures

- a. This could include mechanisms monitoring how fairly structural adjustment costs are distributed within the crisis-torn member states

8. Develop a strategy to change the incentive structure and deter the rise of countries wishing to benefiting from aspects of European integration while reserving their sovereign rights in others, (see the United Kingdom about potential exit from the European Union while benefiting from economic integration and the Swiss referendum result on free movement of workers to Switzerland)

9. Defend the normative basis of the European project in regional crises such as in Ukraine and maintain a membership perspective for eligible countries in the European periphery

**Keywords:** transparency, fiscal union, youth, entrepreneurship, communication, norms, long-term unemployment

## **Making Headways against the Stream: Recommendations to a Besieged Europe**

Jean-Marc Trouille\*

In 2016, European integration is facing an unparalleled situation since its inception. The European Union (EU) is in great need of a qualitative leap forward towards more integration. However, the intensity and multiplication of the challenges that it currently faces have had no equivalent in the last six decades of post-War European construction, which increases the political risks that any moves towards further integration could bear. A combination of interlinked challenges and random shocks affects the EU all at once:

- **Low growth rates** which the ECB's quantitative easing and nil-interest rate policy struggles to boost;
- The rise of **populism**, nationalism and extremist parties, which erodes Europe's foundations;
- The **migrant crisis**, which has highlighted severe divisions, has eclipsed Eurozone budgetary issues, and poses an even more direct challenge to Europe's values than to its macroeconomic atony;
- **Jihadist terrorism**, which challenges the security of Europe internally as well as at its doorstep, and generates a drift towards authoritarianism, particularly in France;

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- The erosion of **Schengen**, which questions one of the EU's utmost achievements and threatens its economic foundations;
- **The Brexit debate**, which threatens Europe's cohesion, its external credibility as an advanced model of regional integration, and may have snowball effects on other member states;
- And finally, **Wladimir Putin**, whose aim is to ruin the European project by exacerbating divisions between Europeans.

Europe has often made headways in times of crisis. However, whether we consider the economy, the political or social sphere, or security and conflicts, it is striking to note that this time virtually every field of activity raises serious matters of concern. Whichever area is considered, *more Europe* invariably appears to be the only valid option, whereas *less* or *no Europe* would bear extreme risks. Indeed, taken separately, even larger EU member states no longer have real critical mass, on a multipolar world stage where only large continent-countries can claim to exert a sovereignty of some significance.

In such an exceptional context, a number of recommendations need to be made to address the internal and external threats and uncertainties that could lead the European project from increasing fragmentation to its mere dislocation.

First, in order to save the European project, it is crucial, particularly for the euro area, to regain an integration momentum. Indeed, the negative impact of any crisis is systematically worsened due to a lack of integration. But given the noxious climate surrounding any debates on Europe, walking on egg shells will prove to be difficult. Therefore, major initiatives should be taken as soon as possible after the June 2016 UK referendum, whilst referenda on changing existing treaties should be avoided. Recent EU-UK negotiations have at least had the merit of endorsing the reality of a two-speed Europe. Since the challenge faced by decision makers will consist of deepening integration without attracting too much attention from public opinions largely hostile to federalism, it should be feasible, at least in the euro area, to envisage a higher level of federalism at economic level without presenting such steps as pursuing political union.

Practical steps ought therefore to be taken to improve EMU, such as a better coordination of competitiveness levels within the euro area. Since the start of the financial crisis, the diversity of competitiveness policies has proved to be a serious handicap in dealing with Eurozone economic policy. In this respect, not only national budgetary policies need to be harmonized, but also minimum wages, remuneration policies and ultimately job markets. The recent report of the Five Presidents was unequivocal. Their suggestion to launch independent national committees to coordinate wage policies may be difficult to implement in terms of democratic legitimacy, but it would be highly desirable. Furthermore, backing such action with a budgetary union directed by a Finance minister would give the euro area more authority to intervene in member states' economic policies and to support a country hit by a financial crisis. Agnès Bénassy-Quéré, from Paris School of Economics, points out the advantages of such a system, for instance to finance unemployment benefits at European level, military expenses or Schengen border guards, or even the industries of tomorrow, workers' mobility or an enlarged Erasmus scheme. Such course of action would mark an important step towards creating a social Europe, hence demonstrating the usefulness of integration to European citizens.

Second, Europe needs to face the rise of extremist parties and challenge their over-simplistic populist misrepresentations which harm the quality of electoral debates and put undue pressure on national and European political decisions. Traditionally, virtually everywhere in Europe, democracy has benefited from an interface between, essentially, two poles: a right-wing party generally close to conservative Christian values; and a left-wing party concerned about social fairness. This traditional pattern is now questioned by the surge of a third camp overtly hostile to Europe and to everything foreign, which prones reinstating borders and protectionism and would lead to national isolation. This new political balance of power needs to be taken into account in the strategy of mainstream parties in order to build political alliances wherever needed. France, which appears to be one of the member states most prone to populism, would greatly benefit from such an alliance between left and right to carry out the reforms it badly needs whilst challenging the National Front's simplistic views.

The fight against populism needs to be carried out not just at national level, but also as a concerted action at the different multi-levels

of European governance as well as in the EU's foreign policy. For its part, the EU should be more assertive against Russia, which provides financial support to populist parties like France's National Front, Britain's UKIP and other extremist political groupings with a view to increasing the spread of nationalism across the continent. George Soros recently argued that the most serious threat to EU stability on the long term is Russia, which exacerbates the crises that affect Europe, from the flow of migrants escaping Russian bombs in Syria to increasing geopolitical instability at Europe's doorstep, not least in Ukraine. Whilst Soros' analysis is that Europe will eventually bow to the multiplicity of crises that it faces, Guy Verhofstad does not share his pessimistic assessment and advocates instead clear action against Putin. The EU should be more confident in using its main weapon, its economic weight, and impose further sanctions on Russia. The combination of low energy prices and economic sanctions should prove a very effective cocktail against Putin's ambitions to weaken and divide Europe.

Another domain where Europe desperately needs joint and concerted action is security. Schengen has been weakened because Europeans assumed that they would be able to enjoy a common area of freedom, in which people, goods, and labour would circulate freely, whilst keeping most features of their national systems. Hence, Schengen is the victim of member states' lack of a coherent vision. The so-called four freedoms (free circulation of goods, services, capital and labour) can only work efficiently with a set of rules and policies at the supranational level. Inward-looking attitudes will not solve the challenges Europe faces. In areas where European integration is more advanced, where Europeans share the currency, the market, the freedom to trade, work and travel across this market, full sovereignty belongs in the past. Without sharing more sovereignty, all these envied attributes are threatened by crises such as the Eurozone sovereign debt crisis and the migrant crisis, none of which, surprisingly, Europeans anticipated.

Anticipating trends is indeed a quality that European leaders should acquire in geopolitics, especially with regard to their immediate neighbourhood. 25 years ago Mikhail Gorbachew failed to reform Russia largely because he was let down by Western Europeans sceptical about his chances of success. Most issues affecting the EU in its Eastern neighbourhood today are the direct result of its previous failure to evaluate and anticipate the potential impact of the changes brought

about by *glasnost* and *perestroika*. The next major mistake that the EU should avoid would be to underestimate two parallel developments, this time on its Southern neighbourhood. First, the speed of economic change on a continent increasingly regarded as ‘the China of the 21<sup>st</sup> Century’. Second, the demographic time-bomb that Africa represents. The African population will more than double within the next two decades, and so will Africa’s migration potential. Europe will need to respond to this threat by seizing the cooperation and investment opportunities offered by the high African growth rates of the last fifteen years. Since Europe will be affected by any development, positive as well as negative, taking place in Africa, common sense would dictate to anticipate and accompany these major upheavals by launching a large-scale, ambitious strategy to contribute to this development and to building sustainable African societies, whilst at the same time spreading democratic values across the black continent. If the EU does not take on this challenge, China will do it its own way.



## Exposé des motifs pour des analyses destinées à traiter...

### Le grand problème de la « zone euro » : l’Euro

Jean-Paul Guichard\*

Lors de la session d’ouverture de la Conférence Jean-Monnet 2013<sup>1</sup>, M. John Mac Cormick<sup>2</sup>, un universitaire américain qui intervenait juste après M. José Manuel Barroso, faisant référence au référendum français relatif au projet de constitution européenne (29 mai 2005), déclarait que le rejet du projet par les électeurs français (54,7 % des suffrages exprimés) était le fait de gens « mal informés » ! Cette assertion était prononcée dans l’indifférence générale des titulaires de chaires Jean-Monnet, au moins en apparence. Bien évidemment, il y avait dans l’assistance, de nombreuses personnes trouvant ce propos insupportable et de très mauvais goût ! Ce « brillant » professeur de science politique s’était-il un instant interrogé sur la question de savoir si les 45,3 % de suffrages exprimés en faveur du « oui » émanaient d’électeurs mieux « informés » que les autres ? Ce fait divers n’est pas, malheureusement, un cas isolé; il traduit, d’une certaine façon, le mépris de certains milieux « européistes » pour ceux qui ne pensent pas comme eux, alors même qu’ils se désolent de voir le « populisme » gagner du terrain dans de nombreux pays de l’Union Européenne. Notamment en Grèce !

Alors que la population de ce pays vit un véritable drame et que d’autres pays de l’Union sont aussi en grande difficulté ou bien risquent

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<sup>1</sup> Conférence Jean Monnet, 13-14 novembre 2013 « The political implications of European economic integration, towards a political union ».

<sup>2</sup> John Mc Cormick est professeur de science politique à l’Université de l’Indiana (USA), spécialiste de l’Union Européenne; il est l’auteur de nombreux ouvrages, le dernier étant « Why Europe matters: the case of the European Union » (Palgrave Macmillan 2013).

fort de connaître d'ici peu de telles difficultés, une certaine presse, notamment au Royaume-Uni, stigmatise les peuples de certains pays; il y a les « Pigs » (Portugal, Italy, Greece, Spain) irresponsables, qui se gavent de crédits européens, et aussi ceux du « Club Med » dont les populations travaillent peu, occupées qu'elles sont par leurs loisirs: il s'agit là du Portugal, de l'Espagne, de la France, de l'Italie, de la Slovénie, de la Croatie, de la Grèce et de Chypre. Cette presse ne fait pas dans le populisme mais carrément dans la xénophobie. Les difficultés économiques de la zone euro, notamment l'énorme déséquilibre entre l'Allemagne et la plupart de ses partenaires, sont alors présentées comme le résultat, non pas de dispositifs économiques inadéquats, mais de ce que les uns seraient sérieux et travailleurs (les allemands) alors que les autres seraient plutôt frivoles et fainéants (les grecs, les français, etc.).

Ce discours des cigales et des fourmis n'est pas celui de la Commission Européenne mais la distance entre les deux n'est pas si grande que ce qu'on pourrait croire. Du côté de Bruxelles, on considère que les bons élèves de la classe européenne ont eu le « courage » de faire en temps voulu des « réformes » indispensables alors que d'autres, qui n'eurent pas ce « courage », suivirent la voie de la facilité; ceux-là sont obligés, aujourd'hui, de devoir assumer une situation délicate... Une chose est sûre pour la Commission: il faut davantage d'union politique ! Elle reconnaît qu'il y a des déséquilibres commerciaux importants dans la zone euro: certes, mais l'euro n'est pas en cause et ne saurait être en cause; ces déséquilibres seront effacés par des réformes économiques découlant d'une intégration politique plus poussée; tel est le discours officiel que l'on entend.

Il y avait dans le programme et dans les interventions de cette conférence Jean-Monnet 2013 un grand absent: l'euro. Celui-ci constitue non seulement un dispositif monétaire mais aussi, plus que cela: un dogme. Peut-être y a-t-il comme un refus inconscient de s'interroger sur son avenir: ce serait, en quelque sorte, admettre la fin de l'Europe, tant est grande l'identification qu'il y a entre l'une et l'autre.

Pourtant, plutôt que de stigmatiser les peuples et leurs comportements électoraux et économiques, il serait peut-être bon de jeter un regard critique sur ce qui a été fait en Europe, durant ces dernières années, notamment en matière monétaire: ne serait-ce pas cela qui expliquerait, au moins en partie, les difficultés actuelles des pays du sud de l'Union ?

Comment se fait-il que deux pays, l'Allemagne et la France, dont le commerce bilatéral était équilibré au moment de la mise en place de l'euro, accusent aujourd'hui un excédent pour l'un, un déficit pour l'autre de l'ordre de 20 milliards d'euros par an ? La même remarque peut être faite pour l'Italie ou l'Espagne. A cela, la réponse classique qui est faite est: la compétitivité ! Ce concept miracle ressemble un peu à la « vertu dormitive » de Molière... L'évolution favorable de la compétitivité des firmes allemandes par rapport à celles du sud de l'Europe provient-elle de géniales trouvailles technologiques ou bien d'une évolution très inégale des coûts salariaux ? On doit bien constater que l'Allemagne a mené, depuis au moins dix ans, une politique de quasi déflation salariale, très différente de celles de ses partenaires; si on ajoute à cela des dispositifs très différents de ceux qui existent en France, par exemple concernant le fonctionnement du marché du travail<sup>3</sup>, on pourrait alors conclure que les pays du « Club Med » sont victimes d'un véritable « dumping social » de la part de l'Allemagne; ces différences dans les évolutions des coûts salariaux n'avaient pas d'incidence tant que les pays disposaient de leurs propres monnaies: avec l'euro, les ajustements par des variations du taux de change n'existent plus. Ceci constitue l'une des causes des difficultés de la plupart des partenaires de l'Allemagne au sein de la zone euro; ce n'est pas la seule.

Il y a aussi le cours de l'euro, bien trop élevé pour la plupart des pays de la zone: là encore, l'Allemagne n'y est pas pour rien !

Les mécanismes de marché conduisent à la fixation d'un cours de l'euro bien trop élevé pour la quasi-totalité des pays de la zone, sauf pour l'Allemagne qui s'en accommode très bien; ce cours est bien trop élevé en ce sens qu'il ne permet pas aux pays de la zone –à l'exception de l'Allemagne– d'avoir avec le reste du monde un commerce équilibré. Ces pays ont ainsi un double déficit commercial: un déficit avec l'Allemagne du à l'existence de l'euro comme monnaie UNIQUE, un déficit avec le reste du monde du au cours trop élevé de l'euro; ce sont ces déficits répétés dans le temps qui nourrissent les déficits budgétaires

<sup>3</sup> Il faut aussi rappeler que l'Allemagne n'a pas, à ce jour, de salaire minimum, que deux emplois à mi-temps y coûtent moins cher pour l'employeur qu'un emploi à plein temps (à l'inverse de la situation en France par exemple), qu'un chômeur qui refuse une proposition d'emploi à mi-temps est dans l'obligation de l'accepter sous peine de perdre ses aides.

de ces pays<sup>4</sup>; ceux-ci ne pourraient sortir de la nasse dans laquelle ils sont enfermés que s'ils pouvaient rétablir l'équilibre de leur commerce extérieur, ce qui est impossible en l'état actuel des choses !

On voit ainsi l'immense échec des conceptions qui furent à la base de l'Union économique et monétaire et qui peuvent se résumer par un mot: la « convergence ». La convergence « réelle » devait être la conséquence du fonctionnement du marché unique; or, qu'observe-t-on? Non point la convergence, nominale ou réelle, mais bien la divergence.

Il faudrait pouvoir procéder à des échanges d'idées débouchant sur des analyses sérieuses concernant le rôle de l'euro dans la constitution et le développement du déséquilibre commercial qui affecte les pays de cette zone monétaire: malheureusement, de tels échanges ne sont pas encouragés: le dogme de l'euro comme avancée décisive et très positive de l'Europe semble bien protégé !

Au cours de la conférence Jean Monnet de novembre 2011, M. Mundell<sup>5</sup>, un vieux « Prix Nobel » d'économie, fit part de sa vision d'un monde harmonieux, et même enchanté, sur le plan monétaire: le dollar, source de tous nos maux<sup>6</sup>, remplacé par une nouvelle monnaie fondée sur un panier de trois monnaies, le dollar, le yuan et l'euro; un doux rêve pour les « européistes »: l'euro enfin l'égal du dollar ! Immédiatement après son discours, j'intervenais, depuis la salle, longuement, pour dire, en substance, que notre monde réel n'était pas un monde peuplé par des « bisounours » mais un monde structuré autour de l'affrontement entre les Etats-Unis (puissance hégémonique en titre) et la Chine qui aspire à l'hégémonie mondiale; dès lors, l'objectif du « panier de trois monnaies », comme monnaie du monde<sup>7</sup>, est quelque peu illusoire: l'alternative au dollar est et ne peut être que le yuan ! Il est donc illusoire de penser que l'euro pourrait être, sinon la monnaie du monde, ou à tout le moins,

<sup>4</sup> Les déficits commerciaux signifient un niveau d'activité insuffisant, notamment pour les industries manufacturières, donc des ressources fiscales insuffisantes et, au contraire, des dépenses sociales en forte augmentation comme l'indemnisation du chômage: il en résulte une tendance à la constitution de déficits budgétaires.

<sup>5</sup> Robert Mundell, économiste canadien, enseigna longtemps à l'Université Columbia, aux Etats-Unis. Prix Nobel en 1999, il est à l'origine de la théorie des « zones monétaires optimales » (ce qui n'est certainement pas le cas de la zone euro !)

<sup>6</sup> Il s'agit ici d'un commentaire ironique que fait l'auteur de ces lignes; M. Mundell s'est bien gardé de dire cela !

<sup>7</sup> Cet objectif constitue une reprise du projet avorté qui avait été élaboré par le FMI, sous la direction de M. Strauss-Kahn, en liaison étroite avec la Banque centrale de Chine, qui consistait à meUre en place une monnaie nouvelle fondée sur des DTS revus et corrigés.

un élément d'une monnaie du monde. Le même jour, était par ailleurs disponible, pour les participants à la conférence, un papier que j'avais rédigé avec Antoine Brunet: « Affaiblir l'euro pour le sauver »<sup>8</sup>; ce papier soulignait notamment le double déséquilibre commercial, interne et externe, de la zone euro, ainsi que la nécessité de provoquer la baisse du cours de change de la monnaie européenne. Quelques jours plus tard (était-ce en réaction à ce papier ?), était rédigé un « manifeste européen »<sup>9</sup> par quatre professeurs titulaires d'une chaire Jean Monnet, qui allait être signé par un certain nombre d'autres collègues; ce manifeste se félicitait, pour l'essentiel, du mode de fonctionnement du système monétaire européen, n'adressant à celui-ci que des critiques « constructives ».

Deux ans après, les problèmes sont toujours là; certes, en bonne partie grâce aux pressions américaines (de fin 2011 jusqu'à fin juillet 2012), il fut possible d'amener le gouvernement allemand à tolérer un assouplissement des pratiques de la BCE; toutefois, il faut bien voir que ce qui a été obtenu, des prêts aux banques qui, à leur tour, prêtent aux Etats, ne constitue que des expédients.

De la même façon que les Etats-Unis s'enferment dans les paradis artificiels de la création monétaire, l'Europe, elle aussi et comme eux, est dans le déni de ce qui constitue la cause essentielle de la crise que connaissent la plupart de ses pays, à l'exception de l'Allemagne: le déficit commercial. Ce refus de reconnaître la nature des difficultés est dramatique. Il faudrait pourtant que les pays de la zone euro s'entendent pour: (1) une politique monétaire visant à faire baisser le cours de l'euro au moyen d'achats massifs de devises par la BCE, (2) mettre en place des mesures de protection effectives et adaptées face à la concurrence déloyale de la Chine, (3) développer une coordination des politiques économiques des Etats comportant notamment une très sensible augmentation des salaires en Allemagne.

L'adoption d'une telle ligne politique constituerait une reconnaissance implicite du fait que, depuis longtemps déjà, 11 ans

<sup>8</sup> Jean-Paul Guichard et Antoine Brunet, « Affaiblir l'euro pour le sauver », Bruxelles, novembre 2011. [ec.europa.eu/education/jean-monnet/doc/conf11/guichard\\_fr.pdf](http://ec.europa.eu/education/jean-monnet/doc/conf11/guichard_fr.pdf)

<sup>9</sup> « Stabilizing the euro area and the EU, Manifesto of Jean Monnet Chairs » (30 novembre 2011) [hUp://www.facebook.com/notes/hec-paris/stabilizing-the-euro-area-and-the-eu](https://www.facebook.com/notes/hec-paris/stabilizing-the-euro-area-and-the-eu)

exactement<sup>10</sup>, les orientations données à l'Union Européenne et plus particulièrement à la zone euro, ont été largement nocives. Le problème est que ces orientations ont été très largement voulues par les classes politiques des différents pays, droites et gauches réunies. Il y a donc désormais une crise politique profonde au sein de bon nombre de pays de l'Union; face à la crise économique et sociale de ceux-ci, à leur déstabilisation de plus en plus marquée, les professionnels de la politique s'avèrent incapables d'apporter des réponses crédibles; la montée conjointe de ce qu'ils appellent les « extrémismes » et le « populisme », et aussi et surtout de l'abstention, lors des consultations électorales, exprime cette incapacité.

Dans son discours du 14 novembre 2013, le Président Barroso a demandé aux « Chaires Jean Monnet » de faire des « propositions »; prenons-le au mot et produisons, non pas des « propositions » – nous sommes des universitaires, pas des « politiques » – mais des analyses; produisons des analyses qui ne soient pas biaisées par des dogmes, qui prennent en compte réellement les faits, sans chercher à « tordre la réalité » pour l'adapter à des a priori dont on s'aperçoit, tous les jours un peu plus, qu'ils ne sont pas fondés. Produisons des ANALYSES concernant le grand problème de la zone euro: l'EURO !

Nice, Mercredi 22 janvier 2014

<sup>10</sup> En novembre 2001, lors de la conférence de Doha, la Chine est officiellement admise à l'OMC; au premier janvier 2012 est mis en place l'euro.

## EU Economic Studies

Jeremy Clegg

President Barroso raises an important question, predicated upon the assumption that deepening integration may offer a route to recovery from the economic and social crisis.

The President specifically mentions deepening integration. I am an Economics Jean Monnet Professor, so I will restrict myself to my area of knowledge. Within economics I am specialised in international business. In my work as a Jean Monnet Professor I teach, and research, how liberalisation and the reduction of barriers to business generates both commercial, economic and the wider social gains. I believe that the history of economic integration in the European Union demonstrates that these gains are very palpable. To some extent, we have already enjoyed many of the low hanging fruit, and to generate further advances we must address not just economic barriers, but also barriers that lie beyond.

The big gains that we have experienced within the European Union, in my view are the result of both the static and dynamic efficiency gains to operating ever closer as a single European economy. The theory of the gains from increased trade are the fundamental gains that any integrating area enjoys – and these benefits have underpinned the positive side of all empires going back at least to the Roman. Regional economic integration, as an exception to the principle of non discrimination has served us well. But the proliferation of free trade agreements (which are primarily commercial) to some extent are undercutting the early initiative of sincere integration as simplified by EU. And the internal integration of major economies of the world, particularly the internal integration that is taking place within the Chinese economy, is not that dissimilar to economic integration within the EU. Economies that

were cantonised now behave more in tune with each other, and are increasingly integrated and efficient.

**The European Union cannot stand still.**

In my view, trade integration must now be built upon in a far more purposeful way. The European Union will only realise its full potential when it behaves as a single economy. So I think we now need to review exactly where the barriers are to business. And it is business that I emphasise. The problems of monetary integration are deep, and I cannot do justice to them in this short response. But, taking Mundell's original insights into what constitutes a workable (let alone an optimum) currency area demonstrates that we have some fundamental tensions within the EU. For example, the four freedoms apply to all 28 member states, but monetary integration only applies to the 17. These Euro zone countries must proceed to proper fiscal integration through the “front door”, rather than through the “back door” (my terms) as a retrospective and rearguard action. This is a task for the Eurozone economies.

For the rest of the member states, if we are to even think about monetary integration we must operate in both product and factor markets as a single economy. I do not minimise the tensions and controversy over labour mobility, in difficult times we must recognise that we have some way to go to persuading all member states that this is the way ahead. And our timeframe should be well-informed – we may be thinking not just in years but in decades. But, what we can do more immediately, and for which there is far greater consensus, is to facilitate the integration of business and market opportunities. And here I particularly emphasise the importance of competition policy – the targeting of market power (alas, often linked to strong incumbent operators with the support of national governments). However, these entrenched interests have already lost the moral high ground, and even the most sceptical member states approve of the liberalisation agenda at least in principle.

So for me, I would prioritise competition policy – and from this flows all of the benefits which are in direct line of succession from those that have made the European Union the economic power that it is today. We need more competition to stimulate innovation, and we need new entry to stimulate competition – new entry, not only from within

Europe but from outside of Europe, and here I include the emerging economies, particularly China and India. External initiatives, such as the international investment agreement are important complements to the strategy.

I apologise for the fact that this response is more in the way of thinking aloud but I hope that it may be of some help in forming our view as Jean Monnet Professors, charged as we are with the duty to contribute positively to the progress of the European Union.



# **Propuesta de Modificaciones Institucionales de la Unión Europea**

Jose Maria Gil-Robles

## **1. Introducción**

La presente propuesta se formula por los Profesores del Centro de Excelencia Jean Monnet “Antonio Truyol Serra” de la Universidad Complutense de Madrid, como consecuencia de la sugerencia formulada por el Presidente de la Comisión, Sr. Durão Barroso en la apertura de la Conferencia ECSA WORLD celebrada en Bruselas en Noviembre de 2013.

La propuesta se ciñe a las cuestiones delimitadas en la carta de los Profesores Fausto de Quadros y Dusan Sidjanski en cumplimiento del mandato del Presidente de la Comisión.

La propuesta ha sido enviada a todos los Profesores del Centro de Excelencia. La redacción final ha sido redactada en reunión en la que participaron los Profesores Jose María Gil-Robles (Director), Francisco Aldecoa y Manuel Núñez-Encabo (Codirectores), Mercedes Guinea, Jose Antonio Nieto Solís, Santiago Petchen y Miguel Martínez Cuadrado.

## **2. Observaciones Previas**

**2.1.** Queremos ante todo recordar que la unificación de las instituciones comunitarias fue un gran paso adelante en el camino de la integración europea. El hecho de que algunos países no deseen participar en la moneda común o se nieguen a atribuir nuevas competencias a la Unión no debe ser motivo para desandar camino.

Los Tratados en vigor establecen como han de tomarse las decisiones en el seno de las instituciones en los supuestos de no participación de ciertos Estados sin necesidad de duplicar o multiplicar instituciones y la práctica demuestra que el sistema funciona bien.

Los escasos ejemplos en que se ha seguido el camino contrario (ej. El Presidente permanente del Eurogrupo) demuestran que no se gana en eficiencia.

**2.2.** Por su especial relación con las cuestiones específicamente institucionales hemos de destacar la esencial relevancia de la financiación de la Unión. En efecto, de nada sirve perfeccionar un instrumento si no se la facilitan los medios para que funcione.

En este campo nuestras propuestas son:

**2.2.1.** Aumentar el total de los recursos de la Unión en las dos próximas revisiones de las perspectivas financieras hasta el 1,30% del PIB, y reducir su duración de forma que en cada legislatura el Parlamento pueda pronunciarse sobre dichas perspectivas.

**2.2.2.** Introducir nuevas categorías de recursos (por ejemplo el impuesto sobre transacciones financieras) para disminuir el peso relativo del llamado cuarto recurso (el que consiste en una participación en la renta nacional bruta).

**2.2.3.** Este cuarto recurso debería estructurarse en dos partes:

- una parte regulada a semejanza de los impuestos sobre la renta de las personas físicas en los EEMM, es decir unos impuestos cuya cuantía resulta de aplicar la tarifa a la base y no de una negociación entre los sujetos imposables (en este caso los Estados)
- una parte, la menor, que actúen como corrector de eventuales déficits, como hasta ahora.

**2.2.4.** Es imprescindible eliminar los “cheques” o correcciones específicas para determinados países, según un calendario progresivo, sin perjuicio de la posibilidad de tener un presupuesto específico para la eurozona.

**2.2.5.** La necesidad de ratificación de las perspectivas financieras por los parlamentos nacionales debe, asimismo, ser eliminada.

**2.3.** Los procedimientos o construcciones intergubernamentales pueden ser y de hecho han sido a veces etapas transitorias hacia esquemas propiamente comunitarios. Esta posibilidad debería preverse en todos los casos, uniformando los procedimientos según los modelos más flexibles de los actuales tratados.

### **3. Parlamento Europeo**

**3.1.** Consolidación del actual sistema de investidura y control político de la Comisión y su Presidente. Hasta ahora la tradición europea no ha sido predominantemente presidencialista.

**3.2.** Articulación de un sistema de comisiones mixtas entre el Parlamento Europeo y los parlamentos nacionales para la preparación y control de las decisiones a tomar por dichas cámaras, por los ejecutivos nacionales y por el Consejo y la Comisión en el marco del Semestre Europeo, y en los casos de la eurozona y en los casos de cooperación reformada.

**3.3.** Introducción de procedimientos de control por parte del Parlamento Europeo sobre las decisiones que se tomen por Consejo y Comisión en materia de rescates, reformas nacionales pactadas con la Unión (financiadas o no), supervisión y resolución bancarias y regulación financiera.

**3.4.** Sustitución de los actuales procedimientos legislativos de consulta y cooperación por el procedimiento legislativo ordinario.

### **4. Consejo Europeo y Consejo**

**4.1.** El Consejo Europeo ha mejorado sensiblemente su funcionamiento con la presidencia permanente. Sería conveniente:

- prever dos o tres vicepresidentes, que asumiesen la presidencia permanente de las distintas formaciones del Consejo para evitar los inconvenientes del sistema de rotación
- suprimir la presidencia de la cumbre del euro, que puede desempeñar perfectamente el Presidente del Consejo Europeo
- doblar el mandato de este último, para aprovechar su experiencia.

**4.2.** Hay que evitar el sistema de dobles mandatos (tipo Alto Representante) pues la experiencia indica que uno de los dobles mandatos se cumple deficientemente.

**4.3.** El continuum Consejo Europeo / Consejo debería: a) establecer orientaciones para la acción política de la Unión, b) legislar y c) realizar

los nombramientos más importantes (con aprobación parlamentaria en caso necesario), pero no debe ser un ejecutivo.

## **5. Comisión**

**5.1.** Debe continuar la evolución para ser el ejecutivo de la Unión.

**5.2.** El nuevo Presidente ha de establecer en su seno una estructura reducida (que puede ser informal, tipo gabinete) que le apoye eficazmente en su tarea de dirección y coordinación.

**5.3.** Hay que huir, por tanto, de Vicepresidentes o Comisarios que sean como islas autónomas, con dependencias especiales fuera de la Comisión.

**5.6.** Por la misma razón hay que evitar toda confusión entre funciones de naturaleza diferente, como son presidir el Consejo Europeo o el Consejo y presidir la Comisión.

## **6. Tribunal de Justicia**

No parece que se requieran modificaciones institucionales.

## **7. Banco Central Europeo**

**7.1.** La independencia del Banco Central en política monetaria se ha ido consolidando y completando en su papel de defensa del euro y esta misión debería reflejarse en los Tratados. Es necesario ahora perfilar su responsabilidad democrática en las nuevas funciones que se le han encomendado o se le encomienden, como la supervisión bancaria.

**7.2.** Basta con los ajustes orgánicos efectuados para sus nuevas funciones.

# **Proposals on «Institutional Framework for the Eurozone» and on «Blueprint for a Political (Federal) Union»**

Josu J. Sagasti Aurrekoetxea

## **I. Introduction**

First at all, I should like to express my gratitude to Professors Dusan Sidjanski and Fausto de Quadros for the invitation to participate and collaborate in this exercise of proposals with another Jean Monnet Professors. It is a great honour for me to join this initiative and expert colleague team; so, I shall try to contribute some reflections or thoughts to this survey from my experience and knowledge with humility and responsibility.

The European Union creation and its development till nowadays have changed a lot in many ways, such tenets, principles, structures, members and goals. At the same time, Member States and their people have changed in knowledge and hopes, showing a picture of a mixture of social, economic and intellectual classes or conditions with different needs and aspirations.

The original principles and aims of the founding members of the first European institutions are out-dated, in some cases, or can not be used for actual purposes, in other cases. The nowadays era requires new initiatives to solve new facts and problems. The world –an, specially, The European Union– have become closer; in some cases, there are not boundaries, and, in other cases, the boundaries do not block the coming of extra– community people, who run away from their countries or continents in search of opportunities to survive. So, The European Union has to face the *new world*, where all types the relationships have changed, creating the need of new responses and *statu quo*. In this sense, we must underline some of the tenets contained in Treaties: “closer union among the people of Europe”, “social progress of their States”,

“the constant improvements of the living and working conditions of their peoples”.

Additionally, The European Union, as political entity as well as economic structure, presents several dysfunctions which do not contribute the people get to know the inner workings and the influence of its decisions in the future and, even, in their own lives. As one example of those dysfunctions, we can underline the results of the voting to The European Parliament. The data show that the participation has been lowering election by election; thus, the official data from the European Parliament do not admit discussion: the European turnout has fallen from 58.41 per cent in 1989 to 43 per cent in 2009. The data reflect the disconnection or distancing between people or citizens and The European Union matters. In this regard, we must pay attention to next elections of May 2014 to The European Parliament, specially keeping in mind that the new Parliament will elect the leader of the European Union Executive body, the European Commission President.

Likewise, the European Union concept itself has not only one meaning, but several, depending on political, economic or others fields. As political concept, The United Kingdom belongs to The European Union, but as economic organization, is out. In other matters, as Schengen Agreement, States which do not belong to The European Union are part of that Treaty; so, The European Union is a complex concept, which needs to be studied from different points of view and analysis.

In this regard, we must realize that a complex concept cannot be analysed from a general view, but subject-by-subject. Due to this circumstance, the proposals developed below are arranged in different ranks. In addition to this aspect, we must consider that the proposals will need different measures, which depend on The European Union or the Member States authorities willingness; so, in some cases, it could be quite difficult to join forces and determinations to built a new kind of balance of understanding, because the measures require abdications of responsibilities. According to this, the proposals will be structured in three ranks or levels [short-term, short-medium-term and long-term proposals] and will be developed from the contents of *Consolidated Version of «The Treaty on the Functioning of the European Union»* – hereinafter, *TFEU*–.

## **II. Short-term proposals**

### **II.1. The European Social Fund**

Article 162 TFEU, referring to «The European Social Fund», says “in order to improve employment opportunities for workers in the internal market and to contribute thereby to raising the standard of living, a European Social Fund is hereby established in accordance with the provisions set out below; it shall aim to render the employment of workers easier and to increase their geographical and occupational mobility within the Union, and to facilitate their adaptation to industrial changes and to changes in production systems, in particular through vocational training and retraining”.

Article 163 TFEU also gives the competency of that matter to the Commission; so, in this area, the European Union could develop more programs to get policies of cooperation which lower the imbalances among Member States workers. Moreover, the mobility, both geographical and occupational, would have to be increased among who start to work for the first time. These workers need special plans to get better their possibilities to move within Member States, attending to their conditions.

In short, the European Union has all the tools to implement measures which can be enough to raise workers opportunities and benefits level. So, this subject could be done directly by European authorities and it would be understood by people as a public commitment of the European Union, as a real entity, with them. People need measures addressed to them to realise that this entity belongs to them somehow and is interested in their needs and future.

## **III. Short-medium-term proposals**

### **III.1. Governance**

The European Union lays down a purpose of “good governance” – article 15.1 TFEU– and the its institutions, bodies, offices and agencies are subject to this goal, specially the European Parliament, the Court of Justice, the European Central Bank and the European Investment Bank; these last three only will be subject to that aim when they exercise administrative task.

The «*The Treaty on the Functioning*» gives also to each institution, body, office or agency the competence to elaborate in its own Rules of Procedure specific provisions regarding access to its documents –article 15.3, 3 paragraph TFUE–.

So, as the European Union has a competence in this area, it should have to encourage the transparency of its different subjects, more and wider than the current situation. Admittedly, we must recognise that it has been got a lot referring to the right of access to documents. However, nowadays, there still remain many fields or areas out of public knowledge or where the knowledge is limited or the access is very difficult. We consider that European institutions must be more open for the citizens and the ways to get the information must be closer, easier to know and use and quicker in responding enquiries.

In the same sense, we judge the most important institutions as the European Parliament, the Council and the Commission would have to set up a way to deliver their activities to ordinary citizens, because in most cases people are unaware of their work.

### **III.2. Young workers**

«*The Treaty on the Functioning*» imposes the Member States the duty to encourage the exchange of young workers –article 47 TFUE–. However, it must be developed “within the framework of a joint programme”; i.e., the first duty in this area belongs to the own European Union, because it has to set up that framework of a joint programme.

Up to now, the exchange of young workers is more a wish than a reality. The cases where there is this exchange come from initiatives of big companies, set up in different countries, or professional exchange programs of several associations, because there are not that framework.

This is one of the more important fields where the European Union must to work to become true the freedom of movement for the workers within de Union. Admittedly, the young workers need that joint programme to get the same level of requirements and treatment, no matter the country or State they are. At the same time, the aforementioned frame work is necessary to drive State Members to encourage young workers to face new possibilities of development. In short, without the drive of the European Union, this aim will remain as a wish in a paper. Even more, it could be said the Member States have not any wish to drive this subject because it would be a way to lose a well-trained young workers.

### **III.3. Taxation**

The harmonisation of legislation concerning taxes is one of the aims of the European Union to ensure the establishment and the functioning of the internal market and to avoid distortion of competition –article 113 TFUE–. Nevertheless, having said that, it is necessary to determine the scope of that concept, “harmonisation”.

Regardless of the competition, taxation, in itself, needs to be harmonised to achieve a real single market. While there are different taxation rules and rates, the European Union could turn into a «space of convenience»; depending on the subject or matter, companies could choose the best option to pay taxes. Nowadays, there are many examples of Member States with lower tax rates, who get the companies to set up their seats in their countries, no matter where they are registered offices or real head offices. Due to this, we consider that the concept of “harmonisation” must be understood and developed as the faculty to get the same tax rules all over the Member States. If the “harmonisation” concept means only the possibility to bring Member States tax rules closer to each other, the status quo will carry on as in the present and the aforementioned movement would keep on. The only way, in our humble opinion, to get a real single market is to get the same tax rules.

As in other areas –i.e.: The European System of Financial Supervision, European Systemic Risk Board, European Insurance and Occupational Pensions Authority–, the European Union would have to get the competence on taxation to allow to set up the same rules regarding that subject in all member States and to establish its own European Supervisory Authority.

The rules on taxation must have been set up by the European Union institutions and applied in each Member State attending general interests of the European Union and special features of each State. We realize that this new step means a great assignment of sovereignty or self-government from States to the European Union, but, in the same way as it has been possible on Banking or other Financial subjects, we think that it could be possible on taxation; moreover, we think it is absolutely necessary to build a real single market without «safe or convenience harbours».

## **IV. Long-term proposals**

### **IV.1. Education, Knowledge and Values**

«*The Treaty on the Functioning of the European Union*» lays down the promotion of “the development of the highest possible level of knowledge for their peoples through a wide access to education and through its continuous updating”. In this sense, article 6.(e) TFEU, says “the Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States. The areas of such action shall, at European level, be:…Education”. Additionally, article 9 TFEU emphasize that “in defining and implementing its policies and activities, the Union shall take into account requirements linked to the promotion of... a high level of education...”. The article 165.1 TFEU says, also, “the Union shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States for the content of teaching and the organisation of education systems and their cultural and linguistic diversity”.

Nowadays, the means to get a high level of education have improved a lot by a new skill and tools. However, the level of education has decreased in many fields or subjects. We can see that pre-university and university students know less than former generations and, in some cases, before starting university studies, there is a previous non-official week to revise the concepts or subjects which are necessary to be known to start with the official program of the career. This previous week allows teachers to know the level of their students and to avoid the students miss explanations and the interest on the subjects in the first weeks. Anyway, although this practice is not general, it shows well the level of the knowledge and the basis over what is developed the next step of education. In some Member States, Educations laws has changed a lot of times, setting up new models and removing others which became absolutely useful. Even more, if we ask to the students the same level of knowledge which were asked to us, the total sum of students who would pass the exams will be greatly fewer.

The education level has gone down so much that it is very dangerous to the society itself because the level of new professionals is less than the formers. Admittedly, most of the new professionals

leave the university with less knowledge than the previous classes. They have, indeed, more skills and tools to use in their professions but their own knowledge is minor. This downturn appears in several facets, as technical conferences, training tests and exams, professional activity, etc. The most evident datum or proof of all this could be the grammatical or orthographic errors made by pre-university, university and post-university students.

Nevertheless, the education mentioned in the «*The Treaty on the Functioning*» is referred to knowledge, but besides this type of education, we must not neglect that there is another, *the education in values*. These have disappeared in a lot of levels of education as a subject which must be instilled in human being. The new world, imbued and ruled by scientific and technology advances and economic profits, has abandoned the values. So, we consider the education plans must return to teach and develop the values within education programs, especially at pre-university levels.

Be it as it may, we consider the European Union competence referring to education must change in some way. In the current situation, that competence is beneath the Member States competence and actions. We consider the European Union must have the competence to set up some obligatory subjects with the same contents within the education programs of all Member States. In this sense, one remarkable example is the initiative on financial education, developed from *White Paper Financial Services Policy 2005-2010* to the *European Parliament Resolution on Financial Services Policy*, setting up a *Group of Experts on Financial Situation*. Referring this initiative, we can add, as another proposal, subjects as the European Union Geography, History, Institutions, etc.

#### **IV.2. Culture**

Besides the education, there is the culture. The distinguishing between them turn out to be quite difficult many times, because they share matters and fields. However, as «*The Treaty on the Functioning*» mentions it in separate article, we also address it as a separate item.

Article 67 TFEU says “the Union shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore”. It adds “action by the Union shall be aimed at

encouraging cooperation between Member States and, if necessary, supporting and supplementing their action”.

In this area, we deem that the European Union must have to drive initiatives above Member States actions to develop its own culture as a new and separate entity. Beside this, we consider too that what it has been said about education, could be repeated and reproduced in this section.

## EU Interdisciplinary Studies

Jukka Seppinen\*

It is a great pleasure to me to participate in the debate on the future of our European Union opened by President Barroso during the Jean Monnet Conference of 2013. My ambition is to give some perspectives as an historian and as a former diplomat with a specialty concerning the Cold War era, European history and Russia/Soviet Union.

### **One general starting point**

As my profession requires, I'll start by giving a general framework. I will not give any analysis over the past, but I'll try to draw some basic lines which are common to the EU to be taken into account when creating for the future necessary political stability for a successful economic and social development.

One starting key point is that after the October Revolution 1917 Soviet-Russia adopted Lenin's view: unification of Europe is against Russia's basic interests. This was wrapped mainly by Marxist-leninist argumentation and rhetoric – but included old Russian elements of a continuous expansion, too. Even after the fall of Soviet Empire in 1991, this element is still valid in the Russian leadership of to-day. Russia is still a country who has no friends, no enemies but only interests.

Since I wrote these words two years ago (March 2014), two basic lines have emphasized the ultimate necessity to develop the EU's capacity to respond to these threats. It was just in spring 2014, when Russia did annex Crimea. At the same time the Russian warfare in the eastern parts of Ukraine deepened in order to destabilize the country.

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And lately, Russia opened a war in Syria in September 2015 in order to bombard herself a big power foothold in the Middle East and to meet on a bipolar basis the U.S., like under the times of the Soviet Union. As a consequence of the Syrian civil war, since 2011, the jihadist terrorism, other kind of organized criminality and the high influx of refugees has destabilized the political situation inside European Union up to the Northern parts of it. It is worth noting that Kremlin seems not yet have recognized the EU as an actor worth being noted really seriously. This is one feature to be changed in the near future. It seems to me that one Russian empire or state interest may only lay on a pure mental basis, between the ears. The method to implement a mental interest is easily found within the repertoire of military actions.

It is worth underlining that the big line for Europe must go on towards more integration. Europe's own history is not to be forgotten. The actual difficulties cannot be fatal to the EU. The inside political will is the key to meet a prosperous and peaceful future. Finally, for instance, the overwhelming majority of Finns is searching stability of the European Union. They are not ready to leave the Eurozone. The opposite tries are of populist nature and pure personal exercises to get power. It is not responsible to use the natural reactions of emergency situations of the populations to build up fragmentary political shortsighted populist movements, and thus give place to the major threats to grow.

The actual Russian president is a man who is a former ideologically hardliner Stalinist type high officer of the KGB, stationed in the late DDR. Here we can find a direct line to the Tcheka, Lenin's Intelligence service from 1917. Russia's movements in the international scene are conditioned by this complexity mixed by modern requirements, by inside SU-elements in many brains encouraged by the Kremlin led heavy propaganda and, by difficulty to recognize facts to respect in Europe. Lately we have heard President Vladimir Putin say publicly that Russia has no respect to the borders, for instance.

One can say that tchekist-type KGB lost against liberal wing in 1991, but succeeded in its counterrevolution with Vladimir Putin in order to re-establish the Soviet order. Russia is not, of course, a direct copy of the Soviet Union, but as Soviet as it nowadays can be. To the Kremlin, it is obviously easy to move on getting back political positions and areas which the Soviet Union lost 1991. As it is well known, to President Putin the fall of the Soviet Union was "a geopolitical catastrophe".

I wrote two years ago as follows: “So, my first conclusion is that a prerequisite to a lasting economic and social recovery inside the EU means capacity to control effects of possible crisis in the surrounding world”. I repeat that.

The Foreign Affairs and Defence are thus in the key position when creating a solid framework for inside economic and social development. While knowing the story of European Army once ready in the paper during the early 1950’ and the current situation, the Defence matters must have a first priority. The organization on diplomacy of the EU seems to have started rather well, and the Ukrainian crisis has obviously deepened the solidarity. This said, I have to add right away that the refugee crisis has gone to an opposite direction. The EU must not to be sacrificed to the consequences of violent crises. There must be a strict control on the outer borders of the EU in order to avoid many catastrophes inside the EU. Too large uncontrolled influx is just too much. I am even for strong measures to protect EU-member states of a destabilization which would give place for populist political movements – many of them are just encouraging Russia to activate the sources which launch people to leave their homes – and deepen the destabilization of different EU-countries. Russia has thus a complex of motifs in their movements. Kremlin sees the weakening of the EU as a victory.

To add shortly, I welcome the French decision to activate the article 42.7 of the Lisboa Treaty after the terrorist attacks in Paris in November 2015.

**What is the best institutional framework for the Eurozone, in order for it to function in the most efficient, transparent and democratic manner?**

**Blueprint for a Political (federal) Union beginning with the Eurozone**

I am a partisan for a parliamentary way of life. All basic activities must be approved legally by a Parliament freely elected by European Citizens. In that sense, when making sure that the Commission and other institutions are working in an efficiently way, the Parliament’s profile should be higher than today. One factor seems to be the poor visibility of the European Parliament in the daily media in many countries. This weakens the feeling of many voters of the importance of the European

Parliament and gives place for populism with anti-EU slogan-oriented rhetoric. By this method in Finland, for instance, an anti-EU oriented party with populist method, baptize by the party participants themselves as True Finns, Real Finns or Basic Finns, gathered support with empty slogans, like “Where the EU, there a problem”. The hard populism led to a situation where the face of that movement got the post of Foreign Minister in summer 2015. While it is obvious that an anti-EU populist Foreign Minister cannot be a representative of the grand majority of pro-EU.

Finns, the popularity of that party has dropped dramatically down to under ten percent from a level of almost 20 percent during the parliamentary election in spring 2015. The hard core of voters for that party seems to lay between six to nine percent.

This reflects some general trends now in Europe. Meanwhile, new member candidates are seeking the membership of the Union and the Eurozone having new members.

The European integration needs enlargement as well as periods to deepen the integration (*élargir et approfondir*). We have now obviously in hands strategically a period to deepen the integration.

Besides the solidarity between the Union members in the field of Defence, it should be strengthened through deepening by European Parliament the common framework of budgetary and monetary politics. The Bank union is a step in good direction. There must be a controlled and responsible, certain balance between incomes and expenses.

Without being a specialist in economics, it seems to me appropriate to approach this question through budgetary development. A federal budget would be a tool to deepen the Union. When accepting a two stroke advancement, the first steps could be taken inside the Eurozone. That would need a federal institution to implement the parliamentary decision on the budget and to plan each year a common really meaningful budget.

Federal budget would require an organization similar to national “Ministry of Finance”. This institution should not have any law-making capacity. Each member state would, of course, have its own national budget and Government as it is now. In what extension the federal and the national budget should cover the need, is a separate question and subject for large discussion. Fields to create a genuine integration are many.

The ongoing crisis on security with Russia and the refugee problem underline a need to create a more substantial and powerful center to lead the Foreign and Defense Policy as well as Intelligence activities to strengthen the role of the EU in world politics. There would, I think, be constructive impact on the extremely important transatlantic relationship we have with the US and Canada.

Foreign Policy and Defense cannot be limited only with the members of the Eurozone. The role of the Defence Alliance Nato in this context is interesting. However, in Finland, among the electorate, lives quite strongly a belief that Finland would live in a security position without a military alliance. I have researched the phenomena quite a lot. In trying to find out a solution, the best way seems to me to get Finland to join the Nato. While 22 of the 28 members of the EU are members of Nato, it would be a wasting of resources to try to build up a separate European army. While the official decision in Finland to seek the membership of Nato seems to be very difficult now, new approaches are needed on the basis of Nato.

A western military network on the bilateral basis is, of course, welcome to Finland. But, to have more integrative impact, long term readiness, predictability and direct cover of the famous 5th article, I see Nato membership of utmost importance for Finland and the whole of the EU.

I am of the opinion that only the full membership of Finland (and Sweden) in Nato would stabilize the Baltic Sea area and Europe in general. A prerequisite to that is that Russia starts to abandon ideas to become anew the military master of this area. The tries to make a reverse development are not acceptable.

Finland has to move westward totally out from a Russian daydream of a zone of interest to control Finland as during the 19th century and during 1944-1991. Russia of today does not respect any treaties. Only power means now, while tactically Russia can make quickly any kind of moves, from détente to open military actions.

This reflection and attitude does not mean any isolation for Russia but a balance of powers and of constructive interactions. Thus, an active military development in Europe is needed, also in order to secure the American assistance. That is the way worth doing to avoid possible open large war between East and West.

It is obvious that Russia is making a “resovietization” of her Foreign Policy and planning of Baltic Sea area to become again a “Mare Sovieticum”. There is from the phenomena of so called “Finlandization” quite a lot material in Kremlin how to act with Finland.

From the point of view of her military Defense, Finland has a relatively strong army, with a large reserve. This is not alone enough to dissuade Russia from an expansive outlook. More is needed, but the goal should anyhow be a normal mutually beneficial relationship with the countries around the Baltic Sea and in Europe and with the USA. As long as there is a grey zone in the North within the European Union, Russia will not stop of seeking advantages with all methods at her disposal.

To encourage Finland (and Sweden) to seek the membership of Nato, difficult would be the time lap before the Nato membership has its full impact. There is a political work to be done among the electorate in Finland to convince of the vitality to join the club of Nato as well as looking for a new and normal cooperation with Russia. Sure I have ideas for that but to be used elsewhere.

So, my view of a blueprint to meet future challenges for Europe would now be focused on these three points:

1. Finding ways to meet a common satisfactory result for the need of the Defence of Europe in a large meaning,
2. strengthening the common Foreign Policy and Diplomatic administration as well as developing a common Intelligence Service and
3. creating a common Federal Budget with necessary structure.

There are several fields to be developed. While I see this paper of my views to be limited on big lines, I’ll avoid going in details. I hope to have other possibilities in the future to continue my reflection in the context of the Union and the future of European continent.

# **How the European Union might recover from the economic and social crisis through European integration deepening**

László Szentirmai\*

The author of this report has competence in science, research, technology, higher education, knowledge society, industry, energy and environment protection in a large scale Europe and world-wide along with electrical engineering science on an internationally recognised scientist level.

Therefore, the author is not in the position to propose a complete picture either on “the best institutional framework for the Eurozone” or on a “blueprint for a Political (Federal) Union beginning with the Eurozone” since he does not have abundant knowledge on the typical Eurozone.

However, the author thinks that it is not the Institutional Framework alone that operates the EU but adequate, mainly human resources do it. Thus, the therapy should come from different sources. Such a source this author is who presents in this report the respective European environment and proposes possible ideas, facts and steps for the Union with some emphasis on a blue-print Europe how to recover from this deep economic and social crisis.

## **I. Brief comments to a new institutional framework**

To find the balance and the right way on recovery is a difficult project because both the political and the financial elite did not notice the danger of crisis on time.

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## **1. European Commission**

### *Proposals:*

(i) The structure of the European Commission and the number of its Members should relate on qualified management of the EU and do not either on the number of Member States or political party. The first and substantial criterion for deciding who gets the relevant job of an EC Membership must be excellence in the required position.

(ii) To put the EU policy into execution, EC agencies like e.g. EACEA proposed to establish.

## **2. Industrial policy**

European manufacturing industry leaders since late 1970s searched for cheap labour force to increase their profit and find new market, thus a lot of European manufacturing industries – from high-tech motor car to baby toys, – moved to or new ones set-up in Far East countries. This was the cradle of the demoniac economic, financial, social and moral crisis, the author of this report states.

The reasons why this demoniac crisis stemmed from industry erection in Far East are summarised below:

- (i) Several Far East countries, first of all People's Republic of China have been supplied by the West with latter-day technologies and the culture of modern world of work.
- (ii) These countries have been getting familiar with cutting-edge technologies, began to manufacture identical or similar products under the aegis of the European industry, thus competitiveness of such European product has dropped considerably.
- (iii) GDP of these Far East countries' has increased dramatically and by now e.g. P.R. China possesses the vast majority of the USA Government Bonds.
- (iv) The unemployment rate in Europe has been going up owing to the above-mentioned reasons.
- (v) However, the horizon looks to be brighter: within a decade or so manufacturing initial cost of products by the application of leading-edge technology in European industry will be equal even less than those in the Far East Countries.

*Proposals:*

(i) In a similar way when the European Commission launched a procedure to implement safeguard measures aiming to counterbalance Chinese textile imports (2005) such, even stricter measures should be introduced to other imports coming from EU-based but Far-East located industries.

(ii) Respective EU industries should be encouraged to replace cheap labour force in manufacturing industries by cutting-edge technologies in Europe little by little while simultaneously produce less goods in Far East countries.

*Consequence:*

GDP and employment figures in EU Member States will be getting higher than before provided these changes in manufacturing industry will occur on time.

### **3. Demand for a new “Cecchini Report”**

The Cecchini Report (1988) dealt with "The European Challenge 1992 – The benefits of the Single Market" paved the way by its economic and research output for the Maastricht Treaty describing for the completion of the European Community internal market. Ten years later (1999) was some 2.5 million extra jobs and 877 billion of extra wealth.

However, that report focused the strong economies of the Six, eventually the Nine, thus the future when the weaker, emerging economies joined have not been treated. But it is easier said than done since industrialised countries are in much better position to invest, or manufacture even purchase goods, processes and services in emerging economies than the reverse.

*Proposal:*

A New Report is needed to provide scientific support and background for the coming decades and give an actual picture on the full-scale development of knowledge society integrating with knowledge-driven economy.

#### 4. Solidarity

During the first world economic and financial crisis between 1929 and 1932 one in five in the 18-65 age bracket lost his/her job in North America.

In 1992 the GDP per capita – the EU-15 average considered 100% – occurred in wide difference between the poorest and wealthiest regions, e.g. Hamburg enjoyed 196%, Brussels 174% but Alentejo, Portugal 41% and Voreio Algaio, Greece 45%. Thus, Structural, Regional, Social and Cohesion Funds, around 30% of the Community budget, was earmarked for assistance to poorer, backward regions and areas.

Based on the US experiences, to exit from the crisis many governments intended to maintain even increase the employment rate and subsidise some troubled firms. They encouraged all sectors to introduce shorter working weeks and provide longer leave for employers. Thus, both supply and demand gradually increased and a new, consumer society created.

The other side of the coin shows over 1.5 million Euro millionaires in Europe by 2010 and their number is growing fast. One (1) % of households in the world control 38% of private enterprises/companies.

Compromise after the World War Two in the United States improved the position of the middle class, by the reduction of income taxes and the growth of wages. But at late 1970s the wide difference in wages achieved

50-100 times. In Europe now the situation is the same: the profit of a bank executive exceeds some 50-100- times a teacher's annual wages. But in emerging economies a retirement pension rate lowest-highest is close to the communist idea, 1 to 4 do not count some extreme cases.

##### *Proposals:*

(i) to adjust financial resources (EU Funds) to minimise wide differences between the poorest and wealthiest regions gradually, (ii) to prepare directives on how to reduce enormous differences in wages e.g. by income tax reform or in any other ways. (iii) To protect teachers, the lion's share of middle class, from dismissal and maintain them for teaching future generations, special fund needed to keep the teacher-student rate as high as possible because the quality of teaching improves if one teacher has less pupils/students.

## **5. Privatisation of land and sweet water**

The fast urbanisation goes together with deterioration of forests and some species of flora and fauna, the pollution of oceans, seas, lakes and rivers, and then the greenhouse gas (GHG) effect, all threaten our Globe by an environmental catastrophe. The GHG effect and desertification conclude the loss of six million hectares of arable land and 10-17 million hectares of forests a year in the world. The drastic concentration of capital and sometimes political power in few hands, results in privatisation of land and sweet water resources, both indispensable for humans, – a new age of conquest is to begin.

### *Proposal:*

Ownership of sweet water resources and land with forest should be controlled by elected members of local/regional governments.

## **6. Involvement of Christian Churches into the Institutional Framework**

### *Proposal:*

Involve Christian Churches into the Institutional Framework. This involvement is based on the following reasons: (i) to meet the ideas of the EU's founding fathers – R. Schuman is to be beatified by the Church of Rome –, (ii) to recognise and help improve the useful and efficient, large-scale activities of the Churches for feeding poor people and children, providing food, healthcare and temporary accommodation for homeless, and (iii) to encourage the Churches in maintaining and further developing their crèches, kindergartens and schools at all three levels – primary, secondary and higher.

## **II. Knowledge society – A framework for future**

### **1. The sheer volume of knowledge**

The EU is building up on knowledge society which is revolving around the four pillars of knowledge generation, transmission, dissemination and application. The sheer volume of knowledge is created by European grey matter led by great thinkers at universities, research centres and industry laboratories and materialised in (cited) publications, patents, know-how, Digital Europe, Europeans' higher

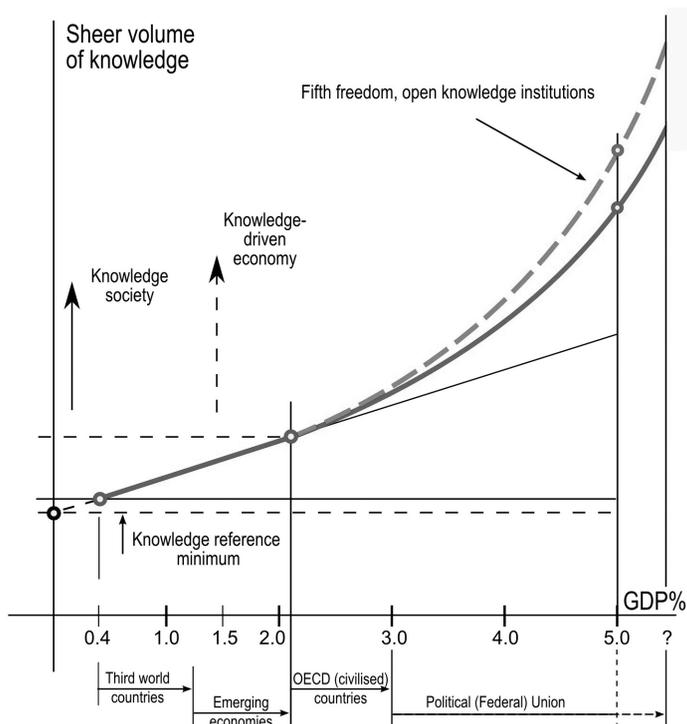
education attainment rate and high-tech companies (knowledge-driven economy).

If gross domestic products (GDP) of the EU, as a single entity, given to the four pillars of the knowledge society go up, there will be a quadratic even exponential increase in the sheer volume of knowledge. Thus, the creation of a competitive knowledge society needs much more GDP percentage in the Political (Federal) Union than today (cf. figure).

The fast and complete improvement of Knowledge Triangle – higher education, scientific research with technological development and business innovation – is the flagship of knowledge society within the new Political Union.

## **2. European Higher Education Area**

Higher education is the jewel on the EU Member States and the Union as well because these institutions provide the elite for all areas of a country – policy, industry, agriculture and services and what is more, especially all levels of education, healthcare, culture, infrastructure, banks and various offices. Currently 1.1% of GDP is devoted to higher education in Europe but the EU envisages 3.3% of GDP budget to higher education by 2030. This budget ensures that 40% of adult population will achieve higher education attainment.



Source: Szentirmai L., Radács L., February 2014 (not to scale)

Quadratic even exponential increase of the sheer volume of knowledge versus gross domestic products (GDP%)

### Proposals:

(i) Establish a pan-European Science University. (ii) Building up successfully on knowledge society grey matter plays key role, thus priority should be given to higher education in the new Institutional Framework emphasizing increase of respective budget, efficiency and large-scale mobility of staff and student, deepening European dimension, providing up-to-date infrastructure. (iii) Future of the Political (Federal) Union depends on higher education quality thus harmonised efforts needed in core curriculum development, industry-university partnership improvement and other strategic topics determined during the preparation of the best Institutional Framework. (iv) To be more competitive, the share of top-ranked universities will go up to 40%, of the top-20 and top-100 rankings.

### **3. European Research Area**

Overall non-military research and technological development (RTD) funding will be rising to 5% of GDP. The share of the EU budget devoted to research will be triple, to 12% by 2030, and at least one-third should come from private firms. The challenge is how to train sufficient number and quality of researchers. To meet the objective i.e. 5% of GDP an extra 40-50% (400-500 thousand researchers) needed for success. The demand for researchers would increase drastically, counting knowledge society; open knowledge institutions will be working then (open to society, policy, people, economy and knowledge circulation).

#### *Proposals:*

(i) The new Institutional Framework should put a new impact on pan-European Science University, which serves also as a top research centre. (ii) Specific blueprint should be prepared indicating the priority areas of science and technology (S&T) for teaching and research at universities and research centres and the number of respective academic staff and students needed from 2030 while inviting the new pan-European Science University to this work.

### **III. A new framework – Giant-Sized Pan-European establishments**

History suggests that giant-sized investments create healthy economy. To invest a significant portion of the EU budget in the coming decade(s) the following favourite facts and advantages should be taken into consideration:

1. Pilot projects serving as forerunner and demonstration establishments needed for a Political (Federal) Union,
2. European grey matter resources will be mobilised and utilised.
3. European research will move up the world's hierarchy.
4. Thousands of new qualified jobs will be created.
5. New start-ups will be emerging.
6. Both poorer and wealthier regions will be assisted to co-operate and develop.

*Proposals:*

(i) Establish a pan-European Science University for research and training in exact (hard) sciences and eventually humanities and social science with Euro-PhD programmes inclusive. Such university will also serve as an exemplary establishment for Member States and the world as well and will host large-scale international conferences and other events. The new mission of this university will be to demonstrate the development of science within the Federal Union. And what is more the graduates in science will take up employment from 2030.

(ii) Erect a pan-European vocational school for higher but non-university education. It will provide qualified personnel for high-tech companies. It will also serve as demonstration unit for vocational teachers and students as well. In addition, as a centre of vocational teachers and students mobility, will organise and run on-the-job training programmes for adults.

(iii) Invest in new pan-European fast train lines that will speed up Europeans' travel, goods forwarding, tourism development, etc.

(iv) Build new Trans-European motorways with respective bridges, tunnels, accommodation sites, etc., that provides fast-moving traffic and connect some poor regions into the main stream of the EU, etc.

(v) Create new pan-European gas, eventually crude oil pipelines coming from third countries that make Europe more energy-independent and ensure security of supply, etc.

(vi) Erect hospitals and clinics that will serve as demonstration centre for advanced medical technology application and physician training. Such projects will develop the quality of practice in medical school and fundamental research in life sciences; will attract physicians to attend continuing training courses in this centre, getting familiar with diagnosis and therapy of some rare diseases, etc.

(vii) Other large-scale pan-European investments like creation of bridges, cultural establishments, etc. would make the scenario more colourful.

**Keywords:** new Cecchini Report, knowledge society, industrial policy, giant-sized investments, pan-European Science University

*Done at: University of Miskolc, Hungary*

*Done on: 26 February 2014*



## **Blueprint for a Political Federal Union: European Citizenship, common values and Differentiation**

Laurence Potvin-Solis\*

European citizenship is central to the European political project. It seems peculiar in the sense that it's laid down without any relation to a European nationality and without any link to a European state. Yet, it constitutes one of the essential components of the “ever closer union” among the peoples of Europe” and of the “democratic functioning of the European Union”. It expresses the Union's singularity and, in parallel, benefits from this singularity and the essential characteristics of Union law. Through the very characteristics which apply to the status it represents, European citizenship has legal effects on both a transnational and supranational basis. It has a positive effect on the legal position of European citizens with regard to the Union and its Member States. Its effects are combined with the multiplicity of state nationalities, from which it defines itself. European citizenship is a plurinational citizenship. It's characterized by its connection to nationality and to each Member State's legal and political system. The plurinational dimension of European citizenship is directly tied to the European Union's multinationalism. As such, there is a conjunction between the plurinational characteristic of European citizenship and the national, transnational, and supranational impact that it adds to the Member States' nationalities/citizenships, without replacing

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them<sup>1</sup>. Therefore, the singularity of European citizenship is related to the European Union's constitutive unity and diversity, and to the community of values rooted in the European Union's foundations<sup>2</sup>.

As a "common" citizenship to all Member States and as a legal and political status linked to the European Union's federal essence, European citizenship expresses the unity of the European Union's legal system and of its relations with Member States. As such, it can impact the legal systems of both Member States and of the Union, and also contributes to the consolidation of these systems. It is a unifying factor due to the equality to which it aspires as a common status for all European Union citizens. Laid down in the legal and political system established by the Treaties and in the Union's institutional architecture, European citizenship serves a constitutional function. It contributes to the development of the Union's constitutional *acquis* and has an effect on the relationship between the Union and its Member States. European citizenship's place at the junction of legal systems and the progressive role that it plays are in accordance with an autonomous relationship between legal orders of the Union and its Member States.

Thus, European citizenship is based on a community of values rooted in the foundations of the European Union and which draws states together (I). Through its dual nature, both national and European, and as a common reference point to all Member States, it calls for the development of a European essence of common values in accordance with the national, regional, and local identities of Member States. It aspires to pass these values on throughout the Union, in accordance with national scales of values (II).

<sup>1</sup> Art. 9 TEU : « In all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies. Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship ». Art. 20 § 1 TEU : « Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship ».

<sup>2</sup> Art. 2 TEU : « The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail ». Art. 3 § 1 TEU : « 1. The Union's aim is to promote peace, its values and the well-being of its peoples ».

## **I. The community of values in the foundations of European citizenship**

The assertion of a European citizenship goes hand-in-hand with the assertion of a political project for the Union, in a process of improvement rooted in the Union's shared values and driven towards its defining principles. Considered as an "integrated status" in Member States' law, European citizenship is linked to the status of Member State of the European Union (A) and progresses as an "integration status" emphasizing the link between the integration and federalization processes which govern the Union's progress (B).

### **A – European citizenship as an "integrated status"**

European citizenship is rooted in the Treaties and is defined by reference to the European Union's competences and scope of law. Integrated in the national legal systems, it must be related to the status of Member State of the European Union, designed as a status of an "integrated state," and to the basic principles governing it<sup>3</sup>. As a European status, European citizenship affects the relationship between state/Union/private individuals (as defined by the *Van Gend & Loos* judgment<sup>4</sup>). Rights in terms of voting or diplomatic and consular protection are the expression of this link between a state's membership of the Union and the European status of national citizens. The relationship between the individual, the state, and the European Union is present in the assessment of the right to vote and stand as candidate overseas, and in the differentiation between overseas countries and territories (OCTs) and outermost regions (ORs)<sup>5</sup>. Similarly, although the right to vote falls

<sup>3</sup> See notably: L. POTVIN-SOLIS (dir.), *Les valeurs communes dans l'Union européenne*, (« *The common values in the European Union* »), *Onzièmes Journées Jean Monnet*, Collection « Colloques Jean Monnet », Bruylant, 2014, 441 p. ; *Le statut d'Etat membre de l'Union européenne*, (« *The status of Member State of the European Union* »), *Quatorzièmes Journées Jean Monnet*, Collection « Colloques Jean Monnet », Bruylant, October 2017, 590 p.

<sup>4</sup> Court of Justice, 5 February 1963, *Van Gend en Loos v Administratie der Belastingen*, C-26/62, EU:C:1963:1. A. TIZZANO, J. KOKOTT et S. PRECHAL (ed.), *50th Anniversary of the judgment in Van Gend en Loos: 1963-2013*, Conference proceedings, Luxembourg, 13 May 2013, Ed. Office des publications de l'Union européenne, Luxembourg, 2013, 318 p.

<sup>5</sup> See notably : Court of Justice (Grand Chamber), 12 September 2006, *Spain v The United Kingdom*, C-145/04, EU:C:2006:543 and 12 September 2006, *Eman and Sevinger*, C-300/04, EU:C:2006:545.

within the jurisdiction of Member States, its conditions may be subject to review by the Court of Justice<sup>6</sup> and the European Court of Human Rights<sup>7</sup>. Comparable dynamics apply to the Europeanisation of the status of European deputies and European political parties, characterized by both their strong national roots and their progress at a European level. Lastly, due to the two-tier nature of European citizenship, diplomatic and consular protection rights are first established on the level of Member State<sup>8</sup>. A similar duality is found in matters of civil service, for which Member State nationality is an eligibility requirement, by Union law, for the selection procedure related to national and European civil service. Moreover, the staff regulations of the European Union cannot be separated from the democratic values that inspire it, particularly the value of equality.

European citizenship plays a role in the Union's democratic functioning, which is linked to the Member States' democratic functioning and to national perceptions of democracy. It contributes to the achievement of the principle of representation in the Union, to local and regional democracy and to the principle of participation<sup>9</sup>. The implementation of the citizens' initiative introduced by the Lisbon Treaty<sup>10</sup> reflects European citizens' interests in political, economic, social and cultural matters which, although falling outside the scope of

<sup>6</sup> See notably : Court of Justice (Grand Chamber), 6 October 2015, *Delvigne*, C-650/13, EU:C:2015:648.

<sup>7</sup> See notably : European Court of Human Rights, 18 February 1999, *Matthews v The United Kingdom*, (Application n° 24833/94).

<sup>8</sup> Art. 46 CFREU, Art. 20 § 2 TFEU, Art. 23 TFEU : « Every citizen of the Union shall, in the territory of a third country in which the Member State of which he is a national is not represented, be entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the nationals of that State. Member States shall adopt the necessary provisions and start the international negotiations required to secure this protection. (...) ».

<sup>9</sup> The right to petition the European Parliament (Art. 20 § 2 d) TFEU, Art. 24 § 2 TFEU, Art. 44 CFREU); the European citizens' initiative (Art. 11 § 4 TUE et Art. 24 § 1 TFEU).

<sup>10</sup> Article 11 § 4 TEU: « Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the European Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties. (...) ». See also : Art. 24 §1 TFEU; Regulation (EU) 211/2011

the Union's competences<sup>11</sup>. Citizens' initiatives often directly concern the sense of common values, of the principle of equality, of solidarity<sup>12</sup>, and of European citizenship, and they can lead the Commission to pronounce itself regarding differentiations within the Union and the respect of the national identity of Member States<sup>13</sup>. In the opinion of the General Court: « far from amounting to an interference in an ongoing legislative procedure, ECI proposals constitute an expression of the effective participation of citizens of the European Union in the democratic life thereof, without undermining the institutional balance intended by the Treaties » ; « the principle of democracy, which, as it is stated in particular in the preamble to the EU Treaty, in Article 2 TEU and in the preamble to the Charter of Fundamental Rights of the European Union, is one of the fundamental values of the European Union, as is the objective specifically pursued by the ECI mechanism, which consists in improving the democratic functioning of the European Union by granting every citizen a general right to participate in democratic life (...), requires an interpretation of the concept of legal

of the European Parliament and of the Council of 16 February 2011 on the Citizens' initiative, *Official Journal of the European Union*, L 65/1, 11 March 2011.

<sup>11</sup> For example: General Court (First Chamber), 5 April 2017, *HB and Others v Commission*, T-361/14, EU:T:2017:252, concerning the proposal citizens' initiative entitled « Ethics for Animals and Kids ».

<sup>12</sup> Court of Justice (Grand Chamber), 12 September 2017, *Anagnostakis v Commission*, C-589/15 P, EU:C:2017:663 : by his appeal, Mr Anagnostakis asked the Court to set aside the judgment of the General Court of the European Union of 30 September 2015, *Anagnostakis v Commission* (T-450/12, EU:T:2015:739), by which the General Court dismissed his action for annulment of Commission Decision of 6 September 2012, relating to the application for registration of the European citizens' initiative 'One million signatures for a Europe of solidarity' presented to the Commission on 13 July 2012 (Citizens' initiative inviting the European Commission to submit a legislative proposal relating to the writing off of public debt for Member States in a state of necessity). The Court dismisses the appeal in its entirety.

<sup>13</sup> General Court (First Chamber), 10 May 2016, *Izsák et Dabis*, T-529/13, EU:T:2016:282 (concerning the proposal citizens' initiative entitled « Cohesion policy for the equality of the regions and sustainability of the regional cultures »). This judgment dismisses the action in its entirety; see also : General Court (First Chamber), 3 February 2017, *Minority SafePack – one million signatures for diversity in Europe v Commission*, EU:T:2017:59. This judgment annuls Commission Decision C(2013) 5969 final of 13 September 2013 rejecting the request for registration of the proposed European citizens' initiative entitled « Minority SafePack – one million signatures for diversity in Europe ».

act which covers legal acts such as a decision to open negotiations with a view to concluding an international agreement, which manifestly seeks to modify the legal order of the European Union »<sup>14</sup>. The procedures and conditions of the European citizens' initiative are currently the subject of a reform project<sup>15</sup> and highlights the fact that European citizens' interest concerns all Union policies, even membership issues of a state to the Union and the consequences of Brexit<sup>16</sup>.

### **B – European citizenship as an “integration status”**

As an integration status, European citizenship serves as a status of assimilation (between Member State nationals) and of differentiation (regarding third-country nationals). It enriches rights in terms of mobility and stay on Union territory, and in terms of their political, legal, economic, social, cultural and linguistic dimensions. As a “fundamental status”<sup>17</sup> of Member States' nationals, it broadens the requirements of the principle of non-discrimination on grounds of nationality, of freedom of movement, and the respect of fundamental rights by the Union. It impacts national laws in matters of immigration, nationality and legal surname<sup>18</sup>. It acts on the conditions relating to the

<sup>14</sup> General Court (First Chamber), 10 May 2017, *Efler*, T-754/14, EU:T:2017:323, pts 47 et 37. This Judgment annuls Commission Decision C(2014) 6501 final of 10 September 2014 rejecting the request for registration of the proposed European citizens' initiative entitled « Stop TTIP ».

<sup>15</sup> On 13 September 2017, the Commission adopted a « Proposal for a Regulation of the European Parliament and of the Council on the European citizens' initiative », accompanied by a « Commission Staff Working Document ».

<sup>16</sup> On 22 March 2017, the European Commission has registered two European Citizens' Initiatives on the rights of Union citizens after Brexit, (« EU Citizenship for Europeans : United in Diversity in Spite of jus soli and jus sanguinis » and « Retaining European Citizenship ») and has rejected a third proposal entitled « Stop Brexit » : Decisions C(2007)2000; C(2007)2001 et /2; C(2007)2002 et /2).

<sup>17</sup> Court of Justice, 20 September 2001, *Grzelczyk*, C-184/99, EU:C:2001:458, pt 31 : « Union citizenship is destined to be the fundamental status of nationals of the Member States, enabling those who find themselves in the same situation to enjoy the same treatment in law irrespective of their nationality, subject to such exceptions as are expressly provided for ».

<sup>18</sup> Concerning the handing down of surnames and the dual nationality, see notably : Court of Justice, 2 octobre 2003, *Avello*, C-148/02, EU:C:2003:539 and Court of Justice (Grand Chamber), 14 October 2008, *Grunkin and Paul*, C-353/06, EU:C:2008:559.

balance of interests involved and on the assessment of the principles of subsidiarity and proportionality. It calls for a clearer definition of the “essential components” related to its status and their links to a situation of mobility<sup>19</sup>.

It contributes to ensure “the consistency, effectiveness and continuity” of the policies and actions of the European Union<sup>20</sup>. Therefore, the relationship between European citizenship and common values takes on a broad scope in the Union and, as a result of its national and European duality, imposes itself in the relationship between the Union and its Member States. As such, European citizenship creates its own specific process of unity. It questions its relation to Union law’s scope of application and its association to the Charter of Fundamental Rights of the European Union (CFREU). Neither European citizenship nor the Charter are intended to extend the scope of Union law beyond the competences of the Union as defined in the Treaties. Yet, both are able to expand the connection of a situation to Union law<sup>21</sup>. Both are able to unify their respective effects and combine them with those of the freedoms of movement and of the fundamental principle of non-discrimination. In this way, they both act to reduce the sphere of purely internal situations excluded from the scope of Union law. They both act to improve the European status of citizen, which they consider in direct relation to the Union’s values, a relation that establishes itself beyond the differentiation between Union policies and that impacts relations between the Union and its Member States.

<sup>19</sup> Court of Justice (Grand Chamber), 8 March 2011, *Zambrano*, C-34/09, EU:C:2011:124; Court of Justice, 5 May 2011, *McCarthy*, C-434/09, EU:C:2011:277; Court of Justice (Grand Chamber), 15 November 2011, *Dereci*, C-256/11, EU:C:2011:734; and more recently, Court of Justice (Grand Chamber), 10 May 2017, *Chavez-Vilchez*, C-133/15, EU:C:2017:354.

<sup>20</sup> Article 13 § 1 TEU : « The Union shall have an institutional framework which shall aim to promote its values, advance its objectives, serve its interests, those of its citizens and those of the Member States, and ensure the consistency, effectiveness and continuity of its policies and actions ».

<sup>21</sup> Court of Justice (Grand Chamber), 26 February 2013, *Åklagaren v Hans Åkerberg Fransson*, C-617/10, EU:C:2013:105.

## **II. The advancements of European citizenship in accordance with national scales of values**

The advancements of European citizenship favourably affect the Union's development and also act to legitimise the Union. They enable the unification process of the condition of individuals in Union to be combined with the preservation of state, regional, and local diversity. They lead to a conjunction between the national sense and the European sense of common values (A) and must be compared to the different policies of the Union in accordance with national scales of values (B).

### **A – The conjunction of sense of values through European citizenship**

European citizenship integrates national differentiations and puts them in perspective with the common values of the Union. Thus, equality as a common value and the principle of equality between all Union citizens must be combined with the variable national conceptions relating to human dignity<sup>22</sup> or to equality between national citizens<sup>23</sup>. Furthermore, European citizenship can serve as a common reference point to define the “essential” characteristics of the freedoms and fundamental rights guaranteed by the EUCFR and to assess the legitimate grounds for restrictions upon fundamental rights and freedoms, such as the maintenance of public safety and the protection of public morals or even of public health, which are all tied to interests defined on a national level but are also subject to strict circumscription by the Court of Justice's jurisprudence.

Likewise, the social dimension of mobility is making progress through European citizenship, but it is combined in agreement with Member States' financial interests and balance of social security schemes. Other examples could be cited, such as respecting the cultural and linguistic diversity of Member States<sup>24</sup> and the rules governing

<sup>22</sup> Court of Justice (First Chamber), 14 October 2004, *Omega Spielhallen*, C-36/02, EU:C:2004:614 (concerning « Public policy », « Human dignity » and « Protection of fundamental values laid down in the national constitution »).

<sup>23</sup> Court of Justice, 22 December 2010, *Sayn-Wittgenstein*, C-208/09, EU:C:2010:806 (concerning the law of a Member State with constitutional status abolishing the nobility in that State).

<sup>24</sup> For example : Court of Justice (Grand Chamber), 16 April 2013, *Las*, C-202/11, EU:C:2013:239 and Court of Justice, 5 February 2015, *Commission v Belgium*, C-317/14, EU:C:2015:63.

the spelling of the official national language<sup>25</sup>, or the possibility for a Member State to impose third-country nationals to pass a civic integration examination<sup>26</sup>. The reconciliation of interests by reason of European Union jurisprudence has a constitutional significance and highlights the constitutional role of the Court of Justice. It should be based on a clearly defined legal framework and interpreted with reference to the European Union's constitutional order, to its common values and with respect to its freedoms and fundamental rights in the context of implementation of Union law.

### **B – European citizenship and the convergence of national scales of values**

The advancements and the process of empowerment of European citizenship contribute to defining a European identity. They call for the identification of a value system specific to the Union, to be used within the framework of its different policies, in accordance with the objectives pursued, the common interests of European Member States, and with national scales of values. The importance of the issues depends on whether European citizenship's integration is being considered in relation to the Internal Market, the EU's Area of Freedom, Security and Justice (AFSJ), the Economic and Monetary Union (EMU) or the Common Foreign and Security Policy (CFSP). Yet, European citizenship encourages the dissemination of the requirements of democracy, the rule of law and the respect for human rights throughout the Union.

European citizenship raises the specific question on the role of National Parliaments and of the European Parliament in the European Union and on the role played by the principle of legality in the European legal systems as well as the question of the autonomy and scope of

<sup>25</sup> Court of Justice, 12 May 2011, *Malgožata Runevič-Vardyn*, C-391/09, EU:C:2011:291.

<sup>26</sup> For example : Court of Justice, 4 June 2015, *P and S*, C-579/13, EU:C:2015:369 (concerning the Netherlands legislation imposing on third-country nationals with long-term resident status a civic integration obligation, attested by an examination, under pain of a fine) and Court of Justice, 9 July 2015, *K and A*, C-153/14, EU:C:2015:453 (concerning the Netherlands legislation requiring the family members of a third country national residing lawfully in that Member State to pass a civic integration exam in order to enter the territory of that Member State).

control exercised by the Court of Justice. These questions are raised in terms of values inside and outside the Union, especially in light of the European Union's prospective accession to the ECHR<sup>27</sup>. Establishing itself in relation to all Union policies, it encourages a broadening of the scope of intervention of the European Parliament and of jurisdictional control, particularly in regards to the Common Foreign and Security Policy (CFSP), and also encourages the development the democratisation process, most notably in the Economic and Monetary Union (EMU). Through its common values, its differentiation with the European Union, and its fundamental connection with the "constitutional framework of the Union" put forward by the Court of Justice's jurisprudence, European citizenship is thus able to contribute in a decisive manner to the "project for a federal political Union", which is important to consider in all policies, including sensitive issues related to the sovereignty of Member States.

## **Outline**

### **EUROPEAN CITIZENSHIP: COMMON VALUES AND DIFFERENTIATION**

#### **I. The community of values in the foundations of European citizenship**

A – European citizenship as "integrated status"

B – European citizenship as "integration status"

#### **II. The advancements of European citizenship in accordance with national scales of values**

A – The conjunction of sense of values through European citizenship

B – European citizenship and the convergence of national scales of values

<sup>27</sup> Opinion of the Court of Justice (Full Court) of 18 December 2014, 2/13, pursuant to Article 218(11) TFEU and concerning the accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), EU:C:2014:2454. See notably : L. POTVIN-SOLIS (ed.), *Politiques de l'Union européenne et droits fondamentaux, (European Union Policies and fundamental rights), Treizièmes Journées Jean Monnet, Collection « Colloques Jean Monnet »*, Bruylant, December 2016, 479 p.

## **“What has happened to you, Europe?” The future of Europe as peoples’ Union<sup>\*</sup>**

Luigi Moccia<sup>\*\*</sup>

Europe seems to have lost, together with the spirit of the founding fathers, its direction, while proceeding with difficulty, among resistances and compromises, in a step by step way closely linked with a functionalist approach to integration, not so much pragmatic but much more sectorial and random often because of the urgency of emergencies, which appears far removed from the ideals, values and principles of a federation, based on a constitutionally (politically) structured set of powers and competencies at European level.

This structural constitutional (political) fragility threatens the survival of the European Union, in that it undermines its significance on the ground on which it should instead grow and develop stronger. This is the ground represented not from the will of the members states, but from the consent of the people, precisely in terms of the acceptance, paralleled by the implementation, of European ideals, values and principles at the base of the integration process, as stated in the EU Treaty: «The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail».

<sup>\*</sup> Text (revised version) of the speech delivered at the Jean Monnet Chairs Colloquium “The Future of the European Union”, May 10-11, 2016, organized by the Université de Genève – Global Studies Institute, Centre Européen de la Culture, and the Faculté de Droit de l’Université de Lisbonne.

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Such a discouraging state of things brings about a widespread discontent that attracts the attention also of qualified observers from outside of European institutions and politics. From these qualified testimonies I wish to start here.

One is the speech that President Obama did in Hannover (on April 26, 2016), talking about the “*future we are building together... that starts right here in Europe*”, truly pervaded by inspired sentences where he urges a more courageous awareness of what means a stronger European Union in today’s world (“... *this is a defining moment... what happens on this continent has consequences for people around the globe... the entire world, needs a strong and prosperous and democratic and united Europe*”; “*A strong, united Europe is a necessity for the world because an integrated Europe remains vital to our international order*”; “*The world depends upon a democratic Europe that upholds the principles of pluralism and diversity and freedom that are our common creed*”), pointing to the role of “*vibrant civil societies where citizens can work for change*” as a pillar of democracy, and ending up with the claim that: “*united Europe – once the dream of a few – remains the hope of the many and a necessity for us all*” (a quote from Konrad Adenauer)<sup>1</sup>.

Another testimony is that of Pope Francis when, at the occasion of the award of the Charle Magne Prize (on May 6, 2016), he delivered a powerful and very impressive speech, according to the unanimous comment in the media, with strong criticism on Europe, on this Europe, there represented by the three Presidents (among the many, perhaps too many, we have in Europe), Tusk, Junker and Schultz, sitting right in front of the Pope, in a not quite comfortable position of who might have felt some embarrassment, at least, when addressed several times by the Pope’s querying: “*What has happened to you, Europe?*”; “*What has happened to you, the Europe of humanism, the champion of human rights, democracy and freedom?*”<sup>2</sup>.

Well, not only to get inspiration from such testimonies in terms of capacity on the part of political and spiritual leaders to use words and tones up a communication worthy to reach people, but also to try to give

<sup>1</sup> <https://www.whitehouse.gov/the-press-office/2016/04/25/remarks-president-obama-address-people-europe>.

<sup>2</sup> [http://w2.vatican.va/content/francesco/en/speeches/2016/may/documents/papa-francesco\\_20160506\\_premio-carlo-magno.html](http://w2.vatican.va/content/francesco/en/speeches/2016/may/documents/papa-francesco_20160506_premio-carlo-magno.html).

a translation, so to speak, of their clear message on the crisis of Europe and the possibility to overcome it through a more united Europe, I would call attention on three core issues that can be also seen as challenges ahead which, in my view, are involved in a “federal core” for Europe.

The *legitimacy issue*. The *identity issue*. The *government issue*.

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All such issues are strictly linked with one basic concept that may keep alive the European project and ideals. I would call it the “federal heart” of the Union: this is, the Union citizenship or European citizenship; and I would like therefore to address you with the idea not only of a “federal core”, but rather of a “federal heart” for Europe.

It is worth noticing that the concept of Union citizenship was introduced for the first time in the Spinelli Draft Treaty establishing the European Union (in February 1984), which was the first attempt made, by the first European Parliament elected by direct suffrage, to start the process of constitutionalizing the treaties, in view of the setting up of a political Union.

What does it mean, today, the Union citizenship joined to legitimacy, identity and to the government of the Union?

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Very briefly. The legitimacy issue matches the Union citizenship through the recognition of fundamental rights of the person, either as a single or as a member of a group, whose respect is of the very essence of the Union which “places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice”; as stated in the Preamble of the European Charter of Fundamental Rights.

But also important is the socio-political dimension of the legitimacy issue with reference to popular consensus. In times of growing anti-Europeanism and Euroscepticism, a lesson to be learned by anyone who cares about the fate of Europe is that no kind of European polity can survive without people’s consent: the consent of all the people living together, in the common area of freedom, security and justice, as European citizens.

**This brings us to the second issue: the identity.**

If from a nationalistic point of view, identity means essentially closing borders to foreigners, including may be other Europeans, from a Union point of view identity calls into question the qualification of the European Union as a union of peoples and citizens, more than of its member states (as Jean Monnet reminded us in his “Memoires”: «*Nous ne coalisons pas des États, nous unissons des hommes*»).

Indeed, it is at this point that European citizenship reveals its value as the metaphor of a citizen, national and European alike, servant of two masters, emblematic mask of a problematic double loyalty to the nation-state and to Europe, behind which is taking shape the face of a new European civil society. A society which continues yet to wear the multicolored dress of different and separated national affiliations. But which can and should progress towards a more open and inclusive society, as it has always been the identity of Europe, “dynamic and multicultural” (in the words again of Pope Francis). A society in which, just to remind us of what the Union treaty states: “pluralism, non-discrimination, tolerance, justice, and solidarity prevail”.

In order to build such new society or if you prefer this European collective identity, what is needed is the creation of a European public sphere, where European institutions, national and local authorities, political parties, the media, and other actors and factors, in the education field influencing public opinion, can all of them play a decisive role in contributing to form a European political awareness, in order to become well aware of the fact that what happens anywhere in the Union concerns all the Union citizens: think of the results of referendums on European issues, and also of the results in general or presidential elections as regards to the advancement of political parties and movements taking stance against the European integration or pushing forward xenophobic positions; or else national governments and authorities taking decisions with implications for other member states and at European level (such as the case of the closing of internal borders).

**So we arrive to the third issue.**

Indeed, the question is: how can we tackle with the legitimacy and identity issues without having a European government? In other words, without having a political leadership of Europe, democratically elected and responsive towards a European constituency?

Realistically speaking, one may think that the possibility of arriving at a political union passes through the difficult balance and risks to stop to a standstill somewhere in between a supranational state authority and the claims to sovereignty of nation-states, whereby European institutions, policies, procedures, and de facto situations of a federal type, on one side, and intergovernmental cooperation, on the other, will have to coexist, may be for a long time ahead.

But it is just as realistic to think, instead, that this state of things is putting in danger the expectation of irreversibility of the integration process achievements, as it is the case with the single currency or the Schengen area. An expectation without which any pledge in the direction of an ever closer union would lack credibility, so that any kind of arrangement to get there would fail.

**Keeping in mind this concern, some other questions come to the fore.**

Can we have a form of European statecraft to which assign transfers of sovereignty, within a framework that respects fundamental principles of any democracy: the principle of separation of powers (who does what) and the principle of political accountability (who is responsible for what)?

Can we give shape to a European political space (or public sphere) where it becomes of crucial importance the direct relationship between sovereignty and citizenship, in terms of transparent and democratic manner of deliberation?

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I personally think that, “Yes we can,” but at the condition that we look at a true European government, rather than to a fragmented, politically weak and uncertain, European governance.

I am fully aware that this will need a thoughtful scholarly approach to the multifarious and complex issues involved, as we are used to in the academic community. Yet having in mind that what it is really at stake

is precisely the future of Europe. Not only as a project of peace and prosperity, but practically speaking as a concrete opportunity to give shape to a “union” more like to a “federation” than to an “association” of 28 Member States sovereign enough to be in disagreement between them, but not so much to resist alone the impact of phenomena having consequences for them all, and, needless to say, for their nationals, also as European citizens.

To this regard, I share the view of those who point at the mismatch between the decision-making process and the decision-making power at European level, as a state of things contrary to the letter and spirit of the treaties. In this sense, the trans-party Spinelli Group in a motion for a resolution of the European Parliament insists on “*curbing the interference of the European Council in the legislative process*”<sup>3</sup>.

What is then necessary or advisable to do? In a very short sentence, one can answer: to take seriously the treaty’s provision stating that “The functioning of the Union shall be founded on representative democracy” (TEU, art. 10,1).

It means that we have to build on a federal core for the future of Europe. To this regard, although in a very sketchy way, the following points can be highlighted.

First. The decision-making power must lie with a government of Europe under parliamentary control.

This means quite simply that a dividing line must be drawn at institutional level between the government and the parliamentary side of the Union’s functioning, respectful of the principle of representative democracy, such as it has been envisaged by the Union treaty provision stating that: «Citizens **are directly represented** at Union level in the European Parliament. Member States **are represented** in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens». Whereby a proper reading of this provision in its truly constitutional meaning clearly points to a **bi-cameral system of representativeness**.

<sup>3</sup> EP 2014/2249 (INI), Committee on Constitutional Affairs, “Draft Report on improving the functioning of the European Union building on the potential of the Lisbon Treaty,” 20.1.2016, n. 15.

To be sure, even in the event that a core of member states wanted to take a chance of a leap forward to a greater political integration, this dividing line must be there to circumscribe the position and power of the European Council in its capacity to represent only member states’ interests, outside any legislative competence, which will remain assigned to the Council, jointly with the European Parliament, on an equal footing.

In other words, it is no longer time for an alleged or pretended “originality” of the institutional setting of the Union as an “unidentified political object” (according to a well-known expression by Jacques Delors), flying in the sky of airy concepts, never landing on the land of democracy so to watch it closely and see who is driving and where is going to.

Second. It is no longer time for an alleged or pretended “neutrality” of the Commission, with regard to the definition, choice and implementation of public policies directly affecting people’s living conditions, but also with regard to public discourse, in any case in which the European common interest is at stake.

When there is a common interest of the EU to be pursued, such common interest, in order to be truly such, should be the result of choices proposed by a Union’s executive power, acting in the pursuit of political objectives and programs tested and approved by a parliamentary majority vote. These choices will have, of course, to be consented by both Parliament and Council, through co-decision or ordinary legislative procedure, but based on the effective principle that Parliament and Council are acting on equal footing.

Third. Other parliamentary checks at national level should be put in motion, as regards the principle of subsidiarity, according to the formula established by the Lisbon Treaty about the positive role that national parliaments have to play, in order “to contribute actively to the good functioning of the Union”.

Fourth (last but not least). Give shape to a European political space of debate and confrontation in terms of interests represented by the Parliament and Commission at European level, and national interests represented directly by the heads of state or government in the European

Council, or via national parliaments. This also implies a more truthful idea of democracy, in terms of participation and involvement by the people and civil society, at local, national and European level, where citizens feel they can actively contribute to a European civic awareness, as reference point absolutely necessary to build on the idea of European union.

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In conclusion. What the many European crises, generally speaking, have shown so far, is precisely the lack and the need of a federal core for Europe, that is the lack and the need of a democratic government of Europe as such, through executive and legislative institutions common to a constitutional order of its own, of which the Union's citizenship is the foundation, or, I prefer to say, the federal heart.

In this sense, the lack and the need of credibility of the European project call into question the core constitutional principles according to and in compliance with which Europe is to be governed in the name and interest of its citizens.

In contrast with the role taken by the European Council, as main governing body of the Union with an almost exclusive decision-making power, although formally kept out from the decision-making process, the resulting contradiction clearly points at the need of a rebalancing of power, in line with the principle of representative democracy at the basis of the Union's functioning.

Moreover, a federal core based on Union's citizenship cannot but be linked to an active and informed consent on the part of the people, the citizens, in terms of readability, accountability and political credibility of EU policies, democratically tested and approved through a decision-making process led at European level by a true responsible and responsive political leadership, legitimated by its being representative of the Union's people, made of its own citizens.

And this means, once again, to build on a federal core for the future of Europe as peoples' Union.

## How we might recover from the economic and social crisis through European integration deepening

Luís Silva Morais\*

*What is the best institutional framework for the Eurozone, in order for it to function in the most efficient, transparent and democratic manner? **Blueprint for a Political (federal) Union** beginning with the Eurozone.*

1. The international economic crisis, starting essentially in 2007, affected the European Union (henceforth ‘EMU’) in a period which was still of consolidation of the European Monetary Union (henceforth ‘EMU’). Furthermore, when the full effects of the crisis were felt in the EU the process of European integration had gone through what we may designate as a period of ‘institutional fatigue’ in terms of institutional reform and reform of the founding Treaties (in the wake of the political problems encountered by the Constitutional Treaty Project and the difficult and sensitive context for preparation, conclusion and final ratification of the Lisbon Treaty). So, the proper conditions were not immediately met to react to the biggest structural economic crisis since the 1930s (of the twentieth century) with major institutional reforms. Conversely, the crisis evidenced that the EMU Project was an incomplete legal and economic structure – as could be expected, given the political compromises it required at the time of the initial agreements that gave birth to the EMU – with a monetary leg, but lacking, to a large extent, an actual economic and budgetary leg.

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I shall not dwell here with any critical analysis of the international economic crisis and its spill over to the Eurozone, nor purport to establish a global diagnosis of such situation, as evolving between 2007 and 2014 (and particularly from 2010 till the current date, that is to say after the crises of sovereign debts within the Eurozone emerged in its full force). My focus, on the contrary, will be on a possible exit route from this situation, considering how certain legal reforms combined certain political compromises may lead to a new stage of evolution of the EU (a post-crisis reinforced EU).

2. My first point is that, regardless of the capacity of adaptation that the EU has shown in a time of acute crisis, finding gradually measures and compromises to deal with the acute crisis unfolding from 2007-2008 and especially from 2010 onwards (with the sovereign debt crisis) and, thus, leading to *ad hoc* legal instruments – namely, e.g. through initial temporary EU funding programmes of the European Financial Stability Facility (EFSF) and of the European Financial Stabilisation Mechanism (EFSM), converted later on in more permanent mechanism, albeit of an essential intergovernmental nature, through the European Stability Mechanism (ESM) on the basis of the intergovernmental Treaty establishing the ESM on 2 February 2012 – the EU needs a more comprehensive reform to complete the EMU and ensure its stabilization in a new global environment and its proper interplay with EU Member States that remain outside the Eurozone.

The second point I shall make here is that in a time of acute challenges and requiring a set of more expedite reforms, the reform process within the EU should be – for considerations of political and legal realism given the prevailing context – twofold. Hence, as I have sustained in previous position papers and public presentations, it is necessary to consider how to evolve in terms of the model of European integration and with major positive shifts for the stabilization and consolidation of the EU, pondering both **(i) a way forward without major Treaty Changes** and **(ii) a way forward with major Treaty Changes**.

**3.1.** In the first case, I refer to a sequence of legal, economic and political steps building within the current EU Treaties or, ultimately, under minor Treaty Changes following the simplified procedures of article 48.º, pars 6 and 7 of the TFEU and also of articles 281.º, 129.º

308.° of the TFEU, and thus avoiding for the moment major Treaty Changes, politically costly and that under the prevailing political, economic and social context risk producing self-defeating stalemates.

One of the areas that should be tackled corresponds to what I could designate as comprehensive strategic planning of the EU oriented towards the economic governance of the EU (considering in particular EMU). In spite of the machinery of economic coordination between Member States already put in place, the mandate of each new Commission should involve an indicative economic and social program with overall chief goals and general initiatives aligned with a set of priorities clearly defined – to be discussed with the European Parliament (and originating, as such, a fine-tuning of the organizational Commission structures and directorates to deal consequentially with the major pieces of that overall program). I refer to priorities like enhancing the use of the budgetary means at the disposal of the EU or even reinforcing those budgetary resources – *within the existing*

*Treaties* – in order to generate structured new initiatives oriented towards economic growth and innovative combinations between the use of available structural funds and enhanced roles for institutions like the European Bank of Investment or priorities oriented, inter alia, towards re-launching major European infra-structures, through an innovative use of financial instruments (Project-bonds, and others – *again, within the limits consented by the existing Treaties*). One essential feature of this new overall strategic planning oriented towards a new economic governance of the EU would be an active involvement of national Parliaments. The Lisbon Treaty has – at various levels – put an emphasis on a greater involvement of National Parliaments in the fabric of European integration. I submit that, to a large extent, that legal basis for such deeper involvement of National Parliaments has not been put effectively in place during these first years in which the Lisbon Treaty has been enforced. Some kind of permanent political cooperation and coordination between the Commission, the European Parliament and National Parliaments – requiring innovative organizational features within the current institutional system – should be put in place in order to follow the major pieces of the aforementioned comprehensive strategic planning of the EU oriented towards the economic governance of the EU and for five year periods.

That would also represent a way of decisively reinforcing the so called ‘community method’, which has been frequently side-stepped in recent years *e.g.* through the recent Inter-Governmental Treaties outside the EU legal framework, and, also, of bridging what has been up to now a largely insurmountable gap between a sphere of national politics and EU politics or political debate. There is reason to believe that many of the stalemates and difficulties experimented over recent years in terms of European integration result from that gap between the arenas of national political debate (within the different Member States) and EU political debate (essentially not followed by national audiences). Accordingly, finding innovative organizational methods of placing National Parliaments in the center of a political dialogue towards the permanent assessment and implementation of a five year comprehensive strategic planning of the EU would tend to generate a virtuous and gradual spill over effect, that would pave the way for new national consensus within the member States, which, in turn, would pave the way for a new geometry of agreements and possible consensus within the Council.

**3.2.** Another area that would justify major developments has to do with a set of major initiatives oriented towards identifying and discussing gradual or various intermediate options or steps towards a **new model or a new paradigm of sovereign debt markets in the EU** (and the Eurozone).

These initiatives could build on the work and conclusions of the current **Commission Expert Group on a Debt Redemption Fund and Eurobills** (E02935) considering its mission of deepening the analysis on the possible merits, risks, requirements and obstacles of partial substitution of national issuance of debt through joint issuance in the form of a redemption fund and eurobills, and, as well, of thoroughly assessing what could be their features in terms of legal provisions, financial architecture and the necessary complementary economic and budgetary framework (considering both a framework strictly within what is permitted by the current EU and TFEU Treaties and a future, prospective, framework envisaging some extent of Treaty Change in this domain).

My point here is that the understandable debate on moral hazard has to a large extent, negatively affected the discussion in this sensitive

domain – somehow jeopardizing previous proposals and ideas put forward by the Commission in this area – while there is ground to find innovative legal and economic methods of initiating, in a tentative and gradual manner, a process of partial substitution of national issuance of debt through joint issuance of debt that duly safeguards those moral hazard problems. Conversely, initiating to some extent that process, in a gradual manner, is a necessary part of a blueprint of a consolidated EMU (as a basis for a new, reinforced, EU), since, in historic and comparative terms, it is difficult to conceive, in the medium term, any durable economic and monetary union deprived of any degree of sovereign debt *mutualization* (as evidenced by the US experience since the Hamiltonian reforms).

Accordingly, a proper and consequential follow up of the future conclusions and output of the **Commission Expert Group on a Debt Redemption Fund and Eurobills** (E02935) should be a fundamental part of a future five year comprehensive strategic planning of the EU (as envisaged above) and a proper organizational structure – *within the framework of the existing Treaties* – should be put in place to further pursue this idea, also calling – as referred above – for an active involvement of National Parliaments in this domain.

Various legal schemes have effectively been submitted – including by German academics and German organizations – as a way to gradually develop some level of issuance of debt at Euro level, reconciling such issuance with budgetary prudence and, accordingly, limiting the access to such prospective new joint schemes of joint issuance of debt to certain States, fulfilling a certain set of pre-agreed standards of financial discipline and stability. I shall not dwell here in details concerning those previous proposals. My point here is merely that there is technically room for developing these schemes, as part of a basic blueprint of a reborn and newly consolidated EMU, in innovative institutional manners and devised in a way to put aside alleged North and South divides with the EU (and preventing risks of EU fragmenting and the proliferation of inter- governmental schemes and instruments as well).

4. As regards the (aforementioned) second basis for reforming the EU and renovating EU governance – *the one involving Treaty Changes* – this second way forward should be pursued in a very gradual

manner given the undeniable political hurdles (evidenced throughout the processes of approval and ratification of the Constitutional Treaty and the Lisbon Treaty).

Again, using ‘*mutatis mutandis*’ the same kind of institutional and political blueprint that I have put forward *infra* for the purposes of an envisaged comprehensive five year comprehensive strategic planning of the EU – within the existing Treaties – the way forward in terms of potential Treaty Change could be pursued within a five year horizon on the basis of an ‘ad hoc’ group reuniting a tight group of representatives of the Commission, the European Parliament and the National Parliament, accompanied by a very limited group of experts (to preserve operational and efficiency standards) and of observers designated by the European Council. This model would be different both from Intergovernmental Conferences (calling for this kind of formal initiative would only be justifiable on the basis of previous work and consensus) and from the previous European Convention. No fixed mandate would be imposed but merely an indicative agenda including, *inter alia*:

- Prospective Treaty Change required to reinforce an European Banking Union (including an European level of deposit insurance addressing properly all moral hazard risks);
- Prospective Treaty Change required to change or adjust the structure of the EU budget and enhancing its macro-economic dimension without decisively reinforcing Member State contributions (and providing instead for direct EU proceeds through innovative instruments in the context of the internal market)
- Institutional reform oriented at the same time towards reinforcement of democratic legitimacy and the pondering of politically realistic expectations of Member States of balanced representation in a context of enlarged transfer of sovereign powers (namely through the gradual development of one institutional pillar designed with contours that might resemble an EU Senate, even if not entrusting each Member State with strictly equal representation).

*Lisbon, MARCH – 2014*

# La sortie de la crise économique et sociale au moyen d'approfondissement de l'Union européenne

Lukáš Macek\*

1. Quel est à votre avis le meilleur **cadre institutionnel pour la Zone euro** qui lui permette de fonctionner de manière plus efficace, plus transparente et plus démocratique ?

2. **Quel projet d'Union politique (fédérale)** voudriez-vous proposer en commençant par la Zone euro ?

## Introduction

La formulation même de cet appel à contributions est révélatrice : le titre principal parle de la « sortie de la **crise économique et sociale** au moyen d'approfondissement de l'Union européenne », alors que les deux questions subséquentes se focalisent essentiellement sur la question **politique** (« fonctionner de manière plus efficace, plus transparente et plus démocratique », « projet d'Union politique »). Oui, au-delà de la crise économique et sociale qui, dans une certaine mesure, peut être considérée comme conjoncturelle, l'UE fait face, avant tout, à une crise politique indubitablement structurelle. Et elle ne sera pas en mesure de gérer la sortie de la crise économique et sociale actuelle (et les crises à venir), si elle ne règle pas ce problème. Le besoin est d'autant plus urgent que désormais l'Union se retrouve aussi au cœur d'une crise géopolitique, autour du bras de fer ukrainien ; et là encore, l'Union minée par son problème de déficit de légitimité et par sa faiblesse politique risque de passer à côté de ses responsabilités historiques.

**La présente note suggère une série de mesures concrètes visant à renforcer la dimension politique de l'Union**, à la fois audacieuses

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NB: Le contenu de la présente note n'engage que son auteur.

sur le fond (car susceptibles de heurter à la fois les « eurosceptiques » de tout bord et les nostalgiques de « l'Europe communautaire à papa »), et minimaliste sur la forme (car réalisables à Traités constants).

### **Remarque préalable:**

Les questions posées mettent en avant la Zone euro. Or, limiter une réforme de l'UE à la seule Zone euro (ce qui pose toute une série de problèmes), ne devrait pas être un préalable, mais un éventuel « plan B » :

- il convient de partir toujours d'une tentative sincère d'évoluer à 28
- lorsque cette tentative débouche sur un blocage insurmontable, il convient d'essayer de mettre en œuvre la mesure en question pour le périmètre d'Etats membres le plus large ; de ce point de vue, l'échelle de la Zone euro n'est qu'une possibilité parmi d'autres, et plutôt épineuse.

NB : C'est ainsi que l'Union a avancé sur le Traité sur la Stabilité, la Coordination et la Gouvernance, avec 25 Etats sur 27. Un repli automatique de l'UE à la Zone euro aurait débouché sur une solution sous-optimale, créant de surcroît des tensions et des frustrations supplémentaires au sein de l'Union.

**C'est pour cette raison que la présente note préconise des mesures à adopter au niveau de l'UE – répondant ainsi au sujet principal (« approfondissement de l'UE »).** La mise en œuvre à l'échelle de la seule Zone euro ne devrait intervenir que si la solidarité spécifique de ses Etats membres permet d'avancer là, où les autres Etats membres ne le souhaitent pas.

### **Diagnostic**

Les principaux problèmes structurels de l'UE liés aux questions de l'efficacité, de transparence, de démocratie et plus généralement à la faible confiance que lui accordent ses citoyens s'articulent autour des points suivants :

- lien très faible entre la volonté des citoyens exprimée lors des élections et les orientations politiques de l'UE
- le sentiment d'une certaine « inéluctabilité agaçante »
- le déficit de *leadership* politique

Ses trois points sont étroitement liés : le citoyen a le sentiment que l'UE est une machine technocratique, gigantesque et éloignée, qui avance sans que son vote puisse y changer quoi que ce soit. Ce n'est pas censé l'étonner, car de toute façon, les progrès de l'intégration européenne lui sont présentés comme le fruit d'une nécessité<sup>1</sup> et ses différents « acquis<sup>2</sup> » comme pratiquement irréversibles. Ce sentiment est d'autant plus frustrant que la responsabilité politique n'est guère perceptible, l'Union restant assez largement désincarnée, dépourvue d'une représentation politique propre, audible et communément perçue comme légitime. Cela se traduit par un véritable manque de *leadership* politique qui en est à la fois la conséquence, mais aussi la cause. L'UE est prise dans un cercle vicieux : le citoyen ne perçoit pas de représentation politique responsable de l'UE, ce qui renforce son sentiment de défiance et son incapacité à s'y identifier politiquement ; or ce manque de soutien de la part des citoyens mine le sentiment de légitimité de cette même représentation et la rend encore plus timorée et donc... encore moins visible.

C'est donc à la question du *leadership* politique et par là du mandat politique qu'il convient de s'attaquer en premier. Une Union de plus de 500 millions d'habitants ne peut pas évoluer sans *leadership*. Une Union qui dispose des compétences aussi vastes et variées, incluant même des pans entiers de domaines régaliens, ne peut pas se passer d'un *leadership* véritablement politique. Or, une Union de 28 Etats ne peut pas durablement puiser ce *leadership* du seul niveau national. S'il est possible qu'une poignée de *leaders* nationaux (ou même un(e) seul(e) d'entre eux) assume provisoirement le *leadership* pour toute l'Union au plus aigu d'une crise, une telle situation ne saurait pas durer. Un demi-milliard de citoyens ne peut pas durablement accepter le *leadership* d'une personnalité politique qui ne rend compte, électoralement parlant, qu'à quelques dizaines de millions d'entre eux. Un mandat issu des élections nationales ne peut jamais constituer un véritable mandat européen. Et il en est de même d'une simple addition des mandats nationaux : si la légitimité de l'action nationale des 28 leaders des Etats membres ne

<sup>1</sup> Cf. le thème de « nécessité » dans les Mémoires de Jean Monnet.

<sup>2</sup> L'usage courant du terme « acquis communautaire » pour désigner le droit de l'Union est révélateur.

saurait être contestée, il en est tout autrement de leur action collective au niveau européen<sup>3</sup>.

Pour sortir de cette impasse, il faut permettre l'émergence d'une véritable représentation politique de l'Union européenne, capable de s'affirmer non pas contre, mais aux côtés des Etats membres. Une représentation politique sûre de sa légitimité et donc à même de définir et de déployer un agenda politique propre, qui ne soit pas que le plus faible dénominateur commun des agendas politiques nationaux. Bien entendu, cet agenda politique ne pourra pas ignorer ou nier la volonté des Etats membres : mais il doit créer une nouvelle dynamique, instaurer une tension constructive entre les niveaux européen et national.

Cela implique une politisation accrue des institutions de l'UE, qui doivent davantage s'appuyer sur un mandat démocratique, et de leur fonctionnement, qui doit davantage obéir à des logiques politiques. C'est un virage délicat à prendre, mais à vouloir l'éviter, la sortie de route risque de devenir inévitable. Cela implique un affaiblissement substantiel de la culture du consensus, l'introduction d'une polarisation majorité/opposition, la descente du piédestal de l'expertise dans l'arène de la politique... Sans pour autant entraîner nécessairement le passage au fédéralisme. En effet, politiser le niveau décisionnel européen n'équivaut pas à lui conférer la souveraineté au détriment des Etats<sup>4</sup>.

### **La méthode**

Toutes les propositions qui suivent sont ambitieuses et a priori inacceptables aujourd'hui pour les Etats membres ou au moins pour un bon nombre d'entre eux. Mais elles n'en constituent pas moins un agenda cohérent et réaliste, dans la mesure où :

<sup>3</sup> Par définition, sur tout sujet grave, l'action européenne oblige une partie ou même la totalité des *leaders* nationaux à s'écarter plus ou moins de leur strict mandat national. Or, une fois sortie du champ du mandat national, quelle est la légitimité démocratique de leur action ? Si un « déficit démocratique » de l'UE existe, c'est là qu'il se situe.

<sup>4</sup> Cf. l'évolution interne du nombre d'Etats membres (France, Pologne, République tchèque, Slovaquie, par exemple) qui ont procédé à une régionalisation à travers la mise en place des régions dotées d'assemblées élues et disposant désormais d'une représentation à caractère indubitablement politique ; sans pour autant déboucher à une fédéralisation du pays, les régions restant des entités certes politique, mais très éloignées – de fait de leur compétences notamment – de ce que sont les entités fédérés, tels que les Länder allemands ou les communautés belges.

- elles ne nécessitent pas de changements de traités : là, où les Traités restent suffisamment vagues, ces propositions visent à imposer une pratique institutionnelle mise en œuvre par le plus grand nombre possible d'Etats – en attendant une éventuelle modification des traités qui codifierait cette pratique. Il s'agit donc de faire émerger une sorte de « coutume constitutionnelle ».
- la méthode de leur mise en œuvre repose sur deux éléments : d'abord, initier le mouvement avec au moins une partie des Etats membres, ensuite, compter sur la *peer pressure* entre Etats membres pour augmenter progressivement les Etats membres qui s'y conforment jusqu'à – dans le meilleur des cas – atteindre la généralisation de la coutume à 28 ;
- leur mise en œuvre peut être très progressive et elle peut démarrer avec un nombre plus ou moins limité d'Etats membres ;
- elles constituent un agenda clair et concret pour les partisans de l'approfondissement politique de l'UE au niveau national : il est possible d'exercer la pression sur chaque gouvernement individuellement, car l'excuse habituelle « De toute façon tel autre Etat membre n'en veut pas ! » ne fonctionne plus.

### **Propositions concrètes**

**Proposition 0 : le président de la Commission, *leader* d'une majorité parlementaire et représentant (désigné en avance) du groupe politique ayant obtenu le plus grand nombre de sièges au Parlement européen**

Nous désignons cette proposition par le chiffre « 0 », car cette interprétation de l'article 17.7 du TUE, semble commencer à s'imposer. C'est l'inévitable point de départ de tout agenda visant à politiser le fonctionnement de l'Union européenne. Si les partis politiques européens jouent le jeu, il faudra ensuite que le Parlement européen nouvellement élu soit en mesure de s'imposer face au Conseil européen, si ce dernier à des vellétés de s'en tenir à une interprétation minimaliste de l'article précité.

Toutefois, même si cette disposition devient la norme, sans des mesures d'accompagnement adaptées – comme celles qui sont esquissées ci-dessous – à elle-même, elle ne sera pas suffisante.

Nombre d'Etats requis pour rendre la mesure possible : la majorité qualifiée au Conseil européen

### **Proposition n° 1 : fusion du poste du Président de la Commission et du Président du Conseil européen**

Cette proposition n'a rien d'original. L'un des derniers compromis qui a permis à la Convention sur l'avenir de l'Europe d'aboutir consistait précisément à rendre ce scénario possible<sup>5</sup>. Ses mérites :

- éviter une rivalité potentiellement dommageable à l'efficacité et à la lisibilité de l'action de l'UE ;
- créer un poste doté d'une forte double légitimité, à la fois démocratique et intergouvernementale ;
- simplifier le schéma institutionnel de l'UE et la personifier davantage, ce qui est sans doute un préalable nécessaire à une plus grande identification (qu'elle soit positive ou négative) entre les citoyens et l'Union.

Nombre d'Etats requis pour rendre la mesure possible : la majorité qualifiée au Conseil européen (+ accord avec le PE). NB : A défaut, un repli partiel sur la Zone euro est possible : les Etats membres de la Zone euro pourraient confier la présidence de l'Eurogroupe au Président de la Commission européenne, préfigurant ainsi la solution préconisée pour l'ensemble de l'Union.

### **Proposition n° 2 : imposer une logique de « ticket » pour la désignation du Président de la Commission/di Conseil européen, le Président de l'Eurogroupe et le Haut représentant de l'Union pour les affaires étrangères et la politique de sécurité.**

Aujourd'hui, c'est la logique de l'équilibre politique (et donc du consensus) qui est privilégiée, au détriment de la cohérence de la ligne politique des institutions de l'Union européenne, de leur lisibilité et de la logique des choix alternatifs.

Il conviendrait que les acteurs majeurs du jeu institutionnel de l'Union (Etats membres, les groupes politiques du Parlement européen, les partis politiques nationaux et européens) s'entendent sur le fait que lors des élections européennes et lors des procédures de nomination sur les postes concernés, ils s'autolimitent dans leur choix, en respectant une logique de « tickets » politiquement cohérents qui s'affrontent lors de la campagne électorale européenne.

<sup>5</sup> En imitant l'incompatibilité de l'exercice de cette fonction aux mandats nationaux.

Nombre d'Etats requis pour rendre la mesure possible : la majorité qualifiée (+ accord avec les partis politiques au niveau national et européen)

**Proposition n° 3 : permettre au président de la Commission européenne désigné de construire une équipe politiquement cohérente**

Afin de renforcer la responsabilité démocratique de la Commission, la lisibilité politique de son action pour les citoyens et l'émergence d'une véritable logique d'alternance au sommet de l'Union, base nécessaire du processus démocratique, il convient de donner au futur président de la Commission la possibilité de choisir un collègue qui soit politiquement plus cohérent.

Il s'agit de convaincre les Etats membres de ne pas proposer au président de la Commission un seul nom, mais par exemple une liste de trois personnalités, chacune étant choisie par l'un des trois principaux groupes parlementaires au niveau national, d'un commun accord avec le chef du gouvernement, de sorte que ce dernier ne se retrouve pas obligé à proposer des noms qui lui apparaissent comme franchement inacceptables.

Nombre d'Etats requis pour rendre la mesure possible : même un Etat tout seul peut commencer à recourir à cette pratique

**Proposition n° 4 : en attendant la mise en œuvre de la proposition n° 1, réformer la procédure de désignation du président du Conseil européen**

L'élection de M. Van Rompuy et peut-être encore davantage sa réélection se sont passées d'une manière totalement opaque et sans le moindre débat public accessible aux citoyens. Tant que la désignation du titulaire de ce poste n'évolue vers une fusion avec la présidence de la Commission, il faut évoluer vers une procédure qui en fasse un moment fort du débat politique européen :

- en exigeant un véritable acte de candidature, incluant un programme politique clair de chaque candidat et en excluant la possibilité qu'une personnalité puissent être portée à cette fonction sans ce préalable ;
- en organisant une audition publique des candidats et un débat public entre eux ;

- en rendant public le débat et le vote du Conseil européen à ce sujet.

Nombre d'Etats requis pour rendre la mesure possible : majorité qualifiée au Conseil européen (voire majorité simple, compte tenu du fait qu'il s'agit d'une décision de procédure ?). Par ailleurs, une simple minorité de blocage peut imposer par exemple l'exigence d'un acte de candidature, en déclarant clairement qu'elle s'opposera automatiquement à tout candidat qui ne s'y plie pas.

**Proposition n° 5 : synchronisation des cycles électoraux nationaux pour favoriser des dynamiques européennes au niveau des institutions intergouvernementales**

Le Conseil restant<sup>6</sup> un acteur majeur du processus de décision au niveau européen, l'effort visant à atteindre une plus grande lisibilité et responsabilité politique des décisions de l'UE est fortement affaibli par l'instabilité relative de la composition du Conseil, au gré des renouvellements des exécutifs nationaux. Sans postuler une synchronisation parfaite des élections nationales (ce qui impliquerait par exemple la renonciation des Etats membres à la possibilité de provoquer des élections anticipées, ce qui est bien évidemment inacceptable), il est parfaitement possible d'avancer dans ce sens et de favoriser une plus grande stabilité politique du Conseil, donc une meilleure prévisibilité de l'action de l'Union. Si la date des élections législatives dans un nombre significatif des Etats membres correspondait à peu près au milieu du mandat du Parlement européen, cela introduirait une possibilité de consolidation ou au contraire de sanction de la majorité européenne en place, ce qui renforcerait la responsabilité politique et l'*accountability* des instances européennes. Qui plus est, une telle évolution favoriserait le renforcement des thèmes européens dans les campagnes électorales nationales, contribuant ainsi à l'émergence d'une véritable citoyenneté européenne.

Nombre d'Etats requis pour rendre la mesure possible : au moins deux ; bien évidemment, si par exemple l'Allemagne et la France opteraient pour ce rapprochement de leurs vies politiques nationales, il s'agirait d'un signal très fort.

<sup>6</sup> Et devant rester, si l'on exclut une perspective fédérale, ce qui semble judicieux.

### **Proposition n° 5 : réformer le système électoral pour l'élection du Parlement européen**

Il s'agit sans doute de la mesure la plus difficile à appliquer, car elle exige l'unanimité des Etats membres (et une majorité au Parlement). Nous n'allons donc pas développer ici ce point outre mesure. Toutefois, il est évident que, pour renforcer la dynamique de politisation de l'Union européenne, il faudrait un mode de scrutin qui renforcerait le fait majoritaire (tout en gardant la forte représentativité du PE – la voie à explorer étant sans doute celle d'une « prime de majorité » au groupe politique victorieux) et qui rendrait possible, voire favoriserait, la constitution des listes supranationales.

Nombre d'Etats requis pour rendre la mesure possible : unanimité (cf. art. 223 du TFUE).

### **Proposition n° 6 : définir un statut de l'opposition au sein du Parlement européen**

Il faudrait que, face au président de la Commission, *leader* d'une majorité parlementaire, un *leader* de l'opposition émerge, d'une manière perceptible et compréhensible pour les citoyens. Ainsi, tout député européen pourrait soumettre au vote du Parlement une motion alternative au programme politique présenté par le président de la Commission – et celui dont la motion recueillerait le plus grand nombre deviendrait le leader de l'opposition, doté d'un certain nombre de privilèges, en matière de temps de parole, des moyens mis à sa disposition, etc., faisant de cette personnalité une sorte de contradicteur privilégié du président de la Commission et le probable *challenger* n° 1 pour les élections suivantes.

Face à l'éventuelle mise en œuvre de la proposition n° 2, il serait judicieux d'adopter la coutume qui voudrait que le poste du président du Parlement soit dévolu à l'opposition (sans que ce dernier soit la même personne que le leader de l'opposition).

Nombre d'Etats requis pour rendre la mesure possible : ne dépend pas des Etats membres. Il faut agir sur les partis politiques nationaux et européens et sur les groupes politiques au sein du PE.

**Proposition n° 7 : tant que les listes sont définies au niveau national, inciter les partis politiques nationaux à adopter des règles contraignantes au niveau de la sélection des candidats**

Ce qui nuit à l'efficacité et à la légitimité du Parlement européen, c'est aussi le peu de considération que certains députés (dans certains Etats membres en particulier) semblent avoir pour le mandat européen. Il serait donc hautement souhaitable que les partis nationaux qui composent les listes exigent de chaque candidat un certain nombre d'engagements sur honneur, exprimés publiquement :

- adopter une clé de répartition entre les postulants au premier, deuxième ou troisième mandat européen consécutif, de sorte à ce qu'il y ait un bon équilibre entre la continuité et le renouvellement au sein du PE ;
- non-cumul de mandat européen avec un quelconque autre mandat électif ;
- un code de bonne conduite concernant la participation effective aux travaux du Parlement ;
- engagement à ne pas briguer de mandat national au cours de la législature européenne (et de démissionner du mandat européen au cas où le député passerait outre à cet engagement, par ex. en cas d'une candidature présidentielle).

Les partis pourraient s'engager publiquement à ne pas représenter lors de prochaines élections un candidat qui aurait enfreint ces engagements.

Nombre d'Etats requis pour rendre la mesure possible : ne dépend pas des Etats membres. Il faut agir sur les partis politiques nationaux et européens.

**Proposition n° 8 : créer un système de financement des partis politiques européens incitatif pour promouvoir de véritables dynamiques européennes, contribuant à faire émerger un espace public européen.**

L'essentiel de la communication politique reste entre les mains des partis politiques, qui concentrent également le gros des moyens financiers, qu'il s'agisse des financements publics, privés ou encore, dans certains pays, à travers des fondations politiques. Dans ce contexte, il n'est pas étonnant que les campagnes politiques restent profondément

nationales et les partis politiques européens restent inconnus du grand public.

Il faut concevoir un système de financement des partis politiques et surtout des campagnes électorales européennes qui alloue des moyens sur la base d'une stricte conditionnalité exigeant un caractère indubitablement transnational, européen des actions financées. L'émergence des fondations politiques européennes, dotées d'une base financière solide, seraient également plus que bienvenue.

Nombre d'Etats requis pour rendre la mesure possible : majorité qualifiée au Conseil en accord avec la majorité du PE (cf. l'art. 224 du TFUE).

### **Proposition n° 9 : renoncer au siège du Parlement européen à Strasbourg**

*Last, but not least* : la politisation de l'Union européenne doit être à la fois la cause et la conséquence de l'adhésion des citoyens à cette dernière, en tant que communauté politique dans laquelle ils se reconnaissent. Cela implique une certaine exemplarité. Or, l'Union est trop souvent perçue comme un monstre bureaucratique d'un coût exorbitant. Si cette perception est assez largement injuste, les allers-retours du Parlement européen entre Bruxelles et Strasbourg constituent un symbole qui devient de plus en plus insupportable.

Au-delà du problème du coût et de l'impact environnemental, cette affaire décrédibilise le Parlement européen. En effet, peut-on prendre vraiment au sérieux un parlement qui ne cesse de réclamer, à une majorité écrasante, à ce qu'on le laisse choisir son siège unique – sans obtenir le gain de cause ?

Si la solution juridiquement incontestable de ce problème nécessite une modification des Traités, dans ce cas précis, si la France accepte de « lâcher » Strasbourg, il semble peu probable que sa ratification pose le moindre problème. On pourrait en profiter pour déterrer l'idée lancée autrefois par Bronislaw Geremek : offrir les locaux du Parlement à Strasbourg et la somme annuelle prévue pour financer les déplacements du PE à Strasbourg à une nouvelle Université européenne.

Nombre d'Etats requis pour rendre la mesure possible : unanimité. Mais à court terme, si la France s'abstient de saisir la CJUE, on pourrait tout simplement laisser tomber le Protocole n° 6 des Traités dans la désuétude...

**Proposition n° 10 : commencer à faire de la politique, tout simplement**

Toutes les mesures précitées ne serviront qu'à peu de choses, si elles ne sont pas accompagnées d'un changement radical d'attitude du personnel politique européen qui doit commencer à faire de la politique au sens le plus large du terme, en rendant l'espace politique européen visible et en investissant avec dynamisme aussi les espaces politiques nationaux. Les commissaires et les députés européens doivent devenir des acteurs incontournables dans les débats nationaux, en s'imposant dans les médias, en s'invitant dans les débats parlementaires, en répondant avec force à ceux qui prennent l'Union pour cible.

Cela nécessite de repenser l'organisation de leurs équipes, de définir des stratégies politiques véritablement européennes, de revoir le travail avec les médias.

***La mise en œuvre de ces 1+10 propositions signifierait une rupture définitive avec le « fonctionnalisme tranquille » (Christian Lequesne), ouvrant la voie à la naissance d'une véritable Union politique. Il serait vain de s'attendre à ce qu'il s'agisse d'une transformation linéaire et rapide : elle ne saura être que progressive et risque de connaître plus d'un soubresaut... mais la solution durable de la crise de confiance à laquelle l'UE est confrontée, est à ce prix.***

NB : Les thèmes abordés dans la présente note l'ont été de manière plus détaillée notamment dans les publications suivantes :

Chopin, T. ; Macek, L. : « Après Lisbonne, le défi de la politisation de l'Union européenne », *Les études du CERI*, n° 165, 2010

Chopin, T. ; Macek, L. : « Le traité réformateur : vers une UE politique ? », *Questions d'Europe*, n° 78, Fondation R. Schuman, 2007

## **The role of European political parties in the development of political union**

Margarida Salema d'Oliveira Martins\*

1. The Treaty on European Union refers to the European political parties only in Article 10, n. 4. Today no longer refers to the representation of the peoples, but stipulates that the European Parliament is composed of representatives of EU citizens (Article 14, n. 2).

2. The electoral system adopted for the election of MEPs cannot be considered uniform yet, resting predominantly in national legislation, continuing to fail to fulfill part of Article 223, n. 1 of the TFEU. The change to impose an equal system is suggested, by initiative of other institution, with the exception of the E.P. itself.

3. The elections of Members of the European Parliament at national level are based on the national political parties, currently represented in E.P. through elected Representatives.

4. As it is well known, Members are not grouped by nationality, but by political affiliation, existing in the current legislature (2014-2019) the following political groups: European People's Party (Christian Democrats) is the largest group with 217 Deputies, which includes the Portuguese MEPs elected by the Social Democratic Party (PPD/ PSD – Partido Social Democrata) and the Popular Party (CDS-PP – Partido Popular); Progressive Alliance of Socialists and Democrats, with 190 Members, which includes the Portuguese Deputies elected

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by the Socialist Party (PS – Partido Socialista); Group of European Conservatives and Reformists, with 74 deputies; Alliance of Liberals and Democrats for Europe, with 70 Deputies, which includes the Portuguese MEPs elected by the Earth Party (MPT – Partido da Terra); Confederal Group of the European United Left / Nordic Green Left, with 52 Members, including the Portuguese Members of the Left Bloc (B.E. – Bloco de Esquerda) and the Portuguese Communist Party (PCP – Partido Comunista); Group of the Greens / European Free Alliance, with 50 members; Europe of Freedom and Direct Democracy Group, with 45 deputies; and Europe of Nations and Freedom Group, with 39 Deputies.

Members who are not part of any political group constitute a group called Non-attached Members (see Article 33 of the E.P.' Rules of Procedure). There are currently 15 non-attached Members (MPs belonging to several parties and nationalities, such as the French Front National, or the Greek Communist Party).

5. Several political groups founded, or resulted from, political parties operating at European level, for example, among the oldest, the European People's Party, the Party of Progressive Alliance of Socialists and Democrats, the Green Party / European Free Alliance and the Party of Liberals and Democrats for Europe. These parties, working closely with the political groups, have been increasing in number, especially since the entry into force of Regulation (EC) N. 2004/2003 of 4th November, of the European Parliament and of the Council on the regulation governing political parties at European level, including rules regarding their funding<sup>1</sup> based on Article 191 of the EC Treaty introduced by the Treaty of Nice.

With the Treaty of Lisbon, the subject is included, in addition to Article 224 TFEU, in Article 10, n. 4, of the TEU (and Article 12, n. 2, of the Charter of Fundamental Rights), which states that "political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union."

<sup>1</sup> OJ EU L 297, 15.11.2003, p. 1.

6. In the elections for the E.P., in May 2014, the following European political parties were in action:

- European People's Party – including 74 political parties from 39 countries;
- Party of European Socialists – including 53 political parties from 37 countries;
- Alliance of Liberals and Democrats for Europe – covering 55 political parties from 36 countries;
- European Green Party – covering 33 political parties in 42 countries;
- Alliance of European Conservatives and Reformists – including five parties from 5 countries;
- Party of the European Left – covering 26 parties from more than 10 countries;
- Movement for a Europe of Liberties and Democracy – including 10 parties from 10 countries;
- European Democratic Party – including seven parties from 7 countries;
- European Free Alliance – comprising 40 parties in five countries;
- European Alliance for Freedom – covering 6 parties of 6 countries;
- European Alliance of National Movements – without data;
- European Christian Political Movement – covering 10 parties from 8 countries;
- Europeans United for Democracy – including parties from 12 countries.

Later, in 2015 and 2016, were constituted the following three new European political parties:

- Alliance for Direct Democracy in Europe;
- Movement for a Europe of Nations and Freedoms;
- Alliance for Peace and Freedom.

All these parties<sup>2</sup>, from the extreme left to the extreme right, some of which are ideologically positioned in favor of EU exit, are funded by the E.P.<sup>3</sup>.

<sup>2</sup> Of the 16 European political parties listed, 10 are based in Belgium, 3 in France, 1 in Malta, 1 in Denmark and 1 in the Netherlands.

<sup>3</sup> The amount of funding provided for 2016 is EUR 31.4 million for the European political parties and 18, 7 million euros for European foundations (there are about 16).

7. The last election to the European Parliament, for a term which started in 2014 and will finish in 2019, has once again demonstrated the fragility of the political party support at national level of an European institution that is intended with full democratic legitimacy. The Treaties have not progressed in matters of great political sensitivity such as electoral process, MEP's Statute, with particular regard to incompatibilities, conflicts of interest or other situations of negative conflict of competences<sup>4</sup> not been regulated by the primary or secondary law of the European Union also they are not provided for in national legislation creating dubious or non-solutions for those situations by mere internal decisions of the European institution or the national parliaments. It is necessary a better analyze of the inner workings of this institution in this regard which rests in national parliaments and multinational political groups that coincide or not with federations, confederations or unions of parties designated as European political parties.

These can bring together new movements that have been forming such as mere protest parties, anti-system parties, anti-democratic parties, anti-European parties and tummies rental parties.

This political reality inexorably advances and increases as the problems and their lack of solution in sight in terms of European Union, mount up.

The crisis is here to stay and can take on different contours, but it seems safe and advised the position of those who considers that if the construction process cannot in the coming years to go ahead, at least it should not go back.

8. Meanwhile Regulation (EU, Euratom) N. 1141/2014 of the European Parliament and of the Council of 22 October 2014 on the statute and financing European political parties and European political foundations was published<sup>5</sup>.

<sup>4</sup> It arises, for example, this in legislature of E.P. the case of a Portuguese deputy who was elected by a party and later formed another party, which has not ran for elections and so this new party should not be present in the E.P.

<sup>5</sup> OJ EU L 317, 4.11.2014.

Apart from still it is not quite understandable what is a European political party and why European political foundations that do not run for elections have to be financed by the EU budget, we continue to work on a political diffuse and opaque framework that does not help create a climate of trust. As much as the legal bureaucracy is self-explanatory very detailed and almost armored, we cannot pass a rubber on democracy turning it into “burodemocracy”, thus giving the EP which is formed by national parties the final word on the issue, control and sanctioning of the funding of European parties.

In addition to interesting legal issues, such as the acquisition and loss of European legal personality, there are long controversial issues such as the acceptance of corporate donations (permitted by Regulation) or indirect financing of national parties (prohibited by the Regulation)<sup>6</sup>. Already it seems difficult that the national parties act as financiers of European parties, especially in countries where public funding takes a big weight.

It is therefore essential to consolidate the democratic pillar in the aspect of representation and political legitimacy of the democratic institution par excellence that is the European Parliament.

The problems that the national political parties cannot resolve internally are often attributed to the European process that arises as a scapegoat for problems at national level, thus feeding an anti-European ideology that contributes to political degradation of the quality of democracy based on European parties. These are not known by the common European citizen, who has difficulty to understand the links between the parties they are familiar with and those which operate at the European level.

In short, the future development of European transnational representative democracy as one of the pillars of European democracy certainly deserves more attention.

<sup>6</sup> It has been reported, and has even been the subject of interest to OLAF, a recent case of funding national party as originating in the European Parliament.

The system should be viewed with the necessary framework, currently being the statute for European political parties at a stage still very early, despite the European Parliament elections by direct suffrage reach 40 years in 2019. The financial aspect and the relationship with the legitimacy election and the phenomenon of corruption<sup>7</sup> is vital food for thought for the second and third decades of the twenty-first century.

Lisboa, March 14th, 2016

<sup>7</sup> V. Anti-Corruption Report of the European Union (COM 2014) 38 final of 02/03/2014.

## **Jean Monnet Colloquium on the Future of the EU**

Maria Grazia Melchionni

### **Panel: The Blueprint for a Political Union**

Good morning, dear Students, Jean Monnet Colleagues, Ladies and Gentlemen.

I wish to thank and to congratulate Professors Dusan Sidjanski and Fausto de Quadros for having organized this Colloquium, and to say how I do appreciate the opportunity to be there and to share my views with all of you on the perspectives for deepening the European integration at the difficult moment we are now living.

The presentation by Professor Sidjanski we have listened to is stimulating and I fully support his vision of a Political Union – federation or confederation, be that as it may – between the willing few.

Many papers have been produced during the last weeks by several think tanks, more or less closed to the institutions, and in his White Book, the President of the Commission Jean-Claude Juncker seems to have taken account also of that.

I preferred to draft my paper independently, on the basis of what I have learned in so many years of European studies and personal observation and reflection, and afterwards I looked at this literature to check my considerations.

You will not be surprised to hear that my approach will be different, as it aims to a real change of things, which alone could put them under way: “The change – according to Jean Monnet – can only come from outside the institutions, at due time”.

Let me, now, come straight to my topic:

## **New Perspectives and Challenges for Deepening the EU after Brexit and American Elections**

UK Prime Minister Theresa May, a pretty self-confident personality, is strongly Atlanticist and, endeavouring to pursue “a smooth, orderly Brexit” (speaking at Lancaster House, on January 17<sup>th</sup>, 2017), she is determined to succeed in doing a hard Brexit: no EU, no Single Market and no Customs Union.

Dealing in such an epochal change, UK politics will be concentrated on trade and economics, and negotiations to implement Brexit will have number of difficulties. There will be political contrast, economic clash across the English Channel. This very complex, tough negotiation could distract EU attention and energies from internal and external major problems or interfere in them.

In foreign policy, UK will be less keen on overstretching its power than it has been under Blair and Cameron, and its engagement will be especially for its interests, no more for wars.

However, directly or not, through NATO or its bilateral agreements with France, London will try to have a say in the future European arrangements for defence.

The world is defined by globalization and I don't believe President Trump will be able, even if he really thought so, to be isolationist; but I'm quite positive on the fact that he will support nationalism, as in USA nationalism is in the mainstream.

With the “America first” doctrine he wants to move away from the uncertain Obama foreign policy, but “to make America great again” doesn't necessarily mean that he wants to engage in wars. It is also possible that the confrontational approach he has shown, for example, to Iran could be a negotiator's tactic.

Important trends in its foreign policy seem to be:

- Security is prominent over economy, hence militarization to deepen;
- Multilateralism is over in security (not in trade), hence back to bilateralism, but US commitment to NATO will continue after Trump's upcoming, improving NATO's mission on counter terrorism;
- Democracy promotion abroad is over;

- End of American hegemony on the Middle East and growing attention towards East Asia, where China is a rising power increasingly assertive and inspiring fear.

The relationship between USA and China is uncertain. Both pretend to defend the *status quo*, but for China the *status quo* is its position as the Middle of Asia, for USA the *status quo* is other.

All around Asia, China is recognized as a regional power and also as a global power. China has the money and spends the money, so South-East Asia countries look at China. China wants to end up the Taiwan issue and is building military capability to impede USA to intervene in favour of Taiwan. Trump has gone back, recognizing the “One country” doctrine of China.

There is a shifting balance of power in the Korean Peninsula and there is no more patience with North Korea in East Asia. According to specialists in the area, conflicts could be local and controlled, but could not be avoided; they could be neighbour wars, trade wars, trying not to do nuclear conflicts.

Russia is very active in Asia, and the ‘Russian factor’ is paramount in Trump’s Asian policy to be.

USA, China, Russia, they are global players in a world that is in transition towards a multipolar order, perhaps a post-Western global order. And this transition is not going on in a peaceful way, but through trade wars, neighbour wars, terrorism and migration wars, which already affect the EU.

Nowadays a significant global political actor because of its soft power, after the return of hard power politics to the global affairs, the EU cannot be any more only a civil power, but needs to qualify itself also for hard power to be recognized as one of the world’s power poles, as USA, China, Russia and probably someone else.

The EU needs to complete its political and security identity and look forward to becoming a member of UN Security Council, of NATO, a nuclear power with a chief commander, and to having if not a European army, at least a strong cooperation between the Member Countries’ military.

Deprived of the stature of a global player in high politics, as it is now, EU is the common neighbourhood of two real world’s power poles, where they discharge their contrasts exploiting local interests.

To be quite clear on that, this political and security *status* which is urgently needed is impossible to achieve at 27/28 because a sharp reduction in the sovereignty of the Member Countries should be agreed by all of them, while many are constitutionally impeded. Among the 27/28 there are also other differences in geopolitical conditions and views, historical experiences and cultural sensibilities, by which it is apparently difficult to focus common interests in high politics.

In my report of 2016 to Professors Sidjanski and de Quadros I already underlined the necessity not only of supranational economic governance, but also of supranational foreign affairs and defence policies, the two being not separable. What makes the difference between diplomacy and any other kind of negotiating activity is the fact that, behind the diplomat, there is the military force and the right of the sovereign power to use it to defend national interest. Paraphrasing Henry Kissinger (Roberto Ducci, *I Capintesta*, Milano, Rusconi, 1982, p. 88) and Stalin before him, I could ask: how many brigades does H.R. Federica Mogherini have to do the EU foreign policy?

One year later these needs have become more pressing and the Eurozone, a stabilized Eurozone, seems to be the framework where to see how to go forward towards “an ever closer union” in foreign and security and defence policies, the 19 Member Countries having already accepted to do that in the monetary field.

It has been stated at the very beginning of the Treaty on the EEC: “Determined to lay the foundations of an ever closer union between the European peoples...”, and repeated thereafter in the main European treaties.

What does it mean “an ever closer union”?

Firstly I wish to observe that it is not the opposite of “united in diversity”, if the subsidiarity principle is properly applied in the top-down fashion, and to do so should be granted as in low politics also when deepening the integration in high politics.

National diversities are a wealth: the peculiarities of cultural, social and economic needs should be taken into consideration and not sacrificed to the homologation suitable to the single, now the global market. However, as to national interests in foreign policy and defence, they need to be composed with consultations between all Member Countries, instead of unilaterally taking the initiative and leaving the others in front of a *fait accompli* and of its unwanted consequences.

“An ever closer union” now means to push the integration into the areas of high politics, where for functional reasons sovereignty needs to speak with a single voice, not a plural, intergovernmentalism in the decision making being tempered by the majority vote.

Focusing on the Eurozone to build “an ever closer union” implies to make it clearly irreversible. To introduce an exit procedure from the EU was a big error, and a conceptual contradiction too. How is it possible to get deeply engaged with an ambitious, transforming, demanding process, if it is not perceived as existential and if it is not for ever? The simple existence of an exit door, changing the approach to building Europe, is the sign of a mutation in the process developing.

The upgrading of the Eurozone (on the way of becoming Europatria, as Dr. Peter Hartz has named Europatriates the young Europeans involved in his mobility plan) has to be negotiated between all the 19 Member Countries speaking frankly, avoiding the ambiguities which, seeking for accessions, have characterized the enlargement negotiations.

Between the two models of differentiated integration, “variable geometry” or “hard core”, embodied the first into the “reinforced cooperation” and the second into the “Eurozone”, only the last one has shown the capability to deepen the integration level of the Member Countries and to develop political impulses (see Paolo Ponzano, *L'intégration différenciée dans l'UE et la 'constitutionalisation' de l'Eurozone*, dans <<Revue du Droit de l'Union européenne>>, 2015, 2).

For more integration in foreign policy and security and in defence, it is better to build on the Eurozone than to create reinforced cooperations, which are subject to several limitations; moreover deepening the competences of the Eurozone in foreign affairs and defence would mean to complete the set of the sovereign prerogatives: money, foreign affairs, military forces.

This completion of the Eurozone is also needed to restore the balance between the German and the Latin components of it, as the France-Germany couple has not performed properly after the reunification of Germany and the establishment of the Eurozone; however, the exclusive nuclear capability of France, giving her a leading role in defence, could match Germany's overwhelming economic presence.

As how to do the upgrading of the Eurozone, leaving the technicalities to the skills of lawyers, I will limit myself to some considerations:

- a new reform treaty of the EU could be an act of suicide, for it would not be understood by the European population;
- a protocol in addition to the EMU treaty, aiming to reinforce and to complete the treaty in the world being, or three different protocols concerning EMU, FSPU, SDPU look better;
- the text/s, short and clear, should be finally formulated by few respected specialists, as it happened in the case of the Rome treaties;
- the engagements need to be made permanent and irreversible;
- as in the case of the Eurozone the institutional structure for the decision making should be the existing one in different composition of the meetings, and only a few special organs and mechanisms connected with the new activities should be created;
- the H.R. for CFSP and CSDP and the External Action Service could continue to play a crucial role entertaining the dialogue and helping to bridge the differences that may develop between the Member Countries of the Eurozone, having supranational foreign, security and defence policies, and the others EU Member Countries belonging to the Single Market and acting in high politics on unanimity.

I remember a time when “enlarging” was perceived as the opposite of “deepening”: to enlarge would have made the link less strong, so the question was “enlarging or deepening?” After the first accession round, “enlarging” and “deepening” became a couple, the first being supposed to drive the second: “enlarging and deepening” was a *mantra*. But it didn’t succeed.

I like to recall here that Romain Rolland (the French political thinker was a biologist) invented a word *Gigantanasie*, to describe the fact that in nature an unlimited growth brings to a sudden disappearance in major catastrophes, and in the human domain it leads to wars and revolutions.

And now...*hic sunt leones!*

For the future of Europe it is essential to define its borders. The sentence written in the Rome treaties and, afterwards, automatically confirmed in the EU revision treaties, “Every European Country may ask to become a member of the Community”, needs to be considered in the historical context of its origin.

It was an “open door” policy connected to the cold war and intended to state no acceptance of the iron curtain (particularly with regard to the partition of Germany). It cannot mean, today, that enlarging to all European Countries is mandatory; or that each European Country meeting the criteria established at Copenhagen in the Nineties can come in, even if its accession could get the EU in trouble (as in case of Turkey, Ukraine, Georgia...).

The “responsibility to promote democracy” or “to protect human rights” in foreign communities has proved to be irresponsible.

*Lisbon, March 2017*



## Notes brèves sur le futur de l'Union politique dans le domaine de l'Action extérieure de l'Union européenne

Maria José Rangel de Mesquita\*

0. Dans le cadre du Project Jean Monnet «*The Future of the European Union. The Future of the Eurozone – The Blue Print for a Political Union*», deux questions ont été adressées aux participants: une sur le futur de l'Eurozone et une autre sur le *Blueprint* pour une Union Politique. Ce texte envisage donc contribuer aux réponses à la deuxième question et contient des brèves notes sur l'Action extérieure de l'Union européenne qui mériteraient une réflexion accrue dans le cadre du débat sur le thème «*The Blueprint for a Political Union*», dans le volet dimension extérieure de l'Union européenne, à la lumière de l'état actuel de l'Union et pour la discussion de son avenir politique et d'une future (éventuelle) révision des traités<sup>1</sup>. Ces notes incidentent sur six volets tous en rapport avec la dimension extérieure de l'Union européenne: i) méthode; ii) nature juridique des compétences; iii) renforcement de la nature 'communautaire', de l'efficacité et de la cohérence; iv) citoyenneté; v) valeurs fondamentaux de l'Union; vi) Stratégie globale pour l'Union européenne et de l'Union et après.

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<sup>1</sup> Le texte correspond à l'actualisation de la contribution écrite pour le Project Jean Monnet «*The Future of the European Union. The Future of the Eurozone – The Blue print for a Political Union*», en matière d'Action extérieure de l'Union européenne et considérant aussi le contenu de notre intervention au Colloquium «*The Future of The European Union. The Future of the Eurozone. The Blue Print for a Political Union*», dans le volet «*The Blue Print for a Political Union – External Dimension*», qui s'est réalisé à l'Université de Genève, les 10-11 May 2015 – un des deux colloques qui intègrent le sous-mentionné Projet.

1. En ce qui concerne la *méthode* en matière d'Action extérieure (AE) de l'Union européenne (UE), et malgré la prévision par le droit originaire des dispositions générales relatives à l'AE de l'Union, le double volet de l'Action extérieure (AE) de l'UE – Politique étrangère et de sécurité commune (PESC) y compris la Politique de sécurité et de défense commune (PSDC), prévus dans le Traité de l'Union européenne (TUE), et les autres politiques et domaines de l'AE de l'UE (AE 'non PESC'), prévues dans le Traité sur le Fonctionnement de l'Union européenne (TFUE) – est encore une expression du maintien d'une double méthode d'intégration, malgré la fin formelle de la structure de piliers de l'UE annoncé par le Traité de Lisbonne : méthode d'intégration et méthode intergouvernementale (celle-ci découlant, en matière de PESC, de l'article 24 du TUE).

Une des questions concernant l'évolution de l'UE autant que Union politique est sûrement celle du maintien de cette dualité ou bien l'évolution dans la voie d'une (vraie) union politique avec des compétences pleines dans le domaine de la PESC/PSDC – dont l'exercice puisse être mené non seulement à un niveau plutôt des organes représentatifs des États membres (Conseil Européen, Conseil de l'Union européenne) et de l'Haut représentant de l'Union pour les affaires étrangères et la politique de sécurité – avec une intervention (plus ou moins) active de la Commission –, mais aussi avec une intervention accrue du *volet démocratie représentative*, à travers surtout la participation accrue du Parlement européen (en plus que le droit à l'information prévu dans le TUE ou la modeste participation dans la procédure de *ius tractuum* de l'Union en matière de PESC<sup>2</sup>), notamment dans la *définition des orientations et priorités politiques générales de l'Union* dans ce domaine de compétences, mais aussi des Parlements nationaux (v.g. à travers d'une procédure similaire à la procédure de

<sup>2</sup> L'arrêt de la CJUE du 24 Juin 2016 (*Parlement/Conseil*, C-658/11) ayant exactement contrôlé le respect par le Conseil du droit du Parlement européen prévu à l'article 218, 10 du TFUE (obligation d'informer immédiatement et pleinement le Parlement), en matière de *ius tractuum* de l'UE en matière de PESC – la CJUE s'est donc considéré compétente pour interpréter et appliquer l'article 218 du TFUE, qui ne relève pas de la PESC, alors même que cet article prévoit la procédure sur la base de laquelle est adopté un acte relevant de la PESC et a annulé l'acte du Conseil de conclusion de l'accord (exclusivement sur la) PESC en cause entre l'UE et la République de Maurice (Décision 2011/640/PESC du Conseil, du 12 juillet 2011).

contrôle de la subsidiarité ou, au moins, d'une compétence consultative sur les grandes priorités de la dimension extérieure de l'UE).

2. En ce qui concerne le renforcement de l'élément politique de l'UE en matière de *nature juridique des compétences* de l'Union dans le volet Action extérieure, une autre question est celle de la clarification par les traités de la nature juridique de la PESC, y compris la PSDC. Si d'un côté, l'article 2, 4 du TFUE prévoit que l'Union dispose d'une compétence, conformément aux dispositions du TUE, pour définir et mettre en œuvre une PESC y compris la définition progressive d'une politique de défense commune, il ne peut pas être exclu que la compétence de l'Union en matière d'Action extérieure PESC, y compris la PSDC, puisse être comprise – au moins en partie – dans la clause générale en matière de compétence partagée prévue à l'article 4, 1, du TFUE, avec toutes les inhérentes conséquences juridiques, soit du point de vue des principes applicables, soit dans le point de vue de la procédure de décision et du contrôle.

3. En ce qui concerne le *renforcement de la nature 'communautaire', de l'efficacité et de la cohérence* en matière d'action extérieure de l'UE, quelques suggestions de réflexion peuvent être avancées. Tout d'abord, en ligne avec l'inclusion de l'action extérieure PESC dans la clause générale de compétences partagées et la participation accrue du volet démocratie représentative sous mentionnées, la diminution (voire effacement) des traits intergouvernementales de la PESC, y compris la PSDC, dans plusieurs aspects (compétences des institutions, y compris le rôle du Parlement européen, sources de droit dérivée et règles de délibération) mais surtout dans un domaine que s'avère structurellement incompatible avec la notion d'Union de droit: le contrôle de l'action extérieure, dans son volet PESC, par la Cour de Justice de l'Union européenne (CJUE), au-delà des deux cas (exceptionnelles) d'attribution de compétence à la CJUE – prévus à l'article 24 du TUE et développés à l'article 40 du TUE et à l'article 275 du TFUE. C'était exactement étant donné la limitation de la compétence de la CJUE en matière de PESC que la même Cour a écrit, dans son Avis 2/13 sur l'adhésion de l'UE à la Convention européenne des droits de l'homme que l'accord envisagé «méconnaît les caractéristiques spécifiques du droit de l'Union concernant le contrôle juridictionnelle des actes, actions ou

omissions de l'Union en matière de PESC»<sup>3</sup>, puisqu'il reviendrait à confier ce contrôle juridictionnel (bien que limité au respect des droits garantis par la CEDH) exclusivement à un organe externe à l'Union, c'est-à-dire, «à une juridiction internationale qui se situe en dehors du cadre institutionnel et juridictionnel de l'Union». Le renforcement de l'Union politique – étant donné les (considérables) compétences en matière de PESC – ne peut ne pas laisser de prendre en considération l'élargissement du contrôle juridictionnel de l'exécution de la PESC au sein du système juridique de l'Union, sous peine de toucher un volet essentiel découlant de l'état de droit (autant que valeur fondamentale de l'UE): l'accès à la justice et le contrôle juridictionnel effectif<sup>4</sup>.

En plus, on peut aussi indiquer trois autres aspects sur lesquels une réflexion peut être menée dans le cadre de l'approfondissement d'une Union politique: l'établissement de façon transparente des 'priorités' de l'action extérieure (politiques, géopolitiques, défense et sécurité, économiques) afin de pouvoir mesurer l'efficacité des actions de l'Union et aussi des instruments conventionnels et financiers – en partie objet de la *Stratégie Globale de l'UE*<sup>5</sup> présentée en Juin 2016 (voir *infra*, 6.), laquelle, bien que inclusive, est peut-être trop générale et ambitieuse; la promotion de la concertation accrue de l'action de l'UE et des États membres en matière d'action extérieure dans des domaines clairement identifiés comme 'prioritaires' (vg sécurité de l'UE, identification des menaces internes et externes, politique de voisinage); et la concentration le rôle politique de représentation extérieure de l'UE évitant les (réels ou éventuelles) *overlappings* institutionnels (Président du Conseil Européen, Haut représentant, Président de la Commission, Président de l'Eurogroupe).

<sup>3</sup> Voir notamment la *Communication de la Commission au Parlement européen et au Conseil Un nouveau cadre de l'UE pour renforcer l'état de droit* (COM (2014) 158 final du 11/3/2014), 2., aussi bien que le *Rule of Law Checklist*, adopté par la Commission de Venise dans sa 106<sup>ème</sup> Session plénière les 11-12 mars 2016.

<sup>4</sup> *Vision partagée, action commune : Une Europe plus forte – Stratégie globale pour la politique étrangère et de sécurité de l'Union européenne*.

<sup>5</sup> *Communication de la Commission au Parlement européen et au Conseil Un Nouveau cadre pour renforcer l'état de droit* (COM (2014) 158 final) et *Opinion of the Legal Service – Commission's Communication on a new EU Framework to strengthen the Rule of law: compatibility with the Treaties* (Council document 10296/14, du 27/05/2014).

4. En ce qui concerne le renforcement de la 'place' de la citoyenneté dans la construction européenne, une des lignes de force de réflexion pourra être sur son rôle dans le cadre de l'AE. Dans le spécifique domaine de la *citoyenneté et Action extérieure*, étant donné que la citoyenneté européenne est au cœur de l'union politique, deux volets peuvent être objet de réflexion accrue envisageant le renforcement du lieu de la citoyenneté dans la construction européenne dans le domaine en cause autant qu'acteurs – et pas seulement dans la perspective de 'destinataires' du résultat de l'action extérieure de l'Union, notamment à travers la mise en œuvre de la Stratégie Globale dans la mesure où celle-ci atteint la promotion des intérêts des citoyens européens.

D'un côté, dans le volet du Service européen pour l'action extérieure, la promotion accrue de l'acceptation de la protection des citoyens européens dans les pays tiers par le SEAE (vg. protection 'consulaire' européenne minimale). D'autre côté, l'amélioration de la perception des citoyens européens sur les avantages et progrès en matière de action extérieure de l'UE (objectifs, priorités, choix) et aussi en matière de *accountability* de résultats concernant la sécurité globale dans l'UE (et aussi le financement de l'AE, étant donné son rôle de citoyens autant que 'tax payers').

5. Ensuite, concernant les *valeurs fondamentaux de l'Union*, dont l'affirmation et la promotion sont identifiés comme buts de l'action extérieure de l'Union et de ses «rapports avec le reste du monde» (selon l'Article 3, 4 du TUE), une question qui mérite réflexion doit d'être avancée : la mesure dont l'Union peut réussir, d'une façon crédible, à affirmer et promouvoir sa base axiologique fondamentale (telle que consacré à l'article 2 du TUE, notamment l'état de droit et le respect par les droits de l'homme) dans les relations extérieures dès le moment où la façon dont elle assure le respect par ces mêmes valeurs dans son ordre juridique interne, notamment vis-à-vis ses États membres, peut ne pas se montrer suffisante et efficace. En effet, du point de vue des principes, le passé récent de l'Union européenne concernant la façon dont l'Union a adressé les violations (ou au moins forts risques de violation) des valeurs fondamentaux par quelques de ses États membres, notamment à travers de la création de nouveaux mécanismes et procédures précédant l'action en manquement qualifiée des valeurs fondamentaux de l'Union

(prévue à l'article 7 du TUE)<sup>6</sup> – dont la compatibilité avec les traités, aussi bien que l'efficacité, sont fort douteuses, écartant (au moins pendant une période plus ou moins élargi) la procédure juridique établi par les maîtres des Traités – ne contribue pas pour une conception 'forte' de la sauvegarde (interne) des valeurs de l'Union avec des réflexes – au moins politiques – sur son image extérieure.

6. Finalement, en ce qui concerne la *Stratégie globale pour la politique étrangère et de sécurité de l'Union européenne* et après – certes présentée dans un moment temporel crucial devant les incertitudes du referendum Brexit –, dont le rapport sur sa mise en œuvre Année 1 a déjà été présentée par le Haut représentant<sup>7</sup>, deux notes finales s'imposent dans le cadre du débat du futur de l'Union politique.

L'approbation de la Stratégie globale, malgré son étendu ambitieux – en fixant cinq priorités de l'action extérieure à partir des intérêts et principes communs – a sans doute permis de relancer l'activité des États membres et de l'Union dans le domaine de la PESC, y compris la PCSD – notamment le Plan d'action européen de la défense, le Plan de mise en oeuvre de la Stratégie globale en matière de défense, la Déclaration conjointe EU-NATO, le Document de réflexion sur l'Avenir défense européenne présenté par la Commission en Juin 2017 (à la suite de son Livre blanc sur l'avenir de l'Europe) ou la récente coopération structurée permanente, entre 25 États membres, prévue aux articles 42, 6 et 46 du TUE (et Protocol N.º 10)<sup>8</sup>. Toutefois, et d'un côté, il n'est pas sûr qu'il soit évident que cette Stratégie globale et le document qui la présente, aussi bien que sa mise en œuvre (et ses résultats), soient clairement perçus par les citoyens (qu'elle vise d'ailleurs protéger) – autant que bénéficiaires (indirectes) et *tax payers* – qui sont un élément *sine qua non* de l'Union politique. D'autre côté, il faut encore s'interroger si l'ambition de l'Union en matière d'action extérieure et en particulier en matière de PCSD, traduite dans les priorités définies par la Stratégie

<sup>6</sup> *De la vision partagée à l'action commune: mise en oeuvre de la stratégie globale de l'UE Année 1.*

<sup>7</sup> COM (2016) 950 final du 30 novembre 2016; document du 14 novembre 2016; et Décision du Conseil du 8 décembre 2017.

<sup>8</sup> Voir *Implementing the EU Global Strategy – Year 2* (in [www.europa.eu](http://www.europa.eu)) et Conclusions du Conseil Européen du 14 décembre 2017, I. Sécurité et défense.

globale – et même ‘revues en haute’ (soutenir la gouvernance global et en particulier les Nations Unies ; soutenir organisations régionales et d’autres forme de coopération dans et hors Europe) – et dans son intention de jouer un rôle important autant que global player n’est pas trop élargie, sous peine d’achèvements trop généraux et dont les résultats et efficacité sont plus difficiles à atteindre. En tout cas – et finalement – deux volets de l’action extérieure, y compris PESC, méritent encore des avancées plus importants : la cohérence verticale (Union/États membres) et horizontale (intra actions et politiques de l’Union et entre les domaines d’action extérieure PESC et ‘non PESC) et la promotion de l’accès de l’Union au statut de membre de plusieurs organisations internationales dont les buts relèvent clairement des domaines de compétences de l’Union – non seulement partagés mais aussi exclusives.



# The Origin, Cohesion, and Future of the European Union

Michael Gehler<sup>1</sup>

## I. Starting Point after Two Decades of Crises

The original motives for the founding of the EU – the maintaining of peace, the solution of the German issue, the ensuring of prosperity, and the strengthening of the role of Europe in the world – continue to be valid. Nevertheless, it has recently been asked in many cases whether the EU could collapse. That is not to be assumed. Two counterexamples are to be named: one historical and one recent.

1. Against the background of economic slumps, the oil price shocks in 1973-74 and 1979, and recession and in view of the collapse of the international monetary system, what was forecast for the European Communities of the 1970s was bulkheading, protectionism, and decline. Not all of that occurred – on the contrary: the northern enlargement of the EC occurred with the United Kingdom, Ireland, and Denmark in 1973, the European Monetary System (EMS) was conceived under Helmut Schmidt and Valéry Giscard d’Estaing, the European Court of Justice further expanded the common judicial area, the European Parliament was directly elected for the first time in 1979, and the southern enlargement was prepared with Greece (1981) as well as Spain and Portugal (1986).

2. When taken into consideration in retrospect, in the last decade from 2007 to 2017, starting from the so-called “euro-crisis” that was

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actually a crisis of banking, the financial markets, state debt, growth, competition, and balance of payments, to the challenges of populism, terrorism, the Ukraine crisis, and the Brexit-debate – the constant unity of the twenty-seven in this issue is already noteworthy – the EU also did not fall apart.

## **II. The Cohesion of the EU**

The question of the further cohesion of the European Union can be explained through nine aspects.

### **1. The Categorical and Inevitable Integration Imperative of Germany**

Since its reunification in 1990, the necessity for the integration of the evolved German economic potential and its increased political power has been more compelling than before. It has to stay more integrated and interwoven, which lies not only in the interest of the other EU members, but also in Germany's own interest. That remains one of the ironclad rules of European integration.

### **2. The Integrated Legal Community**

The common corpus of legislation is extensive and more broad reaching than national laws. Exiting this is disadvantageous in terms of expenditures of energy, personnel, and time as well as in terms of trade and competition policy. The Brexit is therefore like a tutoring session in integration pedagogy. At this point, no other EU member would so quickly and seriously consider an equally exemplary scenario of the loss of integration.

### **3. The Material Logic of the Single Market**

Through the realization of the “Four Freedoms” (the free movement of goods, services, capital, and people), a multitude of advantages came into existence for business with all export-oriented industries, companies, and enterprises, and none of its special interest groups wanted to voluntarily miss out on them.

#### **4. The Euro as a Brace for Integration Policy**

Without a single currency, the Single Market makes much less sense. In times of crisis, Europe without the euro would be confronted with an overpowering Deutschmark and spiraling devaluation of other currencies.

#### **5. The Plurality of the EU's Community Bodies**

In the consideration of the Union's institutions and bodies, there is in both formal and practical terms an over-weighting of the supranational against the intergovernmental. The European Court of Justice, the EU Commission, the European Parliament, and the European Central Bank are each responsible for community areas of responsibility, while the European Council and the Council of the European Union concern cooperation between national governments. With the full significance and full weight of the member states, if we consider things in purely formal terms and also view them functionally in terms of competences, then we can speak of a balance of 4:2 in favor of supra-nationality. With a view toward cohesion, that basically also speaks for more maintaining of integration than a loss of it.

#### **6. Non-treaty-based Regulations**

Processes such as this on the basis of treaty under international law are a pragmatic response to questions of integration stagnation. Even though this also does not lead to Union law for all, what is concerned is a practical-rational measure for the cohesion of the closer Union which other members can follow later.

#### **7. External Crises as Challenges**

In historical terms, progress in integration was achieved more from external crises than from internal ones: Russia recently attempted to weaken the EU, and the USA does not desire any closer trade and investment partnership with it. Neither Putin nor Trump are Europe-friendly, which may support the cohesion of the EU – both in the eastern part and the western part of the Union.

## **8. Immigration as a Future Issue of the EU**

The global immigration crisis, which goes far beyond the “refugee crisis” of 2015, will in the medium term compel EU members to stronger external border policy and general asylum policy (uniform acceptance procedures, testing standards, proportionally justified and fair distribution, accommodation, care, and providing work). That is the biggest common challenge of both the near and distant future of the EU and it will make more than “flexible solidarity” compulsorily necessary, namely, a stronger uniting, if not cohesion.

## **9. The Rule of the Strengthening of the Social Dimension**

One result of the coping with the migration crisis and the integration of immigrants is that the view of the necessity of the strengthening of the “social dimension” of the EU is already present. Even if a “social union” still seems to be far off in the future, just through the massive increase in the money of the European Social Fund (ESF) alone, a step would be taken in this direction. Consistent action against wage and tax dumping would be another important task. Workforces from other EU countries should be compensated under the conditions of the country in which they work and not according to the wage level of their economically weaker country of origin. Social inequality begins here, and thus basic safety nets and minimum wage regulations but also corporate taxes have to be reciprocally adjusted. Thus out of an economic and monetary union, a stronger integrated political union can also gradually come into existence.

## **III. Pressing Tasks for the Future**

In 2007-2009, Lisbon was just one leg. For the managing of the challenges that were mounting then, the treaty was insufficient. It did not provide any provisions, for example, for the expansion of coastal and border protection or the instituting of asylum missions in the “hot spots” accompanied by a Europeanization of the right to asylum and a European immigration law for the regulating of acceptance, restriction, accommodation, and access to the labor market as well as “immigration partnerships” with third countries. Additional requirements are the establishment of a European unemployment insurance system for the

support of cross-border mobility, the creation of more convergence with the defense capacities, and the strengthening of crisis management in the peripheries of the EU for the backing of the recently sponsored “Permanent European Security Cooperation Organization” (PESCO), an initiative which, following “CFSP” and “CESDP”, should not remain just an ineffective acronym. And that’s not all: the implementation of a digital single market is pressing. After the failure of the Transatlantic Trade and Investment Partnership (TTIP) with the USA, initiatives in that regard with Australia, Japan, Mexico, Mercosur, and New Zealand are goals. The “energy union” that has already been agreed upon with a multilateral clearing system with multilaterally exchangeable resources, on the other hand, remains a task of the century.

#### **IV. Preconditions for Further Functioning**

##### **1. Credibility through Adherence to Treaty and Strengthening of Legitimation**

More credibility can only be achieved through adherence to the treaties and the greatest possible avoidance of opting out. A further democratization of EU institutions is possible through a new European electoral law with genuine European parties – instead of just factions in parliament – and greater transparency with integration policy decisions. In addition, more drastic means of exerting pressure up to the threat of expulsion are necessary for the defense against the threat to democracy and the rule of law in member states.

##### **2. Self-responsibility and Solidarity**

The EU can only function with self-responsibility and solidarity. Decisions that have been made jointly are to be adhered to. In the long run, their sluggishness can neither be financed nor conveyed. In the face of still rampant populism and national reservations, a new union treaty still seems far off. For lack of anything better, pioneer groups with regulation outside of treaties are currently one option. And: as long as the Brexit issue is unresolved, it is necessary to have patience. A breakthrough will come at the earliest in 2019 with a newly elected European Parliament and new leadership for the Commission.

### **3. A New Elysée Treaty – more of an Integration Policy Impetus than a Breakthrough!**

Macron's proposals to restructure the euro zone for the nineteen euro countries cannot be anchored in a bilateral pact without this facing severe criticism of the high-paying euro partners. A "euro zone parliament" with the possibility of comprehensible majority decisions by finance and currency experts who were elected by the national parliaments would increase transparency. A transfer union does not appear to be so immediately feasible. Furthermore, neither a German-French finance minister nor a European one guarantees budget discipline. What is more obvious is a transformation of the European Stability Mechanism (ESM) into a European Currency Fund (ECF) that is independent of the IMF with a European financing regime, a credible no bail-out clause, and a well-ordered insolvency regulation for euro countries that are continuously in deficit with payment balances.

Would a joint German-French immigration law that first of all was independent of other colonial heritage and different post-colonial experience be a pioneer act? Would a bilateral security and defense union for the fight against terrorism and as a supplement to NATO be the prelude to a European one? In view of the different use of atomic power by the two countries, is a common energy policy between the two countries conceivable? A climate policy would be more likely. Both parliaments have already articulated the desire to conclude a new agreement. But that goes far beyond bilateral cooperation, it namely concerns European cohesion. Therefore, the newly elected European Parliament and the new leadership of the Commission can continue with a new Elysée Treaty as the impetus for the debate on a new treaty after Brexit, including to prevent excessive bilateralism.

### **V. Conclusion**

For the protagonist bodies of the EU and its member states, the cohesion of the Union is first of all to be viewed less within the context of a pressing task of refounding based upon historical and cultural-ethical considerations which are to be returned to if possible at a later date as valuable resources – a House of European History in fact already exists in Brussels for possible European narratives – than as a question of the ethics of responsibility for the internal peace of Europe as well

as for the external policies of peace, leadership, and stability with a view toward uncertain and precarious neighborhoods in the sense of a contribution by the EU to world peace. Aside from this noble goal, one finding remains valid: as long as the advantages of belonging to the EU outweigh the disadvantages, which is what the member states and their special interest groups in industry and business are very precisely keeping their eyes on, the further cohesion of the EU is not at all threatened.

Source: Michael Gehler, *Europa. Ideen – Institutionen – Vereinigung – Zusammenhalt*, Reinbek/Hamburg: Lau-Verlag, 2018 (1,318 pages) with references for additional reading.



## **Pour une planification fédératrice (Parachever la construction européenne)**

Michel Dévoluy

Ce résumé propose une synthèse des thèmes abordés dans un petit livre (160 p.) que j'ai publié aux Editions Points en janvier 2014:

«Comprendre le débat européen – petit guide à l'usage des citoyens qui ne croient plus à l'Europe».

Parachever la construction européenne nécessite l'adhésion de la majorité de ses citoyens. Ce mouvement vers l'avant devrait s'appuyer sur trois grands enjeux: la formation d'un espace politique commun, le choix du modèle économique et social européen, le rôle de l'Europe dans le monde. Porter un tel projet implique une claire identification des limites et des inefficiences de la zone euro. Avancer résolument nécessite un grand élan fédérateur porté par agenda concret. Pour cela, nous proposons l'idée d'une planification fédératrice et une mobilisation citoyenne relevant d'une forme d'*occupy Europe*.

### **1. Identifier les problèmes pour changer l'Europe**

L'absence d'espace politique commun se manifeste actuellement par le flou dans le partage de la souveraineté entre les Etats (l'intergouvernemental) et l'Union européenne (le fédéral), mais aussi par la faiblesse de la légitimité de l'Europe aux yeux des Européens. L'Europe démocratique passera par le consentement éclairé des peuples. Ici, il faut admettre que certains Etats souverains puissent refuser d'intégrer pleinement cet espace politique commun. Dans ce cas, il s'agit d'accepter l'idée d'une Europe à plusieurs vitesses, ou à plusieurs cercles.

Aujourd'hui, l'UEM forme un ensemble encore trop hétérogène. Chaque Etat possède son propre modèle économique et social et répugne à transférer une partie de son pouvoir budgétaire vers l'Union. Sous ces conditions, partager la même monnaie est intenable sur le long terme. La crise actuelle vient d'ailleurs de nous le révéler durement. Le besoin d'aller vers un modèle plus unifié permettra d'éliminer la concurrence destructrice entre les modèles nationaux et contribuera à réduire l'hétérogénéité des économies nationales.

L'Europe a besoin de s'affirmer comme une entité visible, forte et sûre d'elle dans la géopolitique mondiale. Son poids politique diminue alors qu'elle reste la première puissance économique mondiale. Aller vers une Europe plus unie changera considérablement les équilibres géopolitiques. Cette avancée s'avère d'autant plus nécessaire qu'aucun Etat européen ne peut, à lui tout seul, répondre aux grands défis économiques, environnementaux et géopolitiques actuels. En s'unifiant le vieux continent sera de nouveau en capacité de rayonner, mais cette fois en incarnant le continent apaisé et exemplaire.

Pour avancer, il est important de pointer les pièges dans lesquels l'Europe s'est enfermée et dont elle doit résolument se libérer. L'Europe doit s'émanciper:

- d'un *fédéralisme tutélaire* qui repose sur une application d'une doctrine ordolibérale oublieuse de sa composante sociale;
- d'une lecture de la mondialisation légitimant la concurrence entre les Etats et dévaluant l'idée de projets communs;
- d'une souveraineté nationale focalisée sur des conceptions archaïques minimisant le poids des interdépendances tissées depuis plus de soixante ans.

D'autres directions que celles arrêtées par le modèle dominant actuel sont possibles. Mais aucun Etat souverain n'ose, pour le moment, s'y engager seul. En aurait-il d'ailleurs vraiment les moyens? En théorie oui, mais le chemin serait difficile dans une zone euro composée d'Etats très interdépendants qui subissent tous la pression de la norme ultra-libérale. La solution la plus constructive consiste à s'appuyer sur toutes les potentialités de l'Union. Le changement tirerait alors sa force et sa légitimité de la volonté de sortir l'Europe entière de la crise et de préparer un futur commun. L'Europe a les moyens et le poids géopolitique d'une telle ambition.

## 2. Un Agenda pour l'Europe

### 2.1. Une planification fédératrice

Pour convaincre les citoyens qui s'interrogent sur la nécessité de parachever la construction européenne, l'Europe doit rompre avec l'ultralibéralisme individualiste, se libérer du poids de l'intergouvernemental et réinjecter de la démocratie. L'Europe politique s'imposera si elle démontre sa capacité orienter la vision collective du futur et à forger un espace de solidarité. Pour changer de cap, nous proposons une *planification fédératrice*.

Le versant *fédératif* se concentre sur le politique et le social, tandis que le versant *planification* traite des aspects économiques et financiers. Naturellement, cette planification fédératrice concerne uniquement la zone euro. De ce fait, la présence d'une Europe à deux vitesses qui ferait cohabiter l'Europe politique de la zone euro et l'Europe du grand marché est inévitable.

#### – *Fédérer*

La démarche fédérative touche aussi bien les Etats que leurs citoyens. Cette forme de fédération devra s'appuyer sur plusieurs socles:

- des partis et des syndicats européens,
- un gouvernement européen issu d'un parlement élu,
- des peuples rassemblés,
- la représentation de l'Europe dans le monde,
- un espace public européen,
- un budget européen (des impôts européens pour un budget plus important),
- un modèle social européen,
- des services publics européens,
- un socle éducatif commun.

#### – *Planifier*

La planification proposée ici est totalement distincte du concept de planification utilisé dans les Etats socialistes centralisateurs. Pour l'Europe, la démarche de planification:

- prend acte des défaillances de l'économie de marché;
- répond aux grands enjeux rencontrés par les sociétés modernes;
- tient compte du fait que notre planète est un espace fini et fragile;

- se défie d’une société fondée sur la cupidité et le consumérisme outrancier;
- tire les conséquences de l’interdépendance massive des économies de la zone euro.

Planifier ne marque pas une hostilité vis à vis des entrepreneurs et de l’économie de marché. Il s’agit de baliser le futur au nom de l’intérêt général et de promouvoir le vivre ensemble dans un esprit de responsabilité.

Au demeurant, la démarche de planification a déjà été pratiquée dans les économies de marché avec les expériences du *New Deal* et de la planification indicative en France. Elle est d’ailleurs actuellement à l’œuvre dans l’UE sous certains aspects: GOPE, LDE, Stratégies de Lisbonne puis Europe 2020, Agendas sociaux et Cadre financier pluriannuel. Mais cette planification, qui ne dit pas son nom, reste molle et peut contraignante.

La planification à l’européenne pourrait s’articuler autour de quelques grands axes:

- une politique industrielle et de grands projets,
- une politique de recherche résolument européenne,
- une agriculture valorisée,
- un système financier mieux régulé soutenant des choix stratégiques,
- une BCE au service de l’économie réelle,
- une politique de change pour la zone euro,
- une politique commerciale renforcée,
- une fiscalité européenne pleinement harmonisée.

Cette proposition de planification fédératrice est évidemment audacieuse au regard du contenu des discussions actuelles sur l’Europe et des contraintes posées par le Traité européen et par les constitutions nationales en vigueur. Mais il faut en débattre et accepter les changements politiques.

## **2.2. Une feuille de route pour une mobilisation citoyenne**

Il reste à agir. La préparation du futur doit contourner la centralité du Conseil européen et s’appuyer sur les citoyens et le Parlement européen. La marche vers cette Europe unie devrait se faire à partir de trois temps forts:

- une mobilisation citoyenne par des débats et des pétitions;
- une préparation effective du texte fondateur par le Parlement européen;
- une adoption du texte par des référendums organisés le même jour dans les Etats membres.

Cette feuille de route peut être discutée, mais l'essentiel n'est pas dans les détails. La zone euro est au milieu du gué. Revenir en arrière serait irresponsable, rester immobile le serait aussi. L'Europe a les moyens et la dimension pour construire un ensemble fort et cohérent. Il ne manque que l'envie d'aller de l'avant, résolument. La balle est dans le camp des citoyens et du Parlement européen.

Reste à produire les déclics pour enclencher le processus et entretenir la mobilisation citoyenne. L'entreprise est difficile, mais nécessaire. La grandeur de l'Europe devrait être d'avancer par la raison, la conviction et le cœur. D'où le besoin d'une très large mobilisation citoyenne. La panoplie des actions à la disposition des Européens reste soumise à l'imagination et aux bonnes volontés.

Après *Occupy Wall Street* – le mouvement de contestation de la financiarisation outrancière et ravageuse des économies libérales – une forme de *Occupy Europe* peut être envisagée. Avec *Occupy Europe*, les citoyens se mobiliseraient sur l'avenir de l'Europe en pratiquant une «communication horizontale» axée sur les réseaux, les nouvelles technologies et les médias. Sans oublier ici de mettre le Parlement européen au pied du mur de ses responsabilités. *Occupy Europe* devrait se structurer autour de débats, de symboles, de pétitions et de moments forts.

1. Les formes prises par les débats peuvent être variées. Ainsi, une campagne du Parlement européen pourrait proposer aux conseils municipaux de toutes les communes et les villes des Etats membres d'aborder au moins une fois le thème européen dans leurs réunions. La Confédération Européenne des Syndicats (CES) devrait également jouer un rôle moteur. De même, les étudiants Erasmus pourraient organiser des discussions sur l'Europe. Autre idée, l'ensemble des titulaires des Chaires Jean Monnet pourraient organiser des conférences publiques sur l'Europe. Enfin, les médias et les journaux devraient traiter plus

systématiquement de l'avenir de l'Europe. Naturellement, tous les échanges de nature transnationale doivent être encouragés car il est important d'entendre et de rencontrer les Européens des autres Etats membres.

2. Nous sommes dans une société des signes de reconnaissance. C'est ainsi. Pourquoi ne pas trouver un symbole à porter sur soi (badge, bracelet, etc.) qui afficherait un engagement pour une Europe unie ?
3. La pétition est à la mode, surtout grâce à Internet. Jouons le jeu. Dans cet esprit, une «pétition européenne» envoyée à tous les parlementaires européens pourrait demander la réalisation de la feuille de route proposée ci-dessus. Le texte pourrait être:

*«Nous, citoyens européens demandons au Parlement européen de se saisir de la question de l'Europe politique afin de proposer une constitution pour une Europe fédérée dans le cadre de sa mandature 2014-2019. Les députés veilleront à ouvrir les débats avec la société civile. Le texte final devra être soumis à référendum dans chacun des Etats membres.»*

4. Le 9 mai peut devenir le moment fort où la démarche citoyenne *Occupy Europe* serait la plus visible et la mieux partagée.

L'Europe unie ne tombera pas comme un fruit mûr. Il est probablement illusoire de compter sur la volonté des hommes politiques encadrés dans leurs préoccupations nationales. Par ailleurs, le Parlement européen reste trop timide, il faut l'interpeller fermement. C'est à nous citoyens de conduire l'histoire. L'Europe fédérée se construira par les citoyens et pour les citoyens.

*Février 2014*

## **En defensa de la Constitución... y en la conveniencia de su reforma**

**La sociedad española tiene detrás una Historia Constitucional muy densa que comenzó con la convocatoria de las Cortes de Cádiz de 1810**

Miguel Martínez Cuadrado\*

El texto de la Constitución española de 1978, junto a las Constituciones de la República Federal de Alemania (Ley Fundamental de 1949 renovada en 1991) y de Francia de 1958, son los tres conjuntos normativos más estudiados en Europa y en las Américas. A ellos es preciso sumar la Constitución norteamericana de 1787 con sus enmiendas correspondientes.

Corresponde al constituyente español de 1978 el mérito indiscutible de haber alcanzado el esplendor de un Contrato Social posiblemente más apreciado fuera de España que entre sus propios ciudadanos. Sobre todo desde tiempos recientes. En los que partidos, por supuesto minoritarios, y grupos heterodoxos igualmente minoritarios, pretenden desacreditar o destruir el acuerdo que los españoles de 1978 alcanzaron tras un período constituyente, largamente meditado, teniendo muy en cuenta las traumáticas experiencias de la dictadura, la guerra civil y los conflictos de la Segunda República.

La sociedad española tiene detrás una Historia Constitucional muy densa que comenzó con la convocatoria de las Cortes de Cádiz de 1810, en medio de una guerra defensiva, y se ha seguido escribiendo hasta nuestros días del siglo XXI, cuando hemos celebrado, con respeto y admiración, el bicentenario de la Constitución de 1812. Y de aquella

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generación que supo estar a la altura de un tiempo histórico de las revoluciones liberales del tránsito del siglo XVIII al XIX. Las llamadas hoy frecuentemente “revoluciones atlánticas” que se desarrollaron en Inglaterra, Estados Unidos, Francia, España, Portugal y en las Américas iberoamericanas.

Nuestro sistema constitucional asimiló por lo menos dos grandes corrientes de pensamiento y de la teoría política del funcionamiento de las instituciones políticas. Por una parte el propio legado de la construcción sucesiva de modelos constitucionales desde Cádiz a la Segunda República. Por otro, las experiencias de las democracias europeas de la II postguerra mundial, precisamente las de los dos países que se convierten en vanguardia de las democracias avanzadas con el paso de una etapa de democracia parlamentaria revisada entre 1945 y 1949, a otra de “democracia de parlamentarismo racionalizado”. La Ley Fundamental de Bonn de 1949 y la Constitución francesa de 1958 serán los dos referentes que más influirán en el constituyente español de 1978. Por motivos muy distintos pero que sitúan al caso español en la tipología del modelo de democracia parlamentaria bajo la “orientación” racionalizadora del poder legislativo y de la disciplina de los partidos políticos en la vida parlamentaria.

Sin embargo el constituyente de 1978, a pesar de conocer adecuadamente los procesos políticos internos y externos coetáneos, hubo de afrontar importantes desafíos que solo el paso del tiempo ha revelado como erróneos o producto de los cambios sociales y políticos que la propia sociedad ha encajado durante los casi cuarenta años que transcurren entre 1978 y 2015. El consenso de 1978 era lógica consecuencia del imperativo mayoritario para transitar de los años de un régimen personal, que se había mantenido en contra de la teoría y experiencias de los modos de gobierno imperantes en Europa occidental, precisamente hacia aquellos tipos de democracia parlamentaria representados en el Consejo de Europa y en las Comunidades europeas.

Conviene recordar a la altura de 2015 que una gran mayoría del pueblo y de los actores políticos representativos, ante la circunstancia de un cambio tan trascendental, sin golpe de Estado o crisis internacional de incidencia directa en el territorio propio, venían coincidiendo en los objetivos que desde 1962 quedaron fijados en la reunión de Munich entre dirigentes del interior y de los políticos de la emigración: Reconciliación entre españoles de todos los bandos emanados de la

guerra civil. Concordia en cuanto a la forma dinámica de Estado y un proceso de transición institucional de corta duración. Consenso en cuanto al diseño de una Constitución para una sociedad democrática avanzada, fueron las líneas maestras del proceso constituyente de 1978.

Conseguir el cambio constitucional y político pudo haber salido adelante por lo que se definía como ruptura, esto es, mediante un gobierno provisional de los Nueve que la oposición configura desde el bienio 1975-1976, o por la Reforma pactada desde la acción de gobierno, mediante diálogo entre partidos y dirigentes sociales reales del país. Entre el otoño de 1976, cuando el gobierno Suárez presenta el proyecto de Ley para la Reforma política, verdadera plataforma de convocatoria electoral para Cortes constituyentes, y finales del otoño de 1978, cuando el pueblo español vota rotundamente el proyecto de Constitución, culmina en dos años el retorno a la democracia soñado por las generaciones de españoles que desde los años cincuenta lucharon de diverso modo para conseguirlo.

El constituyente de 1978 tuvo el convencimiento, expresado esencialmente en el Preámbulo y en el Título Primero, que el texto pactado era producto de una transacción muy compleja que era preciso defender frente a los adversarios de entonces y los que irían surgiendo con posterioridad. Y probablemente comete entonces un error fácilmente excusable pero difícil aunque no imposible de llevar a buen fin: Someter la Norma fundamental a una defensa y un fuerte blindaje frente a posibles aventuras desnaturalizadoras de los valores, principios y normas que la inspiran. El título décimo se suma a la tipificación de las constituciones rígidas y requiere para su reforma sustantiva, una revisión total o parcial, un procedimiento de acuerdo por dos tercios de cada Cámara (Congreso 234 diputados de 350), seguido de su disolución, nueva aprobación por dos tercios de las nuevas cámaras, seguida de un referéndum popular favorable para su ratificación.(art. 168).

Solamente en dos ocasiones se ha realizado una reforma constitucional explícita. La primera en 1992, para incorporar nuevos derechos reconocidos en el Tratado de Maastricht, y la referente al art. 135, derivada también de acuerdos comunitarios, en este caso para el control del déficit, pactada en la última etapa del gobierno socialista de 2010. En ambos casos mediante acuerdos parlamentarios de procedimiento simple por acuerdo sucesivo de las cámaras. El complejo sistema también de mayorías reforzadas de 3/5, 2/3, y mayoría final del

Congreso, sin necesidad de acudir a referéndum, según la previsión del art. 167, se hizo en esas dos ocasiones por acuerdo de los dos primeros grupos parlamentarios dominantes en las cámaras.

Otro caso han sido las reformas constitucionales implícitas que han dado lugar, sin acudir al título X, a cambios trascendentes de naturaleza cuasiconstitucional. En este sentido la incorporación a las Comunidades europeas mediante el Tratado de Adhesión de 1985, la incorporación de la compleja maquinaria normativa del Derecho comunitario y de la Reforma de los Tratados hasta el de Lisboa operativo de 2007, aplicable desde 2009, han supuesto una transformación de nuestro sistema de pertenencia a una vasta Comunidad de Derecho, que amplía el horizonte constitucional español como Estado miembro de la Unión Europea y exige la aplicación del Derecho comunitario por jueces e instituciones nacionales.

Los principales partidos que se presentan a las elecciones del 20 de diciembre incluyen en sus programas la necesidad de alcanzar reformas sustantivas de la Constitución. Y que indican en todo caso una demanda de transformar, modificar y alcanzar algo más que una reforma de menor cuantía, que por ello requerirá acudir al art. 168, el de la reforma agravada, parcial pero importante, de la Norma fundamental. Ya desde la legislatura 2004-2008, el gobierno socialista impulsó un proyecto de reforma agravada, que por no llegar a acuerdos con el principal partido de la oposición, quedó como antecedente de posibles reformas a las que pueda llegarse en la legislatura que comienza en 2016.

El horizonte de un bienio agitado, entre 2016 y 2018, y la fragmentación del sistema de partidos, parece que alumbraría un posible diálogo a tres o cuatro bandas, capaces de superar las dos terceras partes de los votos de las cámaras que exige la Constitución vigente. En este sentido las tareas de reforma constitucional pueden comenzar desde el umbral de la formación del nuevo parlamento y culminar con acuerdos, disolución, referéndum y nuevo texto constitucional no más allá del año 2018.

Las incertidumbres sembradas en la antesala de las elecciones de 2015 encontrarían una nueva vía de confluencia para centrarse durante el próximo periodo de sesiones de 2016, en buscar respuestas al modo de funcionamiento institucional, a las adaptaciones a los nuevos tiempos y sobre todo para cerrar la norma constitucional. Sobre todo por haber dejado sin cerrar el título VIII. Capítulo creador de la mayoría del

descontento existente en cuanto a su interpretación y aplicación. Según reza la experiencia de casi cuarenta años de desobediencia de una parte de los territorios configurados como Comunidades autónomas, que tienden hacia la secesión y el conflicto expreso.

Llegar a nuevas transacciones no será tarea fácil para los nuevos reformadores. Los posibles logros del próximo bienio deben tomar en consideración que en la mayoría de las Constituciones europeas, las reformas se han venido realizando regularmente gracias entre otras cuestiones a contar con mecanismos mucho más flexibles de cambios normativos que el realizado por el constituyente español de 1978 y que requiere su modificación una vez superadas las reservas operantes en aquella circunstancia histórica.



## **Deepening the Integration Process Through EU Financial Legal Framework**

Mihaela Tofan\*

In the present context, the existence of a legal person as a subject of law is not possible in the absence of its own patrimony, correctly sized to cover all current needs and to support development operations. For European Union, this condition imposed the development of a specific regulatory framework, ruling the conduct of relations among states in order to establish, manage and control the execution of its own activities. The evolution of the financial legal framework of the EU was marked by several important decisions and moments, such are the unification of budgetary instruments, the increase the financial autonomy, the achievement of institutional balance and setting the unique budgetary instruments. In order to conduct the activities of the European Union and achieve the purposes stated in the Treaties, the member states need to determine their common financial resources. This situation may generate tough discussion in the European Union. The resources necessary to cover EU actions and to insure demanded funds for the proper function of EU institutions and bodies are mandatory for the EU future.

Controversies regarding fiscal and budgetary problems did not lack and they concerned a wide range of issues such are the EU's own financial resources, the budgetary imbalance, even rivalries between the EU institutions (i.e., European Commission, European Parliament and Council of Ministers). It is noted the overwhelming importance of member states will to cooperate and to support the overall activities of the legal subject, as a collective person.

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Deepening the integration process means harmonization of tax policy at European level. This will be achieved as a result of compromise between member states' sovereignty and the necessity to eliminate differences in taxes legal regime.

It is mandatory to observe the past, in order to move one with the present projects. The idea of harmonization of taxes in the European plan is not new. Context of pertinent and uniform EU position has occurred since the first treaties concluded between member states. The free movements of goods, persons, services and capital, without any obstruction became absolute values. With the occasion of European Union enlargement in 2004 and 2007, disparities in income levels matter between nationals of member states have put more pressure on the cooperation between member states, but some progress has been made including in this area. The current level of integration clearly shows that the process of reconciliation of taxes will not be a spontaneous, nor will evolve rapidly.

It is notable that harmonizing taxes remain one of the few areas where adoption of new regulations requires the unanimous affirmative vote of the member states. Each state has a veto on the issue of tax harmonization. Existence of European tax would only be possible in terms of acceptance by the member states of such tax.

Establish a uniform level of charging would lead to establishing a single tax, as long as the legal framework regulating the particular tax or duty remains under the responsibility of each member state. The internal rules of exception or the framework for the procedure to collect the revenue, there may be considerable differences among member states' tax systems. In relation to VAT, this is simply explained. EU is still far from time to harmonize VAT levels perceived by the state which are EU member, as was currently anticipated in the white paper on the internal market. The VAT directive gives priority to member states autonomy to decide within the limits indicated. Depending on the level of VAT between neighboring states, the question raised for the volume of goods purchases abroad. Statistics show that the volume of these purchases fall once the VAT is harmonized. VAT rate influences the volume of purchases from abroad and it is even more important than the influence of import-export tax exclusion. The motivation of this statement is that low tax practice has almost always a social nature.

Excisable goods represent the fourth most important source for member state's governments, besides social security contributions,

VAT and income tax. EU official position on the issue of excise duty and excise goods is the result of a compromise between northern states and southern states in the union (for example, tobacco and alcohol taxation). In case of these products, the European states must harmonize the regulation, because the different level of these fees in the north/south encourages consumption of these products to the south/north, with effects on multiple levels.

For the income tax level, we identify four problems related: major differences on dividends and capital gains tax from wages, the rate collection of tax on companies' profit, tax equity and the differences on how the taxation of interest on deposits functions.

On my opinion, it is the moment to establish a single tax for the Europeans, exclusive resource to the EU budget. The impediments in the way of this process are many and various, but not impossible to overcome.

Ruling a uniform level of charging would lead to establishing a single tax, mission almost impossible as long as the legal framework on taxation and civil duties remains under the responsibility of each member of EU. This logic seems to greatly restrict the area of taxes that may meet the requirements of a single tax. Creating a European tax, set and charged uniformly to all and by all member states, would be possible only if the criteria of budgetary requirements, criteria of efficiency and equity criteria are taken into consideration. Further integration in this field is required and it may be accomplished only through primary legislation, which could rule, at the moment, a unique European tax. EU is still far from the point to harmonize VAT (value added tax) perceived levels, but it is noted that the value added tax, income tax and tax on benefits eventually could meet the characteristics of a uniform European tax, achieving unanimous agreement among member states.

Financial relations are social-economic relationships and sharing of training resources as monetary relations arising in connection with the creation and use of resources required for the functioning and overall development of society.

Besides these features, that are common to all financial relations, financial law matters throughout the European Union necessarily shaped the nature of these relationships, defining features synonymous with integration as the most complete form of cooperation existing between different states so far.

In that respect, it is important to identify several directions and areas of action – how the European primary sources of law will regulate the fiscal relationship among member states, the public administration institutions' responsibility for the execution of EU budget, the regulation of public financial management, the control and audit procedures in order to ensure a fair oriented activity of spending the EU financial resources.

Normative framework of financial relations intends to regulate the execution of the EU budget, the amount and use of funds for European Union's institutions, the fiscal policy, the financial control, the monetary issue, the movement of cash or non-cash money, the legal status of exchange, the organization and operation of the appliance financial, banking and credit.

At the national level, financial law rules these directions and also adds up regulation and use of state social insurance funds and unemployment funds. At European level, the regulatory rules on social security concerns mainly the aspects needed for mutual recognition throughout the Union for policyholders in insurance fund of any of the member states and how to recover costs of treating an insured. This issue is addressed indirectly by regulating the concept of European citizenship, the attribute that attracts a lot of benefits and almost no legal liability, including social security rights in any other member state, if that status is recognized under the laws of the origin state.

Arguments for a possible European tax should be considered after studying a variety of situations and conditioning. Analyzing fiscal policy, it should have regard not only to powers of the public sector but also to the floor, which outlines decision-making in the field of taxes.

Each level of government must assume responsibility for ensuring welfare to the subordinated citizens, and the system of taxes imposed on them must be both tolerable and effective. The main advantage of decentralization of governance is the proximity of the governed, bringing a number of consequences, with influence on the scope of fiscal policy.

Each existing territorial administrative unit in the EU states has its tax system, which fragments 28 times more tax system unit. When differences in taxation are interpreted by the central state administration as detrimental to citizens and the state viewed as a matter of law, the administrative unit representatives may and should take a series of actions aimed at reducing existing disparities among different regions.

This is difficult/impossible to be done in the single market economy. Even if potential differences exist between the tax systems of the union between neighboring areas, when these areas are located in two different states, the possibility of central government intervention is absent.

The gap between two neighboring zones is the issue for what, at least in terms of taxation, the EU cannot be compared to any model of federalism, as decentralized as it would be. Therefore, lack of harmonization of taxes and duties may have the effect of measures equivalent to quantitative restrictions against freedom of movement and affects the integration process itself. A single tax would eventually eliminate these impediments.

Another argument for a unique taxation system in the EU takes into consideration the reality that national tax systems ability to collect revenue is affected by the tax regime applied by another state within the European common market. Positive or negative influences may appear among tax systems applied by different member states. Movement of production factors can be affected by government view on taxation and expenditure policy. Administrative and compliance costs for government affect individuals and may be taxable. The Member states governments' ability to implement redistributive policies is restricted.

A unique tax at EU level can be considered only if there are strict and consistent regulatory framework on the individuals that have to pay the tax, on the beneficiary of the amounts collected and on the collecting procedure.

It would be possible to create a unique European tax, set and charged uniformly for all member states, only if criteria of budgetary requirements, criteria of efficiency and equity criteria are simultaneously met.

Thus, a uniform European tax should address the need for quantify revenue, but also to ensure stability of income received. Sufficient revenues for EU general budget translates into a requirement tax that should be able to support EU spending but also generates EU income stability, requiring that the tax revenues collected on account to be as much as possible constant. Criteria for an effective single European tax can be accomplished through a series of measurable parameters (operating costs and income distribution) but also through contentious issues such as revenue visibility. This latter performance indicator aims at how easily such a tax will be accepted by EU citizens. Each contributor should easily identify the final destination of the amounts

collected. Both dimensions are difficult to analyze in the specific context of the diversity of nations forming the EU. Operating costs relate both to and from the collection and management and tax effectiveness is substantiated as low levels for these categories of costs. As for the distribution of resources collected within the EU, it is a goal oriented to the attitude of the actors in the budgetary procedure.

Fairness criteria can be analyzed in terms of horizontally and vertically. For individuals or organizations that are on identical positions, the tax should produce the same consequences (i.e., equal income tax paid should be equal). Also, settlement and tax collection should be regulated so that for different income categories of people, to have different proportional effects including the actual due and payable amount of tax. Horizontal equity translates into similar impact of European tax on the equivalent categories of taxpayers in the EU. Vertical equity reflects the extent to which European tax imposition will result in redistribution of income.

Analysis of criteria of fairness is governed by the reasonable contributions, meaning the degree to which revenues collected from member states is related to stage of economic development of that particular state. This analysis seems to greatly restrict the area of taxes, which may meet all requirements listed.

But we may note that the value added tax, corporation tax or income tax could achieve facets of European tax course in the context of achieving unanimous agreement among member states.

In this crisis time, it is not surprising that EU tax harmonization remains a difficult subject. A wide geographical area where sovereignty belongs largely to the member states, as EU is, still has to face interest to remove impediments in the way of ruling a unique tax. Reforming the tax systems of each member state would ultimately benefit the citizens, by complete elimination of the barriers to free movement of goods and services.

It is the mission of financial analysts to decide if one of the above taxes is the proper candidate for the single tax position in the EU, or it is the moment to regulate a new legal framework to establish a new European single tax.

### **Keywords**

Financial regulation, unique tax, tax policy, legal framework

## **Alternative proposal for addressing excessive net financial positions problem within the EU budget**

Mojmir Mrak<sup>1</sup>

In February 2014, the three EU institutions – the Council, the European Commission and the European Parliament – established a high level working group on EU “own resources”. The working group is expected to undertake a general review of the EU budget financing sources and to make proposals for reforms aimed at making the “own resource” system simple as well as more transparent and accountable.

The main objective of this short note is to provide an input for the working group’s deliberations on the subject of excessive net financial positions of EU Member States including correction mechanisms problem. More specifically, the note presents an alternative proposal for addressing this problem. The proposal was originally proposed already in 2007 – in the context of the EU budget review – by the Slovenian EU Budget Reform Taskforce and coordinated by the author of this note<sup>2</sup>.

The EU’s existing own-resources system is effective for ensuring necessary EU budget revenues and nothing has changed in the context of the 2014-2020 medium-term financial framework negotiations. Due to the existence of a GNI resource, every year the system ensures sufficient funds to finance the EU budget while adapting the total funds collected to total annual expenditure. The latter is important due to the underlying principle of a balanced EU budget which states that the revenues of the EU budget must equal its expenditure. Further, it can be said that the system is relatively equitable as every Member State contributes approximately the same percentage of its GNI to the EU budget. Despite these positive features, the current system of

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<sup>2</sup> “*EU budget review: an opportunity for a thorough reform or minor adjustments*”, Slovenian EU Budget Reform Taskforce, October 2007.

EU budget financing also has significant weaknesses. The drawbacks of the existing own-resources system are that it is complicated and untransparent. Further on, it is full of corrections and corrections of corrections. The EU budget is justifiably blamed for focusing attention on the so-called '*juste retour*' what means that during medium-term financial framework negotiations Member States are not focused on the contents of policy discussions but on their net financial gains or losses. Last but not least, financing the EU budget which is increasingly based on the contributions of Member States more closely resembles the financing of an international organisation such as the UN than an economic-political integration such as the EU.

There are basically two approaches to reforming the own-resources system; through some corrections of the existing system, or through a comprehensive reform which would include the introduction of a new tax resource at the EU level. Whichever approach will be taken, it is realistically to expect that reform of the existent EU budget correction mechanisms problem will have to become an integral part of the reformed "own resources" system.

Although the complete elimination of all correction mechanisms would be the most desirable outcome of the overall "own resources" reform, it seems realistic to prepare ourselves also for a 'second-best' solution whereby some sort of corrections will continue to be needed. In 2004 and then again in 2011, the European Commission proposed the introduction of a general correction mechanism for the purpose of solving net financial position problems. The underlying quality of these proposals, which were rejected by Member States, was the fact that it would treat all countries equally through excessive net contributions to the EU budget. At the same time, the mechanism's weakness should not be overlooked. There is no guarantee that the introduction of a general correction mechanism would prevent Member States from arguing for and obtaining additional individual corrections.

Any correction mechanism to be used to resolve net financial position problems should meet one key criterion: it must be universal. Beside a general correction mechanism which fully meets the criterion of being universal and is technically developed, there have been other alternative proposals developed in academic circles which are aimed at addressing the problem of excessive net financial positions in a systematic and universal way. Two of them deserve particular attention.

The first proposal is that of *De La Fuente and Domenech*<sup>3</sup>. The fundamental logic of this proposal is that a net financial position, which all countries regard as equitable, is ensured for every Member State notwithstanding any actual EU policy expenditure agreement. This means that Member States agree on an objective criterion of equitable redistribution in the scope of the budget in advance. An ex-post correction mechanism ensures the achievement of previously agreed equitable net financial positions through a system of fiscal transfers whenever actual net financial positions derived from the agreement on EU budget expenditure and revenues are no longer equitable. Due to the formal provision for a balanced EU budget an additional assumption is necessary, i.e., that the total fiscal transfers of all Member States must equal zero. The second proposal is that of *Heinemann*<sup>4</sup> which proposes the distribution of EU budget expenditure into two groups. The first group would include expenditure, universally recognised as ‘European public goods’ and which would be excluded from net financial position calculations. The second group would be comprised of expenditure with a clear redistribution function, for which net financial positions would be calculated. Since the redistribution portion of the EU budget would not include all budget funds, it can be argued that an agreement regarding acceptable net financial positions amongst Member States would be reached with less difficulty than at present.

These two proposals can also be combined and upgraded into a new proposal. Pursuant to the proposal outlined by the 2007 Slovenian EU Budget Reform Taskforce, Member States would first agree on the division of individual categories of EU budget expenditure into two groups.

The first group would include expenditure which cannot or should logically not be allocated (in terms of their benefits) to a specific Member State, such as administrative expenditure, expenditure aimed at external relations, and possible some other EU budget expenditure items. This

<sup>3</sup> De la Fuente, A. and Domenech, R. (2001), ‘*The Redistributive Effects of the EU Budget: An Analysis and Proposal for Reform*’, *Journal of Common Market Studies*, Vol. 39, No. 2, pp. 307-330.

<sup>4</sup> Heinemann, F. ‘*Solving the Common Pool Problem in the EU Fiscal Constitution*’, presentation at the conference, Challenges to the EU Budgetary Reform, Ljubljana, 7 May 2007.

expenditure would be excluded from calculations of Members States' net financial positions and the procedure for its adoption would be simplified and single-phased.

The second and considerably larger group of expenditure would include all other expenditure. This expenditure would be included in the calculation of the net financial positions, while the procedure for the adoption of this part of the EU budget would be carried out in three phases.

- In the first phase, Member States would agree exclusively on extent of redistribution, in absolute terms, between net receiver and net contributor countries, and as a consequence, on the 'target net financial positions' of every Member State.
- The primary objective of the second phase of the process would be an agreement of Member States on: (i) individual policies which would be financed from the budget, which would sum up to the overall size of the EU budget, (ii) sources of financing, and (iii) the 'spontaneous net financial positions' of individual Member States. The latter would no longer be at the forefront of negotiations, since the 'target net financial positions' of Member States were decided on in the first phase of the process.
- In the third and final phase of the process, the 'spontaneous net financial positions' of individual Member States, determined in the second phase, would be brought in line with the 'target net financial positions', agreed in the first phase, through a fiscal transfer mechanism. Besides substantive and procedural aspects, the proposal also includes an institutional aspect and defines the role of individual European institutions in specific phases of the process.

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## Rethinking the Choices for Europe

Nathaniel Copsey

**Summary:** Report Prepared by Nathaniel Copsey, Aston Centre for Europe, Jean Monnet Chair.

This report was written during the depths of the European Union's first existential crisis; a period of recent European historical development marked by a sense of intractability, failure, loss of purpose and general drift that challenged and undermined much of what has been understood and written about the European Union and the European integration project more generally. Its objective was two-fold. First, it sought to investigate what the true effects of the Great Slump and the Eurozone crisis have been on the European Union and the European integration project more broadly. Secondly, in no small part prompted by the sense of deadlock, inertia and general *Kulturpessimismus* that went hand in hand with the crisis, it aimed to explain why the political, social and economic situation across the EU and its Member States remained both so grave and yet so irresolvable at the same time. The apparent contradiction of a situation that was, as the Viennese say, desperate but not serious prompted further enquiry, as did an observation on Europe's reform dilemma credited to the long-serving (1995–2013) former Prime Minister of Luxembourg, Jean-Claude Juncker. Mr Juncker, perhaps apocryphally, summed up the attitude of Europe's leaders to economic and social reform with the words 'we all know what to do, we just don't know how to get re-elected after we've done it' – a paradox later dubbed 'the Juncker curse'.

In reflecting on why Europe's leaders should seemingly reject reform and change in favour of inertia and stagnation, the initial search for explanatory factors drew this report towards the problems caused by path dependence that have been analysed at length by scholars of historical institutionalism. A supplementary observation made at the outset of the report was that the conditions for the breeding the

inefficiencies, and even pathologies, to which path dependence leads are more readily found in the European Union than elsewhere. This is in a great measure due to its uniqueness as a political system, where sovereignty is shared in some areas and jealously guarded in others, and where there is far greater profusion of political players from 28 Member States with influence, powers of delay, powers of veto, varying interests and differing ideological viewpoints. Moreover, many individual political deals in Brussels are in turn small parts of larger ‘package deals’ agreed as a result of numerous trade-offs between diplomats and MEPs, or even the result of ‘grand bargains’ struck after long months, even years, of intense talks between Europe’s heads of state and government. Whilst none of the preceding means that the political system of the EU is impossible to reform and adapt to changing circumstances, it constitutes a political order in which it is much harder to unpick what has already been agreed in institutional, political and policy terms. And what is already an inelastic political system has become progressively more so over time as the sheer report of path dependent decisions (and non-decisions) rises and number of political players continues to grow. It is perhaps an exhaustion borne of fruitless attempts to reform the Union that makes Europe’s leaders so cautious of any serious attempt to rethink what the EU is for.

Two over-arching explanations are offered to explain the true nature of Europe’s great existential crisis and why it seems so intractable. The first is of incomplete institutional transformations at the European and national level that have locked-in political systems and policies that are not capable of dealing with the economic, social and political challenges that the EU-28 faces. The consequences of this are the twin problems of market-failure and government-failure across Europe that have become so exposed and apparent since the beginning of the Great Slump, and are most clearly visible in what the European Commission refers to as the ‘programme countries’. Thus unfinished or incomplete institution-building at the European level lies behind the current crisis, whilst at the Member State level the crisis is more closely linked to building national institutions on half-dug or even rotten foundations. This report’s second path dependence-based explanation about the intractability of the current crisis concerned the intellectual underpinnings or ideology on which the decisions taken by Europe’s political leaders are based. Since at least the Treaty of Rome in 1957, that ideological underpinning has

been rooted in progressively lifting barriers to free trade and competition between Member States, whilst protecting the rights of consumers in the process. This report argues that the European Union is experiencing the crisis of a market-based system of European integration that has simply reached its limits. Market-based European integration no longer provides an adequate ideological underpinning behind decisions and policies to drive the European Union forwards. This ideological vacuum is a significant contributor to the current sense of crisis. The arguments put forward to explain the crisis and what it means may be summarised in ten, inter-connected points as follows.

(1) A starting point for this report was that the European Union's crisis extended well beyond the travails of the Eurozone. Its deeper, path-dependent roots lay in decisions that were taken long before the financial crisis that began in 2007 and the Great Slump and sovereign debt crises that followed. This point was not widely understood during the worst phase Eurozone crisis, roughly 2010–12, with its narrow focus on what would be needed first to save the single currency and then to make it work effectively. An investigation into the profound depths of Europe's crisis helps to explain why it was little closer to meaningful resolution in 2014 than it was in the early years of the Great Slump and the Eurozone crisis.

(2) A second argument was that even though the practical and ideological limits to a market-based European integration project appeared to have been reached, emphatically this did not mean that the time had come for the EU to retreat from free markets. Rather the conclusion to be drawn was broader: market-based integration by itself is not enough. Where markets fail – such as in the energy and banking sectors – they need to be corrected and reformed and made more competitive. The EU badly needs to tackle the correction of EU-wide market failure, for example in supporting low-yield, long-term investments in research, power generation, infrastructure, industry and training, to give a few examples. So long as Europe remains mainly concerned with free market competition and the lifting of barriers to competition, economic decisions that require less of the free market and more strategic decision-making through a Europe-wide industrial policy get worse. The European Union should not be afraid to learn from

the economic models of its global competitors with more economically activist governments. In other words, a concern for ideological purity should not get in the way of good policy. There is an important contribution here to be made in leading the debate on improving EU economic governance. An ideologically driven free market approach is as outdated and irrelevant to economic recovery in Europe.

(3) Thirdly, and following on from the path-dependent ideological underpinnings of the European integration project is the point that whilst in theory the European Union is about values and sees its peoples as citizens, in practice the EU is about markets and sees its peoples, primarily if not exclusively, as consumers. There is nothing intrinsically wrong in this approach since extending consumer choice and protection are worthy aims. Yet the limits to such an approach are increasingly obvious since the political affairs of a major polity-in-the-making extend beyond the protection of consumer rights. Here again, an exclusively market-based model will simply not suffice any longer, not least because it means that the European integration project has always tended, in technocratic fashion, to put the economics before the politics. Political integration, in other words, was driven by economic necessity. This was the heart of the famous Monnet method, but it is a way of doing business that has probably now run its course. The reasons for this are legion. To begin with, many of the positivist assumptions that were made about the management of the economy between the eclipse of the Keynesian consensus in the aftermath of the 1973 Oil Crisis and the Great Slump were wrong, as the financial crisis showed. Those who were responsible for managing the European and world economy (of which Europe is a big part) simply got it wrong. Their assumptions, as it turned out, were flawed. Humans are not simply rational actors capable of rapidly calculating costs and benefits. Even the former chairman of the US Federal Reserve Alan Greenspan now admits this (Tett, 2013). A similar and more human-centred trend is emerging in the discipline of economics (Carlin, 2013). Moreover, even if integration through markets has delivered benefits to consumers as a whole, many of the gains have not been shared across European society, and inequalities have been on a steadily upward trend since at least the mid-1980s across the old EU-15. An exclusive emphasis on the free market creates market-failures that need to be addressed by government. An exclusive

ideological focus on free markets on the part of governments in turn creates what could be termed government-failure. The European Union appears to be suffering from both, which explains in some part the intractability of its existential crisis.

(4) A fourth argument that follows on from the way in which the EU has consistently put economics before politics in its thinking is that after more than half a century of European integration not but one but two Europes have come into being: that is two, distinct European societies which transcend national barriers. The first of these is the Europe of a broad 'elite', which comprises about one in five or one in six Europeans. This community shares a common European identity, believes that it benefits directly from European integration and is usually politically Europhile in orientation (Fligstein, 2008, p. 4; Risse, 2010, p. 5). The second of the 'two Europes' consists of everyone else. This much larger group has either a very weak or non-existent bond to European identity and is not interested in either European politics or the European Union. Unless this seemingly disenfranchised group can be persuaded to take more of an interest in the affairs of Europe's polity-in-the-making, the current situation of drift and decline is likely to continue.

(5) Fifth, this report has pointed to the deeper structural weaknesses that have been building up in Europe for a very long time, since the beginnings of the 1980s (i.e. widening inequalities, declining competitiveness, inadequate institutions and high levels of unemployment). A lasting solution to Europe's economic woes would need to address the European-level government of the Eurozone, the vulnerabilities that stem from the creation of free markets for capital and the harder-to-address deeper challenges that are connected to the regulation of labour markets and the sustainability of the welfare state. These problems have to be tackled at both the European level and the national level. Urgent reform and action are needed to address problems of insecurity resulting from Europe's large financial sectors, the institutions that govern the Eurozone, to ensure a sustainable yet equitable balance in the provision of welfare and to restore and maintain competitiveness across the whole Single Market area. Without such action, in the medium- to long-term, the sustainability of the European model of capitalism and the relatively high living standards that it supports are endangered.

(6) Yet as is argued in a sixth point, the balance of opinion across much of the EU, and especially in what could be described as Europe's 'swing state', France, understands that, as Keynes puts it, 'in the long run we are all dead' (Keynes, 1923). Public opinion in Europe still has not reached the point where it has begun to embrace the need for change. The Fifth Republic is by far the most illustrative and fascinating case study of this wider European trend. In France, as elsewhere, the need for change is understood at a theoretical, intellectual level and, above all, elite level (Herzog, 2013; Goulard, 2013; Goulard and Monti, 2012; Heisbourg, 2013; Bavarez, 2004, 2012) yet the preference of the French majority – despite the *bonnes intentions* of President Hollande – is for stasis and decline. Social and economic systems require periodical renewal and redesign, which may short-term create losses to be traded off against long-term gains. Resistance to the notion of such short-term losses runs very deep indeed in 21st century Western Europe as is best summed up in the concepts of social 'rights' or social '*acquis*' (Herzog, 2013, p. 88), with an implication that what has once been acquired can never be modified, let alone surrendered. After all, for many in France as in the rest of Europe, life remains too comfortable to accept the need for reform, particularly on the part of the labour market insiders with access to protected jobs, generous welfare payments, housing, education and so on who cannot see the need for the introduction of greater flexibility to promote the creation of jobs. Social peace between the insiders and the outsiders is bought in the case of France by transferring 46% of what is produced by its extraordinarily productive labour market insiders to labour market outsiders (Le Boucher, 2013). In turn, this creates a growing strain on the state budget, which in France, as elsewhere in Europe is seldom ever balanced (in fact the last budget surplus in France was for the fiscal year 1974).

Few Europeans appear to understand the significance of Tancredi's remark to Don Fabrizio in Lampedusa's *The Leopard*, 'if we want things to stay as they are, things will have to change'. In common with Don Fabrizio, for many Europeans decline is preferable to change. There is a wider importance to the choice of France as a case study. France and French opinion matter a great deal here, since if the French position could be moved closer to that of Germany, Europe's 'reluctant hegemon' (Paterson, 2011), a Europe-wide consensus on serious reform drawing in all three groups of Member States would be far easier to

reach. Collective action at the European level could also make the short-term bitter effects of reform easier to stomach. The Eurozone crisis bears this argument out. It has only been in those states that were forced, either through participation in the ‘programme’ as a bail-out recipient (Greece, Cyprus, Portugal, Ireland), or through the threat of having to join the bail-out countries (Italy and Spain), that with the greatest reluctance reform efforts have been made. Yet such reforms are seen as an imposition coming from the outside. This could be overcome if France were to undergo a conversion to the cause of positive reform in the Nixon-going-to-China mould. If all Europe were to be mobilised to reform at the same moment the perception of unfairness and imposition would be lessened. In short, whilst some Europeans can see the need for reform, their commitment to it is theoretical or hypothetical. Most importantly, reform should not affect them. This is why reform tends only to be kick-started when the metaphorical bailiff is hammering on the front door. When taken as a whole, this amounts to a government-failure that matches the market-failures in Europe’s banking system that led to the Great Slump.

(7) The seventh point is that if the governments of Member States are failing and in denial about the need to carry out painful reforms to put their own houses in order, they are also in denial not only about what the substance of European integration means for their own states, but also, at times about its very existence at all. National politicians, civil servants and judges – even at a senior level – all too often display a wilful ignorance of Brussels and its workings. At times, they give the impression of hoping that if they bury their heads, the whole European integration project will simply go away. This is demonstrated in, for example, stubborn refusal to gain an understanding of the basic principles and working of the EU system and how the game has changed since the Lisbon Treaty, or insisting on reworking old ground on issues long since settled (such as contesting the supremacy of EU law), or unpicking long-standing Europe-wide agreements. Such attitudes are anachronistic. In the 21<sup>st</sup> century, to be interested in, say, Dutch, Spanish or Irish politics, but not European Union politics, is akin to a farmer who feigns a lack of interest in the weather. Like the weather, the EU is simply present as a part of the political life of Europe and will impact on our lives and experiences whether we want it to or not.

Unlike the weather, it may at least be influenced and engaged with in such a way as its future direction can change. A linked tendency is the way in which national parliaments, courts and governments persist in expressing preferences for contradictory objectives. They resent perceived EU encroachments on sovereignty but they want a strong and unified European Union – albeit one with weak institutions. They want the fruits of reform without painful sacrifices. They want to take the full credit for the achievements of the EU and to blame it when things do not run according to plan. In short, they want to have their cake and it. Such cognitive dissonance is not limited to the government of semi-detached Member States such as the United Kingdom. It can also be seen in the ruling of the German Federal Constitutional Court on the Lisbon Treaty, which found the EU lacking in democracy since seats in the European Parliament are apportioned in a way that prevents the complete domination of the legislature by the MEPs of the largest handful of countries (Wohlfahrt, 2011). After nearly 60 years of the European project, it is surely time for national institutions to catch up with Europe's political reality – that of a polity-in-the-making.

(8) The eighth point returns to the overarching theme of understanding the present existential crisis as one of incomplete transition at both the European Union and Member State level. Whilst this is most readily seen in the incompleteness of the current policies, institutions and structures in place to manage the economic and monetary union, there is an equally important national dimension as well. As will be noted, the negative effects of the crisis were experienced across the whole Union yet some were hit far worse than others. Some economies proved more resilient and capable of bouncing back after the slump. Some Member States were more effective than others in beginning to reform their welfare states to make them sustainable than others were. This points to a necessarily crude, stylised dichotomy between three kinds of Member States in the EU-28. First, there are the north-western European states (such as Sweden or Germany) with relatively strong, neutral and independent national institutions (parliaments, governments, bureaucracies, courts, relationships with social partners and so on), a fairly high degree of social cohesion and a higher concentration of industries located towards the technological frontier. Second, there are the central European, post-Communist countries of central Europe

(such as Poland or Slovakia) whose youthful institutions were shaped by the firm hand of EU conditionality in the 1990s and 2000s and whose economies continue to benefit from catch-up growth as they converge, gradually, on West European levels of GDP per capita. Third, there are the states of southern Europe whose institutions did not have to pass the exacting tests of pre-accession conditionality (such as Italy or Greece) and where EU membership did not involve a shake-up of the long-standing patterns of clientelism and patronage that have impeded their development for a long time. The comparative economic advantage formerly enjoyed by this third group of Member States has been eroded by globalisation and the outsourcing of lower-value-added production both to the emerging economies of the Far East *and* to central and eastern Europe. In addition, the third group has found it exceptionally challenging to cope with the need for rigour imposed by euro area membership that removed the possibility of periodic devaluation as a means of preserving competitiveness vis-à-vis their trading partners. In simple terms, the thinking that lies behind the politics and economics of rigour in the Eurozone is about attempting to transform this third group of Member States into copies of the first group, whilst simultaneously the second group (the central and eastern Europeans) are snapping at their heels (at current trends, Slovenia, Estonia, the Czech Republic and Slovakia will overtake Portugal and Greece in per capita GDP in real terms by 2015 – in PPP terms, some central European countries have already done so, *Economist*, 2013). Yet what has remained absent until now is a demand for reform on the part of this southern European group of states to match its supply by the European institutions and their fellow Member States. Until there is a full understanding of the sheer scale of the institutional transformation that is required in southern Europe, and indeed at the popular level in the French Fifth Republic, and a demand for reform to match it, there can be no meaningful recovery in the Union as a whole.

(9) The ninth argument that runs throughout the report is that the case for pessimism or optimism on the future of the European integration profit is dependent on one's standpoint. The view in this report, for all of the preceding doom and gloom, is an optimistic one. Much has been created through 60 years of European integration. The EU's lasting two achievements are a polity-in-the-making and, alongside it, a European

identity-in-the-making – no mean feat. Moreover, the European Union delivers valuable benefits and public goods that are much appreciated by Europeans as consumers, even if they do take them for granted most of the time. Institutionally, the experience of the past 60 years is that where Europe acts unanimously in the pursuit of a clear set of objectives with adequate resources in place to reach them, it can achieve great things. The problem of the current crisis is that neither of these conditions has been met and in consequence there is no sense of the direction in which the Union should be heading.

(10) The tenth argument that is made in this report is the European Union has a number of important choices lying ahead of it if it wishes to overcome the present crisis successfully. There is an urgent need to concentrate on fixing the Union from within, both at the European and the national level. The impetus for such change must come from the Member States themselves, a process made all the harder by the fact that in addition to the common challenges outlined in this report that they all face, there, quite naturally, remains a high degree of variation between them to which it is appropriate to return to briefly.

As outlined in the introduction, the differing degree of severity with which the Great Slump and Eurozone crisis struck each Member State reflected the strength of their various national institutions and the level of institutional and structural transformation that has taken place over the past twenty years as globalisation's effects have begun to be felt. To recap, a dichotomy between three broad groups of Member States is discernible: the north-western Member States, the central European Member States and the southern Member States. Globalisation has put the same fundamental choice before all three: reform or decline. Their responses to this challenge vary hugely. Globalisation has been met with greater or lesser enthusiasm but action nonetheless in north-western and central Europe, whilst the response of the southern Europeans until the eruption of the crisis was inertia borne in part of political culture and in part of the credit boom from 1999–2007 that followed the sharp fall in interest rates after the introduction of the single currency. The imposition of harsh austerity policies on southern Europe in isolation did little to improve their long-term economic prospects – and in the short-term, its effects were ruinous. Southern Europe was kept afloat and not permitted to default on what looked to be unsustainable levels

of debt less through a sense of pan-European solidarity, as through the fear of the catastrophic repercussions that default would have on the integrated European (and world) banking sector. The crippling weakness of the European Union as an incomplete polity-in-the-making is most obvious here: it can act in unison to treat the acute symptoms of disease, but the European Union system as it is currently designed cannot cure the patient. Merely keeping southern Europe afloat also has profoundly damaging consequences for the north-western and central European Member States. Until the economies of southern Europe are restored to health, there can be no wider return of full confidence (Keynes, 1936; Hanke, 2008) to the European Union economy as a whole that is essential both for trade and the business investment that is needed to drive economic growth. Thus for all of their differences between the Member States and the narcissism of small differences that they inspire, after more than half a century of European integration their economies are so intertwined that they must escape from the crisis together – or not at all.

In the absence of reform, is quite probable that the Union could muddle through for many more years to come although many observers have begun to question whether the treatment for the Eurozone crisis is worse than the disease itself (Heisbourg, 2013). The sense of frustration is palpable. Yet another symptom of the crisis was that for the first time ever one Member State of the European Union, the United Kingdom, was contemplating the idea of leaving should reform prove impossible. The decision would be made following a referendum and would be subject not only to an attempted renegotiation of the terms of British membership, but also to the Conservative party forming a majority government after the 2015 UK general election. David Cameron's speech was met domestically and within the EU as an announcement of an intention to quit the EU. However, when taken at face value, this was not the main thrust of the message which instead spoke of 'a positive vision for the future of the EU ... in which Britain wants ... to play a committed and active part ... I want the European Union to be a success. And I want a relationship between Britain and the EU that keeps us in it' (Cameron, 2013). The five principles on which reform of the Union should be based: competitiveness, flexibility, subsidiarity, accountability and fairness chime with the themes and challenges that underlie the choices for Europe which have been outlined in this report.

Although some continental observers (Goulard, 2013; Heisbourg, 2013) generously suggested that David Cameron should be taken at his word, what was conspicuously lacking from his intervention on the future of Europe was credibility. The UK is not a member of the Eurozone, does not take part in the Schengen area of free movement, refused to take part in both the fiscal compact and Banking Union and, moreover, has played the role of an awkward partner within the EU (George, 1998) for over 40 years. Just as would-be reformers of a socialist party need to wrap themselves in the red flag as they speak in favour of arms-length relations with trade unions and the benefits of the free market, it is only those who bear the most impeccable European credentials who are capable of making such an appeal for reform of the EU and radical change. The UK is emphatically not well-placed to lead the charge for reform in Europe. Unless and until it can convince other Member States to take up the cause of reform, the appeals of the British Prime Minister will fall on deaf ears.

In the introduction to this report, a parallel was drawn between the present and what then appeared to be a systemic crisis in the lost world of European Communism in the 1980s. Yet perhaps the momentous revolutions in the second half of 1989 are not the best point of comparison for the moment of decision that Europe faces in the 2010s.

Reflecting on what is taking place in crisis-struck Europe in the 2010s, clearer parallels may be observed with the twilight of European colonialism in the 1950s and early 1960s, following the disastrous Franco–British attempt to regain control of the Suez Canal in 1956. Then as now, the Europeans were experiencing the end of an era in world politics linked to transitions (Goulard, p. 21) taking place beyond their borders and beyond their control. Some of the actors of the day, such as Harold Macmillan and latterly Charles de Gaulle, could see that both the idea and the practice of European authoritarian colonial rule were finished. Others could not. Where the comparison becomes sharpest between Europe today and, say, colonial society in Algeria or Rhodesia in 1960 is that those resistant to change, when confronted with realistic choices to make, rejected all options in favour of what de Gaulle referred to as *‘L’Algérie de papa’*; that is, a return to an agreeable, perhaps imagined, Arcadian past before all the bothersome and disagreeable troubles began. In other words, their preference was for an option that was not on the table. Worryingly, this is the attitude of

many Europeans to the crisis of the 2010s. The simple lesson that can be drawn from this little historical detour is that it is far better to make choices whilst choices remain. It is to the big picture of those choices that we now turn.

### ***The Choices for Europe***

In essence, the new choices for Europe can be reduced to three inter-connected elements, which will be unpacked in what follows: (1) a new project, narrative or vision for Europe in the 21st century on which everyone can agree; (2) the means to deliver this project effectively at the European and national level; and (3) a decision about how far this new project of European integration will extend.

Since the 1950s, two overarching public narratives have been put forward as a justification for the European integration project. The first was about promoting peace and prosperity in the aftermath of the Second World War against a background of a far smaller world economy that was far less open to trade than is the case in the 21<sup>st</sup> century. By the 2010s, war between European countries had become almost unimaginable and the EU was just one of many actors engaged in the promotion of free trade. Moreover, since the Great Slump (and arguably for some time before) the European Union and many of its Member States had demonstrably failed in their quest for prosperity. A second narrative of European integration was about ‘reuniting Europe’ following the revolutions of 1989. The process of drawing into the fold as many European countries as wanted to join the Union had been more or less completed by the 2010s, with only the small states of the Western Balkans in the queue for accession. Neither Ukraine, Turkey nor the West European refuseniks of Norway and Switzerland had convincing popular majorities in favour of joining the EU. With process of reuniting Europe drawing to a conclusion, its power as a narrative for the EU waned. As the power of attraction of these two narratives has receded and declined, the EU has struggled to find a new message or rationale. It has appealed to, and even appropriated as ‘European’, the values of democracy, human rights and the rule of law, but although they may be worthy aims, they do not seem to have much purchase with the peoples of Europe. The claim that ‘unity is strength’ is true but too vague to underpin the European integration project. Complementing

these two public narratives that dealt essentially with the strategy of European integration was the tactic by which they were both to be achieved: removing the barriers to free trade between Member States. The boundaries of this market-based European integration have now been reached.

What the European integration project needs in the 2010s is a common purpose; a project on which everyone can agree; a new vision. Bluntly, there is a need to decide what the European Union is actually for. The goals of a re-launched European integration project must necessarily be broad and consensual enough to appeal directly to the peoples of Europe. Of necessity, the goals must also appeal to all three groups of Member States sketched out in the introduction: the north-western European states; the relative newcomers of central and eastern Europe; and the southern Member States that have struggled so much in the current crisis. This is of particular importance given that the Member States will always be the primary means by which shared European objectives are delivered. The cornerstone of the European integration project must be about sustainable and equitable prosperity, a point of even greater importance in the aftermath of the economic disasters of the period since 2007. Given the distance that exists between the preferences of Europeans for their social and economic model on the one hand and the reality on the other, a significant part of this challenge must be about sharing the fruits of European integration more widely by reducing the social, economic and cultural gap that exists between the Two Europes that has been identified.

What this amounts to in terms of diagnosis is a collective need to take market-failure and government-failure in Europe much more seriously. These twin failures stem from the same short-termist roots. In the private sector, short-termism is the result of the need to placate shareholders and banks. In the public realm, short-termism is dictated by the demands of the electoral cycle. The effects of both are equally pernicious. The most obvious long-term challenge that the European Union faces is about rebuilding Europe's economy, society and government to cope with the dramatic effects of a rapidly ageing population. This will require a significant recalibration of the welfare state that goes beyond even the most ambitious plans in some Member States (i.e. Finland or the UK) to increase the retirement age to 68, extending perhaps as far as 75 if life expectancy continues to climb.

A second element related to this is about increasing the productivity of the European economy. Here the most obvious gains are to be made in the service sectors of many Member States. A third element is about increasing labour market participation levels significantly and finding ways to tackle the excessive unemployment that has affected Europe for over a generation. These are just a few of the measures that need to be undertaken, and to this list might also be added long-term investment in energy and power generation, research and development, education, training and particularly languages, especially if we wish to maximize the potential of free movement across the EU. What all of these areas for action share in common is that they require significant, costly, steady, certain, long-term investment the returns on which will be both relatively small, distant and prone to problems of free-riding. Yet the risk involved in not making these investments is at best more of the same (which as this report shows is both intolerable for many and unsustainable) or, at worst, a further and increasingly vertiginous decline. This process of reform goes well beyond Europe's current model of freeing markets wherever possible, important as that is, and is about taking market- and government-failure much more seriously. Rebuilding Europe's economy and society will be painful, but it is far better to do this in partnership with all the Member States of the Union than alone.

What is also striking about the current crisis is how relatively little discussion there has been about these wider questions of system design in the model of free markets operating in liberal democracies. During the Great Depression of the 1930s, there was much discussion about the ideal economic system: socialism or capitalism (Herzog, 2013, pp. 76–77)? Since the fall of Communism and the end of any realistic challenges to the Western model of liberal democracy and the free market economy there has been much less debate about *system design*, even though we are living through a period of what amounts to market-failure and government-failure. This is not to suggest a return to the follies of the planned economy – far from it – merely that more debate is needed about what the big picture of the relationship between the long-term needs of economy and society are and what the role of the government should be in ensuring that they are met. Here there is most definitely a role for the European Union in compensating for, and overcoming, the pressures of short-termism on the part of both markets and national governments.

Yet deciding what the European Union is for must go beyond the economic or the instrumental. The fruits of European integration are not limited to purely material benefits, even if these are what we measure most frequently. Sharing the gains of European integration also means spreading the broad benefits of a European identity alongside a national, regional or local one, more widely and is about extending access to European culture and civilization to anyone who wants to take part. The most fundamental means by which that culture can be accessed is through language learning. Learning the languages of other Member States helps us to identify more closely with them and to understand better their perspective. It also perhaps the best means of extending the proportion of Europe's peoples who identify with the integration project. Pragmatically, greater linguistic facility would also serve to promote the proper functioning of the single market and bring Europe a step closer to the mobility and efficiency of the US labour market. Finally, making multiple language learning a core part of the curriculum follows the same logic that we apply in insisting that all schoolchildren acquire a grasp of, say, physics or mathematics – not because we believe that the great number of them will have any use for simultaneous equations in their lives, but because it develops advanced cognitive function.

The second choice for Europe is about equipping this new European project with the means to deliver its objectives effectively at the European Union and national level. What is required here is (i) political will; that is a unity of purpose between the political and societal actors combined with the appropriate powers to intervene and support in the case of government-failure in one of the Member States. This in turn necessitates (ii) robust, modernised institutions equipped with (iii) the resources, both financial in the form of a decent-sized budget, and human in terms of the scale and scope of the European civil service. Whilst money is only one element of this, the EU's common budget for managing its currency union and the largest economy in the world is around €130 billion or 1% of the total GDP of the EU-28. This compares with federal states on a (broadly) similar scale to Europe's 500 million people, the federal budget in India is 14% of GDP, 21% in Brazil and 24% in the US. Even the Member States redistribute within themselves much more, with French disbursements between regions, departments and communes amounting to 4% of GDP (Heisbourg, 2013). It was observed in the introduction that one of the perplexing

features of the European Union's Member States is their cognitive dissonance in wanting contradictory things from it – nowhere is this better illustrated than in the budget. Both the institutions and budget of the Union are insufficient for its purposes in the 2010s.

The third and final choice for Europe relates to the delineation of the final borders of the European integration project. As mentioned above, in 2014, the EU appears to be very close to reaching its geographical limits with a process of filling-in to be completed as the six Western Balkans states of Albania, Bosnia-Herzegovina, Kosovo, Macedonia, Montenegro and Serbia join over the next 15–20 years. Ukraine, Turkey, Moldova and Georgia appear much less likely to join what is likely to be a European Union more closely focused on putting its own house in order than extending its borders. It seems unlikely at the time of writing that the European Union presages a deeper, worldwide integration project. Indeed since the crisis began, planned currency unions in east and west Africa, the monarchies of the Gulf States and the ASEAN countries have been put on hold. Moreover, given the lacklustre performance to-date of the first decade of the European Neighbourhood Policy, the idea of a Europe integration project spreading 'wider still and wider' appears far-fetched. Responding to the short-term needs of the crisis derailed the structural reform agenda spelt out in the Lisbon and EU2020 Strategies and indicated that the EU is only capable of concentrating its attention on a limited number of projects at the same time. It is certainly not possible to extend the EU's competences, to deepen integration and to widen the Union in terms of membership at the same time (Heisbourg, 2013, pp. 39–40). Since there must be a trade off, for the moment, deepening integration and, where necessary, extending competences should take the front seat to enlargement.

Europe is standing on the threshold of a number of important choices. Making these choices is all the harder because, despite the backdrop of the Eurozone crisis, for many, life in Europe remains as good as it has ever been – and perhaps as good as it will ever be. Yet this sense of peacefulness is illusionary and Europe's decline will not remain gentle if matters continue as they have been. The mere fact that the choices for Europe are present and beginning to be understood does not mean that they will be taken. Many of the hardest choices are made not at times of extreme difficulty, when the opportunity cost is low, but at times of relative prosperity when the short-term opportunity cost

appears high. At such moments there is a responsibility to make clear what the alternative to taking a decision might be. It is to be hoped that this report has made a contribution to this process by providing a greater understanding of the big picture of how the Great Slump and Eurozone crisis have changed the European Union and why the case for reform is more pressing than ever before.

## *¿Cómo podemos salir de la crisis económica y social a través del fortalecimiento de la integración europea?*

Nicolas Alonso Moreda\*

En cuanto al marco institucional necesario, en mi opinión, se han de emprender las siguientes reformas:

- En cuanto a la **Comisión Europea**, se han de emprender reformas importantes que limiten el riesgo de intergubernamentalización, que la alejen de los intereses estatales y particulares y garanticen un funcionamiento más eficiente, transparente e independiente de la misma, En concreto, considero que es necesario:
  - Reducir el número actual de comisarios en aplicación de las previsiones del artículo 17.5 del TUE, lo que requiere la reforma de la Decisión 2013/272/UE, del Consejo Europeo, de 22 de mayo, relativa al número de miembros de la Comisión Europea y, por lo tanto, renegociar con Irlanda el acuerdo político alcanzado en los Consejos Europeos de diciembre de 2008 y junio de 2009.
  - Modificar el procedimiento de nombramiento de los miembros de la Comisión, incluido su Presidente, recogido en el artículo 17.7 del TUE para establecer un procedimiento que se desarrolle íntegramente en el Parlamento Europeo de tal forma que se limite la influencia de los intereses estatales en la propuesta de candidatos que se debe canalizar a través de los grupos políticos y de las comisiones parlamentarias correspondientes.
- En cuanto al **Banco Central Europeo** (en adelante BCE) se han de emprender reformas dirigidas a garantizar su independencia de los intereses de determinados Estados y el rigor científico y la

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defensa de los intereses generales como base fundamental en la toma de decisiones. Se ha de impedir que determinados Estados, por su peso específico en el sistema, sean capaces de imponer su posición y una única línea ideológica o corriente de pensamiento en el funcionamiento y la toma de decisiones de tal forma que se prioricen los intereses de determinados Estados sobre el interés general y los intereses del resto de Estados. En definitiva, se ha de conseguir que el BCE asuma el papel de un verdadero Banco Central y no el actual más cercano al de un *lobby* de la banca privada. Así, por ejemplo:

- Se ha de reformar el Estatuto del BCE para introducir la obligación de rendir cuentas ante el Parlamento Europeo así como para imponer como objetivo prioritario el mantenimiento del pleno empleo, la igualdad y el bienestar humano, dentro de un sistema financiero que proteja a los Estados miembros de la Unión Económica y Monetaria (en adelante UEM) frente a los ataques de los especuladores financieros.
- Se han de reconocer al BCE poderes para emitir títulos propios de deuda pública con los que financiar su presupuesto y la ayuda a los Estados.
- Es necesario continuar reforzando los poderes del **Parlamento Europeo** en detrimento del Consejo y del Consejo Europeo.
- Así mismo, se ha de proceder a la institucionalización del «Eurogrupo» como una formación del Consejo y, con ello, a la formalización y concreción de sus funciones en el marco del respeto del principio de equilibrio institucional, así como las funciones en su seno del Comisario de Asuntos Económicos y Monetarios y Euro, del Presidente del BCE y de su propio Presidente.
- Por último, y aunque no dispongan de rango institucional:
  - Se ha de reforzar el papel del **Banco Europeo de Inversiones** orientando su actividad a la modificación del modelo productivo europeo.
  - Se debe proceder a la creación de una **Fiscalía Europea**, en base al artículo 86 del TFUE, dirigida a combatir las infracciones que perjudiquen los intereses financieros de la Unión y la redefinición del papel de **OLAF**. Para ello se han de continuar con los trabajos

que han dado lugar a la presentación por parte de la Comisión de una Propuesta de Reglamento del Consejo relativo a la creación de una Fiscalía Europea (COM(2013) 534 final) y la Propuesta de Reglamento del Parlamento Europeo y del Consejo sobre Eurojust (COM(2013) 535 final), así como sus comunicaciones sobre “Protección mejorada de los intereses financieros de la Unión: creación de la Fiscalía Europea y reforma de Eurojust” (COM(2013) 532 final) y “Mejorar la gobernanza de la OLAF y reforzar las garantías procedimentales en las investigaciones: un enfoque gradual para la creación de la Fiscalía Europea” (COM(2013) 533 final).

Además, en mi opinión, es necesario:

- Garantizar un funcionamiento efectivo más independiente y transparente de la Comisión y del BCE en la UEM.
- **Cuestionar la política de corte abiertamente neoliberal que se está imponiendo desde la “Troika”** y que, en mi opinión, no está dando resultados o, por lo menos, no los resultados esperados. Para ello sería interesante hacer un análisis riguroso de los resultados de dichas políticas emprendidas en el pasado en otras latitudes del planeta y en situaciones, a grandes rasgos, similares para llegar a una conclusión clara y rigurosa del camino al que nos abocan dichas políticas.
- **Alejarse del Fondo Monetario Internacional** (en adelante FMI), de las políticas que propone el FMI, e intentar imponer en el seno de la “Troika” políticas diferentes a las actuales. En mi opinión, el FMI no es una voz autorizada. Por un lado, no hay elementos objetivos que justifiquen las políticas propuestas por el FMI a través de la “Troika” y, por otro, el FMI no tiene en estos momentos ningún tipo de credibilidad ya que ni sus políticas están funcionando ahora para salir de la crisis, ni funcionaron en el pasado para evitar llegar a la situación actual, ni siquiera fueron capaces de intuir la crisis hasta que la misma era una realidad. Además, gran parte de sus carencias vienen ocasionadas por el unilateralismo ideológico presente en el mismo. Desde el FMI únicamente se tiene en cuenta una tendencia ideológica, una corriente de pensamiento de corte claramente neoliberal que no

deja espacio a otras tendencias que tienen mucho que aportar. Es más, el propio economista jefe del FMI, el Sr. Olivier Blanchard, ha reconocido que el efecto de las políticas neoliberales impuestas basadas en el recorte del gasto público para con ello reducir el déficit y la deuda pública ha sido contraproducente y, en la práctica, han tenido un efecto contrario al buscado.

- Se debe poner coto a la capacidad de influencia de los “**lobbies**” en Bruselas. Se ha de regular y limitar su papel ante la Comisión, ante el Parlamento Europeo y sus parlamentarios y ante el resto de instituciones y órganos de la Unión garantizando una transparencia total y estableciendo un sistema efectivo de control con capacidad para imponer sanciones. Así, por ejemplo, es preocupante y no es tolerable que las conocidas reuniones periódicas que mantiene el Presidente del Consejo Europeo, el Sr. Herman Van Rompuy, con los dirigentes de las principales empresas europeas, se celebren en el máximo secretismo, en condiciones muy opacas y poco transparentes, dado que no se levanta acta alguna de las mismas ni se redacta algún tipo de nota al respecto, Así mismo, se han de establecer unas reglas claras y rigurosas de incompatibilidad y transparencia que regulen la aceptación de cargos de responsabilidad en empresas privadas una vez terminado el ejercicio de funciones, principalmente en la Comisión, el Tribunal de Justicia de la Unión Europea y el BCE, pero también en el Consejo, el Parlamento Europeo y el Tribunal de Cuentas.

En cuanto al proyecto de Unión Política a partir de la “Eurozona”, considero que se han de afrontar reformas profundas de gran calado y que, por lo tanto, requerirán de un difícil consenso entre los Estados y, en muchas ocasiones, de la reforma de los Tratados, dirigidas todas ellas a garantizar el Estado del Bienestar en la Unión que debe ser el principio rector del desarrollo de dicha Unión Política en la “Eurozona”.

Así, es necesario poner coto a la intolerable y agresiva **especulación** del sector financiero para con los Estados y, en particular, con la **deuda de los Estados**. En concreto, considero que:

- Se ha de prohibir que las agencias privadas puedan calificar los títulos de deuda pública o, al menos, se ha de regular – incluyendo la posibilidad real de emprender acciones sancionadoras graves – la actividad de estas “agencias de calificación” que determinan en gran medida las condiciones en que los Estados se financian a través de la emisión de deuda pública y que, en muchas ocasiones, llevan a que se especule con dicha deuda y, por lo tanto, con los Estados que la emiten y con sus ciudadanos.
- Se debe crear en el seno de la Unión Europea una **agencia pública europea de calificación** que asuma dichas funciones con garantías de independencia, credibilidad y rigor y que funcione como contrapeso o alternativa obligada al sistema actual.
- Para ello, necesitamos una Comisión y un BCE fuertes y con garantías de independencia de los intereses de la banca privada, capaces de controlar los excesos del sistema que permiten que se especule con la deuda de los Estados.
- Así, es necesario que el BCE disponga de mecanismos que sirvan para aplacar el ansia especulativa sin límite de los «mercados», por ejemplo, mediante la compra directa de deuda pública o la inyección de liquidez en el sistema condicionada a determinados usos acompañada de mecanismos de control y sanción eficaces para evitar el absurdo de que dicha inyección sea meramente especulativa ofreciendo grandes e inmediatos beneficios al sistema financiero pero con escasas repercusiones en la economía real, en la economía productiva.

Por otro lado, y relacionado con lo anterior, considero que es necesario **activar la economía real**, la productiva, de forma que se pueda **generar empleo** y empleo de calidad, que es el gran lastre del momento, así como **aumentar el gasto social** de forma que se mantenga y mejore el desarrollo actual del **Estado del Bienestar**. Para ello:

- Es fundamental que a la Unión Monetaria le acompañe una **verdadera Unión Económica**, cuya carencia actual es el gran problema de fondo que lastra la recuperación. Y, por qué no, una verdadera política social y de empleo mediante las necesarias reformas de los Tratados al respecto.

- La Comisión debe replantear las políticas extremadamente neoliberales que se imponen, en connivencia con el BCE y el FMI, por el Comisario de Asuntos Económicos y Monetarios y Euro, el Sr. Olli Rehn, y, en base al principio de colegialidad que debe regir el funcionamiento de la Comisión, escuchar otras voces que en el propio seno de la Comisión las están cuestionando. Así, por ejemplo, en el Informe “Employment and Social Developments in Europe 2012”, de la Dirección General de Empleo, Asuntos Sociales e Inclusión de la Comisión, se señala que el enorme crecimiento del desempleo es consecuencia del efecto que sobre la demanda han tenido las políticas de austeridad.
- Es necesario establecer un **marco fiscal común** y crear una **Hacienda Pública Europea** que se rija por el principio de progresividad y que permita terminar con la competencia fiscal entre Estados.
- Se ha de establecer un **nuevo estatuto del euro** que garantice simetrías, equilibrio e igualdad entre los pueblos.
- Se ha de proceder a la **flexibilización del criterio de Maastricht** y a la modificación de sus indicadores fiscales y monetarios para permitir y garantizar los estímulos económicos y la creación de empleo<sup>1</sup>.
- Es necesario garantizar que el **principio de solidaridad** que recogen los Tratados sea una realidad tangible, ahora más que nunca. Para ello es necesario un aumento del Presupuesto de la Unión mediante la introducción de recursos propios nuevos, tales como **tasas** que graven las **transacciones financieras** que tengan una clara finalidad especulativa, como, por ejemplo, las operaciones de alta frecuencia, así como impuestos sobre transacciones financieras en función del grado de utilidad social de la transacción, que permitan desincentivar la especulación y emprender acciones eficaces de estímulo a la economía productiva y la generación de empleo de calidad en las regiones más deprimidas de la Unión.
- Se ha de establecer una política clara y rigurosa de lucha contra la **corrupción** y la **evasión fiscal**. Al respecto, entre otras cuestiones, se han de prohibir y eliminar los **paraísos fiscales** en territorio de

<sup>1</sup> Vid. Vicenç Navarro, Juan Torres, Alberto Garzón, Hay Alternativas, ed. Sequitur, 2011.

los Estados miembros o de los Estados asociados a la Unión. Así mismo, se ha de elaborar una lista completa de paraísos fiscales a partir de criterios estrictos.

- Se ha de establecer de manera progresiva una coordinación salarial a nivel europeo y un marco de negociación colectiva a nivel europeo que permita alcanzar un pacto capital – trabajo basado en la recuperación progresiva del peso de los salarios en la renta.
- Son necesarias normas europeas imperativas en materia de igualdad, conciliación y corresponsabilidad.
- Comisión y BCE deben presionar para conseguir negociar un **nuevo estatuto de la banca internacional** que permita compartimentar la actividad financiera, separando banca comercial de banca de inversión y avanzar en la supresión del sistema de reservas fraccionarias, comenzando por incrementar el coeficiente de caja<sup>2</sup>.

En mi opinión, en la medida en que no se emprendan reformas de calado en el sentido señalado la reforma institucional, siendo necesaria, será insuficiente. La Unión debe tener como objetivo primordial e irrenunciable garantizar el Estado del Bienestar que tanto ha costado alcanzar en los Estados miembros y profundizar en los mismos, en especial en aquellos Estados donde su nivel de desarrollo es más precario. Ello debe ser el signo distintivo de esta Organización, su principal activo y elemento diferenciador. Así el futuro de la Unión pasa por situar al ciudadano en el centro del proceso de integración, desplazando a los «mercados», de tal forma que no cualquier política económica sea legítima. No se trata únicamente de salir de la crisis sino de cómo se sale de la misma y, en este sentido, el fortalecimiento de la integración debe suponer más solidaridad, más igualdad, más cohesión, más desarrollo social, en definitiva, una Unión al servicio de sus ciudadanos y no de los «mercados». Una Unión paradigma del Estado del Bienestar que realmente defienda y garantice los valores y principios que pretende representar.

<sup>2</sup> Vid. Vicenç Navarro, Juan Torres, Alberto Garzón, Hay Alternativas, ed. Sequitur, 2011.



## EU Economic Studies

Oleg Shatberashvili\*

European integration is a multidimensional process. I shall not deal in this case with the well-known unsolved problems from the sphere of my direct activity, such, for example, as the perfection of the European patent system, differences between national tax systems, or the unequal attitude of the Member States towards innovation processes, etc., the handling of which would enhance the economic efficiency of the EU.

I would like to deal instead with only one dimension, which is especially urgent for the region where I live, while in the EU Member States it might not be perceived so keenly.

I mean here the process of EU integration with the EaP countries.

The process is met with enormous opposition from the EU ill-wishers just because it strengthens the EU and widens the easily accessible to it market. Much evidence of the above is on hand. The most graphic are the processes ongoing in Ukraine, the government of which was coerced by Russia to waive the signature of the Association Agreement with the EU. Heretofore, Armenia had to decline for the same reason. The aspiration to European integration has cost the loss of a large part of its territory to Georgia.

The opposition of Russia toward the EaP programme is facilitated by the fact that the EU fails to act effectively as a single economic and political union.

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An example is the creation of conditions for lessening the dependence on the Russian sources of energy. The supply of energy to the EU has become the subject of political manipulation and an attempt to isolate the EU from the alternative suppliers of energy sources. Meanwhile, individual EU Member States act independently for working out the contracts on the supply of energy carriers to the EU. In assessing the alternative pipe-line projects, the criterion is generally determined by the project's cost. The All-European security interests, which, in the long run, represent also the long-term interests of every Member States, recede into the background. This was the case, for example, when the Nabucco gas pipeline project was substituted with the South Stream project.

The insufficient economic and political integration within the EU interferes with implementation of the East European Partnership policy. In addition, it creates political and economic risks, which otherwise could not have occurred. Therefore, the absence of 'More Europe' within the EU hinders the formation of 'Even More Europe' in its neighbourhood.

# **An efficient model to advance the process of European integration institutional. The best institutional framework for the euro area and proposal a political union (federal)**

Pablo Podadera Rivera\*

## **1. Introduction**

One of the greatest challenges for any regional integration project for the European integration process, in particular, and more specifically, to consolidate EMU, is to find the balance between the objectives and the ability of management and organization administrative in achieving those objectives. It is therefore essential to establishing and consolidating a network of relationships and effective functions between different levels of government and within each of them.

In the decision making processes occur major delays that makes stockings lose performance or even become ineffective; much of the blame for this lies in the process of developing different policies. Therefore, the final degree of efficiency in the process of regional integration depends largely on the ability of interaction between different governments of the participating States and between them and the supranational level of government that is generated.

One of the main complexities in that capacity for interaction is the conflict of interests between national governments (and into these, of the various participating stakeholders) and between these and community interests, which may cause, and indeed have caused, a crisis or drastically delay the exit from the same. So what really is needed is an analysis and a thorough adaptation of negotiation and coordination mechanisms necessary to act with maximum efficiency in EU negotiations.

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The theoretical foundation, in this sense, is the New Economic Institutionalism and New Institutional Economics<sup>1</sup>, which highlights the importance of social capital and the institutions themselves (considered “game rules”) in economic and political analysis. This new trend has given rise to a modern theory of economic policy in which is particularly important the behavior of political subjects whose actions and results will be determined largely by the characteristics of the institutional architecture.

## **2. The best institutional framework for the euro area**

The current consolidation phase of Economic and Monetary Union (EMU) in the context of the European Union, without going into the details by all known<sup>2</sup>, suffers from those imperfections or complexities in the ability of multilevel interaction referred to in paragraph previous.

Therefore, the best institutional framework for the euro area must be defined in a context of optimum definition of the distribution of competences and coordination and control capabilities. This requires a high level of coordination capacity of the component parts, in this case, by the Member States belonging to the euro zone to avoid or minimize delays in community decisions.

The above necessitates an analysis of existing coordination levels in each Member State of the euro area because the weakness of coordination mechanisms at the national level will cause delays and therefore harms on the functioning of common framework. The results of this analysis will give us a scale of urgency about types of initiatives and institutions needed.

If anything is clear is the need to ensure more democratic forms of government at the national level of the euro zone, so that parliaments can effectively control the action of the representatives of its government at the European Council or the Eurogroup. Meanwhile, at Community level

<sup>1</sup> Representatives as Ronald Coase and Douglass North, Nobel Prize in Economics in 1991 and 1993 respectively, or Oliver Williamson and Elinor Ostrom, 2009 Nobel Economics.

<sup>2</sup> Need for deepening the definition of a single market which allows the configuration of an optimal currency area in the Mundell sense, consolidation of the banking union, creation of mechanisms of budgetary stabilization and growth, social harmonization, among others.

of the euro area, it is also essential to define a consolidated institutional building to ensure the legitimacy and effectiveness of decisions.

### **NATIONAL SCOPE (NATIONAL LEVEL)**

As mentioned, the democracy of governments in this area will be ensured provided that national parliaments can effectively control the action of the representatives of its government at the European Council or the Eurogroup.

On the other hand, under cover of Article 13 of the TSCG, which envisages the creation of a “conference of representatives of the committees responsible” of national parliaments and the European Parliament (Interparliamentary EMU Conference) in order to discuss economic and fiscal issues, national Euro MPs may participate in the area of EMU, in matters concerning rescue plans of the euro area and decisions on fiscal and national economic options (for example, the issuance of Eurobonds).

### **COMMUNITY LEVEL**

On the side of “government”, by admitting the, commissioning management of monetary policy in the euro area, from the ECB and its agencies, as well as new features that will take in terms of banking supervision, also becomes need to strengthen, in favor of that legitimacy and effectiveness the “government” of the euro zone supplementing and coordinating it with other executive and technical aspects.

According to Bertoncini (2013)<sup>3</sup> these aspects may include the presidential, ministerial and technical levels. A presidential level defined by the “summit of the Eurozone” with a permanent president and a “ground rules” detailing its organization and operation, with the presence of the President of the Commission, and the possibility of the presence of the ECB President, the Eurogroup and the European Parliament.

<sup>3</sup> Bertoncini, Yves (2013): “Eurozone and Democracy(ies): A Misleading Debate”, Notre Europe Jacques Delors Institute, Policy paper 94.

For its part, the ministerial level is defined by the Council of Ministers of Economy and Finance of the countries of the euro zone, or the Eurogroup, than with a permanent president could reduce democratic shortcomings, in terms of visibility and accountability attributed to the Eurozone crisis. Furthermore, the Commission may also provide the participation of the College of Commissioners to transmit the intersectoral value of the institution and strengthen the political importance of the contribution of the Commission in the “government” of the euro zone, while also print legitimacy to the process due to the democratic control of the decisions of EMU since the Commission acts under the direct and permanent control of the European Parliament.

Technical or administrative level, would be defined by the action of the Single Supervisory Mechanism (SSM), with frequent parliamentary hearings, both at European and national level; the use of the guarantees offered by the European Financial Stabilization Mechanism (EFSM), whose legitimacy would come on the side of the placement of the European Commission under the supervision of the European Parliament; and the creation of a European team, formed by the European Commission, the Eurogroup and the ECB, for rescues, working under the supervision of the “Parliament of the Euro Zone” and replacing the current Troika; also with regard to the monitoring of excessive deficits and macroeconomic imbalances within the framework of a necessary fiscal federalism, it should strengthen the Banking Union creating a “European system of deposit guarantee”<sup>4</sup> and a “European debt agency”<sup>5</sup> within the Eurogroup, as the embryo of what should be the future “European treasury” and a fund of anti-cyclical stabilization, as proposed by the report Padoa-Schioppa, to asymmetric shocks produced in the euro zone.

The parliamentary dimension of the euro zone also needs to be reinforced. It would be important, perfectly justified and appropriate, by the fact that already exist for other areas, create a subgroup or

<sup>4</sup> European Deposit Insurance Scheme (EDIS). See Abascal, M., Gómez, R. and Pacheco, L. (2015): *Proposal for a European Deposit Insurance Scheme*, Financial Regulation Flash, BBVA.

<sup>5</sup> Pavel Diev and Laurent Daniel (2011): “What Prospects for a European Debt Agency?” *Revue économique* 2011/6 (Vol. 62), Nouveaux défis pour la dette publique dans les pays avancés.

parliamentary sub-committee of the European Parliament for the euro zone<sup>6</sup>. This subcommittee would be mainly composed of Euro MPs belonging to the Council on Economic and Monetary Affairs, the Employment and Social Affairs and the Budget Committees and in favor of transparency and legality, would be open to all MEPs of the European Parliament.

All the above it reveals the inescapable need for greater cooperation in the governance of the euro zone (democratization of EMU) in the context of differentiated integration within the framework of the use of the enhanced cooperation procedure. Perhaps a proposal to consider would be the definition or simply the consolidation of an integrated regulation, control and citizen participation, at the same time specialized and decentralized institutional management model.

### **3. Project for a political union (federal) from the euro zone. From “intergovernmental federalism” to the federal union.**

The proposed above institutional system represents the starting point of a federal political union within the European Union (EU) more in line with the renewed institutionalist’s theories and characterized by negotiation mechanisms and coordination, impregnated of higher doses of social capital and integrated institutionally.

Thus, the hybrid model of “intergovernmental federalism” introduced in Maastricht to reconcile positions federalists and intergovernmental, would lead to a federal Europe (more “Hamiltonian”), more economically united, politically and socially.

So, a federal fully legitimate government with sovereignty to manage and coordinate macroeconomic issues, especially those related to finance (budget, fiscal, monetary policy), social policy and with the necessary skills to manage public property of the Union with supranational character (foreign policy, defense, energy, etc.), under the arbitration of a supranational authority and democratic control of the European Parliament and specialized committees of the national

<sup>6</sup> In contrast to the conference of representatives of the committees responsible “of national parliaments and the European Parliament, which was discussed at the national level, this subcommittee would be more focused on what European leaders, while the previous one national leaders.

parliaments, would coexist with the governments of the nation-state with full sovereignty for microeconomics and other typical national and non-federal matters.

A possible proposal for institutional architecture that underpins the functioning of the federal union might be as follows:

- Bicameral system. Formed by a European Parliament strengthened by parliamentary sub-committees of the European Parliament (such as the parliamentary subcommittee PE for the euro zone), which represents the citizens: responsible for the election of the chief executive of the European Commission, which would be responsible for form a cabinet of ministers to the federal government, among political parties that make up this camera and taking into account the various parliamentary subcommittees. A European Council, representing the States and representatives chosen by themselves, with longer mandates that Parliament, in order to ensure longer-term governments.
- The European Commission, formed by different ministers (therefore absorbs the current Council), assisted by permanent secretaries of the European Administration (thus eliminating the partisan nature and ensuring the participation of the technical level to which we referred above) that would act as Federal government with clear responsibility for economic policy.
- The European Court of Justice would be the institution responsible for arbitrating conflicts of sovereignty between the federal government and the nation-state, attributing functions of constitutional court.
- Budget preparation would be assumed by the Commission, although this would subject to Parliament's vote through a simple legislative process (avoiding the tedious and current ordinary legislative process). However, Parliament could veto to block the Commission by a vote of no confidence, if not agree with its political orientation, which would have to elect a new Federal Government.
- The method of decision by qualified majority should be generalized, especially in passing laws, taxes, etc. It should also be generalized the enhanced cooperation procedure on fiscal and policy issues of EMU.

- The principle of shared responsibility by the European Parliament and national parliaments should be present in any process.
- Integration of the regions with legislative powers, of the united highly decentralized political, institutional architecture and decision-making mechanisms of the EU, through its participation in state positions and the inclusion of regional parliaments in the mechanisms that are designed to enable the participation of national parliaments in EU decision-making process.
- With this structure it favors the complementarity and coordination between the different aspects of government, executive and technical, to which we referred Further up and would answer the proposals of modern theories of the New Institutionalism and New Institutional Economics<sup>7</sup>

At the same time, it would be guaranteed and reinforcing the legitimacy and democratic accountability, improving the economic and monetary policy, in its different dimensions (bank, tax ...), favoring political union, while promoting a better situation in the EU to consolidate its position in the international arena.

Finally, we must say that the way in which to achieve a political union in the EU, is also a discussion not without question, if we consider the legitimacy of their achievement. In this sense, it should be asked about the appropriateness of the reformer via treaty or the constituent assemblies. The question on the definition of the new EU geopolitical references, also complete and also determines to a large extent, the debate over federal integration.

<sup>7</sup> Focused on the analysis of transaction costs in policy decisions and the role of institutions such as economizing costs.



# EU Interdisciplinary Studies

Panayiotis Kanellopoulos\*

## **1. What is the best institutional framework for the Eurozone, in order for it to function in the most efficient, transparent and democratic manner?**

### **A full and complete economic and monetary union and a EU Finance Minister are needed**

Regarding the first question, I think that a full economic and monetary union should be established. It is known that, under the provisions of the Maastricht Treaty, a single monetary and exchange rate policy has been created, not a single economic policy. Each euro area Member State exercises its own economic policy which should be coordinated with the guidelines decided by the Council (Ecofin). This was the mistake of the past and should be corrected. In other words, **fiscal policy of the Eurozone member states should be common to all member states through their budgets.** The drafting, the approval and the implementation of the budget of each Member State should be monitored, tested and approved by the institutions of the EU. Head of these institutions should be a Commissioner that should have the title of **"Finance Minister of the EU."** The Finance Minister of the EU, with additional competences, should be elected by the European Parliament, in which he/she should be accountable. The Finance Minister of EU should exercise his duties under the supervision of the European Parliament and in close cooperation with the European Central Bank.

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## **2. Blueprint for a Political (federal) Union beginning with the Eurozone.**

### **The plan is not realistic**

The scenario of political integration of euro area Member States, while prima facie sounds good, **raises further questions**. First of all, the realization of this scenario depends on whether all member states of the Eurozone are willing to proceed to the political integration. In my opinion, some of them are not willing to do so. So, what if one or more Member States do not want the political unification of the Eurozone? Will the political integration proceed with fewer Member States? And then, **what with those who disagree**? What will they be? Will they leave the Eurozone? If this happens, it is understood that the European integration with fewer Member States would be a defeat of the idea of a united Europe. At the same time, the effects on the stability of the common currency will be enormous.

If we pursue political unification, in federal form, of euro area Member States, **many states and their people, particularly the Mediterranean nations, will react**. The experiences, they gained during the last monetary crisis, have made them skeptical. They are quite convinced that, through the political unification, the northern Member States are trying to impose their policies and their will upon the southern member states; something which is not good for the idea of a united Europe as a whole. So, this political unification will not be approved by the National Parliaments. If approved, it will fail in practice, because of lack of popular support.

### **What will happen with the ten Member States which are outside of the Eurozone?**

Assuming that all Eurozone Member States agree on political integration, a new question arises. **What will happen with the ten Member States which are outside of the Eurozone**? They will remain as hitherto within the EU but outside the Eurozone? In other words, we will maintain the current EU of the 28 Member States and the 18 Member States of the euro area will establish a new political and legal entity? In this case, we will be involved again with many entities?

Like before the Lisbon Treaty, with the European Community and the European Union.

Furthermore, if we dissolve the current EU of the 28 Member States and the European integrative effort continued only by the 18 Member States of the euro area which, according to what we said above, it will establish a new entity, in a federal form, and proceed with political integration, the new EU of the 18 member states would be something less than the current EU of the 28 member states. “United Europe” without the United Kingdom, which is a major power in the international scene, will not be “United”. Therefore, it will be a return to the past; there will not be a progress. Moreover, to dissolve the current EU of 28 Member States the consent of all Member States is needed, which is not certain.

#### **Continuation and intensification of the current situation**

For all these reason, I **think it is better to seek political unification of Europe through the continuation and intensification of the current situation**, having become a full economic union in the Eurozone, according to the above answer to the first question.

In my view, the political unification of Europe should be pursued through the existing institutional framework, with the intensification of the integration effort. What does “intensification of the integration effort” mean?

It means that, **we should select three or four policy areas, through which we will pursue European integration.**

The **first policy** that gives the sense of the political entity of the EU is internal market. The internal market has been achieved since 1993, but there are cases where it does not work well in one or more Member States. The full integration of the internal market will be achieved by intensifying efforts by the competent D. G. of the Commission, which includes, firstly, the intense scrutiny of cases in which existing legislation has not been transposed into national law of the Member States. Secondly, all these cases should be brought before the European Court of Justice, and thirdly, the conversion of all relevant EU directives into regulations to ensure the direct applicability of them within the national legal order. The same effort should be done in the case of violations of the rules of the internal market.

The **second policy** should be **the Economic and Monetary Union (EMU)**. The legal framework of EMU should be supplemented with the

necessary institutions to have full supervision and create the necessary mechanisms for intervention and assistance in order to avoid any possible risk and 'economic crisis' in the future. The mechanisms established recently (ESM etc.) are correct. Must be created and others, if any are needed. It also "Banking Union" should be achieved, with appropriate supervisory bodies. However, during the development of the necessary institutional framework, we should avoid the establishment of many organizations and institutions, as well as the creation of complex legislation and procedures. We need only the necessary instruments and, where possible, few and simple laws, provided the institutional and legal framework established to be effective.

In the Economic and Monetary Union, **a Financial Minister of the EU is needed**, as it is pointed out in the answer of first question. There is no economic and monetary union without a finance minister to define the economic policy of the entity issuing the common currency. Therefore, more national competences on the economic area should be transferred to the EU level so as the common currency to be safe. In this respect, the model of the U.S.A will be useful.

To this direction, the eight member states being outside **euro should be asked to intensify their convergence efforts in order to adopt the common currency as soon as possible**. Besides, the United Kingdom and Denmark should be asked to clarify their intentions towards the adoption of the common currency.

Here it should be emphasized that the best way to persuade the EU Member States, and especially their people, to enter euro is euro's economic success, prosperity and full employment. The objectives of EMU should be economic development, prosperity and full employment of the citizens of the Union. This is the only way to gain the sympathy and support of the EU peoples, even the euro skeptics.

The **third policy** to be developed is that **of the common defense and security policy**. Member States and their citizens must feel safe. By this policy, EU should guarantee the borders of the member states. In this context, the establishment of a defense mechanism of the EU, resulting in the withdrawal from NATO, will be necessary. One of the objectives this policy should be guarding the borders not only from enemy troops but also from the massive entry of illegal immigrants. Therefore, political asylum, visa policy and immigration policy should be included in this policy.

**Fourth** policy is the **Common Foreign Policy (CFP)**. It is not easy to say whether Member States are ready to implement CFP at supranational level, guided by supranational rules and not based on the rule of unanimity. But, even within the intergovernmental model, greater consistency should be sought.

**If these four policies intensified and finally achieved within four or five years from now, then the EU will be very close to political unification.** In this case, the appropriate reforms to the institutional framework of the EU, towards the political unification of EU, will be very easy to achieve.

In order to facilitate the progress of the unification process, certain measures should be taken in the communication sector so as to give the EU citizens to feel as citizens of the same “country”. To this direction, the EU citizens should be well informed every day about the policies of the EU in each sector, about its everyday activities in all issues and about the position of EU in all the major international issues. This information should be available through a television station of the EU in their national language.

Furthermore, the President of the European Council, the President of the Commission or of the Parliament should, at the end of each month, inform the EU citizens about the main events of the month and explain to them the reasons they led to the given solutions. By this way, the EU citizens will have accurate information, understand the EU policies and feel in fact as the people of the united Europe.



# **How we might recover from the economic and social crisis through European integration deepening**

Paola Bertolini

## **1. Policy has to prevail on the economy**

European integration has been a relevant element of reinforcement of the Member States (MS) economy, first of all in terms of exchanges and mutual benefits of belonging to the common area. A significant change in the culture of MS is another benefit, with the increasing idea of a common identity among youth, which could reinforce the peaceful context of EU, important for the life of EU citizens and for the business activities, that require economic and political stability. However, if the positive role played by EU is undoubtable, now distrust is increasing as underlined by the significant rising of the number of people turning against the EU. The first problem to face for recovering from the economic and social crisis is give trust on European Union and this means to rebuild the EU policies in favor of the citizens. It is evident that economic policies which increase the economic constrains for MS are not favoring the improvement of the employment, education, wealthy, and more generally well-being of the European populations. Moreover, those constrains, with the deriving economic effects, are increasing a general mood of suspect among MS and against each other, with the risk of a dangerous breach of the integration process. Against this incipient risky “tide”, a strong and clear relaunch of the integration process is undelayable to avoid the risk of a catastrophic failure of the EU future. This perspective requires a strong wiliness of being together, losing the increasing recent MS attitude of precisely looking at the individual economic cost and benefit of the integration process. Following the experience of the beginning of the EU history,

the EU institutions should support all the actions and policies of inclusion, having in mind that the risk of the failure of the integration process raises enormous costs for all the EU countries and citizens. But this perspective requires at least a limitation of the individualism that is at the basis of the laissez-faire approach prevailing in most part of the European Countries. Reinforcing political process means be comprehensive and patient with countries which are not among the best performers of the EU; from this point of view, the recent heavy political economy dictated to the Greece as a consequence of the well-known problems of public budget is a good example of bad European attitude, working against the integration process. I think that unfortunately we will see all the negative consequences of such behaviors in the future European elections, where we could expect an increasing and dangerous growth of the abstention and, still worse, of the movements against Europe Union. Now is already very late for changing the bad image of EU, already arisen among the electors and supported by the nationalist parties. As the Founding Fathers teach, political integration has to be based on the acceptance, tolerance, comprehension, slow pace of the integration process, respect of the diversity of culture and economy, definition of *inclusive* common rules. All those aspects are strongly in contrast with the economic trail followed since the launch of the Economic Monetary Integration. The economy, which in the previous integration process played a fundamental role, is now a relevant barrier that risks destroying the integration process. Policy has to be prevalent on the economy but this requires a political vision of EU. European Institutions, including European Commission, have to work for allowing the MS to build this political vision that is now completely lost. Only with this new vision is possible to continuous in the direction of a political Federal EU.

## **2. Economic aspects to be reformed**

The first problem to face is to remove the rigid limits linked to the respect of the Stability Pact, for the area Euro, and in particular to the 3% of yearly deficit. This limit, especially in those countries more affected by the economic crisis (Southern countries), is now considered the main constrain for the approval of policies able to fight against poverty and unemployment. Moreover, the EU institutions should support monetary

policies able to recover from economic crisis; the limit of BCE on this aspect has to be removed.

The BCE should act as the American Federal Bank which is able to directly support policy for fighting against inflation but also against unemployment. A better coordination between BCE and MS should also be relevant for improving the conditions of the labor market.

In other words, in the perspective of deepening the integration process of the Euro area (in a federal political and economic perspective), the interest rate has to be controlled taking into account not only inflation but also unemployment. A particular attention has to be paid to the real economy – and not only to the financial one. In the last crisis, the MS interventions/supports allowed a tremendous switch of the debts/loss from the private sector to the public one. In other word, the variety of financial operations for supporting the bank sector determined a tremendous increasing of the public debt. In the context of limitation of the BCE action, this situation is also dangerous in face of the international financial markets. Two solutions are necessary: a) improving the powers of BCE, allowing the possibility of emission of European bonds; b) funding the real economy (not the banks) allowing a support of direct and specific investments in strategic sectors such as environment, infrastructure, education, common goods, inclusion.

A particular attention has to be given to the youth unemployment. On this aspect, the Strategy Europe 2020 is not sufficient and, without clear criteria about funding, could be just a declaration of interest without any effective results.

The mobility of youth in EU is a very important innovation introduced by EU. However, the process should be strongly reinforced. For instance, the Bologna process for the mobility of the students should be reinforced with the recognition of the national diploma and with the transferability of the credits among the EU universities. The exchanges of students and researchers should be improved, reducing the bureaucratic aspects, linked to the programs. Moreover, the mobility is still limited for poor students, given the reduced amount of the fellowships.

For improving employability, and at the same time for reinforcing knowledge and sentiment in favor of EU among youth, a mandatory European civil service in key sector could be recommended for both man and woman.

Gender issues are still relevant and removing the goal of Lisbon Strategy for women employment has not been a positive aspect. The gender focus should again be mentioned (and monitored) among the specific targets of Europe 2020.

Europe 2020 is EU based and no attention is paid to the convergence of different territories. A better coordination between the targets of Europe 2020 and regions could be relevant for specifically including the poorest areas into this process (and national/European monitoring).

The budget of EU is too limited and should be increased if MS intend to continue and reinforce their integration process.

## **Proposal for a new vision for Europe: Labour and Full Employment For Europe**

Pasquale Tridico\*

**Objective:** Proposal for a new vision for Europe: LABOUR AND FULL EMPLOYMENT FOR EUROPE

I am a young and new Jean Monnet professor in Economics, focusing in particular on the European Labour Market and Welfare Systems.

I was very happy to participate at the 2013 Jean Monnet Conference and to listen the inspiring speech of President Barroso in Brussels, in this particular time of economic crisis. I appreciated his indications to elaborate policies, to work in a think tank, to be constructivist and positivist with proposals for the Eu. I appreciate also your further proposal to provide opinions on “How we might recover from the economic and social crisis through European integration deepening”.

I want to be brief and direct with my proposal: the Eu today lacks a vision, a mission. In the last decades there has been always a vision. The last Eu vision was the Euro. The new **vision** today can be and must be: LABOUR AND FULL EMPLOYMENT FOR EUROPE. Hence the **mission** should be EMPLOYMENT AND FIGHTING UNEMPLOYMENT. This should be the big goal for Europe, the main objective today, and I have a strategy for this. This is not only an economic objective which would help the recovery, but also a social objective which would re-create a social dimension in the EU, too much and too often threatened only by economic and monetary issues and fiscal constraints.

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This objective has two main advantages:

1. First of all it would crucially help Europe to overcome the socio-economic crisis;
2. Second it would shorten the distance that today one can observe between Eu, I mean Brussels and Eu institutions, and its citizens, recovering the social dimension of the European Integration.

These issues, I believe, should be taken on board by a serious agenda of any EU Commission today in order to cope with the main problems that Europe is facing.

This mission should be dealt with by a EU agency: THE AGENCY FOR FULL EMPLOYEMENT, directly governed by Brussels, with sub-EU-agencies in all Members States, and with a budget of at least 5% of EU GDP devoted to it.

Resources for these budget which would serve public investments are very easy to find. I propose here two ways to finance it.

1. Pension Funds – In Europe in the last 20 years a big amount of money were accumulated through private pension funds of workers. This amount is about 70 bln per year in countries like Italy; much more, around 300 bln in UK, and much less in smaller Member States. Much of this money, we discover during the terrible years of the crisis, were used also for speculative purposes by investment and insurance companies. My proposal here is to regulate these private funds at European level in order to buy European Bonds (issued by the ECB) which would finance public investment at national level. At least 50% of national private pension funds should be used for this objective.
2. ECB – The European Central Bank should change its statute and should include, as the Fed does in the USA, also the mission of full employment along with the one of price stability. This would allow for a creation of a ECB agency with the specific objective to buy national bonds which would serve uniquely for productive investments in Member States. In other words, the ECB could buy national bonds with the specific objective, only, that they would

finance public investments which have an employment impact in the country.<sup>1</sup>

These changes [1. EU agency for Employment with 2. new regulation for pension funds (which buy ECB Bonds), and 3. a new channel opened by the ECB to buy national bonds which in turn would finance national investments] would create a new framework, a new perspective, a new vision in Europe and would shorten the distance between EU institutions and citizens, who will see a direct impact on their life. A European Social Model could really emerge from this new framework. The EU would regain the necessary trust and support which needs to continue its unitary and federal dream and political project.

This objective (FULL EMPLOYMENT) can not be achieved by the current “soft” strategy of the (former) European Employment Strategy which later became Lisbon Agenda, Job and Growth and Europa 2020. This is too little, and there is no major role of public institutions, no public budget, and no direct action from the EU as such. Moreover, the current EU strategies for employment are too much focused on the “structural problems”, the labour flexibility and they suggest solely policies from a supply side perspective. This is not what Europe needs, at least not now. The crisis proved to be a demand side crisis, so in particular during this time, to go out from the crisis, demand side policies need to be implemented.

Let me give you an example. If there is no aggregate demand, in particular in the South of Europe, is not longer sufficient to work on the labour flexibility to increase production and income. This will not create additional jobs. This may create only, in the best case, faster turn-over of employees, and probably poorer performance of productivity. The very high young unemployment rates in many countries confirm that this is the right interpretation. *If there is a queue in front of the Restaurant, of people who want to seat and eat, the owner of the Restaurant will never think that a good idea is to let people move among the already occupied*

<sup>1</sup> I don't want to replicate here the Juncker-Tremonti proposal of 2011, which was however different and which did not find the necessary political consensus. My proposal, instead, could get the necessary political support since it limits the ECB intervention only to the specific objective to create employment, and not to finance extra deficit and unproductive public expenditure.

*tables, while the rest wait outside. Moreover, he will not increase the time people spend to eat seated at the tables (imagine when, in several EU countries, for budget reasons the age for retirement to pension is increased...).* *He would instead increase the number of tables and chairs.* As well as Europe today should directly increase the number of tables and chairs, ergo: the number of job places through public investments, if private investments lag behind.

The current EU agenda for employment is completely disconnected from the reality and inappropriate to cope with the current EU issues. Today many EU countries are much poorer than 7 years ago. I will not recall here the figures of GDP recession, unemployment, employment, poverty, inequality etc. They are on several database easy to access to everybody. What sometimes politicians say about even modest recovery is just false. Public debts went up dramatically in the last 7 years everywhere in the EU (the objective of the austerity plans was to cut them), without those countries having increased their public infrastructures (hospitals, school, welfare, road etc) quite the opposite. There is no signs, absolutely, of improving the situation under the current conditions. Austerity created just smaller and poorer economies. If this was the objective fine. If this was not supposed to be the objective, then there are responsibilities which need to be bared by politicians and actors in this process.

These reality is showed today by many scholars/documentaries/journals/newspaper/tv/video/ ect. Even the children speak about that. Just to give you an example, I invite you to watch this video of the “open society” about Greece.

[http://www.opensocietyfoundations.org/voices/greece-what-lies-ahead?utm\\_source=facebook.com&utm\\_medium=cpc&utm\\_campaign=greece\\_EU\\_012014](http://www.opensocietyfoundations.org/voices/greece-what-lies-ahead?utm_source=facebook.com&utm_medium=cpc&utm_campaign=greece_EU_012014)

Let me explain here, in general, my argument about the current crisis, current governance, tensions in the Eurozone, and austerity:

First of all let me say that, as far as a EU governance is concerned, actually I don't support a common fiscal policy for Europe. We have today in the Eurozone a sort of common fiscal policy rule, which is the 3% deficit. What I question about that, and find inappropriate, unuseful and “stupid” (as Prodi few years ago stated), is the tightness and rigidity of this rule. I would support a variation of fiscal policies in Europe

and in particular in the Eurozone, according to the period (recession/stagnation/expansion) and to the current account situation of each county.

The issue of European imbalances is wrongly regarded as a problem of laziness against effort, virtuous balance against bad discipline, Mediterranean corruption against Northern European integrity. This does not help to look at the real problem behind the deficit-surplus issue within the EU which is having an imperfect single market. A single market (with many imperfections) and a common currency within a non-Optimal Currency Area (OCA) at the very least needs labour coordination, budget centralisation, and (NOT ONLY) fiscal policy harmonisation.

On one side, Greece and the other Mediterranean countries suffer from the efficiency of Northern European firms. Free competition and single market affected the domestic markets in those countries, which were lagging behind in terms of competitiveness and technology at the creation of the Eurozone and the single market. Moreover, Maastricht criteria and stability pacts appreciated the euro and contributed to the declining foreign competitiveness of Southern European economies. On another side, the poorer economies in the EU cannot use monetary policies and exchange rate manipulation to gain competitiveness. They are unable to use state aids and firm subsidies, nor fiscal policies which are constrained by Maastricht criteria. Hence, markets have to regulate imbalances despite the fact that labour mobility, single markets, and budget centralization are strongly limited in the EU.

In the EU, Germany's surplus could not exist without Greece's deficit (and similar). Greece (and similar countries) should accept, within the EU rules, the German market super-competitiveness, which is historically rooted and state supported, despite the fact that they cannot use policies to enhance their firms' competitive advantage. Unless these imbalances are covered by a central EU budget, it would not be convenient for Greece (and similar countries) to accept European monetary union constraints.

The Greek crisis (started in May 2010) showed how EU member states are much more concerned with national issues than EU integration, in particular during times of crisis, and this is not good as far as we say we want to stay in a common currency union and in a European Union.

The necessity of a larger common budget and of a proper European Central Bank emerged dramatically.

The mission which I propose, focused on LABOUR, could re-balance the trade imbalances, keep the (imperfect) EU single market, within the non-Optimal Currency Area of the Eurozone. It is the only strategy which would allow for deepening EU integration, and for the political project of Europe to go ahead.

I hope we can find a convergence on these problems. I would be ready to serve, as a Jean Monnet professor, for this goal. I hope the scientific activities of the Jean Monnet network can be used for this objective, with think tanks, workshops, seminars and conferences. I would be glad to see the next Jean Monnet conference focusing on such an objective and I would be glad to discuss my strategy with you both, simply as a Jean Monnet professor.

**Key words:** Full Employment, EU integration, ECB. Dear Professor Sidjanski and dear Professor de Quadros

*Rome, 10 February 2014*

# **European integration deepening**

## **Proposals for the future Political Union**

Paula Vaz Freire\*

A context of crisis, as difficult as it may be, constitutes also a key moment for change and improvement.

Countries that faced the major difficulties over recent years experienced a “two stage” reaction towards EU. In a first moment, they claimed for a European immediate response to their problems and even political sectors traditionally sceptical to some integration measures became defenders of a political union. Then, as aid was being implemented, complying those countries with adjustment programmes, a generalized hostile feeling to “austerity” took the form of a negative reaction not towards the EU, but oriented to the a specific EU Member State – Germany – thought to be the leading and effective ruler of Europe’s policies.

In our view it’s important to draw some conclusions upon these facts. They reveal European citizens trust EU and feel themselves as part of a larger community prepared to act as a last resource help when internal measures fail to solve national problems. On the other hand, that community is not perceived as an effective union, committed to common interests, but as an organization strongly influenced by some Member States.

Financial crisis and sovereign debt crisis of peripheral countries urged EU into reinforcing the economic and monetary union and the important changes made in that domain pave the way to build a strong political union.

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Crucial measures have been taken to strengthened European economic governance, through legal mechanisms established to achieve economic policy coordination and surveillance (the reformed Stability and Growth Pact; the “European semester”; the Macroeconomic Imbalance Procedure; the Treaty for Stability, Coordination and Governance, in force on 1 January 2013). These measures, aimed to assure stability and prevent crises, are complemented with an institutional response to critical situations: the European Stability Mechanism (ESM) as a permanent rescue mechanism for euro area Member States, functioning since 8 October 2012.

These legal and institutional changes reinforcing the Eurozone should act as a leverage factor for deepening political union, as they create a stronger interdependence and commitment among Member States.

In order to achieve this goal, the weaknesses in the European integration process and in the current EU institutional architecture must be identified and improvement measures implemented.

Changes in the following domains could, in our view, concur for European integration deepening:

**Reforming the relationship between the Eurozone, non-eurozone Member States and EU institutions.**

Decisions concerning the Eurozone influence non-eurozone members and the EU, nevertheless those decisions are the result of a “parallel process”. Bringing this area into the decision-making process at EU institutional level, namely by revising article 136(2) TFEU, would solve transparency and legitimacy issues. By doing so, it must be bear in mind that the Union establishes an economic and monetary union whose currency is the euro (article 3(4) TEU) and, therefore, this integration stage cannot be compromised by non-eurozone members.

**A common economic policy. A commercial common policy redefinition.**

As it is well known EMU is an incomplete structure: its monetary features, based on a transfer of competence, correspond to an actual common policy but there isn't a similar economic policy. Europe needs to restructure its development model in order to

achieve growth and full employment. Structural changes – such as reindustrialization and agricultural specialization – demand a global approach.

Moreover, recent years have witnessed severe economic imbalances among Member States as some of them achieve commercial surplus that “correspond” to other members’ deficit, in a zero-sum game result. These “negative spill-overs” of the internal market functioning must be corrected through a common strategy that encompasses rethinking Europe’s international trade position.

**An European tax to support social expenditure.**

Increasing EU budget by direct contributions of the European citizens reinforces independence from Member States and corresponds to an expression of federal sovereignty. Revenues should be spent to finance unemployment situations, to promote active employment policies and social services of general interest. These policies are known to have a long-run positive effect upon growth for they induce labour market inclusion, productivity and, consequently, contribute to social systems’ sustainability. A stronger and more direct involvement from the EU in social domains will reinforce European citizens’ commitment towards the integration project, their trust in the way EU institutions function, and their identification with the European social model.

***Keywords:** Economic and Monetary Union; Eurozone; economic common policy; commercial common policy; European tax; social policies.*



# Matching the EU's Institutional Structure to its Organizational Size

Péter Balázs\*

A Response to President Barroso's Call "How we might recover from the economic and social crisis through European integration deepening"

## Introduction

My response has to be preceded by a caveat: I see the solution to the questions raised in wide-ranging institutional reforms. Therefore, this contribution is focused on the Eurozone structure, but pertains to the EU as a complete organization on one hand, and enlargement – past and future – as a policy tool on the other. Enlargement will remain the EU's primary foreign policy tool, while institutional tensions are partially related to a delayed adjustment to the EU's enlargement size. These suggestions should be seen in context, as a reflection to the ongoing, very lively academic and practitioner's debate.

The current crisis is most certainly multi-faceted: it is a financial crisis, a political-institutional crisis in legitimacy, and a crisis of global presence and impact. The EU needs to deal with these problems jointly, not artificially separating them. Therefore, measures aiming to address problems of the Eurozone need to be assessed for their political implications. Taking into considerations the difficulties of reform in the EU and the preponderance of short-term thinking with domestic elites, a scenario that consolidates past achievements, *including* the Eurozone seems the most realistic. I would like to stress that political union is still a valuable long term goal, but crisis management and

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the reinforcement and reorganization of institutional mechanisms must take precedence. I see the current institutional system if not as the root of the problems we face, but most certainly as a hindrance to effective action, so consolidation itself will also necessarily have to involve some level of institutional re- thinking.

### **The need for changes**

The fundamental renewal of EU institutions was due already before the last, eastern enlargement, but the European Convention drafting the Constitutional Treaty (2002-2003) was concentrating on the ‘leftovers’ of previous Treaty modifications. The most important change, caused by the eastern enlargement, was the sharp increase of the number of member states. However, this evident consequence of the ‘big’ enlargement (resulting – among others – in more players in the Council) was not taken into consideration.

This last expansion in numbers had two important consequences. Firstly, in the new, larger size of the organisation the permanent direct presence of the members in the institutions provokes various technical and political difficulties. Secondly, with the 2004 size-jump from 15 to 25, the number of EU member states surpassed that of the functions of the organisation. Any of those two developments would have justified preventive actions in order to avoid the spontaneous consequences which followed after and cause more and more dysfunctions in the Union.

The main field of tensions is the Council, as the arena of direct representation of member states, but negative impacts of the new and partly uncontrolled internal dynamics can be stated within the European Commission and, to a lower extent, in the European Parliament as well. Delaying institutional reforms maintains the disturbances and prevents the efficient engagement of the Union in solving problems of its member states, Europe and the World. Visible dysfunctions undermine also the credibility of the EU within the member states and among its external partners.

As I mentioned, the reform of EU institutions is not only a precondition of further enlargements, but also for dealing with current internal problems by adapting internal structures to the EU’s actual size. Some of the proposed measures can be taken within the limits and dispositions of the existing Treaties, some others would require Treaty reform. I present a few, but fundamental suggestions with the aim of

improving the functioning of EU institutions, adapting them to the post-big-enlargement realities and preparing for further enlargements as well. The suggestions are focused on the three main institutions – EP, Council and EC – and structured in three points for each: first, the objective of the change; second, measures to be taken without Treaty modification and third, changes which would require the revision of the Treaties.

Seen from a realistic angle, the chances for any change in the EU's institutional order are minimal. The 'Catch 22' situation is rooted in the decisive role of the member states, which are supposed to limit their own presence and, by that, their influence and control on the whole organisation. However, without fundamental renovation of the institutional system, the EU will further lose its importance within the member states and in the outside world, too. A slow actor, being the hostage of its own components – member states and EU institutions – will not be able to respond to the internal challenges and the external pressures of enlargement and competitiveness. Therefore, these suggestions are aimed at provoking further debate both within Brussels, and academic communities.

## **Suggestions**

### ***European Parliament***

#### *Political objectives*

- More connection between the EU and the citizens through their elected representatives;
- More awareness of EU legislation and political problems in the member states;
- More involvement of the citizens in EU affairs through national Parliaments.

#### *Short term changes based on political decisions*

- Governments should report more frequently and objectively to national
- Parliaments about their positions and activities in the Council;
- EU representatives (MEPs, Commissioners etc.) should regularly attend national Parliamentary meetings (others than their own countries of origin), take part in discussions and explain the background of EU decisions.

*Longer term changes based on Treaty modifications*

- The mandate of the EP should be shorter than that of national Parliaments (reduced to three years) in order to approximate their political composition.
- The number of directly elected MEPs should be halved and the other half selected of members of the national Parliament, who
  - a) should join the EP as members (similarly to the ‘visiting’ observers of new member states in the period between the signing of the Accession Treaty and the next EP elections) or
  - b) should form a ‘House of Commons’, while the directly elected MEPs would form the EU’s ‘Upper House’ (or ‘Senate’)

*European Council and the Council of Ministers*

*Political objectives*

- The negative effects of the ‘executive type’ management of the EU based on the direct representation of the member states should be reduced;
- Decision-making should be more efficient on a balanced basis of national and Union interests.

*Short term changes based on political decisions*

- The frequency of Ministerial Council meetings should be halved, and the falling-out sessions substituted – in case of necessity – by meetings of senior expert groups;
- In territorially based questions (transport, environment, energy etc.) decision- shaping should start in natural regional units (macro-regional strategies, CEF corridors etc.);
- At least one Ministerial Council meeting per year should take place with the participation of Ministers of “all European states” eligible for EU membership discussing European issues of common interest.

*Longer term changes based on Treaty modifications*

- In political questions decision-shaping should be done, in a first approach, by Presidency Trios (Annex 2.); and decision-making made possible by the (rotating) representatives of the Trios.

## ***European Commission***

### *Political objectives*

- Transparency and accountability should be increased in the selection of Commissioners and their activities.

### *Short term changes based on political decisions*

- National governments should increase the transparency of their nominees' selection to the post of Commissioner; public hearings should take place in national Parliaments before the nomination;
- The number of Commissioners should be reduced to the two thirds of the number of member states (in accordance with the original dispositions of Article 17. (5) TEU);
- When considering the representation of individual member states at top level EU institutions, other positions should be taken into consideration and added to the number of Commissioners in order to assure at least one top position to each and every member state (EP President, ECJ President, ECB President, Secretary General of the Council etc.).

### *Longer term changes based on Treaty modifications*

- The mandate of the European Commission should be shorter than that of national governments (reduced to three years); members of the Commission could be re-elected only once for another three year period;
- If the nomination of the Commissioner remains with national governments, they should be empowered to call back the Commissioner any time and propose another person;
- If the EP and the European Council are confirmed in their competence of approving the members of the European Commission, they should get more chances to select the Commissioners from a wider choice, in order to find the appropriate persons for the individual portfolios: member states should propose three candidates (representing both genders).



## **„Nous ne coalisons pas des États nous unissons des hommes“ – Variations on Jean Monnet**

Peter-Christian Müller-Graff<sup>1</sup>

„Nous ne coalisons pas des États, nous unissons des hommes“. This sentence precedes the memoirs of *Jean Omer Marie Gabriel Monnet*.<sup>2</sup> 66 years after the establishment of the European Community of Steel and Coal (ECSC)<sup>3</sup> it seems worthwhile to reflect it in the light of the present challenges the European Union is faced with in 2018. This situation of tensions between crises, consolidations and new initiatives gives reason to ponder on the content and the realization of that vision by the former ECSC-Treaty (TECSC) (A), then to illuminate its development by the European Economic Community (EEC) and European Community (EC) (B) and, finally, to discuss its perspectives on the basis of the Treaty of Lisbon<sup>4</sup> with a view to the centennial horizon of European integration in 2052 (C).

### **A. “Uniting People” in the Beginning of Community Law**

At first glance it seems that contrary to the motto of the memoirs of *Jean Monnet* it was not “uniting people”, which was at the center of the establishment of the ECSC, but the creation of a common system of control over the coal and steel resources in the founding states (I).

<sup>1</sup> Heidelberg University; *ad personam* Jean Monnet Professor, (Dr.habil.Dr.h.c.mult, Ph.D.h.c., MAE).

<sup>2</sup> *Jean Monnet*, Mémoires, 1976, p. 7.

<sup>3</sup> Treaty establishing the European Coal and Steel Community of 18 April 1951; in force since 24 July 1952; contractual term ended after 50 years in 2002.

<sup>4</sup> *Peter-Christian Müller-Graff*, *Der Vertrag von Lissabon auf der Systemspur des Europäischen Primärrechts*, integration 2008, 123 et seq.

However, when taking a closer look at the primary law of the ECSC it reveals also elements for a closer connection of the sectorally affected persons (II) and contained the more far-reaching perspective of creating a community (III).

### **I. Restriction of the “Disposal Sovereignty” of the Member States**

The establishment of the ECSC which was based on conceptual considerations of *Jean Monnet*, *Paul Reuter* and *Etienne Hirsch*<sup>5</sup> and their political offspring in form of the *Schuman* Declaration of 9 May 1950<sup>6</sup> aimed, in its core, at the restriction of the sovereignty of France and Germany in their radius of action in the steel and coal sector<sup>7</sup> by the creation of Community competences to intervene in it.<sup>8</sup> It culminated in the establishment of a High Authority,<sup>9</sup> which emerged as the fundamental innovation<sup>10</sup> for shaping interstate relations in that time.<sup>11</sup>

<sup>5</sup> *Jean Monnet*, Mémoires, 1976, p. 349.

<sup>6</sup> See *Robert Schuman*, Origines et élaborations du “Plan Schuman”, Cahiers de Bruges, 1953, 266 et seq.; *Carl Horst Hahn*, Der Schumann-Plan, 1953; *Hans Peter Ipsen*, Europäisches Gemeinschaftsrecht, 1972, p. 142.

<sup>7</sup> *Jean Monnet*, Mémoires, 1976, p. 347: “Mais si l’on abordait le problème de la souveraineté sans esprit de revanche ni de domination, si au contraire vainqueurs et vaincus tombaient d’accord pour l’exercer en commun sur une part de leur richesse conjointe, quel lien solide serait alors créé entre eux, quelle voie serait largement ouverte à des nouvelles fusions, et quel exemple serait offert aux autres peuples européens!”

<sup>8</sup> *Jean Monnet*, Mémoires, 1976, p. 350: “Le gouvernement français propose de placer l’ensemble de la production franco-allemande d’acier et de charbon sous une Autorité internationale ouverte à la participation des autres pays d’Europe.”

<sup>9</sup> Article 8 TECSC; *Jean Monnet*, Mémoires, 1976, p. 352: “L’Autorité internationale devint la Haute Autorité commune. Elle est qualifiée de supranationale dans la quatrième version, mais ce mot ne me plaisait pas et ne m’a jamais plu. L’important était la fonction qu’il impliquait et qui se trouvait bien mieux exprimée dans la version suivante par cette phrase: “Les décisions de la Haute Autorité sont exécutoires en France et en Allemagne, et dans les autres pays adhérents.””; see also on p. 371 in his letter to Macmillan: “Les propositions Schuman, disais-je, sont révolutionnaires ou elles ne sont rien. Leur principe fondamental est la délégation de souveraineté dans un domaine limité, mais décisif...”

<sup>10</sup> *Jean Monnet*, Mémoires, 1976, p.365: “Nous voulons établir les relations de la France et de l’Allemagne sur une base entièrement nouvelle.”

<sup>11</sup> *Jean Monnet*, Mémoires, 1976, p. 348 et seq., 351 concerning the draft of the institutional mechanism of *Paul Reuter*: “L’Autorité chargée du fonctionnement de tout le régime sera composée, sur la base d’une représentation paritaire franco-allemande ...

The agreed restrictions of national sovereignty were substantiated in particular by the conferral of the power to the High Authority to control investments,<sup>12</sup> to regulate production (especially: the provision of a quota system in case of decreases in demand;<sup>13</sup> the establishment of a system of distribution in situations of shortage;<sup>14</sup> the use of indirect measures<sup>15</sup>), to influence pricing (particularly the fixing of maximum and minimum prices<sup>16</sup>) and to supervise market relevant measures of different nature of the Member States<sup>17</sup> as well as cartels and mergers of undertakings.<sup>18</sup>

## II. The Model of a “Common Market”

As much as the common sovereign regulatory approach to the steel and coal sector of the six founding states was in the foreground, this was linked to enabling the transnational cross connection of the affected market participants at the same time.

1. *The Original Thought of “a Common Market”*. The change of perspective from concentrating on trade in certain goods to focussing on a common sectoral area of intervention was accompanied by the idea – projected by *Pierre Uri*<sup>19</sup>-, that this area constitutes a “common

Cette proposition a une portée politique essentielle: ouvrir le rempart des souverainetés nationales une brèche suffisamment limitée pour rallier les consentements, suffisamment profonde pour entraîner les États vers l’unité nécessaire à la paix.”; see from the German side: *Hermann Mosler*, Die Entstehung des Modells supranationaler und gewaltenteilender Staatenverbindungen in den Verhandlungen über den Schuman-Plan, in: Ernst von Caemmerer/Hans-Jürgen Schlochauer/Ernst Steindorff (eds.), *Probleme des europäischen Rechts: Festschrift für Walter Hallstein*, 1966, p. 355 et seq.

<sup>12</sup> In particular Article 54 TECSC.

<sup>13</sup> Article 58 TECSC.

<sup>14</sup> Article 59 par. 1 and 2 TECSC.

<sup>15</sup> Article 57 TECSC.

<sup>16</sup> Article 61 TECSC.

<sup>17</sup> E.g, Article 67 TECSC concerning competition relevant measures of a member state..

<sup>18</sup> Article 65 et seq. TECSC.

<sup>19</sup> *Jean Monnet*, *Mémoires*, 1976, p. 352: “De son côté, Uri donnait de la cohérence au projet économique et par approches successives créait la notion de Marché commun, espace sans entraves douanières, sans discrimination, mais réglementé dans l’intérêt général.”

market”. The introductory article of the TECSC on the foundation and the objectives characterized the ECSC with the words (in translation): “By the present Treaty the HIGH CONTRACTING PARTIES institute among themselves a EUROPEAN COAL AND STEEL COMMUNITY, based on a common market, common objectives, and common institutions.” Remarkable enough, it was the “common market” which was ranked first in this trio of basic elements. At the same time the “common market” was not left to any understanding by the TECSC, but substantiated by two subsequent provisions. On the one hand Article 2 par. 2 TECSC commissioned the ECSC, to “establish conditions which will in themselves assure the most rational distribution of production at the highest possible level of productivity”. The phrase “in themselves” imagines – despite the intervention power of the High Authority – a model of self-control and self-regulation of the business operations by the market participants<sup>20</sup> which corresponds to the free coordination of free preferential decisions of offer and demand in the sense of *Adam Smith’s* “invisible hand”.<sup>21</sup> On the other hand Article 4 TECSC concretizes this point of orientation with four baselines, which are designed as incompatibilities with the common market in the sense of prohibitions: the prohibition of import and export duties, or charges with an equivalent effect, and quantitative restrictions on the movement of coal and steel; the prohibition of measures and practices discriminating among producers, among buyers or among consumers or hamper the buyer in the free choice of his supplier; the prohibition of subsidies or state assistance, or special charges imposed by the state, in any form whatsoever; and the prohibition of restrictive trade practices tending towards the division of markets or the exploitation of the consumer – the formulation of the fourth incompatibility is. in its origin, probably also due to the will of avoiding a possible misunderstanding of the Schuman plan as a great coal and steel cartel.<sup>22</sup>

<sup>20</sup> *Jean Monnet*, Mémoires, 1976, p. 353: “L’ensemble offrait une impression de forte organisation et de finalité libérale à la fois”; *Peter-Christian Müller-Graff*, Europäisches Wirtschaftsordnungsrecht, in: Peter-Christian Müller-Graff (ed.), Europäisches Wirtschaftsordnungsrecht, Enzyklopädie Europarecht Vol. 4, 2015, p. 51, 71 (§ 1 par. 31).

<sup>21</sup> *Adam Smith*, An Inquiry into the Nature and Causes of the Wealth of Nations, edition 1937, p. 423.

<sup>22</sup> *Jean Monnet*, Mémoires, 1976, p. 356 referring to a “bref malentendu” of *Dean Acheson* in his understanding of the *Schuman* Plan as a “grand cartel du charbon et de l’acier”.

These baselines present in a compressed form the basic structure of a transnational market, in which not only state impediments to border-crossing transactions, but also state distortions and private restrictions of competition are declared as incompatible with the projected common economic area. The TECSC consistently unfolded this approach of thinking in numerous specifications: in particular, first, in the prohibition of “unfair competitive practices, in particular purely temporary and purely local price reductions whose purpose is to acquire a monopoly position within the common market”;<sup>23</sup> second in the prohibition of “discriminatory practices involving the application by a seller within the common market of unequal conditions to comparable transactions, especially according to the nationality of the buyer”;<sup>24</sup> third in the prohibition of “all agreements among enterprises, all decisions of associations of enterprises, and all concerted practices, which would tend, directly or indirectly, to prevent, restrict or impede the normal operation of competition within the common market”;<sup>25</sup> fourth in the submission of “any transaction which would have in itself the direct or indirect effect of bringing about a concentration ... to a prior authorization of the High Authority”;<sup>26</sup> fifth in the power of the High Authority to prohibit an enterprise “from resort to resources other than its own funds” to put an investment program into effect;<sup>27</sup> sixth in the obligation of the member states to bring any action “which might have noticeable repercussions on the conditions in the coal and steel industries” to the attention of the High Authority;<sup>28</sup> and seventh in the obligations of the member states “to renounce any restriction based on nationality against the employment in the coal and steel industries of workers of proven qualifications for such industries who possess the nationality of one of the Member States”<sup>29</sup> and “to prohibit any discrimination in remuneration and working conditions between national workers and immigrant workers.”<sup>30</sup>

<sup>23</sup> Article 60 par. 1 first indent TECSC.

<sup>24</sup> Article 60 par. 1 second indent TECSC.

<sup>25</sup> Article 65 par. 1 TECSC.

<sup>26</sup> Article 66 TECSC.

<sup>27</sup> Article par. 5 and 6 TECSC.

<sup>28</sup> Article 67 par. 1 TECSC.

<sup>29</sup> Article 69 par. 1 TECSC.

<sup>30</sup> Article 69 par. 4 TECSC.

2. *The Transnational Interaction of Market Participants.* This idea of a common market as laid down in the positive provisions of the TECSC inseparably comprises the possibilities and opportunities for providers, demanders and competitors to act transnationally within the common market. The concept encompasses and relies on the potential transnationality of economic interactions on the basis of private initiative. The market participants bring themselves transnationally together. They “unite” in this sense, although not predominantly in form of parallel interests nor in form of expressing a common political will.

### **III. The Perspective of the Establishment of a Community**

Transnational interaction among enterprises and other private actors is a social condition, but does not yet constitute a political community which defines and governs itself. The latter would have required a collective voluntary act. But at least the will of the six founding states was ratified to establish – on their shoulders - a partial community between them. In particular the fifth indent of the preamble of the TECSC - intoning an early federal phrase from *Monnet’s circle*<sup>31</sup> - emphasized the political undercoat of the ECSC with the historically striking words: “RESOLVED to substitute for historic rivalries a fusion of their essential interests; to establish, by creating an economic community, the foundation of a broad and independent community among peoples long divided by bloody conflicts; and to lay the bases of institutions capable of giving direction to their future common destiny”. *Jean Monnet* himself stressed: “Rien n’est possible sans les hommes, rien n’est durable sans les institutions.”<sup>32</sup>

<sup>31</sup> *Jean Monnet, Mémoires, 1976, p. 353*: “Par la mise en commun de production de base et l’institution d’une Haute Autorité nouvelle, dont les décisions lieront la France, l’Allemagne et les pays qui y adhéreront, cette proposition réalisera les premières assises concrètes d’une fédération européenne indispensable à la préservation de la paix.”

<sup>32</sup> *Jean Monnet, Mémoires, 1976, p. 360.*

## **B. The People as Carriers of Integration in the Concept of the European Economic Community and the European Community**

It is well known that the will for further communitarization of the founding states in form of the European Defense Community and the European Political Community failed in the French Parliament in 1954. However, the reaction to this failure activated even more the dimension of “uniting people” for bringing forward European integration by the concept of the transnational market and its economic and social self-coordination.

### **I. The Guarantee of Free Bordercrossing Economic Movement**

This concept was implemented by the decision of the founding states of the ECSC, to extend the idea of the common market to the whole economy and to establish an additional Community for this purpose in form of the European Economic Community. Enabling the free movement of all productive factors (persons, capital) and products (goods, services),<sup>33</sup> seen under the aspect of “uniting people”, opened the mutual transnational access for all (entitled) market participants from all Member States: in particular for producers, merchants and consumers, employers and employees, self-employed people and enterprises (“companies”), service providers and service recipients, creditors and borrowers.<sup>34</sup> This framework did not yet create by itself an union of people, but safeguarded, in principle, a common area for the unrestricted coming together in their market relevant activities as well as for the emergence of transnational competition. These basic freedoms were in particular reinforced by devices for effectuating them through Union legislation and especially the approximation of the provisions laid down by law, regulation or administrative action of the Member States as directly effect the establishment or functioning of the internal market.<sup>35</sup>

<sup>33</sup> Today: Art. 26 par. 2 TFEU.

<sup>34</sup> *Peter-Christian Müller-Graff*, Basic Freedoms – Extending Party Autonomy across Borders, in: Stefan Grundmann/Wolfgang Kerber/Stephen Weatherill (eds.), *Party Autonomy and the Role of Information in the Internal Market*, 2001, p. 133 et seq.

<sup>35</sup> Today Article 115 TFEU; extended by the Single European Act: (today) Article 114 TFEU. See *Peter-Christian Müller-Graff*, *Die Rechtsangleichung zur Verwirklichung*

## II. Individual Rights and Judicial Protection

A particularly strong innovation in the law of international relations for “uniting people” developed through the jurisprudence of the ECJ. With the consideration, that it is “the objective of the EEC Treaty ... to establish a Common Market, the functioning of which is of direct concern to interested parties in the Community”, the Court interpreted the prohibitions of restrictions of the free movement contained in the international Treaty as containing individual rights of the market participants at the same time.<sup>36</sup> The ECJ thereby established the principle of direct applicability of the prohibitions of restrictions as laid down in primary law<sup>37</sup> and, shortly thereafter, their primacy over conflicting national law “however framed”<sup>38</sup> with the consequence of judicial protection to be granted by national courts. At the same time it underpinned the function of the preliminary reference procedure and stressed that “the vigilance of individuals concerned to protect their rights amounts to an effective supervision in addition to the supervision entrusted ... to the diligence of the Commission and the Member States.”<sup>39</sup>

## III. Additional Individual Rights of Citizenship of the Union

In the course of the increasing connection of economic everyday situations of individuals with the effects of the law and the actions of the European Communities, which was also promoted by the mentioned jurisprudence of the ECJ, as well as in the course of the development of the European Communities towards an objective-oriented transnational polity<sup>40</sup> (in the sense of pursuing common good goals in the basis of sovereign rights, democratically strengthened institutions and direct

des Binnenmarktes, EuR 1989, 129 et seq.; *Peter-Christian Müller-Graff*, Die Verdichtung des Binnenmarktrechts zwischen Handlungsfreiheiten und Sozialgestaltung, in: EuR Beiheft 1/2002, p. 7 et seq.

<sup>36</sup> ECJ, Case 26/62, ECR 1963, 1 (Van Gend & Loos).

<sup>37</sup> ECJ, Case 26/62, ECR 1963, 1 (Van Gend & Loos).

<sup>38</sup> ECJ, Case 6/64, ECR 1964, 1251 (Costa/ENEL).

<sup>39</sup> ECJ, Case 26/62, ECR 1963, 1 (Van Gend & Loos).

<sup>40</sup> See as an analysis of the steps of this development *Peter-Christian Müller-Graff*, Primärrechtliche Entwicklungsschritte der Gemeinschaftsintegration zu einem transnationalen Gemeinwesen, integration 2007, 407 et seq.

impact on individuals)<sup>41</sup>, the establishment of the citizenship of the Union by the Treaty of Maastricht<sup>42</sup> can be considered as an additional element of “uniting people” – even if the citizenship is for the emergence of an European identity “less an engine than a speedometer”.<sup>43</sup> In this respect the creation of the right of citizens of the Union to move and reside freely within the territory of the member states<sup>44</sup> is of particular importance. It is an individual right which does not depend on an internal market relevant activity. At the same time the citizenship of the Union<sup>45</sup> opens a political dimension of “uniting people” by granting participation rights of citizens of the Union in the public arena of other member states (although only in homeopathic dosage), viz the right to vote and to stand as a candidate in municipal elections and in elections to the European Parliament in the member state in which he resides.<sup>46</sup> And the citizenship also entitles every citizen of the Union, in the territory of a third country in which the Member State of which he is a national is not represented, to protection by the diplomatic or consular authorities of any member state.<sup>47</sup>

#### **IV. Free Movement in the “Area of Freedom, Security and Justice”**

The free movement of persons, which are contained in the provisions on the internal market and the citizenship of the Union, got conceptionally and politically arched by the Treaty of Amsterdam that

<sup>41</sup> For this understanding see *Peter-Christian Müller-Graff*, Europäische Verfassungsordnung, in: Dieter H. Scheuing (ed.), Europäische Verfassungsordnung, 2003, p. 11, 20.

<sup>42</sup> See *Ferdinand Wollenschläger*, Grundrechtsschutz und Unionsbürgerschaft, in: Armin Hatje/Peter-Christian Müller-Graff (eds.), Europäisches Organisations- und Verfassungsrecht, Enzyklopädie Europarecht Vol. 1, 2014, o. 367, 437 et seq. (§ 8 par. 116 et seq.).

<sup>43</sup> *Christoph Schönberger*, Stifet Unionsbürgerschaft europäische Identität?, in: Peter-Christian Müller-Graff (ed.), Der Zusammenhalt Europas – In Vielfalt geeint, 2009, p. 55, 71.

<sup>44</sup> Today Article 21 TFEU.

<sup>45</sup> See as a comparative analysis with the national citizenship concept *Christoph Schönberger*, Unionsbürger. Europas föderales Bürgerrecht in vergleichender Sicht, 2005.

<sup>46</sup> Today Article 22 TFEU.

<sup>47</sup> Today Article 23 TFEU.

inserted in primary law the objective of the Union to offer its citizens an area of freedom, security and justice without internal border controls. The idea of the absence of internal border controls is originally rooted in the concept and description of the internal market as “an area without internal frontiers”.<sup>48</sup> It was operatively preceded, first outside Community law, by the Schengen Agreement between France, Germany and the Benelux-States<sup>49</sup> and then by the original Union law of Maastricht where it figured as one of the “matters of common interest” of the so called intergouvernemental third pillar “Justice and Home Affairs”,<sup>50</sup> before it was introduced as “area of freedom, security and justice” by the Treaty of Amsterdam into the terminology of primary Community law and, to a good part, also into its supranational provisions.<sup>51</sup>

## V. Vision and Perspective of a transnational European “Private Law Society” (“Europäische Privatrechtsgesellschaft”)

These different elements of primary law allow for imagining the vision and perspective of a transnational European private law society (“Privatrechtsgesellschaft”<sup>52</sup>), which is continuously formed by the facilitated and in itself occurring economic and social networking of individuals and enterprises. The writer *Hans Magnus Enzensberger* very vividly illustrates the grown weave of relations using addressbooks of individuals, which document “the true state of integration”: a throng (in translation) “in these notebooks, scattered throughout Europe, of ...

<sup>48</sup> See for the conceptional origin and development *Peter-Christian Müller-Graff*, Der Raum der Freiheit, der Sicherheit und des Rechts in der Lissabonner Reform, in: *EuR Beiheft 1/2009*, 105 et seq.

<sup>49</sup> See *Claudius Taschner*, Schengen, 1997.

<sup>50</sup> Article K. 1 TEU (Maastricht).

<sup>51</sup> See for this development *Peter-Christian Müller-Graff*, Der Raum der Freiheit, der Sicherheit und des Rechts – Der primärrechtliche Rahmen, in: *Peter-Christian Müller-Graff* (ed.), *Der Raum der Freiheit, der Sicherheit und des Rechts*, 2005, p. 11 et seq.

<sup>52</sup> See *Peter-Christian Müller-Graff*, Die Europäische Privatrechtsgesellschaft in der Verfassung der Europäischen Union, in: *Peter-Christian Müller-Graff/Herbert Roth* (eds.), *Recht und Rechtswissenschaft – Signaturen und Herausforderungen zum Jahrtausendbeginn*, 2000, p. 271 et seq.; *Peter-Christian Müller-Graff*, Allgemeines Gemeinschaftsprivatrecht, in: *Martin Gebauer/Christoph Teichmann* (eds.), *Europäisches Privat- und Unternehmensrecht, Enzyklopädie Europarecht*, Vol. 6, 2016, p. 69, 146 (§ 2 par. 140).

business partners, grandchildren, account numbers, teachers and pupils, websites, coin collectors, winegrowers, cleaning women, car mechanics, dentists and moonlighters”; and he concludes (in translation): “Today civil networks connect us more than any agreement ... Millions of threads create interdependencies.”<sup>53</sup> Britain’s planned withdrawal from the Union proves the case. It creates disruptions of factually and legally grown social bonds for many citizens on both sides of the channel.<sup>54</sup>

However, this observation does not prevent *Enzensberger* from submitting the thesis of the political disempowerment of the citizens (“politische Entmündigung der Bürger”) by the selfreference of the institutions of the Union.<sup>55</sup> He also thematises, in this literary form, the much-discussed problem of the transnationally adequate and possible democratic legitimacy of the Union, which has recently been accentuated by *Jürgen Habermas* as the requirement of a (in translation) “decision between transnational democracy and post democratic executive federalism”.<sup>56</sup> Without being able to deepen this fundamental question under the aspect of an institutionally secured living democracy, the additional question must be asked as to whether a transnational democracy can stand on solid ground without an inwardly itself trusting transnational civil society.

### **C. The Idea of a Transnational European Society and its Perspectives in the Treaty of Lisbon with a View to the Centennial Horizon of European Integration in 2052**

The possible perspective of a transnational European society which unites people has been reinforced again by the Treaty of Lisbon and opens the view to the centennial horizon of European integration in 2052.

<sup>53</sup> *Hans Magnus Enzensberger*, *Sanftes Monster Europa*, 2011, p. 67.

<sup>54</sup> See, e.g., Malte Kramme/Christian/Baldus/Martin Schmidt-Kessel (eds.), *Brexit und die juristischen Folgen – Privat- und Wirtschaftsrecht der Europäischen Union*, 2017.

<sup>55</sup> *Hans Magnus Enzensberger*, *Sanftes Monster Europa*, 2011, p. 48 et seq.

<sup>56</sup> *Jürgen Habermas*, *Zur Verfassung Europas*, p. 50 et seq.

## **I. The Conceptual Strengthening of the Potential for “Uniting People”**

Seen from the point of view of “uniting people”, the Treaty of Lisbon has elevated the “area of freedom, security and justice” in the formal position of the first operative task for realizing the tripartite key objective of the Union (promoting peace, its values and the well-being of its peoples).<sup>57</sup> Despite the various weaknesses of this area in primary law when compared to the internal market (i.e. territorial incompleteness, lack of directly applicable provisions, complete dependence on political implementation)<sup>58</sup>, the Treaty thereby shows the possible perspective of a legally secured pacified and safe area of free movement. The aspired durable absence of internal border controls of persons facilitates the coming together of the citizens of the Union. In addition the Treaty of Lisbon attaches the quality of fundamental rights to several traditional rights of the citizens of the Union.<sup>59</sup> And even beyond, the Charter can provide assistance in transnationally bringing people together, since it promises the commitment of the member states to respect its standards when they are implementing Union law.

## **II. Politically “Uniting People” Through Law**

If *Jean Monnet’s* leitmotiv is taken to the political level of the establishment of mandatory collective power legitimized by those affected, then it is a matter of the question of self-commitment of individuals to a polity in the form of legitimized European sovereignty. However, the transnational European society which can emerge from basic market access freedoms, the citizenship of the Union and the area of free movement without internal border controls does not yet constitute a polity. Whether and to which degree such a political will will emerge, is speculative. The establishment of a new sovereign polity implies a fundamental change in the basis of legitimacy. The discussion of the desirability of such a change under the aspects of coping with large-scale centripetal concentration of power and the realistic possibility of

<sup>57</sup> Article 3 par. 2 TEU in combination with Article 67 et seq. TFEU.

<sup>58</sup> *Peter-Christian Müller-Graff*, *Der Raum der Freiheit, der Sicherheit und des Rechts in der Lissabonner Reform*, in: *EuR Beiheft 1/2009*, 105, 106 et seq.

<sup>59</sup> See Article 15 par. 2, 39, 40 CFR.

permanent transnational civil solidarity is at an early stage at best.<sup>60</sup> The dimension of the latter question has become apparent in the fierce public debates on transnational budget assistance within the European monetary union.

### III. The Transnational Society as a Model of “Uniting People”

Under the aspect of “uniting people” Article 2 sentence 2 TEU contains a remarkable invocation of “society”. It is in need of interpretation. According to this provision the values of the Union (as laid down in this Article) “are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.” This is a great perspective for Europe. Conceivable are several understandings of the society which is addressed here: either the national society in each member state or the transnational society or both. In every way of understanding, the line between the private-interactive sphere and the collective sovereign sphere remains terminologically and conceptually safeguarded. Precisely because of this characteristic of liberal societies, *Jean Monnet’s* credo, to unite people, materializes first and foremost in the use of the above-mentioned guarantees of the transnational private law society.

<sup>60</sup> *Jürgen Habermas*, *Zur Verfassung Europas*, p. 82 et seq., in his considerations on a development from the international to a cosmopolitan community, expresses „communitarian doubts in the possible transnationality of popular sovereignty“.



## **The Nature of European Solidarity: How National Citizenship is Supplemented by and Constrains European Citizenship**

Richard Bellamy\*  
Joseph Lacey\*\*

Freedom of movement and non-discrimination on grounds of nationality comprise two of the most distinctive and controversial upshots of European integration. Both elements form central aspects of Union citizenship. Yet, despite citizenship of the Union being formally established so as to be ‘additional to and not replace national citizenship’ (TFEU Art. 20; TEU Art. 9), these core elements of Union citizenship have been regarded as being in tension with national citizenship. Indeed, in 2001, the European Court of Justice (ECJ) famously declared in *Grzelczyk* how ‘Union Citizenship is destined to be the fundamental status of nationals of the member states’ rather than merely supplementing their status as national citizens. This view has been routinely repeated in subsequent Court of Justice rulings involving Union citizenship rights.

From a normative perspective, how should we conceive of the relationship between European citizenship and national citizenship? Is the Treaty provision concerning the primacy of national citizenship defensible, or should we think of the *Grzelczyk* and subsequent rulings concerning the eventual primacy of Union over national citizenship as a positive development? The answer to these questions can have very significant consequences pertaining to the proper place of nation-states in granting rights to citizens within the context of a supranational polity. Perhaps most contentiously, it determines who decides what welfare rights EU citizens should have access to when they move to another

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country. If EU citizenship takes priority over national citizenship, then member states cede the right to treat EU non-nationals differently to nationals in terms of welfare access.

We believe that ambitions to make EU citizenship the fundamental status of member state nationals goes too far in a supranational direction. EU cooperation between states should be seen as a supplement to cooperation between citizens at the national level. The former should not replace or take priority over the latter. In this regard, member states ought to retain at least some rights to discriminate between nationals and non-nationals in terms of welfare access. But they should do so on a principled basis rooted in the normative foundations of the scheme of cooperation constituted at the national level.

### **Social Contracts**

Along with many political philosophers, we think of the legitimacy of political systems in terms of principles that all members of the system can be reasonably expected to accept. These principles constitute a “social contract” between members of a political community in terms of how power, rights and resources are distributed.

Historically, the national social contract is most familiar. By virtue of their common participation in a scheme of socioeconomic and political cooperation, national citizens are thought to have special duties to one another. This involves ensuring that they each have the rights and resources required to secure their status as free and equal citizens within the society.

In a globalising world, however, the national social contract has a number of shortcomings. When it comes to sustainability, nation-states are much less able to reap the benefits of their respective schemes of cooperation, and protect themselves from the negative externalities of globalisation, unless they engage in dense forms of cooperation with one another. In terms of legitimacy, the increasing mobility of citizens raises questions of justifiability concerning the exclusion of non-nationals from the scheme of cooperation constituted by any given nation-state.

In principle, therefore, an institution like the EU is to be welcomed. Through common law, it has the potential to offer an international social contract within which member states can pursue their internal schemes

of cooperation, while preventing forms of arbitrary exclusion based on nationality.

The key questions then become, what sort of social contract should the EU be based upon, and what counts as an arbitrary exclusion of non-national citizens on this scheme of cooperation?

### **Competing Visions of the EU**

One set of visions for the EU believe that this political system, much like the nation-state, should be built upon a social contract between individuals.

On accounts of this kind, often called transnational or supranational, restrictions of free movement and other protectionist regulations that stymie the development of transnational networks (which may rely upon and seek to promote the flow of goods, information, people, etc.) are inconsistent with the idea of individuals as subjects of equal moral worth. As such, EU citizens' rights should not be affected by or secondary to national citizenship. Rather, they should attach to all individuals who may claim them simply through exercising a basic right to move and live with others and participate in supporting and reconstructing the community to which they have associated themselves.

These transformative accounts welcome large parts of the ECJ case law on citizenship, which has sought to expand the circumstances in which EU citizens can access social and economic rights across the Union, regardless of their willingness and ability to contribute to the national scheme of cooperation. In our view, this extension of EU citizenship puts it in tension with the national social contract, which is premised upon the socioeconomic contributions of its residents. Put differently, the transnational perspective and the case law that it supports has been overly focused on attempting to prevent arbitrary exclusions by giving full priority to EU citizenship. This focus, however, fails to consider the possibility of arbitrary inclusions in the national scheme of cooperation.

In place of a social contract between individuals, we believe that the EU is better conceived as a social contract between states and citizens. This social contract is referred to as a "demoicracy" (i.e. a democracy of multiple demoi or peoples). On this account, EU citizens should be entitled to the benefits of free movement and the legal protections of

transnational citizenship. However, these benefits run up against a limit: they should be consistent with the normative basis of the national social contract.

### **Stakeholders, Free Movement and Welfare Rights**

To borrow a concept from the political theorist, Rainer Bauböck, we believe that stakeholderhood is the appropriate criterion for navigating between arbitrary exclusions and arbitrary inclusions on a democratic conception of the EU. The claim to being a stakeholder in a given political community belongs to those whose freedom and rights are inherently linked to the collective self-government and flourishing of this polity over time. While the stakeholder status will typically apply to citizens, it also allows for resident non-citizens to eventually become stakeholders by joining the national citizenship regime.

A state may be justified in withholding certain rights from non-citizen residents, such as the right to vote in national elections, until they have fulfilled the stakeholder conditions of citizenship. However, one should not require full stakeholderhood to be entitled to welfare rights and thereby protected from the worst consequences of unemployment. Such a restriction would make freedom of movement a highly unattractive prospect, except perhaps for those with the most secure and well-paying jobs.

Instead, mobile EU citizens should be entitled to access welfare rights on equal terms with nationals when they have taken on what we call a “perspective on stakeholderhood”. Having a perspective on stakeholderhood does not mean that a non-citizen resident will ultimately commit themselves to the community long-term, but that they have demonstrated a willingness and capacity to contribute to the socioeconomic fabric of the receiving state. The ability of non-citizen residents to maintain a relatively consistent employment status over a certain period will frequently be the best means of determining whether or not they have adopted an appropriate perspective on stakeholderhood.

What it costs to run the social welfare regime in question would seem to be the most relevant, and non-arbitrary, metric for determining what should be the length of this minimum. That is to say, since different member states will have more or less generous welfare regimes that are more or less expensive to run, member states should have a significant

degree of flexibility within the context of EU law to determine how deep a non-citizen residents' perspective on stakeholdership must be if they are to be granted equivalent access to social welfare provisions as citizens. Although this period should certainly not be too long, member states may be justified in not making it too short either. Not only does it take some time for a second country national to make significant socioeconomic contributions, and thereby offset his potential burden on the state in the event of unemployment, it also takes time for such individuals to demonstrate their willingness and ability to be consistent and active contributors to the labour force.

There is evidence that arguments of this kind are holding increasing sway with the ECJ. The much discussed *Dano* case, where the Court ruled that second-country nationals who are not working or pursuing work in their country of residence may be excluded from non-contributory social benefits, is the clearest example of a turn-around in the ECJ's rather consistent attempt to hitherto expand the scope of European citizenship and place it in tension with national citizenship regimes.

Our account does not preclude the possibility that shifting some kind of welfare competences to the EU-level, such as instituting an unconditional European-wide basic income, would be desirable to ensure a minimum standard of living for all Europeans regardless of residence. However, even in this scenario, any further welfare rights must be subject to the stakeholder criterion that we have outlined.



## **Europe needs its own *New Deal*. However Roosevelt is now here to be found**

Roman Chlupatý\*  
Lubor Lacina\*\*

### **1. Europe has (not) a choice: She must find a single voice or perish.**

A static model of governance cannot be the answer to the complex and complicated world, in which different power centers, including non-state actors, come into confrontation. Therefore, it should be

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#### **Contribution highlights:**

EU must be a (super) power. She will not be able to transform G2 into G3 unless she speaks in a single voice.

We are not experiencing a crisis of the integration process. We are collecting the fruits of Brussels' PR fiasco.

A strong Euro-president will make clear who will talk in the EU's name, and who will bring the Union closer to Europeans.

The time calls for brave and continuous experimentation. This requires courage.

emphasized that this proposal is based on the needs and opportunities of our time. Its focus is – and must be – the flexibility that will ensure the reactive and proactive approach to everything that will happen and that awaits us tomorrow. Paraphrasing Beck and Grande, as there will never be Europe, but Europeanisation, the same is true for institutions, there will never be a perfect form of European institutions, but (perhaps and hopefully) always improving ones.

**The EU must be able to prevent shocks and to dampen the resulting turbulences. This is contingent on a strong position of power that enables effective conceptual work as well as ad hoc action.**

The basic building block of the model described below is the assumption that Europe, in this chaotic and tightly interconnected world, is in a strong need of *risk management*. In other words, the Union – and its institutions – must primarily cope with external and internal shocks, or at least learn to moderate their impact. This is closely related to the Union's ability to reinforce its power position on the global stage, be it through agreements and treaties (for example, rules on trade and capital flows), or through *ad hoc* actions enabling prevention of future shocks or eventually their elimination, before they destabilize the whole of Europe (this applies, for example and especially to armed conflicts).

**If the EU is not sitting at the table with the USA and China, it will be on the menu.**

The by-product of the transition from a bi-polar to multi-polar system has been the erosion of the competencies and power roles of global institutions. This will diminish the efficiency of global agreements and treaties in the future, and eventually even the possibility of concluding them. This will lead to the growing significance of *ad hoc* actions aimed at the most pressing problems concerning the whole planet. As was indicated at the Copenhagen Climate Change Summit in 2009, in similar situations it will be the most powerful ones, i.e. the USA and China, who will try to find a compromise based on their own needs and the limits of their counterparties. If the EU does not want to stay behind the door again and wants to transform the G2 into G3, she must find her single voice. Here applies indeed, either you are at the table or on the “menu”.

**The EU has the potential to become a stabilizing force in the multi-polar world. This is however contingent on its having a single voice. Without this voice it is but a mosaic of countries that do not have superpower status.**

Europe has without a doubt the potential to become one of the stabilizers in the future multi-polar chaos. Its 500 million inhabitants produce nearly a quarter of the global GDP, putting it in first place, when translated into purchasing power parity. Quality of life, as well as the diversity and cultural richness of the Union, have its appeal and represent a source of soft power. And it will grow proportionally with the increasing unpopularity of the USA and its foreign policy. The problem lies in the fact that in the absence of a common European position and a common speaker, Russia, China and other players will systematically succeed in dismantling the Union's potential into the single pieces of nation states, which do not enjoy the same status of (super) powers, and this applies even to the largest states, such as Germany or the UK.

**2. *Image* is important as a prerequisite for the sense of togetherness – but Europe lacks it.**

**Europeans should build a relationship to the Union. This will not threaten their ties to their home country in any way. People will have multiple identities loyal to various sovereigns.**

The second basic building block of the proposed governance model is the sense of togetherness. A sense of togetherness must be perceived by elites as well as by the ordinary citizens of Europe and its institutions. Since 1952 the EU has grown from six to 28 countries. The countries have become much more united and integrated, however they remain different as regards their cultures, languages, political systems and economic performance. A common identity is missing. Therefore it is necessary:

- a) To awaken positive emotions in the people, on the basis of which the people will build a relationship to the supranational politicians, institutions and symbols. (This step, or perhaps task, is built on the premise suggested, for example, by Kraidy, who states that in the future every person shall have several identities, each of which shall be loyal to a different sovereign, and this practice will exist without creating mutual conflicts. Instead of “pillarization” there will be a “hybridization”.)

**The so-called crisis of the integration process is nothing other than Brussels' PR fiasco.**

- b) To construct an inclusive model and erase the existing (mental) chasm between the European elites and the people. Although, we agree with Moravcsik that there is enough democracy in the Union, even perhaps too much – but there certainly exists a vacuum between European and national policy. This creates a feeling of ambivalence, if not animosity, towards the EU among a considerable portion of Europeans. This is worsened by the inability or unwillingness of some euro-bureaucrats to explain their actions, and more generally, the advantages of a united and strong Europe. As Khanna rightly points out, the so-called crisis of the integration process is nothing but a PR fiasco.

Europe is simply not able to sell herself, this is a problem, especially in a chaotic period during which the value and importance of a good *brand* can grow rapidly. Instead of billions invested into projects improving the quality of life in Europe, in the EU context we hear mainly about the administrative rules on the curvature of bananas and similar banalities and mismanagement. (This is what largely prevents the formation of an *imagined community* described by Anderson, that is, the creation of the common identity or awareness mentioned above, as it was achieved in the nation states.) In the same manner, even the well defined nation states, pay increased attention to *branding* – communication with their own citizens and the environment, as confirmed, for example, in the campaign *Cool Britannia*.

**3. Europe must have a single telephone number (and forget the rules on banana curvatures).**

**The European system must be rigid but at the same time sufficiently flexible to for example take advantage in the diplomatic arena of the position individual countries enjoy in the world.**

It is necessary to build a system based on the two basic building blocks mentioned above. A system that will be both rigid and sufficiently flexible, for example on the diplomatic stage, to maintain and enjoy the above-standard relations that EU member states have in the world. In brief, the objective is to maintain, to the largest possible extent, the advantages stemming from the (tradition of) the nation state

and interconnect them with the advantages brought by supranational settings. The system should be based, similarly as in the USA, on the principle of subsidiarity and on the related premise of mutual interests as a starting point.

**A strong European president will personify the EU for the rest of the world and the citizens of the Union.**

It is important to have a strong leader at the top of the pyramid of the future European governance structure. The post of President will provide an answer to Kissinger's legendary question regarding whom he should call in Europe when it is needed. Such a telephone number – or clearly identifiable Office or a person representing it – is inevitable in the present world of many power centers. The President will become Europe for the world asking who talks for the Union as well as for Europeans. Citizens of the Union will have a much easier time building a relationship to a strong leader, who plays a leading role on the global scene and who has, at the same time, clearly defined competencies and limits, when compared to the current complicated and abstract concept of EU institutions.

**The European government must be responsible (only) for the most important areas. In other areas the governments of member states would have freedom limited by the EU's constitution and interests.**

The European president should be supported by a lean and efficient European government. The first adjective means that this body should deal only with the most important domains, where full harmonization or integration is necessary; i.e. foreign policy, defense/security and currency/budget. The second adjective means that the steps of the European government, like those of the the President, who would *de facto* be its President, should be supervised only by a two-chamber Parliament. The governments of the member states would be subordinated to the Central government. In domains such as education or culture, member states would have freedom, limited only by the obligation to respect the Union's constitutions and interests.

The above mentioned stems from the fact that (the success) of the above mentioned settings stands and falls on the division of powers and internal control mechanisms (checks and balances) and on the strictly respected principle of subsidiarity, i.e. the principle of solving the

problem at the lowest possible level. And that is what Europe always struggles with: on one hand it is relevant to ask if it is really a terrifying idea to sell bananas with different curvatures in two different member states. On the other hand it is important to remind ourselves that the central government should deal only with the most important matters, such as foreign policy, defense/security and currency/budget. However, for more than 60 years it has not happened that all the Union members would have a common position on an important foreign policy issue.

**The European defense budget suffices at present only for berets and shoelaces for soldiers' shoes. A question mark looms over the euro. And the EU budget totals only 1 % of the Union's GDP.**

The same holds for European defense, currency and budget. NATO remains a single pillar of security, the defense budget of the EU forces, totaling millions, suffices so to speak only to buy textile berets and spare shoe laces. Furthermore, the Union lacks a common will to get involved militarily in a more significant manner. As regards the common currency, two countries have refused it and others are waiting to see if – and in what form – it will survive. The budget, which should have federal parameters, is not really worth mentioning. The Union's current budget represents around 1 % of the Union's GDP; the federal budget should be significantly higher.

**4. Yes, we can. The question is, whether we want to or whether we opt for a more comfortable *gentle decline*.**

The creation of federal Europe is pre-conditioned by the consent of national politicians, who are to a large extent hampered by their own interest (maintenance of power) and by voters. That is why it is important to communicate with citizens and to persuade them about the advantages of a strong Union.

**Brussels must see the citizens of the Union as its partners rather than as passive recipients of information.**

The European bureaucracy must perceive the citizens as partners and not as passive recipients of information and should strive for dialogue. In practice this means that it is not possible to repeat a Referendum until the desired results appears (e.g. Lisbon).

European institutions should institutionalize relations with civil society and non-profit organizations. Experts and apolitical institutions should popularize important issues and possibly launch public debate on these issues.

**Europe should lead a dialog with the world from a position of power that matches its potential.**

Europe should lead the dialogue with the world from a position of power corresponding to her potential. The leaders of European states must learn (at least as regards the key issues) to confront each other behind closed doors but take a common and single position when they stand in front of them.

**The world as we know it is increasingly but a memory of the past. This is why Roosevelt's "courageous and constant experimentation" is needed in the imminent chaos.**

The world as we know it is turning into a mere memory of the past. That is the reason why we need more of Roosevelt's "courageous and continuous experimentation". The system described above should give Europeans time and space for their *New Deal*.

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# The debate in Germany on democracy and European unification: A comparison of the positions of Habermas and Streeck\*

Sergio Pistone

*To look for a continuation of harmony between a number of independent unconnected sovereignties situated in the same neighbourhood, would be to disregard the uniform course of human events and to set at defiance the accumulated experience of ages.*

Hamilton, The Federalist

The existential crisis of the process of European unification is an issue that is generating a broad debate, one very important aspect of which is the question of the relationship between democracy and European unification. The contribution, in this regard, provided by the debate, in Germany, between Wolfgang Streeck, a renowned European sociologist,<sup>1</sup> and the philosopher Jürgen Habermas,<sup>2</sup> which has attracted considerable media attention, deserves close examination, both because it involves two highly esteemed intellectuals, and because Europe's future is, essentially, in Germany's hands. In this note, I therefore recall the main lines of Streeck's argument and the critical considerations of Habermas, which, on the whole, I deem valid and enlightening, albeit with a limit that needs underlining.

\* This text is based on a talk given by Sergio Pistone on 20 October 2013 in Salsomaggiore Terme at the meeting of the MFE's *Ufficio del dibattito*.

<sup>1</sup> See Wolfgang Streeck, *Die vertagte Krise des demokratischen Kapitalismus*, Berlin, Suhrkamp Verlag, 2013.

<sup>2</sup> Habermas's criticism of Streeck can be found in *Demokratie oder Kapitalismus? Vom Elend der nationalstaatlichen Fragmentierung in einer Kapitalistisch integrierten Weltgesellschaft*, *Blätter für deutsche und internationale Politik*, n. 5 (2013), his review of Wolfgang Streeck's book *Gekaufte Zeit* (Berlin, Suhrkamp Verlag, 2013).

Streeck is deeply critical of European integration, adopting a stance (widely supported in many left-wing circles in Europe) that culminates, ultimately, in the idea that Europe should be dismantled to allow a return to the national sovereignties. This position fits into a broad and well-articulated critical appraisal of the strategy introduced by the capitalist ruling class in the wake of the Second World War, which was pursued increasingly successfully from the 1970s onwards. This whole strategy hinges on the concept of the revolt of capital against the mixed economy regime that became established in all the Western democracies after World War II. The term ‘mixed economy’ denotes public intervention in the market economy through strong economic policies (and also through nationalisations, although this is only one aspect, moreover not central), used as a means of tackling the social, territorial, sectorial and (from the 1970s also environmental) imbalances produced by the natural interplay of economic forces that are not governed by a political will oriented towards pursuit of the common good. The capitalist ruling class worked systematically to replace the mixed economy regime (also known as the Keynesian system, being based essentially on the teachings of Keynes) with a neoliberal regime (also termed neo-Hayekian, given that Hayek is its main point of reference<sup>33</sup>), whose aim is, through rebalancing policies, to limit state intervention in the economy as far as possible. Basically, this equates with unchallenged domination of free competition and, therefore, with systematic removal of obstacles to the pursuit of profit, in the mythical belief that this will lead to the creation of a balance that will naturally be accompanied by generalised wellbeing.

This design has been pursued, essentially, through the internationalisation of trade and production systems, a phenomenon that the revolution in information and communications technology and the end of the Cold War have helped to render increasingly global. And the increasingly effective and incisive implementation of the neoliberal line has had devastating consequences: on the economic and social level

<sup>3</sup> On Hayek – whose key writings to be recalled here are *Monetary Nationalism and Industrial Stability*, London, Longmans Green, 1937 and *Individualism and Economic Order*, Chicago, The University of Chicago Press, 1939 – see Fabio Masini, *Lezioni della storia del pensiero economico*, Il Ponte, n. 2-3 (2012), special issue entitled *Federalismo. Proposte di riforma della convivenza civile*, edited by Fabio Masini and Roberto Castaldi.

it has produced growing inequality linked to a clear weakening of the welfare state, increasingly harsh economic and financial crises, and increasingly severe environmental degradation. Moreover, this economic, social and environmental decline is being accompanied, on a political level, by an alarming decay of democracy.

In addition to the fact that inequality makes democratic participation increasingly asymmetrical, it is also important to note the progressive voiding of the democratic system, which can be attributed to the fact that the nation-states are part of a supranational economy and a supranational society, both of which are governed by technocratic bodies. In a setting in which democratic states are forced to submit to markets over which they have no control (the most striking aspect of this subordination being their desperate need to finance their growing public debts, given that national fiscal resources, diminished by transnational competition, are less and less able to cover government spending), and to the decisions of technocracies essentially controlled by the capitalist elites, democracy has become a hollow term. "TINA" (there is no alternative) is the slogan of the moment, and it reflects a situation that is inevitably leading to growing disinterest in elections on the part of voters and to increasingly widespread protest demonstrations. The ultimate objective of the neoliberal strategy pursued by today's capitalism is to get rid of democracy once and for all, establishing a supranational government inspired by Hayek's idea of support for the free market and subject to no conditions.

European integration, in Streeck's view, fits into this process and in fact represents its most advanced aspect. Europe, in fact, in creating the European Economic Community, realised a particularly profound form of supranational integration of the markets and of production processes. The introduction of the single market, which, following the removal of non-tariff barriers (physical, technical, fiscal), brought the elimination (admittedly still incomplete) of customs and quotas, was followed by the creation of the single currency. Throughout this journey, what has been implemented is, essentially, a negative form of economic integration (meaning the elimination of obstacles to the free movement of goods, persons, services and capital), while the initially declared commitment to positive integration (supranational policies designed to address the imbalances in the market economy) has not been honoured. All this has

resulted in the systematic emergence of the neoliberal forces that want to see an end to the mixed economy, and of the rigid submission of the states to the markets.

It is important to underline the strategic role in this setting of the single currency, which, of course, embraces both strong and weak countries. By depriving the weaker countries of the possibility of devaluing their currencies – “external devaluation” was a protective mechanism that had previously allowed them to compensate for their lower levels of productivity and competitiveness –, it has obliged them to fall back on the neoliberal instrument of “internal devaluation”, in other words to seek to increase their productivity and competitiveness through more flexible labour markets, lower salaries, longer working hours, and commodification of the welfare state.

At the political-institutional level, the voiding of democracy that is the general objective of the neoliberal strategy has been reflected in an evolution that has seen the fundamental powers of economic government transferred to supranational level, where they have become concentrated in the hands of undemocratic or technocratic organs, such as the European Council, the Commission and the European Central Bank. Ultimately, this is where an attempt is under way to structure a new type of supranational political system (hinged on technocracy instead of democracy), which aims to spearhead a global evolution in this direction.

If this is the situation as regards European integration, what the federalists propose, as an alternative, is engagement in the struggle to create a democratic European federal system (that might serve as a model and as a key incentive for a global democratic federal evolution), as this is the indispensable framework for creating positive economic integration, and thus for returning to democratic forms of economic government. But Streeck does not see it this way. Indeed, quite apart from the difficulties that a struggle of this kind presents in the current setting, he believes that a supranational democracy is not a valid solution for Europe and puts forward four arguments to support his view.

The first concerns the inefficacy of European territorial rebalancing policies aimed at boosting the competitiveness and productivity of the EU’s more backward countries, in other words at modernising them. Areas cited as key examples of this inefficacy are the former GDR after German reunification and southern Italy; in both cases, the results of

regional policies implemented by the nation-states and of European regional policy clearly leave much to be desired. Actually, Streeck believes that a return to national currencies, which could then be devalued, would be a far more effective solution, and also quicker to implement than a European solidarity policy, because it would not require the agreement of public opinion in the countries providing the aid.

His second argument concerns the fragile social integration of “imperfect” nation-states such as Belgium and Spain, even though, more broadly, he also cites the separatism rampant in many EU member states, including, in particular, the micronationalism of the Northern League in Italy. Streeck maintains that if problems of integration deriving from regional differences and disparities are difficult to resolve at national level, they will clearly be even more so in the framework of a Europe that Europeanists would like to see united through a political federation, which would inevitably lack structural stability.

Whereas Streeck, in these first two arguments, questions the workability and stability of a closer political union, in the other two he questions its desirability. He points out that politically imposed assimilation of the economic cultures of southern Europe into that of the northern part would result in an unacceptable standardisation of their respective ways of life, and also that the “egalitarian ethos of constitutional democracy” can be based only on a sense of national belonging and solidarity, otherwise minority cultures would inevitably be marginalised and eventually eliminated.

Streeck concludes that the objective to pursue is not European federal union (unworkable and, on principle, undesirable), but rather the re-establishment of the national sovereignties, as these represent the only framework in which social democracy can be attained. In economic terms, this means dismantling the European monetary union, going back to flexible exchange rates, and thus to the possibility of using currency devaluation as a fundamental instrument for tackling territorial imbalances (a system of protectionism that has been dubbed “enlightened”, on the basis that devaluations should not be implemented too frequently, in order to prevent the possible development of nationalistic forces).

With regard to Streeck’s ideas, Habermas advances a series of considerations that coincide with the federalists’ vision of European unification. Like Streeck, he opposes the neoliberal current that would like to see market justice taking the place of social justice. It should be un-

derlined that this is a stance adopted by the federalists since the time of the *Ventotene Manifesto*; indeed, the federalists argue that democracy (a value whose full realisation depends on the presence of peace), to be real, must be both liberal and social (which implies a structural commitment to overcoming disparities between people and regions).<sup>4</sup>

Habermas also shares the federalists' firm belief that interdependence beyond the confines of the nation-states is an irreversible phenomenon (that, moreover, associated with that of market expansion, potentially has great progressive value) and that the predominance of neoliberal trends in the process of European integration (essentially negative integration) is structurally linked to the inefficiency and democratic deficit that characterise Europe's supranational institutions.<sup>5</sup>

The way to overcome the inefficiency is to equip the European institutions with the fiscal and macroeconomic powers and competences needed to mount a common European endeavour (with the relative transfers of economic resources and joint and several liability on the part of the states), as only such an endeavour (as opposed to the abstract idea that the nations can boost their competitiveness by themselves) would have the capacity to sustain, in addition to general social progress, modernisation of the European countries currently presenting problems of backwardness. Overcoming the democratic deficit, on the other hand, means switching from the current "federalism of governments", where the formation of political will depends entirely on compromises laboriously reached between representatives of national interests that are always ready to veto each other, to a situation in which MEPs (deciding by majority) and governments have equal roles in the co-decision procedure. What this means, basically, is not returning

<sup>4</sup> In this regard I refer the reader to my own works: *L'evoluzione della riflessione riguardo alla tematica economico-sociale e ambientale in seno al MFE*, Piemonteuropa, n.3 (2011); *Il federalismo e la questione degli squilibri territoriali*, Piemonteuropa, n. 1-2 (2012); *Federazione europea subito come risposta alla crisi esistenziale dell'integrazione europea e per superare gli squilibri fra paesi forti e deboli dell'Unione Europea*, Piemonteuropa, n. 1-2 (2013). See also the excellent text by Massimo D'Antoni and Ronny Mazzocchi, *L'Europa non è finita. Uscire dalla crisi rilanciando il modello sociale europeo*, Foreword by Roberto Antoni, Afterword by Stefano Fassina, Rome, Editori Riuniti, 2012.

<sup>5</sup> According to the federalists, the advance of neoliberalism in the framework of European integration has been facilitated by nationalist resistance (present in both conservative and liberal governments) to transfers of sovereignty to a supranational level.

to national sovereignties that are structurally impotent in the face of supranational interdependence, but rather creating a federal and democratic European political union, as only this can create the conditions for a return to a mixed economy at supranational level and thus allow democratic politics to regain control of the markets. For this reason, it is time to press ahead rapidly (overcoming the phase of gradual advances which is clearly no longer adequate for the challenges faced) with a serious reform of the Lisbon Treaty, albeit initially applicable only to the eurozone countries.

Starting from this approach, whose convergence with the federalist one we note with great satisfaction, Habermas responds, point by point, to the arguments used by Streeck to justify his preference for a return to the national dimension over the creation of a democratic European Union.

He argues that a monetary union, to remain intact, must be capable of balancing, or at least permanently containing, the structural imbalances in competitiveness between the national economies, and that it is not the historical heterogeneity of the European economic cultures that makes it impossible to conduct this supranational policy efficiently, but rather the weakness of the fiscal and macroeconomic powers attributed to the European institutions and the absence of adequate democratic legitimacy at supranational level. Moreover, the idea that currency devaluations represent the way to make up ground is a fanciful one that fails to take into account not only the disastrous economic fallout that dismantling the single currency would have, but also the consequent and disastrous political fallout, which would include, most seriously, a re-emergence of competitive devaluations and other similar forms of nationalism.

As regards the rise of forms of micronationalism and separatism, Habermas remarks that “conflicts always arise along these historical fault lines when the most vulnerable sections of the population are caught up in economic crises or historical upheavals, become insecure, and process their fear of a loss of status by clinging to supposedly ‘natural’ identities, whether it be ‘tribe’, region, language, or nation.” The way to respond, in such cases, is to bring about economic and social progress, fundamentally through a policy addressing territorial imbalances and the need for modernisation – a policy implementable only by an efficient and democratic European political union. Obviously, it is not a question

of eliminating the sociocultural diversity of the different European regions and nations – this diversity is a valuable aspect of European heritage that distinguishes Europe from other continents and is by no means a barrier to integration. What is needed, rather, is efficient and democratic multilevel federalism (basically, supranational federalism supplemented by internal federalism, in line with the federalists' idea) and not the creation of new microstates.

Moving on to Streeck's view that closer European political union is not desirable, Habermas criticises, in particular, his assumption that the "egalitarian ethos of constitutional democracy" can be based only on a sense of national belonging and solidarity, and can therefore be realised only within the territorial boundaries of a nation-state, using two arguments to support his case.

The first takes up an idea that he began to develop systematically more than two decades ago and that, stemming from the teachings of Mario Albertini, has actually been a key part of the theoretical heritage of the MFE since as long ago as the 1950s. Essentially, nation-states are founded on a highly artificial concept, namely the legal construct of the status of citizenship. Indeed, national consciousness, even in societies that are relatively homogeneous in ethnic and linguistic terms, is anything but natural. Citizenship, valued and exploited at administrative level, is actually a product of historiography, the press and the practice of military conscription. The national consciousness present in heterogeneous societies where there is a large proportion of immigrants provides a demonstration of the fact that any population can, collectively, become a nation-state capable, against the backdrop of a shared political culture, of forming a common political will.

It is therefore mistaken to think that Europe's problem is the impossibility, in the absence of national homogeneity, of creating a political union able to express a united political will. Europe is a profoundly interdependent setting with an advanced level of economic and institutional integration (the primacy of European law being the most advanced aspect of this integration), but where the status of citizenship has still not been fully created. This can be achieved only through the creation of a democratic federal political union in which decisions are taken jointly, and on an equal footing, by the body representing the national governments and the body representing the European citizens, i.e., the European Parliament. This solution would allow compromises

between national interests to be accompanied, through decisions taken by a majority of MEPs elected on the basis of party preferences, by a transverse sharing of interests, overcoming national boundaries. This, in turn, would require the parties to gather consensus across the whole EU territory, both in the advanced areas and in the more backward ones, and would therefore strengthen the general notion that European citizens may one day be able to refer to themselves collectively as “us”, allowing it eventually to assume the power of an institutionalised concept. Such a shift in outlook is crucial if the common rules, currently used to coordinate the activity of states that have the only the appearance of being sovereign, are to be replaced with the shared formation of a united political will, in which national interests are bound up with and relativised to the European interest.

In his second argument, Habermas specifically takes issue with Streeck’s concern that a supranational democracy would have unitarian-Jacobin traits since, moving in the direction of permanent marginalisation of minorities, it would inevitably result in a “levelling of the ‘economic and identity communities’ founded on geographical proximity’.” On this point, Habermas’s argument is valid only up to a point.

On the one hand, he recalls that federalism is born of a synthesis of unity and diversity and that it therefore constitutes a guarantee for smaller states. In particular, he recalls the principle of the “double majority” of member states and voters and the weighted composition of the European Parliament which, precisely in the name of fair representation, compensates for marked differences in the size of the population in smaller compared with larger countries. On the other hand, however, he regards the idea that a deepening of the European Union would inevitably lead to a sort of European federal republic as a false assumption. For him, the federal state is the wrong model, given that conditions of democratic legitimacy can also be met by a supranational “but *transstate* democratic political community”, that, too, would allow shared governance. In such a community, he argues, political decisions would be legitimated by the citizens acting in their dual role as European citizens and citizens of the various member states. In a “political” union of this kind, which must clearly be distinguished from a true state, the member states would continue to be the ultimate guarantors of law and freedom, and would therefore continue to play a role far more important than that of the subnational entities comprising a federal state.

Habermas develops these affirmations more fully and in more detail in *The Crisis of the European Union*,<sup>6</sup> to which he makes explicit reference in his review of Streeck's book. Basically, when he argues that the nation-states in a non-state European federation would have a more prominent role than the subnational entities comprising a federal state, what he means, in concrete terms, is that a democratic European Union must not have competence for deciding on its own areas of jurisdiction (*kompetenz-kompetenz*), and must therefore decide unanimously on constitutional amendments, whereas the European Council, which should act in a co-decision procedure on an equal footing with the European Parliament, should, on essential issues, decide by unanimity. At this point it must be underlined that the federalists, while affirming that the European federal state will be different from the federal states that have existed up to now, given that it will be founded on historically consolidated nation-states (in other words, compared with existing federal states, it will be more decentralised and will allow the member states more room for intervention – in short a “light federation”, but a true federation nonetheless), categorically reject the maintenance of any form of right of national veto, which is the essence of the confederal system. As regards the link between the decisive role that the nation-states should, according to Habermas, retain in a democratic European Union and the fact that they are the guarantors of the rights and freedoms of the citizens of the single states, he points out that the nation-states, being constitutional democracies are not merely actors playing a part in the long historical process of eliminating the violence at the heart of political power, but rather constitute permanent achievements and living figures of an existing justice (this is a reference to Hegel). Thus, they are something more than the mere embodiment of national cultures deserving to be maintained: they are the only guarantors of the level of justice and freedom that the citizens want to see preserved.

This position contains two contradictions. First, it is impossible to create a democratic supranational system (seen by Habermas as indispensable in order to guarantee uniform living conditions, i.e. to defeat

<sup>6</sup> Jürgen Habermas, *The Crisis of the European Union. A Response*. This book, published by Polity Press, UK, 2012 is the English translation of *Zur Verfassung Europas. Ein Essay*, Berlin, Suhrkamp Verlag, 2011.

neoliberalism) as long as there remains a national power that can veto and not simply weight the majority decisions taken by the European Parliament. After all, what kind of democracy allows one state to impose its will to avoid a decision on all other states and on the majority of the European Parliament? And isn't the right of national veto the structural ally of neoliberalism? Second, the immortalisation of the nation-states (and thus the retention of their right of veto in a democratic European Union) is not consistent with the argument, absolutely valid, that nation-states are unnatural, artificial constructs. In particular, it is not adequately appreciated that, unless the process of European unification is carried through to completion, the nation-states' capacity to maintain a viable democratic system will inevitably be undermined.

These limits in Habermas's argument in favour of a democratic European Union weaken his final appeal (made in his review of Streeck's book), in which he urges Europe's left-wing parties not to repeat the mistake they made in 1914, in other words, not to flinch from choosing European democracy out of fear of the populist currents rampant in European society as a result of the ongoing severe financial and economic-social crisis.

By way of a conclusion, it must be said that in the difficult struggle for European unification, the federalists must, as part of the decisively important task befalling them, strive to overcome not only the reticence of the Europeanists, but also the logical inconsistencies in their arguments.



# **Crisis in Europe or Europe in crisis?: A stronger Europe as a solution**

Susana Sanz Caballero\*

## **1. Introduction**

On 2014 the concern was the future of the EU and how to recover from the economic and financial crisis. Three years later, those concerns are still on the table and, in addition, Europe is facing new challenges. Among them, mention should be made to the flow of refugees and migrants fleeing from armed conflict, prosecution or in search of a better life, a sensitive yet unresolved question for the EU and its member States. Neither the EU member States nor the EU institutions have been so far at the height of the circumstances. In times of troubled national governments, rise of populism movements, manifest breach of EU rules by member States that also fail to honor European values, increasing lack of solidarity and weak European institutions, the EU is at risk of failing to provide the adequate answer. Not to mention the consequences of the Brexit.

The answer to these challenges should be “More Europe” and a “Stronger Europe”. Today, as in previous “dark” periods of the European construction, the solution can only be to take steps forward in the European project instead of steps backwards. The solution has to be a communitarian one, at the EU level and with high mindedness.

Some years ago, the invocation of a two-speeds Europe was felt as an anathema. Today, it seems to be the only option for a viable EU. The financial crisis already showed –and the current humanitarian and political crisis is deepening in this direction– that in a period of weak support for supranational ideas and in a period of a steadily withdrawal of member States towards their own national constituencies and internal

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policies, member States are not precisely eager to bet for a strong Europe. However, the fact is indeed that we need not only more Europe but a stronger Europe to overcome this situation. And we need it more than ever.

The Lisbon Treaty followed the path that Nice had already opened of giving more prominence to member States views within the EU, especially through the European Council. Member States' interests are nowadays over-represented whereas the institution that represents the common interest is progressively losing power. Europe needs a strong Commission with new binding (exclusive?) competences in many areas including the economy, migration and asylum policies. In the same way that we were wrong to try to build an economic and monetary union without creating and encompassing a banking union, we are now wrong pretending to create a space without internal borders if we are to maintain at the same time 27 different migration regimes, 27 disconnected employment systems and 27 different asylum procedures (the UK is excluded from this count).

Despite some national reservations towards the Treaties' obligation to achieve an ever-closer Union –that hopefully will not have a contagious effect in other member States–, the only way to overcome, on the one hand, citizens' disaffection concerning both the European project and national governments and, on the other hand, the European institutions' meager results, is through a deepening of the European project. The proposals are the following: deepening of the European political project, deepening of the European EMU project and deepening of the European social project and of European values.

## **2. Deepening of the European political project**

The current political crisis will never be solved if neither member States nor European citizens trust the EU. And trusting the EU means transferring more powers to those European institutions which better represent what unites us, instead of to those that represent national interests. Partisan national interests are at the origin of the type of measures and decisions that are being taken today in every field: economic, monetary, political, humanitarian... The lack of political momentum and the ineffectiveness of the EU are two clear consequences of this situation.

There is a need to legitimize and democratize the European institutions, to go back to a more communitarian institutional framework. Citizenry should also obtain guarantees that European institutions and EU agents are not spoiling money and are free from corruption. The EU needs competences and tools to fight against member States' corruption, too. European governance should be changed in order to respond to citizens' expectations.

Some of the proposed measures to achieve these goals have to do with the need of a change in the powers attributed to the different European institutions. To start with, the European Council was born to give general orientations but it has drifted towards an arrogant decision-making superpower capable of imposing its views to the rest of institutions without the possibility for the others to counterbalance the European Council's (often deceiving) views. Moreover, the existence itself of this institution beside that of the Council of Ministers leans the balance too much towards the intergovernmental side of the EU. The European Council should simply be amortized.

Conversely, the Commission should resume some powers it has lost with the last Treaty reforms and it should also gain some others. It is crucial that the Commission recuperates its central role in the institutional architecture of the EU. It should become the real government of Europe. The President of the Commission should be chosen democratically. He/she should be able to form own government from members of the European Parliament, assuring a geographical representation of the EU but without the need to represent the member States governments' political colors. The President of the Commission should also act as President of the EU and should ensure the external representation of the EU.

As for the European Parliament, it has to be perceived by citizens as the true legislator. It also needs to improve its working methods and composition. Some tentative ideas are the following: to give the Parliament more decisive normative power compared to the Council, to bet for single and open lists at European scale and to consolidate true European political groups. The Parliament's attitude itself should change to avoid being perceived as an exotic, circus-type forum where absenteeism and privileges are the general rule.

In the worst historical moments of the European construction, the Court of Justice has shown its best supranational face. The EU owes to the Court the settling of principles such as the primacy of EU Law, the autonomy of the EU legal order, the direct effect or the protection of fundamental rights. The Court has always made a stand for political integration. However, in recent times it has been quite inhibitionist and self-restrained, but also technocratic and jealous of its own prerogatives. We would ask for a simplification of the judicial remedies before the CJEU and of the Court's functioning. We should also be able to overcome the rigid and immovable approach that the Court has shown in its advisory opinion 2/2013 concerning the EU's accession to the ECHR.

All member States should agree on the proposal to strengthen the EU. Otherwise, a group of core member-States should try to lead the rest by being the (first) ones to apply more communitarian policies in any EU field of competences.

### **3. Deepening of the European EMU project**

The crisis showed that the economic and monetary union cannot work properly if not followed by a tax and banking union. There is a need for a further cession of powers from the member States towards the EU, if need be, through a reform of the Treaties. Concerning the project for a fiscal union, nowadays each member-State has its own tax policy and this produces distortion and market unevenness. Among the avenues for this tax union, mention can be made to the harmonization of direct taxes and the common fight against tax havens. With regard to the banking union, the accent should be put especially on the further powers that the European Central Bank needs in order to develop the EMU. We need to grant a total and complete independence of the ECB in decision-making. We need new competences for the ECB concerning the issuance of European debt. The ECB should have the power to inject money in the Eurozone. The ECB should be able to stimulate the markets instead of only focalizing on austerity measures. It should work more clearly for the stimulation of the economy. There is also a need to reinforce the Commission's role in the coordination of national employment policies. Finally, funds to fight against unemployment should be enlarged.

#### **4. Deepening of the European social project and of European values**

The financial crisis did away with many fundamental economic rights and social achievements Europeans were so proud of social aids, unemployment allowances, subsidized housing, decent pension schemes, education scholarships, etc. There is a need to put an end to austerity policies in Europe. The new stimulus policies should recover those social measures and economic rights that individuals enjoyed before the crisis, if need be, through harmonization of national norms in labor, education, social security and housing and social matters, in general. The EU has to be again a project of social justice, and of social inclusion.

But lately, it is not only the financial crisis that is curtailing our social values, but also the ever increasing lack of solidarity towards migration movements and refugees flows towards Europe. This new circumstance put against the ropes the social and human rights values that, according to article 2 TEU, are the foundation of the European Union. In case of prosecution or danger for the life or integrity of the person, international legality demands us to respond in a humanitarian way, not only because of solidarity or tolerance but because of justice and human rights' motivations. However, so far European institutions have been unable to cope with the problem of providing access to protection to asylum seekers. Member States, themselves, have participated in a sort of shameful "every man for himself" vaudeville.

In the absence of a robust European common asylum system, States now deploy their own internal practices, which are often incoherent with those in the neighbor State, and are most of times also unsupportive. Our recommendation, if need be with a reform of the Treaties, would be to turn migration and asylum policies into an exclusive competence of the EU, to transform the EASO into an executive agency with compulsory powers able to mandate over national asylum offices, and to create a homogenous and harmonized European asylum framework with a new and generous European asylum code that replaces all the current Regulations and Directives from the Dublin system. This code should ensure that member States provide the same standard of protection and reception measures to any refugee regardless of the European State where he/she is located. The EASO should be given powers to deal with

individual complaints in asylum cases or, alternatively, an asylum court should be added to the CJEU. Member States of the EU should also facilitate the introduction of extra-territorial asylum requests to avoid risking lives. This could be done by authorizing the member States' diplomatic missions in third safe countries to accept and manage these requests.

## **5. Conclusion**

The EU is still today experiencing a crisis at several levels –or maybe it is suffering from several and different crisis at the same time. There is still a financial crisis under way that hits the European social model and has progressively led to a disaffection of European citizens towards the current model of European construction. There is also a humanitarian crisis since the EU is unable to respond to the challenge of giving access to asylum seekers as well as to ensure them protection, shelter and a decent standard of living while their asylum demands are solved. Moreover, there is also an institutional crisis that prevents the correct and efficient functioning of the EU, since its most supranational institutions lack the competences to overcome the problems that Europe is facing. There is a political crisis too, that may lead to a two-speed EU. On top of that –o maybe as a result– there is also a crisis of European values, since the human rights basis that we always believed was the foundation of the EU, are nowadays being questioned due, among others, to the curtail of socio-economic rights. To add more threats to this scenario, one of the members of the EU has decided to withdraw from the common European project that the EU represents.

The answer to these challenges cannot be the return of States to their national interests to the detriment of the European common interest. On the contrary, what we need is more Europe (and a better and stronger Europe) to overcome the serious defiance that all these economic, financial, fiscal, banking, social, political, humanitarian an institutional challenges suppose for the future of an ever-closer Union. New (and clear) competences should be transferred to the EU in these fields and, in case of lack of consensus, initially core member States should lead the others.

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## EU Political and Administrative Studies

Tanel Kerikmäe\*

1. What is the best **institutional framework for the Eurozone**, in order for it to function in the most efficient, transparent and democratic manner?

For stronger EU, **community method** should clearly prevail over the **intergovernmentalism** to ensure equal opportunities and also responsibilities for member-states. Another important keyword is **constitutionalism** and **respect to rule of law** (as to contradict to the *ad hoc* economic policy innovations) .

The institutional framework, established to avoid deepening the eurocrisis was based mostly on intergovernmental methods, ESM and other instruments (EFSF) were discussed in several member states (e.g. Estonian Supreme court where the final decision on constitutionality of the ESM procedures was almost failed by the judiciary) – and the results of these discussions were often not, at least by public opinion, in accordance with legal certainty.

As the ESM relation to the EU legal system is complicated, it may weaken the prestige of EU institutions when acting under international law. It is clear that the unexpected situations required somewhat unexpected solutions – and the EC and Luxembourg court were not able to act as quickly as the economic situation needed. However, the EU must demonstrate that the future crisis are avoidable with the **clear and strong European mandate** for existing institutions to ensure efficient functioning of the Eurozone is unavoidable in the light of sustainability and citizens Europe.

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Currently, European Commission can make recommendations but the implementation of different mechanisms is rather weak. There must be **mandate to the EC** to move from coordination competence to control competence. This kind of centralization will most likely contradict some national policies but it is relevant to emphasize that the eurocrisis was also very much the crisis of EU governance, so the alternative would be, again *ad hoc* measures that would be neither financially nor politically cost-effective. One of the important principles would be: to establish all Eurozone related **institutions at the same level**. This would also guarantee efficiency of the banking union.

I would support a **strong EU presidency** that would require of electing not the Commission's president but rather the **Council's president**, the electoral system should be composed by national parliaments. Second, Europe needs a **minister of finance** who would currently be leading figure for Ecofin at Council (member of the European Commission) and assists to enforce the Council's decisions. There is a need to restructure the European Commission to ensure its efficiency and balance with the new positions and institutional framework.

## 2. **Blueprint for a Political (federal) Union** beginning with the Eurozone.

**New constitution** for the federal EU that also draws clear line between federal and national competence, follows rather the German model (that supports prevailing community method i.e. legislative power and foreign policy are exclusive competence of the EU, **implementation powers belong to the member states**; rather than US model where the competences are clearly divided by the competence areas). The US model would be first step but the German model would be a goal as relevant competences should be exclusive for the EU level, such as economic, employment but also educational policy to guarantee the competitiveness of Europe.

**The presidency** of Europe is an executive head of the EU.

The EU judicial system to be restructured to have **constitutional court**

**The restructured Commission** of the EU is the government of the EU. There are **ministers** with clear mandate such as the minister of finance and minister of foreign affairs.

**The Parliament** (with two chambers, one of them composed on the basis of the Council another one is a “senate” of member states) of the EU ensures the inclusiveness of national initiatives, Citizens Europe and has right to block the unconstitutional rules and decisions.

(**The Council** of the EU supports the presidency and balances the role of the Commission. The future role of the Council depends on how efficient is the restructuring of the EP and the Commission).

The **Federal Bank** of the EU established instead of ECB, that, on the basis of experiences and recommendations of US Fed and IMF (transparency in decisions etc) should be able to follow the financial policy of the federal Europe and has exclusive power to regulate banking in member states.

**European Police and European Prosecutor’s office, European armed forces**

Explanations on how problematic the multi-governmental system is and why do we need to use dialogue between two levels to create new quality – a federal state (author tanel Kerikmäe

ESTONIA IN THE EUROPEAN LEGAL SYSTEM: PROTECTION OF THE RULE OF LAW THROUGH CONSTITUTIONAL, DIALOGUE, 2010):

In recent years, the ascendancy of the neo-Weberian perspective has been challenged and one of the recent directions suggests that the concept and discourse of the state is one part of a broader process governing and shaping our very conduct and bringing it in line with various governing strategies (Hay, Lister 2006: 13, Chernilo 2007: ch 10 on Luhmann and Habermas). After becoming a member of the European Union, several states had to amend their constitution or rethink the interpretative mechanisms in their legal societies. To analyse

the contemporary relations between state and law, certain dialectic moments are relevant. Thus, “today’s European legal theorist needs to look beyond his own limited horizon, too cluttered up with specific codes and laws” (Grossi 1999: 7). Beside an understanding of how the rule of law is formulated in Europe, legal theory could be one of the major tools to understand the expected functions of contemporary state. There are several contextual aspects in implementing the rule of law where the European Union is imperfect (Grossi 1999) and the EU legal system cannot be clearly defined as a *Rechtsstaat* (see: Kerikmäe 2000: 65-66). The EU rule of law, based on landmark judgment<sup>1</sup> has “progressively and rightfully become a dominant organizational paradigm, a multifaceted legal principle with formal and substantive elements which nonetheless lacks “full” justiciability” (Pech 2009: 1)

New developments in the context of globalization emphasize the importance of community (lawyers are particularly suited to this work because they can “promote reciprocity” and design a social system that has mass support because it is seen to be fair (Gearey 2005: 91). Acceptance of the principle of reciprocity and recognition of the rule of law as a “common principle” can be seen as a precondition for establishing dialogue between national and supranational levels. As Verhoeven rightly points out, the EU cannot define fundamental principles e.g. rule of law in an autonomous manner (Verhoeven 2002: 322). The author agrees that the Union is obliged to respect rule of law as it is common principle of member states and that “national constitutional traditions offer both the reason why fundamental principles are to be respected by the Union and a basis for determining what these principles mean in the Union context” (cf. Verhoeven).

The new phenomenon of global juridification implies the danger that constitutionalization processes may be played out outside national and political institutions (Walter 2001). Globalization, internationalization and transnationalization are actually terms that may be used interchangeably – this concept being the dominant paradigm

<sup>1</sup> Article 6(1) makes reference to a “Union founded on the rule of law”. Also, according to case-law of the ECJ ( 294/83 *Les Verts v Parliament* [1986] ECR 1339): European Community is “a Community based on the rule of law”. By Pech, “this widespread support for the rule of law, unfortunately, has not helped clarify the meaning and the scope of the Court of Justice’s formula” (Pech 2009: 4).

not only for international politics (Stern 2001: 247) but also for the traditional nation-state. Globalization is seen as a relevant factor in altering the context of statehood, however, “yet this is in no sense to pronounce the death of the state” (Hay, Lister 2006: 15) even though some of the authors suggested *vice versa* more than decade ago (cf. i.a. Bellamy, Castiglione 1997: 91). The problematics of globalization is directly related with the issue of sovereignty. Lefebvre, introducing a theory on “space of a state”, insists that globality (*mondialité*) forces the state to maintain certain functions, including that of representation, and there must be a control over the external influences e.g. a production of a social space that consists i.a. of laws upheld by values (Lefebvre 2003: 84, 99-100). Thus, the values and interests of the society, represented by state institutions are legitimized by the legal norms, primarily by the constitution of a state. Habermas is referring to the “normative ambiguity” that derives from mixture of internal and external legitimacy, but finds that the relationship between cosmopolitanism and the nation- state should be complementary rather than oppositional (see Chernilo on Habermas, 2007: 156-158). Dogmatic prevalence of external legislation without interpreting it in the light of internal legislation (national constitution) may, therefore bring consequences such as weakening of the functions of statehood. A constitution, fundamental law of a state, comprises the principles upon which the state institutions are operating and rights and obligations of the citizens are prescribed.

European Union as “mini-international society” (term used by Clark 2005: 175), which:

- a) increasingly harmonizes the laws and practices; and
- b) filters and assimilates other international influences to the European context.<sup>2</sup>

Therefore, certain transformation of the state’s functions is unavoidable. The main question of how far the transformation can reach is directly related to the concept of (remaining) sovereignty

<sup>2</sup> One example of “filtering” is double bindingness of international legal norms, adopted outside of EU, but referred by EU law or European Court of Justice. The priority of European interpretation is evident, as international law is based on consensualism but EU legal system on supranational character and principle of loyalty.

which, “is a legal institution, it comprises constitutional independence and regulative rules” (Sorensen 2006: 199). I tend to agree with the authors who argue that the real debate is about interpretation of the new development or with those, who say that in the EU context, “the implementation is a key issue” (Sverdrup 2008: 197).

Bulmer, referring to Olsen, using the term “Europeanization”, indicates that the most important elements of that process are related to legal society, namely “central penetration of national systems of governance” but also “exporting forms of political organization” (cf. Bulmer 2008). The term itself is deployed where the EU seeks to export its values which may take place from one EU member state to another, mediated by the EU (Bulmer 2008: 47). Transferring “Europe” means, above all, transferring European(ized) beliefs, values but also European rules and norms (and their interpretative concepts reflected in general legal culture).

The White paper for Multi-level Governance mentions five lead principles of good governance (openness, participation, accountability, effectiveness and coherence) (see Follesdal 2008: 22)<sup>3</sup>. Furthermore, despite of the imperfection of *de lege ferenda*<sup>4</sup>, the whole process should be based on reciprocal reflection: member states are constructing the image of the European Union, which again, influences their being “European”. The national and supranational legal systems are closely intervoven and interdependent, one cannot be read and fully understood without regard to the other (Martinico 2008: 3). However, European governance can be seen as paradox – there is a growing gap between the citizens’ expectations and disappointment towards the resolution at the European level (Aragão 2008: 52). The solution depends upon the openness of a member state to become a mediator between domestic society and European Union, using deliberative arguments.

The European Union brings us to **multilevel governance that complicates the decision making process**. Estonia as a member state of the European Union certainly has a variety of choices from non-critical obedience to parochial resistance to EU initiatives. While the latter is

<sup>3</sup> Follesdal is questioning why the principles of political equality and rule of law are not listed there.

<sup>4</sup> What the law ought to be (as opposed to what the law is) i.e the aforementioned White paper is a preparatory phase for adopting binding legal document.

more a reaction than a future – oriented strategy there is also a contra argument for those who are praising political low profile pragmatism and ultra-superiority of EU rules over national initiative. Implementation (of supranational EU law) also involves a balancing act between, on the one hand, securing homogeneous implementation and, on the other hand, allowing for some domestic discretion (Sverdrup 2008: 199-200). This discretion can be based not so much on margin of appreciation and exceptions enabled by supranational EU law itself but rather on the principles inspired from usage of national constitution as a living instrument that reflects the values of society. **The dialogue between two constitutional levels is inevitable for securing rule of law if we hope to build up the EU as a *Rechtstaat* that has legitimacy in decision-making.** By Martinico: “As the distinction between interpretations and politics diminishes, the need for pluralism in interpretation increases”. (Martinico 2008: 37). Even in the EU legal system the member state is not justified to abandon the rule of law assuming that due to the EU membership, the power of legal argumentation is monopolized by the supranational level.



# EU Political and Administrative Studies

Teresa Freixes\*

## Introduction

Suite à la proposition du Président de la Commission Européenn aux professeurs Jean Monnet, afin de préparer des contributions informelles concernant les sujets:

3. Quel est à votre avis le meilleur cadre institutionnel pour la Zone euro qui lui permette de fonctionner de manière plus efficace, plus transparente et plus démocratique?
4. Quel projet d'Union politique (fédérale) voudriez-vous proposer en commençant par la Zone euro ?

J'avoue comme sujet étroitement lié à ces questions, la définition de quatre domaines de réflexion autour de la construction de l'intérêt européen, comme clé de voute pour mieux aborder le cadre institutionnel et la fédéralisation de l'Union. Ces quatre domaines sont, à mon avis, le besoin d'avoir un instrument opératif et pertinent sur l'action extérieure de l'Union, l'adoption de meilleures compétences dans le cadre de l'enseignement tout au long de la vie, la reformulation de la politique de communication de l'UE et l'instauration de mécanismes aboutissant à une politique économique et financière commune.

Certes, dans les dernières années l'intergouvernemental a été un des axes plus important de la prise de décision européenne, en dépit de la meilleure position que le Parlement Européen avait acquis avec le Traité de Lisbonne. Un exemple est constitué par l'adoption du Traité du MES (2 février 2012) ou le Traité de Stabilité, Coordination et Gouvernance dans l'Union Économique et Monétaire, ainsi que la

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récente intervention des ministres d'affaires étrangères de l'Allemagne, la France et la Pologne dans la crise eue dans l'Ukraine. Dans tous ces cas, si bien on peut considérer que ces actions ont mené à des résultats plutôt positifs, on peut s'interroger s'ils ont été présidés (ou non) par l'intérêt européen prévu dans le Traité de l'Union Européenne.

Ce Traité affirme que l'Union est fondée sur les valeurs du respect de la dignité humaine, liberté, démocratie, égalité, État de Droit et respect des droits de l'homme, ceux des minorités y compris (art. 2 TUE) et qu'elle a comme finalités celles énumérées dans l'art. 3 TUE, parmi lesquelles on peut signaler la promotion de ses valeurs et intérêts dans ses relations avec le reste du monde, le progrès scientifique et technique, la cohésion économique, social et territoriale et la solidarité entre les États membres. Aussi il est prévu dans le Traité de l'Union Européenne qu'elle (l'Union) devra les poursuivre par les moyens appropriés, conformément aux compétences qui lui sont attribuées par les Traités (art. 3.6 TUE). On trouve aussi que les Traités appellent à l'intérêt européen (intérêt commun ou intérêt général) dans plusieurs de ses règlementations (par exemple, l'art. 17.1 TUE en ce qui concerne les attributions de la Commission comme garantie de l'intérêt général ou l'art. 24.2 TUE sur l'identification de l'intérêt général dans l'action extérieure).

Mais, est-ce que les compétences que les Traités attribuent à l'UE sur ces domaines permettent développer un marc institutionnel approprié pour la défense de ses intérêts (ceux de l'UE, c'est-à-dire, l'intérêt européen ou intérêt général) afin d'aboutir à l'Union politique des États de l'euro ? Je vais essayer de répondre à cette question compte tenant des quatre domaines auparavant énoncés.

### **Le besoin d'un instrument opératif et pertinent sur l'action extérieure de l'Union**

Heureusement, il semble que, petit à petit, l'Union est dotée de pouvoirs chaque fois plus importants dans le cadre de l'action extérieure, notamment dès l'adoption du Traité de Lisbonne.

Elle doit définir et exécuter des politiques communes et des actions afin de sauvegarder, entre autres, ses intérêts fondamentaux (art. 21.2.a)) et elle doit aussi veiller à la cohérence entre les différents domaines de son action extérieure et entre ceux-ci et ses autres politiques (art. 21.3

TUE, 2ème paragraphe). Cela devrait être renforcé dans un avenir plus fédéral, car dans les fédérations, les relations extérieures sont menées en exclusive (ou presque, car il y a des petites exceptions) par les institutions fédérales et non par les membres de la fédération.

Quels sont les instruments prévus par le Traité afin d'y aboutir? Le Traité affirme, aussi dans l'art. 21.3 TUE, 2ème paragraphe, que «Le Conseil et la Commission, assistés par le haut représentant de l'Union pour les affaires étrangères et la politique de sécurité, assurent cette cohérence et coopèrent à cet effet». Et pareillement dispose que c'est le Conseil Européen qui va déterminer les intérêts et les objectifs stratégiques de l'Union en statuant à l'unanimité sur la base d'une recommandation du Conseil (art. 22.1 TUE), bien que le haut représentant de l'Union pour les affaires étrangères et la Commission pourront aussi, dans des domaines précis, présenter des propositions communes au Conseil (art. 22.2 TUE).

Ces instruments, sont-ils opératifs et pertinents pour exercer l'action extérieure dans le cadre de l'intérêt général de l'Union ? Il faudra distinguer parmi la pente pertinente et le côté opérationnel.

En ce qui concerne la pertinence, nous pouvons observer que les institutions intervenantes sur ce point sont le Conseil Européen, le Conseil et la Commission, chacune avec son rôle et aussi le haut représentant. Mais, le Parlement Européen, les élus, où sont-ils ? Et si l'action entamée contient des éléments non respectueux des valeurs auxquels l'action extérieure de l'UE est soumise, où est-ce qu'on va contrôler au juridique cette extra limitation de pouvoir ? Parce que le contrôle judiciaire de la Cour de Justice reste exclu. Ce que, dans les organisations politiques démocratiques est conçu et nommé comme État de Droit, où les élus contrôlent politiquement et les juges juridiquement aux gouverneurs, n'est pas prévu dans les Traités malgré qu'ils proclament que l'État de Droit est un des valeurs qui constituent le bien-fondé de l'Union. Il existe ici, un manque de pertinence, à résoudre dans l'avenir de l'Union politique envisagée.

Sur le côté opérationnel il semble que les prévisions du Traité (art. 30 TUE) ont bien fonctionné dans les derniers jours, concernant la crise dans l'Ukraine, car le Conseil s'est réuni d'urgence et le haut représentant, accompagné de trois ministres, s'est déplacé sur le terrain afin d'entreprendre les actions. Mais on dépend trop de la volonté politique, car dans d'autres cas, l'Union a été beaucoup plus lente ou bien elle n'a pas réagi.

Comme conséquent, il faudrait bien mettre en pied un instrument plus pertinent qui permette l'Union de se montrer nettement en tant qu'entité politique. Cela n'est pas irraisonnable et il pourrait mieux servir à un intérêt général, à l'intérêt européen, en renforçant la légitimité des prises de décision sur ce domaine.

### **L'adoption de meilleures compétences dans le cadre de l'enseignement tout au long de la vie**

Quelle est la relation entre les compétences en matière d'enseignement et le renforcement des institutions d'une Union plus politique ? Loin de sembler qu'elle n'existe pas, je crois qu'un des problèmes les plus importants qu'il faut surmonter afin de rendre l'Union plus proche au citoyen est celui de lui montrer, tout au long de la vie, moyennant les structures éducatives, qu'est-ce que c'est l'Union, à quoi sert, quels sont les avantages d'y appartenir et comment y participer, non seulement aux élections au Parlement Européen, mais dans le cadre de la démocratie participative prévue dans le Traité de Lisbonne comme complément de la démocratie représentative.

En fait, les différents niveaux de l'enseignement universitaires, dans beaucoup des pays, ne se sont pas encore adaptés aux exigences de l'Espace Européen de l'Education Supérieure, surtout dans des spécialités montrant encore une forte compulsion nationale, en détriment de la liberté de circulation des travailleurs et professionnels, qui ne savent, beaucoup de fois, comment surmonter les obstacles de cette manque d'harmonisation. Les contenus des enseignements secondaires (la formation professionnelle y comprise) n'introduisent pas d'une façon suffisante des sujets concernant l'intégration européenne, ni d'un côté institutionnel, ni d'un côté matériel, et malgré les années qu'on passe aux centres d'enseignement, les étudiants terminent les cycles éducatifs sans les connaissances nécessaires pour développer sa vie en tant que citoyen européen et comprendre la vie européenne à son tour. Même les études juridiques présentent un manque d'immersion dans le droit de l'Union, qui devrait être inséré, comme conséquent du principe de primauté, dans toutes les matières qui se réclament de l'acquis communautaire. Aussi dans la formation des professions juridiques il est possible de constater une insuffisante présence du droit européen, car les écoles de formation des juges ou procureurs, les exigences des

barreaux d'avocats pour y permettre l'adhésion, ou les preuves pour accéder à autres professions juridiques telles que le notariat ou les hautes postes du fonctionariat, ne prêtent pas une attention suffisante au droit européen, relégué beaucoup de fois à des séminaires optionnels ou, tout simplement, sans présence dans les programmes d'enseignement. Peut-on avancer dans l'Union politique si le citoyen ne se sent pas impliqué, s'il ne connaît d'une façon pertinente les institutions, le fonctionnement de l'Union, le partage des compétences avec les États membres, la position de l'Union dans le monde, etc. etc. ? La réponse n'est pas positive et, afin de surmonter cette entrave, il faut que l'Union ait les instruments d'intervention éducative adéquate. N'oublions pas, par exemple, que même quand les états fédéraux, comme l'Allemagne, dans lesquels l'éducation est une matière appartenant en grand partie aux membres de la fédération, la défense de l'intérêt général a donné lieu à un redressement de compétences avec le transfert de plusieurs de celles-ci du domaine des länder à celui de la fédération.

Pour cela, les compétences européennes actuelles ne sont pas suffisantes ni adéquates. Il faut abandonner la timide réglementation des arts. 165 et 166 du Traité de Fonctionnement de l'Union Européenne, qui attribue aux États presque toute la responsabilité et uniquement laisse à l'Union des fonctions d'appui et complément lesquelles dérivent dans une législation européenne « soft law », sans l'efficacité requise, qui ne donne pas une réponse adéquate aux besoins éducatifs de l'Union dans son ensemble. C'est nécessaire, dans ce sens, que la législation de l'Union dans ces domaines puisse avoir un caractère plus proactif et, pour cela, il serait souhaitable l'introduction d'un niveau plus haut de compétences éducatives en faveur de l'Union.

### **La reformulation de la politique de communication de l'UE**

Étroitement liée aux observations réalisées dans les autres paragraphes en ce qui concerne le besoin d'accroître le lien parmi l'Union et ses citoyens, je crois qu'il est aussi nécessaire une reformulation de la politique de communication.

Malgré la mince réglementation des Traités sur ce sujet, limité en droit à la contribution à l'établissement et développement des télécommunications (art. 170 TFUE) et au fait que la réponse à la consultation publique portant sur la directive "Télévision sans Frontières"

et son éventuelle révision lancée par la Commission n'exprime pas une réaction en faveur d'accroître les compétences de l'Union sur la communication, je crois qu'il faut repenser cette politique du point de vue de l'intérêt européen. Déjà le Livre vert de la Commission sur les services d'intérêt général, de mai 2003, avait inclus la communication dans ceux-ci.

Tous les arguments que j'ai exprimés concernant le besoin d'augmenter la capacité d'agir de l'Union dans l'éducation servent aussi à justifier l'assertion précédente. La citoyenneté ne compte pas avec des média appropriés pour lui faire connaître quel est l'action de l'Union Européenne, comme elle exerce ses compétences, quels sont les débats les plus importants dans la politique européenne, etc. Certes, il est possible d'avoir une connaissance approfondie si l'on est un usager habituel du site web de l'Union, si dans le pays concret Euronews a une diffusion non payante dans les chaînes générales ou si, par hasard, il existe un particulier intérêt sur l'UE dans des moyens de communication concrets. Mais cela n'est pas la tonique générale. Tout au contraire, les journaux et les télévisions laissent peu d'espace à l'Europe et beaucoup de fois ce sont des communicateurs non spécialisées qui préparent des informations qui, plusieurs fois qu'il ne devrait, contiennent sinon des erreurs, des imprécisions comportant la confusion des usagers des services ou moyens de communication.

En plus, cette absence d'une vraie politique européenne de communication est à l'origine du fait que, dans des sujets controversés, le plus facile est, pour les autorités nationales de tous niveaux (national, régional ou local), on attribue à l'Union toute législation ou politique qui puisse donner lieu à des résistances et, contrairement, c'est aussi possible d'attribuer aux autorités internes les éloges d'une telle ou telle politique qui, en fait, est nettement européenne. Le populisme trouve, dans cette absence de politique européenne, une très bonne source d'inspiration pour éloigner les citoyens de l'Europe, favoriser la poussée des nationalismes et améliorer, par conséquent, sa position, non seulement relative, dans la prise de décision.

Pour redresser ceci, une nouvelle politique de communication s'impose, avec une réforme législative qui permette la création de moyens de communication nettement européens, qui puissent représenter l'intérêt européen dans ce domaine.

## **L'instauration de mécanismes aboutissant à une politique économique et financière commune**

Je ne me rappelle pas d'une autre période dans l'histoire de l'intégration européenne dans laquelle les exécutifs aient eu si de poids et les affaires économiques une si grande envergure. On pourrait penser à la création de l'euro ou à l'effervescence qui avait précédé l'adoption du Traité de Maastricht mais, dans ce moment-là, la Politique (avec majuscule) comptait avec une meilleure valorisation et on croyait que la Commission et le Parlement européen tiendraient un poids chaque fois plus important dans la prise de décision européenne. Cela n'a pas été exactement ainsi et, pendant les dernières années, les gouvernements ont adopté quelques mécanismes avec l'intention, substantiellement, d'orienter les politiques financières et budgétaires des États membres de l'UE, accorder un Pacte pour la croissance et l'emploi, définir une proposition de Marc Financier Pluriannuel pour 2014-2020 et réorienter l'Union économique et monétaire. Plus encore, il est peut-être possible qu'on aboutisse même à fixer les bases pour que la Banque centrale européenne agisse comme une sorte de réserve fédérale, ce qui constituerait une authentique révolution. Et il y a aussi des voix qui réclament une union politique majeure en Europe, pour la fédéraliser, parce qu'il n'est pas possible d'avoir une monnaie unique sans avoir des mécanismes politiques pour la soutenir.

On perçoit aussi ici, tel qu'il a été auparavant exprimé en ce qui concerne l'action extérieure de l'Union, que ce sont les gouvernements des États Membres qui décident, pas forcément à l'unanimité, qu'il existent des États Membres avec une position presque dominante et que, tout cela, dans son ensemble et par le contenu des mesures qu'on adopte, en plus d'être mal perçu par la citoyenneté, a comme conséquent que les aspects positifs dans les indicateurs de la macroéconomie ne sont pas compris, d'un côté parce qu'ils n'ont pas une répercussion dans la vie quotidienne des personnes et, de l'autre, parce qu'il n'est pas possible d'introduire l'intérêt européen au cœur des décisions prises avec une telle méthode.

Des mécanismes d'État de Droit et de transparence et contrôle démocratique sont nécessaires dans la prise de décision économique européenne afin de permettre que les objectifs de, entre autres, combattre l'exclusion sociale et le chômage, le développement durable,

la cohésion économique, sociale et territoriale, ainsi que la solidarité parmi les États membres (tous prévus dans l'art. 3 TUE), deviennent chaque fois plus faisables.

### **Une considération finale**

Ces réflexions ne constituent que la pointe de l'iceberg dans les défis auxquels l'Union doit répondre. La politique migratoire européenne, les tensions territoriales internes dans quelques États membres (notamment dans le mien), le renforcement de la coopération judiciaire dans des domaines sensibles comme par exemple la protection des victimes, la simplification (encore) des instruments législatifs, l'adhésion à la Convention Européenne des Droits de l'Homme, pour n'en citer que quelques d'autres, devraient être aussi l'objet d'une réflexion profonde.

Cela n'est pas possible, compte tenant la longueur prévue pour cette communication. Je m'arrête, donc, dans cet exposé, dans l'espoir d'avoir été utile aux fins prétendus, en même temps que je remercie le Président de la Commission, et les professeurs Fausto de Quadros et Dusan Sidjanski, pour l'organisation de cette consultation informelle.

### **NOTE:**

**Mots clés :** intérêt européen, action extérieure de l'UE, valeurs et objectifs, État de Droit, légitimité des prises de décision, éducation, formation des professions juridiques, instruments d'intervention éducative, politique de communication, prévention du populisme, pacte pour la croissance et l'emploi, réserve fédérale, indicateurs macroéconomiques, prise de décision économique européenne, défis de l'Union.

**Ley words :** European interest, external action of the EU, values and goals, Rule of Law, legitimacy on decision-making, education, training in the legal professions, educational intervention instruments, communication policy, prevention of populism, pact for growth and employment, Federal Reserve, macroeconomic indicators, European economic decision making, challenges of the Union.

# How we might recover from the economic and social crisis through European integration deepening

Tibor Palánkai\*

## General introductory remarks:

The EU integration has reached a critical mass both in real-economic and institutional terms, which has gone far beyond the point of no-return.

1. The EU is the most advanced regional integration in the present global economy. 1) It is the only integration organisation which has created *a complex single internal market* and 2) reached the level of real economic union by *creating a single currency* (the 18 Euro-zone members provide nearly 80% of the EU's total GDP), 3) it has extended the *principle of cohesion and solidarity to the level of the Union*, and 4) it gradually gained a *political identity* (has become a "polity") and its institutional system has *several elements of supra-nationality*. The EU is *a model for regional integrations* (democracy, environment, welfare state or integration). It is much more than a simple international organisation, but still much less than a classical federation.

2. In the last more than half a century, a very high level of intensity, interdependence and interconnectedness of relations has developed among the EU members. Its company structures have become highly transnationalised, including its SME sectors. This gives a very strong real-economic foundation of integration, including its single currency. Any speculation about the falling apart of the achieved level of integration has neither relevance nor foundation. The only alternative is to progress ahead, which means the further deepening of the EU structures.

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3. At present, we face a global structural crisis, which affects all the elements of the socio-economic formation. It is a complex crisis extending to techno-structures (energy, environment), institutions (regulatory crisis of multi-level governance), democracy and values. This crisis is in interaction with the crisis phenomena of European integration, the global crisis provoked the latter one, and the weaknesses and deficiencies of European integration aggravated it and its consequences.

The question arises: are there any discrepancies between the achieved level of integratedness and the development of the structures of multi-level governance (institutional and regulatory structures)? My definite answer is yes. They exist both at global (high level of integration of financial markets and the possibilities and capacities of their regulation) and EU levels. The analysis of the problem goes beyond the limits of the present essay, and would need a comprehensive research program.

In the following, I focus only on the growth crisis and some of the possible reforms of the EU budgetary system.

### **Growth crisis**

The crisis began outside Europe as a banking crisis. It spilled over to Europe, and it concluded in a budgetary and sovereign debt crisis. The crisis seriously affected the Euro, but a classical currency crisis was avoided (galloping inflation and the collapse of the exchange rate). One of the most serious consequences was a lasting recession and a high level of unemployment, particularly the high youth unemployment in several countries. I consider this extremely disquieting as it is socially one of the most unacceptable developments, posing a growing and very dangerous threat to European democracy.

To get out of it, we would need growth. It is more and more clear that we are facing *a growth crisis*, which is much more than a financial question and it has complex implications. The basic interest rates have been below inflation (negative real interest rates) for many years, and in spite of the European Central Bank's efforts to pump money into the economy, the only thing that we do not have is economic growth. Bulk of companies invest less than their calculated amortisation, and they seemingly feel that they do not have attractive and profitable investment possibilities.

We know that economic growth begins around 2 per cent, and for many years we have not been able to produce more than 2-3% economic growth. This is a certain sort of reproductive growth, which characterizes most of the developed countries. After some time we replace our car or television and we repaint our houses, but that is all. There might be some technological improvements (recently air conditioning has become a standard accessory, and the same happens with parking radars), but the expansion of our consumption has become slow. Only the emerging countries (BRICs) are characterised by rapid growth, but that is nothing else than a catching up growth. Before 2008 that was the case with new Eastern members (particularly the Baltic countries or Poland and Slovakia), and they remarkably caught up with the EU average. Due to the crisis this process was interrupted, and it is still uncertain how it can continue in the future.

The causes of growth crisis are complex. Historically the rapid growth periods were based on structural and technological changes (revolutions). That was the case connected with combustion engines or electricity, and the rapid structural changes (motorization or urbanization) were accompanied with rapid growth after the war up to the 1960s.

The growth crisis is complicated by the fact that we are *in a growth trap*. At present, the global economy is on an unsustainable growth path, which means that with the present hydro-carbon based economic structures the more we grow the more we pollute our environment, threatening ourselves with environmental catastrophes.

We should break out of this trap, which could be a break out also from the growth crisis. One obvious and probably the most promising solution would be development of renewable energy resources. Or to put it otherwise: the encouragement and acceleration of *an energy revolution*. In the last about hundred years we have had several technological revolutions, but without an energy revolution. There were big expectations about nuclear energy, but it failed to meet the basic requirements, namely abundance, cheapness, cleanness and security.

There are promising developments concerning electric cars, utilisation of solar energy (in its broadest sense) or hydrogen. They are still expensive, but there are signs that we can be at the threshold of revolutionary changes. These energy resources can be made commercially feasible, in spite of the fact that there are counter-

interests on the side of energy companies or even the governments (fear about loss of high tax revenues).

The breakthroughs would need encouragement and financial support. It is clear that any energy revolution depends on the interests and financing of the private business sector. But catalysing monies could be important and the state role could be crucial in that. The Europe 2020 contains a lot of objectives, which all are welcome, but they do not suffice to make up a strategic program for generating such an energy revolution. The member states, even the largest ones are too small to play that role alone, but the united resources of the Union could produce the critical mass for such a revolution.

### **Further deepening – creation a real union budget**

In the EU, the present crisis has encouraged and enforced several important reform steps, particularly as far as the Euro governance (European Semester, Fiscal Compact, European Stability Mechanism or Banking Union) is concerned. These measures have greatly contributed to consolidation of the Euro-Zone, and averted the threat of a deeper economic crisis. In a longer run however, more would be needed. I fully share those views which propose the development of a real common budget for the Union.

The present budget should be reformed, equally in terms of its size, its revenue resources (own resources) and exerting real macro-economic regulatory functions.

Many argue that with the establishment of a properly working economic and monetary union, the future integration of budgetary policies is unavoidable, and in order to deal with asymmetric shocks and to secure stability, progress towards fiscal federalism is a necessary development.

The EC/EU budget can be regarded as only an “embryo centre of a federal system” (referred to by A.M. El-Agra) and so far only slow and contradictory steps have been taken towards any type of federal budget. In fact, one can rightly ask whether we can speak about any such progress, inasmuch as federal union is not yet an objective declared and accepted by the member states.

The issues of a federal budget were raised by the MacDougall Report as long ago as 1977, but owing to the far-reaching political implications, these recommendations lapsed into oblivion.

The MacDougall Report envisaged three stages of federal budget integration:

- Pre-federal integration with Community public expenditures, amounting to 2 – 2.5% of Community GDP.
- Federation with small public sectors, with expenditures of 5 – 7% of GDP.
- Union with large Community expenditures, reaching 20 – 25% of aggregate GDP.

The European Union, transferring only about 1% of its total GDP among the members countries, is only about half-way even to a “pre-federal budget”, and the disputes about the budget reforms suggest no spectacular breakthrough in the foreseeable future.

National budgets (both at federal and local state level) generally rely on income from taxes or tax-like revenues and these vary in size but tend to amount to 40 - 50% of a given country’s GDP. Taxes are paid directly by citizens and legal persons, and we can define these as the national budgets having their *‘own resources’*.

A real common budget of the EU would assume revenue structures similar to the traditional “national” budgets”. The proposals for special own revenues (hydro-carbon tax, Tobin tax etc.) are interesting, but all are contradictory and offer limited solutions.

In order to exert the real regulatory functions, it is hard to avoid that income taxes or the VAT play a central role. The obstacles are more psychological or political than real. People, generally, do not know, which proportion of their income tax goes to the local or the “national” budget. In fact, they do not care much about it, they care about the general amount that they have to pay. Therefore, they would probably not care, if a proportion of their income tax went to the EU budget, except if the media suggested each morning how disastrous that is. And they probably would not care too much if this change would be connected with a general reduction of the income taxes. Of course, realistically this process would need a long time, but we should take the first steps. The company taxes would be obvious sources of common budget, as the company structures of the Union are highly transnationalised.

The budget is *one of the most important tools of economic policy (regulation)*. National budgets traditionally fulfil *four major functions*:

- financing state projects or developments (infrastructure, armaments, etc.);
- purchase and provision of public goods and public services (health, education, public security);
- regulation of the economy;
- income redistribution (cohesion i.e. redistribution of income from the rich to the poor).

They can fulfil all these functions on the side of both incomes (the cyclical and social effects of tax concessions) and expenditures (e.g. state investments – growth stimulation and income redistribution – social policy, etc.). National budgets are cohesive in their nature. The redistribution of incomes from the rich to the poor takes place virtually automatically, on the one hand by means of progressive taxation (or a higher rate of purchase tax on luxury goods), and on the other hand by means of social expenditure benefiting the needier strata of society. These mechanisms are called ‘*automatic stabilizers*’.

The MacDougall Report decisively formulated already in 1977 the basic principles to be followed in the Community budget (MacDougall Report, 1977). According to the report, *the Community budget must also fulfill the main stabilization, allocation and redistribution functions of macroeconomic policy*. It must ensure the promotion of price stability, expansion of economic activities, employment and the efficient use of resources.

From the 1960s, with the common agricultural policy and later on through structural funds and policies the EC/EU *budget gradually acquired real development, regulatory and redistributive functions, even if they remained limited compared to national budgets*. As the common currency was created, these functions should have been extended. But these are far behind what would be needed in reality.

### **Some alternative and transitory solutions**

As the possibilities of a real and enlarged federal budget are limited in the near future, some alternative intergovernmental solutions might be sought. These could include the creation of a separate chapter in the national budgets under the headline of “*supporting union policies*”. These monies could be distributed through open union tenders, and could finance big infrastructural and social development projects.

They could support for example those large multinational projects on alternative energy developments, which I raised above. Another such issue, worthy of union support, could be the handling of youth unemployment. It would not be impossible to work out the necessary mechanisms. It is only a technical question whether this chapter should be financed from income taxes, applying a certain union progressivity (contribution only above certain income levels – clearly there are probably more persons earning over 100 thousand Euros in France than in Bulgaria) or be defined as a percentage of the whole national budget. It can be stipulated that only projects implemented with the participation of 5 or more partners from the member countries would be financed. Consortia could be formed both on the financing (governments) or on the investment side (research institutes, companies or governments). The tenders could follow the general rules applied under the single market. After the project approvals, the resources could be transferred to the common budget and then the rules of the common budget would be applied. If the benefits were unequally distributed, certain rebates could be built in for compensation.

*Budapest, February 22 2014.*



## **Dilemma and future in Gradual integration in EU**

Tong Jiadong\*

### **(ABSTRACT)**

Recent years, EU has been meeting serious challenge on the way to integrate gradually. Some small member states were in sovereignty debt crisis. This is not single case, but general one within the model of economic integration by EU. The choice of the seeable future is fasten the integration or allow some members slow down their step to integration.

The history of economic integration has been gone step by step from customs union to single market, from single market to economic union since 1958. Even EU meets some difficulties, it still keeps going and upgrade in economic integration. Observably Europe believes that gradual integration is unique choice if they try to get result as single Europe in the end.

But EU has a lot of experience and shocks on the way to integrate, such as collective floating in 1973, some member states gave up joint floating until 1976. European Communities once established European Monetary system and then single currency within 10 years. Unfortunately European Communities were in economic crisis, and the some members had to leave EMS, or to lose the band to float from 2.25% to 6% above or below. In these cases, the EU and their member got together and work hard to recover from crisis or recession. And they consider as a very good opportunity to go further to integration. So we could get conclusion that difficulty or challenge is something forces to push the integration further. From angle of functionalism, the process of upgrade in integration is necessary if the member states choose the integration. This is main reason why EU becomes European Union which is supported by three pillars economic, social

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and environmental policy, common foreign and security policy, as well as legal cooperation.

But, this situation has some change after financial crisis in 2008, some small member were in sovereignty debt crisis, such as Greece, Ireland, Portugal, Spain, Italy. EU faced new dilemma. That is these small members should obey their discipline among EU and limit their fiscal budget deficit within 3% in year and 60% in total on one hand, they have to face economic adjust to EU situation. And then their unemployment rate would rise. They could also choose another policy – increase their expenditure above the common limit. They thought EU could help them if they faced crisis as collective. The challenge is who willing to pay these bills. If somebody happens to pay, what is the return to payer? What kind of cost the members could pay? These are some choice. One is to adjust economy to EU require and reduce budget deficit. The small member states have to slow down economic growth and unemployment. In this case they could ask themselves why they eager to join EU if they could not speed up their economic growth. Second one is to transfer some fiscal power toward super body – EU, pushing economic integration from one leg – monetary integration to two legs – both monetary policy integration and fiscal policy integration. In this case EU faces new unequal in the step to integrate. How to require all member states to go further together? It is still difficult since financial crisis did not end in 2010. I think possible choice is a key for both EU and this small member state. It could strengthen the discipline among member states. No matter big or small member must obey the common discipline. But it is not possible generally. Different member has different economic situation and different government policy which each one chooses. The fiscal policy could not reach harmonization with monetary policy at the same time.

So EU should make decision to strengthen the integration step by step on the base of fiscal policy. In my viewpoint, the process of fiscal harmonization could be divided into several steps. First one is strengthen the EU discipline of integration from not only top limit to the direction of fiscal policy in strengthen the policy harmonization; second one is to narrow the top limit of fiscal deficit from 3% to 2% within 3 years, and then 1% within 6 years (now it is 3% of GDP), accumulation budget deficit narrow the top limit from 60% to 50% within 3 years, 40% within 6 years. In the meantime some serious punishment than now should be

introduced. Third one is to introduce common income taxation system and to narrow band of taxation rate among the member states within 6 or 8 years. Final step is common fiscal policy. All member states enjoy the same taxation system and rate of taxation not only indirect taxation, but also direct taxation rate. On the base of this common fiscal revenue, The EU has common fiscal policy.

In short, EU could avoid sovereignty. The economic integration is the precondition to go further perfect integration.



## Recommendations and Conclusions

Vlasta Kunova\*

### Recommendations:

Our recommendations rest on the analysis of the economic and legal basis of the Economic and Monetary Union. However, we assume that they also might be generally applied to improve the quality of European legislation.

Proposal is based on the lengthier analysis of the Economic and Monetary Union, which we carried out as part of research conducted within the Jean Monnet Chair as well as Jean Monnet Module. Since the research was conducted by lawyers, we particularly evaluated the quality and effectiveness of the legislation predominantly in the stage of drafting legal proposals. Our goal is to help The research continually builds on the Jean Monnet Research Project from the year 2007: More Effectiveness in the Decision-Making Processes in accordance with an increasing number of new EU member states. At present, the research has not yet been completed and is being verified in discussions with experts.

The quality and transparency of the legislation likewise have a significant impact on the economy and the social milieu. The stability and clarity of provisions have a positive effect on the economy and legal awareness, whereas frequent changes to the law, intransparency and immaturity of legal institutions constitute a negative phenomenon in the development of the law. This is also the case of EU law. When looking at primary law legislation, specifically in the area of Economic and Monetary Union, it is possible to pinpoint some risk factors, which may exert negative influence on the effectiveness of the legislation in

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this area. We assume that the European Commission is likewise aware of similar risks, as the expression “genuine EMU” has been used in recent years. Therefore, we would like to ask, whether the legislation used up to that time was ungentuine. What the law-makers should do in the aforementioned field when creating legislation related to EMU in order to have genuine legislation:

- use clear precise ,concrete economic and legal terminology, not vague flexible notions allowing various interpretations
- clearly declare the goal, purpose and the intent to adopt legal proposals concerning EMU in the proposals themselves
- do not create duplicate provisions, which are often identical and repeatedly govern the same subject
- lay down unambiguously the binding character and force of provisions on the EMU
- bear in mind the quality of legal proposals, do not prepare them in haste and without synergy
- gradually incorporate intergovernmental agreements on the EMU into the provisions of the establishing treaties, even though it means more far-reaching but legitimate changes of the primary law
- replace the quantity of EMU legislation by its quality
- regulate by law only really existing economic relations
- add binding explanatory notes to EMU provisions, which would explain the application of the provisions in detail (similarly to the Charter)
- give the member states sufficient time to make comments on the legislative proposals
- invite also other countries, which do not use the euro as their currency, to negotiations on the legislation proposals concerning Eurozone members and grant them the observer status
- make the stage of drafting EMU legislation more transparent and accessible to professionals and academics for discussion
- higher participation of the national parliaments in the EMU decision making processes
- harmonisation of taxation among the member states
- more often exploit the enhanced cooperation principle in Decision-making processes

- create a common binding Ethical Code for European banks to serve as the philosophical
- basis for the banking union

### **Conclusion:**

Our preliminary conclusion is indeed confirmed by the fact that constant changes and amendments to the primary law, the fragmentation and intransparency of EMU legislation as well as unreal estimates of economic development and inhomogeneous economics have a negative impact on both the drafting and implementation of the law. At this stage, the optimal solution appears to be the strengthening of federal aspects in the development of the law by adopting a Treaty for a European Federation , which would solve all the doubts on the legitimacy of current measures within the EMU. European Federation enjoy both effective governance and real democratic oversight.

**Key words:** Genuine Economic and Monetary Union (EMU), Effectiveness of Decision –making processes, quality and transparency of EU legislation, European Federation

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As explained in its Introduction, this book was born out of a task requested of the book's Coordinators in 2013 by the President of the European Commission, which required them to conduct an enquiry with the Jean Monnet Professors on how to overcome the economic and social crisis that was affecting the European Union. To do this, the two Coordinators asked the Jean Monnet Professors to give their opinions on reform of the Eurozone and deepening of the Political Union. Based on the numerous and very good responses to this enquiry, the Coordinators applied for a Jean Monnet Project of the Erasmus+ Programme of the European Union with the aim of discussing those responses and exploring them further within the general framework of the debate on the Future of Europe. This book publishes the results of that Project.

An intense debate is currently ongoing regarding the Future of Europe, which involves the Union's institutions, the Member States and, in general terms, the European citizens and civil society. The contributions provided in this book by the Jean Monnet Professors are, therefore, particularly timely and will certainly be of significant use in that debate.