

CHALLENGE EUROPE

# Yes, we should!

## EU priorities for 2019-2024

OUR  
FUTURE

IN  
YOUR  
HANDS


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Larissa Brunner  
Paul Butcher  
Christian Calliess  
Poul Skytte Christoffersen  
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# ABOUT CHALLENGE EUROPE

The European Union (EU) is a great success story. For more than six decades, the European project has generated unprecedented levels of freedom, peace, prosperity, openness, and stability across the continent. European integration has shown that we wield far greater influence if we cooperate economically and politically. But at a time when working together is increasingly necessary, trust in the wisdom of cooperation is challenged.

There is nothing inevitable about the European project. Today, the hard-won achievements of European integration are taken for granted or are openly questioned, while the wider international conditions that benefitted the Union's development are fraying. Internal and external centrifugal forces are putting European integration under pressure. This is why the EU cannot afford to stall – muddling through clearly entails the risk of losing relevance in the global context and in the eyes of citizens.

This issue of Challenge Europe – the 24<sup>th</sup> edition already – delivers an alternative to those who cynically claim that European cooperation no longer works and should be abandoned. It argues instead that integration can still work, and that it is still the best answer to the many problems we are now facing. We want to remind people of the value of European cooperation and offer some suggestions on how we can continue to shape and improve the project now, so that we are

better equipped to respond to the underlying political, socio-economic, and cultural insecurities plaguing Europe, and later down the line, to radically re-think the way we organise our societies.

Each of the 24 contributions in this volume, authored by renowned experts and practitioners in their respective fields, presents a set of concrete recommendations for the next EU leadership, both in terms of key priority areas – sustainable prosperity, values, migration and Schengen, and Europe's place in the world – and on how the EU can use the instruments it already has at its disposal to act in a more effective, transparent, and decisive way.

The volume ends with a call for action from the younger generation. Looking into the future, participants of the EPC's Younger European Strategy Lab (YES Lab) contemplate what Europe should look like in 2057.

Challenge Europe is a multi-authored, periodical publication appearing at key moments and dealing with key issues in the EU integration debate. The papers of this volume were concluded in March 2019.

We would like to thank all the authors who contributed to this issue, and Mariusz Dabek, Myriane Bartholomé, and Maxime Bineau, without whom this publication would not have been possible.

# FOREWORD

**Herman Van Rompuy**

*President Emeritus of the European Council,  
President of the European Policy Centre*

The European Union (EU) is not alone in its struggle to grapple with the major headaches of our times. The Western world as a whole is affected. Inside the Union, the crises in and of its national societies and democracies have radiated to the EU level. Half of the member states have minority governments. If they are politically weak in their own countries, how can the Union be strong? The EU is, after all, also the sum of its member states.

I am not trying to make excuses for the Union. However, no good decision can be made based on a wrong reading of the current situation. After all, the EU institutions, with their new composition following the European elections in May 2019, must work in a context that is politically and socio-economically difficult.

There is a great paradox. On the one hand, more than ever, many people are convinced that major problems such as climate change, unemployment, migration, economic automatisisation and growth, terrorism, trade, military security, and inequality require a European approach. Many of our fellow citizens instinctively know that being isolated in today's world is close to being suicidal. This certainly applies to small countries but also to those in the EU who still think they are 'big'. Never before have people so clearly recognised the usefulness of EU membership. Support for EU membership has never been greater in 35 years, especially among youngsters. The years

of chaos in the United Kingdom (UK) after the Brexit referendum have opened the eyes of many. It was not even that necessary for young people: their eyes were already open!

But on the other hand, paradoxically, citizens seem to insist more than some time ago on national or even regional solutions, because unfettered globalisation offers little protection against threats like deindustrialisation, financial speculation, illegal migration etc., prompting many people to fall back on themselves.

In times of confusion, leadership is needed. Striving for 'more Europe' is, therefore, a matter of leadership, of political courage – a scarce commodity in today's world, unfortunately. But leaders have to keep in mind that societal support for the European project is greater than assumed.

One must, of course, be realistic and take into account the general sense of malaise that is plaguing so many societies today, including European ones. This is not the time for a major European offensive, a 'tectonic shift', a qualitative integration jump. Now is the time to re-energise the European project and to avoid stagnation. The level of ambition must be chosen well. High expectations can lead to equally great disappointments. There has been enough disillusionment since the poly-crises erupted in 2010. As is often the case, we have to find the balance between ambition and realism.

The newly formed EU leadership (after May 2019) should be aware of the possibilities as well as the constraints they have to live with. The high expectations created after President Macron's Sorbonne speech have not materialised. One of the main reasons is that any new initiative involving financial solidarity cannot count on widespread support in Germany. The domestic political and social problems in France have also put a brake on the country's European ambitions. The new leadership of the EU institutions must take over from the Franco-German tandem, however necessary an *entente* among them remains in the euro area.

The challenges for the next EU leaders are determined by an agenda that responds to the concerns of a large part of the population and that is not only short term in nature. The three dominant themes are migration, climate change and purchasing power. The latter also includes employment, especially now that the economy is slowing down again, in Europe and globally as well.

In terms of institutions, this means a further strengthening of the eurozone and the Schengen area, as well as a deepening and broadening of the Single Market, the three pillars of the Union. We know what to do; that is not the problem. It is a question of finding a consensus and assuming leadership. Of course, the reforms will be gradual, but the steps must not be too small!

We also know the global context in which we have to operate: a sky-high global private and public debt, even 40% higher in relation to global GDP than in 2008, and a migration potential of 4 billion people in Africa by the end of the century.

Social issues must be high on the agenda, too. High (youth) unemployment in a number of European countries, significant and growing inequalities in those same and a good number of other countries, the lack of integration of migrants into the labour market and society in general; all of this is undermining the social cohesion and harmony in many member states. It is primarily a competence of national governments to master these challenges, but there is also a specific European dimension, including the fight against international tax fraud and evasion. The absence of a social component to many EU policies is one of the reasons for the strong rise of populism. Social protection is part of the broader protection that governments should be able to provide to their citizens.

To achieve greater unity, a consensus must be found on migration. The debate is splitting the Union, just as it is

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splitting the UK and the US. It should, therefore, be a priority for the next EU leadership.

The renewed institutions must also reach an agreement as soon as possible on a European budget for the period 2021-2027. A budget is the concrete translation of your strategy. In the case of a multiannual budget, it even constitutes the core of a long-term strategy. The proposals put forward by the Juncker Commission contain a philosophy and a strategy. But the proposals have been met with resistance because of the clear choices they make, e.g. on reducing expenditure on agriculture and cohesion to the benefit of innovation, investment, migration, and other policy domains. Brexit is, of course, an additional complicating factor. The link between the rule of law and the allocation of funds is another bone of contention. The institutions must prove that they can follow through. It will be the first major test in the new politico-institutional cycle. A failure would be a very bad start.

The EU may have to work in a climate of economic stagnation in the coming years, unless the political problems – the trade war(s), Brexit, the internal tensions in Italy and France, the economic course in China – are resolved at different levels of power. This is all the more necessary because monetary and budgetary policy can hardly play a stimulating role any more. Interest rates are already very low. Budget deficits will increase as a result of the economic downturn, and there will be pressure to correct them in the euro area, although the threat of even more populism will dampen the austerity zeal.

The EU must be less fragmented and more united in one more crucial area. It must be a 'Union of values'. The instruments for safeguarding fundamental public values within the Union must be made permanent. Violating them must

be sanctioned institutionally and financially. There can be no Union without common values.

The EU institutions will more clearly than before bear the markings of the divisions between and within member states. Some governments will try to send populist Commissioners to Brussels, which will make decision-making in the Commission more difficult. The European Parliament will have to deal with a bigger group of euro-negative forces, however divided they may be among themselves. There will still be a constructive pro-European majority in the assembly, although it will require more than two parties to form a majority. The make-up of the European Council depends on national elections. During the Brexit negotiations, it proved that it was still able to take unanimous decisions. But migration remains a difficult obstacle for them, too.

This time, the distribution of the main 'posts' in the new EU leadership configuration is likely to take place as part of a bigger package in which the various groups and parties will try to find a balance. This will be no easy task.

The EU must take its place in the new world order that is emerging, with a weaker role for multilateralism, an emphasis on nationalism in the US and China and with less Western solidarity. In this new global landscape, the EU must remain the defender of openness, but also demand that other global partners respect international rules, especially the rule-based trading system. The EU economy should not become too dependent on non-European multinational companies, especially in strategic sectors and in new technologies. Protection is not the same as protectionism. The EU should have its own industrial and economic strategy and make use of the scale offered by the Single Market together with the pooling of R&D, investment and innovation resources.

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Finally, the Union must strengthen its own military security through greater cooperation and integration, with the long-term goal being a European army. Our role in the world depends on the degree of political unity we can display. Much progress has been made in recent years. The EU has shown a united front on trade, Iran, sanctions on Russia, climate, Brexit, etc. – but this is not enough. More needs to be done. There is no contradiction between the Union’s role as a ‘soft power’, with an emphasis on our values and on solidarity with the poorer parts of the world, especially in Africa, and the EU’s role as a ‘world power’. But the latter requires a much stronger military arm of the Union. We can only move from the status of a global actor to that of a world power if we have all the means of international politics at our disposal.

In short, the plans we will have to make and the measures we will have to take to re-energise the EU must be realistic without falling into muddling through, and ambitious without striving for a political Europe in the short term. This balance requires statesmanship, the *ars gubernandi*.

# 1. Yes, we should!

**From the European Policy Centre**

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## **WHY SHOULD WE?**

The European Union (EU) is a great success story. For more than six decades, the European project has generated unprecedented levels of freedom, peace, prosperity, openness, and stability across the continent. European integration has shown that we wield far greater influence if we cooperate economically and politically. But at a time when working together is increasingly necessary, trust in the wisdom of cooperation is challenged.

There is nothing inevitable about the European project. Today, the hard-won achievements of European integration are taken for granted or are openly questioned, while the wider international conditions that benefitted the Union's development are fraying. Internal and external centrifugal forces are putting European integration

under pressure. This is why the EU cannot afford to stall – muddling through clearly entails the risk of losing relevance in the global context and in the eyes of citizens.

## **HOW SHOULD WE DO IT?**

In the Union's next politico-institutional cycle, Europeans should choose cooperation over political myopia, partnership over isolation, and action over apathy. We should build on our past accomplishments and defend the pluralist, open, and liberal principles and values on which the EU and its member states are founded. Yes, we should roll up our sleeves and tackle the immediate issues at hand, while not losing sight of the more fundamental economic, political, and societal challenges we are facing. Action in the short and medium term is necessary to create the indispensable conditions for



devising more fundamental responses to structural problems in the long run.

The outgoing EU leadership has fought hard to limit the damage inflicted by the poly-crisis over the last decade, seeking to offer shared solutions to common problems under very difficult circumstances. However, our European project remains a work-in-progress, and we should continue to work on it together. Compared to five years ago, the awareness of Europe's challenges is much more acute and widespread. But while many 'Sunday speeches' call for 'more Europe', the political will and courage to move beyond the current state of affairs is still insufficient. So far, what has been done is barely enough, barely on time.

The European elections will likely confirm the mismatch between the need for Europeans to re-unite and re-energise the European project, on the one hand, and the increasing polarisation within our societies, as well as the lack of trust and increased fragmentation among member states, on the other. Therefore, 'business as usual' will not be enough in the upcoming politico-institutional cycle. The simplistic recipes advocated by 'anti-forces', who oppose European integration and follow a 'my-country-comes-first' attitude, are not helpful either. History has taught us that nationalism leads to catastrophe.

The next EU leadership should assert the principle of European responsibility and confront national leaders with their obligations. In the words of Herman Van Rompuy, the EU is "the sum of its member states". From this perspective, the Union cannot succeed if pro-European leaders are not ready to take ownership of European integration. They should aim to bring added value where the EU can make a difference without creating false expectations, which the Union will not be able to match given its current limitations in terms of power, competences, and financial means. The idea of an EU that is big on big things, and small

on small things remains valid. The problem is that the Union needs to be much bigger on a few very big things.

## WHAT SHOULD WE DO?

As an essential precondition for its survival, the Union must be equipped to weather future storms that are bound to come – even though we do not know when and how hard they will hit us. Preparing the EU for future turbulences will in the next five years require a more fundamental deepening of the Economic and Monetary Union to guarantee the robustness of the single currency. There is also a need to address the lack of solidarity in the field of migration and to fully restore and safeguard the freedom of movement in the Schengen area. These essential tasks remain on the EU's to-do-list, even if they are no longer making headlines.

In addition, the member states should jointly work to address key priority areas where short-term challenges reflect long-term, structural trends, as well as key concerns for the citizens. These include: safeguarding liberal democratic values by strengthening the Union's ability to respond to national governments backsliding on the rule of law and breaching fundamental democratic rights and freedoms; creating a more social Europe with concrete and visible initiatives that address people's grievances, such as fair taxation and efforts aiming to enhance Europe's social fabric; addressing climate change to ensure that the EU becomes a climate neutral economy by 2050; investing in innovation, to sustain technological prowess as a source of wealth and jobs for all citizens; and guaranteeing security, not least by fostering defence cooperation and coping with the challenges that affect Europe's resilience by adopting a firm, 'rules-first' approach on the international stage.

Of course, in none of these domains, the EU can deliver alone. But in all of them, the Union can be both a protective force and a

strategic enabler. It can help its members to succeed together where they would fail separately.

All this is necessary – but it will not suffice. Today might not be the right moment for momentous leaps forward, given the volatility and polarisation of domestic politics in most EU countries and the level of fragmentation and distrust currently dividing Europeans. However, sooner rather than later, having received a much-needed boost from addressing the immediate key concerns, we will have to be ready to respond more fundamentally to the underlying political, socio-economic, and cultural insecurities facing Europe. To do more than just survive, we will, one day, have to radically re-think the way we organise our societies to guarantee the resilience of Europe’s political, economic, and social models in the changed circumstances of our modern world. The EU and its member states cannot escape from the need to adapt to the massive forces of

technological, economic, and (geo-)political transformation overwhelming us.

### WHO SHOULD DO IT?

To create the necessary conditions to do so, it is high time that we start thinking about the EU not as a remote, top-down entity that only dictates and regulates, but as an inclusive project – a story we have all written and are all a part of. The EU is not just a project – it is our project. Every member state, region, town, and citizen is responsible for our Union’s destiny. The EU institutions, national governments, and policymakers at all levels have to show political courage and should take joint responsibility for our shared future. The Union cannot evolve without us – its constituent parts – cooperating in the name of our common interests in a world in which we are only as strong as we are united. Whether we like it or not, we are all in the same boat. So, yes, we should!

## Recommendations for the 2019-2024 politico-institutional cycle

This issue of Challenge Europe delivers an alternative to those who cynically claim that European cooperation no longer works and should be abandoned. It argues instead that integration *can* still work, and that it is still the best answer to the many problems we are now facing. Each of the 24 contributions presents a set of concrete recommendations for the next EU leadership, both in terms of key priority areas – sustainable prosperity, values, migration and Schengen, and Europe’s place in the world – and on how the EU can use the instruments it already has at its disposal to act in a more effective, transparent, and decisive way.

### WHAT TO DO:

#### SUSTAINABLE PROSPERITY

In ‘Deepening the EMU as a win-win: How to keep the reform debate alive’ (chapter 2), **George Pagoulatos** argues that despite some institutional tinkering since 2010, the eurozone remains underequipped to face the next big crisis. That is why sustaining the process towards a deeper Economic and Monetary Union (EMU), through greater financial, fiscal, economic, political, and social integration, should be a strategic priority for the EU as it moves into its next politico-institutional cycle. However, the

next window of opportunity for reform might not open before well into 2020. Nonetheless, or exactly because of that, it is important to keep the quest for ambitious EMU reform on the agenda, until a next opportunity arises.

**Europeans should choose cooperation over political myopia, partnership over isolation, and action over apathy.**

**The political will and courage to move beyond the current state of affairs is still insufficient. So far, what has been done is barely enough, barely on time.**

**History has taught us that nationalism leads to catastrophe.**

**As an essential precondition for its survival, the Union must be equipped to weather future storms that are bound to come.**

The next three papers all call for the EU to reassess its priorities in the face of climate change, the loss of biodiversity and the degrading of ecosystems, and adopt sustainability as a guiding principle for all its policies. In their chapter ‘Prioritising circular economy to boost European competitiveness’ (chapter 3), **Janez Potočnik** and **Julia Okatz** recognise that growth based on natural resources has improved living standards around the world and enabled many of the most successful European industries. They argue, however, that this model has reached its limits. To further increase prosperity in Europe and beyond, we need to create a new kind of economy according to the principles of a new paradigm that decouples growth from resource use and impacts. The authors set out why and how circular economy should be made a priority in the EU’s next politico-institutional cycle of 2019-2024. The rationale is obvious: the transition to a circular economy carries enormous, underdeveloped, possibilities. It can significantly boost economic growth, while reducing environmental and health impacts. This line of reasoning is also picked up by **Martin Porter** in his contribution ‘Making climate neutrality the galvanising heart of a new economic agenda for Europe’ (chapter 4). He proposes to make the vision of a climate neutral Europe by the mid-century the centre-piece of the Union’s new policy agenda. Tackling the sustainability crisis could be the way to reconnect the EU’s core principles and purpose to a genuinely popular idea, one that is rooted in economic innovation and modernisation as much as it is in shared values and common interests. **Gunter Pauli**, in ‘Framework for a new European economy’ (chapter 5) calls for a new approach to create a sustainable, competitive European economy. In the next politico-institutional cycle, the EU institutions should collaborate and take the lead in developing a framework that will allow businesses and entrepreneurs to make the switch from traditional modes of economic development, based on the endless quest for cost reduction and ever-higher economies of scale, to a more sustainable, environmentally-friendly system.

In ‘Give EU citizens what they want: The case for Social Europe and fiscal justice’ (chapter 6), **Claire Dhéret** argues that policy answers to today’s social challenges have, so far, been too weak, have lacked credibility or have favoured a retreat into nationalism. That is why robust solutions to these trends must be central in the EU’s new upcoming politico-institutional cycle and a priority in the future design of ‘Social Europe’. Building a more social Europe, based on clear, concrete and visible initiatives, can address some of

people's most fundamental grievances while breathing new life into the European project, she argues. This will not solve all the economic and social challenges of the 21<sup>st</sup> century; that will require a profound change of our growth model and a reinvention of our social and institutional frameworks. But it will make Europe stronger in the face of the ongoing transition, better prepared for upcoming changes, and it will bring more stability and enhance trust in the future.

## VALUES

**Christian Calliess** reminds us in 'Restoring credibility and trust by enforcing the rule of law' (chapter 7) that too often, European policies have failed to defend the rule of law in the member states. Some national governments have been successful in putting political pressure on institutions, others have been incapable, or indeed unwilling, to implement agreed rules defining European goods and interests. Consequently, the EU has lost credibility among its citizens and the trust of its member states. Therefore, he argues, in the next politico-institutional cycle, the EU has to find a convincing and efficient answer to the ongoing pressure on the rule of law in individual member states. To that end, the Union should prevent rule of law backsliding in individual EU countries by making full use of its available legal instruments and by enhancing the implementation of European law through the introduction of a new concept of cooperative enforcement. The new EU leadership should push in this direction if it wants to regain trust and credibility with regard to the defence of European values in the eyes of its citizens.

**Stefan Heumann's** contribution 'Protecting democracy in the EU: Tackling the disinformation problem' (chapter 8) makes the argument that the core of our liberal democracy – the competition for political power through elections – can only work if facts about the candidates and their

political programmes are not distorted or misrepresented. This is why disinformation campaigns – the dissemination of false information with the intention to mislead – are such an essential threat to our liberal democracies. To craft effective policy responses, we need a much more comprehensive approach at the EU level than the current focus on identifying and countering foreign, and particularly Russian, disinformation within the context of the European External Action Service (EEAS). Instead, he proposes to develop and implement a 'Disinformation Index' to measure member states' resilience against disinformation, to hold political parties and campaigns accountable and to create clear rules for social media platforms.

## MIGRATION AND SCHENGEN

In the context of the EU's current migration policy and the state of Schengen, **Marie De Somer** dedicates her contribution to 'Safeguarding Schengen: The next European leadership should return to fact-based policies' (chapter 9). She argues that as the past three years have shown, buying time, hoping for the dust to settle or the political pressure from the (far-)right to ease is not a viable strategy for securing continued free movement with respect to Schengen. If the next EU leadership fails to bring Schengen back to its normal, that is, pre-2015 state of affairs, the long-term consequences will be grave. To do so, EU leaders must counter the distorted discourses that currently surround the Union's valued free movement acquis. They need to lift border checks at once and end the spill-over of negative, discursive dynamics in EU affairs.

The EU's migration policy is also at the centre of **Evangelia (Lilian) Tsourdi's** contribution 'Solidarity in EU asylum policy: From an emergency-driven approach to the fair sharing of responsibility' (chapter 10). Here she states that the absence of solidarity and fair sharing in the legislative design and

implementation of the EU's asylum policy is glaringly salient. This piece argues that rather than a refugee crisis (i.e. a perceived fundamental lack of capacity to deal with a certain numbers of protection seekers) we are actually dealing with a governance crisis, one that has laid bare the inadequacies of the EU asylum policy. Tsourdi explores the scope and impact of the legal principle of solidarity and fair sharing of responsibility in EU asylum law; she critically analyses the Union's efforts to implement solidarity; and reflects on meaningful ways forward towards realising the fair sharing of responsibility. The next politico-institutional cycle needs to result in a redesign of the EU asylum policy, which embeds solidarity and fair sharing of responsibility structurally, rather than linking it with the notion of emergency, she demands.

## EUROPE AND THE WORLD

With regards to Europe's role in the world, **Giovanni Grevi**, in his contribution 'Rules first: The way forward for 'shaping power' Europe' (chapter 11) argues that over the next five years, the EU should adopt a 'rules first' strategic approach to frame and guide Europe's projection on the international stage. This approach should harness the EU's considerable rule-making power to both promote its interests and values and support multilateralism and partnerships on the global stage. The EU has long aimed to advance international cooperation. This time, however, it is different. Recent developments point to a much more challenging strategic context for 'shaping power' Europe and call for a new level of commitment, he states.

In 'European security and defence: A year of opportunity and risk' (chapter 12), **Jamie Shea** predicts that at the beginning of a new politico-institutional cycle, the EU and its member states will have to show their determination to assume more responsibility as an international security provider.

Europeans will have to prove their readiness to produce new initiatives within the North Atlantic Treaty Organization (NATO) and avoid a renationalisation and regionalisation of Europe's security, while keeping strong links with the United Kingdom after Brexit.

**Corina Stratulat, Marko Kmezić, and Srdjan Majstorović** argue in 'The European Union and the Balkans: In the same boat' (chapter 13) that while for three decades the EU has been preoccupied with how to transform its vicinity, the main concern today is how the West itself is being transformed by modern-day challenges: globalisation, aging societies, migration, and so on. These seem to throw the Union's political, economic, and social model ever more into question. The way forward, however, is not to quarantine the 'patient' behind hard borders. Instead of retreating into navel-gazing, the authors call for the EU to strengthen and diversify the ways in which it reaches out to its allies in the Balkans, who, in any case, share the same problems and interests.

With regard to the EU's policy towards Eastern Europe, **Dimitar Bechev's** contribution 'EU and Eastern Europe: The case for continued engagement' (chapter 14) states that a decade ago, the EU went on a mission to change Eastern Europe in its own image. However, it is on the defensive now. The Russian challenge and the ongoing war in Ukraine shifted the EU's focus from economic integration to crisis management. Dealing with an assertive Russia overshadows all other objectives, he argues. While the Union has not given up on its role as a champion of reforms in the eastern neighbourhood, its overriding concern is the mounting instability at its doorstep. The challenge the EU faces vis-à-vis both Russia and the Eastern neighbours is striking the right balance between engagement, the assertion of European interests and values and, in the case of Russia, containment.

## HOW TO DO IT:

### INSTITUTIONS

**Poul Skytte Christoffersen** makes the case that now, ten years after the entry into force of the Lisbon Treaty, is an appropriate time to take stock of the institutional experience of the past decade and make some relevant adjustments. In ‘The role of the (European) Council: Practical improvements in volatile times’ (chapter 15) he assesses the role of these institutions and reflects on possible adjustments to the way the two institutions work and interact with each other and with other EU institutions. Since treaty change is unlikely to happen in the foreseeable future, he presents practical improvements for the upcoming period to make the work of the European Council and the Council more effective.

In ‘The European Commission: The need for a clearer set-up’, **Paul Ivan** and **Fabian Zuleeg** (chapter 16) argue that the next European Commission should improve on the innovations introduced by the Juncker Commission by turning the Commission College into a more hierarchical structure, with powerful vice-presidents coordinating small teams of commissioners aiming to streamline work and ensure policy coherence. In the longer-term, parts of the Commission’s policy enforcement role, for example in competition policy, should be transferred to independent agencies.

### INSTRUMENTS

**Annika Hedberg** states in her contribution ‘The EU budget – including the CAP – should be used to finance the Union’s priorities’ (chapter 17) that in its current form, the MFF proposal suggests that the EU’s priorities lie in the past rather than in the future. While keeping old structures, such as the Common Agricultural Policy (CAP), on life support, it underperforms when it comes to addressing today’s pressing

challenges. It also fails to devote enough resources to people’s top concerns today. As the European Commission’s proposal for the new MFF is currently under discussion with the European Parliament and the member states, it is still possible for the next EU leadership to ensure that this time around the Union will put its money where its mouth is. She identifies a number of concrete issues where changes in the EU’s budget can enhance the Union’s performance in regard to those pressing challenges.

In ‘A nimble and responsive EU? Predicting unpredictability: A new approach to EU policymaking’ (chapter 18), **Fabian Zuleeg** and **Marta Pilati** argue that today, as the global environment becomes more complex and rapidly changing, the EU needs more flexible policymaking so that it can effectively respond and adapt to unexpected events. A change of mind-set is required to move away from the existing framework, which is too rigid and often ineffective.

### DIFFERENTIATED INTEGRATION

**Julian Rappold** recognises in ‘Handle with care: The potentials and limits of differentiated integration’ (chapter 19) that differentiation has been and will continue to be an integral feature of European integration – although it is still unclear in which areas, how and to what extent it will be applied in practice in the years to come. Given the many internal and external challenges the EU is facing and the increased heterogeneity among member states, the number of flexible forms of cooperation will likely further increase in the next politico-institutional cycle (2019-2024) as it offers a pragmatic and functional way to maintain the Union’s capacity to act. However, differentiated integration is not a panacea to cure the EU’s internal divisions. It should not lead to a closed ‘core Europe’ and rather remain a second-best option in order not to jeopardise the Union’s political, legal and institutional cohesion, he argues.



In ‘The never-ending Brexit?’ (chapter 20) **Larissa Brunner** and **Fabian Zuleeg** dare to look into the future and predict what it might hold for the UK-EU relationship. They argue that, even after the United Kingdom’s (UK) exit from the EU, Brexit will not disappear from the Union’s agenda – if anything, it will become even more important. The EU institutions and member states will not only have to deal with immediate day-to-day issues such as the EU-UK trade negotiations but also with more strategic questions on the future relationship between the EU and the UK and the broader implications of the divorce for the Union’s role in the world and its own future architecture.

## FUTURE OF EUROPE

**Corina Stratulat** and **Paul Butcher** explain in ‘The European Citizens’ Consultations: Will the member states make them count?’ (chapter 21) that the ECCs might have emerged in response to the EU’s long-standing need to fix its growing problem of democratic legitimacy, but it was the push that the French President Emmanuel Macron gave to the idea of organising citizen consultations across the EU that turned the odds in favour of this new, large-scale experiment in European democratic reform. Whatever helped to make the ECCs a reality in 2018, the burning question as the process draws to an end in May 2019 is whether the member states will now make it count. To do so, they should explicitly link their discussions about the EU’s next policy agenda and priorities with the results of the consultations in the run-up to the European Parliament elections, they argue.

In a call for a federal Europe, **Andrew Duff’s** contribution ‘The politics of ever closer Union’ (chapter 22) argues that in its current state, the EU is too weak to do what is expected of it. The Union faces systemic challenges demanding sustained structural responses from stable, strong government. He thus argues that the EU should be granted sufficient centralised powers to be able to act effectively

in the many critical situations in which it finds itself while endowing the governance of the European Union with credible and democratic leadership.

**Janis A. Emmanouilidis**, in ‘Re-unite EUrope: A shared Leitmotiv for the next EU leadership’ (chapter 23), analyses that the EU’s record over the past decade is somewhat mixed and that it is highly difficult to predict its future path given the many uncertainties inside and outside Europe. One thing that is certain is that the Union and its members will face two fundamental, structural challenges in the coming years: a high degree of fragmentation between countries and a high level of polarisation within national societies. To counter these challenges, which will strongly affect the ability of EU institutions and member states to deal with future internal as well as external turbulences, he argues that the Union’s new leadership should follow a shared Leitmotiv aiming to help Re-unite EUrope at both the European and national level.

## YES LAB

The volume ends with a call for action from the younger generation. Looking into the future, participants of the EPC’s **Younger European Strategy Lab (YES Lab)** contemplate what Europe should look like in 2057. In ‘Our vision: Europe, a beacon of sustainability’ (chapter 24), they make a passionate plea for the EU to become a beacon of sustainability, a place that respects the rights, livelihoods and environment of all its citizens, both now and in the future. For the next five years, they want the EU to take action in three key areas connected to building a strong, stable and sustainable European community: climate change, economic inequality and human rights.



# Sustainable prosperity

► Family photo marking the 20<sup>th</sup> anniversary of the euro during a Eurogroup meeting at the EU headquarters in Brussels on 3 December 2018. © JOHN THYS / AFP



# Deepening EMU as a win-win: How to keep the reform debate alive

**George Pagoulatos** – *Professor of European Politics & Economy, Athens University of Economics & Business and Vice-President of the Hellenic Foundation for European and Foreign Policy (ELIAMEP)*

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**MAIN RECOMMENDATION** ▶ Sustain the reform process towards a deeper EMU, through greater financial, fiscal, economic, political and social integration.

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**WHAT TO DO:**

- ▶ Create a eurozone safe asset.
  - ▶ Introduce a European Deposit Insurance Scheme.
  - ▶ Create a real fiscal capacity for the euro.
  - ▶ Establish closer tax policy integration.
  - ▶ Strengthen the social dimension of EMU.
- 

The euro has celebrated its 20<sup>th</sup> birthday with a mixed record. The eurozone's most impressive achievement is that it has survived, defying the many doomsayers. The worst-case scenario has been averted. However, the legacies of the eurozone crisis weigh heavily, particularly upon certain economies whose 'adjustment' came at high cost. Moreover, despite some institutional tinkering since 2010, the eurozone remains underequipped to face the next big crisis. That is why sustaining the process towards a deeper Economic and Monetary Union (EMU), through greater financial, fiscal, economic, political and social integration, should be a strategic priority for the European Union (EU) as it moves into its next politico-institutional cycle.

Euro governments remain divided over additional eurozone reforms. One side supports the bolder package promoted by French President Emmanuel Macron or the European Commission. The opposite side, the "new Hanseatic League" led by the Netherlands, opposes such reforms, claiming that

**The eurozone's most impressive achievement is that it has survived, defying the many doomsayers.**

**It is important to keep the quest for ambitious EMU reform on the agenda.**

risk reduction should come before risk sharing. In December 2018, the eurozone governments met and discussed a diluted and highly unambitious ‘Meseberg minus’ version of reforms agreed on the basis of the Franco-German blueprint proposal of June 2018 (“Meseberg Declaration”). Meseberg itself was already a watered-down version of the Macron proposals – many in Berlin were relieved they were rejected.

The main problem of the eurozone decisions of December 2018 is not just a lack of audacity. It rather relates to the circumstance that they closed the window of opportunity that had opened up following Macron’s initiatives. The next window might not open before well into 2020. Nonetheless, or exactly because of that, it is important to keep the quest for ambitious EMU reform on the agenda, until a next opportunity arises.

## State of play – A list of inadequate reforms

Let’s briefly recap the state of play following the Eurogroup/euro summit decisions of December 2018:

- Some progress was made on enhancing the European Stability Mechanism (ESM) and amending the ESM treaty by June 2019. The principle of “no risk sharing before risks are substantially reduced” prevailed. New rules to facilitate debt restructuring in case of sovereign insolvency will be introduced by 2022.
- An ESM backstop to the Single Resolution Fund (SRF) will be introduced earlier than 2024, provided there is progress by 2020 on risk reduction concerning legacy issues.
- The European Deposit Insurance Scheme (EDIS) will be deferred. A high-level group will

report back in June 2019 before a roadmap on political negotiations can be agreed.

- A eurozone budgetary instrument was agreed to be included in the next EU budget. But contrary to Meseberg, which envisaged “instruments to ensure convergence and stabilisation in the EMU”, only convergence and competitiveness was mentioned, while stabilisation was dropped. The overall size of the new budgetary instrument will be determined by the European Council in the context of the next Multiannual Financial Framework (MFF) as part of a broader package deal subject to the potential veto power of non-euro member states. Finally, as in the Meseberg Declaration, no reference was made to a European unemployment stabilisation fund.

## Why more ambition is needed

Bolder financial and fiscal integration is needed to bring about convergence and stability in the eurozone, for two main reasons:

### **LEGACIES OF FRAGILITY IN POST-CRISIS ECONOMIES**

Post-crisis economies are still burdened by large public debt, high funding costs, a heavy

share of non-performing loans (NPLs), and a higher government need to rely on domestic banks for debt refinancing. In addition, the flow of capital to the periphery remains constrained and gross fixed capital formation registers a wide investment gap. Post-crisis economies remain subject to contagion, bank-sovereign doom loops, and lower confidence in their banking system.

Unemployment shocks in the periphery have been resolved through extensive labour emigration, which undercuts productive capacity, growth potential, and the future sustainability of pay-as-you-go pension systems. In the worst cases, severe hysteresis effects have started to unfold. Backtracking on domestic reforms (as in Italy) exacerbates the situation.

Peripheral economies will need to grow faster, but the combination of crisis legacies, procyclical adjustment, and the rigidity of policy instruments tends to make it harder for them to catch up.

### **TRANSITION COSTS OF THE REFORM AGENDA**

Certain elements of proposed eurozone reforms, while positive, could further

aggravate the woes of post-crisis economies, including Italy. Three examples stand out:

- ▶ First, debt restructuring clauses that are inserted as a precondition for an ESM bailout could further raise the risk premium for highly indebted sovereigns, incurring self-fulfilling prophecy dynamics.
- ▶ Second, transition problems could arise because of the regulatory limit on bank holdings of sovereign debt, which is a vital part of the banking union agenda. Presently, highly indebted sovereigns rely on their banks' home bias to suppress funding costs.
- ▶ Third, aggressive NPL reduction could undermine the capital adequacy of ailing banks, further impairing their ability to finance the economy.

So positive reforms could entail serious transition costs for the vulnerable economies of the eurozone, causing instability.

A more integrated EMU would have mitigated the debilitating legacies of the crisis. A eurozone fit for purpose would activate countercyclical policies to prevent crises from evolving into downward spirals and facilitate speedier recovery.

## **EMU deepening is a win-win**

It is also in the interest of the 'surplus' economies of the eurozone core to accept further EMU deepening, for the following reasons:

- ▶ First, a broad consensus exists among EMU experts that the eurozone crisis resulted not only from national policy failures in the periphery, but mainly from the deficient structure and inherent asymmetries of an incomplete monetary union. The EMU needs

to become more closely integrated and equip itself for the next big crisis.

- ▶ Second, greater eurozone stability and cohesion is a collective good for all its members. And the eurozone needs all its members on board to be a balanced monetary union. A euro without the southern members would appreciate, undermining the competitiveness of the export-oriented 'surplus' economies.

- ▶ Third, experience has shown that crisis prevention through some degree of risk sharing is less costly and more efficient than the delayed management of crises gone out of hand. Risk sharing must be predicated upon national economic and fiscal responsibility, and an effective way of supporting national reforms. National adjustment without sufficient risk sharing and countercyclical eurozone instruments accentuate the recessionary impact of internal devaluation, debilitating human capital and productive capacity.
- ▶ Fourth, vulnerability is not limited to peripheral economies (see Germany's bank problems). Surplus countries have in the past, and will in future, run into cyclical

shocks, and when that time comes they will benefit from a more integrated eurozone, equipped with effective stabilisation and risk-sharing instruments.

- ▶ Fifth, in terms of political engineering, deeper eurozone integration can be part of a broader package deal involving mutual concessions and compromises between debtors and creditors: more solidarity and risk sharing in exchange for more national reforms and policy discipline. This is a positive sum game, a win-win for all. Expanding the package deal to additional policy issues (such as migration and security) raises the chances for success, as the New Pact for Europe publication has argued.<sup>1</sup>

## What to do: Five strategic priorities

How to better equip the eurozone to address the legacies of the last crisis and prepare for the next? Five priority areas:

### **PRIORITY 1: CREATION OF A EUROZONE SAFE ASSET**

Several analysts and institutions, including the Commission and the European Systemic Risk Board, have supported a 'safe asset' for the eurozone. This could take the form of 'synthetic' sovereign bond-backed securities, resulting from the pooling and tranching of cross-border portfolios of national bonds.

A safe bond is not a means for fiscal transfer but a stabilising asset class for eurozone financial markets in the face of potential bank panics. It does not presuppose joint liability or mutualisation between member states. In the proposed safe asset, senior and junior tranches of the security would reflect the varying risk profile between

sovereigns. Senior tranches corresponding to the debt of AAA-rated sovereigns would be absorbed by risk-averse investors, while junior securities incorporating default risk would meet investor demand for higher yield/higher risk assets.

The introduction of a eurozone safe asset would strengthen financial stability and the banking union, offering banks a safe asset in which to invest. It would facilitate market access for sovereigns undergoing cycles of acute vulnerability. It would also improve debt sustainability and prevent contagion from spreading from the sovereign to the banking sector and back. 'Core' economies of high credit rating should view a pan-eurozone safe asset as positive-sum, for its ability to stabilise eurozone financial markets without necessitating a fiscal union, transfers or debt mutualisation.



## **PRIORITY 2: INTRODUCTION OF A EUROPEAN DEPOSIT INSURANCE SCHEME**

Next to a eurozone safe asset, a European Deposit Insurance Scheme (EDIS) is necessary to bolster confidence in national banking systems. The crisis has demonstrated the peripheral economies' vulnerability to capital flight towards the core.

National deposit insurance schemes are incapable of restoring depositors' confidence when sovereign credit-worthiness is in doubt. This is a severely destabilising, procyclical feature of the notorious bank-sovereign doom loop. Faced with the erosion of savings under an overhanging default risk translated into euro-exit risk, peripheral economies are locked into vicious cycles of banking fragility and high financing costs.

The banking union can reduce this risk, by spreading the risk throughout the financial system. The existing two pillars of the banking union must be complemented with the third pillar of EDIS, the roadmap to which must be accelerated.

## **PRIORITY 3: A REAL FISCAL CAPACITY FOR THE EURO**

The introduction of a new budgetary instrument would be the first step. However, a real eurozone fiscal capacity is needed to complement national fiscal stabilisers in the face of asymmetric shocks. During a downturn, fiscal revenues shrink while governments are forced to cut spending. Their capacity for a countercyclical fiscal stimulus is constrained by the rules of the Stability and Growth Pact and/or debt market pressures. An investment protection scheme would prevent a more enduring erosion of a productive capacity that suppresses the member state economies' future growth potential. A similar outcome could be achieved by exempting certain categories of investment from fiscal deficit rules. In general, rules must allow for stronger counter-cyclicality: more restrictive fiscal policies when economies are growing, more expansionary to counter stagnation and recession. A fiscal capacity would support stabilisation, convergence and competitiveness.

An alternative role of macroeconomic stabilisation could be exercised by a European Unemployment Reinsurance Scheme (EURS), operating as a reinsurance fund for national unemployment schemes. Unemployment benefits automatically increase during a downturn, while at the same time, fiscal resources decline. EURS would help cover the gap between increased needs and reduced national capabilities, providing the necessary stimulus to facilitate a faster economic recovery.

**Bolder financial and fiscal integration is needed to bring about convergence and stability in the eurozone.**

**Certain elements of proposed eurozone reforms, while positive, could further aggravate the woes of post-crisis economies.**

**Next to a eurozone safe asset, a European Deposit Insurance Scheme (EDIS) is necessary to bolster confidence in national banking systems. The crisis has demonstrated the peripheral economies' vulnerability to capital flight towards the core.**



**The EU faces an inescapable trend: welfare state costs will rise significantly due to ageing societies and slow economic growth. At the same time, tax competition erodes the ability to tax mobile factors of production such as transnational firms.**

**For economies with acute social vulnerabilities, associated with a steep unemployment increase, it is important to target EU support for social safety nets and employment and reskilling schemes early on.**

**The adoption of a European Pillar of Social Rights opens an important avenue, whereby specific EU actions can be launched to strengthen the E(M)U's social dimension.**

If the insured identity is not the national unemployment insurance fund but the unemployed worker, then the proposed reform is a European Unemployment Insurance Scheme. This also operates for macroeconomic stabilisation and supplements the national unemployment scheme in funding benefits for the short-term unemployed. A European scheme would help the contracting economy address cyclical unemployment while national reforms (in the labour market, education, training, and social security) tackle structural unemployment.

These schemes operate as stabilisation funds, to which member states are net contributors when their economies are growing, and net recipients in a downturn. What counts is the incremental loss of output (or gap between output and potential output) or the rise of unemployment. The system would be neutral over the economic cycle, eschewing permanent transfers.

This is a scheme all member states should endorse under a Rawlsian “veil of ignorance” regarding their current position in the economic cycle. Greece would have been a net recipient of stabilisation funds during 2010-2016, but a net contributor during its high-growth period from the second half 1990s to 2007; Germany would have been a net recipient during its own period of stagnation and rising unemployment in the 1990s. Fiscal capacity is thus a political win-win across eurozone countries.

Apart from national contributions, a fiscal capacity should be equipped with own resources (such as revenue from VAT, excise duties or corporate taxes) including the ability to borrow by issuing bonds. To be macro-economically significant, it should represent at least 1% of eurozone GDP (preferably well above that) – which reminds us how inadequate the recently agreed status quo is.

#### **PRIORITY 4: CLOSER TAX POLICY INTEGRATION**

The EU faces an inescapable trend: welfare state costs will rise significantly due to ageing societies and slow economic growth. At the same time, tax competition erodes the ability to tax mobile factors of production such as transnational firms. This is shifting the burden of taxation increasingly (including social security contributions) upon citizens and employees. Popular frustration over unfair taxation has broadened the appeal of nationalist-populist and insurrectional movements like the *gilets jaunes*.

Bold and honest initiatives are needed to restore tax fairness (see also the contribution by Claire Dhéret in the present

volume). The EU must lead in tackling tax havens and strengthening pan-European tax coordination, and target extremely wealthy citizens and global companies (such as big tech) able to exploit tax loopholes and bank secrecy. The process towards a Common (Consolidated) Corporate Tax base must accelerate following the UK's departure from the EU, and the Commission's proposal to introduce qualified majority voting in the Council on taxation policies must be strengthened.

### **PRIORITY 5: STRENGTHEN THE SOCIAL DIMENSION OF EMU**

The crisis has left debilitating legacies of long-term unemployment and deprivation in countries like Greece, Italy and Spain. For economies with acute social vulnerabilities, associated with a steep unemployment increase, it is important to target EU support for social safety nets and employment and reskilling schemes early on. This would mitigate enduring social disruptions and human capital erosion. The introduction of a European unemployment insurance scheme, as discussed above, apart from macroeconomic stabilisation, also carries a social protection function. Closer E(M)U-wide coordination on fiscal,

taxation and social policies can strengthen social cohesion, especially in the face of asymmetric shocks.

The adoption of a European Pillar of Social Rights opens an important avenue, whereby specific EU actions can be launched to strengthen the E(M)U's social dimension. Social benchmarks need to acquire greater salience in the coordination of economic policies. A single social security number for every European would support cross-border mobility and the convergence of social standards.

The EU needs to support the welfare system transitions to 'flexicurity' by ensuring the development of both dimensions (both employment flexibility and social protection). Overall, in both the macroeconomic and the social dimension, the EMU needs to strengthen its ability to operate as a true insurance union.

***Post-scriptum:** priorities 4 and 5 are immediate, for the next institutional cycle, 2019-24. Priorities 1, 2 and 3 are deeper, longer-term reforms, requiring gradual progress. Unless the next crisis becomes the ultimate accelerator.*

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<sup>1</sup> New Pact for Europe (2017), "[Re-energising Europe: A Package Deal for the EU27](#).[Third Report New Pact for Europe](#)", Brussels: European Policy Centre.

► Trash is being recycled in a sorting centre in Sevran, near Paris, where the United Nations' COP21 international climate conference ran from 30 November to 11 December 2015. © AFP PHOTO / THOMAS SAMSON



# Prioritising circular economy to boost European competitiveness

**Janez Potočnik** – Partner, SYSTEMIQ; former European Commissioner for Environment, and for Research  
**Julia Okatz** – Associate, SYSTEMIQ

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**MAIN RECOMMENDATION** ▶ The EU can foster the benefits of the circular economy through clear priorities, continuous action and expanding current policies and objectives.

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**WHAT TO DO:**

- ▶ Immediately start developing the next circular economy package to signal leadership.
  - ▶ EU Council presidencies should make circular economy a top priority.
  - ▶ Develop an active approach on all levels of governance.
  - ▶ Establish a multi-stakeholder group to develop a vision of a decoupled European economy.
  - ▶ Assume leadership to improve global governance of resource use and circular economy.
- 

Natural resources have fuelled the great economic growth stories of the last century, including in the European Union (EU), the United States and Japan.<sup>1</sup> This growth, in turn, has improved living standards around the world and enabled many of the most successful European industries. But this model has reached its limits. To further increase prosperity in Europe and beyond, we need to create a new kind of economy according to the principles of a new paradigm that decouples growth from resource use and impacts. The rationale is there: the transition to circular economy carries enormous, underdeveloped, possibilities. It can significantly boost economic growth while reducing environmental and health impacts. This piece sets out why and how circular economy should be made a priority in the next EU's politico-institutional cycle of 2019-24.

**Implementing the principles of a circular economy is crucial for innovation, growth, the mitigation of the risks of climate change, and the achievement of environmental and climate commitments.**



## Decouple growth from resource use

**Europe is uniquely positioned to exploit the benefits of the circular economy and establish itself as a frontrunner in a new circular global system.**

**The recently published EU 2050 Climate Strategy envisions a climate neutral Europe by 2050, which is in line with the 2015 Paris Agreement. Although the strategy considers a circular economy as one of the main tools to decarbonise European industry, it is still not explicit enough about its overarching systemic importance – and its implementation.**

**The circular economy is an opportunity for true innovation and leadership that is collaborative by definition – a promising European project.**

There is a strong rationale for this decoupling, including the pressing negative environmental and health impacts of our current resource use, material scarcities, and the increasing risks of resource trade dependencies and price volatilities. The world currently consumes 92 billion tonnes of materials per year, and is expected to consume up to 190 billion tonnes by 2060 if current consumption trends continue. This is fundamentally unsustainable and will endanger human well-being.

Already today, resource extraction and processing are responsible for about half of global GHG (greenhouse gas) emissions and more than 90% of biodiversity loss and water stress. At the same time, high-income countries are becoming more and more dependent on resource imports: the average person in high-income countries uses 9.8 tons of primary materials produced and processed elsewhere in the world. This reliance has been increasing at a rate of 1.6% per year since 2000.

Global decoupling measures can boost innovation and new growth, and save costs and reduce negative environmental and health impacts at the same time. A recent International Resource Panel (IRP) report found that concerted resource management and efficiency measures can boost economic growth by 8% globally by 2060.<sup>2</sup> This estimate does not yet even fully consider the opportunities that a transition to a circular economy would bring.

## Transition to a circular economy

A circular economy is a key tool in achieving decoupling while boosting growth and rethinking socioeconomic dynamics and cooperation. Moving towards a circular economy will mean to reduce, maintain, reuse, remanufacture and recycle products, components and technical materials, as well as reuse biochemical feedstock and maintain or restore regenerative biospheres, such as agricultural land.

A circular economy must operate on four levels: products and services, companies, networks and policies (adapted from Geng et al.<sup>3</sup>):

- ▶ First, products (components) need to be recyclable and reusable, sustainably sourced and manufactured using clean methods. Where possible, tangible products must be replaced by services that provide the needed function for the customer using less or no materials – such as mobility as a service or lighting as a service (for example selling hours of light as a service instead of light bulbs).
- ▶ Second, to make decoupled products and services profitable, companies need new business models that de-link the revenue base from material use, through rethinking the design and use of products and value chain interactions.

- ▶ Third, companies need to build networks to enable new, decoupled value creation, for example by encouraging reverse logistics (moving goods from the user back to the producer, or the remanufacturer respectively), industrial symbiosis (direct or indirect reuse of waste or surplus resources across companies) or public-private partnerships.

- ▶ Fourth, policies are needed to support circular markets, especially through fiscal policies, regulations, research and vision building. Circular principles are applicable in the majority of sectors, including manufacturing, retail, agriculture, mobility, energy, and digital intelligence.

Implementing the principles of a circular economy is crucial for innovation, growth, the mitigation of the risks of climate change, and the achievement of environmental and climate commitments.

## The EU's role – Tackling challenges jointly and exploiting synergies

Europe is uniquely positioned to exploit the benefits of the circular economy and establish itself as a frontrunner in a new circular global system. The EU has a unique combination of market power, production and logistical know-how, integrated markets and political and economic institutions that can facilitate the transition.

In addition to this potential, Europe is also in great need of new areas of innovation and growth. It failed to establish itself as a leader in recent tech-innovation waves and still needs to develop a strategy for the fourth industrial revolution that encompasses the physical and digital economy.<sup>4,5</sup> Moreover, the EU is among those economies most advised to reassess its material import dependencies.

### **WE CAN TACKLE THESE CHALLENGES TOGETHER AND EXPLOIT SYNERGIES WITHIN A CIRCULAR ECONOMY PARADIGM**

An Ellen McArthur and SYSTEMIQ report found a €320 billion circular economy investment opportunity available to Europe until 2025<sup>6</sup>. The main areas of interest for profitable circular economy investments are mobility (including manufacturing), our food system and the built environment. Although companies are beginning to see the benefits of circular practices, its potential is still massively underused. Only strong political leadership, in collaboration with strategic industry actions will enable the fundamental transition that is needed to reap the full benefits.<sup>7</sup>

Embracing decoupling through a circular economy is also an effective and cost-efficient strategy to fulfil Europe's environmental commitments, in particular its commitment to halt biodiversity loss under the United Nations Convention on Biological Diversity (CBD) and its agreement to keep global warming well under 2°C under the Paris Agreement.

A recent report by the Energy Transitions Commission has shown that material efficiency and circularity in industry, specifically in plastics and metals supply chains, could reduce the global GHG emissions of heavy industry and heavy-duty transport – which are commonly considered “harder-to-abate” sectors – by 55% by 2050 and would reduce the cost of decarbonising these sectors by 45%.<sup>8</sup> In the case of plastics, for example, circular production could result in products that are 80% cheaper than products made of new

materials (if the costs of collecting, sorting and processing are kept low).<sup>9</sup>

It is important to note that a circular economy not only reduces direct GHG emissions through material savings (and limits other negative impacts), it is also an enabling factor in the sustainable scaling of renewable energy sources. Renewable technologies are likely to increase material demand, but the materials used in the production process, such as metal for example, lend themselves well to reuse.<sup>10,11</sup>

The recently published EU 2050 Climate Strategy envisions a climate neutral Europe by 2050, which is in line with the 2015 Paris Agreement. Although the strategy considers a circular economy as one of the main tools to decarbonise European industry, it is still not explicit enough about its overarching systemic importance – and its implementation.<sup>12</sup>

## No time to waste

The task is now to link the circular economy with and beyond the environmental agenda, including industrial and digital agendas as well as climate, energy and agricultural policy, and develop strategic implementation plans.

Apart from the tangible benefits, a circular economy could become the EU's new common mission. Surely it is no silver bullet to solve the current lack of social and political cohesion and must be accompanied by the right social policies to ensure fair access to the benefits and the mitigation of transition costs. However, the circular economy is an opportunity for true innovation and leadership that is collaborative by definition – a promising European project.

Moreover, sustainable resource management provides significant opportunities in foreign policy, development cooperation as well as migration policy. Natural resources are closely linked to economic development and are important factors in conflict and peacebuilding. Studies suggest that over the past sixty years at least 40% of all intra-state conflicts were at least partly linked to natural resources.<sup>13</sup> The drivers of the European and global migration challenge can therefore not be seriously addressed without a deep understanding and strategic management of the global resource dynamics.

Overall, the question is not whether there is a need to prioritise the circular economy as a European strategy but rather how we can start as soon as possible and how we can



ensure that all parts of society benefit from the gains.

If Europe acts too late, it will be overtaken by more innovative economies such as China, which is already taking important steps in the direction of more circularity.

Although a circular economy requires collaboration across borders, and other

countries should be encouraged to join the transition, shaping the system and leading the way for others to follow could bring the EU enormous benefits. The risk of failing to do so will impede on the Union's ability to anticipate change and surprising disruptions. We can end up with large, stranded assets: machinery and factories that are very costly to adapt to circular value chains.

## Setting clear priorities

### **THE EUROPEAN UNION CAN FOSTER THE BENEFITS OF THE CIRCULAR ECONOMY THROUGH CLEAR PRIORITIES AND CONTINUOUS ACTION**

Europe is headed in the right direction, but it needs to pick up the pace and become more strategic to unlock the full potential of the transition to a circular economy. The EU has introduced important policies in the past few years. The current circular economy package, presented in 2015 and adopted in 2018, for example, puts forward a recycling and reuse target of 65% for 2030 (the package proposed by the previous Commission in 2014 had proposed a 70% target for 2030). The package addresses recycling, and proposes to limit landfill dumping, reduce food waste and the reuse of wastewater and has a strong overall focus on plastics and waste management.<sup>14,15</sup> The Commission also introduced an eco-design directive that deals with appliances' energy efficiency.

While these and other measures have been crucial to initiate the transition, they must be seen precisely as that: a starting point to continuously improve and enhance our efforts.

Circular economy policies and objectives must not only be updated and expanded upon, they must become a shared ambition

across directorates, EU commissioners, the EU institutions and member states. The benefits of this transition must be strategically exploited for the purpose of growth, competition, labour, international relations, health and the environment. Immediate improvements must be combined with mid- and long-term strategies to create the right conditions in Europe and along global value chains for a more circular system to emerge – and the EU's efforts must go beyond what the Commission can do, to provide the economy and society with the long-term ambition and support needed for fundamental innovations.

The list of actions to be decided on and implemented in the coming political-institutional cycle should include the following:

In terms of next concrete steps, the current Commission should establish where increased efforts are needed now, paving the way for and sending a clear message to the next Commission to immediately start developing the next circular economy package to signal continuity and leadership. It must include more product groups than the last package and emphasise extended producer responsibility as aligned with more stringent eco-design guidelines for value retention in the different circular

processes (reuse, repair, refurbishment, remanufacturing and recycling). It should also focus on economic signals and policy drivers, such as taxes, subsidies and public procurement procedures. Besides the greening of the Union's finances, the new package should also highlight the importance of the social aspects of the transition (employment, inclusiveness, local benefits).

Member states also have an important role to play. The upcoming EU Council presidencies (Finland, Croatia, Germany, Portugal, Slovenia, France, Czech Republic, and Sweden) should make circular economy one of their top priorities. Those countries that are willing to commit need to build a coalition of 'circular economy champions' to promote circular economy among their peers, as well as to mainstream the development of national circular economy roadmaps. These member state champions should be encouraged to drive leadership and creativity, becoming a designated 'vision group' (see below). By setting up a European policy fragmentation can be avoided.

An active approach on all levels of governance is needed. Cities should take an active role in supporting the transition to a circular economy. They are in a privileged position due to their relative autonomy and due to the fact that many circular economy opportunities are related to the cities. For example, the city of Amsterdam developed an explicit strategy that aims to redesign its core product- or material chains.

The Commission should establish a multi-stakeholder group to develop (and promote) a vision of a decoupled European economy, and the different pathways to get there. This group should span across directorates, include industry and civil society representatives, and also interact with global initiatives. The group should include a technical expert committee that can advise directorates and assess the potential of relevant policies to unleash the untapped

potential of the circular economy. Policies in the areas of research and innovation, taxation, trade, agriculture, labour, climate, and digitalisation are all crucial to enable a circular economy that is in turn beneficial for these areas;

The long-term strategies, as well as the more immediate steps, must be based on a deep understanding of Europe's resource dynamics. The analysis of specific implications in terms of risks, responsibilities and opportunities must be supported by a user-friendly database of Europe's material flows that is embedded within a respective global data base (as material flows are increasingly global). The existing Global Material Flows Database hosted by UN Environment provides a good starting point, as do the global assessment reports such as the Global Resource Outlook by the International Resource Panel (IRP). However, information on data flows must be more specific about societal and economic use dynamics, specific risks and opportunities, and must become more practical for different stakeholder groups. An institution like the EU should offer its member states methodologies on how to assess national resource use implications and specific circular economy opportunities. Most multilateral research organisations do not have programmes specifically devoted to the circular economy, yet<sup>16</sup>– the EU must strive to change this.

Last but not least, the EU as an institution and its 'champion' member states must assume the leadership in the pursuit of improving the global governance of resource use and the circular economy. There is currently no multilateral institution to monitor and let alone manage global resource use, its impacts and the circular economy's huge global potential. A proposal for a 'UN Convention for Natural Resource Management' should be considered. The Sustainable Development Goals (SDGs) recognise the importance of resource use, particularly goal 12 "Sustainable

Consumption and Production”. However, indicators are vague and the universal importance of resource use for all the other goals is not made explicit enough. Only through global cooperation can global resource flows be managed in such a way that they support global prosperity. The EU must make a concerted effort to promote the discussion of suitable solutions.

If we want to accomplish the SDGs, we need to make sustainable resource management a priority among governments, businesses and civil society. If we want to advance a competitive Europe and become a global leader, it is high time to start the circular economy transition.

**If we want to advance a competitive Europe and become a global leader, it is high time to start the circular economy transition.**

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► German climate activist Luisa Marie Neubauer (front right) and Swedish climate activist Greta Thunberg (second right) take part in a "Fridays for Future" demonstration for a better climate policy in Berlin on 29 March 2019. Since December last year, teenagers across Europe, inspired by the 16-year-old Thunberg's climate fight, have been skipping classes and marching weekly. © TOBIAS SCHWARZ / AFP



# Making climate neutrality the galvanising heart of a new economic agenda for Europe

**Martin Porter** – Executive Chair of the University of Cambridge Institute for Sustainability Leadership (CISL) in Brussels

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**MAIN RECOMMENDATION** ▶ The urgency and scale of changes necessary to address climate change require an immediate and enormous collective effort to make the EU climate neutral.

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**WHAT TO DO:**

- ▶ Re-organise for immediate action around the long-term economic goal.
  - ▶ Confirm the ambition to achieve a climate neutral economy by mid-century at the latest, including a European carbon budget and high scale emissions reduction.
  - ▶ Appoint a separate Commission vice-president responsible for climate neutrality and sustainability.
  - ▶ Create an industrial strategy that incorporates climate neutrality and circular economy objectives through more circular value chains and a package of cross-sectoral measures to enable investment and innovation, establish partnerships, infrastructure and necessary governance.
  - ▶ Connect pan-European strategy and people through energy, mobility and buildings.
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## Europe's two-fold existential challenge

In 2015, the University of Cambridge Institute for Sustainability Leadership (CISL) published “Rewiring the Economy”, a ten-year plan to lay the foundations for a sustainable economy,



**It is an open question how the European elections and the (s)election of a new EU leadership will affect the European Union's (EU) ability to effectively address climate change and its consequences.**

**Tackling this sustainability crisis could be the way to reconnect the EU's core principles and purpose to a genuinely popular idea, one that is rooted in economic innovation and modernisation as much as it is in shared values and common interests.**

**The new EU institutions would take a bigger political risk by dismissing these demands or offering only timid policy response, than by embracing them and taking bold action.**

built on ten interconnected tasks, delivered by leaders across business, government and finance. Re-reading the case for this and its agenda for action in 2019, it is striking how the basic case for action remains true: that the improvements in quality of life and well-being for billions of people across Europe and the world are unsustainable in light of rising inequality and community breakdown, degrading ecosystems, resource depletion and pollution and climate change.

In just a few short years, the sense of urgency has grown as these developments have accelerated, and the negative impacts have become even more apparent. Any progress seems inadequate to the scale of the task. The 2018 IPCC (Intergovernmental Panel on Climate Change) '1.5 degrees' report was especially stark in its warning that the window of opportunity to avoid dangerous climate change will close by 2030. Even as we become more aware of the extent of our (un)sustainability, we continue to collect, produce, consume and discard as if nothing's wrong. Europe is struggling to keep up with the magnitude of the challenge and to adapt to the need for fundamental change.

In this context, it is an open question how the European elections and the (s)election of a new EU leadership will affect the European Union's (EU) ability to effectively address climate change and its consequences. The likely increase of eurosceptic Members of European Parliament (MEPs) will affect Parliamentary business by making majorities more difficult to secure and Parliamentary opinion less predictable, resulting in a more fragile EU in the years to come. However, a wider coalition of pro-European parties is still expected to predominate in the next politico-institutional cycle, based on a likely enhanced representation of ALDE and the Greens, even if the two largest groups – the European People's Party (EPP) and the Socialists – will no longer be able to form a 'grand coalition' in the European Parliament (EP).

Perhaps the deeper significance of the likely outcome of the 2019 EP elections relates to the broader rejection of the binary left-right thinking and allegiances represented by traditional political parties. In this context, the European election campaign and the debate that has been launched about 'the future of Europe' are much less about institutional introspection or another round of Treaty reform than it is about a search for a new mission. This new mission must be built upon an updated application of the EU's established principles, be even more clearly relevant to the key challenges of the 21<sup>st</sup> century, and more genuinely popular. It must inspire solidarity and enable progress.

This is why environmental and sustainable development issues are now so crucial. For all its resilience, successes and continuing potential, if Europe's current model of development is proving to be socially and politically unsustainable, the evidence that it is environmentally so is now overwhelming. The urgency and scale of the changes necessary to address

climate change, biodiversity loss and wider ecosystem breakdowns require an immediate and enormous collective effort. Tackling this sustainability crisis could be the way to reconnect the EU's core principles and purpose to a genuinely popular idea, one that is rooted in economic innovation and modernisation as much as it is in shared values and common interests.

## Seizing the moment: Building on the current agenda for climate neutrality

Despite widespread concern about the insufficient progress made on the sustainable development agenda, as well as the threat of national populists to the EU's transnational liberal democratic legitimacy, there are some positives, including a legacy from the 2014-2019 institutional cycle which offer hope.

The most relevant is the European Commission's vision and strategy for "A Clean Planet for All" published in November 2018, along with the institutional innovations proposed in its recent assessment of its efforts on the 2030 Sustainable Development Goals (SDGs). In this sense, there are some grounds for cautious optimism that the elections and the next term for the Parliament, Commission and other EU institutions do in fact represent an opportunity.

Surveys, public demonstrations and changing consumer behaviour in Europe are all signalling a growing momentum for real change, and a genuine desire for a new economic agenda, notably in response to climate change. Quite probably, the new EU institutions would take a bigger political risk by dismissing these demands or offering only timid policy response, than by embracing them and taking bold action.

According to Eurobarometer, EU action on climate change can count on a lot of (growing) support. It is a policy area where international cooperation is considered obvious and essential to European citizens from all member states. Politicians who dismiss the surge in support for the Youth for Climate campaign, initiated by the Swedish school-girl Greta Thunberg, risk missing the boat. A whole new generation realises that their future is being decided today and they expect their political representatives to take much bolder decisions. The new Extinction Rebellion movement of civil disobedience reflects similar sentiments of frustration and impatience, as its own rapid progress underlines. These are restless times indeed.

These kind of concerns are not exclusive to climate: high-profile campaigns on the extent of plastic production, consumption and pollution, notably in oceans, has struck a chord among European consumers. Local air pollution from cars, power plants or heating systems are driving communities to demand bans on the dirtiest products or processes. Vegan diets and digitally-enabled, less material-intensive life-styles are stimulating demand of new products and services, from new plant-based or insect-derived foods to zero-emission mobility solutions.



Consumers now have alternatives to high-emission power or fuel. There are both desirable and affordable options for power generated from solar and wind sources, and storage. Battery technology's costs have declined so quickly that it is now estimated to be cheaper to own a small electric vehicle than to buy its internal combustion engine (ICE) counterpart. The Union's legislative and regulatory framework, and its financial support, have played a significant role in enabling change. It has facilitated the deployment of renewable energy, the improvement of interconnections between power grids, tightened emission standards for cars and higher levels of investment in energy and mobility innovation, all helping to spur the demand for and supply of new technologies, business models and changed consumer behaviour.

All in all, the economic case for the transition is stronger and clearer than ever. The Commission's own assessment for its 'Clean Planet for All' strategy confirms that the net zero emissions scenarios are those which are most positive for GDP growth, industrial development opportunities, employment increases, health and well-being for its citizens. Also, EU domestic climate action is an essential climate diplomacy asset becoming increasingly important as the EU's economic and environmental weight on the global stage continues to shrink. But it also confirms the enormous investment needs, the uneven impacts of transition across different regions or demographics, and the need for transitional measures for businesses to enable them to compete in the current global market place whilst innovating for the transition. A clear agenda should therefore emerge.

## Three priorities for a new economic agenda for a climate neutral Europe

To achieve a net zero carbon ambition, setting priorities is essential. The notion of a 'New Green Deal' could positively resonate with the wider public, by linking the scale, urgency and benefits to citizens to a well-known successful predecessor. The following priorities for innovation could lead the way in the months and years to come.

### **PRIORITY 1: RE-ORGANISE FOR IMMEDIATE ACTION AROUND THE LONG-TERM ECONOMIC GOAL**

Transformational and structural innovation requires both a clear sense of direction and a shared understanding of the necessary pace for success. The essential starting point for the new EU leadership will be to confirm the ambition to achieve a climate neutral economy for Europe by mid-century at the

latest. This should also include defining a European carbon budget, consistent with that objective. To drive immediate investments in innovation and associated actions, there should also be a 2030 target of a 55% reduction in emissions and an immediate action plan for 2020-2025 that sets the EU on the right course. These efforts should be intimately associated to the other 2030 SDGs (Sustainable Development Goals).

A clear political signal should be given by including carbon neutrality and sustainability among the top political priorities of the EU, both in the framework of the European Council's Strategic Agenda likely to be adopted in June 2019, and in the new Commission's Strategic Priorities, due to be confirmed later in the year. With a clear economic focus, these themes should

become central to the activities within the European Semester, with associated reporting and monitoring.

Building on the success of the clustering approach of the current Commission with regards to ensuring a better co-ordination of different DG's input into the implementation of the Commission's strategic priorities, one of the Vice-Presidents (VPs), should be appointed with the responsibility for 'Climate Neutrality and Sustainability', with all relevant Directorates-General (DGs) reporting primarily to him/her. This would be consistent with the options presented by the Commission in its assessment report on progress on the SDGs. The relevant DGs would include those responsible for Climate, Environment, Energy, Transport, Agriculture, Industry and Internal Market, Research and Innovation, Regional and Social Affairs, all of which are closely concerned with the mid-century strategy. There is also a case for the DGs for Competition and Trade to work closely within this cluster. With such a clear organisational priority and authority, short-term initiatives across key areas would then be developed, in line with the "Clean Planet for All" agenda.

## **PRIORITY 2: AN INDUSTRIAL STRATEGY FOR CLIMATE NEUTRALITY AND CIRCULAR ECONOMY**

There is a combination of circumstances that now favours a stronger and more ambitious European industrial strategy, strengthening or even replacing the current approach of coordinating national ones, and it is essential that this is developed and pursued in parallel to the overarching climate neutral economy goal. This strategy should also apply to industries related to Artificial Intelligence (AI), which has huge potential for development and is a crucial potential enabler of more obviously relevant industries from a climate neutrality perspective.

Key elements of such an industrial strategy for Europe would include measures on mainstreaming circular economy across all industries, the electrification of processes and carbon neutral infrastructure development – and how to finance of all of this rapidly. An industrial strategy should also consider activities in the context of circular value chains, and include not just resource and energy intensive industry segments (such as materials extraction and processing of steel, cement and chemicals) but also major associated manufacturing or construction industries (including mobility, infrastructure and buildings, as well as bio-economy, food, nutrition, and health value chains). Opportunities stemming from the pervasive and enabling role of big data are evident, as is the potential

**The essential starting point for the new EU leadership will be to confirm the ambition to achieve a climate neutral economy for Europe by mid-century at the latest.**

**The economic case for the transition is stronger and clearer than ever, whilst the costs of delayed or inadequate action both obvious and even higher.**

**Key elements of a climate-friendly industrial strategy for Europe should include measures on mainstreaming circular economy across all industries, the electrification of processes and the development of carbon-neutral infrastructure – and ideas on how to finance of all of this rapidly.**

for industrial leadership in Europe in a wide range of different areas.

A policy agenda for advancing this kind of strategy includes an integrated package of cross-sectoral measures which would seek to:

- ▶ Enable investment in innovation at the early stage deployment and at the scaling up of zero emissions process technologies.
- ▶ Establish industrial partnerships to develop world-leading industrial combinations of companies, investors and other stakeholders – such as the batteries alliance.
- ▶ Lead and mainstream market development through public procurement, a wide-ranging revision of existing or new standards for products, processes and services, additional fiscal incentives.
- ▶ Integrate energy market design and development with industrial priorities and clusters.
- ▶ Develop infrastructure, including for a minimum capacity of carbon capture and storage linking industrial clusters with energy distribution and off-shore storage.
- ▶ Adopt possible interim measures to ensure fair trade with competitors through border adjustments.

### **PRIORITY 3: CONNECTING A PAN-EUROPEAN STRATEGY WITH LOCAL COMMUNITIES THROUGH ENERGY, MOBILITY AND BUILDINGS**

As a complement to the ongoing and further development of the clean energy and mobility packages, there is still a need for more initiatives in the areas of energy, mobility and buildings.

Institutional innovations that could help in the next period include a European Parliament Standing Committee on the

European Energy Transition and an Energy Transition Support Service to help member states develop and implement their national plans. Both services could help to ensure rapid and effective operationalisation of the new legislation and regulations. Flagship initiatives with clear and understandable goals could be launched by the Commission to that end, too. An example would be to deeply renovate 1 million buildings by 2025.

In addition, a bigger push to accelerate experimentation and the take-up of new technologies and services that have public support would constitute a ‘bottom-up’ economic strategy, in which companies and entrepreneurs could play a leading role along with researchers, public administration and civil society actors.

The High-Level Panel of the European Decarbonisation Pathways Initiative has proposed that a significant budget from Horizon Europe could be allocated to the development of a number of ‘Transition Super-Labs’ for this purpose. These are conceived as real-life laboratories where systemic innovation for fully climate neutral economies can be undertaken, notably in locations where such transitions could be particularly difficult. These might include mining-industrial complexes, conventional agricultural regions or metropolitan areas, with funding coming from a range of different sources in addition to those from Horizon Europe.

This would also become an important element of a fully developed regional strategy to ensure a ‘just transition’, given how each local will be impacted differently by the transition to a carbon-neutral economy. Public support throughout the extended period of significant structural change is paramount. A dedicated strategy to mitigate the social implications of these rapid structural transformations should also be envisaged, based on a concerted process of upstream and ongoing stakeholder discussions. This must result in a range of

actions, with an appropriate mix of short-term remedial measures and long-term legislation on vocational education and

training, and on targeted investment in regional development.

## Conclusions

Tackle the environmental and sustainability crisis at the EU level could be the way to reconnect the EU's core principles and purpose to a genuinely popular idea, one that is rooted in economic innovation and modernisation as much as it is in shared values and common interests.

The new EU leadership would take a bigger political risk by dismissing these demands or offering only timid policy response, than by embracing them and taking bold action. The economic case for the transition is stronger and clearer than ever, whilst the costs of delayed or inadequate action both obvious and even higher.

The notion of a 'New Green Deal' could positively resonate with the wider public, by linking the scale, urgency and benefits to citizens to a well-known successful predecessor. Three key areas for intervention include institutional organisation, industrial strategy and engaging local communities in innovation.

The essential starting point for the new EU institutions will be to confirm their ambition to achieve a climate neutral economy for Europe by mid-century at the latest. To demonstrate that this is an absolute priority, one of the Commission's Vice-Presidents should be made responsible for 'Climate Neutrality and Sustainability'.

Key elements of a climate-friendly industrial strategy for Europe should include measures on mainstreaming circular economy across all industries, the electrification of processes and

the development of carbon-neutral infrastructure – and ideas on how to finance of all of this rapidly. In addition, research instruments should be devoted to achieve a better understanding of the impact of this transition, for instance by way of real-life laboratories as suggested by the High-Level Panel of the European Decarbonisation Pathways Initiative.

The priorities of the new EU leadership should reflect the fact that environmental and sustainable development issues are pivotal. The urgency and scale of the changes necessary to address climate change, biodiversity loss and wider ecosystem breakdowns require an immediate and enormous collective effort. In the next politico-institutional cycle, the EU and its member states need to collectively live up to the challenge – now is the time to act.



— A picture taken on 7 May 2014 shows cows and the Malbrouck Castle, built in 1434 and a French national heritage site, in Manderen, on the French eastern border with Germany, with in the background one of the seven German 200 metre-high wind turbines, located just over the border. © JEAN-CHRISTOPHE VERHAEGEN / AFP



# Framework for a new European economy

**Gunter Pauli** – *Founder of ZERI and author of The Blue Economy*

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**MAIN RECOMMENDATION** ▶ While there is a broad support for the circular economy, the Council, the Commission and the European Parliament are not going far enough to ensure the transformation towards a truly competitive and sustainable economy.

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**WHAT TO DO:**

- ▶ Take seriously the concerns of young consumer-citizens, who favour a more radical transformation of the modes of productions and devise policies accordingly.
  - ▶ Continue the work on the circular economy and expand standards and norms beyond macro-economic generalities.
  - ▶ Provide the right framework and incentives for developing and deploying new solutions against plastic pollution.
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A decade ago, my report to the Club of Rome entitled: ‘The Blue Economy: 100 innovations, 10 years, 100 million jobs’ presented a vision. This vision was based on an understanding that nature in general, and a wide range of ecosystems, have overcome nearly every imaginable challenge over the past millions of years, and therefore provide an inspiration of how our society can chart a pathway towards the future.

We can build on the ingenuity of ecosystems that provide a wealth of products and services on which life depends, and then strengthen social systems that build up culture, tradition and social capital. This provides resilience in adverse times and can generate more joy in our lives. It also permits us to learn how to live within the obvious limits of the planet, while evolving from scarcity to abundance as we have successfully implemented in more than 200 projects across the globe<sup>1</sup>. A new approach to creating a sustainable, competitive European economy is needed – and this should become a strategic priority for the European Union (EU) in the next politico-institutional cycle (2019-2024).

**A new approach to creating a sustainable, competitive European economy is needed – and this should become a strategic priority for the European Union in the next politico-institutional cycle (2019-2024).**



It is possible to achieve a relatively fast shift from traditional business and economic development, which builds on globalisation and efforts of enterprises

to reduce costs and search for ever higher economies of scale, to a more sustainable and competitive 'Blue Economy'.

## The 'invisible hand' – The existing economic model is flawed

There are fundamental shortcomings in the existing economic model. It has a narrow focus and is based on a limited set of core businesses and competences, and favours companies that target narrowly defined market niches and outsource the majority of their activities. This paradigm blinds us, making it impossible to see the range of opportunities that we could pursue, as a company, a region, or a nation. When companies adhere to short-term objectives, devoid of social and environmental considerations, the 'commons', the cultural and natural resources that should be accessible to all members of a society, are exploited (as we do with excessive consumption of water) or they become a place to release our excesses (as we do with the release of greenhouse gases into the atmosphere). The commons include biodiversity, drinking water, the supply of oxygen in the air, the availability of grazing land for herds, the evolutionary and symbiotic path of biodiversity, the cycling of nutrients, the build-up of top soil, and so much more.

The logic of enlightened self-interest whereby "an individual who intends only to improve his own gain, is, as it were, led by an invisible hand to promote the public interest" (Adam Smith, 1776) has not worked. Enlightened self-interest turns into destructive behaviour when deployed in the realm of the commons, where services and production systems are supplied freely by nature and have no inherent commercial

value. Businesses and society have privatized the commons for commercial exploitation. For example, giving an exclusive licence for some to bottle and sell water, deprives ecosystems due to the depletion of water tables. The commons are also abused by the license to dump toxic waste that undermines the very premises that guarantee the conditions of life. The notion of the invisible hand has been criticised since the 19<sup>th</sup> century, but this has conveniently been omitted from current economic teachings.

In 1833, William Forster Lloyd wrote a pamphlet that put forward the concept «the overuse of the common by the commoners» which was later developed by Garrett Hardin as 'The Tragedy of the Commons', whereby individuals acting on their self-interest behave contrary to the common good by over-using or spoiling common resources. Picture an open pasture, where herdsmen are allowed to let their animals graze. To maximise individual gains, each 'rational' herdsman would bring as much cattle as possible on these commons. However, while receiving additional revenue from the sale of additional animals, he – together with others – would promote overgrazing, and thus damage the commons. When the problem of overgrazing is recognised, the herdsman who has added extra animals does not feel responsible – since others have also applied the same rationale.

Modern society believes in the freedom to exploit the commons and offers companies

a license to act accordingly. We have confused the free market with the free exploitation of the commons. Now we realise that there is not only over-grazing. The «freedom to add extra sheep to graze on public land» leads to soil erosion, loss of water retention and desertification. Thus, the freedom to pursue one's own interests leads to the destruction of the very basis of the ecosystem that supports life. The 'laissez-faire' approach that has been applied to the market, is unconsciously applied to the commons.

The same logic applies to the miners who pursue their gold, the petrochemists who exploit fossil fuels to be turned into plastics, those that pollute water or air, and the individuals and institutions that pursue the goal of 'more for me'. This 'me-first' attitude has led to irreversible climate change, health problems such as respiratory diseases, the accumulation of toxic waste around us, the depletion of top soil, and the permanent loss of biodiversity. The mistreatment of the commons goes hand in hand with our free market's incapacity to fulfil the basic needs of all living people on Earth. It is no surprise that poverty is rampant and increasing in spite of all the glamour of Sustainable Development Goals. We are continuously undermining the ecosystem services that make life on Earth viable.

## The tragedy of the commons: The need for a new approach

The key for business is not to implement the latest strategy for cost reductions, the newest technology, nor the return on investment that pleases shareholders beyond expectations and surprises analysts. Businesses need to urgently rethink their basic model of operations. We need business models that strengthen the very conditions on which life depends. How could we ever have given a license to a company that destroys – often unknowingly – the very environment on which life exists? This has to be a clear mission for the new Commission taking office at the end of this year.

In the past decades, there have been more efforts to create business models that can respond to our basic needs, ensure thriving commons, *and* offer a financial return. We should stop pretending that the invisible hand will guide us, and rather make a conscious decision to stop, not 'lessen or slow down'

**There are fundamental shortcomings in the existing economic model.**

**Modern society believes in the freedom to exploit the commons and offers companies a license to act accordingly.**

**We are continuously undermining the ecosystem services that make life on Earth viable.**

**Businesses need to urgently rethink their basic model of operations.**

**Stealing less is still stealing! Polluting less is still polluting!**

the exploitation of the commons. The logic is the same as with stealing. Stealing less is still stealing! Polluting less is still polluting!

**The Commission will have to take the concerns of this new generation of consumer-citizens seriously and devise policies accordingly.**

**The institutions of the EU have to collaborate with ambition, both in reaching environmental targets but also in terms of guaranteeing the competitiveness of its primary and secondary sectors. The Commission must develop a strategy that will make the European economy truly sustainable.**

**In the next institutional cycle, EU institutions can choose to protect the old system, or embrace new paths that respect the ecosystem.**

The example of the herdsmen has modern-day analogies. Cattle farmers have learned that productivity increases by adding antibiotics to animal feed. The additional and faster sales of meat offers farmers (and pharmaceutical companies) benefits and profits. The downside is that due to the unnecessary inclusion of antibiotics in the food chain, bacteria build up resistance leading to superbugs that have in 2015 caused an estimated 700,000 casualties, and are expected to increase to a staggering 10 million additional deaths by 2050.<sup>2</sup> Epidemics that were thought under control or even eradicated are emerging without any antidotes known to the medical world. The cost of resistant bacteria has, for example, been estimated at \$20 billion annually in the US, which is far more than the profits obtained by the suppliers of the synthetic drugs.

The healthcare sector provides other worrying examples. Resistance to antibiotics is exacerbated by the fact that doctors are directly or indirectly rewarded for prescribing antibiotics to people. In the US, some 40 million people are prescribed antibiotics for respiratory problems every year. In 2013, a paper published in the *Journal of Antimicrobial Chemotherapy* estimated that two-thirds of those people may well not have needed antibiotics<sup>3</sup>. The tragedy of the commons is prolonged and extended: pharmaceutical companies and doctors earn the additional revenue, the economy grows, but the cost is borne by society. At the same time, market mechanisms fail to bring medical treatments needed to patients who are in urgent need. There is demand but no supply, because innovation is stifled by the search for ever lower costs and ever larger and standardized volumes, which means that 'specialty illnesses' receive little to no research funding. It is clear that the financial reward for innovations in health must be decoupled from sales.

But sustainability and competitiveness can be two sides of the same coin. For example, a transition from petrochemistry to biochemistry is an enormous opportunity with many winners. It can speed up the shift towards the bio-economy, with a strong impact in the regions where this transformation is taking place. Converting, for example, low value materials like straw, or waste such as weeds, into bioplastics and functional, high-value products creates jobs, injects cash in the local economy, and helps to address a major challenge of today: plastic pollution.

Europe already has a strong emerging bioplastics industry. For example, in Italy more than 150 factories and over

4000 employees are contributing to this promising business transformation that has led to converting old defunct industrial sites into production units, dramatic reductions of CO<sub>2</sub> emissions and hundreds of new patents, including: biodegradable capsules; compostable fruit and vegetable bags used to support treatment of organic municipal waste; and an agricultural mulch film preventing herbicides and plastic residues accumulation in soil. There are hundreds of more examples. These achievements

are the result of joint research efforts over decades, made possible by EU public and private funds, and driven by a new generation of entrepreneurs. Bioplastics can be a frontrunner in the emerging circular economy, where waste is turned into value and soils and water are no longer polluted. The next Commission should strengthen the entrepreneurial framework that allows stranded assets and available biomass to be converted to healthy and competitive emerging industries.

## The way forward – Leadership and political will

We need to focus on how disruptive technologies and disruptive business models could transform the present production and consumption system to a market economy that considers the role and the importance of the commons. We need to respect the global ecosystem, recognising that without it the whole system will degenerate and ultimately collapse. We need to put a value on the ecosystem, and avoid the ‘tragedy of the commons’.

To move in this direction, three things will be key:

First, the principles that guide business management, such as outsourcing, supply chain management and sticking to one core business, only assign value to 10% of harvested and processed natural resources, while 90% ends up as waste: only 0.2% of the coffee bean is consumed, 40% of the fish is discarded, and weeds are considered the wrong plant in the wrong place only to be subjected to herbicides. How will enterprises explain the shipping of wheat, butter, sugar and milk across the globe to bake cookies, which are then also shipped around the world, to the cohort of new,

young consumers, who favour a more radical transformation of our production and consumption patterns? The Commission will have to take the concerns of this new generation of consumer-citizens seriously and devise policies accordingly.

Second, the present production, distribution and consumption patterns do not only squander resources and infringe on the commons, but the linear and focused approach on one core business has blinded everyone to the possibility of a vast portfolio of opportunities that would come from a smarter use of our resources. In 2018, I wrote PLAN A with 10 new industrial sectors for Argentina. We called it Plan A, because there is no Plan (nor planet) B. It is essential that the EU institutions continue the work on the circular economy and expand standards and norms beyond the macro-economic generalities.

The Commission and the European Parliament have to work on concrete material efficiency targets. Cascading and clustering can increase material efficiency and create added value. This is technically viable and commercially implemented. For

example, coffee waste can be turned into a substrate for mushrooms, which in turn - after harvesting the fungi - is an ideal chicken feed. Broken car windshields and bottles can be converted to a glass foam insulator with a 98% carbon capture rate or to abrasives for the wood and paint industry, without the need for sand mining of rivers and coves.

Third, plastic pollution is a concrete challenge recognised by the industry. Plastics in the sea have caught the public's attention, with dramatic images of fish, turtles, birds and even whales suffering horrific deaths due to polymer products, flooding social media. A lot of these products can instead be made of compostable and/or readily available biological raw materials, which do not compete with food and are able to regenerate the soil. It is essential that the EU institutions provide the necessary framework and incentives for developing and deploying new solutions. The EU institutions should impose the use of these materials through public purchase guidelines.

Bioplastics, which degrade in the soil, sun and sea, replenish farmland, regenerate the local economy and reduce emissions, is a prime example of how the circular economy can cluster agriculture and chemistry, generate higher value and increase Europe's competitiveness. It was therefore a surprise that the European Commission's proposal for a Directive on Single-use Plastics in 2018 did not recognise the role of bioplastics,

while paper covered with petroleum-based polymers were exempted from the directive and can still be freely used without any limitations. While only a tiny fraction of single-use paper products are made in Europe, a dominant share of bioplastics are produced in the EU. It would surely be in the EU's interest to build on the potential that new materials like bioplastics could bring. Chemicals represent the largest industrial sector of Europe; the EU will have to facilitate the acceleration of the sector's transformation towards true sustainability.

The institutions of the EU have to collaborate with ambition, both in reaching environmental targets, but also in terms of guaranteeing the competitiveness of its primary and secondary sectors. The Commission must develop a strategy that will make the European economy truly sustainable. However, to succeed, businesses must be able to count on a legal framework without excessive norms, standards and regulations, which permits them to introduce innovative products, like the substitutes for the much debated glyphosate-based herbicides. In the next institutional cycle, EU institutions can choose to protect the old system, or embrace new paths that respect the ecosystem. They can choose sustainable growth, or only pay lip service to global fora, and the bio- and circular economy. Are the European Union and its member states really prepared to lead this endeavour? This will require an act of leadership, which is not easy to find in the present political environment.

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1. See [here](#) for more information on The Blue Economy project.

2. Assessment by Jim O'Neill, formerly chief economist at Goldman Sachs, on behalf of the British government and the Wellcome Trust.

3. "The Grim Prospect of Resistance to Antibiotics", *The Economist*, 21 May 2016.

# Give citizens what they want: The case for Social Europe and fiscal justice

**Claire Dhéret** – *Head of the Social Europe & Well-being Programme, European Policy Centre*

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**MAIN RECOMMENDATION** ▶ Build a more social Europe based on clear initiatives (especially when it comes to fair taxation) that can address people's grievances while breathing new life into the European project.

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**WHAT TO DO:**

- ▶ EU citizens should turn their anger and frustration into an effective vote that is coherent with their preference for a more social Europe.
  - ▶ Identify clear, concrete, and visible initiatives that would 'give a face' to Social Europe and re-energise Europe's social fabric.
  - ▶ More actions at the EU and international level against tax fraud and evasion.
  - ▶ Kick-start a serious dialogue with multinational corporates and identify possible solutions to increase their support and contribution to the European welfare systems.
- 

Since the financial crisis of 2007-2008, social unrest, widespread anger, and violent protests have become part of the political landscape in most European countries. Unfettered globalisation and the rise of new technologies have created unprecedented levels of wealth both in Europe and the rest of the world, but have also led to an increase in inequality and feelings of insecurity among European citizens. The old recipe of redistribution is running out of steam and the European dream of economic and social convergence seems further away than ever.

**The European dream of economic and social convergence seems further away than ever.**

The policy answers to these challenges have, so far, been too weak, lacked credibility or have favoured a retreat into nationalism, revealing policymakers' inability to address public outcry, on any political level. That is why robust solutions to



these trends must be central to the new upcoming politico-institutional cycle of the European Union (EU) and a priority in the future design of 'Social Europe'. Building a more social Europe, based on clear, concrete and visible initiatives can address people's most fundamental grievances while breathing new life into the European project.

It will not solve all the economic and social challenges of the 21<sup>st</sup> century, which would require a profound change of our growth model and a reinvention of our social and institutional frameworks. But it will definitely

make Europe stronger in the face of the ongoing transition and better prepared for upcoming changes. It will also bring more stability and enhance trust in the future.

EU citizens should now seize the opportunity of the upcoming European elections in May 2019 to make it possible. Their vote is necessary to ensure that 'Social Europe' will feature highly on the post-2019 policy agenda. This will require more than an implementation and consolidation of previous agreements, but also real progress on sensitive issues such as taxation and a thorough rethink of the social contributions of businesses.

## The sleeping giant of social unrest

More recently, the French *gilets jaunes* (yellow vests) have become the embodiment of the social and political malaise plaguing Europe. While their initial target was the French government's plan to increase fuel prices, demonstrations soon turned into a protest against poor working conditions, rising inequality, a decline in purchasing power, and most importantly, against the French President Emmanuel Macron. Social discontent and resentment have become the unifying banner and common factor of different parts of society, which may have different views on the necessary policy recipes.

Some commentators argue that the revolt of the *gilets jaunes* belongs to France's cultural heritage. Although the movement's national peculiarities are undeniable, it would be too simplistic to reduce it to a cultural phenomenon. Social unrest is not new in Europe. Over the course of the past decade, Europe has already witnessed a wave of protests, such as the *Indignados* in Spain and the spread of the Occupy movement to several European cities, with hundreds of thousands of people occupying public squares and calling for more social justice.<sup>1</sup>

Evidently, today's protests are no longer targeted at anti-austerity measures as was the case with the *Indignados* or the Occupy movement. Expressions of dissent and frustration might take different forms and do not affect EU countries to the same extent. But despite the variety in the timing and scope of the protests, their repetitive nature and sequence are not a coincidence. They have much in common. They are symptomatic of a sense of insecurity that is shared by many Europeans and the expression of what is often described as a deep social malaise.<sup>2</sup>

This feeling of insecurity stems from a combination of factors, both real and imagined. Many people feel threatened by the ongoing changes, such as globalisation, increased economic competition, the massive use of new technologies and the emergence of new business models, the consequences of migration, or the disappearing of public services, and the continuous need for swift adaptation. In a context of aging societies, the combination of increased inequality on the labour market and subdued growth has fuelled anxiety among nearly all social and age groups.

Young people feel that they will not fare as well as their parents did. The middle class fears a race to the bottom and to be 'socially downgraded'. Many older people withstand changes in an attempt to protect their assets, by, for instance, opposing tax reforms aiming at intergenerational redistribution. Europeans are also slowly coming to the realisation that economic and political power has shifted to other world regions, exacerbating the feeling that they have lost control over their own destiny and that Europe is no longer 'making history', but is rather threatened by gradual marginalisation.

Against this background, mainstream politicians strive to (re-)gain people's trust. However, the solutions developed so far fall short of people's expectations and fail to address the causes of their call for more social justice. In a nutshell, people have lost trust in Europe's social dream.

## Europe's fading social dream

### THE EROSION OF REDISTRIBUTIVE MECHANISMS

Despite differences across Europe, European welfare states rely on large redistributive mechanisms, offering a relatively high level of social cohesion to citizens. As a corollary, the level of taxation in Europe is, on average, high compared to other regions (the tax-to-GDP ratio in the EU was 40.2% in 2017 compared to 34% for all OECD countries and 25.9% in the US). However, evidence suggests that the efficiency of redistribution has started to erode and that the existing systems have failed to eradicate the recurrent and perennial issues of extreme poverty, precariousness and inequality. More than 112 million people, amounting to 22.4% of the EU population, were at risk of poverty or social exclusion in 2017 (women and young people especially). Homelessness is increasing in all EU member states except Finland and income inequality has risen in sixteen EU countries between 2009 and 2017.

### ONGOING DIVERGENCES IN EUROPE

In addition to the persistence of social issues in Europe, the EU has recently witnessed diverging trends in member states' economic and social performances. Taking the unemployment

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**Many people feel threatened by the ongoing changes, such as globalisation, increased economic competition, the massive use of new technologies and the emergence of new business models, the consequences of migration, or the disappearing of public services, and the continuous need for swift adaptation.**

**The scope for EU measures on social policy is limited by two general principles: the need to comply with the proportionality and subsidiarity principles and the fact that social policy is a shared competence.**

rate as example, one can see that despite better results for the total population aged 20-64 across the EU, certain countries, in particular Greece, Cyprus, Denmark and Portugal, witnessed an increase between 2002 and 2017. The poverty gap also continues to widen between member states, with over 30% of people in Bulgaria, Romania and Greece that are at risk of poverty and social exclusion compared to less than 20% of the populations in Finland, Slovakia or the Czech Republic.

**Policy fragmentation on critical issues such as labour regulation, minimum social standards and taxation might put individual member states in a competitive advantage in the short term, but it undermines the desired objective of social cohesion and prosperity for all in the long term.**

**National actions to combat tax fraud and evasion only have a limited impact.**

**With the EP elections approaching very soon, citizens will get the opportunity to turn their protests into a constructive and effective vote.**

## **AMBITIOUS OBJECTIVES VS INABILITY TO ACT**

Promoting inclusion has been one of the three overarching objectives the EU has formulated in its latest growth strategy, Europe 2020. Addressing social issues at the EU level is in line with citizens' expectations. In fact, the most recent Eurobarometer on social issues (2017) found that almost two thirds (64%)<sup>3</sup> of European respondents are in favour of harmonising social welfare systems within the EU. In 2017, the EU and its member states adopted the European Pillar of Social Rights, a set of principles aiming to foster economic and social convergence among member states. At the international level, the EU has committed to implement the Sustainable Development Goals (SDG), which set ambitious social objectives, such as the right to decent work and reducing inequalities, by 2030.

While these commitments should be welcomed, they are at odds with the EU's ability to act. In fact, most of the instruments, (financial) means and competences to deliver on these promises remain firmly in the hands of member states. The scope for EU measures on social policy is limited by two general principles: the need to comply with the proportionality and subsidiarity principles and the fact that social policy is a shared competence, for which the EU can only establish minimum requirements that support and complement the activities of the member states.

Furthermore, EU actions, such as legislation on social protection, require unanimity, which reflects that member states still consider social policies to be a strong bastion of national sovereignty. Finally, national governments as well as national social partners have different views on whether or not it is necessary to build a stronger Social Europe and devote more powers to the EU in this area. Such a process could, in certain countries, be perceived as a prerequisite for achieving upward convergence between member states. This is, for instance, the position defended by the French government, which is advocating the establishment of a minimum wage defined by EU standards in every member state. Countries with

high social standards such as the Nordic countries, on the other hand, believe that EU actions in this area would interfere too much with national mechanisms and might damage their national social models. And still others, such as Germany, which are

economically stronger than the rest of the EU, fear that it would lead to social transfers across EU countries. In this context, any hope that EU policies can deliver on ambitious social objectives is merely wishful thinking.

## The way forward – More of the same?

In 2019, new EU leaders will take office in the European Commission, the European Council, the European Parliament as well as the European Central Bank (ECB). However, there is a real risk that nothing much will change in the next politico-institutional cycle with respect to social policy. The political mood of the moment is likely to favour further consolidation instead of a radical breakthrough in EU social policies. This is due to a number of factors, including a lack of political appetite for joint actions in national capitals (as already explained earlier), the economic recovery and the emergence of other stressors, such as the non-resolved migration challenge and the urgent need for reaching an agreement on the next EU's Multiannual Financial Framework (MFF) covering the period 2021-2027. This has made social issues feel less urgent despite the persistence of protests. In addition, projections about the future composition of the European Parliament after the 2019 elections indicate that the most progressive forces (i.e. the left as a whole), who are the strongest supporters of an enhanced Social Europe, are expected to only get about 35% of seats. Without a clear majority for progressive forces in the European Parliament, advancing on social issues will prove to be very difficult.

Considering social questions as a subsidiary topic is, however, short-sighted. Not only will it reinforce people's opinion of the EU as unresponsive and unable to reflect

citizens' actual concerns, but it will also, once again, kick the can down the road when it comes to dealing with the unanswered question of how to repair or reinvent the social fabric of the 21<sup>st</sup> century. A more constructive alternative lies in the hands of EU citizens.

### A CLEAR MANDATE FOR A STRONG SOCIAL EUROPE

Europeans are often bogged down in never-ending discussions about the contours and parameters of their common destiny, losing sight of the added value of common actions and neglecting the global context in which Europe operates. This is a self-defeating strategy. Policy fragmentation on critical issues such as labour regulation, minimum social standards and taxation might put individual member states in a competitive advantage in the short term, but it undermines the desired objective of social cohesion and prosperity for all in the long term.

To reverse this, Europe needs a clear and undeniable push from the bottom. Change is not likely to come from national governments as highlighted earlier, but rather from citizens themselves, who do not oppose a stronger Social Europe, as many might argue. On the contrary, studies have shown that they are ready to support it when policy design and implications are clearly explained.<sup>5</sup>

EU citizens should fully grasp the risks involved in not having social policy as an EU strategic priority in the post-2019 institutional-political cycle. They should acknowledge the implications that such a scenario would have on the divergences among European countries, their social rights and their quality of life in the long run. In doing so, EU citizens should turn their anger and frustration into a constructive vote that is coherent with their preference for a more Social Europe. They should identify the political parties that take a progressive stance on issues they consider to be critical to their future and which will be able to influence the European Parliament's position accordingly. In other words, citizens hold the keys to giving the EU the necessary tools and means to deliver on ambitious social objectives, which can help Europe influence the global agenda and become a voice and driver of progressive changes.

To guide people's vote in that direction, the pre-election campaign is a strategic time for both the EU institutions and the pro-European political parties to communicate about the cost of a non-social Europe and help citizens make informed choices. At the same time, they need to identify clear, concrete, and visible initiatives that would 'give a face' to Social Europe and allow citizens to understand how EU policies could help re-energise Europe's social fabric.

Much will have to be done to build solid foundations for Social Europe. It includes the implementation and enforcement of previously agreed initiatives, such as the European Pillar of Social Rights, which now needs to be turned into national policies, or the creation of the European Labour Authority, which will have to serve as a watchdog that will safeguard EU labour law, guarantee decent working conditions for EU mobile workers, and coordinate the fight against social fraud. But the policy area that has remained untouched, so far, but requires immediate action is taxation, given that

it can address some of the root causes of people's grievances.

## THE ROLE OF FAIR TAXATION

The future of Social Europe, and more generally of the European welfare states, hinges on the fairness and sustainability of our tax systems. Re-designing European tax systems so that they serve the general public's interest and ensuring that all actors, including multinational corporates, play a role proportionate to their means needs to become a top priority in the EU's next Strategic Agenda.

Oxfam data shows that while the profits of multinational companies have increased significantly, global corporate tax rates have fallen from an average of 27.5% in the early 2000s, to 23.6% in 2016. Effective ways to address this fiscal imbalance in a comprehensive manner have not been found yet. Taxation remains one of the crucial areas where policy fragmentation prevails, both at the European and international level. Corporate tax rates vary greatly in Europe, which encourages corporates to shop around for the best tax regimes. The recent failure of the Commission to get member states' support on taxing digital giants' turnover is a case in point.

In recent years, the media has regularly published about the excesses of the world's worst tax havens and reported on major scandals of tax fraud and evasion in great detail. National actions to combat tax fraud and evasion only have a limited impact. Workable solutions would require more action at the EU, and at a later stage, international level. The harmonisation of the corporate tax base will be needed in the long term. However, despite the European Commission's recent plea to replace the unanimity rule by the qualified majority vote in certain areas of taxation, such a move still looks difficult to achieve given the strong opposition of many member states.

To pave the way towards such a long-term objective, the next European Commission needs to undertake two actions. First, it should provide political leadership by encouraging member states to reach agreements between countries who are willing to cooperate on the matter. Cooperation among a limited number of countries is better than no deal at all as it can create peer pressure. Second, it needs to kick-start a serious dialogue with multinational corporates while launching a consultation process on how to increase their support and contribution to the European welfare systems. Getting corporates on board is a pre-condition for getting the member states on board and a necessary step to maximise the chances of success. Leadership on social impact is increasingly regarded as a competitive advantage by the private sector. This new context creates an opportunity to redefine the social responsibility of businesses, one that the European Commission should not miss.

Fighting against tax competition is one of the very concrete areas where EU actions and a truly Social Europe would bring added value to European citizens' lives. It would improve the sustainability of European welfare states by striking a better balance between the contributors and beneficiaries, and reinjecting money into public services.

But beyond financial considerations, it would also provide a credible answer to the *gilets jaunes* and all other Europeans who have lost trust in the 'system' to deliver social progress and in Europe's ability to protect them.

Furthermore, endowing EU institutions with a strong social mandate would have the double benefit of creating increased homogeneity in social standards within the EU and turn Europe into a force of progressivism internationally. By doing so, the EU could finally become a credible voice to move social questions up the global agenda and influence discussions on critical issues, such as taxation.

With the EP elections approaching very soon, citizens will get the opportunity to turn their protests into a constructive and effective vote. Obviously, it is also their responsibility to ensure that their vote at the European level will be backed by a coherent choice in national elections, thus avoiding the European Parliament being blocked by national governments in the Council. This is the only way for Europeans and their leaders to build a Social Europe that works for all and ensure that fiscal and social justice will be at the centre of the next paradigm change.

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<sup>1</sup> In addition to social justice, the *Indignados*' demands as well as those of other similar movements, which emerged in the aftermath of the financial and economic crisis and persist until today, relate to the current state of democracy. Although these two protest banners are often intertwined, this paper focuses mostly (for the sake of space and clarity) on the social dimension. For more information on previous European protests, see Stratulat, Corina and Dhéret, Claire (2012), "A tale of modern-day capitalism and democracy: in view of the European protests", Brussels: European Policy Centre.

<sup>2</sup> The geographical scope of this social malaise is debatable. Whereas some argue that it goes beyond European borders and characterises the entire Western world, others believe that other regions around the globe share the same symptoms, such as for instance in North Africa.

<sup>3</sup> Special Eurobarometer 467 (2017), Future of Europe – Social issues.

<sup>4</sup> See [Votewatch Europe's projections](#).

<sup>5</sup> See for instance Vandenbroucke, Frank, Burgoon, Brian, Kuhn, Theresa, Nicoli, Francesco, Sacchi, Stefano, van der Duin, David, Hegewald, Sven (2018), "Risk Sharing When Unemployment Hits : How Policy Design Influences Citizen Support For European Unemployment Risk Sharing (EURS)", Amsterdam: AISSR.



► A picture the Court of Justice of the European Union in Luxembourg. © JOHN THYS / AFP



# Values

► Romanian protesters march in downtown Bucharest demanding an independent justice system on 3 March 2019. Protests were triggered by a decree adopted the week before by the social-democratic government, changing the rules for nominating various categories of judges and giving additional powers to a new disciplinary body.

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# Restoring credibility and trust by enforcing the rule of a law

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**MAIN RECOMMENDATION** ▶ The EU has to find a convincing and efficient answer to the ongoing pressure on the rule of law in individual member states.

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**WHAT TO DO:**

- ▶ Complement the political procedure stipulated in Article 7 TEU by making full use of all legal instruments available. This should include a legal re-interpretation of the Article 7 procedure and a restructuring of the European Structural and Investment Funds (ESIF) to include rule of law conditionality.
  - ▶ Enhance the implementation and execution of European rules with a new concept of cooperative enforcement based on a network of national authorities and European agencies.
- 

Over the past years, the gap between promise and delivery in the European Union (EU) has widened.<sup>2</sup> Too often, European policies have failed to deliver on essential elements defining the rule of law. While some national governments have been successful in putting political pressure on institutions, others have been incapable, or indeed unwilling, to implement agreed rules defining European goods and interests. Consequently, the EU has lost credibility among its citizens and the trust of its member states.

Therefore, in the next politico-institutional cycle, the EU has to find a convincing and efficient answer to the ongoing pressure on the rule of law in individual member states. To that end, the Union should prevent rule of law backsliding in individual EU countries by making full use of its available legal instruments and by enhancing the implementation of European law through the introduction of a new concept of cooperative enforcement ('agencyfication'). The new EU leadership should push in this direction if it wants to regain trust and credibility with regard to the defence of European values in the eyes of its citizens.

**During the past few years, national governments in some member states have enacted laws that have undermined the separation of powers, the rule of law, and human rights.**

**The EU has been unable to prevent this kind of rule of law backsliding for several, mainly political, reasons.**

# The challenge of rule of law backsliding

According to Article 2 of the Treaty on the European Union (TEU), the EU “is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law, and respect for human rights.” As these values are at the same time “common to the Member States”, the countries of the EU form a “community of values”.<sup>3</sup> While accepted and confirmed by all member states as a prerequisite for their accession to the EU (Article 49 TEU), the fundamental values of Article 2 TEU form the basis of their national constitutions and their membership in the Union. The assumption of the Treaties that all member states share a certain degree of homogeneity in terms of the rule of law, democracy, and fundamental rights highlights the importance of unity, solidarity, and mutual trust for the proper functioning of the EU.

However, during the past few years, national governments in some member states have enacted laws that have undermined the separation of powers, the rule of law, and human rights. The Hungarian government, for example, has gradually adopted legislation that strengthens the political control over the independent judiciary and media, threatens non-governmental organisations, and limits academic freedom. Taking cues from Hungary, in 2015, the Polish government limited the competences of the Supreme Court and used a new retirement law to try to force its president and other judges out of office before the end of their constitutionally mandated six-year tenure. As the Supreme Court is able to rule on issues such as the validity of elections and the legality of protests, these measures, aiming to assert political control over the judiciary, undermine the rule of law and core democratic principles. In 2016, Romania has begun to walk down a similar path. The

social democratic government intervened to end the public prosecution’s preliminary investigations into certain party politicians, as well as to regain political control over the judiciary.

These three national governments did so in spite of international criticism, domestic protests, and the European Commission’s launch of infringement procedures against their legislative changes. The EU has been unable to prevent this kind of rule of law backsliding for several, mainly political, reasons. For one, the procedure stipulated in Article 7 TEU, which allows the Union to intervene in case member states breach the fundamental principles of Article 2 TEU, failed to prevent national sovereignty from prevailing over the rule of law. The Polish government, for example, proved unwilling to comply with the Commission’s recommendations. Instead, it publicly stated that its actions were “in line with European standards” and, as such, they “cannot be the basis for formulating the claim that there is a systemic threat to the rule of law”.<sup>4</sup>

Moreover, party cooperation within umbrella groups such as the European People’s Party (EPP) has protected in particular the Orbán government from open condemnation. Furthermore, the Juncker Commission and the member states recognise that action against rule-breakers would threaten the EU’s unity in the face of growing external challenges, especially Brexit.

Questions related to the EU’s ability to resist challenges to the principle of the separation of powers, the rule of law, and human rights, and regain its credibility as a community of values, will continue to hang over the next politico-institutional cycle like the sword of Damocles.<sup>5</sup>

While these issues threaten the rule of law as a core value of the EU enshrined in Article 2 TEU and therefore also the Union's very foundations, it also silently wears down the integrity of the rule of law in practice, at the

European level. This occurs when member states refuse to respect European rules, in general, and the rulings of the Court of Justice of the European Union (CJEU), in particular.

## The challenge of the implementation and enforcement gap

By virtue of the rule of law, the EU is a "community of law" (*Rechtsgemeinschaft*) – a notion coined by the Commission's first president, Walter Hallstein, to emphasise that the authority of European law is a precondition and tool for integration. Law serves as a confidence-building bridge by creating reliable common rules that member states and European citizens can trust. In the words of the CJEU:

*"In permitting Member States to profit from the advantages of the Community, the Treaty imposes on them also the obligation to respect its rules. For a state unilaterally to break, according to its own conception of national interest, the equilibrium between advantages and obligations flowing from its adherence to the Community brings into question the equality of Member States before Community law and creates discriminations at the expense of their nationals, and above all of the nationals of the state itself which places itself outside the Community rules. This failure in the duty of solidarity accepted by Member States by the fact of their adherence to the Community strikes at the fundamental basis of the Community legal order."*

The "duty of solidarity", rooted in European law (see Article 4(3) TEU: principle of loyal cooperation), is a key tool to achieve unity in an ever more culturally, socially, and politically heterogeneous Union.

While in Europe's multi-tier system of governance the European level depends on the national governments, administrations, and courts to implement and enforce the Union's law, mutual trust among the member states that each of them will deliver on the duty of solidarity is a precondition for the EU's unity and credibility among its citizens. Nevertheless, there are two challenges to this pre-requisite for the Union's proper functioning:

- First, national politicians tend to describe unpopular decisions or criticism from the EU as the foreign rule of "Brussels' bureaucrats". Despite the duty of solidarity that requires a member state to comply with European law even if it is not to its advantage, the Brexiteers' politically effective soundbite, "We can have our cake and eat it"<sup>10</sup>, sums up the attitude in many member states. More and more EU countries tend to welcome the advantages of the single market, the euro area, or the freedom of movement for their own citizens within the Schengen area, but they do not want to bear the associated burdens and responsibilities for the 'European goods' entailed by the rules of the Treaties and expressed by the duty of solidarity.
- Second, the incapacity of some member states' governments to govern leads to an implementation and enforcement gap regarding European law that throws into question the principle of uniform



application, mutual trust among member states, as well as the credibility of the EU as a whole. It is not by chance that this challenge was addressed by the Commission's White Paper on the Future of Europe in scenario 4 called "Doing less more efficiently".<sup>11</sup> Occasionally, EU action is still hampered by a lack of competence at the European level but, mostly, it is obstructed by the failure to fully operationalise and implement the Union's competences.

**Mismatch between promises by the EU and expectations of its citizens, on the one hand, and delivery, on the other, is linked to the gap between strong legislative action and little enforcement or implementation efforts.**

**To complement the political procedure of Article 7 TEU, the EU should make full use of the legal instruments available.**

**The EU should restructure the European Structural and Investments Funds (ESIF) in a way that would include a rule of law conditionality.**

This mismatch between promises by the EU and expectations of its citizens, on the one hand, and delivery, on the other, is linked to the gap between strong legislative action and little enforcement or implementation efforts, which, in principle, remain in the hands of the member states due to the EU's system of "executive federalism".<sup>12</sup> The diesel car emission scandal, mentioned as an example in the White Paper, illustrates this disparity, where EU legislation promises clean air and national authorities in many cases fail to deliver. This gap stems from a lack of EU enforcement powers, insofar as the implementation and execution of EU law is still largely in the hands of member states, who must ensure compliance by private parties. This situation is clearly different in the United States, where a federal agency fulfils this task. Examples may also be found in the context of the so-called migration crisis, where the EU has been heavily criticised for its slow reaction, often due to the division of responsibilities between the EU and the member states, particularly in the context of implementation and enforcement.

## Key recommendations

### IMPROVING COMPLIANCE WITH ARTICLE 2 TEU TO PREVENT RULE OF LAW BACKSLIDING

If a member state does not comply with the common values enshrined in Article 2 TEU, the Treaties provide in Article 7 TEU for a political sanctioning procedure comprising two stages. Both of them require a Council decision:

- ▶ According to Article 7(1) TEU, the preventive mechanism (stage 1) establishing the "clear risk of a serious breach" requires 'only' a 4/5 majority of the member states.
- ▶ Whereas a decision (stage 2) on finding the "existence of a serious and persistent breach" (based on which a decision

for sanctions could – but does not have to – follow), would have to be taken unanimously, in line with Article 7(2) and (3) TEU.

In 2018, after years of dialogue with the European Commission, measures to strengthen political control of the judiciary in Hungary and Poland led to the activation of the Article 7(1) procedure. As stage 1 lacks any sanctions, the intervention of the EU appeared to be ineffective.<sup>13</sup> Only at stage 2 (pursuant to Article 7(2) and (3) TEU) can a member state be sanctioned if a “serious and persistent”, and in this sense evident, breach of the rule of law is determined by the EU. In this regard, one major obstacle in the deployment of the sanction mechanism is its rigorous unanimity requirement in the European Council. More specifically, opposition from only one member state in the European Council is sufficient to block the political evaluation of a breach as “serious” and “persistent”, as well as the decision on sanctions that could lead to the suspension of that state’s membership rights.<sup>14</sup> In the case of Poland, the Hungarian government was expected not to support the decisions implied by stage 2.<sup>15</sup>

To prevent rule of law backsliding in the member states in a more efficient manner than so far, and thus to help the EU regain its credibility with regard to European values without Treaty change, four different options are available:

- First, based on the principles of equity and good faith, as well as loyal cooperation (Article 4(3) TEU), the unanimity requirement in Article 7(2) and (3) TEU could be interpreted by the EU institutions involved in such a way that any country being subject of a pending Article 7(1) procedure should be excluded from voting in the European Council on the Article 7(2) determination.<sup>16</sup>
- Second, to complement the political procedure of Article 7 TEU, the EU should make full use of the legal instruments available. Being the guardian of the

Treaties, the Commission should activate an infringement procedure by which the case would be submitted to the CJEU (Article 258 TFEU). In this context, the Commission would have to argue for an extension of the infringement from single cases breaching a specific law to systemic breaches of the rule of law. In practice, two procedures have already been launched targeting specific laws, which – according to the Commission – among other things, threaten the independence of the judiciary and, therefore, violate Article 19 (1) TEU.<sup>17</sup> A systemic infringement procedure would reach out further and could be launched to directly enforce Article 2 TEU, alleging a systematic and evident violation of the rule of law based on a bundle of measures strengthening political influence on the independent judiciary by the member state concerned.<sup>18</sup>

Critics argue against this approach suggesting that the masters of the Treaties created Article 7 TEU as the only procedure for enforcing compliance with the values of Article 2 TEU.<sup>19</sup> However, as there are important structural differences between the purely political procedure of Article 7 TEU and the judicial procedure of Article 258 TFEU, a parallel applicability seems justifiable.<sup>20</sup> Although the CJEU has not ruled on this subject matter, its jurisprudence suggests that Article 19 (1) TEU, as “a concrete expression of the value of the rule of law as stated in Article 2 TEU”<sup>21</sup>, is a suitable standard of review for infringement procedures.<sup>22</sup> In this context, compliance with the rule of law could potentially be enforced through a suspension of EU funds. This could be accomplished by simply applying Article 260(2) TFEU<sup>23</sup> given that the Treaties do not specify that a sanction has to be paid out of the member states’ treasury but can instead be deducted from its transfers by the EU.<sup>24</sup>

- Third, the EU should restructure the European Structural and Investments Funds (ESIF) in a way that would include a rule of

law conditionality. This Article 2 TEU value conditionality has already been built into the Commission's proposal for the next Multiannual Financial Framework (MFF) for 2021-2027. This idea won widespread political support in some member states, as well as among civil society, but also elicited strong criticism from a number of member states and the Council's legal

service. According to the latter, Article 7 TEU prevents any other form of enforcement of the values of Article 2, as it constitutes a *lex specialis* in this area. Although the CJEU has not yet pronounced itself on this specific issue, it interpreted Article 19(1) TEU in another case as "a concrete expression of the value of the rule of law as stated in Article 2 TEU".

## Better implementation by 'agencyfication'

To tackle the described implementation and enforcement gap, the EU is in need of a new concept of cooperative enforcement. It should be based on the principle of subsidiarity (Article 5 TEU), expressing a presumption of member states' responsibility by putting the burden of proof for action on the EU, on the one hand, and the principle of solidarity, on the other.

According to the new concept of cooperative enforcement, national authorities and the Commission would build up a network of governance with regard to an efficient implementation of European rules. This network would be based on a toolbox of cooperation, ranging from the exchange of information to specialised, personnel, or technical support by the European level (following the example of the Commission's newly established Structural Reform Support Service (SRSS)). Where national authorities lack the needed capacities, these would have to be built up with European assistance. Above all, however, safeguards should be put in place so that the Commission or a European agency could intervene if national authorities are unable or unwilling to deliver on the agreed objectives.

Similar cases of cooperative enforcement were initiated in the Schengen area, where

the shortcomings in border management, asylum procedures, as well as the need to enhance efficient cooperation in the area of counterterrorism and cybersecurity, became key issues. Building on the Treaty principles of subsidiarity and solidarity, a European agency could step in when a member state proves unable or unwilling to implement European goals.

The example of the European Border and Coast Guard Agency (EBCG) offers a perfect blueprint for this kind of 'agencyfication'. Because of the shortcomings exposed during the migration crisis, the EBCG was created as a model of joint responsibility for border management, in which the member states, in keeping with the principle of subsidiarity, retain primary responsibility for their share of Europe's external border. Functioning – and therefore effective – border management is, however, in the interest of not only the member states with an external border but of all EU countries that have abolished controls on internal borders in the Schengen area. Applying the principle of solidarity means that whenever a member state is unable or unwilling to effectively protect its national external borders, thereby undermining the 'European good' (effective border management for example), the EU acquires a fall-back responsibility.

With regard to the member states' sovereignty, the application of any means of cooperative enforcement should be progressive. In a first instance, the agency should issue recommendations and provide financial, personnel, or technical support to countries in need. If national authorities are not willing to cooperate, the agency should have the competences and capabilities to intervene by complementing or taking over the responsibilities of national authorities in implementing and enforcing jointly-agreed rules defining European objectives. As this would be possible without the specific request of the member state concerned and therefore probably against its will, this intervention would have to be based on a Council decision adopted by qualified majority. If the member state concerned would not be ready to accept this intervention, it

would be excluded from certain European benefits. In the example of the Schengen area, this would mean that the member state concerned would face internal border controls and its citizens would lose their right of free movement (Article 21 TFEU), which is inevitably linked to a proper functioning of the Union's external border management.

This vision is mirrored also in scenario 4 of the Commission's White Paper on the Future of Europe: As a result of "doing less more efficiently", the EU would be able to act faster and more decisively in its chosen priority areas. For these policies, stronger tools are given to the EU to directly implement and enforce collective decisions, as is already the case today in competition policy or banking supervision.

## Conclusions

For the past few years, the rule of law – a core value and fundamental principle of the EU and its member states – has been under pressure in the EU. This happened not as a result of major political events but rather through a process of constant erosion. Therefore, in the next politico-institutional cycle, the EU should stop this gradual wearing down of its rule of law by reinforcing the "community of law". To this end, the EU should:

- ▶ Complement the political procedure stipulated in Article 7 TEU by making full use of all legal instruments available.
- ▶ Enhance the implementation and execution of jointly-agreed European rules with a new concept of cooperative enforcement based on a network of national authorities and European agencies.

This does not mean a blanket demand for a more centralised Europe but a call for a more operational EU, able to deliver on its citizens' legitimate expectations. In this regard, the rule of law calls for a new working method based on the European principles of subsidiarity and solidarity. If the incoming EU leadership does not pay enough attention to this process of erosion, mutual trust among member states, the credibility of the EU in the eyes of its citizens, and the unity of the EU itself will continue to diminish, thereby undermining the political legitimacy of the European project.

1. Christian Calliess is Professor for Public and European Law at Free University of Berlin. From 2015 until 2018, he was on leave from his professorship in order to act as Legal Adviser to the European Political Strategy Center (EPSC), the in-house-think tank of the President of the European Commission. There he was also Head of the Institutional Team being in charge of questions regarding the reform of the EU, including the White Paper on the Future of Europe and the Security Union.
2. See European Commission, [“White Paper on the Future of Europe: reflections and scenarios for the EU27 by 2025”](#), COM (2017) 2025 of 1 March 2017, p. 12 *et seq.* and p. 22; for an in-depth analysis see also Calliess, Christian (2018), [“Zur Zukunft der EU”](#), Freie Universität Berlin Nr. 110.
3. Calliess, Christian (2009), “Europe as transnational law – The transnationalization of European Values”, *German Law Journal*, Vol. 10, No.10.
4. [“Poland in response to EU: rule of law not under threat”](#), Reuters, 20 February 2017, “The Polish Foreign Ministry said in a statement on Monday (Feb 20) that it had submitted a response to the Commission’s concerns. In a separate statement on its website, however, it said the changes Poland had implemented had been in line with European standards and had created “the right conditions for a normal functioning” of the Constitutional Court. “Once again, Poland stressed that the existing political dispute around the principles of functioning of the Constitutional Court cannot be the basis for formulating the claim that there is a systemic threat to the rule of law,” the ministry said.”
5. See the in-depth analysis of Buras, Piotr, “Poland, Hungary, and the slipping facade of democracy”, *European Council on Foreign Relations*, 11 July 2018.
6. Hallstein, Walter (1969), *Der unvollendete Bundesstaat*, Econ Düsseldorf Vienna, pp. 33-38.
7. CJEU Case 39/72 *Commission v Italy*, ECLI:EU:C:1973:13 (paragraph 24 *et seq.*).
8. See European Commission, “European governance – A White Paper”, COM(2001) 428 final, 25 July 2001.
9. See Commission (2017), *op. cit.*, p. 12 and 22.
10. See Dallison, Paul, [“A brief history of having cake and eating it. How an old expression became one of the key phrases of Brexit”](#), *POLITICO*, 31 August 2017. Cake is a recurring theme of Brexit, chiefly thanks to Boris Johnson claiming that the UK could “have our cake and eat it” as it leaves the European Union. He has also given the phrase a slight twist, saying: “my policy on cake is pro having it and pro eating it.”
11. See Commission (2017), “White Paper on the Future of Europe”, *op. cit.*, p. 22.
12. See Chamon, Merijn (2016), *EU agencies: Legal and political limits to the transformation of the EU administration*, Oxford: Oxford University Press, here p. 48.
13. See Scheppele, Kim Lane and Pech, Laurence (2018), [“Didn’t the EU learn that these rule-of-law interventions don’t work?”](#), *VerfBlog*.
14. Scheppele, Kim Lane (2016), “Enforcing the basic principles of EU law through systemic infringement actions”, p. 106; Franzius, Claudio (2018), “Der Kampf um die Demokratie in Polen und Ungarn”, *DÖV* 2018 381, p. 382.
15. Gotev, Giorgi, [“With Hungarian support, Poland defies EU over rule of law”](#), *Euractiv*, 21 February 2017; cf same assessment by De la Baume, Maia, [“EU punch misses mark in fight with Poland”](#), *POLITICO*, 14 February 2017; see also commentary by Buras, Piotr (2017), [“The EU’s Polish dilemma”](#), European Council on Foreign Relations: “Once the two-month period for the Polish government to follow its recommendations expires late February, Brussels will have little choice but to ask the European Council to vote on triggering Article 7 of the EU Treaty. It states that a violation of the EU’s basic principles can be met with sanctions. Hungary and the U.K. – Poland’s closest allies – would most probably block this decision, but for the Commission’s image, it will be better to fail in the European Council than to abstain from the action altogether.”
16. Pech, Laurence and Scheppele, Kim Lane (2017), “Illiberalism within: rule of law backsliding in the EU”, *Cambridge Yearbook of European Legal Studies*, 19, pp. 27-33.
17. Case C-192/18 and Case C-619/18.
18. Scheppele, Kim Lane (2016), “Enforcing the basic principles of EU law through systemic infringement actions”, in Closa and Kochenov (eds.), *Rule of law oversight in the European Union*, CUP, p. 112; also in favour: Franzius, Claudio (2018), “Der Kampf um Demokratie in Polen und Ungarn”, *DÖV* 381, p. 386.
19. Scheppele, Kim Lane, Pech, Laurence and Kelemen (2018), [“Never missing an opportunity to miss an opportunity: the Council Legal Service Opinion on the Commission’s EU budget-related rule of law mechanism”](#), *VerfBlog*, 11/12.
20. So argued by Schmidt, Matthias and Bogdanowicz, Piotr (2018), “The infringement procedure on the rule of law crisis: how to make effective use of Art. 258 TFEU”, *CMLR* 55, pp.1069-1073.
21. CJEU C-64/16 para 32, CJEU C-216/18 PPO para. 49.
22. Schmidt and Bogdanowicz (2018), *op. cit.*, p.1083.
23. Critic by Möllers, Christoph and Schneider, Linda (2018), *“Demokratisierung in Europa*, Tübingen,; here pp. 113.
24. See Scheppele (2016), *op. cit.*, p. 130.
25. CJEU C-64/16 para 32, CJEU C-216/18 PPO para. 49.
26. For a more in-depth analysis see Calliess, Christian (1999), *Subsidiaritäts- und Solidaritätsprinzip in der EU*, Baden-Baden, 2nd edition; and in practice Report “Active subsidiarity, a new way of working” of the Task Force on Subsidiarity, Proportionality and ‘Doing less, more efficiently’ from 10 July 2018 as well as the hereon based Communication “The principles of subsidiarity and proportionality: Strengthening their role in the EU’s policymaking”, COM(2018) 703 final from 23 October 2018 and the Declaration of Bregenz by the Austrian Presidency of the EU, “Subsidiarity as a building principle of the EU”, 16 November 2018.
27. This is a Commission department set up in 2015 on the basis of experience of the crisis, especially in Greece.
28. See also scenario 4 “Doing less more efficiently” in Commission (2017), *op. cit.*
29. See Regulation No 2016/1624 adopted in September 2016 on the basis of Articles 77(2)(b) and (d) and 79(2)(c) TFEU.
30. Commission (2017), *op. cit.*, p. 22.

# Protecting democracy in the EU: Tackling the disinformation problem

**Stefan Heumann** – Co-Director, *Stiftung Neue Verantwortung*

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**MAIN RECOMMENDATION** ▶ The EU member states should develop hard and clear rules and update their legal frameworks against disinformation.

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**WHAT TO DO:**

- ▶ Draft clear rules for social media platforms.
    - Develop a framework that governs the access to data for research.
    - Set firm requirements for transparency in political advertisements.
    - Make companies disclose how they adjust algorithms to prioritise quality information and journalism.
    - Set up mechanisms for more information sharing between platforms and authorities.
  - ▶ Hold political parties and campaigns accountable.
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## Disinformation threatens the core of our democracy

Disinformation undermines the foundation of our democracy. Democracy is based on public deliberation. Public discourse enables us to find the best solutions for important social and economic problems, and is essential to build popular support for policy proposals. This is particularly important during election campaigns, when political candidates seek to make their case directly to the citizens and compete for their vote. The European Parliament (EP) elections and the (s)election of a new European Union (EU) leadership for the next politico-institutional cycle are therefore a crucial test for the strength of European public discourse.

The core of our liberal democracy – the competition for political power through elections – can only work if facts about the candidates and their political programmes are not distorted or misrepresented.



Democracy is all about competition between ideas and for voters' political support. But this competition can only work if some ground rules are observed. The most important one is that public debate must be rooted in facts. This is particularly crucial when we confront highly controversial and polarising issues such as the euro or refugee crises. If we do not get our facts straight, there is no chance that we can constructively debate these issues and argue over the best solutions and approaches.

Even more, the core of our liberal democracy – the competition for political power through elections – can only work if facts about the candidates and their political programmes are not distorted or misrepresented. This is why disinformation campaigns – the dissemination of false information with the intention to mislead – are such an essential threat to our democracy. Disinformation undermines public discourse, fair electoral competition, and, on a more basic level, citizens' trust in our democratic institutions.

**Given that the problem affects all member states, we need an EU-wide response.**

**Amplification by domestic actors is what makes disinformation campaigns really effective and impactful.**

**To better understand the threat landscape and vulnerabilities across its member states, the EU should develop and implement a 'Disinformation Index'.**

## Disinformation in the context of new digital communication technologies

Disinformation has always been a challenge for democracies. But due to the rise of new technologies, the scale of the problem has become unprecedented. Over the past decades, traditional media's gatekeeping function regarding the publication and dissemination of news and information has been dramatically eroded. The worldwide web has given anyone who can use a computer the ability to publish information. Social media provide alternative channels for the distribution of news and information on a massive scale, bypassing traditional media organisations.

At the same time, many news organisations have struggled to make a successful transition to digital media. Newspapers and media organisations have been downsized, and many have gone out of business altogether. Quality journalism, with its emphasis on thorough and independent fact-checking, is in decline, while the opponents of fact-based democratic discourses, whether domestic or foreign, are making ever-

bolder attempts to dominate and distort the new media environment. Digital and social media provide them with cheap

and widely accessible tools to develop and launch disinformation campaigns with an unparalleled reach.

## Important first steps, but much more needs to be done

Disinformation's threat to our democracy is serious and very real. Just within the last two years we have seen numerous examples of its disastrous impact. The spread of disinformation in the context of the Brexit referendum in June 2016 is only the tip of the iceberg. Since the broader public became aware of the problem during the 2016 presidential election in the US, disinformation has played a role in every subsequent election and political crisis in Europe. Given that the problem affects all member states, we need an EU-wide response. This is especially the case for the regulatory elements affecting the large online platforms discussed further below. Otherwise, we risk further regulatory fragmentation undermining the concept of the European digital single market or – even worse – lacking the political muscle to effectively enact the rules at all.

European institutions have realised the gravity of the threat. The European External

Action Service (EEAS) has set up a strategic communications unit to detect, analyse and expose Russian disinformation campaigns targeting the EU, and particularly its eastern member states. The European Parliament has conducted hearings and commissioned expert reports. In December 2018, the EU Commission took on a leadership role with the publication of the comprehensive action plan against disinformation, which is supposed to guard the integrity of the EP elections in May 2019. While the plan contains some important first steps, such as more resources for detection and analysis, a code of practice on disinformation for major Internet platforms, and the setup of a Rapid Alert System to improve information sharing and coordination between the EU and its member states, the next Commission needs to step up its game. These are the top priorities that the new Commission together with the European Council and the new EU leadership in general should address in the next institutional cycle (2019-2024):

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## Broadening the scope of the action plan

The production and distribution mechanisms of disinformation are highly complex. Some disinformation is pushed by foreign actors. But as Stiftung Neue Verantwortung has shown in its research on

the spread of disinformation in the context of the German national elections in 2017, amplification by domestic actors is what makes disinformation campaigns really effective and impactful.<sup>1</sup> A lot of fake news

also originates within member states, and the spreading of disinformation is a central component of a deliberate strategy by right-wing populists such as the Alternative for Germany (AfD) to mobilise support and push their political agenda.<sup>2</sup>

Effective disinformation campaigns are also crafted to appeal to local context. They take advantage of social and cultural divisions within society and generally seek to polarise society even further. Disinformation campaigns are particularly effective where trust in established quality media has been eroding, and they particularly appeal to those parts

of the population who have turned to social media as their main source of political information. To craft effective policy responses, we need a much more comprehensive approach at the EU level than the current focus on identifying and countering foreign, and particularly Russian, disinformation within the context of the EEAS. EU institutions should also look at how they can promote media literacy and quality journalism, as well as the development of new analytical tools, a deeper understanding of what makes societies resilient against disinformation, and clearer rules for social media companies and political campaigns.

## An EU Disinformation Index

A more comprehensive EU-wide approach needs to be based on a thorough understanding of the causes and mechanisms that drive disinformation campaigns. The Action Plan already emphasises research and the development of tools for the detection, analysis and subsequent exposure of disinformation. But as described above, broader social, economic, and political factors determine how vulnerable EU member states are to disinformation.

To better understand the threat landscape and vulnerabilities across its member states, the EU should develop and implement a ‘Disinformation Index’. The index would be based on indicators that seek to measure member states’ resilience against disinformation. Factors and conditions mapped by the index across the EU should include:

- **Media markets:** media consumption patterns, particularly the role of online and social media; audience size of different media channels; public trust in different media channels.

- **Political system:** number of political parties, stability / volatility of recent governments, measures of inter-party cooperation / polarisation, public trust in government institutions.

- **Socio-economic conditions:** economic inequality levels and trends, social mobility, cultural diversity / polarisation, migration patterns.

- **Geo-strategic context:** foreign<sup>3</sup> ownership of media outlets, the reach of foreign media channels, past exposure to foreign influence campaigns.

The Disinformation Index would provide an overview of the vulnerabilities and resilience of EU member states regarding disinformation campaigns. This index could serve many purposes, including inter alia the following more specific tasks and objectives:

- **Research into strengths and weaknesses:** based on findings from the index, the Commission could propose a research

programme that looks at these factors in more depth and investigates their potential for strengthening the resilience of democratic societies and institutions against disinformation.

- Provide input for regulatory responses: the Index could also inform member state policymaking with respect to risk assessment, vulnerability management, and ultimately market regulations on the EU level that seek to steer the power of technology back towards democratic outcomes.
- Inform the public: the index will further help to increase awareness in government and the broader public about the disinformation problem and what factors are linked to it.
- Raise awareness about neglected aspects of the disinformation problem: the current debate is too narrowly focused on foreign influence campaigns and technological aspects, such as the role of bots. The index would perhaps kick-start a much needed, broader debate about the social, economic and political criteria and factors that are important for making member states and the EU as a whole more resilient against disinformation campaigns.

## From voluntary code to hard rules

The European Commission has recognised the importance that large Internet platforms play as an infrastructure for the distribution of disinformation. In order to push the private sector to step up its efforts, a Code of Practice on Disinformation was developed and published in September 2018. The Code is an important first step, the implementation of which must be closely monitored. But it cannot substitute the need for the EU member states to develop hard and clear rules and update their legal frameworks accordingly.

Across the EU, member states have failed to update their legal frameworks regarding political campaigns to account for online campaigning and social media. It is not only social media companies that must be held accountable, but also political parties and campaigns. Political parties and political campaigns should not only publish how much money they spend on social media campaigns, but also disclose their messages and targeting parameters. In general, member states need to review their campaign regulations, identify gaps given

**It is not only social media companies that must be held accountable, but also political parties and campaigns.**

**We need to integrate domestic forces behind the production and spread of disinformation as well as institutions that counter the effectiveness of disinformation into our research and analysis.**

the rapid technological changes and new practices, and adjust their legal frameworks accordingly. The EU should help its member states to meet this challenge through dialogues on sharing best practices and developing basic standards for how such regulation should be integrated in its rule of law framework.

At the same time, we need clear rules for the social media platforms.<sup>4</sup> A voluntary code will not be sufficient. We are already confronted with a situation whereby different companies are taking very different measures to address the problem. Rather than having the member states take the initiative, leading to further fragmentation of rules and requirements, the Commission should foster the development of EU-wide rules for online platforms to counter disinformation. The Code of Practice and the evaluation of its implementation will serve as a strong foundation for these efforts. The following issues should receive particular attention:

- The EU should develop a framework that governs the access to data for research. It should spell out what kind of data must be made available and under what kind of circumstances and restrictions it can be

used. This framework needs to balance the public's interest in more transparency with data protection regulation and the legitimate business interests of the platforms. Rather than closing access altogether, the framework should clearly spell out usage restrictions (for example restricting the use of the data to publicly-funded research on disinformation and other issues affecting fundamental rights) and their enforcement;

- Besides rules for parties and political campaigns as mentioned above, the EU should also set firm requirements for transparency in political advertisements and their targeting parameters on online platforms.

- Companies should also be required to disclose how they adjust their algorithms to prioritise quality information and journalism over unverified information and disinformation. This includes disclosing how they determine the reputation and trustworthiness of news sources.

- New mechanisms for more information sharing between the platforms and public authorities also need to be explored. The EU should, for example, study how regulatory cyber-security frameworks could be applied to the disinformation problem.<sup>5</sup>

# Conclusion: A comprehensive programme to strengthen the EU against disinformation

There are no silver bullets or quick fixes to solve the disinformation problem. Instead, a holistic approach with a comprehensive strategy and a wide range of measures is needed.

Important first steps have been taken with the Action Plan. But its scope must be broadened. As part of the EU Disinformation Index, we need to integrate domestic forces behind the production and spread of disinformation as well as institutions that counter the effectiveness of disinformation into our research and analysis. This will put EU institutions in a position to further develop their understanding of what makes democracies resilient against disinformation and develop policies accordingly.

The new Commission also needs to move from voluntary codes to real accountability. Instead of leaving it to social media companies or political parties to decide what is acceptable democratic practice and what is not, we need a strong legal framework for the protection of the integrity of our elections.

This legal framework must address two dimensions. First, what are the rules for online campaigning in politics? Second, what are the obligations of online platforms regarding transparency of political advertisements, exposure to disinformation, and the protection of free speech, as well as the health of our democratic debates? This is no easy task. But given what is at stake for democracy in Europe, the new leadership of the EU institutions will have little choice but to take on this challenge.

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<sup>1</sup> Sangerlaub, Alexander, Meier, Miriam and Ruhl, Wolf-Dieter (2018), "[Fakten Statt Fakes. Verursacher Verbreitungswege und Wirkungen von Fake News](#)", Berlin: Stiftung Neue Verantwortung.

<sup>2</sup> Scott, Mark, "[Far-right German voters more likely to believe fake news study says](#)", *POLITICO*, 21 October 2017.

<sup>3</sup> Defined here as non-EU.

<sup>4</sup> Mozilla has [publicly criticized](#) Facebook for not living up to the spirit of the Code of Practice.

<sup>5</sup> See in previous blog: "[Why Social Media Platforms Should Be Treated as Critical Infrastructures](#)", European Political Strategy Centre.



► A member of Doctors Without Borders (MSF) looks at the coast as the Aquarius rescue vessel, chartered by French NGO SOS-Mediterranee and Doctors Without Borders (MSF) arrives at the Marseille harbour on 29 June 2018. © PAU BARRENA / AFP



# Migration and Schengen

► A French police officer stands at a border post on the French-Spanish border during a border control (December 2015). © IROZ GAIZKA / AFP



# Safeguarding Schengen

## The next EU leadership should return to fact-based policies

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**MAIN RECOMMENDATION** ► Safeguard Schengen by lifting it out of the negative and factually flawed discourses surrounding it.

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### WHAT TO DO:

- End the spill-over of negative, discursive dynamics in EU affairs. This includes the following:
    - Member states' unsubstantiated justifications for re-extending internal border checks should not be accepted.
    - The Commission should stop copying flawed discourses around the necessity of border controls in the context of its own activities.
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Safeguarding the continued existence of the Schengen zone should be an immediate priority of the next generation of European leaders. At the time of writing (April 2019), the Schengen free movement zone has not been border-control free for more than three years.

If the next institutional leadership fails to bring Schengen back to its normal, that is, pre-2015 state of affairs, the long-term consequences will be grave. In order to do so, EU leaders must counter the distorted discourses that currently surround the EU's valued free movement *acquis*.

**Three years of sustained internal border controls**

Starting in September 2015 and following the large arrival numbers of asylum seekers over the preceding weeks and months, Germany reintroduced checks along its land border

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**These checks seem to be informed, predominantly, by political considerations aiming to appease the electorate.**

**It will always be possible to claim that the control is not “complete” or “fully effective” and to continue promoting, on that basis, a retrenchment into nationalist, populist solutions at the expense of EU cooperation.**

with Austria. A chain reaction followed. Austria and Slovenia (still in September 2015) were next to re-introduce border controls, initially to avoid becoming ‘*culs-de-sac*’ where asylum seekers could get stranded.<sup>1</sup> Between October and December 2015, France, Hungary, Sweden and Norway (in that respective order) followed suit. In early 2016, Denmark and Belgium decided to reintroduce border controls, bringing the total to nine countries. Of these nine states, six (France, Germany, Denmark, Sweden, Austria and Norway) have continued to uphold border checks until today.

These extended controls have been the subject of much controversy. Criticism relates, first, to states’ practices of accumulating different legal bases for introducing what are intended to be ‘temporary’ controls and, second, to the limited justifications adduced for doing so.

With respect to the first point, what has been particularly contentious is the constant shifting from one legal basis to another for re-introducing (but *de facto* extending) internal border controls once the temporal limits of a certain legal basis have been exhausted. The European Parliament has publically<sup>2</sup> called this out for constituting unlawful behaviour<sup>3</sup>, and certain member states have done so in internal documents as well.

As regards the second point, the justifications provided for re-instating the controls have been weak and fail to meet the legally prescribed necessity and proportionality requirements.<sup>4</sup> Since 2015, states have predominantly cited threats resulting from so-called ‘secondary movements’ of asylum seekers from Greece and other states at the EU external border into northern-western European states as the reason for introducing border checks.<sup>5</sup> Arrival rates of asylum seekers have, however, dropped significantly since mid-2016. While exact figures are hard to come by, secondary movements have in parallel, and as reported by the European Commission, become ‘limited’. The downward trend in secondary movements could, among other things, be observed in the decrease of asylum applications “received at the internal borders of the member states concerned”.<sup>6</sup>

In late September 2018, the European Council reported that arrival rates at the EU’s external borders had dropped with 92% in comparison to the fall of 2015, when border checks were first instated.<sup>7</sup> However, only a few weeks later, France, Germany, Austria, Denmark, Sweden and Norway nevertheless announced that they would, again, re-extend the controls at their internal borders. Three of them (Austria, Norway and Germany) referred, again, to “continuous

significant secondary movements”, whilst other notifications mentioned, e.g., security

threats linked to a “situation at the external borders”.<sup>8</sup>

## Distorted discourses

The more time passes, the more it becomes clear that the internal border controls, repeatedly extended despite sustained low arrival rates, are not grounded in fact-based public policy considerations. Instead, these checks seem to be informed, predominantly, by political considerations aiming to appease the electorate.

It is notable that the six states with extended internal border controls are all governed by centrist or right-centrist governments that are facing considerable heat from (far-)right wing political parties on the topic of immigration. In Germany, mediatised, anti-immigration messaging comes from the AfD (Alternative für Deutschland) or even from certain CSU (Christlich-Soziale Union) politicians. In France, it is Marine Le Pen and her National Rally party that rail against migrants, while in Austria, the anti-immigration rhetoric of the Freedom party (FPÖ) can be highlighted. Further north, in Sweden, Denmark and Norway similar dynamics are at play involving, respectively, the Sweden Democrats party, the Danish People’s party and the Norwegian Progress party.

In such political environments, sustaining internal border checks and imparting – in that way – an image of a tough immigration policy could seem like an intuitively sensible response to far-right discourses. Even if the controls provide little merit from a public policy point of view – given the low rate of migration movements – at least their symbolic value may provide a counterweight to the highly emotionalised anti-immigration or ‘loss of control’ messaging expounded at the far-right end of the political spectrum.

In the long run, however, buying into such flawed discourses is self-defeating for two reasons:

► First, in doing so, governments risk reinforcing and thus legitimising, even if only indirectly, the kind of rhetoric they seek to outdo. On that basis, they also widen the potential for such rhetoric to gain further traction and wider acceptance at later stages.

► Second, the end goals of these discourses, e.g., “full control over the EU’s external borders” or “zero immigration”, are unattainable. While there is scope for a better control of migration flows, a certain degree of unpredictability will continue to define the volume and the direction of migration flows, as it has always done. Accordingly, it will always be possible to claim that the control is not “complete” or “fully effective” and to continue promoting, on that basis, a retrenchment into nationalist, populist solutions at the expense of EU cooperation.

Domestic developments in Germany around the introduction and later extension of internal border checks provide a telling example of such discursive, repeated-game dynamics. The first introduction of internal border checks, in September 2015, was, to a large extent, a response to the political pressure and mediatised claims from right-wing CSU politicians. Faced with rising immigrant arrival rates along the Bavarian-Austrian land border at that time, politicians such as Markus Söder, Bavaria’s then-finance minister (now state premier), publicly stated that “when the EU’s external borders are not protected, the German government needs



to think about how it will protect German borders”.<sup>9</sup> Responding to these calls by introducing internal border controls and, afterwards, continuously re-extending them, did not help in assuaging the demands. If anything, the opposite happened when in the spring of 2018 the then-leader of the CSU and Germany’s minister of the interior, Horst Seehofer, started advocating for even wider as well as intensified internal border checks. He envisaged an increased number of border control posts, which were to be upheld for an undefined period of time; or at least “so long as the EU fails to effectively control the external border” which, as he added, he didn’t “see it being able to do” anytime soon.<sup>10</sup> These and other demands

he made would have, effectively, implied a dismantling of Schengen.

Seehofer’s calls provoked a domestic political crisis that almost brought down the then newly-formed German grand coalition government and spilled over onto EU level, leading to a tense political atmosphere ahead of, and during, the June 2018 EU Summit. Eventually, through bilateral negotiations between Germany and several southern member states, the dust settled. Nevertheless, and on a broader level, these kind of discursive, repeated-game dynamics, registered in Germany and elsewhere, continue to jeopardize the future of the Schengen zone.

## Risks of losing Schengen

A Europe without Schengen, or with a hollowed-out version of Schengen, would come at a high cost. At least three immediate effects can already be gauged on the basis of the effects of the sustained internal border checks of the past three years.

► First, in economic terms, a study commissioned by the European Parliament on the set-up and operationalisation of the border checks estimates that costs range between €1 to 3 billion in annual operating expenses, and can potentially run up to €19 billion in one-off costs.<sup>11</sup> The broader costs connected to the obstacles for the road transport of goods (accounting for more than 70% of good transport) are much larger.<sup>12</sup>

► Second, there have, and continue to be, immediate and obvious consequences for tourists and other travellers as they are subjected to prolonged identity checks. Several media have reported on difficulties, for instance, in German airports as travellers from Greece were subjected to protracted

passport controls and connected waiting times. In this context, the Financial Times also reported on incidents of racial profiling.<sup>13</sup>

► Third, the sustained controls are a source of political tension between different member states. For example, the above mentioned increased controls targeting Greek airlines and travellers led to a row between German and Greek authorities.<sup>14</sup> In addition, the internal controls, and the economic costs they entail, have been criticized repeatedly – and sometimes very vocally – by other European states, including Poland, Hungary and Slovenia, who are feeling the impact of the controls on their goods transport sectors and who question the sincerity of the stated public policy considerations underpinning them.<sup>15</sup>

Of a less direct but potentially much more problematic nature are the larger, long-term negative effects on public opinion on the European project. A Eurobarometer survey on ‘European Perceptions on Schengen’ published in December 2018

documented that a large majority of European citizens (seven in ten respondents) agree that the Schengen area constitutes one of the EU's main achievements.<sup>16</sup> This confirms trends in broader Eurobarometer polls of the past few years, which have repeatedly shown that a majority of European citizens consider the “free movement of people, goods and services” to be the Union's most important achievement, even surpassing that of bringing about “peace among the member states”.<sup>17</sup> Accordingly, a Europe without Schengen would entail fundamental legitimacy risks for the European project as a whole.

## The way forward: Lifting Schengen out of negative discourses

Safeguarding Schengen is an immediate priority. This needs to start by changing the negative and factually flawed discourses surrounding the EU's valued free movement *acquis*.

► Border checks need to be lifted at once: the currently low number of arrivals and connected secondary movements can no longer be used as a sincere justification for sustained internal border controls. The six countries upholding checks should thus abolish them as soon as possible. Whilst this may look like a political hard sell, there is hardly any alternative. As the past three years have shown, buying time, hoping for the dust to settle or the political pressure from the (far-)right to ease is not a viable strategy. If anything, the sustained nature of these controls, plays – for the reasons described above – into the hands of those advocating for a return to nationalist approaches and, ultimately, a Europe without Schengen.

Collective and coordinated action involving all six states that still uphold controls may make this task easier. As is clear from the simultaneous and coordinated announcements to the media on national decisions to re-extend border controls in October 2018, acting in unison on this file is possible. Such unity can, and should, now move in the opposite direction, towards a restored Schengen zone. Member states should stop referring to one another's continued border checks when framing separate national decisions to that effect.<sup>18</sup> They should apply the opposite strategy, jointly

A large majority of European citizens (seven in ten respondents) agree that the Schengen area constitutes one of the EU's main achievements.

As the past three years have shown, buying time, hoping for the dust to settle or the political pressure from the (far-)right to ease is not a viable strategy.

conveying the message that the need for internal border controls is no longer there.

► The spill-over of negative, discursive dynamics into EU affairs needs to be stopped. Responsibility in this respect rests, first and foremost, with the European Commission. The next Commission should have two priorities:

First, member states' unsubstantiated justifications for re-extending internal border checks should not be accepted. The Commission should make stronger use of the proportionality and necessity control tools available to it under the Schengen Borders Code. This would include sincere reviews of the need for sustained border checks against the low volume of migration movements. Similarly, the repeated allegation that these controls amount to unlawful behaviour under EU law, including by the European Parliament and other member states, merits a stronger and more detailed response from the Commission.

The Juncker Commission's poor record in terms of procedural control within the current framework also casts doubts on whether we should expect much from the reform of the Schengen Borders Code, which the Commission proposed in September 2017.<sup>19</sup> One of the stated aims of these reforms is, precisely, to increase procedural control over (re-)introduced border checks. However, as the past period has made clear, procedural control tools do not provide solutions if the will to use them is lacking. Political resolve will need to come first.

Second, the Commission should stop copying flawed discourses around the necessity of border controls in the context of its own activities. A particularly problematic instance of imitating such discourses was recently observed in the Commission's proposal to strengthen the European Border and Coast Guard (Frontex), among other things, by creating a "standing corps

of 10,000 border guards".<sup>20</sup> According to the Commission, an increased mandate and resources for Frontex would lead to a more effective management of migration flows and help to guarantee a high level of security within the Union. This constituted, in the Commission's words, a "key condition to preserve the Schengen area".

Buying into these flawed discourses constitutes a self-defeating strategy. For instance, and to the visible frustration of the Commission's leadership<sup>21</sup>, and that of other member states<sup>22</sup>, the proposal immediately led to opposition – again – from nationalist, populist forces within the European Council as Italy and Hungary voiced objections related to possible infringements on national sovereignty.

At the same time, this road to nowhere carries further risks as, in copying such discourses, the Commission implicitly acknowledges and thus reinforces the flawed logic that internal border checks continue to be necessary. This then also hinders the creation of political opportunities for lifting these checks in future. The next Commission should urgently return to factually correct messaging and to drawing the obvious and correct policy conclusions from such facts.

In sum, at the national level, and against the background of continuously low migration numbers, border controls need to be lifted at once. Sustaining these checks to counter far-right, anti-immigration narratives is a self-defeating strategy. In the long run, governments risk reinforcing and thus legitimising, even if only indirectly, exactly the kind of rhetoric they seek to outdo.

At EU level, efforts should, as a priority, go towards preventing the further spill-over of these national dynamics into European affairs. This will require, first, a more critical stance on national governments' unsubstantiated justifications for continued internal border controls. Second, EU actors,

notably the Commission, should refrain from taking over flawed discourses themselves; e.g., in presenting a strengthened mandate for Frontex as “key” to preserving the Schengen area. Failing to do so reinforces the negative, repeated-game dynamics at national level, and hinders the creation of political opportunities for collectively lifting internal border controls in future.

There are no alternatives. As the past three years have shown, buying time, hoping for the dust to settle or the political pressure from the (far-)right to ease is not a viable strategy. What is at stake is the EU’s most important achievement in the eyes of its citizens.

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<sup>1</sup> Pastore, F. & Henry, G., (2016), “Explaining the crisis of the European migration and asylum regime”, *The International Spectator*; Italian Journal of International Affairs, 51 (1), p. 54.

<sup>2</sup> European Parliament (2008), “Report on the annual report on the functioning of the Schengen area”, A8-0160/2018. See also: “[EU Parliament targets unlawful border checks](#)”, *EUobserver*, 29 May 2018.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.; Carrera, Sergio; Stefan, Marco; Ngo, Chun Luk; and Vosyliute, Lina (2018), “The Future of the Schengen Area: Latest Developments and Challenges in the Schengen Governance Framework since 2016, Study for the European Parliament”, Brussels: LIBE Committee.

<sup>5</sup> European Commission (2018), “Full list of Member States’ notifications of the temporary reintroduction of border control at internal borders pursuant to Article 25 et seq. of the Schengen Borders Code”.

<sup>6</sup> European Commission (2017), “Communication from the Commission to the European Parliament and the Council on preserving and strengthening Schengen”, COM(2017)570.

<sup>7</sup> European Council (2018), “[Informal Meeting of the EU heads of state or government, 19-20 September 2018 in Salzburg, Austria](#)”, Press Background Note.

<sup>8</sup> Ibid., footnote 4.

<sup>9</sup> “[CSU streitet über Grenzzäune](#)”, *Die Spiegel*, 1 October 2015.

<sup>10</sup> “[German Interior Minister Horst Seehofer calls for more internal border controls](#)”, *Die Welt*, 18 March 2018,

<sup>11</sup> European Parliament Research Service (2016), “[The Costs of Non-Schengen. Impact of border controls within Schengen on the Single Market](#)”.

<sup>12</sup> Auf dem Brinke, Anna (2016), “The economic costs of Non-Schengen. What the numbers tell us”, Berlin: Jacques Delors Institut Berlin, Policy Paper 162.

<sup>13</sup> “[Anti-immigration mood drives fear of racist profiling on EU borders](#)”, *Financial Times*, 26 August 2018.

<sup>14</sup> “[Greeks condemn controversial German airport checks](#)”, *Die Welt*, 28 November 2017.

<sup>15</sup> “[Slovenia says border control with Austria makes no sense](#)”, *Euractiv*, 7 September 2017.

<sup>16</sup> Eurobarometer (2018), “[Europeans’ perceptions of the Schengen Area](#)”.

<sup>17</sup> Eurobarometer (2017), “[Public opinion in the European Union](#)”.

<sup>18</sup> See, e.g., Sweden’s most recent [announcement](#) to continue extending internal border checks.

<sup>19</sup> European Commission (2017), “Proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/399 as regards the rules applicable to the temporary reintroduction of border controls at internal borders”, COM (2017) 571 final.

<sup>20</sup> European Commission (2018), “Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard”, COM (2018) 631 final.

<sup>21</sup> European Commission (2018), “[President Juncker at the European Council, 14 December 2018](#)”.

<sup>22</sup> European Council (2018), “[Arrival and Doorstep by Jean Asselborn, JHA Council Meeting, 11-12 October 2018](#)”.



► Man and a child cross train tracks at a makeshift camp for migrants and refugees at the Greek-Macedonian border near the village of Idomeni on 20 April 2016. © JOE KLAMAR / AFP



# Solidarity in EU asylum policy: From an emergency-driven approach to the fair sharing of responsibility

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**MAIN RECOMMENDATION** ▶ Redesign the CEAS so that it structurally embeds solidarity and the fair sharing of responsibility in terms of allocation arrangements and in the funding design.

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**WHAT TO DO:**

- ▶ Greater integration between EU and national administrations.
  - ▶ Have a more rational approach around protection seekers' agency, their personal circumstances, family and social links.
  - ▶ Meaningfully address – rather than merely eschew – the issue of solidarity by structurally embedding fair sharing of responsibilities in law and in practice.
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Policymakers conceptualise the Common European Asylum System (CEAS) as a “common area of protection and solidarity”. And yet, the absence of solidarity and fair sharing in the legislative design and implementation of the European Union’s (EU) asylum policy is glaringly salient. Increased arrivals in the summer and early autumn of 2015, dubbed a crisis, overwhelmed the EU and triggered several political and legal reactions at the national level. This piece argues that rather than a refugee crisis, i.e. a crisis due to the numbers of protection seekers, we are actually dealing with a governance crisis. The crisis has laid bare the inadequacies of the EU asylum policy. In this contribution, I explore the scope and impact of the legal principle of solidarity and fair sharing of responsibility

**This piece argues that rather than a refugee crisis, i.e. a crisis due to the numbers of protection seekers, we are actually dealing with a governance crisis.**



in EU asylum law; I critically analyse the EU's efforts to implement solidarity; and I reflect on meaningful ways forward towards realising the fair sharing of responsibility. The next politico-institutional cycle needs

to result in a redesign of the EU asylum policy, which embeds solidarity and fair sharing of responsibility structurally, rather than linking it with the notion of emergency.

## We need to talk about the CEAS

Two key factors explain the CEAS' poor performance:

► A first important factor is **path dependence**, which has led to the entrenchment of a responsibility-allocation scheme that was conceived almost a decade before the EU came to exercise powers in the policy area. The Dublin system, initially established in a 1990 convention outside of EU law, was largely blind to fair sharing, let alone to the preferences of asylum seekers. It created asymmetrical burdens by assigning the primary duty to examine an asylum claim and to provide materially for asylum seekers to the state 'responsible' for the asylum seeker's presence in the EU.

► A second important reason for the CEAS's current troubles is the **over-reliance on legislative harmonisation** as the main avenue for achieving the goals of a common policy, at the expense of implementation efforts. The EU has failed to properly consider the administrative dimension of the asylum policy. It has sought to provide

what is effectively a regional public good, asylum, by allocating the vast majority of obligations – including financial ones – to member states with different levels of economic development and different conceptualisations of welfare.

The principle of solidarity and fair sharing of responsibility enshrined in the EU Treaties remained a dead letter for several years. Eventually the 'implementation gap' in the EU asylum policy led to the slow emergence of measures with a solidarity potential: the institutionalisation of practical cooperation efforts through an EU agency, the European Asylum Support Office (EASO); the creation of exceptions to the normal responsibility allocation system through ad hoc programs of redistribution of protection seekers between the EU member states (relocation); and the emergence of an EU funding component that is geared towards complementing national financial allocations rather than compensating member states for implementing their obligations under the CEAS.

## Solidarity and fair sharing of responsibility in EU asylum law

Solidarity in asylum matters is not merely an aspiration; it is a legally binding duty established by the EU Treaties. The

principle of solidarity and fair sharing of responsibility under Article 80 of the Treaty on the Functioning of the European

Union (TFEU) profoundly impacts the goal of EU asylum policy, dictates a certain ‘quality’ in the co-operation among the different actors, and arguably unsettles its implementation modes. Article 80 TFEU states:

*“The policies of the Union set out in this Chapter 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.”*

This provision creates binding legal obligations and should impact both the legislative and implementation phases. The Article’s wording not only permits, but in fact *requires* the adoption of concrete measures, whenever necessary. Special importance should be attached to the Article’s reference to “solidarity and fair

sharing of responsibility”, which implies that member states have a duty to go beyond simple solidarity mechanisms. The aim is to provide support up to the point where each member state is contributing its fair share. More ambitiously, the objective should be to structure the policy and its implementation in such a way that asymmetrical burdens do not occur in the first place.

Inter-state, intra-EU solidarity is therefore a vital legal principle in the context of the EU asylum policy. It is structural to this policy area and should have far-reaching effects. Merely limiting its scope to adopting partial, compensatory measures, such as short-term deployments, is not enough. It requires measures that offset the effects of the CEAS that existing solidarity measures do not compensate for. It can even require a redesign of the CEAS’ legislative instruments and, possibly, its implementation modes.

## The prevalence of emergency-driven solidarity in the CEAS

Notwithstanding the importance of inter-state solidarity and fair sharing, the CEAS currently lacks a genuine system for allocating responsibility among the member states based on objective indicators. EU countries often assert that they are ‘overburdened’, but such claims cannot be objectively substantiated and they raise the suspicion, among other member states, that the failure to comply with EU law obligations derives not from inability but from unwillingness.

Generally speaking, the claim of migratory ‘pressure’ is not based on pre-defined, objective criteria but is merely ascertained

on a common sense basis. Even when objective criteria are evoked to support common sense assessments, e.g. the number of migrants arriving, there is no clarity as to whether migratory pressure should be evaluated on an absolute or a relative basis. Instinctively, almost any observer would agree that the arrival of, say, 20,000 asylum seekers (an objective metric), will have a different impact in Germany than in Malta. A more complete understanding of fair sharing would seek to put this ‘pressure’ into perspective by taking into account characteristics of the receiving state, such as population, GDP, unemployment rates, and so on.

**The principle of solidarity and fair sharing of responsibility under Article 80 of the Treaty on the Functioning of the European Union (TFEU) profoundly impacts the goal of EU asylum policy, dictates a certain 'quality' in the co-operation among the different actors, and arguably unsettles its implementation modes.**

**Rather than emergency needs in the area of asylum, these pressures point to structural needs, and call for an overhaul of the CEAS implementation modes, in view of operationalising the principle of solidarity and fair sharing.**

**But exporting the challenges and responses to them is not the panacea that several policymakers think it to be; it is not the EU's newest quick fix.**

Nevertheless, the tweaks to the implementation design of the EU asylum policy that aim at operationalising solidarity are modest; they are often not embedded in the policy design but constitute exceptional, emergency-driven responses. First, in what concerns operational support, EASO's operational deployments are targeted at addressing particular pressures on the national asylum and reception systems. They were supposed to be limited in time. EASO deployees have begun to move away from expert consulting and undertake more hands-on tasks. In Greece, this includes independently conducting parts of the asylum process that entails discretion, while final decisions are adopted by the Greek Asylum Service. The proposal for a future European Union Agency on Asylum (EUAA) uncouples operational support from particular pressure, extends the minimum limits of the deployment of individual experts and clearly foresees more operational, hands on tasks for those deployed. However, deployments of the future EUAA are still expected to be limited in time, rather than structurally involved in assisted or common forms of processing of asylum claims.

Next, emergency relocation decisions adopted in 2015 established people-sharing arrangements for the benefit of Greece and Italy. They basically consisted of intra-EU transfers of asylum seekers between member states as a short-term exception to the normal rules on assigning responsibility. These relocation schemes established quotas that were obligatory, thus representing a first attempt to frame solidarity *and* fair sharing as an obligation, rather than as a discretionary act.

However, these measures were a temporary derogation to the workings of the normal responsibility allocation regime and concerned a fixed amount of asylum seekers. A legislative proposal on the reform of the responsibility allocation system, currently under negotiation, aims at creating a relocation mechanism that would be automatically triggered as soon as a predetermined threshold is overpassed. In its initial design, this mechanism prioritised the goal of externalisation over fair sharing, thus undercutting its effectiveness to deliver the latter. It saddled member states with additional obligations, while excluding asylum seekers found inadmissible from relocation. Even for those eligible, the administrative workings of the mechanism promised to be unworkable.

The component of EU funding that is more akin to an instrument of solidarity is emergency funding. Emergency funding, as its name suggests, was and continues to target situations of heavy migratory pressure. The emergency component of EU migration funding has been redesigned to make it more flexible and has no co-financing requirement,

meaning that the emergency amount comes exclusively from the EU budget. Nonetheless, emergency funding draws from an extremely small overall Home Affairs financial portfolio and can only partially compensate member states for their spending. There is an increasing number of contenders for it, including well developed economies such as Germany and France. Intra-EU humanitarian aid, a new non-migration specific funding line was established in 2016. It taps financial resources from the general EU budget and was immediately activated to support Greece. However, it is also a time-limited measure, with a maximum three-year duration. It is geared at responding to an emergency situation rather than a structural form of financial assistance.

Every effort is being made to suggest that it is not necessary to depart from the

initial implementation design, and that solidarity measures seek to address passing emergencies, created by *force majeure*, the ‘external’ pressure. And yet, some member states, such as Greece and Italy, have drawn almost constantly from ‘emergency funding’ since its inception, while the EASO steadily continues to renew ‘emergency plans’ with ‘special support plans’ on the ground.

Rather than being purely external, the pressures are also internal, created by the misconception of the implementation design of the EU asylum policy itself, and the lack of fair sharing. Increased arrivals in 2015 have magnified pressures, but they did not create them. Rather than emergency needs in the area of asylum, these pressures point to structural needs, and call for an overhaul of the CEAS implementation modes, in view of operationalising the principle of solidarity and fair sharing.

## Moving forward: Embedding fair sharing of responsibility in law and in practice

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The inability of a collective of 28 member states, with a population of roughly 500 million people, to manage arrival numbers that only moderately surpass those that Lebanon, with a population of 6 million people, had to deal with during the same period, reveals that the current crisis is one of governance and solidarity, rather than a refugee crisis.

The explosive mix of the initial implementation construct, combined with a responsibility assigning system that had glaring disregard for fair sharing, led to the establishment of an administratively dysfunctional CEAS. Not enough has been done to address this. Until 2013, member states stubbornly insisted on maintaining the

implementation design largely unaltered, and continued down the path of placing emphasis on enhanced legislative harmonisation. Only during 2015 did more radical shifts, such as the first signs of joint implementation through EASO, or baby steps towards more structural forms of funding (that are for now limited to pooling together different emergency funding lines) appeared.

► But more needs to be done in the next politico-institutional cycle to enhance the ability of the EU and its members to effectively address the governance and solidarity crisis we are facing. While the Juncker Commission seems to be more aware of implementation design issues and the imperative of fair sharing

in its latest proposals, there is an externalisation pull that is undercutting the success of such plans. A more principled approach would be a redesign that aims to structurally embed solidarity and fair sharing in responsibility allocation arrangements and in the funding design. We need an implementation construct that identifies structural demands instead of one that attempts to 'fix' the situation with a cascade of 'emergency measures', hoping that lumping them together will somehow add up to a structural response. A redesign which fully recognises that asylum provision is a regional public good and draws the necessary consequences.

► One possible pathway is a greater integration between the EU and national administrations in implementing EU asylum policy. This is foreshadowed by the joint processing of asylum applications that is taking place in Greece, with EU involvement through EASO in different stages of the asylum procedure, while the final decision is adopted by the Greek Asylum Service. This will be enhanced in the new mandate and envisaged workings of the European Union Agency on Asylum proposal. The advantages of such an implementation mode are a greater steering potential towards harmonisation and a slight enhancement of fair sharing, to the extent that deployments would become lengthier and more numerically robust. This is not to say that enhanced administrative integration should be celebrated as something that is inherently positive. This type of integration brings its own challenges, of both a constitutional and practical nature, and requires a rethink of accountability processes so that it does not lead to a *de facto* watering down of procedural guarantees. Alternatively, the redesign could realise fair sharing through a compensation logic behind funding where the EU covers national expenses related to asylum provision through the EU budget. This would involve a drastic enhancement of the overall volume of funding available for the area of freedom, security and justice.

► Any of the two above approaches would need to be combined with a more rational approach to protection seekers' agency. A future responsibility allocation mechanism would need to be better at taking into account their personal circumstances (e.g. level of vulnerability), family links (including extended family) and social links (e.g. language skills), without this necessarily entailing the establishment of a free choice model. It would mean distancing the policy from the coercion course, which it is now pursuing with renewed fervour. In addition, policy makers would need to address the absence of free movement rights. At the moment, only the Long-Term Residence Directive contains some meagre opportunities for free movement. The policy redesign would need to foresee some variant of post-recognition free movement rights, without this necessarily meaning unqualified rights to free movement.

The EU and its members need to address the above internal shortcomings in the years to come. Yet, they have chosen to move in a different direction, given that externalisation is becoming the primary goal. But exporting the challenges and responses to them is not the panacea that several policymakers think it to be; it is not the EU's newest quick fix. Externalisation ultimately rests on the viability of political agreements struck with third country partners. This renders the EU hostage to the whims of foreign political leaders. It does not address but merely delays the conversation on genuine intra-EU solidarity. It makes for shaky ground to base the redesign of the implementation construct of the policy on. Presented as the principal way to achieve some relief from unfairly shared obligations, it incentivises governments to become zealous participants in operations with dubious fundamental rights implications.

Future political leaders and policymakers should follow a different path. They should seek to meaningfully address – rather than eschew – the issue of solidarity by structurally embedding fair sharing of responsibilities in law and in practice.

# Europe and the world





► European Council President Donald Tusk (left) walks with Chinese Premier Li Keqiang upon arrival prior to the start of an EU-China summit in Brussels on 2 June 2017. One of the main topics of the summit was how the EU and China can fill the void in the global push to fight climate change left by the US withdrawal from the Paris Agreement.

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# Rules first: The way forward for ‘shaping power’ Europe

**Giovanni Grevi** – *Head of the Europe in the World Programme and a Senior Fellow at the European Policy Centre*

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**MAIN RECOMMENDATION** ▶ Adopt a ‘rules first’ strategic approach to frame and guide Europe’s projection on the international stage.

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**WHAT TO DO:**

- ▶ Preserve and reform the transatlantic partnership as a central pillar of European security and an essential component of the future international order.
  - ▶ Invest jointly in Europe’s security to become more autonomous, effective partners within NATO and stronger security providers in Europe’s neighbourhood.
  - ▶ Make the extent and quality of EU-China engagement dependent on ability to achieve a level-playing field based on rules and reciprocity.
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The domestic legitimacy and international influence of the European Union (EU) largely depend on the EU’s ability to advance the well-being and security of Europeans. That requires governing globalisation and mitigating confrontation across multiple domains. Strengthening a rules-based international order is essential to achieving both objectives. Whether the EU will be willing and able to play in the top league of global shaping powers, alongside the US and China, will be critically important for the future of the international order and, therefore, for Europe’s own cohesion.

Over the next five years, the EU should adopt a ‘rules first’ strategic approach to frame and guide Europe’s projection on the international stage. This approach should harness the EU’s considerable rule-making power to both promote its interests and values and support multilateralism and partnerships on the global stage.<sup>1</sup> The EU has long aimed to advance international cooperation. This time, however,

**The EU should adopt a ‘rules first’ strategic approach to frame and guide Europe’s projection on the international stage.**

it is different. Recent developments point to a much more challenging strategic context for 'shaping power' Europe and call for a new level of commitment.

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**In a world headed towards a post-multilateral (dis)order the EU needs to change gear, like the US and China, but take a different route.**

**The EU should take a 'rules first' strategic approach, which aims to boost Europe's role in shaping an open and sustainable international order, as well as Europe's resilience to cope with external challenges.**

## The risk of a post-multilateral world

Power shifts are leading to an international system that many define as multipolar. In fact, the distribution of power looks different depending on whether military, economic or technological assets are concerned. When it comes to the ability to shape the international order – the way in which a system works – the world seems to head towards a turbulent duopoly with the US and China as the two super-shaping powers.

The recent trajectories of the US and China feature both discontinuity in respective strategies and growing confrontation. The US is struggling to redefine its leadership in a system where it is, and going to be, less dominant than it was. China is rising while advancing a political-economic model, a worldview and a set of values that are very different from the West. While both the incumbent and the emerging superpowers are in search of a role, both of them have changed gear in the last couple of years.

The Trump administration has broadly disengaged from multilateralism, based on the assessment that it no longer delivers for the US and that it has been captured by rival powers, notably China. Under President Xi Jinping, China has taken a much more ambitious, and more assertive, approach to international affairs. As made clear at the XIX Party Congress in 2017, Beijing aims to become a leading global power in the next three decades, while offering China's model to the rest of the world. The change of gear in Washington and Beijing has sharpened their latent rivalry. There is a growing consensus in the US that China is a strategic revisionist challenger and there is growing impatience in China with US influence in Asia and on the global stage.

These developments point to two systemically important consequences, and a new strategic context for the EU. For one, there is a serious risk that Sino-American competition emerges as one of the main features of international affairs, reverberating across many aspects of world politics. For another,

at this stage neither of the two superpowers is championing a rules-based international order. The Trump administration has been occasionally calling for cooperation among like-minded countries but openly endorses a transactional worldview while promoting the nationalist «America First» agenda. China has stated its support for an open international economic system but there is a mismatch between its words and deeds. It has taken a selective approach to global governance, while closely guarding its sovereignty and national interests.

If unchecked, these trends will likely lead to a post-multilateral world. This would not be one where multilateralism would suddenly disappear, but it would become shallower and narrower. This quite plausible scenario would seriously challenge the European project. Europe was built to replace the logic of confrontation with the logic of cooperation in international relations. In a world headed towards a post-multilateral (dis)order the EU needs to change gear, like the US and China, but take a different route.

## The EU needs a ‘rules first’ strategic approach

The starting point is that the same trends that risk to undermine the EU make it ever more valuable for Europeans and, arguably, others in the world. In a context marked by the revival of nationalism and power politics, a rules-based Union of states and peoples seeking to establish rules-based international cooperation is a global public good.

The EU is the living proof that a way to conduct international affairs other than coercion or sheer transaction can be pursued and, crucially, can deliver. This experience should be the core of the EU’s message to the world – its business card. However, as power shifts and ideas compete within a harder strategic context, the way in which Europe’s identity, assets and rules are converted into international influence needs to change.

Building on the 2016 EU Global Strategy, the EU should take a ‘rules first’ strategic approach, which aims to boost Europe’s role in shaping an open and sustainable international order, as well as Europe’s resilience to cope with external challenges.

With a view to that, Europe’s core asset is its rule-making power, understood here in broad terms as a combination of EU-level regulatory and market power and the Union’s engagement in multilateral cooperation and other partnerships. Europe’s strategy should therefore be primarily concerned with leveraging this power by connecting internal policies and assets to external instruments and objectives.

This connection can be operationalised in multiple, mutually reinforcing ways. The EU should foster the implementation of the rules and principles included in the many agreements concluded with neighbouring countries. It should develop stronger normative frameworks, for example on investment and procurement, and use them more strategically as a springboard for bilateral or multilateral negotiations. The EU’s energy policy encompasses an external dimension that helps enhance Europe’s energy resilience while advancing regional cooperation. Domestic environmental rules are the bedrock of the EU’s leadership in global climate negotiations. The EU can



**A rules first approach builds on the backbone of Europe's rule-making power, sets a sense of purpose and informs a non-adversarial posture to coping with power politics.**

**A rules first approach is not necessarily about tight regulation either.**

**With a view to the US, the principal objective of the EU should be to preserve and update the transatlantic partnership as not only a central pillar of European security but also as an essential component of the future international order.**

deploy its regulatory power to establish a level-playing field for the application of new technologies in Europe and to help shape related multilateral regimes. More broadly, the EU can develop industrial, competition and social policies that will put it in a stronger position to negotiate with others on the governance of a new phase of globalisation. Through a strategic approach to connectivity and external investment, the EU can extend the reach of its principles and rules in targeted ways, while creating a platform for cooperation with others. The EU can also leverage its market power to sanction the breach of international law. Under a rules first strategic approach, these and other tools and vectors of Europe's rule-making power should be mobilised to create leverage across policy domains.

## Advancing stability in a volatile world

This approach does not ignore the revival of power politics and geopolitical competition on the global stage. Of course, rules may not be enough to cope with aggressive behaviour. More broadly, flexible and pragmatic measures are often required to cope with complex challenges and unforeseen events. However, a rules first approach builds on the backbone of Europe's rule-making power, sets a sense of purpose and informs a non-adversarial posture to coping with power politics, while seeking to advance rules-based cooperation when possible. Europe should be equipped to deal with geostrategic competition, including a wide range of security threats, while not endorsing a zero-sum worldview. Europe should respond with rules to sheer power, with multilateralism to unilateralism, with rights to authoritarianism and with firmness to intimidation or interference. Rules can be hard, because they can coerce behaviour. However, if adopted and implemented according to the rule of law, they are not arbitrary.

A rules first approach is not necessarily about tight regulation either. Different policy issues lend themselves to different modes of governance, at the EU or multilateral level, whether binding rules or frameworks for coordination. The governance of new technologies will require, for example, very close partnerships between public bodies and private actors, based on a mix of regulation and codes of conduct. However, taking a rules first approach matters in many ways. For one, even

guidelines or coordination frameworks require close scrutiny about implementation and consistency. For another, Europeans should agree normative frameworks together, as opposed to drift separately in

spaces where rules are lacking or outdated. Finally, even relatively looser normative arrangements create a basis for cooperation and help foster predictability in a more volatile world.

## Rule-making, strategic autonomy, and politics

Europe's rule-making power will be essential for progress towards Europe's strategic autonomy. This is about the EU's ability to set objectives and mobilise the political will and resources to achieve them, in ways that are not primarily defined by others. While progress on defence cooperation is necessary to achieve a degree of strategic autonomy for Europe, the next EU leadership should frame this debate in larger terms. The four main pillars of Europe's strategic autonomy are the single market, the euro, the capacity for technological innovation and the capacity to provide for its own security. All of them require strengthening. The extent of strategic autonomy will differ depending on the policy domain. Across all of them, however, the aim is not for Europe to act in isolation but to take more responsibility for its security and prosperity, as a platform for cooperation with partners. A focus on rules is not sufficient for advancing strategic autonomy but, in a world of complex interdependence and transformative technological developments, it is a crucial part of that.

A rules first approach is also an antidote against opportunistic or hostile divisive tactics weakening the EU. For example, rules on the functioning of the single market or an effective approach to counter disinformation through norms and multi-stakeholder engagement should be the firm lines of defence against country-shopping,

or political interference, by third parties within the Union.

Clearly, a rules first strategic approach is predicated on the commitment of EU member states to shared principles and to joint responses to the challenges of a new, more muscular phase of globalisation. The recent track record of the EU is mixed at best. There is a precarious mismatch between incremental progress on some policy dossiers and deepening rifts in European politics. The agenda of nationalist and populist parties, whether in government or in opposition, weakens the credibility of a rules-based EU approach. Yet, the EU has proven more resilient than many expected. Most Europeans know that less Europe means more fragility and fewer opportunities. The EU has a positive message for citizens in Europe and beyond, based on sustainable growth, open societies and collective security. By pursuing these goals, the EU and national leaders can help shape the international order in ways that make a positive difference to citizens at home.



# Shaping partnerships with the US and China

The EU will need to work with a wide range of partners to implement a rules first approach, including state and non-state actors, at different levels. However, the way in which the EU will deal with the US and with China – the two super-shapers of the new phase of globalisation – will be critical to the viability of its strategy.

With a view to the US, the principal objective of the EU should be to preserve and update the transatlantic partnership as not only a central pillar of European security but also an essential component of the future international order. While day-to-day cooperation continues on a large range of issues and mutual economic relations are of unparalleled importance to both parties, the Trump administration and the EU look at international affairs through different lenses. This has led to serious differences, particularly on key matters of global governance, which are unlikely to melt away in the run-up to the US presidential elections in November 2020. Uncertainty over the outcome of these elections makes it impossible to anticipate major initiatives to redefine the partnership. But the EU should operate to create the best conditions for strategic engagement whenever the opportunity presents itself.

This will require, for example, Europeans to invest more and more jointly in their own security to become more autonomous, effective partners within NATO and stronger security providers in Europe's neighbourhood, through the full EU toolbox. Close cooperation should be fostered on strengthening the resilience of all transatlantic partners against cyber and hybrid threats. The EU should leverage extensive bonds with state and non-state actors across the Atlantic to promote an

inclusive debate and convergence with the US on the regulation of emerging technologies. Europe's own efforts to uphold a rules-based global order at a time of unprecedented challenges can also be seen as an important investment in the future of the transatlantic partnership. By supporting an order that the US, as well as many others, have largely benefited from, the EU is also keeping the door open for Washington to re-engage.

The strategic challenge of EU-China relations over the next five years and beyond is to define the terms and the scope of engagement between two very different economic and political systems. Especially at a time of growing tensions between Beijing and Washington, the handling of the EU-China partnership will carry implications that go beyond bilateral affairs.

The European Commission and the High Representative adopted a Joint Communication in March 2019 taking a strategic outlook to EU-China relations and outlining priority areas for action. The Communication calls for a "more realistic, assertive and multi-faceted approach" to China. It describes the EU-China relationship as a complex one, including cooperation, competition and rivalry, and requiring therefore "a flexible and pragmatic whole-of-EU approach enabling a principled defence of interests and values." The extent of the bilateral partnership will largely depend on the achievement of a level-playing field based on rules and reciprocity across a number of policy areas. As China becomes an advanced economy, a leading engine of technological innovation and a shaping power through, for example, the Belt and Road Initiative, the Communication makes clear that the core of the partnership agenda is shifting accordingly.

Beyond bilateral issues, the EU should strengthen strategic dialogues with China on matters of regional and international order. These include the respective agendas to foster connectivity between Europe and Asia and the regulation of new technologies. Some progress on the climate change agenda shows scope for cooperation between the EU, China and other key actors. However, larger questions lie ahead. Beijing's approach to connectivity, globalisation and global governance differs

from Europe's in important ways. The question is where China's priorities as a shaping power are alternative to those of the EU, where they are compatible and where differences can be reduced through negotiations. The space to fudge this question is contracting. The next EU leadership should mobilise the partnership with China to tackle it and develop a larger agenda for rules-based cooperation, where possible.

## Conclusion – Leveraging Europe's untapped power

Many dark predictions point to the international order unravelling or a new Cold War emerging between the US and China. However, the future is not preordained. Structural changes are inevitable, conflict is not. Various trends point to a context wherein geopolitical and geo-economic competition will intensify and the opportunity for multilateral rule-making will shrink. The trajectories of the US and China will be decisive for the scope of cooperation, competition or conflict. So will Europe's way forward, if Europeans will leverage their untapped power.

The next EU leadership should adopt a rules first strategic approach that defines the Union's global purpose and organises

its initiatives. A rules first approach is not a rules-only one. The EU and its member states will need to be pragmatic to defend their interests in specific issues, disputes or regions. It is also a strategy that requires the EU to work with a wide range of partners. However, the Union's added value lies in leveraging Europe's rule-making power to advance EU values and interests while striving to strengthen a rules-based international order. If Europeans do not step up to the task, instability and power politics on the global stage will compound political turbulence and divisions within the EU.

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<sup>1</sup> See also G. Grevi (2019), 'Shaping Power: A strategic imperative for Europe', Brussels: European Policy Centre.



► Soldiers of a Eurocorps detachment raise the European Union flag to mark the inaugural European Parliament session on 30 June 2014, in front of the European Parliament in Strasbourg, eastern France. © AFP PHOTO / FREDERICK FLORIN



# European security and defence: A year of opportunity and risk

**Jamie Shea** – *Professor of Strategy and Security at the University of Exeter and former Deputy Assistant Secretary General for Emerging Security Challenges at NATO; Senior Adviser to the European Policy Centre on security and defence policy*

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**MAIN RECOMMENDATION** ▶ Prove readiness to produce new initiatives within NATO and avoid a renationalisation of Europe's security, while keeping strong links with the UK after Brexit.

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**WHAT TO DO:**

- ▶ France and Germany should show their joint determination to move forward on defence.
  - ▶ Upgrade the European Defence Agency.
  - ▶ Implement institutional improvements such as a formal EU defence ministers council, the appointment of an EU commissioner for security and defence and turning the EP sub-committee on defence into a full committee on defence.
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2019 is a crucial year for European foreign, security and defence policy, with moments of great risk, but also of great opportunity. At the beginning of a new politico-institutional cycle, the European Union (EU) and its member states will have to show their determination to assume more responsibility as an international security provider. Europeans will have to prove their readiness to produce new initiatives within the North Atlantic Treaty Organization (NATO) and avoid a renationalisation and regionalisation of Europe's security, while keeping strong links with the United Kingdom (UK) after Brexit. To get there, three things need to happen: France and Germany should finally show their joint determination to move forward on defence; the EU needs to upgrade the European Defence Agency (EDA); and the Union should implement a number of institutional improvements in the years to come.

**2019 is a crucial year for European foreign, security and defence policy, with moments of great risk, but also of great opportunity.**

# Three decisive moments

Looking ahead, three particular moments stand out: the 70<sup>th</sup> NATO anniversary; the European elections; and the future EU-UK relationship.

## 70<sup>TH</sup> NATO ANNIVERSARY

The first will happen in April when NATO foreign ministers gather in Washington to mark the 70<sup>th</sup> anniversary of the Alliance. A 70<sup>th</sup> anniversary is not usually a landmark for special commemoration but the North Atlantic Treaty Organization (NATO) badly needs a show of unity and calm resolve after two contentious summits with President Trump at the new NATO headquarters in Brussels. NATO observers generally fall into two camps: those who worry about Trump's threats to withdraw from the Alliance or at least water down the US's commitments to Europe's defence; and those who look instead to what the US actually does in practice and the \$3 billion and extra troops and tanks that it has invested in Eastern Europe as part of its European Deterrence Initiative since Trump came to power. The meeting in Washington is an opportunity to reconcile these two trends by re-asserting the primacy of the transatlantic link and a common sense of purpose.

Of course, the burden sharing debate will not go away, even if with a Democrat in the White House. After the UK's departure from the European Union, the 22 EU countries that are also NATO allies will spend less than 20% of the Alliance's overall defence budgets. Yet the NATO commitment adopted at the Wales summit in 2014 to devote at least 2% of GDP to defence is something that the Allies are starting to take seriously. Since 2016 they have added an additional \$41 billion to their budgets, a figure that will rise to \$100 billion by the end of this year and \$266 billion by 2024,

the 2% target date. Around half of the Allies will meet the target by then, but all have halted the decline and are again increasing their defence spending. The Allies are also spending more on capability and readiness improvements, education and training and investing in upcoming technologies such as cyber, Artificial Intelligence (AI), space and robotics. At the same time, they are opening a training mission in Baghdad and staying the course in Afghanistan at a time when it seems the US is preparing to withdraw. The European allies have also gone along with the US accusations that Russia has violated the INF nuclear treaty even though they would hardly welcome a new nuclear arms race on the European continent.

So the celebrations in Washington in April could be the moment when the Alliance does not merely reflect on past glories, but pulls together around its three core missions: to deter Russia in the east, stabilise the south and build resilience against hybrid warfare at home. But it could go the other way too. Notwithstanding the still overwhelming support for NATO in Congress, Trump could still disrupt the NATO meeting. He could demand more and sooner on defence, reasserting that he has the power as president to withdraw from NATO, or criticize the efforts of France and Germany to advance European defence cooperation as anti-US, even though this is the only viable way to secure the equitable transatlantic burden sharing that he demands. So the dilemma for NATO's leadership returning to the Alliance's birthplace is whether to opt for a largely ceremonial occasion but then fail to convey a sense of NATO's continuing relevance to US interests, or to try to produce a set of new initiatives that could prompt Trump to intervene or distance the US from them.

## THE EUROPEAN ELECTIONS

The second rendezvous will occur one month later in Brussels as EU policymakers and MEPs survey the results of the European Parliament elections. These are happening after the best year for European defence in decades. In 2018, there was a proposal to set up the European Defence Fund, with €13 billion earmarked for that purpose in the next Multiannual Financial Framework (MFF) 2021-2027. Two rounds of Permanent Structured Cooperation (PESCO) have produced 34 collaborative projects, from helicopter upgrades, drones, underwater missiles and acoustics, medical deployable units to military mobility and an EU Intelligence School. The EU has also established a Military Planning and Conduct Capability for its non-executive missions and is strengthening its mandate to cover one executive operation limited to EU Battlegroup size by 2020. France and Germany are creating a Security Council which could be the genesis of a European prototype and have launched ambitious research programmes to develop a sixth generation fighter aircraft and armoured vehicle suite. Moreover, France has launched a “European Intervention Initiative” to develop an expeditionary culture and mindset among its ten participating states. This initiative has the advantage of involving the post-Brexit UK, Norway, Denmark and others who have been less committed to EU frameworks.

It has taken a long time for the EU to put real money on the table and give the European Commission a role in defence-related R&D but now things are actually moving. Naturally there is still much to do. European strategic autonomy is a nice catch-phrase but it has to be defined. Strategic autonomy to do what, where, when and how? What would this concept mean in terms of the EU’s level of ambition for a range of demanding and less demanding missions and which combinations of these would need to be carried out in parallel?

What would be the force requirements or gaps to be filled and how can PESCO be used not only to promote cooperation from the bottom up, but also flesh out the EU force package from the top down? How can the solidarity and mutual aid provisions of the Lisbon Treaty (Article 42.7 and Article 222) be interpreted, for instance in creating a European cyber force or incident response centre to counter hybrid attacks?

Then there is the risk of the European elections resulting in more populists and/or nationalists of all stripes going to Brussels and joining the ranks of the new European Parliament, but also the next Commission and the ministerial Councils. This could reignite old disputes about Western Europe’s neglect of Eastern Europe’s security concerns, attitudes towards Russia and the search for bilateral or regional agreements in preference to Brussels – as exemplified in Poland’s offer to the US to fund a permanent US division in Poland commonly referred to as “Fort Trump”. At a time when the US’ retreat from the global stage and its unpredictability as well as the instabilities all around Europe demand greater resolve and coherence in both the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP), there is a danger of the brakes coming back on – and Europe fragmenting into a complex set of different arrangements, hiding what is in reality a renationalisation and regionalisation of its security. This is a situation that others would soon exploit and from which it would be difficult to recover.

## THE FUTURE EU-UK RELATIONSHIP

Finally, the third crucial moment comes after the summer holidays in September. By then hopefully the passions that marked the UK’s departure from the EU will have calmed as the UK adjusts to the realities of its new position in Europe and the world. Once the intense wrangling over the Withdrawal Agreement slips into history,



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attention in London will turn to the future EU-UK relationship. Security and defence have hardly featured in the withdrawal debates, especially once London realised that they could not be brandished as a bargaining chip to gain more concessions from Brussels. However, they will be a critical part of the future negotiations as both London and Brussels need each other in security and defence as much as they do in trade. Getting this relationship right will also be vital in addressing the two concerns outlined previously, namely transatlantic solidarity and EU defence capabilities and coherence.

The UK will still be a major defence player, a nuclear power, a P5 member of the UN Security Council and one of the few European countries with a – albeit limited – global reach buttressed by two brand new aircraft carriers. It represents 25% of EU defence budgets and around 20% of its overall military capabilities. The illustrative scenarios that underpin the planning by the EU Military Staff demonstrate that it would be difficult for other EU countries to undertake missions especially over 6,000 to 15,000 km strategic distance without the UK's maritime, air, space and electronic warfare assets. UK offensive cyber capabilities and intelligence, its expertise in terrorism and the contribution of its high tech industries to the EU defence technology base all make it a key partner. In any case, the UK will remain committed to the defence of Europe through its leading role in NATO and its battalion in Estonia.

There is no reason to believe that the UK's departure from the EU will make it any less vulnerable to the sort of threats that EU countries face on a daily basis. The UK will either seem more isolated and vulnerable post-Brexit, or its desire to remain globally active will continue to attract adversaries. So there are compelling reasons for the UK to want to be closely associated with the EU's defence initiatives even after Brexit, and apart from the business opportunities that the European Defence Fund can offer to UK companies. The sections of the Political Declaration on the Future Relationship concerning security and defence are arguably the most convincing of the entire document. But much can still go wrong.

For example, the UK will seek to obtain a special status with the right of co-decision and involvement in planning, which will be difficult for the EU to concede given its reluctance to award benefits to non-member states. The UK could use its place in NATO to lobby against EU defence projects or brand premature talk of a European Army as a threat to NATO. This would hardly restore the trust between the EU and UK necessary for cooperation in intelligence sharing and cutting edge technology developments. On the other hand, the EU will not want to be dependent on non-EU sources for vital capabilities

if it is serious about its goal of strategic autonomy. The exclusion of the UK from the future development of the military aspects of Galileo shows how difficult it is for the EU to share the economic and industrial benefits of its spending and investments with third party states even if they have much to contribute. And if the talks on the future relationship sour on trade and finance or regulation, discussions on the security and defence relationship could get complicated as well.

So we must be reminded of Emmanuel Kant's observation that "out of mankind's crooked timber nothing straight was ever made" and not expect things to go smoothly

even in an area where the case for close cooperation is overwhelming. But after the gruelling and deeply divisive Brexit referendum campaign and withdrawal negotiations, it will be important for London to set a new tone, engage openly with the EU and put an offer on the table that makes the intention of the UK to support EU defence efforts clear. For instance, a UK offer to show solidarity if Articles 42.7 or 222 are invoked. Or to coordinate positions in the UN Security Council and General Assembly. Or to earmark logistics and lift capabilities for CSDP operations. There is no shortage of ideas if the goodwill and imagination are there.

## Exploiting opportunities

If we can pass successfully through these three critical moments in 2019, a more promising future presents itself to the new European Commission, Parliament and High Representative at the head of the EU External Action Service (EEAS). But to get there, the EU and its member states need to show their determination to progress in three particular areas.

### FRANCO-GERMAN DEFENCE COOPERATION

France and Germany should finally show their joint determination to move forward on defence, something that was sorely lacking in the past. The recently concluded new Franco-German Friendship Treaty signed in Aachen will establish a joint Security and Defence Council as well as a mutual defence commitment that could be the kernel of a future European security treaty. Some will say that this mutual defence commitment already exists in NATO, that it does not preclude the use of

armed force as the old Western European Union (WEU) treaty once did, and that it is underwritten largely by US military power.

But it is a step forward nonetheless if mutual defence becomes a commitment that Europeans are increasingly willing to assume among themselves as a consequence of EU membership. At the moment, there is no appetite for more treaty change in Brussels to codify more formal commitments; but the new EU leadership could start the process by debating with EU member states what kind of commitments they are prepared to accept under Articles 42.7 and 222 of the Lisbon Treaty. Examples abound: access to each other's cyber defence, forensic and recovery capabilities; a focal point for intelligence sharing; an EU Chemical, Biological, Radiological and Nuclear (CBRN) Task Force for Salisbury-type incidents; or a stand-by European disaster relief force backed by dedicated airlift capability and stockpiled equipment at various points on EU territory. These measures can be reflected in a political declaration.

The French and German defence ministers also recently signed an agreement to proceed with the first stage of the Future European Air Combat System with associated drone and ground segment technology. Germany has agreed not to procure the US F35 in order to have a military requirement for a 5<sup>th</sup> generation aircraft in the 2040 timeframe to replace its Eurofighters. This is a key requirement to maintain a viable European defence technology base. The challenge for the next Commission will be to work with France and Germany in bringing other EU states into this project to ensure its commercial viability and spread the benefits. Spain has already expressed an interest but the Commission could identify suitable technology partners elsewhere in the EU, especially in Central and Eastern Europe, which often feels detached from Franco-German initiatives. Here the Commission, with its new defence R&D responsibility, could be more of an honest broker.

### **UPGRADING THE EUROPEAN DEFENCE AGENCY**

Another upcoming challenge would be to turn the European Defence Agency (EDA) into the European equivalent of the US DARPA. This would cover the area upstream of PESCO and the European Development Fund (EDF) by fostering a culture of innovation, linking up better with the small and medium-sized companies and experimenting how civilian technology will impact on defence concepts and performance. How the new Commission will decide to allocate the nearly €4 billion it has proposed for defence research will be crucial. It needs to back the right technologies, focus rather than disperse efforts across the EU and link pure R&D better to development and commercialisation. Early industry

involvement and co-ownership will be crucial.

### **INSTITUTIONAL IMPROVEMENTS**

Finally, there are some institutional improvements that could be helpful. One would be the establishment of a formal EU defence ministers council. The new initiatives need a more formal structure of supervision and ownership. This, however, should not replace the recent good practice of EU foreign and defence ministers meeting together or back to back.

Another would be the appointment of an EU Commissioner for Security and Defence to take over from Sir Julian King, but with a broader portfolio to oversee defence industry consolidation and the technology base.

The European Parliament should turn its sub-Committee on defence into a full committee on defence, similar to a national parliamentary defence committee and with a responsibility for CSDP missions as well as the status of EU committed forces, common budgets and procurements.

Finally, the new EU leadership will need to reach out to NATO and build the same strong relationship that characterised the ties between Federica Mogherini and NATO Secretary General Jens Stoltenberg. Scheduling more frequent North Atlantic Council (NAC)-Political and Security Committee (PSC) meetings on common preoccupations such as the Balkans, Ukraine and the Mediterranean as well as committing Commission funding for future European transport networks to facilitate NATO's military mobility would be good olive branches to extend from one side of Brussels to the other.

# The European Union and the Balkans: In the same boat

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**MAIN RECOMMENDATION** ► The EU should strengthen and diversify the ways in which it reaches out to its allies in the Balkans, who share the same problems and interests.

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## WHAT TO DO:

- Involve all Balkan governments and parliaments as observers in selected meetings and intensify bilateral contact with member states about policy issues of mutual concern.
  - Mandate a specific Commissioner for Balkan enlargement.
  - Balkan governments should clean up their democratic record.
  - The EU should provide more financial and technical support to the Balkans.
- 

In the 1990s, the European Union (EU) was confident that its socio-economic and political order held universal appeal and could be a model for the rest of the world. The end of the Cold War marked the triumph of democratic capitalism over communism and validated the West's efforts to promote democracy, peace, and trade to its neighbours. Likewise, it heartened surrounding countries – until 2004/2007 in Central and Eastern Europe and still today in the Balkans<sup>1</sup> – to try to emulate the West “as the shortest pathway to freedom and prosperity”.<sup>2</sup> The focus then fell squarely on the type of institutions and policies that needed to be transferred and copied, respectively.<sup>3</sup>

But if for three decades the EU has been preoccupied by how to transform its vicinity, the main concern today is

**The EU should strengthen and diversify the ways in which it reaches out to its allies in the Balkans, who, in any case, share the same problems and interests.**

how the West itself is being transformed by modern-day challenges: globalisation, aging societies, migration, and so on. These seem to throw the Union's political, economic, and social model ever more into question. The way forward, however, is not to quarantine the 'patient' behind hard borders. Instead of retreating into navel-gazing – like the French President Emmanuel Macron suggested at the Sofia Summit in 2018 when he called for consolidation before enlargement – the EU should strengthen and diversify the ways in which it reaches out to its allies in the

Balkans, who, in any case, share the same problems and interests.

The upcoming European Parliament (EP) elections, which pave the way for a new EU leadership, as well as the discussions on the future of the Union and the Strategic Agenda for 2019-2024, which will take place at the Sibiu Summit in May and will be finalised at the EU Summit in June 2019, represent a concrete opportunity for the Union to recalibrate and reinforce its relationship with the Balkan countries.

## Two in one 'rocking' boat

### THE EUROPEAN UNION'S PROBLEMS...

Confronted with a multitude of internal and external threats over the past years,<sup>4</sup> Europeans seem to have become sceptical about their sacred concepts, with negative spill-over effects also for the EU's enlargement policy towards the Balkans.

For example, the manner in which market capitalism and democracy – cornerstones of the European project – are put into practice came under severe fire during the global financial economic crunch and, in particular, the sovereign debt crisis. Unregulated and powerful financial markets were blamed for lopsided wealth distribution, rising unemployment, and the loss of future perspective (especially among young generations). Likewise, the dysfunctional and irresponsible banking system was criticised for costing governments too much to keep afloat.<sup>5</sup>

As a way out, 'bankrupt' EU economies accepted drastic austerity programmes insisted on by their European partners and the International Monetary Fund in

exchange for loans, while stronger EU economies agreed to pour substantial loans into bailout funds for struggling countries (and their banks). None of these responses were expressly 'authorised' by people. Without democratic legitimacy, the recipe adopted strengthened voters' impression that they had lost their ability to change policies despite retaining capacity to change governments. The temporary resolution of the Greek crisis, above all, became the most powerful demonstration that there is no alternative (TINA) to the EU's economic policies, which, for many, meant that European democracy had been rendered "code for the political importance of citizens"<sup>6</sup>.

But when it rains, it pours. So next came the refugee/migration crisis, which transformed the EU's core notions – like open borders, tolerance, and human rights – to core vulnerabilities, undermining the European liberal consensus.<sup>7</sup> Before long, the language and practice of fundamental rights were betrayed, non-Christian refugees were warded off with razor wire fences, arson attacks were carried out on asylum centres,



'illiberal democracies' were proclaimed, and populists were both surpassing the establishment at the ballot box and inspiring it in national parliaments because, if nothing else, it was suddenly possible – as well as apparently acceptable – to do so.<sup>8</sup>

A sense of unity and readiness for collective action did eventually emerge, for example, in response to the financial crisis, the irregular inflow of people, terrorism, climate change, or trade protectionism.<sup>9</sup> However, for the most part, the crises of recent years have sown divisions: the Eurozone crisis split the Union along a north-south axis; the UK's decision to renounce EU membership in a referendum highlighted the core-periphery cleavage; Russia's invasion of Ukraine pitted those daring against those hesitating to confront Putin; and the plight of refugees/migrants reopened past East-West schisms.<sup>10</sup> In addition, they made EU capitals more assertive about which aspirant countries in the Balkans should advance towards accession and under what conditions<sup>11</sup>, and increased European citizens' hostility towards potential new entrants.<sup>12</sup>

### ...ARE THE BALKANS' PROBLEMS

Seeing the Union's expansion to the Balkan region – ironically already a geographical enclave in the EU, surrounded as it is by member states – as not only a secondary policy concern in times of crises but also as a more general risk for the overall efficiency of EU decision-making disregards historical experience. The Union's largest 'widening', which happened to Central and Eastern Europe, Malta, and Cyprus, and saw no fewer than 10 countries become new members in 2004 followed by two more in 2007, did not hamper the functioning of the EU, not even during the five years in which it functioned on the basis of the Nice Treaty; the Lisbon Treaty was negotiated subsequently, and the new diversity within the Union was accommodated. By comparison, the Balkans' collective population of about 18 million – less than Romania's 19 million people – makes the fuss about enlargement essentially much ado about nothing.

Moreover, fearing that enlargement would simply import the region's problems into the EU fails to recognise that the borderline between the 'European' and 'Balkan' nature of today's challenges is increasingly grey and uneven, not least due to the region's already advanced level of integration with the EU.

In economic terms, the signing of Stabilisation and Association Agreements with all the Balkan countries has enabled free trade relations and a gradual harmonisation of national legislations with the EU *acquis*. By now, the

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**Fearing that enlargement would simply import the region's problems into the EU fails to recognise that the borderline between the 'European' and 'Balkan' nature of today's challenges is increasingly grey and uneven.**

**A relegation of enlargement to the bottom of the EU's list of priorities or a slowdown in the process will clearly be counterproductive.**

Union is the Balkans' main trading and investment partner. Yet, the promise of economic growth and prosperity through EU integration has not materialised. In fact, the Balkan countries' economic woes have been compounded by the cold winds blowing from the Union: as the EU's business and banking activity in the Balkans contracted during the crisis, the region saw a steep rise in (youth) unemployment and state debt,<sup>13</sup> akin to the situation in many member states. While economic and social convergence depends on the Balkan countries' will to undertake structural reforms, the region remains vulnerable to European and global economic shocks.

Unable to generate growth on their own and faced with a rapidly aging population, the Balkan countries have been gazing into a future of unrelenting socio-economic deprivation, which has driven the majority of the region's better educated young people to emigrate to affluent countries in north-west Europe. By the end of 2013, 5.7 million people originating from the Balkans lived abroad, bringing the region's average emigration rate to 31.2% – ranging from 18.2% in Serbia to 45.3% in Montenegro.<sup>14</sup>

Things are not that different in the EU, which is also aging. The continent's median age is expected to increase from 37.7 years in 2003 to 52.3 years in 2050, casting doubt on the future of European prosperity. The CEE member states, in particular, struggle hard to sustain their welfare systems given their declining populations.<sup>15</sup>

Despite Europe's demographic weakness, the EU panicked about immigration during the refugee/migration crisis and enlisted the support of the Balkan countries to stave it off. Since 2015, the Balkans have been a transit region for those seeking entry into the Union via the Eastern Mediterranean route from Turkey to the EU. The Balkan countries' role in helping the EU manage the inflows of irregular migrants has been

crucial and has demonstrated that the Union's ability to cope with the pressure and provide organised and safe reception of refugees/migrants, heavily relies on the region's capacity to process and manage arrivals. Although the Balkan countries have so far proven to be constructive partners in this context, the humanitarian solidarity of the region can be tested by economic insecurity, as "Eastern Europe's compassion deficit"<sup>16</sup> has shown.

Migration is, of course, not the only security threat that both the EU and the Balkans face: geopolitical instability in the neighbourhood, the unpredictability of big global players (see also the contribution of Giovanni Grevi in this publication), terrorism, radicalisation, organised crime, cyber-attacks, as well as the region's own unresolved war legacies, are *inter alia* part of the reality that keeps the two sides on red alert. A relegation of enlargement to the bottom of the EU's list of priorities or a slowdown in the process will clearly be counterproductive, because it may allow other actors – most notably Russia – to meddle in the region and cosy up with countries like Serbia (which refused to join EU sanctions against Moscow), but also Montenegro and Bosnia-Herzegovina, frustrating the EU's efforts to guarantee Europe's security.

Finally, although the democratic consolidation of the Balkan countries is a fundamental pillar of the Union's strategy for the region and is rigorously pursued by the EU with an enhanced conditionality, the Balkan democracies are either stagnating or backsliding.<sup>17</sup> The fragility of the Balkan political systems has as much to do with the cynical ploys of local political elites (who rule unchallenged) as with the failure of the European model of representative democracy promoted in the region (which, as in the EU itself, stems from a lack of meaningful policy choices).

When monitoring the Balkans' compliance with the democratic Copenhagen criteria,

for example, the EU scrutinises issues as diverse as asylum and border control and the fight against corruption and organised crime. However, the EU's careful watch seems to have a blind spot when it comes to Balkan strongmen. The European Commission's latest Strategy for the region acknowledges the problem of 'state capture' in the Balkans, but autocratically-minded leaders continue to govern with impunity throughout the region. Without a democratic *acquis* to bring to bear on power monopolies, party organisation and competition, or informal practices, it is hard to imagine that such Balkan politicians will simply pay heed to European democratic requirements when disregarding them is precisely what sustains their power. The worrisome degree of personal rule evident in the Balkan countries gives rise to feelings of *déjà vu*: consider Hungary and its Prime Minister Viktor Orbán, who over the years morphed from a pro-European liberal into an advocate of illiberal democracy.

At the same time, the technocratic and executive bias of the accession process means that law-making in the region sidesteps policy deliberation and translates into the mere adoption and implementation of EU-compatible standards. Decision-making is conducted outside electoral politics and tied to EU conditions rather than public demands. As such, the Balkan polities become democracies without choices<sup>18</sup>, in which elites cite external pressure (like the EU, courts, or media) to evade their campaign promises and governing responsibility because, after all: TINA. The fact that the capacity of political parties to offer meaningful policy alternatives has been severely curtailed by the EU integration process discredits representative institutions in the eyes of the people, fuels public distrust in politicians and cools popular engagement with conventional politics – the exact same dynamics which are also at play in the member states.

## Rowing in the same direction?

As in many long-term relationships, after more than 15 years, the EU and the Balkans resemble an old couple: the passion seems to be fading and the two sides are taking each other for granted. However, in strategic, political, and economic terms, the EU and the Balkans are in the same boat, because they share common interests and problems. This interdependence begs for joint action if they are to successfully navigate in today's complex and unpredictable world. More specifically, this means that in the next five years, the EU should not only renew its politico-institutional makeup but should also step up its engagement with the Balkan aspirants, as follows:

- The EU should involve all Balkan governments and parliaments as observers in

selected meetings, including of the Council of Ministers and working groups, the European Council,<sup>19</sup> and in particular in debates about reforms in areas such as the Single Market, the eurozone, strategic infrastructure projects, security, or migration, asylum, and immigration. The same goes for the Union's efforts to tackle structural challenges like 'brain drain', lack of human capital, poor education, and aging societies, because joint problems require joint solutions.

This strategy should already be put in practice at the upcoming Sibiu Summit in May, where the EU should invite Balkan leaders to contribute their thoughts about the future of Europe, and should spell out meaningful and systematic ways of engagement with the Balkans on the basis of shared values and

interests. The EU's next Strategic Agenda (EUCO) and Strategic Priorities (next Commission) should reflect the Sibiu Summit's conclusions on the Balkans.

Offering the Balkan countries a seat at the table, on a consultative basis, could foster a sense of togetherness and partnership, helping to dispel the growing perception in the region that the EU uses conditionality as an excuse to keep the Balkans out.

Moreover, engaging routinely with Balkan policymakers could shift the focus away from questions relating to accession dates, the technicalities of the European integration process, and other regional or country-specific 'hot potatoes', towards more tangible and relevant policy work for Europe's common future. This could impel civic and political forces in the Balkans to reflect more carefully on their country's own vantage point, as well as looking for like-minded counterparts, including among their neighbours, to formulate joint – and thus more effective – regional policy stances. Deliberation and thinking about common responses to concrete common challenges could then replace the currently hollow policy imitation in the Balkans.

Repeated interactions between representatives of the EU and the Balkans, at all levels and around policies of mutual concern, could also help to raise awareness on both sides regarding each other's ideas and stakes on any given subject matter. While this could improve the diplomatic dexterity of the Balkan countries in their preparation for accession, making them into better future member states, it could also offer EU capitals an insight into the aspirants' readiness to play a constructive role in a larger and more heterogeneous Union.

In parallel, the Commission should develop more intense bilateral contacts with member states around the Balkans, such as by organising meetings with foreign ministries and national parliaments to discuss enlargement, and should coordinate better with other EU-level actors (like the European External Action Service (EEAS), (European) Council, EP, European Economic and Social Committee, Committee of the Regions, and Regional Cooperation Council), as well as with civil society. This will allow the Commission to build bridges and restore trust between the member states and the countries of the region, as well as to expand the pool of data informing its country reports for a more reliable assessment in the eyes of the EU capitals, which hold the final say on the dossier.<sup>20</sup>

► The EU should mandate a specific Commissioner for Balkan enlargement (see the contribution of Paul Ivan in this publication) in the new politico-institutional cycle to reinforce

**This strategy should already be put in practice at the upcoming Sibiu Summit in May.**

**The Commission should develop more intense bilateral contacts with member states around the Balkans.**

**The EU should lead by example and ensure that the best practices expected from the Balkan countries are followed in the member states.**

the Union's commitment to completing the brief of the dossier. In this case, the EEAS rather than the Commission could become the key 'institutional anchor' dealing with Turkey and Neighbourhood Policy, which might also help to assuage European citizens' fears of endless EU 'widening'.

This new Directorate General for Balkan Enlargement should devise concrete benchmarks to measure the fulfilment of the accession criteria in the fields of the rule of law and fundamental rights. This approach should replace the existing rule of law monitoring mechanisms that include later accession dates, the use of safeguard clauses, and post-accession monitoring.

The EU should also invest more in developing horizontal civil society structures by providing Balkan civil society organisations (CSOs) with expertise, technical support, and regional and international networking opportunities. To keep the transparency and accountability of Balkan political elites in check, the EU should also commission regular 'shadow' reports on the state of democracy to CSOs from the region.

The EU should use its pre-accession scrutiny of the rule of law in the Balkans as a testing ground for its own plans to devise a benchmarking system that can be used in the EU member states too. Developments in countries like Hungary, Poland, Romania, or Italy are undermining the credibility and leverage of the Union's democratic conditionality for the region. The EU should lead by example and ensure that the best practices expected from the Balkan countries are followed in the member states.

Likewise, the EU should remember to always act like a credible partner. This means delivering whenever the Balkan countries have done their share, including, for example, by opening accession talks with North Macedonia and Albania, and granting Kosovo visa-free travel once the predefined conditions have been met.

► As for the Balkans, the governments of the aspirant countries in the region – squeezed between civil society demands and an uncompromising European Commission, should clean up their democratic record: ensuring the rule of law, guaranteeing media freedom, and fighting corruption and organised crime, among others. The member states will not accept any corners to be cut when it comes to the consolidation of the Balkan democracies seeking to join the club.

Moreover, in the process of achieving the status of functioning market economies that have the ability to sustain competitive pressure and market forces – a *sine qua non* for EU membership – they should improve their respective development strategies and create regional frameworks for the development of the Balkans as a future region within the EU. In this sense, the Union should provide more financial and technical support to the Regional Economic Area and Connectivity Agenda for the Balkans, to encourage trade liberalisation and integration in the region.

Additional structural funding should be agreed upon in the EU's next Multiannual Financial Framework (MMF) and should be seen as investment in the Union's future trade, energy, and transport infrastructure. This option should be discussed in the run-up to the Western Balkans Summit in Poznan this summer. Germany, which has so far assumed a leadership role on enlargement and will hold the presidency of the Council of the EU in the second half of 2020, when the final agreement on the MFF might happen, should consider making this issue one of its presidency priorities.

The interdependence between the EU and the region goes beyond geographic proximity, as underscored more recently by the financial, economic, and refugee/migration crises, the illiberal democracy trend in the EU, and Russia's interference on the Union's borders. Anchored in the bosom of Europe, the Balkans are natural



allies for the member states – not least since traditional allies of the EU (like the US and UK) seem to be in retreat – and take the brunt of the decisions and developments inside the Union. As a result, the Balkans should be able to make their voices heard in the EU and, in so doing, they could supply a fresh perspective to those in the member states pondering the future of European

integration. The EU should not squander the opportunity of consolidating its political space by strengthening and diversifying cooperation with the Balkan countries.

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<sup>1</sup> Turkey is also a 'candidate country' but its accession talks with the EU have come to a standstill since the country has moved further away from the EU reform path.

<sup>2</sup> Krastev, Ivan and Holmes, Stephen (2008), "[Explaining Eastern Europe: imitation and its discontents](#)", *Journal of Democracy*, Volume 29, Issue 3, pp. 117-128.

<sup>3</sup> Krastev, Ivan (2017), *After Europe*, Philadelphia: University of Pennsylvania Press.

<sup>4</sup> On the EU's 'poly-crisis' see New Pact for Europe (2017), [Re-energising Europe: A package deal for the EU27. Third report New Pact for Europe](#).

<sup>5</sup> Corina, Stratulat and Claire, Dhéret (2012), "[A tale of modern-day capitalism and democracy: in view of the protests](#)", Brussels: European Policy Centre.

<sup>6</sup> Krastev, Ivan (2017), *op. cit.*, p. 67.

<sup>7</sup> *Ibid.*, pp. 38-39.

<sup>8</sup> Stratulat, Corina (2016), "[The enemy within: are modern European democracies afraid of introspection?](#)", Brussels: European Policy Centre, p. 2.

<sup>9</sup> For example, as the contributions of George Pagoulatos and Marie De Somer of this publication argue, reforms of the European Monetary Union (EMU) have taken place and the number of illegal arrivals via the Mediterranean routes have been steadied, respectively. However, the EMU is far from completion and the member states are a long way from introducing structural reforms or mustering the solidarity needed to respond to future inflows of refugees/migrants.

<sup>10</sup> Krastev, Ivan (2017), *op. cit.*, p. 44. See also the contribution of Janis A. Emmanouilidis in this publication.

<sup>11</sup> Balfour, Rosa and Stratulat, Corina (ed.) (2015), "[EU member states and enlargement towards the Balkans](#)", Brussels: European Policy Centre.

<sup>12</sup> According to Eurobarometer (November 2018), enlargement is the least popular policy surveyed, 43%, "for" versus 45%, "against".

<sup>13</sup> See, for example, [www.tradingeconomics.com](http://www.tradingeconomics.com) and Reljić, Dušan (2016), "[Western Balkans' EU path: political and economic deadlocks](#)", *European Western Balkans*.

<sup>14</sup> Petreski, Marjan *et al.* (2016), "[The size and effects of emigration and remittances in the Western Balkans: forecasting based on a Delphi process](#)"; Vracic, Alida (2018), "[The way back: brain drain and prosperity in the Western Balkans](#)", European Council on Foreign Relations.

<sup>15</sup> Krastev (2017), *op. cit.*, pp. 6, 46-47.

<sup>16</sup> Krastev, Ivan (2015), "[Eastern Europe's compassion deficit](#)", *New York Times Opinion*, 8 September 2015.

<sup>17</sup> According to the "[Freedom in the World 2019](#)" Report of the Freedom House, all Balkan countries are still only 'partly free', a situation confirmed by the Bertelsmann Stiftung (ed.) (2018), "[Transformation Index BTI 2018: Governance in international comparison](#)".

<sup>18</sup> Krastev, Ivan (2002), "[The Balkans: democracy without choices](#)", *Journal of Democracy*, Volume 13, Number 3, pp. 39-53.

<sup>19</sup> Balkans in Europe Policy Advisory Group (2018), "[New Balkan Partnership](#)", Biepag, pp. 13-14.

<sup>20</sup> Balfour and Stratulat (ed.) (2015), *op. cit.*, p. 234.

# EU and Eastern Europe: The case for continued engagement

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**MAIN RECOMMENDATION** ▶ The EU should adopt a more muscular approach towards Russia and scale-up its engagement in the Eastern neighbourhood.

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**WHAT TO DO:**

- ▶ Advance the pro-western states' integration into a Single Market and strengthen cooperation in key policy areas.
  - ▶ Maintain unity vis-à-vis Russia and limit its room for maneuver in the shared neighbourhood.
  - ▶ Build pro-EU constituencies in both the Eastern neighbours and in Russia.
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A decade ago, the European Union (EU) went on a mission to change Eastern Europe in its own image. Now it is on the defensive. The Russian challenge and the ongoing war in Ukraine shifted the EU's focus from economic integration to crisis management. Dealing with an assertive Russia overshadows all other objectives. While the Union has not given up on its role as a champion of reforms in the eastern neighbourhood, its overriding concern is the mounting instability at its doorstep. The widespread backlash against open borders by populist forces across Europe has now killed off any remaining appetite for enlargement. The Eastern Partnership (EaP), its headline initiative, increasingly looks like an alternative rather than a step to EU membership. All things being equal, it is likely to remain so in the coming five years.

**The widespread backlash against open borders by populist forces across Europe has now killed off any remaining appetite for enlargement.**

# The Eastern neighbourhood: The good news and the bad news

**The EU may not be capable of absorbing its Eastern neighbours but it cannot simply ignore them either.**

For all the doom and gloom, European integration works. The Deep and Comprehensive Free Trade Area agreements (DCFTAs) signed by Georgia, Moldova and Ukraine have deepened their economic ties with the EU. The EU28 account for 55% of trade flows in Moldova, over 40% in Ukraine and about 27% in Georgia. By comparison, Russia's share of the three countries' combined turnover is 11-12%.<sup>1</sup> Georgian, Moldovan and Ukrainian citizens can now travel visa-free to the Schengen area, a matter of huge symbolic and practical significance. Europe animates politics, too. Flawed though it may be, the EU remains an alternative to the hardship, institutional dysfunction, and the rule of predatory elites across the post-Soviet space. That ordinary Ukrainians were willing to sacrifice their lives at Kyiv's Maidan in February 2014 testifies to that fact.

But the EU's economic traction does not translate seamlessly into geopolitical clout. Challenges to their sovereignty and territorial integrity constrain the European aspirations of countries in the region. The Minsk II accords signed in February 2015 by Ukraine, Russia, France, and Germany (the so-called Normandy Four) have led to a scaling down of violence, but not much more than that. Russia will not withdraw from the Donbas and abandon its proxies there, let alone pull out of Crimea, which it has now digested into its state structure. An all-out military showdown between Russia and Ukraine, which many fear, is still possible but not likely. Yet, Moscow has pressed sovereignty claims over the Azov Sea and the Kerch Strait, opening an additional frontline – and bargaining chip vis-à-vis Kyiv. And that is even without taking into account all other flare points across this volatile region: Nagorno-Karabakh, which in April 2016 saw the worst bloodshed since the early 1990s, Abkhazia and South Ossetia, and Transnistria. On all those fronts, it is Russia holding most of the cards, not the EU or the US.

Domestic politics also blunt the EU's influence. EaP's record when it comes to strengthening the rule of law and expanding governance accountability is chequered at best.

As elsewhere, political elites in post-Soviet Eastern Europe pay lip service to Brussels' conditionality and happily consume the benefits of integration. But they are loathe to lose power and resources to

comply with demands for cleaner politics coming from European institutions. Oligarchs pull the strings from behind the scenes. Institutions are weak and societies emasculated.

## Why should the EU care?

The EU may not be capable of absorbing its Eastern neighbours but it cannot simply ignore them either.

The first reason is that indigenous pro-democracy changes empower the EU. Armenia, which made remarkable strides forward in 2018, is a case in point. Unlike Ukraine's Revolution of Dignity in 2013-2014, the mass protests that swept former journalist Nikol Pashinyan to power were not about the choice between Europe and Russia. But the revolt against decades-long state capture adds to the EU's influence as well as to its claim to be a force for positive change beyond its borders.

Secondly, the EU's traction makes it a stakeholder in the region by default. True, it lacks the instruments and resources, the requisite unity of purpose on the part of member states, the freedom of action to play power politics. But it would be a mistake to sell Europe short. The Euromaidan put on display, even to sceptics, the fact that its policies and decisions have enormous impact on the ground.

Thirdly, like it or not, the EU is locked in a contest with Russia. Moscow considers the territories of the former Soviet Union – with the possible exception of the Baltics – its own turf. That does not necessarily mean that the Kremlin is hell-bent on bringing the Soviet Union back to life. Such an endeavour would be difficult, expensive, risky, and ridden with unforeseen consequences. But it is prepared to fight its corner. The annexation

of Crimea showed that Vladimir Putin is strongly committed to maintaining Russia's primacy in post-Soviet Eurasia. To this end, the Russian leadership will use all economic, political and even military tools at its disposal, short of a large-scale war. Indeed, Russia is taking the fight to the EU itself, wielding disruptive influence over the domestic affairs of a number of member states. For the Russian leadership, this meddling in other countries' politics is fair game. After all, the argument in Moscow goes, the West has been doing precisely that in both the Russian Federation and its post-Soviet backyard since the 1990s.

Last but not least, the EU and Russia still have interests that overlap. Examples include the Iranian nuclear deal and the shared concern about radicalisation and foreign fighters in the Middle East. Russian policymakers and think tankers talk up their country's pivot to Asia. In reality, the EU remains the leading trade partner as well as the largest market for Russian oil and gas exports. Turnover shrank by 44%, or from €330 billion to €191 billion between 2012 and 2016.<sup>2</sup> Yet Russia ranks as the Union's fourth most important economic partner. Around two million Russian Federation citizens and ethnic Russians reside in the EU, with Germany taking the lion's share. As attested by surveys by the independent Levada Center in the summer of 2018, Russians' views of Europe have improved considerably of late. Call that the effect of the World Cup 2018 or the regime's falling popularity, the trend suggests that the 'fortress Russia' mentality inculcated by the Kremlin is far from rock solid.

# The way forward: A more muscular approach

The challenge the EU faces vis-à-vis both Russia and the Eastern neighbours is striking the right balance between engagement, the assertion of European interests and values and, in the case of Russia, containment. In March 2016, foreign ministers promulgated five principles to guide policy: full implementation of the Minsk agreements; closer ties with Russia's former Soviet neighbours; strengthening EU resilience to Russian threats; selective engagement with Russia on certain issues such as counter-terrorism; and support for people-to-people contacts.

In the upcoming politico-institutional cycle, Europe should focus on three key priorities which derive from the above principles:

1. Advance the pro-Western states' integration into the Single Market and strengthen cooperation in key policy areas.
2. Maintain unity vis-à-vis Russia and limit its room for manoeuvre in the shared neighbourhood.
3. Build pro-EU constituencies in both Eastern neighbours and Russia.

## **THE EASTERN PARTNERSHIP: MIXING CARROTS AND STICKS**

In dealing with the EaP countries, the EU should craft a more effective combination of carrots and sticks. Reforms should be rewarded with greater amounts of financial assistance and integration into EU frameworks and programmes, but funding should also be denied or withdrawn as punishment. The external action instruments under the EU's next Multiannual Financial Framework (MFF) need to establish a

stronger connection between advancing the rule of law and EU assistance. Brussels should practise tough love. That way, it could signal to pro-European constituencies in the countries in question that the EU promotes cleaner government and puts a check on predatory elites. This message should be put across clearly by EU officials as well as by public diplomacy.

Differentiation has no alternative. Meeting EU standards should translate into closer ties with the Union. Over time, Armenia should be able to narrow the gap with Georgia, Ukraine and Moldova. That would involve the full implementation of the Comprehensive and Enhanced Partnership Agreement signed in November 2017 as well as progress on visa facilitation. Belarus, fearful of Russia's intentions of ending its independence, might turn to the EU as well. However, concessions should come in response to concrete steps by the Lukashenka regime allowing the opposition, civil society, and critical media to operate freely. Autocratic Azerbaijan lags far behind the rest of the pack. Baku opts for a purely transactional relationship with the Europeans largely focused on oil and gas. President Ilham Aliyev is unlikely to release imprisoned activists and journalists in order to accommodate the EU's democratic requirements. Nor will the Union's member states push hard on that front.

The final destination should no longer be a taboo. The institutional relationship that the Union might negotiate with post-Brexit Britain could result in opportunities for flexible integration for East Europeans as well. To be sure, the closest possible form of association short of full membership is the best option for the frontrunners in the region in the short-to-medium term. Neither

the EaP countries in the region nor the Union will be ready to embark on accession talks in the 2020s. Much depends on how the ongoing enlargement to the Western Balkans plays out. Should the progress to accession deliver clear gains in terms of the rule of law and good governance, Ukraine, Georgia and Moldova will have a much stronger case for membership, too.

Migration ought to be part of the EU offer. The building blocks are already there. In 2017 alone, Poland issued 235,000 work permits. Of those, more than 80% went to citizens of Ukraine. Governments in Central Europe undercutting burden sharing when it comes to asylum seekers from the southern neighbourhood, should welcome migrants from the EaP countries.

## **DEALING WITH RUSSIA FROM A POSITION OF STRENGTH**

The EU's rate of success depends, in no small part, on its relations with Russia and its ability to address the security concerns of its eastern neighbours. Only if the Union demonstrates internal cohesion and offers a robust response to disruptive actions it would be able to restrain Moscow. Europe should bargain from a position of strength.

That is why maintaining a common front on the sanctions is a must. But sticking to the lowest common denominator is a dead-end street. To be credible, the EU has to be able to show teeth too. That means escalating punishments to dissuade Russia from engaging in aggressive behaviour, such as the blockade of the Kerch Strait aimed at stifling Ukrainian ports on the Azov Sea. Only if the EU is able to drive up the costs of aggression can it play a substantive role in crisis prevention rather than crisis management. The EU does not have the means to deter the Russian military. However, it can do much more to keep the Kremlin elites at bay.

A more robust posture does not preclude engagement. Those doing business with Russia know best that bargaining with Moscow, e.g. on natural gas contracts, works when it is done from a position of strength.

The EU should collectively set red lines, such as the interference with its internal affairs. And it should not shrink from enforcing them if need be. Member states must build and strengthen existing institutions and agencies charged with the exchange of information and know-how on countering hostile influence campaigns, with cyber defence, and with the combat of disinformation. Currently, the European External Action

**Only if the Union demonstrates internal cohesion and offers a robust response to disruptive actions it would be able to restrain Moscow. Europe should bargain from a position of strength.**



Service (EEAS) focuses on strengthening media freedom and independent media and responding to disinformation activities in the EaP countries. Eastern neighbours could contribute to intra-EU resilience as well. Georgian, Ukrainian and Moldovan officials, experts, civil society have a considerable amount of expertise when it comes to disinformation, fake news, the foreign infiltration of party politics, cyber warfare and the like. They could be of direct use to the Union's member states and institutions.

## **BUILDING PRO-EU CONSTITUENCIES**

It is imperative that the EU reaches out to societies in both Russia and Eastern Europe. One of the lessons from enlargement is that sustainable progress towards democracy and the rule of law can only come from within. Armenia is a reminder that anti-corruption sentiments and public discontent with incumbent elites is on the rise across the post-Soviet space. Russia is no exception. The rule of law remains the EU's competitive advantage. It is not for nothing that middle class Russians have been leaving for the EU, much like Ukrainians and Moldovan workers. Some are in pursuit of employment. Others emigrate because property rights are better protected in the EU and the courts are truly independent. However, Europe is nowadays struggling to retain the moral higher ground, serve as a benchmark and inspire change beyond its borders. The EU has to practise what it preaches when it comes to the rule of law and democracy. Backsliding in Hungary, Poland and other parts of Central and Southeast Europe make its job difficult since the rule of law and democratic institutions are under strain in the Union too. The outreach to neighbours starts at home.

**One of the lessons from enlargement is that sustainable progress towards democracy and the rule of law can only come from within.**

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<sup>1</sup> The percentages are as follows: Georgia, 9% of exports and 9.3% of imports; Moldova, 11% of exports, 8.6% imports; Ukraine, 11% of exports, 17% of imports. Source: European Commission, Directorate-General on Trade, Factsheets on Trade with Ukraine, Moldova and Georgia. Available at [ec.europa.eu](http://ec.europa.eu)

<sup>2</sup> According to data from the European Commission.

# Institutions



► A general view of the room of the European Council in Brussels. © STEPHANIE LECOQ / POOL / AFP

# The role of the (European) Council: Practical improvements in volatile times

**Poul Skytte Christoffersen** – *Former Ambassador of Denmark to Belgium; former Permanent Representative of Denmark to the European Union; Chair of the EPC's Governing Board*

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**MAIN RECOMMENDATION** ▶ Make practical improvements to the (European) Council.

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**WHAT TO DO:**

- ▶ Fix the dysfunctional link between the high representative and the EUCO president.
  - ▶ Allow for a greater foreign policy role for the EUCO president.
  - ▶ Enhance the role of the General Affairs Council.
  - ▶ Reverse the decline in ministerial presence and promote active participation in EU work.
  - ▶ Systematically hold orientation debates at the start of the legislative procedure and before the start of negotiations with Parliament.
  - ▶ Increase transparency in the legislative procedure.
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The start of the next institutional cycle coincides with the 10<sup>th</sup> anniversary of the entry into force of the Lisbon Treaty (2009), which introduced major changes in the role and workings of both the European Council (EUCO) and the Council of Ministers. It is thus an appropriate time to take stock of the experience of the past decade and reflect on possible adjustments to the way the two institutions work and interact with each other and with other EU institutions. Since treaty change is unlikely to happen in the foreseeable future, the focus of this piece will be on practical improvements in the upcoming period.



# The European Council

The importance of the European Council, bringing together the heads of state and government and the European Commission president, has increased over the past decades. It is now broadly accepted as the institution where the ultimate power lies.

The frequency of formal and informal meetings has doubled (now averaging eight per year). But the European Council has managed to maintain the features that make it unique. It is still an 'exclusive club' (in contrast to the normal Council of Ministers): only its members, the High Representative

of the Union for Foreign Affairs and Security Policy (HR) and a handful of officials are present in the meeting room. Foreign Ministers, who previously participated, have been excluded.

The restricted setting is essential to preserve the decision-making capacity of the EUCO. In fact, it would even be better to remove the interpreters' cabins from the meeting room and instead make use of distance interpretation as is now the practice for dinner-discussions. It is important that EU leaders can look into the eyes of their colleagues.

## The semi-permanent president and the relationship with the Commission (president)

The introduction of a semi-permanent, full-time president of the European Council has changed the way the EUCO works. It has led to more continuity and more emphasis on the essential challenges facing the EU.

Who occupies the post is of prime importance. While weaknesses at the top of other institutions can be compensated by strong deputies (vice-presidents) the EUCO president has no substitute. Choosing the wrong kind of personality could wreck the functioning of the European Council. Personal qualifications, more than political affiliation, should be the main criteria for choosing the president.

The profile of the incumbent is likely to be discussed again, when a successor to Donald Tusk is appointed in November 2019. Should it be a high-profile politician (a Tony

Blair, Sarkozy or Merkel type) carving out a considerable degree of independence and freedom of action? Or a person that can bang heads together and find compromises, like the first two semi-permanent presidents – Herman Van Rompuy and Donald Tusk?

EU leaders prefer continuity. But in today's fast-changing world, the future president should be given some leeway in developing the job in a more presidential direction. This includes taking greater risks when putting forward solutions on divisive political issues as well as assuming a greater role in foreign and security policy.

Since there is little demand or support for a double-hatted president (combining the roles of European Council president and Commission president), it is more important than ever that the European Council and the

European Commission improve their cooperation, building on what has already been achieved.

The EUCO president and the Commission president now meet regularly (weekly) to coordinate their work. Likewise, mutual trust between top officials has improved since Jeppe Tranholm Mikkelsen became secretary-general of the Council Secretariat and it has continued after Martin Selmayr took over the top job in the Commission. The collaboration between both sides of the Rue de la Loi has been close to perfection on Brexit.

But there still are the occasional bouts of jealousy. With the ambition of a 'political Commission', the nostalgic vision of the Commission as the genuine seat of political leadership in Europe has sometimes taken the upper hand.

The future Commission president would do well to look to Jacques Delors' relationship with the European Council as a source of inspiration. Delors fully understood that the power of the Commission president increases in line with a strong European Council. He did not need to be seen as the father of new ideas, and understood the benefits of the EUCO taking ownership. No one questioned whether the Delors Commissions were political. Engagement from EU leaders, pushed by the EUCO president, is indispensable to turn vision into reality.

## Crisis management tops the agenda

In the past decade, the European Council has made its most important contribution in the area of crisis management. During Herman Van Rompuy's term, the sovereign debt crises (the so-called 'euro crisis') was the top priority, while for Donald Tusk the main task was to develop a coordinated and effective EU response to the influx of refugees and migrants in 2015, and to the Brexit vote in 2016.

Existential catastrophes have - so far - been avoided and a sense of some kind of stability has returned. However, the EUCO has failed to exploit the pressure of these multiple crises, to implement sustainable long-term solutions. Postponing more structural responses to the Union's poly-crisis to a later date does not make things easier.

In crisis situations, or when the EU is faced with major disruption (like Brexit), the European Council and its president are the main

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actors. But they perform best, when they are part of a coordinated team effort.

During the euro-crisis, the Eurogroup and the ECOFIN Council paved the way for the heads of state and government to make the final decisions. Likewise, President of the European Central Bank (ECB) Mario Draghi has been a key actor. In fact, in matters related to the common currency, the ECB president has become a quasi-member of the European Council.

The refugee and migration crisis was an example of failed cooperation between the EUCO and the Council. The Justice and Home Affairs Council did little to bring viable solutions to the table, and often served as a mere echo-chamber for widely diverging national views. It was left to the EUCO to take all the strategic decisions. Over the course of 2015 and 2016, EU leaders gradually abandoned their original idea of solving the crisis by sharing the burden. Instead, they doubled down on efforts aiming to reduce the irregular influx of migrants and refugees, and on engaging with countries in the Mediterranean in a joint effort to stop the flow.

The lack of thorough preparation of the EUCO meetings by the justice and home

affairs ministers often led to improvisation and the floating of half-baked ideas among EU leaders, which had little to no chance of being implemented. It is natural that an issue, which directly affects citizens and is politically explosive at the national level, quickly ends up on the table of the EUCO. But experience has proven that a more effective preparatory structure has to be put in place.

The Brexit process is an illustration of how it can be done – trust and continuity are key. The confidence between the European Council and Chief Negotiator Michel Barnier and his team was of crucial importance in maintaining a solid EU27 position throughout the process. The permanent chairmanship by the Council Secretariat of the Article 50 group and the leading role played by the Secretary-General in COREPER (Committee of the Permanent Representatives of the Governments of the Member States to the EU) created continuity and avoided the shifting of priorities due to the rotating presidencies (the migration crisis is an example in case). The Prime Minister of Denmark, Lars Løkke Rasmussen, expressed the thoughts of many members of the European Council when calling for the appointment of a personality like Michel Barnier as the EU migration minister.

## Relations with the European Parliament

The European Parliament (EP) has de facto accepted the role of the European Council as *primus inter pares* among EU institutions. The link between the two institutions has been strengthened considerably by a higher level of ‘face-to-face’ interaction; the EUCO President frequently comes to the Parliaments to speak about the latest developments and discussions in the European Council; individual members of the European Council show a growing interest in

appearing before the EP; and the Parliament president addresses national EU leaders before EUCO meetings begin and engages in a short debate with the heads of state and government. The Brexit negotiations have broken new ground in EUCO-EP relations by inviting the Parliament’s Brexit negotiator (Guy Verhofstadt) to participate in the SHERPA/COREPER meetings that prepare EUCO meetings. This practice could be used again in the future.

# Priority setting by the European Council

The European Council has struggled to provide long-term strategic guidance for the Union's development. It is doubtful whether serious long-term planning is even possible when new 'disruptions' and crises situations keep coming up. Texts produced by the EUCO, such as the 'Strategic Agenda for the Union in times of change' (June 2014) or the Rome Declaration (March 2017), which aim to set strategic priorities, tend to be too general and age quickly. The aspiration of the Romanian Council Presidency and the Commission to fix the European agenda for the next five years at the Sibiu Summit is overblown and will likely lead to deflated expectations.

Donald Tusk's so-called 'Leaders' Agenda', which he launched in October 2017, is a more realistic effort. It provides an overview of the main issues that the European Council president intended to put before the EU leaders until 2019, alongside a detailed roadmap (time-schedule). It has been a useful tool for agenda management, and has

inserted some predictability and order into the work of the European Council.

Experience has shown that strategic priority setting becomes much more tangible when it takes the form of fixing financial priorities for the future. The launching of the European Defence Fund by the Commission in 2017 has, for example, done more to promote EU defence cooperation than many aspirational political texts on defence, which often failed to lead to any tangible result.

The agreement on the next Multiannual Financial Framework (MFF) for the period 2021-2027 is the best opportunity for the European Council to prove they can set strategic priorities. However, this will only be the case if EU leaders approach the finalisation of the MFF as an exercise aiming to set EU policy priorities and not as an attempt to secure the best possible budgetary position for their member state, as we have too often witnessed in the past.

## The European Council and foreign policy

At national level, prime ministers (or presidents) have gradually become the main foreign policy actors, overshadowing foreign ministers. In some countries, this has led to a downgrading of foreign ministries. But elsewhere an increased focus on intelligence-gathering and the development of policy proposals to be used by the prime minister's department has resulted in the raising of foreign ministries' profiles. The EU has to adapt to this new reality.

The EUCO has, on many occasions, played an important role in foreign policy. One recent example is the annexation of Crimea and the subsequent imposing of sanctions on Russia. Agreement among EU leaders has ensured that the Union stood firm despite divergent views among member states.

But when moving from decision-making to concrete implementation the record is less convincing. In 2016, the EU Global Strategy

**The power of the Commission president increases in line with a strong European Council.**

**Engagement from EU leaders, pushed by the EUCO president, is indispensable to turn vision into reality.**

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**Approach the finalisation of the MFF as an exercise aiming to set EU policy priorities and not as an attempt to secure the best possible budgetary position for their member state.**

prepared by the High Representative Federica Mogherini was briefly discussed and endorsed by the European Council – but it never became a serious, implementable tool.

Foreign policy issues are regularly discussed at EUCO dinners, particularly the relationships with key strategic partners or regions such as Russia, the United States, China, or the Middle East. This creates a mutual understanding among EU leaders, but the follow-up is often missing. The EU, for example, still lacks a common strategy on China.

Two changes would help to improve the European Council's role in the realm of foreign policy:

- ▶ the dysfunctional link between the high representative and the president of the European Council needs to be fixed. Contrary to the situation today, the European Council president and the high representative should work as a team, while the European External Action Service (EEAS) should give high priority to providing intelligence and preparing policy proposals for the EUCO president;
- ▶ the European Council should allow for a greater foreign policy role for its president. High-level diplomacy increasingly takes place among state and government leaders. The high representative is not at that level. In international groupings such as, for example, the Minsk process, the European Council president should represent the EU. This does not exclude the participation of member states with particular interests at stake.

## The role of the Council of Ministers

The functioning of the European Council often dominates the debate, while little attention is paid to the work of the Council of Ministers, as the main chamber representing the member states. The Council deserves more recognition, both for its role in preparing European Council meetings and as a legislative body.

### THE GENERAL AFFAIRS COUNCIL

The European Council is prepared by the General Affairs Council only in formal terms. The fact that the General Affairs Council

plays a very limited role has led President Tusk – in contrast to President Van Rompuy – to skip most of the meetings. This has left the preparation of EUCO meetings in the hands of officials at the joint meetings of COREPER and SHERPAs (European advisors to the heads of state and government). The former practice of having separate preparatory meetings has fortunately been abandoned.

Preparations could improve if the General Affairs Council was composed of ministers or state secretaries that were directly attached to the prime ministers/presidents responsible for national EU coordination. They could step in when preparations in other Council formations are stalling. The Council could also be given greater political weight to ensure that summit conclusions are followed up on. However, this innovation will only take place under the impulse of national leaders.

For the rest of the Council formations (i.e. the ten specialised Council formations) the main challenge is to reverse the decline in ministerial presence and active participation in EU work. Too many issues are now pushed upwards to the European Council or downwards to officials (COREPER and the Council working parties).

Apart from legitimacy and transparency issues, the lack of ownership in EU affairs by ministers also reduces the amount of attention paid to Union matters in national administrations. It adds to the perception that the EU is «Brussels» instead of a joint effort by all member states. The Council's ability to deal with new political issues is often slow compared to the EP. Two glaring examples are the belated reactions to the popular call for EU action on tax avoidance or control over IT giants.

## **THE COUNCIL AS A LEGISLATIVE BODY**

The Council's legislative role needs to change as well. While the EP has adapted its

structures and working methods to reflect its increased legislative power, little has changed in the Council, which continues to be inspired by how national ministerial cabinets are functioning.

The overall performance of the EU's legislative bodies in terms of efficiency is not bad. The number of complex political files that have been brought to a successful conclusion during the present legislature is quite impressive. They outperform the US Congress by a wide margin. This is one of the reasons why the EU continues to be a leader in the setting of global norms. The challenge for the Council is to ensure that citizens feel that their national interests are defended at the EU level and that they understand why it is necessary to look for compromises.

The Council's legislative work is predominantly handled by officials. Political control is ensured to some extent, given that officials follow instructions coming from the capitals and work under the authority of a minister. But political issues could arise if ministers are absent from the legislative process. The Commission currently accompanies its proposals with an impact assessment, including the administrative burden. But once the proposal is passed to the Council, it enters into a 'tunnel' and only reappears – often as a very different product – at the final decision point. An obvious improvement would be to systematically hold orientation debates at the start of the legislative procedure and before the start of negotiations with Parliament. This happens today, but it is not yet institutionalised.

More than 80% of EU legislation is currently adopted through the so-called first reading procedure, where an informal dialogue (or trilogue) takes place between the responsible members of the EP and an official from the rotating presidency, supported by the Council Secretariat and the Commission. The procedure increases

the efficiency of the legislative process but raises transparency questions.

The Ombudsman, the European Court of Justice and national parliaments have all voiced their concerns about the present practice. It would thus be a welcome development if the Council took the initiative to increase the transparency in the legislative process before it is forced to do so by others. This can be done in ways that do not unduly complicate the legislative procedure and leave sufficient political space – away from the public eye – to find compromises.

**The General Affairs Council was composed of ministers or state secretaries that were directly attached to the prime ministers/presidents responsible for national EU coordination.**

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## Conclusions

In the space of two decades, the European Council has become the Union's supreme political authority due to its capacity to cut the Gordian knot when needed and to set out a general direction for the Union. This is unlikely to change in the foreseeable future. But the European Council's capacity to deliver depends on the engagement and willingness of EU leaders to reach compromises that are in the interest of the Union as a whole. Success also depends on whether or not the meetings are properly prepared through solid input from other institutions and bodies. A stronger role for the EUCO president, better preparation by a reformed General Affairs Council and reinforced cooperation with the Commission will improve the chances of success.

The performance of the ordinary Council of Ministers has been less than impressive. Change is needed for it to remain an equal partner to the EP in the legislative process. This calls for a greater level of participation and engagement of national ministers. Without their more active involvement, the Council will quickly lose out to the EP and the Commission. This would please European federalists – but it might not be the direction in which most citizens want the European Union to go.

# The European Commission: The need for a clearer set-up

**Paul Ivan** – Senior Policy Analyst at the European Policy Centre

**Fabian Zuleeg** – Chief executive and chief economist at the European Policy Centre

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**MAIN RECOMMENDATION** ▶ The next European Commission should improve on the innovations introduced by the Juncker Commission by turning the Commission College into a more hierarchical structure.

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**WHAT TO DO:**

- ▶ Vice-presidents should become more powerful and their roles clearer defined.
  - ▶ Vice-presidents should coordinate small teams of commissioners in order to streamline work and ensure policy coherence.
  - ▶ Parts of the Commission's policy enforcement role, for example in competition policy, should be transferred to independent agencies.
- 

As shown by the other contributions in this volume, the next European Commission will have to deal with a number of internal and external challenges, from defending the rule of law to fighting climate change and supporting a sustainable transition to a low-carbon economy, from advancing the reform of the Economic and Monetary Union (EMU) and strengthening the European Union's (EU) social dimension to migration, and to dealing with the world's major powers, but also with the Union's neighbours, including with a post-Brexit United Kingdom (UK).

The structure of the next European Commission will have to take into consideration these and other challenges. Since there will likely be no appetite for substantial treaty changes in the coming years, this piece assumes that the current legal institutional framework will be maintained. Working under the same treaty rules, the future Commission will continue to struggle with some of the institutional challenges the Juncker Commission

**The institutional innovations of the Juncker Commission have transformed the executive into a better functioning one, but the transformation is not complete.**



**Given that problems regarding the rule of law in the member states will likely remain a major challenge during the mandate of the next Commission, it would be crucial to continue to manage that topic from a first vice-president position and thus give it the necessary political backing.**

**Building close working relations between the Commission's political leadership and the leadership of Commission DGs will be essential for the work of the future executive.**

**A more hierarchical and more political Commission would need to handle difficult negotiations, including with Eurosceptic national leaders, and would need at the top a respected and very senior political figure, one that would be on an equal level with the member state leaders.**

also faced, such as the consequences of the 'one country, one commissioner' principle. In addition, the future Commission president will have to confront the challenge of an increased number of Eurosceptic or populist governments nominating Eurosceptic Commissioners.

In general terms, the next European Commission should improve on the innovations introduced by the Juncker Commission by turning the Commission College into a more hierarchical structure, with powerful vice-presidents coordinating small teams of commissioners aiming to streamline work and ensure policy coherence. In the longer-term, parts of the Commission's policy enforcement role, for example in competition policy, should be transferred to independent agencies.

## Too many Commissioners

After successive rounds of enlargement, the number of commissioners in the College is higher than the number of possible weighty portfolios. The large number of commissioners makes a meaningful distribution of portfolios difficult and hampers the effective operation of the College by contributing to the complexity of the decision-making process and facilitating the fragmentation and '*siloesation*' of Commission services.

To address these challenges, different proposals for a more effective structure of the Commission have been put forward over the past decade.<sup>1</sup> President Juncker and his team drew inspiration from these proposals and structured the College in a more hierarchical manner. President Juncker redefined the role of vice-presidents, charging the seven vice-presidents (VPs) with the responsibility for high priority cross-cutting policy fields, such as the Digital Single Market, the Energy Union and Jobs, Growth, Investment and Competitiveness. The vice-presidents, including the High Representative of the Union for Foreign Policy and Security Policy (HR/VP), were entrusted with an enhanced leadership role and the responsibility to coordinate a team of Commissioners with relevant portfolios. This new role for vice-presidents, which was explained in an updated working methods document of the Commission, was meant to improve the Commission's ability to coherently tackle the challenges the EU is facing, by trying to break down the silos within the Commission and allowing for increased interaction between Commissioners, thus aiming to streamline the work of the institution.

The institutional innovations of the Juncker Commission have transformed the executive into a better functioning one, but the transformation is not complete. Under the Juncker Commission, the roles of vice-presidents were not always clearly defined and most of them did not have direct control over Commission services. The lack of direct

access to the Commission services limited the powers of the Vice-Presidents and was a source of frustration as well as a challenge to carving out a clear role for these positions. The limitations on and uncertainties surrounding their powers made leading the Commission's work difficult, especially when portfolio Commissioners were less cooperative.

## Need for clearer hierarchies and better defined roles

To overcome these shortcomings, the next Commission should be organised in a more hierarchical way. The vice-presidents, including the HR/VP, should have an enhanced leadership role, with responsibility for major cross-cutting policy fields, each leading a defined group of commissioners with relevant portfolios. The teams should be no bigger than three to five members to avoid the coordination difficulties we witnessed in the Juncker Commission.

This would also entail an expanded gate-keeper role for the VPs, with a veto right over proposals coming from the commissioners belonging to their teams. Structuring the Commission College in a clearer hierarchy would facilitate a more efficient delegation

of tasks, allowing for a better distribution of resources regarding issues that need urgent solutions. It would also make it easier to adjust the distribution of responsibilities between the president and the vice-presidents in future crisis situations, freeing up resources in the president's team and allowing for a renewed focus on long-term priorities.

While the next Commission should be organised in a more hierarchical way, this will not negate the principle of collegiality. While the teams of commissioners will be led by individual vice-presidents and ultimately by the president (and her/his cabinet), each commissioner will maintain a vote within the College.

## Clearer job descriptions

The next Commission should define more clearly the roles of the vice-presidents and of regular commissioners with respect to their powers and tools. In the Juncker Commission, the roles of the vice-presidents have not always been clear, which has affected the efficiency of the institution. To ensure a more efficient workflow, the vice-presidents should

be given direct control over Commission services (DGs and agencies), as well as over the coordination with the relevant commissioners and the Secretariat-General of the Commission (SecGen). This implies that vice-presidents should be able to direct Commission services to provide them with information and to develop proposals on a given topic.

Assigning vice-presidents and commissioners responsibilities for the same policy areas and thus duplicating their roles within the College should be avoided. Clearly defined portfolios and roles reduce the risk of frictions between

and within the different teams. This has not always been the case in the past: the partial duplication of roles in the energy team of the Juncker Commission is often mentioned as an example.

## Matching portfolios to abilities

Regarding the composition of the College, the next Commission president should focus on achieving a more even distribution of tasks and powers across portfolios, paying particular attention to ensuring that vice-presidents' roles are significant enough. This was not always the case in the Juncker Commission. An example of a 'lighter' vice-president portfolio was the one for the Digital Single Market, held by Andrus Ansip, whose role resembled that of Günther Oettinger, the Commissioner in charge of Digital Economy and Society.

For this to happen, the experience, professional skills, political abilities, and capabilities of the commissioners need to be at a higher level, especially for the VP role. While a strong cabinet of the president

can keep a tight grip on the institution, this cannot sufficiently compensate for 'weak' commissioners and even less so for 'enhanced' vice-presidents. While negotiating with the member states, the Commission president should clearly voice her/his expectations regarding the designated commissioners and reject unsuitable candidates. The next Commission president must strive to achieve a more even gender balance within the College while also ensuring an adequate geographical distribution of key roles. In this, he or she should work closely with the European Parliament (EP), which has already in the past demonstrated its powers by forcing the withdrawal of several unsuitable nominees. The Commission president can use this as a lever with recalcitrant governments.

## What vice-presidents?

The vice-president (VP) positions will depend to a great degree on the priorities of the future Commission. It is not the purpose of this short contribution to define those priorities or offer a full College setup, but some future challenges affecting the choice of VP portfolios are evident.

► **Role of first vice-president:** Given that problems regarding the rule of law in the member states will likely remain a major challenge during the mandate of

the next Commission, it would be crucial to continue to manage that topic from a first vice-president position and thus give it the necessary political backing. The appointment in the Juncker Commission of a First Vice-President for Better Regulation, Inter-Institutional Relations, Rule of Law and Charter of Fundamental Rights was a step in the right direction. The first vice-president also has an important role in deciding what is included in the Commission's annual work programme

and the College agendas. But the future first vice-president, with such a wide set of responsibilities, should also be provided with the proper resources to fulfil the role, thereby reducing over-reliance on the General Secretariat. Despite the high quantity of work, the cabinet of the First Vice-President Timmermans had only one extra staff member compared to the cabinets of other vice-presidents.

► VP for sustainable transition: The topics of climate change and the environment were not high enough on President Juncker's agenda, so the political profile and the resources available to the respective VP will undoubtedly need to be increased. One of the vice-president post should deal with the sustainable transition to a low-carbon economy and coordinate commissioners dealing with dossiers such as climate, energy, environment, sustainable development, and agriculture.

► VP for competitiveness: The EU will also need to increase its investment in the competitiveness of its economy. A vice-president position for competitiveness, to coordinate, among others, the single market, research, innovation and skills, as well as industrial strategy portfolios would be expected.

► VP for convergence, solidarity and a social Europe: The EU's work on employment and social affairs will also need to be strengthened and a political signal to European citizens should be sent

through the creation of a vice-president post with broader responsibilities, one that would also coordinate the work being done in the Commission DGs on issues such as employment and social affairs, education and skills or migration.

► High Representative for Foreign and Security Policy: The future Commission should maintain the integration of the position in the Commission structures and the HR-VP should continue to be one of the vice-presidents of the executive. This would be important to ensure a close working relationship between the European External Action Service (EEAS) and the Commission. While relations between the EEAS and the Commission have improved compared to the initial years of the EEAS and the mandate of the previous HP-VP, more should be done to improve working relations between the two bodies. The EU's foreign policy and external representation would also benefit from better relations and a better coordination between the next HR-VP and the next President of the European Council.

A better allocation of portfolios should also be accompanied by a better distribution of human resources in the cabinets, but also within the Commission more generally. There should be a clear link between the workload of each team and the human resources made available to it. This could contribute to a better functioning of the institution and reduce the human cost incurred by overworked staff.

## Dealing with centralisation

To ensure a proper coordination of efforts, the quality of the interaction between the Commission president, the first vice-president and the vice-presidents will matter greatly. An improved balance between the

coordination role of the vice-presidents and the horizontal responsibilities of the Commission president should be struck. The cabinet of President Juncker tended towards over-centralising decision-making and not

allowing the vice-presidents to properly coordinate their teams. The higher level of centralisation in the Juncker Commission created challenges regarding internal coordination and transparency, contributing to a sense of disillusionment among the staff.

To boost staff morale within the Commission's services, the communication between the commissioners and their cabinets and the services will need to improve. To fully benefit from the existing expertise within the Commission, the Commission services need to be engaged more on those matters in which they are specialised. Communication between future

commissioners and the higher echelons of the DGs also needs to improve, and the regular meetings that the commissioners have with the leadership of their services should become in all cases more than formal rituals. This should be made clear in the mission letters the commissioners will receive from the Commission president at the start of their mandate and should also be an explicit part of the job description of senior posts within the institution. Building close working relations between the Commission's political leadership and the leadership of Commission DGs will be essential for the work of the future executive.

## Dealing with the Eurosceptics

The increase in the number of Eurosceptic governments in the Union will be a potential challenge for the formation and the future work of the next Commission. Most of these governments will likely push for substantial portfolios for their nominees. Much will depend on how constructive the commissioners nominated by these governments will be. As noted above, the Commission president has the power to ask a member state to nominate a different person and can always work with the EP to back up such a request.

However, the next Commission president should avoid further isolating Eurosceptic governments by offering their Commissioner-nominees only light portfolios. The nominated Commission president should consider giving some of them weighty but not 'politically sensitive' portfolios (such as agriculture, regional development or transport), as this would send a message of engagement and would increase their sense of ownership in the European project. But, while engaging these governments constructively, the

president should definitely avoid assigning vice-presidential roles or sensitive portfolios (for example the post responsible for the rule of law) to commissioners coming from countries that have problems in those areas.

This will not necessary resolve the issue of having uncooperative, Eurosceptic commissioners. But a more hierarchical Commission with powerful Vice-Presidents would also be better able to constrain potential unconstructive positions from such individuals.

## A political vs the technocratic roles of the Commission

According to President Juncker, the Commission's composition, with VPs responsible for major cross-cutting policy fields, showed that "it will be more political than its predecessors". President Juncker's "political Commission" was meant to move away from the institution's technocratic image, becoming more pro-active and assertive. However, the Commission's political character will always be constrained by the opposition of the member states to a less technocratic role for the Commission and by its mixed political composition, which will remain a reality. The executive must also avoid becoming 'politicised' and thus avert a (further) strengthening of the inevitable ideological differences among the members of the College. Polarisation along lines of political orientation would negatively affect the work of the College, making it less likely to find compromises and enjoy the trust of the EU member states, which are governed by different political forces.

How political the future Commission will be depends greatly on who will be its future president. A more hierarchical and more political Commission would need to handle difficult negotiations, including with Eurosceptic national leaders, and would

need at the top a respected and very senior political figure, one that would be on an equal level with the member state leaders.

At the same time, a visibly political Commission will raise again the issue of the relation between the institution's political and technocratic nature. The Commission's political and managerial/technocratic functions have often been seen as being at odds with each other. The reinforcement of the Commission's political character will make the more managerial and regulatory activities of the Commission even more evident. This will increase the need to make a clearer separation between the two, at least in the areas where the technocratic function is most visible. The regular processing of tasks according to rules already set would benefit from being separated from a more politically-minded body. For example, separating the enforcement of EU competition policy from the Commission's competition policymaking by transferring it to an independent agency would have the benefit of demonstrating its independence from potential political pressure but also of shielding the Commission from accusations, for example from private actors or non-EU countries, that it is using competition rules for political purposes.

## Continuing the journey to a more effective Commission

Working under the same treaty rules, the next European Commission will have to deal with a number of significant internal and external challenges. Moreover,

compared to 2014, the political climate in Europe has worsened, with more populist forces coming to power in several member states. These challenges will need to be



taken into consideration by the future Commission president when setting up the next College of commissioners. A weak or partially dysfunctional Commission will not be successful in dealing with the multiple challenges facing the EU.

While the Juncker Commission has functioned better than some of its predecessors, the transformation is far from complete. The next Commission will have to improve on the innovations of the Juncker Commission, which were themselves based on the experiences of previous Commission colleges. This includes structuring the College in a clearer hierarchy, with powerful vice-presidents coordinating small teams of commissioners and a better balanced distribution of portfolios. Roles within the College should not be duplicated and the portfolios and roles of the vice-presidents and the regular commissioners will need to be clearly defined. This will streamline the Commission's work and ensure policy coherence.

At the same time, the next College should avoid centralising the decision process in the Berlaymont or in the cabinet of the Commission president too much, as was the case with the Juncker Commission. The College should draw more extensively on the Commission services at its disposal to ensure a higher quality of policy proposals.

The next Commission will have to deal with many external and internal difficulties, including increased levels of Euroscepticism in some of the member states. The next Commission President should engage the Eurosceptic governments and give their Commissioners designate portfolios that would send a message of engagement and responsibility to the countries "they know best". At the same time, the Commission should ensure it has the necessary means and processes in place to defend and pursue its mission if challenged by unconstructive actors. A more hierarchical Commission is critical to manage this risk.

The next Commission president should also organise the College and the DGs along the lines of the challenges it will have to tackle, from the need for a sustainable transition to a low-carbon economy, to the need to increase competitiveness, to an increasingly challenging global environment and to improving the lives and security of European citizens. Over time, parts of the Commission's technocratic and regulatory activities should be transferred to independent agencies, demonstrating and ensuring the independence of Commission decisions.

A political Commission with a clear hierarchy will be better placed to deal with the multiple challenges the EU will face in the years to come. Failing to structure the executive in a more efficient way will limit the Commission's ability to face those challenges and will lead to a further reduction in the influence of this European institution and of the EU as such.

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<sup>1</sup> See for example Missiroli, Antonio (2009), [The next European Commission: tips for the President-elect](#), Brussels: European Policy Centre; Missiroli, Antonio (2009), "[New treaty, new structure?](#)" in *Challenge Europe, The next Commission: doing more and better*, Brussels: European Policy Centre; Zuleeg, Fabian (2014), "[A more effective structure for the Commission](#)", Brussels: European Policy Centre.

<sup>2</sup> When Commissioner Oettinger took over the Budget and Human Resources portfolio in January 2017, his previous digital economy portfolio was added to the portfolio of Ansip.

<sup>3</sup> In 2004 the European Parliament forced the withdrawal of Italy's Commissioner-designate Rocco Buttiglione and in 2010 of Bulgaria's Commissioner-designate Rumiana Jeleva.

# Instruments



► A farmer woman pours milk into a container at the Groupement Agricole d'Exploitation en Commun (GAEC) farm near Bains-sur-Oust in Brittany, on 26 March 2015. Brittany, France's largest milk producing region, is still hoping to boost its production by focusing more on exports as milk quotas come to an end on the European market. © GEORGES GOBET / AFP

# The EU budget – including the CAP – should be used to finance the Union’s priorities

**Annika Hedberg** – Head of the Sustainable Prosperity for Europe Programme, European Policy Centre

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**MAIN RECOMMENDATION** ▶ As the EU is debating the next budget for 2021-27, it is still possible to ensure that each euro will be invested to provide added value for the EU and its citizens. The next EU budget should reflect the EU’s priorities and goals, and help to address – rather than exacerbate – its challenges.

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**WHAT TO DO:**

- ▶ Identify why and where EU investments are needed the most to address the challenges of today and tomorrow.
  - ▶ Put an end to subsidies that are evidently harmful to people’s well-being, health, the environment and the climate, and thus costly for the economy and society.
  - ▶ Finance measures that will help to achieve long-term prosperity and provide added value to the EU and its citizens, in line with the Sustainable Development Goals and the Paris Climate Agreement.
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The EU’s challenges today are manifold: low productivity, problems with competitiveness, rising inequality, lagging behind in the global digital race, environmental challenges, climate change, migration, security, demographic trends.

These are all examples where cooperation between member states could help to deliver stronger, more effective responses at the national and European level. Politicians are quick to recognize these common challenges as priorities for action in their speeches. However, a closer look at one of the main EU tools that could be used to address these challenges and provide added value for the EU and its citizens, the Multiannual Financial Framework (MFF), shows how far words are separated from action.

**As the Commission’s proposal for the new MFF is currently under discussion with the European Parliament and the member states, it is still possible for the EU to ensure that this time around it will put its money where its mouth is.**



Unfortunately, time after time, the EU budget falls far behind its potential. The European Commission's proposed budget of €1,135 billion for 2021-27 - about 1% of the bloc's gross domestic product - obviously cannot solve all the EU's problems. However, where the EU decides to put its money sets out a direction and shows what its priorities are.

In its current form, the MFF proposal suggests that the EU's priorities lie in the past rather than in the future. While supporting the structures of the past, such

as the Common Agricultural Policy (CAP), it underperforms when it comes to addressing the challenges listed in the beginning. It fails to devote sufficient resources to people's top concerns today, which according to the latest Eurobarometers include terrorism, unemployment and the protection of the environment. As the Commission's proposal for the new MFF is currently under discussion with the European Parliament and the member states, it is still possible for the EU to ensure that this time around it will put its money where its mouth is.<sup>1</sup>

## Why a new approach is needed

First, the EU's internal developments require a complete rethink of its finances and spending. The UK's departure from the EU leaves a budget gap of about €10 billion per year. Simultaneously, the economic, social, environmental, climate change and security challenges are creating significant uncertainties. European leaders can no longer ignore that Europe and Europeans' needs have changed.

Second, the global context has transformed dramatically. In 2015, EU and other global leaders committed to the 2030 Sustainable Development agenda and the Paris Climate Agreement. Together they set a clear direction, with clear goals to be achieved for sustainable development and climate action. For the sake of its credibility and moral leadership on the international stage, the EU's budget must reflect these commitments.

Climate change is ultimately the biggest life-threatening challenge Europe and the world is facing. The impacts can already be seen in the form of record-breaking storms, forest fires, droughts, heat waves and floods, and the economic, societal, environmental and security implications are only expected to worsen if global warming continues.

In this context, the Commission's long-term vision for a prosperous, modern, competitive and climate neutral economy by 2050, published in November 2018, and the reflection paper towards a sustainable Europe by 2030, published in January 2019, provide important starting points for dialogue and action. They suggest where the EU needs to go. And if the EU is serious about achieving a new economic, industrial and social model while becoming climate neutral by 2050, the investments in this transition must start now.

EU money should be spent on preparing member states, different sectors and citizens in this transition. The Commission's suggestion to raise the climate mainstreaming target from 20% to 25% in the new budget is an important signal. At the same time, funds should *not* be spent on activities that undermine these objectives, for example, in the fields of digitalisation, regions' smart specialisation, agriculture and energy developments. For instance, under the ongoing MFF, more resources have been allocated to natural gas than to electricity interconnection projects under the Connecting Europe Facility programme. While these investments may bring about

some positive benefits, such as progress towards a coal phase-out or energy security, at the same time, they undermine the efforts to decarbonise and electrify the European economy. The investments in the infrastructures of tomorrow are done today and we should get them right.

The Commission's proposal contains some progressive elements on which the member states and the Parliament should build on. It suggests increased funding for migration and security. It proposes more support for research and innovation as well as digitalisation, which, if used well, can help to enhance Europe's competitiveness. Credit goes to the Commission for simplifying the revenue side by removing all rebates. Politically, it has also shown some backbone by asking to link the budget with the observance of the rule of law.

However, the proposal still falls short by a margin. This is well exemplified by the CAP, which constitutes one third of the spending package.<sup>2</sup> By only moderately reducing the budget for the CAP, which seems to be almost untouchable within the MFF, the Commission has proposed preserving a traditional spending area at the cost of other priorities. While there have been efforts to modernise the budget, the figures speak for themselves: for instance, only €9.1 billion is allocated for the digital agenda, compared to €365 billion for the agricultural sector.

More worrying than the figures themselves is what will be done with the money, and what has (or has not) been learnt from past mistakes.<sup>3</sup> The CAP has been widely criticised for failing to limit its adverse effects on the environment and the climate, and for the absence of health considerations. There is no clear indication to what extent these inefficiencies and inherent contradictions may be addressed.

## The time of sacred cows should be over

If the EU is serious about using taxpayers' money to improve the lives of Europeans, the CAP should help to increase people's welfare and protect the planet. As with other parts of the MFF, every euro that is spent under the CAP should be justifiable and provide added value for the EU and its citizens.

First, the economic cost alone should raise concern. Taxpayers' money is used to support farming practices that are not

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**If the EU is serious about using tax payers' money to increase Europe's and the agricultural sector's competitiveness, it is hard to find justification for supporting livestock farming, whether it is directly or indirectly.**

**As a major producer and consumer of livestock products, Europe has a huge responsibility in addressing related emissions.**



competitive or economically viable for producers or for society. According to Commission statistics, up to 90% of cattle farmers' income comes from subsidies.<sup>4</sup> While the dependency on EU money is lower for dairy farmers and many field crops (mainly used for animal feed), they are also on permanent life support.<sup>5</sup>

Livestock and dairy farming, especially, play a central role in European agriculture.<sup>6</sup> 65% of the EU's agricultural land is dedicated to livestock,<sup>7</sup> and two thirds of cereal production is fed to animals.<sup>8</sup> European livestock farming depends on subsidies, directly and indirectly (as is the case when EU money is spent on producing feed for animals).

While the CAP is often portrayed as an instrument for supporting small European farmers, the biggest beneficiaries are the big players in the farm sector, including wealthy landowners.<sup>9</sup> In the ongoing negotiations, there is still strong support for granting direct payments simply based on land acreage. At the same time, many of the most innovative, small farms and new food sector businesses are booming without EU support.

The potential with producing nutritious, sustainable and economically viable food for humans is greater than often realised. Vegetable and fruit farmers already compete on the market with little to no income support from the EU.<sup>10</sup> The market for meat and dairy alternatives is seeing double-digit growth and there is untapped potential in cultivating plant proteins for humans.<sup>11</sup> Europe already has competitive agricultural production that could provide a livelihood for farmers while delivering on environmental and societal benefits as well – these are the practices the EU should build on. If the EU is serious about using tax payers' money to increase Europe's and the agricultural sector's competitiveness, it is hard to find justification for supporting livestock farming, whether it is directly or indirectly.

Second, the impact on the climate is alarming. So far, political efforts and investments have zeroed in on reducing energy and transport emissions, which hopefully will produce tangible results in some decades. However, if the EU is serious about climate action, it also needs to tackle the emissions from food production and consumption.

According to the Food and Agriculture Organisation (FAO), the livestock sector accounts for 14.5% of global emissions.<sup>12</sup> As a major producer and consumer of livestock products, Europe has a huge responsibility in addressing related emissions.<sup>13</sup> Delivering on the Paris Climate Agreement and achieving climate neutrality by 2050 requires reducing livestock-related emissions and promoting plant-based diets as well as healthy soils to capture carbon.<sup>14</sup> In fact, this would be an efficient way to cut emissions in the EU, as well as globally: while transforming the energy and transport systems as a whole and seeing the related benefits will take decades because of the needed infrastructure investments, making even small changes to diets and farming practices now would bring immediate benefits.

Thirdly, agriculture has a significant environmental footprint, impacting soil, water, air and biodiversity. The nutrients and pesticides used in the sector pollute land and water. Ammonia emissions from livestock waste are a significant source of air pollution.<sup>15</sup> Agriculture also contributes to growing water scarcity: it uses more than 40% of the available fresh water in the EU, with a significant share used for livestock production.<sup>16</sup>

Lastly, by sponsoring the Europeans' unhealthy diets, the CAP is damaging people's health and burdening healthcare systems with unnecessary costs. The World Health Organization (WHO) guidelines for a healthy diet are built on a plant-based diet.<sup>17</sup> The WHO classifies processed meat as a carcinogen, known to cause cancer and red meat as a possible cause of

cancer.<sup>18</sup> Scientific research also links the consumption of animal (meat and/or dairy) products to an elevated risk of numerous other diseases.<sup>19</sup> Preventable chronic diseases, mostly due to unhealthy diets, account for 86% of deaths in Europe.<sup>20</sup> What does the EU do? It subsidises not only livestock production but also consumption. For example, the EU has been encouraging school kids to consume dairy products since 1977, amounting to €100 million this school year.<sup>21</sup>

For anyone who suggests that the EU should not tell people what to eat and drink: this is exactly what it has done by supporting the production and consumption of livestock products. The farming lobby often argues that it is better to subsidise animal farming in the EU than to import from countries with lower standards, that livestock is needed for food security, or that European lands are more adequate for growing food for animals than for people. However, the current approach is failing Europeans and the planet, in a big way. Science is clear on what makes a food system sustainable and what makes a

diet good for human health, the climate and the environment.<sup>22</sup> It is time to ensure that EU money is used for – not against – these objectives.

During the EU budget negotiations, no sector should be off limits. One can certainly question spending one third of the EU budget on agriculture. However, as it is politically difficult to even imagine a radical cut to the CAP, at least a frank debate is needed about how the money is spent. If the EU insists on financially supporting the agricultural sector, the investments must be tied to performance and the aim should be to encourage sustainable and economically viable farming – or even better: creating a sustainable food system – that is good for the environment and contributes to people’s well-being. Actively participating in this transition is in the farmers’ best interest, too: it will help them to secure their livelihoods for the future. Changing consumers’ habits will have a major impact as well, but it is still up to the EU and national policymakers to create a framework that can provide the right financial incentives for a change.

## What should happen now?

As the budget negotiations are ongoing, it is up to the European Parliament and the member states to step up their game. There are three pressing issues.

First, member states must reflect on the EU’s principles and values, and identify why and where EU collaboration and financing is needed. They should recognise that achieving the shared benefits requires going beyond the pursuit of narrow national interests. The world and people’s needs have changed, and the EU budget should reflect that. This should also apply to the CAP.

Second, smart spending requires putting an end to subsidies that are evidently harmful for people’s well-being, their health, the environment and climate – and thus costly for the economy and society. The EU’s support for livestock farming but also, for example, for fossil fuel infrastructures are a case in point. Justifications for continuing to finance either of these today are hard to find. Ending harmful subsidies could help to reduce the EU budget, as advocated by net contributors like the Netherlands, and/or provide additional financial support for implementing today’s priorities.

**Science is clear on what makes a food system sustainable and what makes a diet good for human health, the climate and the environment. It is time to ensure that EU money is used for – not against – these objectives.**

**Smart spending requires putting an end to subsidies that are evidently harmful for people’s well-being, their health, the environment and climate – and thus costly for the economy and society.**

**Smart spending calls for financing measures that will provide added value to the EU and its citizens, in line with the Sustainable Development Goals (SDGs) and the Paris Climate Agreement.**

Third, smart spending calls for financing measures that will provide added value to the EU and its citizens, in line with the Sustainable Development Goals (SDGs) and the Paris Climate Agreement. Payments must be tied to meeting the core objectives of the EU and achieving long-term prosperity. In the case of the CAP, it should be used to develop a competitive European agricultural sector that produces nutritious, sustainable food that contributes to people’s well-being.

If the EU is serious about achieving a new climate neutral economic model by 2050, this requires huge investments. The member states must agree to use the EU budget to address the most pressing challenges and priorities of today and tomorrow in alignment with this vision. The EU could condition the payment of funds to the development of National Energy and Climate Plans (NECPs).<sup>23</sup> In addition, the money could be used to attract additional public and private investments for climate-friendly projects. No money should be spent on activities that go against these set goals, and how climate funds are spent must be properly controlled.

Member states’ current disagreement on the size of the overall EU budget and the sectoral appropriations misses the point: the debate should be about the justification and leverage of proposed expenditures. Beneficiaries should demonstrate the EU payments’ added value for Europe and how they help to address the Union’s challenges. If this is not the case, funding must be phased out.

The EU budget is not a magic wand that can solve all the EU’s problems. But in terms of setting a direction, it matters enormously. Where the EU decides to put its money shows European citizens and the rest of the world what its priorities are. The outcome of the discussions must be an EU budget that is in line with the EU’s principles and goals. It must deliver on the objectives the Union has committed to under the SDGs and the Paris Climate Agreement. In the new budget, each euro invested should provide added value for the EU and its citizens in the face of new internal and international pressures and help to address rather than exacerbate the EU’s challenges.

1. This article builds on the author's earlier pieces: Hedberg, Annika (2018), "The next EU budget: firmly rooted in the past?", Brussels: European Policy Centre and "[Time to give up sacred EU budget cows](#)", *Euractiv*, 18 January 2019.
2. While this piece focuses on the CAP, it is worth noting that the CAP, together with cohesion policy (another major traditional spending area), make up roughly 60% of the budget. Cohesion policy has also been subject to criticism: some studies suggest that cohesion policy has often provided only short-lived benefits for regions and that those that lag behind socio-economically often lack the needed capacities to apply for or make good use of available funding, and these kinds of inefficiencies arguably need to be addressed if the budget is to provide real added value. See e.g. Marzinotto, B. (2012), "The growth effects of EU cohesion policy: a meta-analysis", Brussels: Bruegel; Becker, S. et al. (2018), "Effects of EU Regional Policy: 1989-2013", *Regional Science and Urban Economics*, Vol. 69.
3. See e.g. the European Court of Auditors (2018), "[Opinion No 7/2018 concerning Commission proposals for regulations relating to the common agricultural policy for the post-2020 period](#)" for a critical evaluation of the Commission's CAP proposal.
4. European Commission (2018), "[Operating subsidies \(both direct payments and rural development except investment support\)](#)", p.15-18.
5. *Ibid.*
6. European Commission, "[Milk and milk products](#)"
7. Leip, A. et al (2015), "[Impacts of European livestock production: nitrogen, sulphur, phosphorus and greenhouse gas emissions, land-use, water eutrophication and biodiversity](#)", *Environmental Research Letters*, Vol 10, Number 11.
8. European Commission, "[Cereals, oilseeds and protein crops, rice](#)".
9. See e.g. Matthews, A. (2017), "[More on capping direct payments](#)", CAP reform EU; "[The Queen, aristocrats and Saudi prince among recipients of EU farm subsidies](#)", *The Guardian*, 29 September 2016
10. European Commission (2018), "[Operating subsidies \(both direct payments and rural development except investment support\)](#)", p.15-18.
11. European Commission (2018), "[Commission reports on development of plant proteins in the EU](#)".
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15. European Environment Agency (EEA), "[Air pollution from agriculture: ammonia exceeds emission limits in 2015](#)".
16. See e.g. European Commission, "[Water Scarcity & Droughts in the European Union](#)"; European Environment Agency (EEA), (2018), "[Water use in Europe – Quantity and quality face big challenges](#)"; Hoekstra, A. et al (2013), "[Potential water saving through changes in European diets](#)", *Environment International*, Vol 61.
17. WHO (2018), "[Healthy diet](#)".
18. International Agency for Research on Cancer (2015), "[IARC Monographs evaluate consumption of red meat and processed meat](#)".
19. E.g. Etemadi, A. et al. (2017) "[Mortality from different causes associated with meat, heme iron, nitrates, and nitrites in the NIH-AARP Diet and Health Study: population based cohort study](#)", *BMJ*; Grant, WB (2016), "[Using Multicountry Ecological and Observational Studies to Determine Dietary Risk Factors for Alzheimer's Disease](#)", *J Am Coll Nutr.*; Virtanen, SM (2016), "[Dietary factors in the development of type 1 diabetes](#)", *Pediatr Diabetes*; Brooke-Taylor S., Karen Dwyer et al. (2017), "[Systematic Review of the Gastrointestinal Effects of A1 Compared with A2  \$\beta\$ -Casein](#)", *Advances in Nutrition*, Vol 8, Issue 5.
20. WHO, "[Noncommunicable diseases and mental health](#)".
21. European Commission (2018), "[EU School Scheme](#)".
22. Willett W, Rockström J, Loken B, et al (2019), "Food in the Anthropocene: the EAT–Lancet Commission on healthy diets from sustainable food systems", *Lancet*.
23. Duwe, Matthias (2018), "[Bringing Paris into the future MFF: how to maximise the benefits of EU funding for the achievement of EU climate objectives](#)", Ecologic Institute.

► German Chancellor Angela Merkel, French President François Hollande, and Greek Prime Minister Alexis Tsipras confer prior to the start of a summit of eurozone heads of state in Brussels on 12 July 2015. The EU cancelled a full 28-nation summit to decide whether Greece stays in the European single currency as a divided eurozone struggled to reach a reform-for-bailout deal. © AFP PHOTO / JOHN MACDOUGALL, JOHN MACDOUGALL, JUAN MABROMATA / AFP



# A nimble and responsive EU?

## Predicting unpredictability: A new approach to EU policymaking

**Marta Pilati** – Policy Analyst at the European Policy Centre

**Fabian Zuleeg** – Chief Executive and Chief Economist of the European Policy Centre

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**MAIN RECOMMENDATION** ▶ The EU must ensure that, in the next institutional cycle, instruments are created or reinforced that allow it to react quickly and flexibly to new crises.

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**WHAT TO DO:**

- ▶ Establish an emergency decision-making procedure.
  - ▶ Put in place an emergency funding mechanism.
  - ▶ Work towards a ‘cultural change’ to make policies more reactive and flexible in their day-to-day implementation.
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For decades, the integration process at the European Union (EU) level advanced in an incremental manner. Today, as the global environment becomes more complex and rapidly changing, the EU needs more flexible policymaking that can effectively respond and adapt to unexpected events. A change of mind-set is required to move away from the existing framework, which is too rigid and often ineffective. The EU must ensure that, in the next institutional cycle, instruments are created or reinforced that allow it to react quickly and flexibly to new crises. The next European Commission should aim to avoid being boxed in by a rigid set of priorities. It should rather retain significant spare capacity, both in resources and in political focus, to be able to react to future challenges, which nobody can (fully) predict at this point in time. The EU and its members need to introduce new contingency procedures and emergency mechanisms, so that they are able to react more efficiently and rapidly in an increasingly more dynamic, faster, unstable and uncertain environment. There is need for a policymaking framework

**Resolving a crisis with last-minute agreements or *ad hoc* solutions is not a sustainable approach to emergency policymaking and crisis management.**



that can respond adequately to these challenges, one that includes the right tools

and procedures for reacting to unexpected events, with sufficient spare capacity.

## A new policy environment

In the past, the elaboration of new treaties, the delegation of new powers and the creation of new instruments took years to be agreed on and implemented. This allowed time for lengthy decision-making procedures and, at times, for controversial actions, even created enough space for the necessary political consensus to solidify in the member states. Predictability, stability, pre-allocation and unanimity became, among others, key features of EU policymaking.

Once the need for immediate reactions materialised, i.e. when crises were hitting the EU and its member states, the limitations of a policymaking framework solely based on a long-term horizon became evident. When the financial crisis hit, the system's inadequacy was striking. With no procedures in place for taking emergency actions, EU leaders had to create new tools and mechanisms from scratch. Under intense pressure, existing elements of the E(M)U system were stretched to the limit.

Since being exposed to unexpected external events, such as intense market pressure in the financial and sovereign debt crisis or the overwhelming increase in numbers of refugees and other migrants in 2015/2016, the existing policy framework entered a quasi-permanent 'crisis mode', with obvious limitations. Policymaking at EU level was designed for being predictable, not flexible, and was unable to react adequately to emergencies. As a consequence, the response has often been the creation of *ad hoc* instruments outside of the traditional framework.

These shortcomings are likely to be amplified in the future, as unpredictability becomes the new norm. The speed and scope of change that affects societies is increasing. Technological advancement, increasing political diversity, changing demographics, and increasing economic and social interconnectedness are factors that intensify the world's complexity at a rapid pace. This inevitably results in greater risks for the EU; the next crisis is bound to come. Global interdependence makes the EU more vulnerable to factors outside its control such as, for instance, escalating trade frictions or instability in the neighbourhood.

### FLEXIBLE WHERE NEEDED

The current EU policy framework functioned better in the past, when the world was more predictable and change took place at a slower pace and with EU action confined to a more limited range of policy areas. A framework that provided stability but at the cost of a slow speed of implementation generally fitted the needs of the Union. The Single Market, for example, took decades to formulate, accept, and ratify. The need for speed was not compelling, thus it was possible to wait for political leadership to push forward ideas and allow compromise to be built.

Today, however, additional tools are needed for effectively responding to current and future challenges. While the existing framework is well-suited for some policy areas, others require measures guaranteeing responsive and quick decision-making.

## A NEED FOR STABILITY...

Some areas of policymaking benefit from a long-term, predictable approach and thus are best addressed by the current policymaking framework. The bulk of the Multiannual Financial Framework (MFF), for example through the European Structural and Investment Funds (ESIF), pre-allocates resources to member states and regions at the beginning of the period, aiming to provide a stable source of funding that is not influenced by political choices and external events. Similarly, actions to deepen and strengthen the Single Market, which is already mostly implemented and functioning, intend to gradually change the structure of the economy to obtain long-term gains. The same applies to trade with the rest of the world. The formulation of a free trade agreement can take years but, as it brings additional benefits to an already functioning system, it is not necessarily a pressing priority.

These policy interventions do not have a compelling need for speed. As they focus on long-term actions, they can be formulated and changed through a lengthy and thorough decision-making procedure.

## ... OR A NEED FOR SPEED?

Then there are the fields of policymaking where a different approach is needed: for example, economic policy, financial affairs, and foreign policy. These areas are characterised by external factors having a disproportionate impact (geopolitics, markets, political instability) and where self-reinforcing consequences can quickly escalate. These areas can be affected by unexpected, sudden events (shocks) and thus demand flexible instruments that can be adjusted to a changing environment, and contingency mechanisms and procedures to be used in case of necessity. Responsiveness is critical in an emergency, and as of today, the EU mostly lacks the appropriate processes.

For example, EU leaders and institutions had no pre-established procedures or instruments to take urgent decisions during the financial and sovereign debt crises. Existing provisions were stretched to their legal limit and new instruments were established outside of the EU's existing treaty framework, raising questions on democratic control and accountability. For instance, the European Stability Mechanism (ESM) was set up as an organisation based in Luxembourg through an *ad hoc* intergovernmental treaty and an amendment of the Treaty on the Functioning of the European Union.

Another example is the EU's reaction to the unexpected increase in the number of arriving refugees and other migrants in 2015/2016, which could have been quicker, more coordinated and much more effective. Instead, the EU and its members concentrated on *ad hoc* solutions (like the EU-Turkey Statement) and in many cases failed to make structural progress due to the opposition of some member states (e.g. against the relocation scheme).

Resolving a crisis with last-minute agreements or *ad hoc* solutions is not a sustainable approach to emergency policymaking and crisis management. In the future, when new challenges will inevitably arise, the EU should have the necessary procedures and spare capacity to address them in an efficient and speedy manner.

## EMERGING FRICTIONS

But to move towards more responsive and swift decision-making, the EU has to overcome two major internal hurdles. The first is the tension between, on the one hand, the need for flexibility in policymaking and, on the other, the member states' demands for predictability and rigid rules. When it comes to the common budget, pre-allocating the large majority of resources at the beginning of

**The passage of time can make a rigidly designed policy irrelevant or, in the worst case, even detrimental to its original objectives.**

**The existence of a rigid system of rules that is strict in theory but inevitably (and rightly) set aside in emergencies undermines the credibility of EU policymaking.**

**The EU needs to start readying its institutions, its decision-making and its funding mechanisms for the challenges of a more dynamic, faster, unstable and uncertain environment.**

the seven-year period leaves little space to shifting funds to policy areas with urgent needs. The current construction of the Economic and Monetary Union (EMU) also reflects this tension. From the start, member states attempted to put in place strict rules, such as the Stability and Growth Pact, which puts limitations on government debt and deficits. However, once confronted with crises, many realised that enforcing those rules is practically impossible when in acute distress. While member states understand the need for more flexibility in principle, in practice they do not allow it. Convincing member states is a long-term, step-by-step process, making the chances of not being ready when the next crisis hits and spreads even greater.

The second challenge is the basic power struggle between member states' recognition of the need for coordinated action and joint crisis management, and their resistance to delegating more powers to the EU. One example is the MFF: member states demand the EU to foster investment, job creation and growth, while conceding only a minimal amount of finance to achieve these objectives (the EU budget amounts to only around 1% of the bloc's Gross National Income (GNI)). Another example is the EMU. Eurozone members realised they must work together to tackle the financial crisis, but at the same time refused to move beyond their red lines, e.g. on automatic stabilisers such as transfer mechanisms or the introduction of a European unemployment insurance scheme. The only long-term solution will be to pool certain response capacities at the European level; as a first step, this can be applied in less controversial areas, such as the response to humanitarian or natural catastrophes.

## **NOT ONLY IN CRISIS**

Unpredictability is not relegated to emergencies only. As the scale, scope and speed of change increases, it has become a permanent feature of economies and societies. This speed of change generates significant challenges to the effectiveness of forecasts and ex ante assessments. Day-to-day implementation of policies can be rendered ineffective by the instability of the environment in which they operate. The passage of time can make a rigidly designed policy irrelevant or, in the worst case, even detrimental to its original objectives.

This requires a much more continuous and rigorous review and evaluation of policies and their impact on the ground. An existing programme that attempts to address some of these challenges is the Regulatory Fitness and Performance Programme (REFIT). Aiming to reduce red tape and enhance

simplification, REFIT looks at existing EU legislation and identifies opportunities for burden reduction. It aims to systematically implement *ex post* evaluation, impact assessments and revisions of existing law. REFIT is a step in the right direction, helping to reduce unnecessary costs. However, its scope and focus are quite limited when it

comes to improving the flexibility of existing EU policies.

The solution is not a complete overhaul of the structure of EU policymaking, but an adjustment to better reflect the needs of member states and the demands of the contemporary world.

## An EU that is ready to act

In a fast-changing environment, flexibility is critical. This implies building in spare capacity to react to crises. Assuming that further emergencies will not materialise would be naïve. In particular, two innovations are necessary to increase the EU's ability to react more decisively and swiftly in future crisis situations:

► **Emergency decision-making procedure:** this procedure should be formulated and put in place as a tool to use when a quick reaction is required at EU level. The crisis procedure should enable the EU to take decisions in a shorter period of time. But to make it effective, it would need to have provisions that do not allow individual member states to have veto powers. For example, Commission proposals could be approved with a qualified majority vote or rejected with a reverse (qualified) majority vote instead. If the next politico-institutional cycle lacks the political will for a treaty change, member states could identify priority policy areas where an emergency procedure is promptly needed, and move away from unanimity, for instance through the use of passerelle clauses. This requires member states to recognise that these powers are necessary at EU level in exceptional situations. To forge consensus one could start expanding the possibilities in less contentious policy areas such as, for example, the EU's response to humanitarian or natural catastrophes.

► **Emergency funding mechanism:** the EU budget already has some contingency funds with an emergency logic. The European Union Solidarity Fund (EUSF, with an annual budget of €500 million in 2011 prices, i.e. approximately 0.3% of the total 7-year common budget) provides resources for member states hit by major natural disasters (upon member state application and approval by the European Parliament and Council of a Commission aid proposal). The non-pre-allocated nature of the funding makes this instrument more flexible than a majority of other EU budget instruments. The EUSF could be taken as inspiration for similar emergency funding mechanisms that can be triggered if the circumstances call for it, ideally on the Commission's initiative and approved with qualified majority voting. Given the expected political resistance, it is probably necessary to start with relatively small amounts, but it is important to establish the principle. A similar mechanism could, for instance, be used in case of a sudden economic downturn in a member state that could harm the stability of the Economic and Monetary Union (EMU), or in case of a crisis in the banking sector. Instruments that require unanimous agreement do not necessarily allow for quick decision making. The new eurozone budget should, at least in part, be designed with this in mind. In the future, instruments for the automatic stabilisation of changes in levels of unemployment, investment or

growth across the EU could be considered as contingency measures, which would only be triggered in the event of a crisis (see also contribution of George Pagoulatos in this volume).

But beyond these concrete mechanisms, a 'cultural change' to make policies more reactive and flexible in their day-to-day implementation is crucial. Ex ante, policymaking should systematically incorporate contingency planning. The possibility of unforeseen events, or of a sudden change in the socio-economic context should be taken into account from the conception and throughout the design of any policy. Early-warning mechanisms should be put in place that try to anticipate adverse shocks and contemplate the necessity of a policy shift.

Policies must also build in flexibility from the start. As it is often impossible to anticipate changes, there is a need for meaningful *ex-post* evaluations (including checking implementation on the ground) and, if necessary, the revision or even reversal of existing actions. This cultural shift also implies a fundamentally different approach to economic governance in crisis situations, away from a more-or-less rigid rule-based framework towards real decision-making powers, i.e. the ability to autonomously allocate significant resources and policy action without having to get permission to act. Similarly, the importance of flexibility implies that there should be some spare capacity, both political and financial, at the disposal of EU decision-makers, to be used if needed.

While setting policy priorities is important, they should not become the prerogatives of EU action. Unforeseen problems could emerge at any point and become the EU's main concern. When that happens, there should be enough capacity, i.e. resources and political will, to allow for an effective

and swift response. The existence of a rigid system of rules that is strict in theory but inevitably (and rightly) set aside in emergencies undermines the credibility of EU policymaking.

Contingency procedures and mechanisms for emergency situations would not only make EU policymaking more effective in such circumstances, but also improve accountability, transparency and democratic control, which the current mechanisms sorely lack. Crises would no longer have to be solved by EU leaders huddled together in overnight summits creating *ad hoc* instruments from scratch. Instead, clear procedures would be followed, subject to the scrutiny of the Parliament.

Failing to allow for a more flexible policymaking framework makes the EU vulnerable to unpredictable events. The consequences are serious: not only does the EU responding too slowly and inappropriately incur higher costs, but it also furthers the socio-economic and political fragmentation between member states and undermines the legitimacy of its actions. Without reform, the Union's ability to contain future crises and effectively embrace change cannot be taken for granted.

The choice lies with the member states. If they want a responsive EU, there is only one way forward: delegate emergency powers to the EU level.

It is unlikely that this issue will be tackled fully in the next political cycle. But wherever possible the EU needs to start readying its institutions, its decision-making and its funding mechanisms for the challenges of a more dynamic, faster, unstable and uncertain environment. The world will not wait for us: the EU and its member states cannot afford to dither and lose precious time if they want to be ready for when the next crisis hits.

# Differentiated integration



► French President Emmanuel Macron applauds after delivering a speech on the European Union in the amphitheatre of the Sorbonne University in Paris on 26 September 2017. © LUDOVIC MARIN / POOL / AFP



# Handle with care: The potentials and limits of differentiated integration

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**MAIN RECOMMENDATION** ▶ Differentiated integration offers a pragmatic and functional way to maintain the Union's capacity to act, but should be handled with care.

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**WHAT TO DO:**

- ▶ Differentiated integration should only remain the second-best option to ensure procedural and institutional coherence.
  - ▶ Differentiated integration should not lead to a closed-off 'core Europe'. It should always follow the principles of openness, inclusiveness and efficiency.
  - ▶ Differentiated integration should as much as possible take place within the EU's existing legal set-up.
  - ▶ Berlin and Paris should focus more on including other member states' perspectives in their thinking to form wider leadership coalitions at an early stage.
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The concept of differentiated integration has once again moved to the centre stage in the debate on the future of the European Union (EU). But differentiated integration is not a new concept: it has been and will continue to be an integral feature of European integration, although it is still unclear in which areas, how and to what extent it will be applied in practice in the years to come.

Flexible forms of cooperation and integration involving not all member states have always been a way to overcome political stalemate and opposing views on the priorities and scope of integration. The Schengen area and the eurozone constitute the most prominent of many examples of differentiated integration in which a group of countries decided to deepen their cooperation without all member states taking part (from the very beginning).

**Differentiated integration is not a panacea to cure the EU's internal divisions. It should remain a second-best option in order not to jeopardise the Union's political, legal and institutional cohesion.**

Given the many internal and external challenges the EU is facing and the increased heterogeneity among member states, the number of flexible forms of cooperation will likely further increase in the next politico-institutional cycle (2019-2024) as it offers a pragmatic-and functional way to maintain the Union's capacity to act. However, differentiated integration is not a panacea to cure the EU's internal divisions. It should remain a second-best option in order not to jeopardise the Union's political, legal and institutional cohesion. If applied, differentiated integration should always follow the principles of openness, inclusiveness and efficiency and should as much as possible take place within the EU's existing legal set-up to ensure procedural reliability and institutional coherence.

**European leaders' support for differentiated integration expressed in Sunday speeches is not matched in Monday's actions.**

**In reality, however, striking a fine line between openness and inclusiveness on the one hand and efficiency on the other hand is at times difficult to achieve, as some member states might not be able or willing to deliver or have diverging motifs for joining the group.**

## The need for more differentiation

Over the past decade, the experience and consequences of the so-called poly-crisis have severely hampered the Union's cohesion and its capacity to act. The United Kingdom (UK) has even entered a path of 'negative integration', aiming to break itself free from the EU. Ruptures have emerged between the Union's North and South in the euro crisis, and between the East and West over irregular migration. These developments have fuelled fragmentation and distrust both among the EU28 and between national capitals and 'Brussels' (see also contribution by Janis A. Emmanouilidis in the present volume).

The EU's inability to overcome stalemates and blockages in crucial policy areas not only exposes it to the risk of future crises but also undermines the confidence of citizens in the Union. Past experiences have shown that differentiated integration can help to increase the EU's efficiency when dealing with internal and external challenges. It is very likely that after the European elections in May 2019, the new EU leadership will have to operate in an even more complex and conflictual environment leaving only little room for manoeuvre for an ambitious reform agenda. This has intensified the debate on the scope of member states taking the lead and moving forward in certain policy areas, while leaving the door open for others to join at a later point in time.<sup>1</sup> Differentiated integration can be a pragmatic alternative for those member states with a greater ambition to move beyond the lowest common denominator.

## Differentiation and its critics

The debate on flexible forms of cooperation between a limited number of member states gained particular traction after the UK's decision to leave the EU. In March 2017, the European Commission put forward a White Paper presenting five scenarios for the Union's future including a 'flexible Europe' scenario ("Those who want more do more") that foresaw a group of member states enhancing their cooperation.<sup>2</sup> On the occasion of the 60<sup>th</sup> anniversary of the Treaty of Rome in May 2017, the leaders of the EU27 subscribed to the possibility of moving ahead at different speeds while stressing the indivisibility of the Union.<sup>3</sup> In his Sorbonne speech in September 2017<sup>4</sup>, and recently in his op-ed published across Europe in March 2019<sup>5</sup>, French President Emmanuel Macron gave another boost to the debate when he affirmed his support for a higher level of differentiation, endorsing the creation of a vanguard of states that might not have to wait for a wider consensus to move ahead to advance specific reforms.

However, European leaders' support for differentiated integration expressed in Sunday speeches is not matched in Monday's actions. And often, those who call

for more flexible forms of integration are, at the end of the day, not able or willing to deliver. Coalitions between member states are often of an ad hoc nature or created with the main purpose of blocking progress in specific policy fields ('negative coalitions') as the examples of the Visegrád Group or the New Hanseatic League have repeatedly shown in practice.

Moreover, the concrete application of a higher level of differentiation is highly contested. Newer and smaller member states, especially in Central and Eastern Europe, are concerned that additional layers of flexibility would gradually lock them into a kind of second-class membership, thus further exacerbating the already existing divisions between member states. They argue that those willing to move ahead might increasingly use differentiation as a threat to exert pressure on those who are not willing or able to enhance cooperation at EU level. With the UK leaving the EU, these concerns have become more pronounced, as the group of member states that are reluctant to envisage deeper integration will lose an important ally in preserving their interests.

## Openness, inclusiveness, and efficiency as guiding principles for differentiation

In light of these concerns and to safeguard the Union's political, legal and institutional cohesion, cooperation among a limited number of EU countries should always adhere to the principles of openness, inclusiveness and efficiency – even if the

accommodation of all three principles is not always an easy task. In more concrete terms, this means that; (i) all EU countries should be involved in the decision on whether or not to allow differentiated cooperation; (ii) all EU countries are invited to join an

initiative at any time – also at a later stage; (iii) ‘outs’ should be constantly informed and involved as much as possible in the given area of differentiated integration. Moreover, procedural reliability and institutional consistency should be ensured by applying differentiation as much as possible within the Union’s existing legal set-up, with the strong involvement of the EU institutions. Finally, differentiated integration initiatives should always pass the test of delivering a more efficient policy output than would be the case without it – not least to highlight the clear benefits to European citizens. Thus, all members willing to move ahead should share the same direction of the initiative and fully commit to the responsibilities they have agreed to.<sup>6</sup> In reality, however, striking a fine line between openness and inclusiveness on the one hand and efficiency on the other hand is at times difficult to achieve, as some member states might not be able or willing to deliver or have

diverging motifs for joining the group. More generally, these principles also highlight that higher levels of differentiation should not lead to a closed-off ‘core Europe’, in which an *avantgarde* of member states deepens the level of cooperation while excluding other EU countries. In the past years, when moving ahead, EU governments and institutions have already been careful not to create or exacerbate a deep rift in Europe between those who are part of a potential core and those who are not. But the creation of a closed ‘core Europe’ is not only undesirable, as it violates the principles of openness and inclusiveness, it is also unrealistic. It presupposes that a number of member states are ready to make a qualitative leap forward towards closer integration in a number of policy fields. Yet, even the most integration-friendly countries are not ready to substantially deepen their level of integration well beyond the current state of affairs.

## Inside or outside the EU Treaties – The different shapes of differentiated integration

Differentiated integration can take many shapes.<sup>7</sup> The most important distinction is whether higher levels of cooperation take place inside or outside the EU’s existing legal framework. Closer cooperation outside the Union’s framework bears a number of risks. First, it might lead to a deep rift between participating and non-participating countries, if cooperation among a limited number of member states does not follow the principles of openness and inclusiveness. Second, there is a risk of institutional duplication in case EU institutions do not play a strong executive, legislative or judicial role. Finally, democratic legitimacy and parliamentary scrutiny at both the national

and European level might be compromised if cooperation takes place outside the EU framework and thus beyond the control of the European Parliament, and if cooperation is limited to relations between governments.<sup>8</sup>

Despite these potential risks, past experience has repeatedly shown that there is sometimes no other alternative than to organise closer cooperation through intergovernmental arrangements – particularly if the urgency of a crisis situation requires immediate action. But the examples of the adoption of the Fiscal Compact and the European Stability Mechanism (ESM) in the context of the euro area crisis highlight that member states have



been willing and able to take into account the aforementioned concerns when turning to solutions outside the EU framework. These intergovernmental arrangements involved non-euro members and EU institutions and are due to be incorporated into the Union's framework at a later point in time.<sup>9</sup>

Still, the risks, limits and concerns that come with intergovernmental arrangements can be avoided when using the instruments foreseen in the EU Treaty framework. The instrument of "enhanced cooperation" is the most elaborate arrangement for Treaty-

based flexible cooperation.<sup>10</sup> In the past, member states have refrained from using the instrument. Yet, more recent examples such as the introduction of a common system of patent protection or the inception of the European Public Prosecutor's Office illustrate that it is a workable instrument, which is increasingly explored but hinges on the political will of member states. Enhanced cooperation entails less risk, as differentiation takes place in a unitary, institutional structure preventing an exclusive club of member states to develop a separate nucleus of rules and procedures.<sup>11</sup>

## Making differentiation work

The debate on whether and how to apply higher levels of differentiated integration is likely to intensify in the next politico-institutional cycle. As a second-best option, differentiated integration might prove to be a pragmatic instrument to deepen cooperation on migration, security and defence, and in the attempt to further stabilise the eurozone. Yet, in all three policy fields, there are also considerable constraints to its application.

### **RESPONSIBILITY-SHARING IN THE AREA OF MIGRATION – LAST OPTION DIFFERENTIATION**

The large increase of irregular migration in 2015 has revealed the shortcomings of the Dublin system that places the sole responsibility for the vast number of asylum claims on member states with an European external border.<sup>12</sup> For the time being, there is no consensus among all member states for a structural reform of the Dublin system that could address these deficiencies. The governments who are most strongly advocating for European solutions are cautious not to exempt other

countries from the responsibility of taking their share of the re-distribution of refugees. Temporary Emergency Relocation Schemes to move asylum seekers from Greece and Italy to other member states adopted by the Council through qualified majority voting failed. They were not effectively implemented given, first and foremost, the strong resistance of the outvoted Visegrád countries.

In the absence of a structural reform, some member states have looked to reallocate responsibility to the national level. There are, for instance, the bilateral agreements of Germany with Spain, Portugal and Greece. In addition, willing member states agreed on several ad hoc arrangements to relocate migrants stranded on search and rescue vessels in the Mediterranean in case of immediate urgency.

Yet, the pressure to find adequate solutions to reform the Dublin system will remain high in the years to come (see also the contribution by Evangelia (Lilia) Tsourdi). Even though irregular migration has dropped significantly since 2016, migration policies will continue to dominate the



political debate in many EU countries and chances are high that migratory pressures will re-emerge in the future. Differentiation through voluntary arrangements can be one tool to overcome the political stalemate – at least as a transitional solution until a more structural reform involving all member states will be found. The Commission’s recent proposal to set up a contingency plan for the disembarkation of migrants in times of particular pressure could serve as a starting point to develop an appropriate framework beyond pure ad hoc arrangements.<sup>13</sup>

## **EUROPEAN DEFENCE COOPERATION – CAUGHT BETWEEN INCLUSIVENESS AND AMBITION**

**Higher levels of differentiation should not lead to a closed-off ‘core Europe’, in which an *avantgarde* of member states deepens the level of cooperation while excluding other EU countries.**

Given the vast number of external security challenges, the case for deeper European defence cooperation has gained momentum. At its core lies an instrument of differentiated integration foreseen in the Lisbon Treaty. Permanent Structured Cooperation (PESCO) was launched in December 2017 to intensify the cooperation in the field of Common Security and Defence policy (CSDP). With 25 participating members<sup>14</sup> PESCO is characterised by a high level of inclusiveness, but also allows willing and able members to join forces through concrete projects in the fields of defence investment, capability development and operational readiness.

**The risks, limits and concerns that come with intergovernmental arrangements can be avoided when using the instruments foreseen in the EU Treaty framework.**

The participating members will have to prove that the inclusive approach to PESCO does not undermine the level of ambition, despite the continuing differences in member states’ strategic cultures.<sup>15</sup> Moreover, the principle of unanimity in the decision-making process will continue to hamper consensus building. The projects that have, so far, been established by smaller groups of member states are a mixed bag in terms of the level of ambition. More political will is needed to exploit the full potential of PESCO, which could lead to more differentiation within this framework in the future.

The French proposal to launch the European Intervention Initiative (E2I) was widely seen as a response to an overly inclusive and unambitious PESCO. In contrast to the latter, which focuses on building capabilities, E2I aims to enhance the operational dimension of military cooperation. So far, only ten states are part of E2I, and that number is expected to stay low, with the intention of forming an ambitious and effective club. At the same time, as the initiative is organised outside the EU and NATO framework, E2I allows for cooperating with CSDP opt-out Denmark and tying the UK to wider European defence cooperation after Brexit (see also contribution by Jamie Shea).

The political momentum for deeper defence cooperation has opened up pathways for differentiation within and outside the existing legal framework. In the best case, PESCO and E2I will be mutually reinforcing. Yet, both formats will compete for EU leaders' political capital, which could also lead to a weakening of European cohesion.<sup>16</sup> Thus, a proper link between both initiatives should be established that ensures a minimum level of transparency for EU member states that do not participate in E2I. Much will depend on whether France and Germany find a mutual understanding on how both initiatives can co-exist and benefit from each other.

### **ONLY LIMITED LEEWAY FOR DIFFERENTIATION IN THE EUROZONE**

The euro crisis has highlighted the imperfect construction of the Economic and Monetary Union (EMU) and the urgent need for additional reforms (see also piece by George Pagoulatos). Yet, the immediate crisis response did not lead to a higher level of differentiation within the eurozone but rather to a further deepening of cooperation involving all euro countries.<sup>17</sup> Considerable measures have been taken to respond to the immediate crisis situation based on intergovernmental treaties that were concluded outside of the EU framework (Fiscal Compact and ESM), which included the Euro19, the EU institutions and non-euro countries from the beginning.

Beyond the decisions taken in 2010-2012 under the immediate pressure of the euro area crisis, the profound differences between the 'responsibility and competitiveness' camp and the 'solidarity and caring' camp over how to substantially reform the EMU still persist.<sup>18</sup> Many of the underlying structural causes of the crisis remain unresolved, leaving the eurozone vulnerable to future crises. While EU leaders managed to achieve a 'mini-compromise' at the December 2018 EU Summit, many open questions and unsettled issues still need to be clarified, particularly on the eurozone budget or the European Deposit Insurance Scheme.<sup>19</sup> In the absence of an immediate crisis, it seems more than likely that the deepening of cooperation in the euro area will progress incrementally. Only another escalation of the crisis might apply sufficient pressure for substantial economic, fiscal and financial integration to materialise.

Yet, in the medium term, the withdrawal of the UK from the EU could increase the efforts of some non-euro countries to join the common currency. Given the loss of an important and influential ally to advance their interests vis-à-vis the Euro19, their fear of being marginalised in EU decision-making has increased.<sup>20</sup> In the coming years, the next EU leadership should

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**The withdrawal of the UK from the EU could increase the efforts of some non-euro countries to join the common currency.**

thus clearly articulate the advantages of eurozone membership, i.e. higher financial stability, lower financing costs as well as access to the ESM and full participation in the Single Supervisory Mechanism (SSM). The

adoption of the common currency in more EU countries would decrease the overall level of differentiation between the 'ins' and the 'outs' and thus further enhance the Union's political and institutional cohesion.

## Pragmatic exception, not a panacea

In the next politico-institutional cycle, the new EU leadership will be confronted with an even more complex and conflictual political environment, leaving only little room for manoeuvre for an ambitious reform agenda. Differentiated integration can serve as a pragmatic and functional instrument to overcome stalemates and blockages and to maintain the EU's efficiency and responsiveness in addressing current and future challenges.<sup>21</sup> However, the examples of the key policy fields of migration, eurozone governance, and security and defence illustrate that besides the opportunities that come with differentiated integration there are also considerable constraints to its applicability that have to be taken into account.

More generally, differentiated integration should be handled with care. It should not lead to a closed-off 'core Europe' and it is no panacea to cure the EU's internal divisions – rather it should remain a second-best option in order not to jeopardise the Union's political, legal and institutional cohesion. When applied in practice, a higher level of cooperation among a limited number of EU countries should always follow the guiding principles of openness, inclusiveness and efficiency and should as much as possible be applied within the EU's existing legal set-up. If the situation requires moving ahead outside of the EU treaty framework, intergovernmental arrangements should always accommodate these principles and eventually be integrated into the EU's legal system as quickly as possible. The future EU leadership will also have to think long

and hard about how to extend the concept of differentiated integration to non-EU countries and how to tie these countries closer to the Union beneath the level of full EU membership. While Brexit forces the EU to find solutions on how to design the future EU-UK relationship, it could also provide an opportunity to reassess its enlargement and neighbourhood policies and the formats it has at its disposal to work towards more tailor-made solutions for partner countries, depending on the level of ambition and the compliance in meeting EU standards (see also contributions of Larissa Brunner and Fabian Zuleeg, Dimitar Bechev as well as Janis A. Emmanouilidis).

The current political situation requires the bold leadership of member states willing to deepen their cooperation despite the resistance of others. Reviving the Franco-German tandem and overcoming both countries' fundamental differences on eurozone governance and security and defence will be crucial, but it will not be enough. Berlin and Paris should focus more on including other member states' perspectives in their thinking to form broader leadership coalitions at an early stage. In this regard, differentiated integration can temporarily provide an adequate solution. However, leaders need followers as well. In the end, for the sake of maintaining the unity of the EU, the pioneers of deeper integration need to continue to engage with the 'outs' in the political debate and need to better communicate and coordinate their own positions to craft consensus.

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  3. Council of the EU, [The Rome Declaration](#), 25 March 2017.
  4. Emmanuel Macron, [speech on new initiative for Europe](#), 26 September 2017.
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  7. For an overview of instruments of differentiated integration see von Ondarza, Nicolai (2013), "Strengthening the Core or Splitting Europe - Prospects and Pitfalls of a Strategy of Differentiated Integration", Berlin: Stiftung Wissenschaft und Politik (SWP).
  8. Emmanouilidis, Janis A. (2013), "Which lessons to draw from past and current use of differentiated integration?", Brussels: European Parliament, Policy Department C; Citizens' Rights and Constitutional Affairs.
  9. *Ibid.*
  10. Other Treaty-based instruments of differentiated integration include opt-outs and the Permanent Structured Cooperation (PESCO) in the field of security and defence.
  11. A minimum of nine member states is required to trigger enhanced cooperation in the areas covered by the Treaties with the exception of fields of exclusive competence and the common foreign and security policy. All member states have to approve the wish of a group of member states to apply enhanced cooperation by qualified majority and the European Parliament has to give its consent. Finally, the 'outs' have an observatory status to ensure a certain level of transparency and can join the initiative at a later stage.
  12. De Somer, Marie (2018), ["Dublin and Schengen: A tale of two cities"](#), Brussels: European Policy Centre.
  13. European Commission, [Remarks by Commissioner Avramopoulos on progress made under the European Agenda on Migration](#), 4 December 2018.
  14. Denmark has a general opt-out from the activities within the CSDP. The United Kingdom has also refrained from joining PESCO given its scheduled [withdrawal from the EU](#) in May 2019. Finally, also Malta refrained from joining PESCO.
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  20. Pawel Tokarski (2019), ["Non-euro Countries in the EU after Brexit"](#), SWP Comment 2019/C 03, Berlin: Stiftung Wissenschaft und Politik (SWP).
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► Anti-Brexit campaigner Steve Bray (left) and pro-Brexit campaigner Joseph Afrane go head to head near the Houses of Parliament in London on 29 March 2019. At that time, MPs were debating a momentous third vote on Prime Minister Theresa May's Brexit deal. © NIKLAS HALLEN / AFP

# The never-ending Brexit?<sup>1</sup>

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**MAIN RECOMMENDATION** ▶ Even after Brexit, the EU will have to deal with immediate day-to-day issues i.e. the EU-UK trade negotiations and with more strategic questions regarding the future relationship between the two.

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**WHAT TO DO:**

- ▶ Ensure an orderly withdrawal, but not at any cost.
  - ▶ Develop a vision for a close and stable future relationship that both sides can live with.
  - ▶ Engage in contingency planning for the worst-case scenario, i.e. no deal before or after Brexit.
- 

Even after the United Kingdom's (UK) exit from the European Union (EU), Brexit will not disappear from the Union's agenda – if anything, it will become even more important. The EU institutions and member states will not only have to deal with immediate day-to-day issues such as the EU-UK trade negotiations, but also with more strategic questions on the future relationship between the EU and the UK and the broader implications of the divorce for the Union's role in the world and its own future architecture.

In part, this is a damage-control exercise. The aim is to reach the closest possible EU-UK relationship within the limitations of dealing with a third country, not only in economic terms but also on issues such as security. However, there is also the broader question of how to integrate countries such as the UK in the European integration process, possibly based on refined or new models of differentiated integration.

**The aim is to reach the closest possible EU-UK relationship within the limitations of dealing with a third country, not only in economic terms but also on issues such as security.**



# Tactical successes, strategic deficiencies

The outcome of the June 2016 Brexit referendum has thrown the EU into less disarray than many observers predicted at the time. A domino effect triggering similar membership votes in countries such as France, Denmark or the Netherlands has not materialised. On the contrary, polls have shown growing popular support for EU membership as it has become clear just how difficult and costly it is to extricate a country from the Union.

Perhaps even more remarkable has been the unexpected unity of the EU27 in the Brexit negotiations. Many predicted the UK would speak with one voice, while the EU27 would be in hopeless disarray unable to manage their diverging interests and to contain internal tensions. The opposite has happened. This has strengthened the EU27's negotiating position, helping them to stand by the Union's red lines, such as the backstop for the Irish border, the financial settlement and the sequencing of the Article 50 and trade talks (which then-Brexit Secretary David Davis predicted in 2017 would be the "row of the summer", before the UK government quickly and quietly folded).

However, the tactical success of the first phase of the negotiations cannot hide that the EU has not yet fully engaged with Brexit at a strategic level. There is no single, coherent vision of what the long-term EU-UK relationship should look like once the dust of departure has settled. How close a relationship should the two sides aim for and how may it change over time? In which areas is close political, economic, diplomatic or security cooperation essential and where is there greater scope for divergence? How can the EU and the UK prevent a loss of influence on the global stage? To what

extent will the EU-UK model be an example for the EU's relationship with other third countries?

The EU's overwhelming objective in the Brexit negotiations is to maintain the integrity of the single market and ensure that the ultimate arrangement with the UK does not threaten the long-term viability and attractiveness of the Union by setting a precedent of cherry-picking or by prioritising reaching a deal over a member state's vital interests. As long as that is ensured, it is in the Union's interest to pursue a relationship that is as close as possible to minimise the costs associated with Brexit.<sup>2</sup>

However, if cherry-picking is ruled out, developing a very close economic relationship will be difficult since the conditions for doing so violate the UK's red lines on free movement and an independent trade policy. Barring a significant shift in the UK domestic political context, a more distanced (and for the EU suboptimal) model such as Canada plus (i.e. a free trade agreement in goods with some liberalisation in services) appears more likely. This also implies a separate solution for the Northern Ireland border, most probably reverting to the backstop. Given the political volatility in the UK, the EU needs to plan for the worst-case scenario: a break-down in the relationship either at the end of the Article 50 or the transition period.<sup>3</sup> However, a stable equilibrium is unlikely whatever the outcome of the Brexit process. Debates about the UK's relationship with the EU are likely to continue whether there is a deal, no deal or the UK decides to remain after all, and such debates could play a role in future general elections or party leadership contests.

Navigating these issues and developing a strategic view of Brexit, taking into account the UK's aspirations and limitations, will be one of the key tasks for the EU institutions and the future EU leadership in the years to come.

## Painful losses ahead

Though the costs of Brexit will be asymmetrically distributed – with the UK much more affected than the EU27 – neither side will emerge unscathed. The UK remains an important player for a number of reasons and its departure will weaken the EU27 in various ways and change its position and role in the world.

First, Brexit has direct economic consequences for the EU. They can be divided into two categories: transition costs and long-term costs. Any change to the status quo will impose transition costs on EU firms, which may have to spend resources on contingency planning and re-organising supply chains. In the longer term, any additional friction caused by a UK departure from the customs union and single market could impact trade flows and reduce economic growth.

However, it is not all bad from the EU's perspective. There will probably be a gain from firms relocating to the Union, and EU companies could benefit from reduced competition if friction caused by Brexit leads their UK rivals to abandon the EU market or puts them at a disadvantage, for example in public procurement.

But the EU's loss of economic weight also has an external dimension. The UK's economy was the fifth-largest in the world in 2018, with a value of \$2.94 trillion.<sup>4</sup> It was the second-largest in the Union, surpassed only by Germany. If the UK leaves the EU's customs union, the European Commission will no longer be able to offer access to the UK market to third countries it negotiates trade deals with. This will reduce its leverage and could make it more difficult to achieve favourable outcomes for the Union.

Moreover, London is a powerful financial centre and arguably the only one in Europe that can compete with the likes of New York, Hong Kong and Singapore. Brexit will almost certainly reduce Europe's weight. While London initially hoped to agree on future access to the EU market for UK-based financial services firms on the basis of mutual recognition, it has now accepted Brussels' position that financial services trade will be

**Regardless of Brexit, future progress in the EU will also require a higher level of differentiated integration, for example in areas such as taxation or defence.**

**Brexit might lead to a more unified model, creating a sharp distinction between (full) membership and those outside the EU, which would limit the level of integration with third countries.**

**The EU should analyse the reasons for the unexpected and remarkable unity of the EU27.**

**From the EU's perspective, the best version of a relationship with a third country is one that is as close as possible but, at the same time, shows very clearly the costs of being outside the club.**

based on the EU's equivalence regime.<sup>5</sup> The UK government is still seeking to include certain elements of mutual recognition but these attempts are likely to be unsuccessful, while the EU is likely to push for standard equivalence, not least to prevent regulatory arbitrage.<sup>6</sup> Such an outcome would have implications for the financial services sector. Equivalence does not apply to wholesale banking and can be withdrawn unilaterally by the EU with a 30-day notice, so it will not provide financial services firms with the predictability they require. Cities in remaining member states such as Paris and Frankfurt could benefit somewhat as banks relocate some staff, but it is not just a European competition. If European capital markets fragment further due to Brexit and the financial competitiveness of the EU decreases, financial services firms could decide to abandon the EU altogether and focus on the United States or Asia.

Second, Brexit is set to weaken the EU politically. A smaller EU that is not perceived to be speaking for all major European countries will be a less powerful one. This could make it harder for the Union to defend its interests at a time when Russia is becoming more assertive, concerns are growing over China's expanding political and economic reach and US politics are increasingly unpredictable and unstable (see also contribution of Giovanni Grevi in this volume).

In terms of international clout, the EU is arguably losing one of its most powerful member states. The UK is one of two European countries with a permanent seat on the UN Security Council and continues to derive considerable influence from its history, soft power and ties with non-European countries (for example through the Commonwealth). It has a highly regarded diplomatic service and has played a key role in shaping EU foreign policy, not least by traditionally serving as a link to the US. Its departure will be a blow to advocates of a close transatlantic relationship and a

tough stance on Russia. It could shift the balance of power in the EU towards those that are sceptical of some of the EU's current foreign policy orientations.

Brexit could, for example, have negative spill-over effects on the EU's sanctions regimes vis-à-vis Russia. Without the UK, the EU's determination to address Moscow's actions in Ukraine and Crimea could diminish. While this may not affect the EU's current sanctions (the renewal of three sets of sanctions against Russia every six months has become a largely routine task), the Union may become less willing to introduce new measures to respond to fresh Russian aggressions for fear of upending the fragile consensus among member states, and might be less able to react to future foreign policy crises. At the same time, the EU's loss of economic weight after Brexit means that economic sanctions – unless they are coordinated with the UK and other major countries such as the US – will lose some of their bite. Similarly, as the EU single market will be smaller after Brexit, the prize of market access, which the EU can offer to third countries to promote certain values, may become less attractive. Both developments mean that the ability of the EU to reward and punish third countries' behaviour will be diminished.

Third, Brexit may undermine the EU's security capacity. The UK and France are the only global military powers in the EU. The UK also plays a crucial role in NATO and was one of only six EU countries to hit NATO's target of spending 2% of GDP on defence in 2018.<sup>7</sup> Brexit means that the UK cannot participate in EU initiatives such as PESCO (though it could be argued that the momentum to agree PESCO probably would not have been there if the UK had not voted to leave, or that the UK would have blocked the initiative) and that the EU could become less relevant as a security player. The loss may also be felt in counterterrorism, where the UK has well-regarded capabilities.

# Differentiated integration and enhanced cooperation

Brexit is closely linked to strategic concepts about the future of the EU, including the notion of differentiated integration and ideas about an EU core and periphery.

After the UK's exit, the EU's centre of gravity is likely to shift further towards Germany and France, and the eurozone. Non-eurozone countries and economically liberal northern member states – long-time allies of the UK – could lose influence as the EU becomes more centralistic in its areas of competence. Member states have already started trying to fill the void. One expression of the counterbalancing act against a potential dominance of Berlin and Paris is the creation of the New Hanseatic League in 2018, which groups eight fiscally conservative northern member states.

Regardless of Brexit, future progress in the EU will also require a higher level of differentiated integration, for example in areas such as taxation or defence. This could reinforce the shift of power towards the EU's 'core' around Berlin and Paris and widen asymmetries between those regularly participating and those abstaining.

At the same time, Brexit could provide an impetus to extend the concept of differentiated integration to non-EU countries by tying these countries closer to the Union beneath the level of full and unlimited EU membership (see also the contributions of Janis A. Emmanouilidis

and Julian Rappold in this volume). The UK may wish to continue participating in parts of the EU architecture such as Euratom, without making concessions in other, more politically sensitive areas.

However, this raises several difficulties. A preference could emerge in the UK for membership of the single market for goods, services and capital but not for people, while for the EU the indivisibility of the four freedoms would be non-negotiable. Applying the concept of differentiated integration would also be complex in legal, political and institutional terms, especially if it fails to respect the exclusive prerogatives of those who are member of the 'club'. The EU will, therefore, be wary of setting a precedent if the UK's deal is perceived to be more attractive than full EU membership. Politically speaking this implies that certain proposals such as the continental partnership<sup>8</sup> or a 'shared market' between the UK and EU<sup>9</sup> are unlikely to gain much support at EU level, regardless of their merits. Any form of differentiated integration involving non-EU countries is likely to be tightly restricted and come with numerous conditions, such as financial contributions without offering access to EU institutions and to the Union's decision-making mechanisms. Brexit might lead to a more unified model, creating a sharp distinction between (full) membership and those outside the EU, which would limit the level of integration with third countries.

# Key recommendations

What can the EU do to address the strategic challenges posed by Brexit?

► First, it should focus on ensuring an orderly withdrawal, but not at any cost. Unlike for the UK, the mantra ‘no deal is better than a bad deal’ rings true for the EU. Any deal that would compromise its core values, disadvantage member states vis-à-vis a third country or undermine the integrity of the single market would threaten its long-term viability. Even though an orderly withdrawal would avoid chaos and create a feasible path towards the long-term EU-UK relationship.

► Second, the EU should develop a vision for a close and stable future relationship that both sides can live with<sup>10</sup>, going beyond mere economic ties. Close alignment and cooperation on economic, political and security issues would be an effective way for both the EU and the UK to maintain as much global influence as possible. To achieve this, it is important that despite any frustration with the day-to-day Brexit process, bridges are not burnt and resentment on both sides is minimised. However, it is hard to see how this could be achieved in case of an acrimonious divorce.

► Third, the EU should engage in contingency planning for the worst-case scenario, i.e. no deal before or after Brexit. A breakdown in relations could see the UK, no longer tied to EU rules, emerge as a fierce competitor for foreign investment and resources. The EU needs to be prepared in case London shifts towards a more mercantilistic model, lowering tax, social and environmental standards to gain a competitive advantage. Cooperation across all policy areas would become much less likely.

But the significance of Brexit goes far beyond the future UK-EU relationship. As

a starting point there are valuable lessons that can be taken from the Brexit process. The EU should analyse the reasons for the unexpected and remarkable unity of the EU27. These may include shared goals during the first phase of the negotiations, a sense of existential threat and the desire to avoid setting a precedent of a member state being abandoned by the Union in favour of a (soon to be) third country. Identifying the reasons for the EU’s remarkable unity will enable the Union to apply the lessons of Brexit to other policy areas and help to ‘Re-unite Europe’ (see also contribution of Janis A. Emmanouilidis).

Most importantly, the EU institutions and member states must consider whether, and if so to what extent, differentiated integration could serve as a model for the EU’s relationship with third countries, especially in the Union’s direct neighbourhood, including the future EU-UK relationship. This will have significant implications for the future of European integration.

From the EU’s perspective, the best version of a relationship with a third country is one that is as close as possible but, at the same time, shows very clearly the costs of being outside the club. This poses a paradox: it implies that those third countries that are integrated most have to, de facto, become members without rights, creating a politically unstable and conflictual situation, especially for countries that have a significant political and economic weight but are not willing to accept the terms and conditions of membership.

This conflict can clearly be seen in the negotiations with the UK and implies that any deal that will now be reached will probably evolve over time. If, for example, the next phase of negotiations between the EU and the UK would shift to a Norway

plus-style model (i.e. single market and customs union membership with close cooperation on many issues), the UK would be facing major political issues, essentially becoming a rule-taker. But barring such a shift, a Canada plus model with deeper integration in certain policy areas, while politically feasible, would not deliver the close integration that is desirable, in economic terms and for Europe's role in the world.

This tension between economic and political benefits at the price of adhering to a common set of values and rules will also play itself out within the EU. The current model of differentiated integration, which foresees that some countries progress while others follow at a later point in time, is

no longer functioning. Those who are not part of the more integrated policy areas have a significant and broad disadvantages from being outside the inner circle. But, at the same time, we have seen that these countries are simply not willing to join the euro, Schengen or other forms of closer cooperation. On the contrary, they have used whatever powers they have to counter or even block further steps of integration. We might have reached the limit of what can be achieved within the current model, which could also explain why we have witnessed a number of (unsuccessful) initiatives outside the EU system. Brexit is a stark reminder that we have to revisit and reform the current model of European integration and its reliance on limited forms of differentiated integration.

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1. The final version of this piece was concluded on 1 April 2019.

2. See also Duff, Andrew (2019), "[New proposal for amending the Political Declaration on Britain's future in Europe](#)", Brussels: European Policy Centre.

3. See also Lock, Tobias and Zuleeg, Fabian (2018), "[Extending the transition period](#)", Brussels: European Policy Centre.

4. See here: <https://www.weforum.org/agenda/2018/04/the-worlds-biggest-economies-in-2018/>

5. Under mutual recognition all financial products and services that comply with UK regulation could be sold in the EU and vice versa, while under equivalence the EU would assess for each set of products whether UK regulatory standards satisfy its own requirements before trade would be permitted. This would lead to different default positions: under the UK's proposal for mutual recognition, the default would be to allow trade, while no market access would be the default under equivalence.

6. See Tarrant, Andy et al., (2019), "[Equivalence, mutual recognition in financial services and the UK negotiating position](#)", UKTPO.


7. As of March 2019; figures are [estimates](#).

8. The continental partnership proposes combining mobility in goods, services and capital with some restrictions in the free movement of people and a new system of inter-governmental decision-making. The result would be an inner, politically integrated 'core' and an outer, less integrated 'periphery'. See Pisany-Ferry, Jean, Röttgen, Norbert, et. al., (2016), "[Europe after Brexit. A proposal for a continental partnership](#)", Brussels: Bruegel.

9. Under the 'shared market' model put forward by the IPPR, the UK and EU would share their markets, which would be facilitated by continued regulatory alignment and the creation of a comprehensive customs union. Regulatory divergence over time on part of the UK would be allowed, though this would have consequences for its trading arrangement with the EU. The EU would compromise on free movement of people. See IPPR, (2017), "[IPPR proposes creation of shared market between the UK and EU](#)".

10. See Zuleeg, Fabian (2018), "[The road to nowhere? Prospects for a post-Brexit trade deal](#)", Brussels: European Policy Centre.



A young child is seen from behind, climbing a light blue wall. The child is wearing an orange sweater, blue jeans, and a climbing harness. The wall is decorated with a map of the European Union, with various colored climbing holds (green, orange, red) placed on it. At the top of the wall, a large blue flag with twelve yellow stars (the flag of the European Union) is flying. The background is a clear blue sky.

► A child makes his way up a climbing wall decorated with a map of the EU, near the EU fair near Berlin's Brandenburg Gate on 25 March 2007, during the 50<sup>th</sup> anniversary of the signing of the Treaty of Rome.  
© AFP PHOTO JOHN MACDOUGALL

# Future of Europe

# Sprechen wir über Europa

DER BÜRGERDIALOG



► German Chancellor Angela Merkel attends the "Citizens' dialogue on the future of Europe" at Imaginata on 14 August 2018 in Jena, eastern Germany.

© ROBERT MICHAEL / AFP



# The European Citizens' Consultations: Will the member states make them count?

**Corina Stratulat** – Senior Policy Analyst and Head of the European Politics and Institutions Programme at the European Policy Centre

**Paul Butcher** – Policy Analyst at the European Policy Centre

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**MAIN RECOMMENDATION** ▶ Explicitly link discussions about the EU's next policy agenda and priorities with the results of the consultations in the run-up to the European Parliament elections.

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**WHAT TO DO:**

- ▶ Keep the conversation going.
  - ▶ Turn the talk into action.
  - ▶ Make it a regular feature.
  - ▶ Aim for better coordination and coherence.
  - ▶ Set clear objectives.
- 

If necessity is the mother of innovation, a stroke of luck must be its father. The story of the European Citizens' Consultations (ECCs) confirms this proverbial insight. The ECCs might have emerged in response to the European Union's (EU) long-standing need to fix its growing problem of democratic legitimacy, but it was the push that French President Emmanuel Macron gave to the idea of organising citizen consultations across the EU that turned the odds in favour of this new, large-scale experiment in European democratic reform. Whatever helped to make the ECCs a reality in 2018, the burning question as the process draws to an end in May 2019 is whether the member states will now make it count.

To do so, they should explicitly link their discussions about the EU's next policy agenda and priorities with the results of the consultations in the run-up to the European Parliament (EP)

**Citizens want change, and this was precisely what President Macron promised when he suggested giving “people a voice” and the opportunity to influence the Union’s future through “citizens’ conventions”.**

elections. Keeping political attention on the outcome of the process will ease the way for new ideas about necessary improvements to

the instrument and its incorporation into a broader reform of European governance.

## Hoping for change

The past decades have seen many attempts to improve and sustain citizens' participation in European affairs. At times, this search for a better quality of democracy in the EU has inspired substantial institutional reform processes across Europe, for example, as a result of the Lisbon Treaty, which affected the role and powers of national assemblies (the yellow and orange card procedure), the European Parliament (extending co-decision), and the citizens themselves (the European Citizens' Initiative). But all these efforts have so far proven insufficient: to this day, most European citizens still perceive the EU as distant and unaccountable.

The public's dissatisfaction is well-documented in the Eurobarometer polls. Yet their lack of enthusiasm for European politics is not a demand for 'no Europe' so much as a call for a 'different Europe'. Citizens want change, and this was precisely what President Macron promised when he suggested giving "people a voice" and the opportunity to influence the Union's future through "citizens' conventions".<sup>1</sup>

His proposal was inspired by the 2017 French elections, in which he unexpectedly won the presidency and his *En Marche!* movement secured an absolute majority at the *Assemblée nationale*. This happened largely thanks to a grassroots initiative that collected the concerns and priorities of the French electorate through thousands of local meetings and used them to shape and legitimise the *En Marche!* campaign. The success of this bottom-up method of formulating political positions encouraged

Macron to suggest replicating it at the European level, in the hope that it would help with the Union's own democratic dilemmas.<sup>2</sup>

Of course, the idea of discussing the EU with European citizens is in itself nothing new. The European Commission, for example, has been organising Citizens' Dialogues in the member states since 2012 as a means of allowing people to ask EU politicians questions, make comments, and share their visions for the Union. Little wonder then that Macron's initiative quickly won the support of Jean-Claude Juncker, the President of the Commission, who saw it as dovetailing with the institution's existing 'Future of Europe' discussion.<sup>3</sup>

Unlike any previous democratic reform efforts, however, the ECCs have been driven by national governments and relied on the active involvement of all the member states rather than being merely another EU institutional tweak and fix. As such, the ECCs aimed to shake up European democracy by new, popular means.

Still, the member states were not immediately won over by the initiative. On the one hand, the fears and frustrations prompted by Trump's America and the reality of Brexit underscored the need to re-energise the Union after years of crisis.<sup>4</sup> The return to economic growth, the decline in unemployment, and the easing of the migration crisis opened the door to revisiting the profound and unresolved challenges that had been tearing the Union apart before 2017. Acceptance was also growing that the

wider public would have to be more closely involved in decisions about the future of European integration. On the other hand, most capitals insisted that, if they were to adopt Citizens' Consultations as a way to shore up public support and seize the opportunity for European reform, they needed flexibility both in the details and the timeframe of how they were to be implemented.

The process, which all 27 EU member states ultimately endorsed at the informal European Council Summit on 23 December 2018, followed two tracks:

1. At the EU level, the Commission would host an online survey, available in all EU languages, consisting of questions formulated by a Citizens' Panel. In parallel, the Commission would also increase the number of Citizens' Dialogues to reach 1300 by May 2019.

2. At the member state level, governments would be in charge of organising physical events in their respective countries and synthesising the results.

They also agreed to discuss the national syntheses at the European Council in December 2018, which marked the end of the ECCs process for most member states. For some EU countries<sup>5</sup> and the European Commission, however, the endpoint is the Leaders' Summit in Sibiu in May 2019, which will debate the future of the EU and prepare the Strategic Agenda 2019-2024.

## Taking the plunge

The prominent role played by President Macron in proposing the idea and the Commission's efforts to provide an overarching framework might create the impression that the ECCs were a monolithic series of events fitting a defined template. But in fact, the hallmark of the initiative was diversity: in exchange for their agreement to participate, the member states were given a free hand to implement the events in whichever way best suited their aims, resources, and national practices. Thus, the ECCs effectively took place in 26 separate campaigns,<sup>6</sup> each with their own branding, format, timescale, and goals.<sup>7</sup>

The overall process had no official name. 'Citizens' Consultations' is the closest thing to a common branding, derived from the name used in France (*Consultations*

**Unlike any previous democratic reform efforts, however, the ECCs have been driven by national governments and relied on the active involvement of all the member states rather than being merely another EU institutional tweak and fix.**

**With so much national variation, the initiative failed to acquire an identity and produced no clear criteria to judge its success.**



*citoyennes sur l'Europe*") and shared by countries like Belgium, Luxembourg, Spain, Romania, and Austria. But in Denmark and Finland, for example, the term was 'Citizens' Hearings', while Germany, Lithuania, and Ireland called the events 'Citizens' Dialogues'. This latter name could potentially lead to confusion with the Commission's own events, although they were presented as distinct.

The rationale of the consultations also differed. From emphasising the need to involve citizens more closely in EU decision-making, sometimes explicitly referring to the forthcoming EP elections, through citing the need to identify the future priorities for the EU, potentially including reform, to merely seeking to raise awareness about the Union, the member states disagreed about the exact purpose of the discussions.

Moreover, events were mostly organised by national authorities with little involvement from civil society. Many were held in a 'top-down' format whereby government ministers 'consulted' the citizens by listening to their views and responding via a question-and-answer session or as part of a panel discussion. This is very similar to the set-up of the Commission's Citizens' Dialogues, and a far cry from encouraging people to debate Europe among themselves.

**The ECCs should be considered in light of what they accomplished against the odds.**

**The ECCs were a decisive – albeit small – step forward in the history of democratic and open government initiatives.**

In fact, although the ECCs were nominally about European issues, in practice, many discussions focused on domestic or global politics and ignored the Commission's online questionnaire, which had been intended to provide a common set of topics. In several countries, especially in Central and Eastern Europe, governments appear to have interpreted the ECCs as an opportunity to push their own political agenda.

This flexibility came at a price. With so much national variation, the initiative failed to acquire an identity and produced no clear criteria to judge its success. Media and other commentators have been quick to criticise the instrument for its lack of representativeness among audiences, restrictive topics, or poor promotion, and portrayed it as a tick-the-box exercise signalling token European commitment.<sup>8</sup> But this implies holding the ECCs to a standard that, in many cases, they did not even aspire to reach.

For example, the Joint Report prepared by the Austrian and Romanian Presidencies for the European Council<sup>9</sup> mentions a total of 1,700 events organised by member states. France accounts for a comfortable majority of this figure (i.e. 1,100)<sup>10</sup>, which could be taken to mean that other countries did not put in the same effort or commitment. Yet to do so would be to misunderstand their intentions.

The French ‘model’, which labelled anything from conferences to participatory theatre performances as ‘consultations’ via an open application process, was certainly an inspiration for some member states. However, others consciously rejected it in favour of a smaller-scale vision. In the Netherlands, for example, the consultations consisted of just five meetings, where citizens, hand-picked from a set of applications, discussed the EU’s future in depth, not with politicians but among themselves.

The ECCs should be considered in light of what they accomplished against the odds. The idea was conceived, organised, and implemented in less than a year. Achieving

the political will to embark on a process of consulting citizens at a time when Europe is facing a growing radical populist challenge, and risk giving voice to those views, was no mean feat. And yet the ECCs not only went ahead but actively involved all member states, thus expanding the scope of European discussions. In many countries, it was the first time that European issues had been prominently debated at the national level.

In that sense, the ECCs were a decisive – albeit small – step forward in the history of democratic and open government initiatives. What happens next will determine whether they can eventually yield transformative results.

## Carrying the flame

To ensure that the ECCs kick-start a meaningful process of EU democratic renewal, several recommendations should be considered for the future, building on the experience with the instrument so far.

- **Keep the conversation going:** The EP elections should give centre stage to the results of the ECCs. The campaigns of the *Spitzenkandidaten* and MEP candidates should amplify the voice of the people, as heard during the consultations. Moreover, the agenda of the Sibiu Summit and the EU’s next Strategic Agenda (agreed by the European Council) and Strategic Priorities (defined by the next Commission) should reflect the syntheses of the discussions held during the ECCs, following up on the concerns and proposals raised.
- **Turn the talk into action:** In the period until September 2019, covering the last leg of this round of ECCs and the start of the new politico-institutional cycle after the EP elections, national and European politicians should keep sight of the initiative

and echo the results of the consultations in their discourses and decisions. This will be a critical test for the future of the initiative. If in the end, citizens feel that their participation in these events had no impact on European decision-making, their perception that politicians are unresponsive and unrepresentative, and that the Union is distant and develops beyond their control, will likely be reinforced. In that case, their support for European integration can be expected to drop.

- **Make it a regular feature:** Beyond 2019, the process should be repeated, drawing on lessons learned from this time around to improve the format. At the EU level, this could be facilitated by a permanent mechanism for inter-institutional cooperation, such as that proposed by the European Committee of the Regions and the Economic and Social Committee.<sup>11</sup> Any such future efforts should also be inclusive of civil society and experts, who have the necessary expertise and experience to suggest appropriate common quality standards and processes.

- ▶ Aim for better coordination: Organisers should consider the trade-off between standardisation and respecting national practices, with the goal of making the process more unified and coherent to allow citizens to feel engaged in a single Europe-wide discussion. This would also make it easier to compare and synthesise the results, increasing the instrument's potential impact. The European institutions should also work together as much as possible.
- ▶ Set clear objectives: The goal of the consultations should be clearly stated at the outset so that people can understand and trust the initiative. Citizens should be informed precisely on how their input will be reflected in decision-making to avoid setting expectations too high and to give purpose to their engagement.

As national governments played a crucial role in the implementation of the ECCs, the key to their future success lies in national capitals. The member states must demonstrate a willingness to stick with the idea and keep moving forward. The Citizens' Consultations were a new experiment in improving the quality of democracy in the EU, but they could become, in Macron's words, "an integral part of Europe's radical reform".<sup>12</sup> If necessity and providence set the ECCs in motion, will political leaders' curiosity to explore their full potential drive European democratic progress henceforth?

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1. ["Presidential programme of Emmanuel Macron"](#), *En Marche*.

2. ["Speech by Emmanuel Macron at the Sorbonne, Paris"](#), Office of the President of the French Republic, 26 September 2017.

3. ["Jean-Claude Juncker's State of the Union Address"](#), European Commission, 13 September 2017.

4. See, for example, Emmanouilidis, Janis A., rapporteur, (2017), ["Re-energising Europe: A package deal for the EU27"](#). Third report New Pact for Europe", Brussels: European Policy Centre.

5. For example, Belgium, Finland, and Lithuania.

6. In Italy, political factors, notably the crisis resulting from the March 2018 general election, prevented the ECCs from taking place. The United Kingdom decided not to participate given its forthcoming departure from the EU.

7. For a full overview of how the ECCs were implemented in each country, see Stratulat, Corina

and Butcher, Paul (2018), ["The European Citizens' Consultations: Evaluation Report"](#), Brussels: European Policy Centre.

8. See, for example, Munta, Mario, ["The empty taste of Macron's citizens' consultations"](#), Euractiv, 11 April 2018.

9. Council of the European Union, ["Citizens' Consultations – Joint Report"](#), 3 December 2018.

10. ["Quelle est votre Europe?"](#) (2018), ["Citizens' Consultations on Europe – Executive Summary"](#), Paris: Ministry of Foreign Affairs, p. 4.

11. Lambertz, Karl-Heinz and Jahier, Luca (2018), ["Bringing the EU closer to its citizens: The call for an EU permanent mechanism for structured consultations and dialogues with citizens"](#), European Committee of the Regions and the European Economic and Social Committee.

12. ["Speech by Emmanuel Macron at the Sorbonne, Paris"](#), Office of the President of the French Republic, 26 September 2017.

# The politics of ever closer union

**Andrew Duff** – *President of the Spinelli Group and a Visiting Fellow at the European Policy Centre. He was a Member of the European Parliament (ALDE), 1999-2014.*

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**MAIN RECOMMENDATION** ▶ The EU lacks sufficient centralised powers to act effectively in the many critical situations in which it finds itself.

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**WHAT TO DO:**

- ▶ Need for the Union to assume sovereignty in addition to the national sovereignty in its member states.
  - ▶ QMV and co-decision should become the norm.
  - ▶ A stronger commission with more explicit federal powers.
- 

Unfashionably, I am going to argue for more Europe. The European Union (EU) is too weak to do what is expected of it. We do not need more scenarios from the Commission's think-tank to tell us that the EU lacks sufficient centralised powers to act effectively in the many critical situations in which it finds itself. Nor do we need more politicians to explain that European unification is, for them, a distant abstraction which, if pursued overtly, will make them unpopular.

Europe is simmering with problems which defy the capability of its current governance. Some issues may recede over time because of natural or technological developments; other problems may come and go according to the economic cycle; but the most problematic challenges will persist – and if not addressed, worsen. Global warming, the rule of law, fundamental rights, the state of democracy, terrorism, military insecurity, corruption, international organised crime, mass refugees, social dislocation, low employment, environmental decay – these are Europe's systemic challenges demanding sustained structural responses from stable, strong government.

**The scale and complexity of today's challenges are too much for Europe's nation states to tackle alone.**

**A basic lack of self-confidence at the level of the EU's leadership has led to this muddle.**

## Taking the place of the old order

**One cannot be surprised that the Union is suffering from wear and tear and now needs refurbishment.**

**Central to the federalist thesis is the need for the Union to assume sovereignty in addition to the national sovereignty of its member states.**

**Given the state of play at the national level, however, reform has to be led by the European Union institutions, not least by the new Commission and Parliament.**

The scale and complexity of today's challenges are too much for Europe's nation states to tackle alone. Many European citizens have realised this, and are disenchanted with the old order. The emerging polity of the European Union offers the hope of a solution – but in terms of modern government, it lacks necessary assets, instruments and competences. The EU preaches its values but continues to promise more than it can deliver. Its workings are abstruse, and it lacks affinity with its citizens. It claims to be a single market but remains poorly integrated in terms of services, taxation, banking and capital. It has a single monetary policy but no common fiscal policy. Its foreign policy is patchy and military footprint negligible. For most third countries, the EU is an unknown and sometimes awkward quantity.

Until recently, the EU institutions could rely on a solid bipartisan consensus in all its member states to sustain the integration project and uphold liberal democracy. But today a polarisation is taking place which fractures the political landscape, dissolving old political parties and destabilising parliamentary government. Several European countries are threatened by civil unrest and the rise of radical populism. The EU is made to share the blame for the decline of the old order, inheriting the stresses and strains of its member states. If it was once true that the EU rescued Europe's nation states, the reverse may now be happening: the decline of those incapacitated states is undermining the Union. The rise of Euroscepticism impedes the creation of a federal level of European government just at the time when it is needed most.

## Constitutional deadlock

The EU's constitutional structure remains part confederal and part federal. While the European Parliament has been directly elected since 1979, its elections and political parties are national, not transnational. The European Commission is endowed with executive authority in some areas, such as competition and state aids policy, but not in others, such as tax or foreign affairs. The Council has wide powers to take decisions by qualified majority vote (QMV) on secondary legislation but is condemned

to using unanimity on matters of primary law and high importance. The European Court of Justice develops case law on the assumption of primacy and direct effect but is denied the powers of a federal supreme court. Likewise, the European Central Bank is tightly constrained and cannot assume the competence of lender of last resort even for the eurozone. At the political level the basic dichotomy between the intergovernmental and the supranational mode impairs the Union's ability to act rapidly, effectively and coherently, both at home and abroad.

A basic lack of self-confidence at the level of the EU's leadership has led to this muddle. The EU's treaties have been added to and amended over 70 years in a fairly ad hoc way while the size of the Union grew from six to twenty-eight member states. Constitutional reform has taken place spasmodically in response to a variety of internal or external pressures. Leaders responded as best they could to successive political, economic or security crises, but treaty amendment was disorganised, impaired by institutional struggles. EU treaties piled up without codification, and often without adequate democratic justification.<sup>1</sup>

The EU's official strategy was to widen its membership and deepen its integration at the same time, although some member states, like Britain, wanted widening but not deepening, while others, notably France, preferred deepening to widening. Three European states (Iceland, Norway and Switzerland) could have joined the Union but chose not to; and now the United Kingdom, having failed to renegotiate its terms of membership, is leaving.

Throughout this process, the historic mission of "ever closer union among the peoples of Europe" has been repeated in successive treaties without being defined. Ever closer union became totemic, allowing gradual steps to be taken in a federal direction, but also provoking hostility among those who resented the loss of the comfort

zone of the nation state. Below and beyond elite commitment to the goal of European unity, real and rhetorical, nationalist forces survived and even prospered. European leaders, fearing adverse popular reaction, were careful to avoid teleological debate.

The result of this experiment in the peaceable unification of Europe is mixed. When things went well there could be satisfaction, even complacency. When the shocks came, as they did, there was disruption and the EU became a whipping boy for all sorts of misdemeanours, often unfairly. During the last decade, the EU has had to endure the drama of the great enlargement of membership (from 15 to 28), the defeat of the constitutional treaty in 2005, the great financial crash of 2008, and the influx of refugees from the Middle East and Africa which peaked in 2015 – and now Brexit. One cannot be surprised that the Union is suffering from wear and tear and now needs refurbishment.

Those of conservative disposition claim that the Treaty of Lisbon has settled the constitutional future of the Union, at least for now. They add that the time is not ripe for a new bout of constitution mongering, and that to pursue more political integration risks provoking the hostility of the nationalists. Their concern is to deal pragmatically with present difficulties – and to hope for the best about the future (while fearing the worst).

In truth, the EU often avoids conflict by postponing difficult decisions, muddling through in good times, complemented by crisis management in bad. But the new leadership of the EU institutions to be elected in 2019 would be wise to recognise it has a duty to prepare carefully for constitutional reform whenever the moment comes. Such preparation involves honest analysis of the state of the Union and the marshalling of democratic arguments for and against specific reforms. The noble cause of European unification could and should be confidently refreshed for the benefit of the millennial generation.



# The Spinelli Group proposes reforms

As our contribution to this debate, the Spinelli Group has published a *Manifesto for the Future of Europe*.<sup>2</sup> Central to the federalist thesis is the need for the Union to assume sovereignty in addition to the national sovereignty of its member states. Such a complex, diverse and sovereign Union requires a proper constitutional government – especially if, as it develops towards a fiscal union, EU citizens are going to be asked to share the burden among themselves as taxpayers. Executive authority should be centred on the Commission, one of whose vice-presidents would be the Treasury Secretary with powers to tax, borrow and lend (and issue eurobonds), as well as to represent the Union in international monetary affairs.

We recommend that the Commission is reduced in size according to the formula prescribed in the Lisbon treaty. Executive decisions now held jealously by the Council, such as the power to set farm prices and fishing quotas, should be transferred to the Commission. A new call-back procedure should be introduced to allow the two chambers of the legislature to hold the more powerful Commission strictly to account.

QMV and co-decision should become the norm; special laws of the Council would be abolished; and a new category of organic law could be introduced for weightier matters such as electoral reform, own resources and rule of law sanctions – subject to higher voting thresholds. In effect, the next treaty revision should assume that all the Lisbon passerelles are crossed. The extension of QMV to Council decisions on taxation and social and environment policies would spur the integration of a wider single market, bringing direct benefit to citizens and to business. Loosening the national veto over finances would allow the EU to develop a budgetary capacity fit for its federal purpose, including macro-economic stabilisation. The transfer of some large items of expenditure

such as R&D, energy infrastructure and defence equipment from national to the EU level would constitute good value for money.

The Spinelli Group would not merge the two presidencies of the European Commission and European Council. Instead, we would put the European Council more firmly in charge of the running of the legislative Council of ministers (and scrap the rotating presidency of the latter). While the Commission in its governmental role would continue to initiate legislation, both Parliament and Council should enjoy a limited power to initiate draft law.

Current constraints on the judicial purview of the European Court of Justice should be lifted, notably in the field of foreign policy, security and defence.

The European Central Bank must become the lender of last resort with full supervisory authority over the whole financial sector. The Bank's remit would be widened from that of maintaining price stability so as to support the objectives of the common economic policy of the Union as conducted by the Commission. The European Monetary Fund should evolve over time into a properly federal body.

The shift from unanimity to QMV would give momentum to the development of common foreign and security policy under the initiative of the High Representative (upgraded to EU Foreign Minister). In foreign policy, as in other fields, we would encourage the use of the treaty's provisions on enhanced cooperation. We would remove the current stipulation that groups of like-minded states can only be formed as a matter of "last resort".

In matters constitutional the Spinelli Group wants to boost the role of the Convention, composed of national and European

parliamentarians, the European Council, Commission and Committee of the Regions. Convention proposals to change the treaty would stand unless opposed by the European Council acting by unanimity. Treaty amendments would enter into force once ratified by four-fifths of the member states.

The emergence of a stronger Commission with more explicitly federal powers would

raise the stakes for the European Parliament. To enhance its legitimacy in time for the next elections in 2024, Parliament must insist on the introduction of a pan-European constituency for the election of a portion of MEPs from transnational party lists. This change would guarantee the emergence of strong political parties at the federal level whose absence so far has impeded the development of a truly European demos.

## Making the case

The Spinelli Group takes a long-term perspective. It would be naïve to think that our radical reform programme will be agreed in a hurry even though we are careful to build on the current treaties. But it is vital to prepare the next Convention well if its proposals are to be rational, consistent and comprehensive. There are many people to be persuaded at each federal level if the democratic acceptability of such a package is to be assured during the next decade. Given the state of play at the national level, however, reform has to be led by the European Union institutions, not least by the new Commission and Parliament.

This year the Union may struggle to pick a first-class team of leaders. Over the next five years, the EU faces serious divisions over the future of its financial framework, immigration, the rule of law and tax reform. It will continue to be plagued by the British problem. The euro

remains at risk of financial instability. Its neighbourhood, in the shape of Putin and Erdogan, continues to be threatening, and the transatlantic alliance is in jeopardy. In these circumstances, it will become easier to make the case for constitutional change.

The objective of the Spinelli Group is to endow the governance of the European Union with credible and democratic leadership. By streamlining the functions of government and by clarifying how the EU is run, the next round of reform must strive to bring a sense of constitutional settlement. The Union cannot allow itself to be intimidated by nationalist forces that reject its values and purpose. Inaction is the worst way to counter the risk of disintegration. Our states, citizens and institutions will rise to 'Challenge Europe' only when they succeed in building a well-governed federal union. There is no sterner test for liberal democracy in Europe.

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<sup>1</sup> The EU's constitutional order has been built mainly on the Treaties of Paris (1951), Rome (1957), Schengen (1985), Single Act (1986), Maastricht (1992), Amsterdam (1997), Nice (2001), and Lisbon (2007). Important treaties failed to be ratified in 1954 and 2005.

<sup>2</sup> *Manifesto for the Future of Europe: A shared destiny*, September 2018, is available in EN, FR, DE and PO on [www.spinelligroup.eu](http://www.spinelligroup.eu). The Spinelli Group brings together federalists on a cross-party basis in the European Parliament and Committee of the Regions. Its aim is to work by stages towards a federal union of Europe based on the values of liberal democracy, solidarity and the rule of law.





► Pro-EU activists are seen covered with an EU flag during a "Pulse of Europe" rally outside the Cathedral in Cologne, western Germany, on 23 April 2017.  
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# Re-unite EUrope: A shared Leitmotiv for the next EU leadership

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**MAIN RECOMMENDATION** ▶ Introduce a new, shared *Leitmotiv* that will help to 'Re-unite EUrope' at both the European and national level.

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**WHAT TO DO:**

- ▶ Need for a win-win package deal to counter fragmentation and distrust.
  - ▶ Counter polarisation within EU countries.
  - ▶ Allow for more differentiation but no 'core Europe'.
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As the European Union (EU) is entering a new politico-institutional cycle, it is the right moment to take a step back and reflect on the current state of and prospects for European integration. The EU's record over the past decade is somewhat mixed and it is highly difficult to predict its future path given the many uncertainties inside and outside Europe. One thing that is certain is that the Union and its members will face two fundamental, structural challenges in the coming years: a high degree of fragmentation between countries and a high level of polarisation within national societies. To counter these challenges, which will strongly affect the ability of EU institutions and member states to deal with future internal as well as external turbulences, the Union's new leadership should follow a shared Leitmotiv aiming to help *Re-unite EUrope* at both the European and national level.

**The Union and its members will face two fundamental, structural challenges in the coming years: a high degree of fragmentation between countries and a high level of polarisation within national societies.**

# State of the Union – A tale of two narratives

At the end of the current cycle, one can tell two very different narratives about the state of the Union. Both accounts are valid, and it is unclear which path the EU will take in future.

On the one side, there is a positive and optimistic view of the state of affairs, characterised by the following features:

- ▶ High level of resilience: despite all the turmoil of recent years, the EU has survived multiple crises since 2008 and has been able to resist the many forces of disintegration pulling at the Union and its members since 2008. Many prophets of doom predicted the Union's collapse – they have been proved wrong on each and every occasion.
- ▶ Long-standing positive economic development: the EU and the euro area have collectively witnessed more than five years of continuous economic growth. This growth is less credit-fuelled and thus more sustainable compared to the period before the outbreak of the financial and economic crisis – although the exceptional countermeasures taken by governments and central banks could still backfire and fuel an economic downturn or another financial crisis.
- ▶ Substantial reforms and progress: the EU and its members have achieved progress that would have been unfeasible before the onset of the poly-crisis. Yes, the responses have often been slow, insufficient and sometimes ill-advised. But the EU and its members have individually and collectively made remarkable progress and, at times, painful adjustments in response to the severe challenges they faced in the past decade.

▶ High degree of unity: the EU has, on many occasions in recent years, been remarkably united. This is particularly true in the case of Brexit, with respect to maintaining consensus on the economic sanctions against Russia, or regarding the Union's collective response to President Trump, where the Union has delivered a unified message to the rest of the world that it is ready to defend the rules-based multilateral system. All this was by no means a given.

▶ Increasing public support: a growing number of citizens are in favour of their country's EU membership. People believe that the 'costs of non-Europe' would be very high and a clear majority wants their country to remain in the EU and the euro – and their numbers have grown since the Brexit vote in 2016. Nobody wants to move towards a cliff edge without a parachute.

All the above points are a testament to the Union's positive track record in recent years. However, this is only one side of the coin. There is also a much more negative and gloomier story characterised by another set of key features:

▶ Fragmentation and distrust: first and foremost, the levels of fragmentation and distrust have in the past decade increased significantly among member states and between national capitals and 'Brussels'. This is not a new phenomenon. But it is increasingly becoming a core element of Europe's integration narrative. The notion is spreading that the Union is not able to overcome the structural differences and fundamental schisms dividing EU countries and citizens. Mutual accusations of a lack of solidarity have deepened the divisions and eroded trust among member states.



European integration is no longer perceived as a win-win exercise from which all EU countries and their citizens profit. There are serious doubts about the Union's added value, with a palpable feeling in many countries that European integration is no longer a positive-sum project. These divisions do not only affect political elites, but also societies as a whole, with an unprecedented resurgence of national stereotyping, historical resentments and a damaging blame game. This is clearly one of the biggest collateral damages caused by the poly-crisis – and it will haunt the EU and its member for years to come.

► **Inability to achieve structural reforms in key areas:** the EU27 has not been able to make sufficient progress in crucial areas of integration. In late 2017, there was hope that the sense of optimism that had spread after the French and German elections would spark new reform momentum. Some thought the time had come to “re-energise Europe”. But the EU27 were not able to exploit that window of opportunity. Nobody knows when it will re-open. As a result, the EU runs the risk that its defences will be too weak to weather future storms – and new turbulences will occur, although we do not know when, where and how they will hit us.

► Living on ‘different planets’: policymakers, experts and the wider public assess the state of the Union and the root causes, nature and gravity of the multiple crises the EU and its members have faced in very different ways. At times, it seems as if Europeans are almost ‘living on different planets’: they do not share the same analysis, let alone agree on the remedy. This widening divergence of perceptions makes it much harder to forge compromises and implement joint actions and structural reforms.

► High degree of economic divergence and rising inequalities: there is a widening economic gap between and within EU countries. While some countries have managed to weather the financial and economic storm, many others are still struggling. Living standards and social conditions vary significantly across Europe, both between and within countries. Real and perceived social divisions have widened. There is a growing sense of social injustice, which has fuelled indignation, despair and even anger in many parts of society. National societies are seeking a new socio-economic balance – but struggle to reach a new equilibrium, which in return has led to a high level of political and societal volatility in the EU27. All this undermines traditional social contracts and may even endanger social peace within countries and between generations (see also the piece by Claire Dhéret in this volume).

► Europe's uncertain global role: the Union and its members struggle to (re-)define Europe's role in a more challenging

**The notion is spreading that the Union is not able to overcome the structural differences and fundamental schisms dividing EU countries and citizens.**

**Europeans are almost ‘living on different planets’: they do not share the same analysis, let alone agree on the remedy.**

**Populism is a phenomenon, and not the source of the problems facing open liberal democracies in Europe and beyond.**



international environment. It is unclear whether the EU will be willing and able to play in the top league of global shaping powers. Major power shifts are under way and there is a serious risk that Sino-American competition will emerge as one of the main features of international affairs, with Europeans and others exposed to the shockwaves (see the contribution of Giovanni Grevi). There is a growing sense of urgency and awareness that Europeans have to assume more responsibility for their own security both at the regional and global level. But despite all the commitments expressed in public speeches, strategy papers and joint communiqués, the EU27 struggle to fulfil the expectations they have raised with respect to the Union's future role as a comprehensive and credible security provider. Sunday speeches are not met in Monday's reality.

► Persistent threats to liberal democracy and the rule of law: last but certainly not least, authoritarian populists are threatening or even actively undermining the fundamental pillars of our open, liberal democracies. Illiberal democracy has been on the rise for some time and the 'populist surge' continues in many EU countries. But this is not just a European phenomenon, and there is much more at stake than the EU – it is about the future of our societies and democracies.

The Union is much more vulnerable than other political entities given that it is not as consolidated as mature nation states. Like any other organisation, the EU is not perfect, and it is a sign of increasing maturity that today's Union is being scrutinised much more than it was 20 or 30 years ago. But on many occasions, criticism towards the European project does not aim to move things forward constructively. The EU has become a popular punching bag, with many anti-EU, anti-euro and anti-migration forces using their opposition to the Union as a vehicle to achieve their ultimate objective: to strengthen their position at home. They

use fierce criticism of the EU to enhance their political influence and power at the national level.

But the underlying challenges are real: the populist surge did not come out of the blue, and it will stay with us for some time to come. It is the result of deeply rooted political, socio-economic, and societal challenges questioning the prevailing order. Populism is a phenomenon, and not the source of the problems facing open liberal democracies in Europe and beyond. Populists are successful when they can tap into people's grievances, insecurities and fears about the future, when citizens are deeply frustrated with those who have been in power, and when they are dissatisfied with the existing state of (representative) democracy (see also the contribution by Corina Stratulat and Paul Butcher in this volume).

Populists are most successful when societies are split, when they can exploit divisions by using an 'us versus them' logic in a strongly polarised political and societal environment. Polarisation is part of their political DNA, and they will do their utmost to nourish divisions within and between member states. They are dividers who actively oppose the notion of a pluralist society, portraying themselves as the champions and defenders of the 'ordinary, pure people' against the 'corrupt elite'. They want to establish 'homogeneous' societies and revert to 'national actions' to protect 'their people', although this makes no sense in a world that has long outstripped the confines of closed national frontiers. Their criticism of today's state of affairs often point in the right direction, but their proposed solutions are in most cases simplistic and flawed.

## Battle of (split) camps

Both the positive and negative narrative are valid interpretations of the current state of the Union. The truth lies somewhere in the middle, and it is unclear which path the EU will follow in the next politico-institutional cycle. No doubt, today's situation is much better than it was at the height of the poly-crisis. But it is still not certain that the 'iron law' of European integration, i.e. that the EU always emerges stronger from a crisis, will prove itself again. The final verdict is still out, and future historians might eventually tell us that Europe's poly-crisis lasted much longer than we originally thought.

So, what will affect the Union's future direction, and which *Leitmotiv* (guiding principle and theme) should direct the next EU leadership in light of the above-described tale of two narratives and uncertainties ahead?

At the European level (and besides Brexit (see the piece by Larissa Brunner and Fabian Zuleeg)), the European Parliament (EP) elections dominated the first half of 2019. The second semester will focus on the (s)election of a new EU leadership and the need to agree on the Union's strategic agenda and priorities for the next five years. This will be no easy exercise.

In the run-up to the European elections, we have witnessed an increasing 'battle of (split) camps', which is likely to affect the Union in the years to come. On the one hand, there is a growing confrontation between those who wish to push Europe towards a more illiberal, nationalistic and closed direction and those who want to defend the values and principles of an open and pluralist society. On the other hand, there is also an escalating struggle within the liberal and illiberal camps that will not be resolved in the foreseeable future.

The homogeneity in the liberal camp is under pressure for three main reasons. First, its protagonists pursue different political strategies and recipes on how to deal with the so-called populists. Some want to ban and stigmatise the 'anti-forces', while others believe that the best way to cope with the 'populists' is to contain them by integrating them into the political machinery at national and/or European level. We already see both tactics at play, and it is not clear which will be more successful at the end of the day. Second, liberal forces disagree on the necessary policy responses at EU level to counter the populist phenomenon. Some, like President Macron, believe that EU countries should deepen integration in key areas (like EMU) to be able to defend the Union and its members from the 'populist threat'. But others in the liberal camp are much more cautious when it comes to a further pooling of sovereignty – they have even formed (negative) coalitions to prevent a further deepening. Third, we are witnessing an increasing clash within the liberal camp about who shall lead the political fight against the illiberal anti-forces. This split is not likely to disappear after the EP elections – it will rather increase the divisions in the liberal camp.

The illiberal camp is similarly split for a number of reasons. First, like on the liberal side, its protagonists quarrel over who should lead the charge for anti-EU, anti-euro and anti-migration forces. Matteo Salvini and Victor Órban are the two most prominent figures at European level. However, they follow different strategies vis-à-vis the 'old establishment' and neither wants to subordinate himself to the other. Second, these anti-forces subscribe to different policy recipes in key areas such as migration, especially concerning the solidarity dimension between member states. Third, their nationalistic focus is

another source of division. Their ‘my-country-comes-first’ attitude might strengthen them at home, but it makes it more difficult for them to form stable coalitions at European level, even though they know that they could collectively profit from a higher level of cooperation and strengthen their claim that they can change the EU from within if they do well in the EP elections.

This battle of (split) camps will further increase political divides in Europe. One cannot predict how this will affect actual policy choices in the years to come. What is certain is that the overall atmosphere between and within member states will not make EU business any easier in the next politico-institutional cycle, neither at the European nor the national level. Chances are high that it will amplify the level of fragmentation and distrust and thus limit the Union’s ability to come up with proactive policy responses to the manifold internal and external challenges the EU27 will face in the years to come.

**It is still not certain that the ‘iron law’ of European integration, i.e. that the EU always emerges stronger from a crisis, will prove itself again.**

**The overall atmosphere between and within member states will not make EU business any easier in the next politico-institutional cycle.**

**There is a need to counter the increasing divisions between member states and the growing divisions within national societies.**

## **A shared Leitmotiv – Re-unite EUrope**

But what does all this mean for the period after the EP elections? What should be the guiding principle when EU leaders define and implement the Union’s strategic agenda and future priorities for 2019-2024?

Two words should become the shared Leitmotiv of the next EU leadership: **Re-unite EUrope**.

There is a need to counter the increasing divisions between member states and the growing divisions within national societies. The level of fragmentation between member states, national capitals and national societies as well as the degree of polarisation within societies are already a cause for great concern, and chances are high that they will increase in the next politico-institutional cycle.

A collective commitment to Re-unite EUrope both at the EU and the national level should guide the ambitions and concrete work of the next (President of the) European Commission, the next President of the European Council, the next (President of the) European Parliament, and the next President of the European Central Bank. Cooperation between the next European Council and European Commission Presidents will be particularly important: continuous coordination and

collaboration across Rue de la Loi based on mutual trust and following a shared Leitmotiv in an increasingly divided Union will be crucial to progress at EU level (see also Poul Skytte Christoffersen's contribution in the present volume).

But agreeing on a shared Leitmotiv in abstract terms will not be enough. The ambition to Re-unite EUrope needs to be reflected in the definition and implementation of the Union's strategic agenda and the Commission's strategic priorities for 2019-2024.

This is no simple exercise: there is no 'silver bullet', no one magic thing that can be done to counter the forces of fragmentation between member states and the forces of polarisation within countries. But three key elements could provide an overall sense of direction for the journey aiming to Re-unite EUrope at different levels of policymaking:

► Need for a win-win package deal to counter fragmentation and distrust: Yes, the EU27 missed the last window of opportunity to re-energise Europe after the last French and German elections. However, the fact that things did not work out in 2017/2018 does not mean that one should not attempt to give it another try in the next politico-institutional cycle. The underlying logic will continue to apply: substantial progress in critical areas of European cooperation and integration will only be possible if EU institutions and national capitals have the political courage and will to elaborate and implement a win-win package deal.

Cooperation and compromises between Paris and Berlin will be decisive and indispensable in this respect – not against but with all those who are ready to form constructive reform coalitions. Obstructing a Franco-German understanding will be detrimental to the Union's future and is thus not in the interest of all those who say that they cherish and support European cooperation and integration.

For years now, the EU and its members are struggling to overcome blockages in crucial policy areas. Future attempts to reach significant compromises on EMU reform (see George Pagoulatos' contribution) or the future of EU migration and asylum policies (see Marie De Somer's and Evangelia (Lilian) Tsourdi's contribution) will only succeed if the EU27 can agree on an ambitious but pragmatic win-win package deal. A compromise that reflects the interests and considerations of all EU countries is necessary to (i) make the Union 'storm-proof', (ii) restore trust among member states and between national capitals and EU institutions, and (iii) (further) foster citizens' confidence in the Union. Aiming for a pro-active strategy is wiser than waiting for the eruption of another fundamental crisis to overcome national hesitations and reservations. Playing with fire is risky, especially if the collateral damage caused by previous crises still looms large.

► Counter polarisation within EU countries: The Union's next strategic agenda and the Commission's strategic priorities should reflect the aim to provide added value to counter the increasing polarisation within national societies. Divided societies are the fertile ground on which authoritarian populists thrive and they are already the source of many tensions or even crises at the national level, with adverse effects on the functioning of the Union.

To fight the danger of a more regressive, nationalistic, closed, illiberal and authoritarian Europe, the EU should address the fundamental factors fuelling the threats linked to an increasing polarisation of our societies. EU policies and the next Multiannual Financial Framework (MFF) (see Annika Hedberg's piece) should be guided by an ambition to help reduce the dividing lines between the (potential) 'winners and losers' of change in an age of massive transformation in all spheres of economic, social and political life.

To support this aim, the Union's strategic agenda and priorities should address the multiple insecurities felt by citizens:

- ▶ socio-economic insecurities and rising inequalities, with a growing number of people doubting that the economic benefits of globalisation are equally shared and believing they benefit only some privileged ranks of society (see Claire Dhéret's contribution);
- ▶ cultural and societal insecurities, with a growing number of people fearing that traditional values, norms and benefits are being eroded, prompting concerns about identity even among people who do not (fear to) feel the negative economic consequences of globalisation;
- ▶ generational insecurities, with a widening gap between generations in terms of current wealth and prospects as many young Europeans feel doomed to be part of a 'lost generation';
- ▶ technological insecurities, with large segments of society feeling that they are being left behind by technological developments and disruptions which they see as a risk rather than an opportunity from which they can profit in their personal and professional lives;
- ▶ and security insecurities linked to both internal and external threats related to terrorism, organized crime, regional instabilities (see Dimitar Benchev's piece), climate change, and increasing geopolitical tensions, especially in the EU's relationship with key strategic partners, including, first and foremost, the US and China (see Giovanni Grevi's contribution).

The next strategic agenda and priorities should aim to address all these insecurities to help counter the polarisation within the EU27. However, as long as the Union and its members are not willing and able to make a federal leap including, ultimately, treaty change (along the lines proposed in Andrew

Duff's contribution), one should not forget that the means to reduce the different sources of insecurity lie predominantly at the national level. It is thus primarily the responsibility of national actors to address them.

The EU certainly has a role to play in protecting its citizens from the above-listed insecurities, given the transnational character of the challenges facing Europe. However, the Union's next leadership team should be careful not to overburden the European level, given its limitations in terms of power, competences, and financial means – the Union must avoid falling into a 'capability-expectations trap'. The EU can provide added value in crucial areas, it can become "une Europe qui protégé" (see also Herman Van Rompuy's preface), but it cannot compensate for deficiencies at the national level, and it cannot, on its own, solve today's complex problems. The old narrative that what cannot be solved at the national level should be tackled at the European level needs to be refined, as this asks too much of an EU whose competences and powers remain constrained.

In the coming politico-institutional cycle, the Union should, therefore, concentrate on implementing initiatives in areas where it can make a tangible difference. It should listen and take the concerns expressed by European citizens seriously (see also the piece by Corina Stratulat and Paul Butcher). But the EU27 should apply a 'delivery filter' to scrutinise all new EU initiatives. It is not about 'less Europe', but rather about a more effective, realistic and credible EU. 'Gesture politics' – measures designed merely to show the EU is doing something – should be avoided, as a failure to actually implement policies raises valid criticism of the Union.

- ▶ More differentiation but no 'core Europe': progress at EU level will also in the coming years require a higher level of differentiated integration (see also Julian Rappold's contribution). Diverse groups of member states will have to intensify cooperation

in specific policy fields to move beyond the lowest common denominator. Enhanced collaboration in the defence field (within the framework of PESCO and beyond (see Jamie Shea's contribution)) or with respect to certain aspects of migration management must not always involve all EU countries; and further boosting the resilience of the euro will require deeper cooperation and integration among the countries that have already joined the common currency. Differentiation will also be necessary to tie non-EU countries closer to the Union beneath the level of full and unlimited EU membership while respecting the exclusive prerogatives of those who are members of the 'club'.

However, multiple speeds should be the exception, unity the rule. Higher levels of differentiated integration should not lead to the creation of a closed 'core Europe' (*Kerneuropa*) involving only a limited number of EU countries and actively excluding others. The establishment of an institutionalised 'two-tier' Europe with diverse classes of membership is neither likely nor desirable. It should not be the guiding principle steering the way towards a more differentiated Europe. It could fuel a deep rift in Europe between those who are part of the core and those who are not. For good reasons, differentiated integration has not, in the past, led to an institutionalised core, i.e. a small, coherent group of countries forming an exclusive *avant-garde* and distinguishing themselves from other member states.

Differentiation has been, is and will remain an indispensable feature of the European construction. At times, variable geometry has been and will be the only way forward. However, a higher level of differentiated integration is no magic potion and should not be considered an end in itself. It should instead be guided by functional and pragmatic needs, and the willingness of some to progress in specific areas to overcome stalemates in a bigger, more heterogeneous and more complex EU.

Europe's future will to a large extent depend on the ability of the European Union – including both its institutions and member states – to help counter the sources of fragmentation and polarisation which haunt it. That is why the EU's new leadership should follow a shared *Leitmotiv* aiming to Re-unite Europe at both the European and national level. This will be no easy exercise. 'EU business' will not become simple or straightforward in the aftermath of the EP elections and in the course of the next politico-institutional cycle, neither in Brussels nor in national capitals. However, trying to move things forward while having a compass indicating the EU's future direction is still worth trying for the sake of current and future generations. At the end of the day, there is no better alternative than to continuously work on the European construction – even if this has been and will continue to be a cumbersome exercise full of ups and downs.

**The ambition to Re-unite Europe needs to be reflected in the definition and implementation of the Union's strategic agenda and the Commission's strategic priorities for 2019-2024.**

**Substantial progress in critical areas of European cooperation and integration will only be possible if EU institutions and national capitals have the political courage and will to elaborate and implement a win-win package deal.**

**Multiple speeds should be the exception, unity the rule. Higher levels of differentiated integration should not lead to the creation of a closed 'core Europe' (*Kerneuropa*).**





# YES Lab



From left to right: Mia Forbes Pirie (facilitator), Johannes Weiss (EPC), Julian Rappold (EPC), Nitin Sood, Fridolin Firsching, Argyri Kaouaki, Albert Meijer, Julia Czaban, Mihails Kozlovs, Constanze Jeitler, Benjamin Wilhelm, Selina Adedeji Morton, Doris Manu, Anja Crusius, Kawthar Karout, Johannes Greubel (EPC), not in the picture: David Timis.

In February 2019, the European Policy Centre (EPC) brought together a selected group of thirteen young Europeans in Brussels in the framework of the Younger European Strategy Lab (YES Lab). The group discussed the most pressing challenges for the European Union (EU) ahead of the European elections in May 2019 and identified key priorities for the new EU leadership in the next five years. The participants of YES Lab come from ten different member states from all across Europe, and make up a diverse group in terms of social backgrounds, gender, ethnicity, and age. The group consists of alumni of the EPC's FutureLab Europe programme, and of its foundation partners, Stiftung Mercator, Evens Foundation, and Allianz Kulturstiftung, as well as from the idea competition "Why should I care", which the EPC carried out before the 2014 European elections. The FutureLab Europe programme, which was supported by a consortium of European foundations, was a network of young European professionals and activists implementing civic projects throughout Europe.

# Our vision: Europe, a beacon of sustainability

**YES Lab:** Anja Crusius, Julia Czaban, Fridolin Firsching, Constanze Jeitler, Argyri Kaoukaki, Kawthar Karout, Mihails Kozlovs, Doris Manu, Albert Meijer, Selina Adedeji Mortoni, Mia Forbes Pirie, Nitin Sood, David Timis and Benjamin Wilhelm

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**MAIN RECOMMENDATION** ► The EU needs to become a beacon of sustainability, a place that respects the rights, livelihood and environment for all its citizens, both now and in the future.

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## WHAT TO DO:

- Adopt a comprehensive policy package to tackle the climate crisis, including measures regarding energy and transport, agriculture and food and circular economy.
  - Counter inequality through tax reform and stronger social policies at the EU level.
  - Take effective measures against discrimination of women and minorities in its member states by adopting legislations and appointing an own vice-president of the Commission on human rights.
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On 20 August 2018, Greta Thunberg's seat in her Stockholm high school remained empty. She was not on holiday. She was not sick. She had just decided to go on a 'climate strike' in front of the Swedish *Riksdag*, every day until the Swedish general elections in September 2018. She has gone on strike each Friday ever since. What started out as an individual protest grew into an international youth movement with thousands of protesters in over 20 countries around the world.

Climate change is not the only cause for which Europeans have rallied in demonstrations recently. Women's marches, protests against corruption and human rights abuses, the *gilets jaunes*, those protesting social and economic inequality – it has been busy on the streets of Europe.

We, as younger Europeans, need to make our voices heard. This is why we, the participants of the YES Lab met in February 2019 in Brussels, to formulate what we think the next EU leadership should pursue in the coming politico-institutional cycle. Although there is some diversity in the group in terms of nationality, gender, age, ethnicity, religion, and sexual identity,

**We want the Union to become a beacon of sustainability, a place that respects the rights and livelihoods of all its citizens, and the environment, both now and in the future.**

we do not claim to represent *all* young Europeans. However, our discussions were informed not only by our own experiences but also by the increasing fragmentation between and the polarisation within European societies, exemplified by the protests we see taking place all over Europe.

Inspired by the rise in political activism of a new generation of Europeans, we are presenting our vision for the future EU. We want the Union to become a beacon of sustainability, a place that respects the rights and livelihoods of all its citizens, and the environment, both now and in the future. In the coming years, we want the EU to take action in three areas connected

to building a strong, stable and sustainable European community. While many different themes are important to younger Europeans, we choose to focus on the ones that we think are vital in making the EU a beacon of sustainability: climate change, economic inequality and human rights.

These topics deserve urgent attention in the 2019 European elections, the definition of the Union's strategic agenda and priorities for 2019-2024, the formation of the next European Commission, and the 2021-2027 Multiannual Financial Framework (MFF). The choices that will be made over the next five years will determine the future of our generation and those to come.

## 1. A comprehensive policy package to tackle the climate crisis

The house is on fire. Environment-related risks have been dominating the World Economic Forum's ranking since 2016. Global temperature has reached new records, prompting extreme weather events across the continent and beyond. Moreover, climate change has contributed to changing migration patterns, which is affecting the EU. In response to political inaction, hundreds of thousands of young Europeans flood the streets every week to rightly warn of a betrayed generation, urge policymakers to curb emissions and demand drastic measures. To help tackle the climate crisis, we want the new EU leadership to pursue changes in three particular areas: energy and transport; agriculture and food; and the circular economy.

### ENERGY AND TRANSPORT

► Accelerating decarbonisation: emitting 1,000 kg of CO<sub>2</sub> currently costs less than a

monthly public transport ticket.<sup>1</sup> The OECD recommends tightening allowances to reach €60 per tonne of CO<sub>2</sub> by 2020.<sup>2</sup> However, returning to a path where temperatures do not rise above 1.5°C requires binding "Maastricht criteria" for emissions, which urge member states to stay within their greenhouse gas budgets, in addition to the 3% budget deficit.

► Subsidising solidarity: European member states sponsor fossil fuels for an amount of over €100 billion a year.<sup>3</sup> They should heed the Commission's calls to stop environmentally harmful subsidies by 2020. Part of the money that is saved should go to a new environmental disaster fund that supports member states when climate change-related disasters strike. The other part should fund regional innovation clusters for research on clean energy, electrification, grids and storage solutions. Investments in storage and grid interconnection are especially needed for a

successful transition and should be supported by building on the 2017 Commission Staff Working Document ‘Energy storage – the role of electricity’.

► **Prioritising clean infrastructure:** as long as train tickets cost more than taking the plane and Europe spends more on gas routes than on grids, a sustainable future remains a pipe dream. EU policymakers can nudge governments in the right direction by subsidising and fast-tracking modes of transportation and transmission powered by clean energy.

## **AGRICULTURE AND FOOD**

► **Planting prosperity:** the Common Agricultural Policy (CAP) has been a key pillar of European cooperation in the past six decades. But if Europe wants to be more efficient in the 21<sup>st</sup> century, the next European Commissioner responsible for agriculture should aim towards a shift from animal husbandry to plant-based programmes with a shorter supply chain and smaller carbon footprint.<sup>4</sup>

► **Greening subsidies:** today, 80% of CAP subsidies go to 20% of Europe’s farms.<sup>5</sup> The MFF negotiations provide a window of opportunity to boost small businesses and move even further away from hectare-based payments to funding linked to socio-economic and environmental criteria. Moreover, allocated funds should foster regional and seasonal farming to support sustainable regional food supply, instead of exporting cheap meat and dairy products.

## **CIRCULAR ECONOMY**

► **Procuring responsibly:** defining green public procurement criteria for 20 product groups can only be a first step. Similar to the Netherlands, the EU should aim to raise the proportion of circular procurement to 10% by 2020 to unleash the multiple benefits the European Commission has identified.<sup>6</sup>

► **Modern recycling:** whereas Europe’s construction sector recycles 89% of its used materials, the rate is disappointing when one looks at plastic (42%) or e-waste (41%).<sup>7</sup> Valuable, finite materials must not go to waste if Europe wants to champion sustainability. Initiatives on furthering landfill mining and trading recyclable raw materials would bolster the Circular Economy Action Plan.

► **Promoting zero waste:** EU policies have to ensure a sustainable production cycle from cradle to cradle. The planned

**If we manage to connect underdeveloped EU regions with the most developed regions and promote intellectual and physical exchange between them, then we most certainly will be able to create a much more cohesive EU.**

**Europeans would ultimately benefit from the increased revenues that digital taxation would generate. More money could be spent on housing, education, health and infrastructure, thereby reducing inequality at the national level, too.**

**Policies should be focused on creating opportunities for young people to enter the labour market in their own country first so that they will not be forced to move.**



**Many roadblocks are still present in the field of human rights, minority rights and with respect to women's discrimination.**

**The Union has not paid enough attention to secure the rights of marginalised groups in European societies.**

**To implement the protection and strengthening of minority rights horizontally, across different policy areas, the next Commission should appoint a vice-president responsible for human rights.**

**Normalising discrimination of both women and minorities is a serious problem that leads to the creation of a future generation that does not understand the dangers of having an unequal society.**

ban on single-use plastic is a step in the right direction. A consistent carrot and stick approach would increase the chance of accomplishing the mission. Regions and municipal applicants should only benefit from European Structural and Investment Funds if they have submitted a zero-waste plan that considers the full life cycle of products.

## 2. Countering inequalities

Economic divergence is growing, leading to inequality and development discrepancies within and between EU member states. Dealing with this issue is extremely important as it fuels polarisation within European societies and the fragmentation between member states. This jeopardises the common European project as such, because it contributes to EU scepticism and ultimately to a dysfunctional European Union.

### ACHIEVING COHESION

EU cohesion policy is fundamental for the Union's prosperous future. Policy implementation was meant to support the overall development of its member states and regions by reducing economic and infrastructure disparities. Despite spending €350 billion on cohesion policy over the past five years<sup>8</sup>, many citizens are unaware of the EU investments in their regions. The EU should thus better communicate its cohesion policy efforts and successes to the wider public.

However, at the same time, the EU's self-congratulatory assessment about the decrease of disparities between the regions seems to be out of place, as the Gini index, which measures the extent to which the distribution of income within a country deviates from a perfectly equal distribution, still varies significantly between member states – its value in 2013 ranged from 0.25 (in Slovenia, Sweden and the Czech Republic) to 0.35 (in Bulgaria, Cyprus and the Baltic states). Even though many suggest that the Gini index shows a positive picture, reflecting high European standards and high levels of equality within the EU, we believe that measuring by the average is not adequate when dealing with equality issues. We do not want the reality of cohesion to be hidden in average characteristics and we believe that median results paint a more detailed and honest picture. For example, the average wage in Latvia is more than €1,000; however, if one takes a closer look at some Latvian regions, the average wage is at least 40% less than

that. Similarly, many other EU regions are lagging behind. The south of Italy and the eastern parts of Germany are also very clear examples of European regions that are not doing so well when compared to national averages.

We believe that cohesion should be promoted and measured not only by putting EU resources into regions that are lagging behind, but also by enhancing the links and cooperation between member states. Societal cohesion in Europe can be further developed by existing exchange programmes, like Erasmus for students and young start-ups. Right now, these international programmes are lacking analysis of existing trends, strategic planning and clear direction setting. If we manage to connect underdeveloped EU regions with the most developed regions and promote intellectual and physical exchange between them, then we most certainly will be able to create a much more cohesive EU.

### **FAIR TAXATION AND ANTI-MONEY LAUNDERING ACTION**

Economic inequality between EU citizens and among EU member states is also the result of flawed and ineffective tax policies. In the EU, tax fraud, tax evasion and deals between corporations and tax authorities cost citizens €1 trillion each year.<sup>9</sup> Huge amounts of money are hidden in tax havens.

Building on the existing work of the European Parliament on Financial Crimes, Tax Evasion and Tax Avoidance<sup>10</sup> the EU should, as a matter of priority, focus on overhauling the system for dealing with tax evasion and avoidance; as well as on phasing out golden visas and passports and tax havens within the Union.

The comparative advantage some EU countries have over others when it comes to corporate taxes should be removed. Last,

but not least, the unanimity requirement on tax issues in the Council should be changed to qualified majority voting.

Member states should also adopt the Commission's legislative proposals on the Fair Taxation of the Digital Economy that would result in a fairer taxation of corporate digital activities in the EU. No state should be allowed to veto proposals for tax reforms at the European level, as this fuels a race to the bottom, whereby all countries try to attract investment from the digital sector by exempting companies from paying tax on profit or activities. Europeans would ultimately benefit from the increased revenues that digital taxation would generate. More money could be spent on housing, education, health and infrastructure, thereby reducing inequality at the national level, too.

### **EU UNEMPLOYMENT SUPPORT**

In January 2019, 16.222 million men and women in the 28 EU member states were unemployed. Of these, 3.38 million were young people under 25. Among the member states, the lowest unemployment rates in January 2019 were recorded in Central Europe (Czech Republic 2.1%; Germany 3.2%), while the highest unemployment rates were observed in Southern Europe (Greece 18.5% (in November 2018); Spain 14.1%; Italy 10.5%).

We are witnessing high levels of internal economic migration, from member states that face economic and social problems towards countries with stronger economies. Frequently, those who move abroad are young and highly-qualified citizens. They make use of the possibilities of moving to and working freely in another EU country. This possibility can be a solution to their personal hardship but many of them feel that they were forced to leave their countries due to bad economic and social circumstances.

In addition, as the number of those leaving is continuously growing, the resulting 'brain drain' hampers the economic catching-up process in these countries and fuels a feeling of unequal opportunities for youth across the Union.

The EU should tackle this issue by designing policies which will allow for more cohesion

within the EU. Policies should be focused on creating opportunities for young people to enter the labour market in their own country first so that they will not be forced to move. The Union should enhance programmes aimed at reducing youth unemployment by giving young people more opportunities to acquire professional experience in their home country.

## 3. Promotion of human rights

Many roadblocks are still present in the field of human rights, minority rights and with respect to women's discrimination. Policies that could address these issues do not exist, and if they do, they might not tackle the problem in all its aspects or are viewed as being of secondary importance in decision-making.

### ENHANCING WOMEN'S RIGHTS

Women are still discriminated in the EU. The inequality between men and women is reflected in a major pay gap. On average, for each €1 that a male counterpart makes, women with the same degree and level of experience are, on average, only paid around €0,84.<sup>12</sup>

No EU-wide policies are currently in place that aim to effectively promote income equality. Under-representation of women in many professions, particularly in STEM fields, as well as in the realm of politics<sup>13</sup> is another example of women's discrimination. This is also reflected in the composition of EU institutions, including the Commission college and the cabinets of Commissioners. Furthermore, even the simplest and most basic rights, such as sexual and reproductive health rights, are contested in parts of Europe, for example when it comes to abortion rights in Italy

or Poland. Finally, even today, European women today still have to deal with sexual harassment, rape and domestic violence.

To address these challenges, the next EU leadership should aim to initiate new projects, grants, and scholarship programmes supporting women in science and women's achievements in the scientific and public environment. This should be adequately reflected in the next MFF. The EU should also take steps aiming to prolong paternity leave, reduce the gender pay gap and promote human rights, not only abroad but also within member states. Women still spend more time on housework and child-rearing than their male partners, so a gender-sensitive budget should be implemented and employee rights related to parenthood should be progressively balanced in an effort to ensure that working women will not be disadvantaged.

### STRENGTHENING THE RIGHTS OF MINORITIES

The European Union Agency for Fundamental Rights has recognised that minorities (including ethnic, religious, sexual and gender minorities as well as disabled people) continue to face widespread discrimination across the EU and in all areas of life. Indeed, the

Union has not paid enough attention to secure the rights of marginalised groups in European societies. Minorities, in particular ethnic and religious minorities who are not white or seen as ‘European’ are often used as scapegoats to fuel divisions between “us” and “them”. Furthermore, migrants and Europeans who are not white are instrumentalised to distract from actual issues such as social injustices, corruption or mismanagement of the economy. This trend is witnessed across the EU, not just in countries like Hungary or Poland, whose current governments have most evidently disrupted the very foundations on which the European Union is built, undermining the rule of law, basic human rights and fundamental values in their country. The Danish government, for example, wants to pass laws that in fact label certain areas with a high immigrant population as ‘ghettos’, which will be subject to harsher laws<sup>14</sup>.

Minorities and migrants tend to generally only succeed in society if they adapt to a predominantly white, heterosexual and male ideal. Minorities and migrants still experience discrimination and are often targets of hate speech, both in the real and virtual world. They are on many occasions treated unequally and do not have the same opportunities in finding jobs and housing.

Over the next five years, to implement the protection and strengthening of minority rights horizontally, across different policy areas, the next Commission should appoint a vice-president responsible for human rights. This vice-president should work towards incorporating the protection of minorities’ rights in all policy fields.

Legislation is important but as long as ignorance and intolerant attitudes linger, then prejudice, discrimination and inequalities will continue to be part of our societies. The lack of equality and diversity lessons in European education programmes encourages the negative influences of social media, adults and peers. Normalising discrimination of both women and minorities is a serious problem that leads to the creation of a future generation that does not understand the dangers of having an unequal society. Many schools and universities have started with “equality weeks” aiming to raise the awareness regarding the different topics of equality. Especially with people moving to new cultures and migrant students being thrown into a new reality, a good inclusive educational system is crucial for these people to be able to integrate and be accepted as constituent parts of Europe’s young generation, and thus of its future.

**We, as younger Europeans, see that there is still a lot to be done if we want a bright and sustainable future for the EU.**

**Despite all its weaknesses, we love to call Europe our home, and we think the foundation for that home as laid down in the Treaties is sound.**

**If the EU really is “United in Diversity”, then it needs to safeguard those elements in society that make it diverse, take action to prevent diversity from being a hollow term, and truly ensure equal opportunities for all Europeans.**

# Concluding remarks: Our European future

Picture this: it is 2057 and the European Union is celebrating the 100<sup>th</sup> anniversary of the Rome Treaties. The EU has weathered many storms, but it has succeeded in maintaining peace and stability for a full century. It has been a long and arduous road to ensure European citizens' active participation in and political approval of the European project. But the EU has managed to set an unprecedented record of a century of peace and prosperity: it is a beacon of sustainability.

Rewinding back to 2019, and we, as younger Europeans, see that there is still a lot to be done if we want a bright and sustainable future for the EU. Looking at the status quo, we see a Union that is still divided by inequality between and within member states. We see inequality between men and women, ongoing discrimination based on race, ethnicity, religion, sexual identity, gender identity, or disabilities. Looming over it all is the threat of climate change. Rising sea levels, droughts, wildfires, and extreme weather events are threatening the lives and livelihoods of millions of Europeans, not only in the distant future, but right now.

Despite all its weaknesses, we love to call Europe our home, and we think the foundation for that home as laid down in the Treaties is sound. To strengthen the European house we live in, for us, our children and grandchildren, and to make Europe a beacon of sustainability, there is still a lot to be done.

The whole world needs to take action to tackle climate change, and in signing and implementing the Paris Agreement, many countries are doing just that. As a strong union, the EU needs to lead by example. It should invest in its energy

and transport sectors, by building a clean infrastructure, investing in innovation and divesting from polluting energy and ways of transport. It should reconsider the current CAP structure and invest in sustainable agriculture and food chain. It needs to promote recycling and the circular economy and set up a disaster fund to strengthen European solidarity in times of crisis.

The Union should also try to achieve more social cohesion, and fight economic inequalities between member states. Fair taxation needs to be a central pillar in its social policies. EU unemployment support is another priority. Only by having a fair division of wealth between people and between EU countries can the Union be sustainable and strengthen the feeling of belonging among everyone who lives in the EU.

We have a strong tradition in Europe to safeguard human rights, but it remains important to protect and promote them in EU policy discussions. Like economic inequality, the unequal treatment of women and minorities are a threat to the social cohesion in Europe and stand in the way of a strong and sustainable EU. If the EU really is “United in Diversity”, then it needs to safeguard those elements in society that make it diverse, take action to prevent diversity from being a hollow term, and truly ensure equal opportunities for all Europeans.

We, as younger Europeans, still have our whole lives ahead of us. Most of us will live to see 2057. We need the EU to take the necessary steps now to ensure that Europe is a beacon of sustainability, and a safe and comfortable home for all Europeans.



This issue of *Challenge Europe* – the 24<sup>th</sup> edition already – delivers an alternative to those who cynically claim that European cooperation no longer works and should be abandoned. It argues instead that integration can still work, and that it is still the best answer to the many problems we are now facing. We want to remind people of the value of European cooperation and offer some suggestions on how we can continue to shape and improve the project now, so that we are better equipped to respond to the underlying political, socio-economic, and cultural insecurities plaguing Europe, and later down the line, to radically re-think the way we organise our societies.

Each of the 24 contributions in this volume, authored by renowned experts and practitioners in their respective fields, presents a set of concrete recommendations for the next EU leadership, both in terms of key priority areas – sustainable prosperity, values, migration and Schengen, and Europe’s place in the world – and on how the EU can use the instruments it already has at its disposal to act in a more effective, transparent, and decisive way.

*Challenge Europe is a multi-authored, periodical publication appearing at key moments and dealing with key issues in the EU integration debate.*