

LIBERAL WHITE BOOK EUROPE 2030

The Roadmap for a liberal Europe and how to get there



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ABOUT ELF

The European Liberal Forum (ELF) is the official political foundation of the European Liberal Party, the ALDE Party. Together with 47 member organisations, we work all over Europe to bring new ideas into the political debate, to provide a platform for discussion, and to empower citizens to make their voices heard.

ELF was founded in 2007 to strengthen the liberal and democrat movement in Europe. Our work is guided by liberal ideals and a belief in the principle of freedom. We stand for a future-oriented Europe that offers opportunities for every citizen.

ELF is engaged on all political levels, from the local to the European. We bring together a diverse network of national foundations, think tanks and other experts. At the same time, we are also close to, but independent from, the ALDE Party and other Liberal actors in Europe. In this role, our forum serves as a space for an open and informed exchange of views between a wide range of different actors.

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FOREWORD

What is the European Union, what should it be? These questions are as controversial as they are lacking in clear answers. Coming from the historical necessity to integrate European economies as a way to keep national aggressions and egoisms in check and utilise the power of a common market, Union now influences almost all aspects of European political life. Social issues, health, foreign affairs, digitalisation, and trade mark just some of these aspects. And while the success of the single market and European integration is undeniable, this marriage of convenience among the European nations shows more and more cracks. The European Union happened; it did not follow a grand design. There was no agreement on its general direction or the limits of European integration, and therefore all subsequent questions must bear the conflict between those feeling that decisions go too far and those thinking that they do not go far enough. Internal and external shocks, as well as clashes of values, further shake the EU and make it harder to reach a consensus.

In a vacuum of political and international affairs, this might be a somewhat sustainable state. In what we call reality, this is a constant threat. Europe is cashing in the capital that was accumulated in a simpler, more bipolar world: a world where being part of the European family meant a sense of belonging and prosperity and was therefore attractive to new members. In this multilateral reality with more and more economic competitors, systemic rivals, and rising non-state actors, we need to think three steps ahead to define direction and not dwell on yesterday's questions. Countries inside and outside the Union look for alternative alliances and allegiances and for promises of prosperity, which do not necessarily come with the strings attached that we call liberal values and the rule of law.

To counter this, we need to move from an EU that is happening to making the EU happen. What will Europe be like in 2030? No one has the answer yet, but everyone should take part in the crucial discussion to define the path. The choices we make today will define what the EU looks like ten years down the road: muddling through or changing fundamentally so as to build a better Europe. While the EU has faced existential crises, it has not risen to the new challenges when it needed to take decisive steps. Burying problems like the migration crisis in committees and discussions or trying to drown economic and fiscal problems in money might work short-term. However, in the long run, it makes the Union brittle and vulnerable. What we need now is a new vision and a concrete roadmap for action, even more so in the midst of a global pandemic that has put into question many of the things that we had been taking for granted.

The Liberal White Book 2030 is the liberal family's contribution to this debate. The pieces brought together in the present book are the fruits of the intense discussions that took place in a series of online events organised by the European Liberal Forum throughout the year 2020. These events gathered some of the finest minds of Europe's contemporary intellectual landscape as well as a wide range of relevant stakeholders. They addressed topics from a vast set of policy areas: from climate change to the economic and monetary Union, from democracy and the rule of law to the much-needed digitalisation of our continent.

The ideas that came out of these discussions and that are now laid down in the various chapters of this book are both firmly grounded theoretically and fit for the real world. This publication highlights the challenges that the EU is facing and puts forwards a number of bold policy proposals. We hope that it will become a point of reference for liberal policymakers and all those who want to shape Europe's future.

While we can all agree that the EU needs reforms, we may not all agree on what these reforms should be. The Liberal White Book 2030 does not shy away from potential disagreements. It defends a liberal way for the EU, a way where economic freedom, civil liberties, and democracy remain our lodestars. This means strengthening the (digital) single market and the economic, monetary, and budgetary Union. This also means providing the EU with an increased capacity to speak with one voice on the world stage, so that these values are defended and our Union remains a model that is envied, a beacon of hope for the peoples of this planet.

A liberal Europe is one that believes in its citizens' abilities and that every level of government has a role to play. Bigger is not necessarily better. A more effective EU does not always mean more EU. Where Member States, regions, local governments, businesses, and individuals can solve their problems alone, there is all the more reason to let them do so. The EU already has plenty on its plate. A liberal Europe is one where Member States are allowed to move at their own pace and where those who want further integration are not prevented from doing so. Our diversity is our most precious treasure.

We liberals can be proud of our values that have brought peace, prosperity, and progress on our continent. Yet we must not be complacent. Euroscepticism and populism feed on of people's feeling of uprootedness, neglect, and lack of opportunities. They will thrive if we do not provide answers to the questions of where we are going and how to create a better future. Our citizens must be listened to, and their fears and doubts must not be dismissed. The best answer we can provide is by building a freer and better European society where everyone finds his or her own place and can bring their own distinctive contribution.

Daniel Kaddik, Executive Director, European Liberal Forum

INTRODUCTION

2020 was a momentous year for Europe and its future. It has left us with a sense of despair but also plenty of reasons to hope. It is the year that has seen for the first time a Member State leave the European Union, after long and painful rounds of negotiations. The worst pandemic in a century hit our continent badly, leaving our communities wounded and our economies in tatters. But 2020 also saw the adoption of an unprecedented recovery plan in Europe and the election of a new US President that opens an era of cautious optimism for the world.

In 2016, Brexit sent shockwaves through the EU and raised various prospects of Frexit, Nexit, or Polexit, but five years later, no such thing has happened. Europe remains divided on many issues, but it has sent a clear message of unity and decisiveness. It has defended the integrity of its common home and managed to stay firm on its core principles. Brexit also proved to be a timely reminder of the benefits of EU membership and of what it means, in practice, to give them up. Leaving did not only translate into longer queues of lorries at the border between Dover and Calais but has also greatly diminished the ability of EU citizens to live and settle in the UK, a place where so many had made their homes in the last decades. Brexit has also sparked new tensions in Northern Ireland, illustrating there, too, the importance of open borders on a continent of multiple identities. These provide only a glimpse of what would happen if the entire edifice collapsed and should convince us to work as hard as we can so that this never comes true.

In early 2020, a day before Brexit became official, the World Health Organisation declared the Covid-19 outbreak to be a public health emergency of international concern. This was the prelude to a pandemic wave that would take over our continent and soon the entire world, a wave that no one had anticipated. Most European capitals responded with painful lockdowns and restrictions of personal freedoms. Unfortunately, these measures have spanned well into 2021. The EU found itself under the spotlight, accused of not having done enough to help Member States coordinate their response. Internal borders were shut, and States resorted to once forgotten protectionist measures, seizing each other's shipments of facemasks or other medical devices. Criticism of the EU was mostly disingenuous, as it had willingly been kept at a distance from national healthcare systems, but it revealed nonetheless that the EU needed to do better.

In many ways it did. It provided Member States with equipment and medical guidance, laying the first bricks of a European Health Union that is better prepared for future public health emergencies. Regarding vaccines, the picture is more nuanced. Although the EU took up a leading role in a massive effort at vaccine procurement, the European Commission failed to deliver sufficient supply. Now that vaccination is well underway, one can appreciate the pertinence of a joint

approach that has ensured no Member State is left behind. But responsibility should have and will to be assumed for the problems that have occurred. A more mature EU is also one where its top executive can be criticised, even by the most fervent supporters of the project.

Faced with the disastrous economic consequences of the pandemic, Member States have agreed to a historical recovery plan. With the NextGenerationEU instrument, comprising €750 billion of loans and grants, Member States will be able to overcome the current difficulties. But NextGenerationEU is more than a recovery plan; it is a unique chance for Europe to emerge stronger from the pandemic and to build a sustainable, more digital, and more resilient future. This money will have to be spent on activities and innovations of tomorrow, not of yesterday. It must not be a substitute for structural reforms but an incentive to accelerate them.

The centrepiece of the NextGeneration instrument is the EU Recovery and Resilience Facility, which will make in loans and grants available to Member States to support reforms and investments for a sustainable recovery. The path to recovery, the approved reforms, and the means of repayment of the 'largest stimulus package ever' will likely have long-term and far-reaching consequences on the direction and degree of fiscal integration in the EU.

In November 2020, after days of nerve-racking uncertainty, major American news outlets announced the election of Joe Biden as the 46th President of the United States, putting an end to Donald Trump's term in office. The EU relies on the US for its security, and this is unlikely to change in the short- or medium-term. The EU also counts on its American ally to promote peace, stability, and multilateralism on the world stage. Under Trump, both aspects of the Transatlantic alliance were put under question. Hence, most Europeans sighed in relief after the election of Joe Biden. Nevertheless, there is a possibility that Trump's presidency was only the continuation of a more long-term shift in America's priorities, its pivot to Asia, and its growing demand for Europe to shoulder more of the burden of its own security.

Strategic autonomy and increased defence cooperation among Member States are considered as long-term security solutions. But EU autonomy and industrial coordination are not abstractions; to materialise, they need proper institutional arrangements and decision-making processes that facilitate them. In this regard, the EU's institutional framework might be in urgent need of a critical security update. In times of crisis, internal turmoil, and external systemic pressures, public attention focuses on debates about EU legitimacy, its democratic deficit, and its

significant disconnect from the citizens. For the most part, European citizens seem to be convinced of the EU's usefulness in tackling today's challenges and defending our way of life. At the same time, they are as critical as ever of the EU's failures.

Reflecting on all these recent events allows us to take a good look at the challenges faced by the EU and what can be done to tackle them to build a stronger, more resilient, and more liberal Europe. The best cure against populism is to continue fighting for our ideals and principles and to build a Europe that delivers.

This is what the European Liberal Forum does every day, and this is what it did in 2020, which was a defining year for our organisation, too. Not only did we manage to adapt to the new circumstances and find new ways of conducting our activities, like so many other organisations. We also took advantage of these uncertain times to reflect deeply on our mission and on the kind of Europe we strive for.

From July to November, the European Liberal Forum hosted a series of expert discussions dedicated to the most pressing issues facing a freer, fairer, and more liberal Europe. These discussions brought together various stakeholders: from European and national politics, public institutions, academia, policy-making circles, and civil society. They also greatly benefitted from the insights of our member organisations, who live and experience Europe on the ground, in close contact with its citizens.

These open and honest discussions were truly invigorating. Organised around eight clusters – future institutional framework; climate change and sustainability; democracy and rule of law; internal market and trade; digitalisation, connectivity and e-commerce; security policy and foreign affairs; social policy; budget and Economic and Monetary Union – they brought some fresh ideas and solutions and provided us with a roadmap to a renewed Europe, faithful to its founding liberal principles and better armed to meet its citizens' current expectations.

For each of the key issues identified, specific chapters were drawn up and gathered in the present Liberal White Book 2030. This White Book is freely available to all and will be shared to a wider audience through a Digital Roadshow in 2021. It is a flagship publication which aims to influence decision-makers and to shape liberal discussions about Europe's future, a timely work while the Conference on the Future of Europe has just recently been opened.

Each of the eight chapters starts by providing an overview of the current situation on the European level, before outlining three different scenarios for the EU in

the future: 'muddling through', 'tackling the most pressing issues', and 'changing the EU fundamentally'. Muddling through is probably what the EU does best, weathering the storm and saving an edifice on the brink of collapse. At times, the EU is also able to take strong and decisive action, like it did in 2008 during one of the world's worst financial crises. Changing fundamentally, however, is what it will take to create a stronger and more prosperous Europe for the 21st century. It is this book's preferred option and the one you will find explored in further details in the following chapters, along with a clear liberal vision of what unites us as Europeans.

Building a home requires strong foundations. That is why any discussion on the future of Europe must start with the EU's institutional framework. The issue may seem too arid and technical to citizens who care more about policy outcomes than policymaking and simply want to see their lives improved. Yet there is always a connection between changing the way our institutions work and better and more effective policy. Chapter 1 provides the reader with a critical analysis of the current framework and the factors that – too often – lead to political stalemate. It lays down some ambitious proposals for a Europe that is closer to its citizens, more flexible and efficient.

Climate change and sustainability are the defining issues of our time. Building a better human society for us and our children is worthless without a hospitable planet that can sustain us and the countless other species that share our environment. Liberals are not always at ease with this and often wrongly accused of not caring for it. Hence, it is crucial that we bring our ideas forward so as to ensure that sustainability and progress go hand in hand. Chapter 2 argues for a Europe that remains a leader internationally and continues to pursue its prime objective of a sustainable, net-zero emissions society. This needs not be done at the expense of economic growth. The solutions lie in scientific progress, innovation, and a continuous belief in human abilities to evolve and adapt.

Chapter 3 deals with a topic that has been high on Europe's agenda these last years, both internally and externally: democracy and the rule of law. Internally, one would have hoped for the issue to be settled. Democracy and respect for the rule of law are amongst the EU's founding principles. They are non-negotiable and must be upheld everywhere on the continent. Externally, a democratic backsliding is taking place around the world. A growing number of countries have gone backwards to a more authoritarian and populist style of governing. In such times, the European Union should be the torchbearer of democracy, human rights, and the rule of law. It should devise concrete and effective procedures so that these values can be adequately protected at home.

Another cornerstone of the European project is the internal market and the Union's commitment to free and unfettered trade. Alas, protectionism and localism are on the rise everywhere, and liberals must fight back to counter this narrative. The single market has been, without a doubt, crucial to Europe's prosperity and success and will continue to be in the future, if we keep bringing down existing barriers to the free flow of goods, services, capital and people on our continent, as explained in Chapter 4. The EU must remain a key player in global trade and continue to support a multi-lateral approach to trade negotiations. It must not be naïve, however, and should defend its market from the intrusions of China's state-owned corporate behemoths.

Chapter 5 takes a close look at digitalisation, from a broader perspective that transcends economics and markets. Europe must become a truly digital continent by 2030. The EU needs a future-proof, technology-open, and innovation-friendly approach to the digital transition, while at the same time protecting civil liberties, fundamental rights, and cultural diversity. This chapter lays down some concrete policy proposals to achieve this necessary balance and ensure that Europe can compete with its rivals without losing its soul. Digitalisation is key if Europe wants to remain relevant as a global actor.

Europe on the world stage is the focus of Chapter 6, which formulates a liberal vision for the EU's foreign and security policy. Our countries are confronted by similar threats, such as terrorism and disinformation, and face the same systemic rivals, China and Russia. We cannot afford to stay divided on these issues, which are fundamental to our security. The EU's global actorness should be based on the set of its existing sources of power, including our system of alliances and transatlantic cooperation, but needs to move beyond it. Europe must gain strategic autonomy to truly own its future. Despite the difficulties and the hostility of many of the world's dominant powers, the EU should not abandon its vision of a global liberal order.

One of the best tools for the EU to assert its influence globally is its common currency. Yet, twenty years after its launch, the euro's architecture remains patchy. Europe needs a stronger economic, budgetary, and monetary Union to be able to deliver on all the necessary fronts. The last year has proven that this was achievable. In only a few months, the EU has delivered an unprecedented economic response to the economic fallout from the coronavirus pandemic. What a few people thought of as impossible a year ago, European common debt, is now a reality, but we must go further. Chapter 7 shows the way and tells us what the next steps should be: a fully-fledged Banking Union, a Capital Markets Union that significantly curtails fiscal risk, increased fiscal capacity, and a more

effective system for the coordination of national economic policies promoting structural reforms.

Finally, the last chapter deals with social policy. Considering the EU's plan for post-pandemic recovery and a sustainable and digital transition, the closely related social issues are as high on the EU agenda as ever. Chapter 8 discusses how, in this unprecedented moment, liberals can put their core principles into practice and contribute to shaping a modern, future-oriented, citizen-driven European social model that aims to protect the rights and freedoms of every citizen while pushing forward our common long-term objectives. The chapter first addresses the current state of European social affairs and the major demographic and socio-economic concerns that transcend national borders. Then it outlines the liberal vision and priority dimensions for EU policymaking to address the current and anticipated needs of European citizens and ensure wellbeing and global competitiveness in the future.

The European Liberal White Book 2030 will be what its readers make of it. A timely publication in the year that the Conference on the Future of Europe was launched, we hope that this book will provide a set of bold new ideas that will encourage readers to think outside the box and join the conversation on Europe's future. Most of all, we hope that this book can help revive a spirit of renewed optimism for our common destiny as Europeans. ■

The editors

**FUTURE
INSTITUTIONAL
FRAMEWORK**



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CHAPTER

01

02

THE PATRON

Hilde Vautmans

Member of the European Parliament
for Renew Europe and President of the
European Liberal Forum



“

I am, have been and always will be a strong believer of the EU. However, we should also have the courage to rethink its structures and institutions. The EU often lacks efficiency and power in areas where it can play a crucial role. The COVID-19 pandemic has taught us more than ever that we must renew Europe and that certain competences must be reviewed. Therefore, we urgently need institutional reforms: not only to be able to react much faster, more efficiently and effectively in the future, but also to make everyone realize what we can achieve when we work together. The Conference on the Future of Europe is the ideal starting point for a new tide in the evolution of the EU. Only with the full support and participation of our citizens will this Union be ready to tackle the challenges of the 21st century. This a moment we must seize!

”

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1. INTRODUCTION



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The EU is facing many challenges of different nature and origin, both in and outside its territory. Multilateralism is in crisis. The future relationship with the United Kingdom remains unclear. The transatlantic relationship is strained, but with prospect for improvement, while China is gaining influence globally and Russia does not back away from open confrontation. A common European approach on migration and asylum is still not in sight. Measures against climate change require substantial financial resources, while already slow economic growth is shrinking even further due to the COVID-19 crisis. The Economic and Monetary Union remains unfinished.

The institutional framework of the EU can and shall contribute to addressing these challenges. In subchapter 2, it will be demonstrated that there is currently scope for improvement. As strong supporters of the European idea, liberals shall embrace the unique opportunity offered by the Conference on the Future of Europe to review the EU's current institutional structure. The abovementioned challenges are only a glimpse, and the need for reform is even more pressing in light of the current pandemic. Renewing the EU does not mean rejecting it; on the contrary: it means reacting much faster, more efficiently, and effectively together. Against growing nationalism and anti-liberal forces, liberals shall be at the forefront to promote multilateral and multilevel cooperation and bring a united EU forward through reform.

A solid and future-proof institutional framework needs to find a working balance on three fundamental issues: overcoming the usual policy gridlocks that often accompany the distribution of powers and competences without ignoring the subsidiarity principle, closing the democratic deficit while improving the efficiency of EU institutions, and consolidating European integration while working out differences in the depth of integration.

Policy gridlock is one of the reasons the EU is often unable to respond quickly or adequately enough. Two main factors are causing the current policy gridlock. On the one hand, there is an ever-greater heterogeneity of policy preferences among the EU27 actors, often along geographical cleavages. When it comes to economic and fiscal preferences, there is a divide between the North and the South; another divide exists between the West and the East when it comes to social issues, migration, values, and the application of democracy. On the other hand, regarding procedures, the legislative process is slow, includes several veto players, and sometimes requires unanimity. Given this, lowest-common denominator compromises or consensus-based decisions often prevail, leading to an ineffective policy-making ability.¹

Another perennial issue is the democratic deficit of the EU. This does not mean that the EU is an undemocratic construct. Formally, the EU is democratic in the sense that its practices fulfil principles of democracy (i.e., free and fair elections and checks and balances such as separation of powers). However, EU-level democratic participation is still not at its desired degree. For instance, European elections are still mostly dominated by domestic policy issues, turnout is still rather low even 40 years after the first direct elections to the European Parliament, and the so-called lead candidate system as well as the proposal for transnational lists failed in 2019. The Conference on the Future of Europe bears a unique opportunity for inclusive participation by European citizens insofar as they can actively contribute and set the reform agenda.

A topic that also needs to be addressed is how to deal with *differentiated integration*. On the one hand, there is de jure differentiation: some Member States, for instance, are part of the Eurozone or the Schengen area. On the other hand, there is de facto differentiation:² human rights standards, rule of law, migration policies, or economic conditions can differ greatly across Member States.

After analysing the current institutional framework (subchapter 2), options and scenarios on the direction the institutional framework could take in the future will be displayed (subchapter 3). Then, a roadmap of a future institutional framework to solve the above-mentioned issues and therefore increase the EU's ability to tackle current challenges will be proposed (subchapter 4). In every subchapter, the institutional framework will be discussed on the basis of five aspects: European elections, the European Commission, decision-making procedures, multi-speed Europe, and the role of national parliaments in subsidiarity control.

¹ Renaud Dehousse & Simon Hix, Nothing is lasting without institutions: Setting the scene for the Liberal White Book Europe (European Liberal Forum, Discussion Paper N°3, September 2020), p. 7.

² Ibid. R. Dehousse, S. Hix (2020); p.10



2.

THE CURRENT STATE OF THE INSTITUTIONAL FRAMEWORK

EUROPEAN ELECTIONS

Compared to national elections, which are dominated by domestic matters, European elections are still commonly perceived as “second-order elections” of minor importance. Although voter turnout increased from 42.6% in 2014 to 50.7% in 2019, these results differ widely in respect to Member State and age group. While 61.4% of eligible Germans and 60.7% of Spaniards cast their ballots in 2019, turnout in the Czech Republic (28.7%), Slovenia (28.9%), Portugal (30.8%), and Croatia (29.9%) was much lower.³

Within the group of 16⁴ or 18 to 24-year-olds, only 42% voted; whereas more than 54% of voters over 55 turned up.⁵ It is worthwhile to note that five Member States have compulsory voting, and it is not uncommon to regroup EP elections with regional or municipal elections to increase turnout.

The highly publicised lead candidate (*Spitzenkandidaten*) process to propose a Commission president and other EU top posts failed. Some European parties could not agree on their lead candidates; furthermore, there is no substantial legal basis for the lead candidate process: Article 17 of the Treaty on European Union (TEU)⁶ states that the European Council, acting by a qualified majority and after “taking into account the elections of the European Parliament” as well as “having held the appropriate consultations”, “shall propose to the European Parliament a candidate for the Commission”, which will then be elected by the

3 European Parliament, “2019 European election results”, <https://europarl.europa.eu/election-results-2019/en/turnout/>.

4 While the voting age is 18 in most EU Member States, there are three exceptions to date: Greece (17), Austria, and Malta (both 16). From 2024 onwards, Belgians from the age of 16 will be allowed to vote in European elections, as well.

5 European Parliament, “The 2019 Elections”, https://www.europarl.europa.eu/at-your-service/files/be-heard/eurobarometer/2019/election2019/EB915_SP_EUROBAROMETER_POSTEE19_FIRSTRESULTS_EN.pdf.

6 Article 17 TEU, https://eur-lex.europa.eu/eli/treaty/teu_2016/oj.

EP. The common perception and underlying assumption by the EP were that the Council’s choice should be determined by the European elections. However, the lead candidate process rests on a political, legally nonbinding agreement among a majority of the EP to only elect as president a proposed candidate who has previously been designated lead candidate and whose political group won the most votes.

Since there is no such political gentlemen’s agreement in sight, it remains unclear if and how the lead candidate process will survive. Another aim of the still novel process was to politicise European elections by rendering them more personal and thus understandable and transparent for citizens—a feat which has at least been partially achieved over time, as an increase in voter turnout from 2014 to 2019 indicates.

The fundamental shortcoming of European elections is a lack of voter engagement, which harms the EU’s input-oriented legitimacy, not to mention the heterogeneity of the processes with different rules and dates in most EU Member States. The legislative procedures are far from easy to understand, and voters are unsure about their real voting impact. Furthermore, they can only choose from national lists and do not have the option to vote for transnational lists. For most voters, the EP feels distant and largely irrelevant. This contributes to the democratic deficit of the EU and an erosion of its output-oriented legitimacy. Public and media attention towards European topics (mostly) follows EP election cycles and only reinforces this negative spiral.

EUROPEAN COMMISSION

It was not Jean-Claude Juncker’s call for a political commission that turned the European Commission political. The European Commission has always been—to varying degrees—political. However, in the public eye, the European Commission is still seen as a somewhat technocratic administrative institution that is only partly a political government. Yet leadership in the EU is shared based on the separation of powers in the *trias politica* between the Commission, the Council of the EU, the European Parliament, and the Court of Justice of the European Union.

The current institutional framework does not sufficiently reflect the fact that the European Commission is a political, not just administrative, entity. For instance, contrary to most national competition authorities, the EU competition authority is part of the regular Commission and therefore subject to instruction. Pursuant to Article 17 of the TEU on the Commission’s role, the institution “shall promote the general interest of the Union and take appropriate initiatives to that end” while “acting in complete independence”. In addition, the Commission also has a monopoly over the legislative right of initiative (except for European Citizens’

Initiatives), equipping it thus with the necessary powers to assert its political role as promoter of the general European good. As such, the Commission is also *guardian of the Treaties* and can therefore launch infringement procedures. Although the Court of Justice of the European Union (CJEU) is the key decision-maker when it comes to determining whether Member States have violated EU law, the Commission is the main actor to launch a procedure. The starting point for infringement procedures in Article 258 of the Treaty on the Functioning of the European Union (TFEU)⁷ states that “if the Commission considers that a Member State has failed to fulfil an obligation under the Treaties”, then the Commission shall act.

This construction gives the (political) Commission certain discretion in treating violations of EU law and, in particular, determining their degree. An excellent example is border policy. EU law offers very limited options for the temporary reintroduction of border controls. Article 29 of the Schengen Borders Code allows temporary border checks for a maximum of two years.⁸ However, since the 2015 migration crisis, Germany, Sweden, and Austria have reintroduced border checks and have maintained them for over four years. However, no infringement proceedings have been launched by the Commission.⁹ Arguably, this has been for political reasons only. It also demonstrates that the Commission today has a more political than administrative role in the EU’s institutional framework and is willing to use its formal powers and the related space for maneuvering.

Yet the somewhat unclear role of the European Commission as a “European (political) Government” (at least to the broader public) adds to the *democratic deficit*.

Moreover, the Commission is still larger than the Lisbon Treaty intended: according to the Treaties,¹⁰ the number of Commissioners should have been reduced to two thirds of its current members by 2014 (prevented by the European Council, which may unanimously alter the number of Commissioners).

7 Article 258 TFEU, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>

8 Article 29 of the Schengen Border Code, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0399&from=EN>.

9 Kira Schacht, “Border checks in EU countries challenge Schengen Agreement,” Deutsche Welle (12 November 2019), <https://www.dw.com/en/border-checks-in-eu-countries-challenge-schengen-agreement/a-51033603>.

10 Article 17 TEU, https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF.

DECISION-MAKING PROCEDURES

Most policy decisions in the EU are made by qualified majority voting (QMV).¹¹ However, several key policy areas of the EU still require unanimity in the Council. That is the case regarding, to name a few, Common Foreign and Security Policy, the harmonisation of indirect taxation, the EU budget and resources, the harmonisation of social security and protection policies, and various aspects of police and judicial cooperation in criminal matters.

A large number of Member States and even more diverse policy preferences make it increasingly difficult to reach unanimity. This leads to policy gridlock in certain areas. The EU’s foreign policy is often ineffective, since a single Member State can block any decision and exert pressure, which produces politics of the lowest common denominator. There are several examples for illustration: Italy blocked a joint statement on the crisis in Venezuela in 2019;¹² Hungary and Greece, major recipients of Chinese foreign direct investment, watered down an EU statement on the dispute between China and the Philippines on territorial claims in the South China Sea in 2016; and Hungary blocked an EU statement to the United Nations Human Rights Council on China’s human rights record in 2017.¹³

Traditional business models are taxed higher than their digital counterparts.¹⁴ Therefore, the European Commission has proposed a tax on digital revenues, which was accepted in the EP with a broad majority on 13 December 2018. However, because of the opposition of Denmark, Sweden, Ireland, and Finland, unanimity could not be reached, and the proposal failed.

In the absence of a European solution, many Member States like Austria and France have introduced national digital taxes. This has led to threats by the U.S. government to impose tariffs in return. With an OECD-wide tax on the horizon for mid-2021, favoured by many over a European solution, the negotiating position of EU Member States is likely to improve again when dealing with the United States.

11 For a proposal to pass QMV in the Council of the European Union, 55% of Member States representing 65% of the total EU population are required. See Article 16 TEU, https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF and Article 238 TFEU, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>.

12 Leonard Schuette, Should the EU make foreign policy decisions by majority voting? (Centre for European Reform, May 2019), p. 2, <https://www.cer.eu/publications/archive/policy-brief/2019/should-eu-make-foreign-policy-decisions-majority-voting>.

13 Leonard Schuette, Should the EU make foreign policy decisions by majority voting?, p. 5.

14 European Commission, A Fair and Efficient Tax System in the European Union for the Digital Single Market, COM (2017) 547 final (Brussels, 21 August 2017), p. 7, https://ec.europa.eu/taxation_customs/sites/taxation/files/1_en_act_part1_v10_en.pdf.

Treaty change is another sensitive topic. If the EU believes that there is a need to change the distribution of competences between Member States and the EU (for example, in the area of health following the pandemic), treaty change is necessary. However, the mechanisms by which this can be achieved are rigid. There are three main options to change the Treaties pursuant to Article 48 of the TEU:

The ordinary revision procedure requires a proposal from either the government of a Member State, the EP, or the European Commission to the European Council. The European Council can then call a European Convention (with representatives of national parliaments, governments of Member States, the European Commission, or the EP), which subsequently unanimously decides to submit a final proposal to an Intergovernmental Conference (the European Council can skip the European Convention if amendments are minor and the European Parliament consents). This Intergovernmental Conference has to approve the proposed treaty amendments. In any case, the changes then have to be ratified in the Member States before entering into force.

The simplified revision procedure can only be used for revising part three of the TFEU (“union policies and internal actions”) and when the competences of the EU are not being increased. After various consultations, the European Council has to act unanimously, after which the Member States need to ratify the proposal for it to enter into force.¹⁵

Additionally, there is the option of the *passerelle clause*. The European Council can unanimously agree to change the voting procedure of certain policy areas from unanimity to QMV¹⁶ and from the special to the ordinary legislative procedure. However, before the European Council can unanimously decide, the EP must vote in favour of the proposal by an absolute majority. Furthermore, most national parliaments have the right to veto such a proposal.

If one were to regard the Treaties of the EU as constitutional law, the EU has perhaps the most rigid constitution in the world. By comparison, the U.S. Constitution has been amended only 27 times in its history and has a much less rigid amendment procedure (two-thirds majority in the Senate and the House of Representatives and ratification by three quarters of the states).

The rigidity of the EU treaty amendment mechanism is, in practice, amplified by the large number of Member States which, as laid out above, all have to agree (and ratify or not veto). This makes treaty amendments exceptionally difficult. Furthermore, it leads to the overstretching of the European Treaties by EU institutions to a degree that is far from ideal, from a rule of law perspective.

15 Peadar ó Broin, “How to Change the EU Treaties”, CEPS Policy Brief no. 215 (October 2010), http://aei.pitt.edu/15131/1/PB_215_o%27Broin_on_Lisbon.pdf.

16 Except for security and defence matters.

However, this rigidity also does not allow for the status quo to be rolled back easily, since the complex treaty change mechanisms prevent (legal) disintegration. Given the high likelihood of at least one Member State using their veto power, the status quo is easily sustained.

MULTI-SPEED EUROPE

Currently, multi-speed Europe is a reality. The idea behind multi-speed Europe is to allow for more flexibility, since different Member States are allowed to integrate at different levels and paces. Not all countries might have the capacity or desire to integrate at the same speed. Thus, not all Member States are part of the Schengen area, the Economic and Monetary Union, the Permanent Structured Cooperation (PESCO), or the European Public Prosecutor’s Office (EPPO). Multi-speed aims at factoring in differences in integration. It becomes more relevant when there are many Members with differing policy and cooperation preferences.

One of the current tools for multi-speed Europe is *enhanced cooperation*. Enhanced cooperation is a mechanism wherein a minimum of nine Member States can establish advanced integration or cooperation within the EU.¹⁷ Enhanced cooperation can only be used as a last resort when a common, European approach by all Member States has failed. Member States who do not want to participate do not have to become involved. Also, enhanced cooperation can only be implemented within the competences of the EU. Member States who have refrained from an enhanced cooperation can later choose to join. Examples of enhanced cooperation are the European Unitary Patent, the European Public Prosecutor, and divorce law.

Additionally, Member States always have the option to leave aside the instruments enshrined in the Treaties and instead choose intergovernmental agreements like the European Stability Mechanism (ESM).

17 Article 20 TEU, https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF; Article 82 (3), Article 83 (3), Article 86 (1), Article 87 (3), and Articles 326–334, <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:EN:PDF>.

SUBSIDIARITY & THE ROLE OF NATIONAL PARLIAMENTS

The EU's early warning mechanism was introduced by the Treaty of Lisbon.¹⁸ To recall, the principle of subsidiarity stipulates that in areas which do not fall within the EU's exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by "the Member States(...), but can rather (...) be better achieved at Union level." The warning mechanism intends to strengthen the subsidiarity principle by including national parliaments at the beginning of the European legislative process.

Every legislative proposal by the EU in a policy area falling under a shared competence has to be submitted to the national parliaments. Initiatives regarding exclusive powers do not undergo subsidiarity scrutiny, since the question of why the Union is acting does not even arise in such cases.

Within eight weeks, national parliaments can scrutinize the proposal and voice a reasoned opinion, if the respective national parliament believes that the proposal violates the principle of subsidiarity. Every reasoned opinion of a national parliament counts as two votes (if the Member State has a bicameral parliamentary system, each of the two chambers has one vote). It is referred to as a 'yellow card' if one third of the total votes of all national parliaments is reached (the threshold for proposals on the basis of judicial cooperation in criminal matters and police cooperation is only one quarter). As a result, the European Commission has to review the proposal, but it is free to decide to maintain, amend, or withdraw the draft. However, the Commission has to give reasons for its decision.

If a proposal receives reasoned opinions amounting to half of all possible votes, it is called an 'orange card'. Again, the Commission can choose between maintaining the proposal, amending the draft, or withdrawing it. However, the Commission has to explain why the proposal complies with the principle of subsidiarity. The European Commission received 65 reasoned opinions in 2016, 52 in 2017, and 37 in 2018.¹⁹

¹⁸ Article 6, Protocol N°2 on the application of the principles of subsidiarity and proportionality, TEU, <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12008M/PRO/02:EN:HTML>.

¹⁹ Ani Matei & Adrian Stelian Dumitru, "The Subsidiarity Principle of National Parliaments Role: From Formal Need to real use of powers," *Administrative Science* 10(24) (2020), p. 8, <https://www.mdpi.com/2076-3387/10/2/24/pdf>.

The early warning mechanism has rarely been triggered. A yellow card has only been triggered three times (Monti II regulation, EPPO proposal, directive on the posting of workers). The orange card has yet to be used.

Given these results, one might argue that the early warning mechanism is not particularly useful and should be abolished. However, there are good reasons for maintaining it. First, the core value of the early warning mechanism is that it leads to informing national parliaments about proposed EU legislation and thus increased awareness about European policy-making. Second, the early warning mechanism encourages the European Commission to consider the topic of subsidiarity more intensely to prevent the prevalence of yellow or orange cards. Third, the early warning mechanism can bring additional value in showing citizens that their respective parliaments receive information about what happens at EU level and that their parliaments are part of the EU legislative procedure. However, it is uncertain to what extent citizens even know about the early warning mechanism due to lacking media coverage in most Member States. ■

3.

OPTIONS AND SCENARIOS

This section outlines three hypothetical scenarios for the institutional framework and applies them to the five aspects previously identified (European elections, European Commission, decision-making procedures, multi-speed Europe, and subsidiarity and the role of national parliaments). The first scenario, “muddling through”, analyses the prospect of maintaining the status quo. The second provides an overview on which most pressing issues could be tackled and what the consequences would be thereof. Lastly, the third scenario discusses fundamental changes and their potential impact.

EUROPEAN ELECTIONS

MUDDLING THROUGH

If there are no changes, European elections will continue to be second-order national elections. The lead candidate process will remain half-hearted. Citizens will only be able to choose from national lists and the European Parliament will not receive the right to directly initiate legislation, leaving the monopoly with the Commission. Voters will continue to have trouble engaging in EU politics, especially outside election cycles.

DECISION-MAKING PROCEDURES

Keeping the current decision-making procedures, such as unanimity voting in the Council, will mean continued policy gridlock in areas like the harmonisation of indirect taxation and foreign policy. Politics of the lowest common denominator will continue to be the norm. Although more than 65% of EU citizens support a Common EU foreign policy, 20 common positions—especially towards China—

20 Leonard Schuette, Should the EU make foreign policy decisions by majority voting?, p. 2.

will not be agreed on. Given the number of Member States and even more heterogeneous preferences, it will become harder and harder to reach consensus where unanimity is required. Voters will increasingly get the feeling that the EU just doesn’t work. Regarding treaty change, gridlock in the near or mid-term future is likely.

DECISION-MAKING PROCEDURES

Multi-speed Europe will continue to be a reality. However, instruments for different speeds should be used cautiously. Voters who prefer more integration might become impatient while EU sceptics remain rather happy.

NATIONAL PARLIAMENTS AND SUBSIDIARITY CONTROL

The early warning mechanism has worked to some degree. Its principal value is based on informing national members of parliament about proposed EU legislation and giving them the opportunity to voice their concerns. Without any changes, the impact of national parliaments regarding the raising of subsidiarity concerns will continue to be small, but the mechanism will continue to serve as an early information tool for national MPs.

EUROPEAN ELECTIONS

TACKLING THE MOST PRESSING ISSUES

With regards to European elections, tackling the most pressing issues means considering the reality of the lead candidate process and making it work with the least common effort. Learning from the past, parties clearly communicate to their voters that the lead candidate whose party was cast the most votes does not automatically become the Commission President—but that a high turnout and a good election result can still make a difference. There is only one realistic exception to another failure of the process: a sufficient number of political groups that have previously (long before the election) held a majority after election day agree on backing the lead candidate whose political group comes first. However, groups will only agree to such an agreement if they have a substantial chance of coming in first or can conclude a beneficial agreement with others. Even if two political groups achieve such a deal (like in 2014), other parties might not have an incentive to participate because they have no chance of winning.

However, in every scenario, parties should have lead candidates because they give political entities a personal face and allow for TV debates, which have the potential to attract voters' interest and foster European public spheres. This could be called *Spitzenkandidaten* "light".

Furthermore, transnational lists should be introduced. The core idea behind transnational lists is that all European citizens will elect their representatives together in a single constituency, regardless of their nationality. Proposed concepts of transnational lists differ in detail.²¹ One proposal is to grant every European citizen two votes, with one vote going to the existing national lists and one to an electoral list (closed or with preferential voting) and the second vote reflecting the transnational perspective and holding the entire territory of the Union as its constituency.²² This more lenient version has the potential to increase interest in the election as well as voter turnout.

To tackle low turnouts among young voters, efforts should be made regarding European elections. 44% of Estonians use online voting,²³ and this can serve as a model. Already to date, democracy and voting are areas that are subject to digital transformation and innovation efforts, so digital solutions should be launched as soon as possible, assuming that election security is assured.²⁴ This more lenient version has the potential to increase interest in the election as well as voter turnout.

21 Louis Drenau, "Not transnational lists, transnational parties", europeanconstitution.eu (August 13, 2019), <https://europeanconstitution.eu/not-transnational-lists-transnational-parties>.

22 Renew Europe has published such a proposal. See Renew Europe, "What are the Transnational Lists?", Medium [blog] (5 February 2018), <https://medium.com/@RenewEurope/what-are-the-transnational-lists-3b104b232cb3>.

23 Renaud Dehousse & Simon Hix, Nothing is lasting without institutions, p. 13.

24 Renaud Dehousse & Simon Hix, Nothing is lasting without institutions, p. 10. European Parliament, "2019 European election results".

EUROPEAN COMMISSION

Tackling the Commission's most pressing issues requires communicating to voters that the Commission is indeed a political government. As laid out in the Treaties,²⁵ the Commission should be reduced to two thirds of its members, and the current system could be replaced by a fair and balanced rotation process to ensure geographical balance and national representation among Commissioners over time—instead of all at the same time. Highlighting the straightforward argument of cost-reduction, this political proposal could be easily explained to voters.

DECISION-MAKING PROCEDURES

Tackling the most pressing issues with regards to decision-making procedures, the passerelle clause should be used to switch from unanimous voting in the areas of harmonisation of indirect taxation, foreign policy, social policy, and energy and climate policy—as proposed by the Juncker Commission.²⁶ Of course, switching from unanimity to qualified majority voting in these areas will encounter serious resistance from Member States, who would have to agree unanimously to such a move. However, this promises to overcome policy gridlock in the respective areas.

MULTI-SPEED EUROPE

Tackling the most pressing issues in the area of multi-speed Europe would mean encouraging those willing to integrate more to do so. The tool for achieving that is enhanced cooperation. In cases where enhanced cooperation is

25 Article 17, TFEU, https://eur-lex.europa.eu/resource.html?uri=cellar:2b1f40bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF

26 European Commission, A stronger global actor: a more efficient decision-making for EU Common Foreign and Security Policy, COM(2018)647 final (Brussels, 12 September 2018), <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1537434545290&uri=CELEX%3A52018DC0647>; European Commission, Towards a more efficient and democratic decision making in EU tax policy, COM(2019) 8 final (Strasbourg, 15 January 2019), https://ec.europa.eu/taxation_customs/sites/taxation/files/15_01_2019_communication_towards_a_more_efficient_democratic_decision_making_eu_tax_policy_en.pdf; European Commission, A more efficient and democratic decision making in EU energy and climate policy, COM(2019) 177 final (Brussels, 9 April 2019) 177 final, https://ec.europa.eu/commission/sites/beta-political/files/communication-efficient-democratic-decision-making-eu-energy-climate-april2019_en.pdf; European Commission, More efficient decision-making in social policy: Identification of areas for enhanced move to qualified majority voting, COM(2019) 186 final (Strasbourg, 16 April 2019), <https://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=9351&furtherNews=yes>.

impossible, intergovernmental cooperation is a preferable alternative. However, intergovernmental cooperation has its disadvantages: the creation of new agreements and institutions adds complexity, and decision-making procedures tend to be less transparent. In any case, other Member States should always be given the chance to join an agreement based on either enhanced cooperation or intergovernmental agreements.

NATIONAL PARLIAMENTS AND SUBSIDIARY CONTROL

There are several aspects which could contribute to improving and enhancing the early warning mechanism without fundamentally changing it.

- Reduce the required quorum for yellow and orange cards to 25% for a yellow card and 33% for an orange card. This would obviously increase the number of both yellow and orange cards and lead to more reasoning by the Commission over a proposal's accordance with the principle of subsidiarity—and, ultimately, to a clearer application and enhanced effectiveness of the principle.
- National parliaments are only allowed to review a proposal up to 8 weeks after it has been submitted. However, if the legislative proposal is changed during the legislative procedure by the European Parliament or the Council, national parliaments currently cannot review the new version. This can be tackled by giving national parliaments the option to voice their opinions at a later stage of the legislative process.
- Extend the eight-week deadline for subsidiarity review to 10, 12, or 14 weeks. This would give national parliaments more time to respond. The short deadline of 8 weeks might be difficult, given national parliamentary holidays and the time needed for scrutiny. Many national parliaments have raised this concern.

CHANGING THE EU FUNDAMENTALLY

This scenario discusses the potential of decisive changes within the institutional framework.

EUROPEAN ELECTIONS

Since the lead candidate process lacks a legal basis, one might favour a radical change by including it: the lead candidate of the party winning the most votes

would automatically become the President of the Commission. For a democratic system, however, this would be unusual and even undemocratic. A highly polarising candidate whose party wins 21% of the vote but is highly unpopular with 79% of the voters should not be preferred over, for instance, a candidate whose party wins 20% of the vote but is centrist and therefore acceptable to a bigger share of voters than the highly polarising candidate.

Forcing the European Parliament to pick one of the lead candidates is a better option, but this should be considered well because it would turn the EU into an entirely parliamentary system. Parliaments in parliamentary systems—ironically—tend to be weaker than parliaments in presidential systems, where the candidate is not solely chosen by a parliament.

If the lead candidate process is to be maintained in any form, despite its questionable success in the past, it must be accompanied by transnational lists. The most radical proposal in this regard is to vote for all MEPs in one pan-European constituency. For this, more genuine European parties would emerge, developing pan-European campaigns and a manifesto appealing to all EU citizens alike. Campaigns are also increasingly targeting EU foreigners, who may decide to vote from their host country with a single pan-European list—sparing them travel time and costs back to their home countries. However, a certain mechanism to maintain the geographical balance among Member States and MEPs shall be maintained.

The most far-reaching, more than symbolic act to honestly tackle declining voter turnout would be to acknowledge the importance of the European Parliament as the voice of European citizens. In practice, it should entail honouring the EP's leadership as the highest elected body in the EU with the corresponding powers: adding to the EP's function as co-decision-maker (with the Council) and also that of co-initiator—in the sense that the EP would have the right to initiate legislation on an equal footing with the European Commission, thus correcting the asymmetry between both institutions which persists to this day. Such a move would increase Parliament's legislative power in the EU, on the one hand, and drive voter interest in EU elections, on the other.

EUROPEAN COMMISSION

Since the Commission should be regarded as a political government, a discussion on the value of independent action by certain branches is needed. A concrete proposal would be special status being given to those parts of the Commission responsible for infringement proceedings and competition supervision. This status should entail having complete autonomy in HR matters to ensure unaffected decisions and, in principle, not being subject to any direction by

the Commission. Nevertheless, the (political) Commission would retain the choice to veto infringement proceedings from being launched or, for example, the prohibition of a merger. However, such a veto would only enter into force by being made public. This would transparently inform the public while still allowing for the political government to intervene (as is the case currently, the CJEU would have the last say in whether a Member State has violated EU law). These amendments could improve the public's understanding about what the role of the European Commission is, build trust in the political system of the EU, and contribute to reducing the democratic deficit.

DECISION-MAKING PROCEDURES

A more radical proposal would be to abolish the unanimity principle to a greater extent and switch to (qualified) majority voting in all policy areas. Of course, Member States would have to give up some degree of sovereignty.

Besides changing the remaining policy areas dictated by unanimous voting in the Council, a debate regarding the mechanism of treaty amendments would be initiated. As pointed out earlier, the European Union has a very rigid treaty amendment mechanism. There should be a discussion of how to avoid ending up in a situation where nearly all Member States agree that the rules (the Treaties) need to be changed, but one Member is always able to paralyse any change.

MULTI-SPEED EUROPE

Various ideas have been circulating on how to create a system of differentiated integration which is more suitable to each Member State. There have mainly been three proposals: a Europe of concentric circles, a Europe of clubs, and, as proposed by some, a hybrid approach—a bare-bones EU plus clubs.²⁷

A Europe of concentric circles has received the support of French President Macron.²⁸ In this model, there is a set of integration levels. Member States can choose the level of integration they prefer at a certain point in time. The inner circle has the highest level of integration, while the outer circle has the lowest.

27 See Maria Demertzis, Jean Pisani-Ferry, André Sapir, Thomas Wieser & Guntram Wolff, “One Size does not fit all: European integration by differentiation”, Bruegel policybrief, issue 3 (2018), <https://www.bruegel.org/2018/09/one-size-does-not-fit-all/>.

28 “Europe is already moving at several speeds, so we should not be afraid to say so and want it! It's because those who go faster no longer dare to forge ahead that the very essence of this ambition has been lost, that the others watched them move forward and ended up saying, being in the vanguard of Europe doesn't look that good, they dare not even meet, propose or move forward anymore.” Emmanuel Macron, “Initiative for Europe” (Sorbonne, 26 September 2017).

The (hypothetical) outer circle might just be a common market. A hypothetical inner circle might consist of common defence as well as a completed fiscal and monetary union, where decisions are reached by majority. The second-most inner circle might include common asylum and migration policies. This hypothetical sketch instantly highlights the topic of inflexibility: a Member State might want to be in a completed economic and monetary union (inner circle) but not part of common migration and asylum policies (second-most inner circle). However, this would be impossible in a Europe of concentric circles.

A Europe-of-clubs approach allows for more flexibility: Member States could choose their membership to certain policy clubs. For instance, one club might include the common market; another, Schengen and asylum policies; still another, judicial cooperation or foreign policy.

A hybrid model (“bare-bones EU plus clubs”) that aims at the strengths of both previously discussed approaches has also been proposed.²⁹ The core base, which every Member State would have to be part of, would be “built around a single market” containing policy areas like “consumer protection, competition policy, trade policy”, transport and trans-European networks, and taxation. Moreover, it would include binding commitments to democracy, the rule of law, and fundamental rights.³⁰ Besides this common core, there would be clubs that entail certain policy areas. There would be an economic and monetary union club (including a banking union and macroeconomic coordination), an asylum policy and Schengen club, a foreign and security policy club, and a police and judicial club (cooperation in criminal matters). Another club would contain the remaining current EU policies. The number of clubs would be strictly limited, and Member States would choose which club they want to be part of. Exiting and entering clubs should be possible but would come at a certain cost.

A bare-bones EU could also provide incentive to the non-EU EEA countries to join because they could remain in the single market but acquire membership and therefore participation in the respective EU-decision making processes.³¹ They would not need to additionally join any club.

Especially from a liberal point of view, this hybrid model is tempting because, while it offers much flexibility, there is still sufficient coherence. However, the transformation from the status quo would be very complicated and would break up the *acquis communautaire*.

29 Maria Demertzis et al., “One Size does not fit all...”

30 *Ibid.*, p. 7.

31 *Ibid.*, p. 9.

NATIONAL PARLIAMENTS AND SUBSIDIARITY CONTROL

The Czech Republic, Hungary, Poland, and Slovakia want to extend the role of national parliaments by introducing a “red card” into the early warning mechanism. This would allow a majority of national parliaments to veto EU legislation and make the EU legislative procedure slower. Furthermore, since most Member States have parliamentary systems in which parliaments are often aligned with their executive branch, a red card would be redundant in most cases, as these Member States are already part of the Council’s legislative procedure. One might point out that this same argument could be made against using the yellow card. However, the existing yellow card procedure and a potential red card are two very different things. The yellow card offers national parliaments the opportunity to constructively engage in the EU legislative procedure; the red card would simply pass the option to veto EU legislation from national ministers to national parliaments. ■

4 ROADMAP: INSTITUTIONAL FRAMEWORK

Citizens in general do not care all that much about the many technical issues of the institutional framework. They care about policy. They want to have similar taxation in the conventional business world and the digital world, and they desire an effective common foreign policy. When talking about proposals to reform the institutional framework, liberals should therefore always highlight the connection between an amendment to the framework and better and more effective policy. Tangible results or foreseeable improvements in one’s individual life speak for themselves, more so than the legal procedures leading to them.

Furthermore, citizens want to feel that they are being listened to before, during, and after elections and that their votes matter. It is not enough for politicians to point out that the European Parliament should have the right to directly initiate legislation in order to more evenly balance the power distribution among Commission, Council, and Parliament—it would be preferable when communicating this proposal to emphasise that such a measure increases the impact of every individual voter who participates in the European elections.

The following sections entail recommendations for reform regarding the five aspects of the institutional framework.

EUROPEAN ELECTIONS

The lead candidate process (Spitzenkandidaten) failed in 2019. Since the method is only based on a (weak) political gentlemen’s agreement, the instrument is far from future-proof if not already doomed to vanish in the next election.

In the absence of strong parliaments in a parliamentary system, and with only the President of the Commission being directly elected, one could also envisage the EP electing each Commissioner, one by one, with their respective portfolios—instead of confirming the whole college of Commissioners collectively through

a vote, as at present. Such person-by-person scrutiny would strengthen the EP's powers once more and allow for a thorough and independent check of each profile. Given the reduced number of Commissioners, it would also allow for careful balancing of the countries represented and, at the same time, increasing the Commissioners' efficiency by merging portfolios. Publicly broadcasted auditions have proven to raise citizens' interest while reinforcing a transparent, qualifications-based selection of Commissioners. Nonetheless, it remains of utmost importance to foster political education on EU matters to increase EU citizens' understanding of their individual rights as EU citizens, on the one hand, and of the European Union as a whole, on the other hand, especially the competences of the European Commission. This political education applies particularly to those living outside thriving European metropolises and EU capitals.

Sufficient and adequate media coverage of EU politics can lay a foundation for that. Until a greater number of voters has a better understanding of the EU, Spitzenkandidaten "light" is the best option available.

To increase turnout, particularly in the context of young voters, online voting should be made available. Although there are many security issues to deal with, there are already best practices in technological innovation across Europe to build upon. Digitisation is here to stay and will not wait for democracy to catch up. The EU should lead the way for such digital democratic innovation.

Transnational lists should be introduced, giving citizens two votes: one cast for the existing national lists and the other for an electoral list holding the entire territory of the Union as its constituency.

The powers of the European Parliament should be expanded by giving it the right to directly initiate legislation. The European Parliament represents citizens in the EU's institutional framework. Increasing its powers would give more (indirect) power to European citizens and also provide a broader platform for follow-through from their elected representatives in addressing citizen concerns. This would democratize the EU further and increase popular interest in EU elections.

EUROPEAN COMMISSION

The European Commission, as laid out in the Treaties, should be reduced to two thirds of its current members. This would signal to taxpayers that the EU is willing to cut public costs while maintaining, if not increasing, its institutions' efficiency. Moreover, political parties should communicate to their voters that the European Commission is a political government to make its role and actions

more tangible for non-experts. Competition supervision, merger controls, and infringement proceedings against Member States for violations of EU law are sensitive issues. As demonstrated in here, infringement proceedings might not be launched because of political reasons. Thus, those parts of the Commission responsible for infringement proceedings and competition supervision should receive a special status. This status should entail their complete autonomy in HR matters and basically not being subject to any direction by the Commission. Yet the Commission must have the option to veto infringement proceedings or decisions regarding competition supervision. Before entering into force, however, such a veto would need to be made public. This would transparently inform the public but still allow the political Commission to intervene (in the current situation, the European Court of Justice [ECJ] would have the final decision about Member States' having violated EU law).

DECISION-MAKING PROCEDURES

Policy gridlock is one of the major challenges facing the EU. This gridlock is partly caused by unanimity clauses in decision-making procedures. Especially in the competence areas of indirect taxation and foreign policy, unanimity requirements in the Council have made the EU quite ineffective. Thus, it should be a political priority to switch from unanimous to qualified majority voting in those two policy areas in order to allow for rapid policy responses guided by a common interest. This could be done via the passerelle clause. As a long-term vision, the goal must be to reduce unanimous voting in the remaining areas where unanimity is still required. The emphasis should not be on creating a European Union in which a (thin) majority rules over a minority. Decision-making procedures should still be consensus-oriented (or even more qualified majorities should be a priority). In a constructive spirit of EU action, the main focus needs to be put on this aspect: a small number of Member States should not be able to paralyse policy-making in the European Union with potentially disastrous consequences in cases where a quick reaction is needed, such as foreign policy matters.

Additionally, the reality of the rigid treaty amendment mechanism needs to be discussed. Although this is a highly technical issue, it requires attention because the current rigidity might lead to a situation in which regular treaty change—even in the face of apparent urgency—is impossible, and the only way to move forward is that the willing Members trigger Article 50 (exit from the European Union) and thereby found a new European Union. Such a situation must be prevented.

Again, this proposal does not mean that there should not be a rigid mechanism for treaty change. However, this should be done to a degree where treaty change does not become impossible. As a start, more passerelle clauses could be introduced. The threshold for minor treaty changes could be reduced from unanimity among Member States to a 90% quorum instead. It is also important to point out that there are parts of the Treaties that should always require unanimity, for example, any amendment of Article 50 (the option for a Member State to leave the European Union).

MULTI-SPEED EUROPE

Multi-speed Europe should be encouraged so that individual EU countries are given the possibility to evolve within the EU's institutional framework as they are able and wish to do. Although it would be best to integrate across the board at the same speed, this is not politically feasible. However, the use of permanent derogations should be very limited in order to preserve European unity and prevent “cherry-picking”. The preferred tool is enhanced cooperation and, if that is not possible, intergovernmental agreements should be used.

However, if it is demonstrated in upcoming years that further joint integration is impossible yet necessary to keep the EU functional, and if the potentials of enhanced cooperation and intergovernmental cooperation have been fully exhausted, then a switch to the flexible hybrid model of a Europe of concentric circles and a Europe of clubs (described as “bare-bones EU plus clubs”) should be pursued.

This would mean a common core base for all Member States, built around the single market and including policy areas of shared interest like consumer protection, competition, trade, taxes, and transport. It would entail clear minimum standards regarding democracy, rule of law, and fundamental rights. Besides this common core base, every Member State could join a certain number of clubs. Those clubs would be Economic and Monetary Union (Euro, macroeconomic policy coordination, banking union); Migration, Asylum, and Schengen; Security, Defence, and Foreign Policy; and a club for all other remaining policies.

The number of clubs should be strictly limited. Every club would have its own council and parliament in which only the respective participating Members may decide by a distinct majority. As mentioned in, a so-called “bare-bones EU” would also provide incentive to the non-EU EEA countries to join because they could remain in the single market while acquiring membership and, therefore, participation in the EU decision-making process.³²

32 Maria Demertzis et al., “One Size does not fit all...”, p. 9.

NATIONAL PARLIAMENTS AND SUBSIDIARITY CONTROL

The early warning mechanism is a tool that has enjoyed limited success. However, it should not be abolished, since it leads to national parliaments being better informed on intended EU legislation. Still, the proposal by some Member States to introduce a red card, making a majority of EU parliaments veto players in EU legislative procedure, should not be pursued. By adding another veto player, this procedure would be made even slower or possibly redundant to a great extent. Regardless, a proposal rejected by a majority of national parliaments would not be able to pass the Council, since national governments and ministers are usually backed by their national parliaments. However, some adjustments could be made to improve the early warning mechanism.

The required quorum for the yellow and orange cards should be reduced to 25% for a yellow card and 33% for an orange card. This would obviously increase their occurrence and force the Commission to better reason why a given proposal is in accordance with the principle of subsidiarity.

It should be possible for parliaments to voice concerns regarding subsidiarity later in the political process. Presently, national parliaments can only review a proposal for 8 weeks after it has been submitted. However, if the EP or Council changes a legislative proposal during the legislative procedure, national parliaments currently have no option to review the newly adopted version. This can be tackled by giving national parliaments the option to voice their opinions at a later stage of the legislative process.

The eight-week deadline for subsidiarity review should be extended to 14 weeks in order to give national parliaments more time to respond. ■

CONCLUSION:

Not all but most parts of the proposed roadmap require treaty change. At present and in the near future, treaty change seems to be difficult to achieve. This should not discourage political parties from proposing policies and amendments which are less realistic in the near future, however. Who would have thought in early 2020 that the EU would issue common debt?

Currently, it also remains unclear what kind of political deal would allow treaty changes. In order to achieve such a deal, giving competences back to Member States should not be tabooed. However, lower democratic standards or compromises on press freedom in Member States should never be part of such a deal.

The Conference on the Future of Europe provides a small opportunity for treaty change, as explicitly mentioned by EP President Sassoli during the signature of the institution's joint declaration on the Conference. It remains unclear how substantial the input of and impact on citizens are going to be. However, for the Conference to work (creating attention, interest, and engagement), citizens must feel that their input counts. Thus, if citizens get a substantial say, the European Parliament could announce in advance that it is going to use its power, not least as the EU citizen's advocate, to include the outcomes of the Conference in a treaty change proposal.³³

To sum this chapter up in one sentence, a future Institutional Framework needs to provide options for effective policy, foster democratic engagement, and offer flexibility for different speeds of integration.

³³ Article 48, TEU, https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF.

LIST OF ABBREVIATIONS

CJEU –

Court of Justice of the European Union

ECJ –

European Court of Justice

EEA –

European Economic Area

EP –

European Parliament

ESM –

European Stability Mechanism

MEP –

Member of the European Parliament

MP –

Member of Parliament (national level)

TEU –

Treaty on European Union

TFEU –

Treaty on the Functioning of the European Union

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**SUSTAINABILITY
AND CLIMATE
CHANGE**



01

CHAPTER

02

03

THE PATRON

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“

We find ourselves at a pivotal moment in our human history, regardless of whether we are the players or the game creators. Climate change is here and it has become the defining issue of our time. The EU needs to remain the game-changer and continue to ensure a more sustainable and equitable society for everyone. We can no longer stay vulnerable to the adverse effects of human-induced climate drivers. Reduce, reuse, and recycle! This should be the paradigm of the 21st century and I am sure ELF supports that. As responsible citizens, we have to make environmental and sustainability education part of our civic culture and become the problem-solvers.

”

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1. INTRODUCTION



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Sustainability and anthropogenic climate change are issues of definite concern that have been drawing the attention of policymakers and the general public in recent years. Five to ten years ago, the political situation looked very different. Nevertheless, the scientific evidence about the impacts of ongoing climate change¹ and biodiversity loss² leaves no doubt: unless there is a swift transition towards carbon neutrality, global warming beyond 1.5°C or 2°C and a catastrophic loss of biodiversity cannot be avoided.

Scientists point to the importance of the coming decade, until 2030, to achieve the targets agreed upon in the Paris Agreement.³ Policymakers also acknowledge that the coming years will be crucial to set political, economic, and societal prerequisites for decarbonisation towards a net-zero greenhouse gas emissions society, based on a circular economy and sustainable growth.⁴ Finally, youth

1 IPCC, “Summary for Policymakers”, in Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty, eds. V. Masson-Delmotte, P. Zhai, H.-O.

2 IPBES, The global assessment report on biodiversity and ecosystem services (2019).

3 See: Niklas Höhne, Michel den Elzen, Joeri Rogelj, Bert Metz, Taryn Fransen, Takeshi Kuramochi, et al., “Emissions: world has four times the work or one-third of the time”, Nature 579 (2020), pp. 25–28; UN Environment Programme, Emissions Gap Report 2019 (26 November 2019); and European Commission, In-depth analysis in support of the Commission communication COM(2018) 773. A Clean Planet for all - A European long-term strategic vision for a prosperous, modern, competitive and climate neutral economy (12 December 2018)

4 See: European Commission, In-depth analysis in support of the Commission communication COM(2018) 773. A Clean Planet for all - A European long-term strategic vision for a prosperous, modern, competitive and climate neutral economy (12 December 2018); and European Commission, Impact Assessment: Stepping up Europe’s 2030 climate ambition - Investing in a climate-neutral future for the benefit of our people (17

activists play an important role in bringing the issue to the top of the agenda in Europe, e.g., by mobilising through the “Friday for Future” protests.⁵

On the other hand, there are different views on the problem. Some claim that climate change, although a challenge for the whole of humanity, should be addressed in a less catastrophic way and placed in a larger basket, containing problems such as the extreme poverty affecting millions of people around the world.⁶ Although there is no doubt about the correlation between events, some scientists believe that predictions of the resulting impact on societies from future global warming are less certain⁷, and it is necessary to discuss the real impact that a climate-friendly policy can have on the global level.⁸

The Expert Forum on Sustainability and Climate Change organised by the European Liberal Forum provided a platform to discuss and exchange ideas between experts of different disciplines, policymakers, and other stakeholders under Chatham House Rules. This chapter builds on these discussions, brings different strands of the debate together, and formulates policy recommendations based on the presentations and discussions at the Expert Forum. COVID-19 shaped the debate there about the future of EU policies substantially. The experts agreed that the pandemic has shown the importance and capacity of the “EU Green Deal”, as well as its political initiative and narrative, to bring together diverging interests, integrate policy objectives, and promote innovation to achieve a sustainable and net-zero emissions society in Europe.

The experts agreed that the EU Green Deal proposed by the European Commission (EC)⁹ and the decision to address it as a number one priority both offer the invaluable opportunity to accelerate and sustain progress up to 2030. Questions of sustainability and just transitions, however, should be part of the political initiative too. In addition, the experts highlighted that the implementation of a

September 2020).

5 Stefan C. Aykut, Emilie d’Amico, Jan Klenke, and Felix Schenuit, “The Accountant, the Admonisher and the Animator: Global climate governance in transition. Report from the COP25 climate summit in Madrid” (Center for Sustainable Society Research, 2020).

6 B. Lomborg, “Welfare in the 21st century: Increasing development, reducing inequality, the impact of climate change, and the cost of climate policies”, *Technological Forecasting and Social Change*, Volume 156, 2020, 119981, ISSN 0040-1625, <https://doi.org/10.1016/j.techfore.2020.119981>.

7 See: Burke, M., Hsiang, S. M. & Miguel, E. “Global non-linear effect of temperature on economic production”, *Nature* 527, 235–239 (2015); and Hoegh-Guldberg, O. et. al. in *Global Warming of 1.5°C* (eds Masson-Delmotte, V. et.al.) Ch. 3 (IPCC, 2018).

8 Degroot, D., Anchukaitis, K., Bauch, M. et al. “Towards a rigorous understanding of societal responses to climate change”, *Nature* 591, 539–550 (2021). <https://doi.org/10.1038/s41586-021-03190-2>

9 European Commission, COMMUNICATION FROM THE COMMISSION: The European Green Deal, COM/2019/640 final (Brussels, 11 December 2019).

circular economy guided by the objective of a decarbonised society by 2050 will be key for this transformation. Furthermore, questions of overall EU integration should not be forgotten. The discussions at the Expert Forum and the past and possible futures of climate policy presented in this chapter clearly show that climate policy and politics have the ability to develop into either a driving or a dividing force of EU integration. The chapter is structured as follows. As a first step, it provides a brief summary of the development and current state of climate policy in the EU. Based on the debates at the Expert Forum, the second part describes three possible future scenarios. In these stylized pathways, the conditions and limits for accelerated transformations of the EU as it heads towards a sustainable growth and decarbonisation will be explored.



2.

THE POLITICAL CONTEXT: DEVELOPMENT AND CUR- RENT STATE OF CLIMATE AND SUSTAINABILITY POLICY

The antecedents of EU competencies in the field of sustainability and climate policy were developed in the 1970s and 1980s.¹⁰ Legally binding acts in the form of directives mostly dealt with environmental protection, particularly air and water pollution. Climate mitigation objectives, i.e., the reduction of emissions, were not specifically addressed, and environmental and energy policy objectives dominated the political rationale behind these initiatives.¹¹ While in the late 1980s and 1990s the idea of integrating economic growth with environmental contexts as “sustainable development” gained traction, a carbon-energy tax failed.¹² In the 2000s, following the aftermath of 1997’s Kyoto Protocol Agreement, the terms “sustainability” and “climate policy” were integrated into the Lisbon Treaty process, both for the first time in primary law, and the EU Emissions Trading System (ETS) was adopted as a key climate policy instrument. Scholars note that “the period since ca. 2000 in particular has witnessed the repeated emergence of policies and targets that are increasingly distinct from national ones and sometimes globally innovative”.¹³

10 Anthony R. Zito, Charlotte Burns, and Andrea Lenschow, “Is the trajectory of European Union environmental policy less certain?”, *Environmental Politics* 28, iss. 2 (17 Jan 2019), pp. 187–207.

11 Tim Rayner and Andrew Jordan, “The European Union. The polycentric climate policy leader?”, *WIREs Climate Change* 4, iss. 2 (March 2013), pp. 75–90.

12 Anthony R. Zito et al., “Is the trajectory of European Union environmental policy less certain?”

13 Tim Rayner and Andrew Jordan, “Climate Change Policy in the European Union”, *Oxford Research Encyclopedia of Climate Science* (5 August 2016).

THE 2020 CLIMATE AND ENERGY PACKAGE PRIOR TO UNFCCC COP15 IN COPENHAGEN

Prior to the multilateral negotiations in Copenhagen (2009), the European Union came up with its influential 2020 climate and energy package in 2007. Its final outcome was substantially shaped by Heads of States and Governments in the European Council.¹⁴ Under the German Council presidency, they agreed on the following three 2020 targets: a 20% cut in greenhouse gas emissions (from 1990 levels), 20% of EU energy from renewables, and a 20% improvement in energy efficiency. The package was divided in a number of legislations, the most important of which were: the ETS Directive¹⁵ to improve and extend the Emissions Trading System; the Effort-Sharing Decision¹⁶ with differentiated and binding national targets for sectors not covered by the ETS; national targets in the Renewable Energy Directive¹⁷; and the Energy Efficiency Directive,¹⁸ which obliged Member States to submit National Energy Efficiency Action Plans specifying their national targets and measures. These four regulations reformed and set up the key policy instruments of EU climate policy which, so far, are still the key political instruments governing EU decarbonisation: an emissions trading scheme first proposed by the EC in 2001 and after intense debates adopted in 2003.¹⁹ Member-State-specific reduction targets for non-ETS sectors are differentiated across Member States based on the principles of fairness, cost-effectiveness, and environmental integrity. It also headlines targets for the development of renewables and energy efficiency.

14 Severin Fischer, *Die Energiewende und Europa* (Wiesbaden: Springer Fachmedien Wiesbaden, 2017).

15 European Parliament, DIRECTIVE (EC) 2009/29 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community (Brussels, 23 April 2009).

16 European Parliament, DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020, 406/2009/EC (Brussels, 23 April 2009).

17 European Parliament, DIRECTIVE (EC) 2009/28 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (Brussels, 23 April 2009).

18 European Parliament, DIRECTIVE (EU) 2012/27 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (Brussels, 25 October 2012).

19 Jon Birger Skjærseth, "The Commission's shifting climate leadership. From emissions trading to energy union" in *The European Union in international climate change politics. Still taking a lead?*, 1st edition, eds. Rüdiger Wurzel, James Connelly, and Duncan Liefferink (London, New York: Routledge Taylor & Francis Group, 2018).

THE 2030 CLIMATE AND ENERGY FRAMEWORK PRIOR TO UNFCCC COP21 IN PARIS

In the aftermath of the failure of the UNFCCC climate summit in Copenhagen—where the EU was side-lined by China and the USA²⁰—the EU rebuilt its international influence and took on an important role as “leadiator”²¹ in the multilateral breakthrough of the Paris Agreement in 2015. Part of the preparations for a new multilateral agreement was an update of EU climate policy. In 2014, the Heads of States and Governments agreed on the 2030 climate and energy framework.²² For the most part, this initiative was perceived as a climate policy success and part of the leadership the EU had provided in the multilateral context of the UNFCCC negotiations.²³ Nevertheless, some scholars saw it as “a new quality in an on-going intergovernmentalisation process in EU politics”²⁴ — despite the fact that climate policy would, according to the Lisbon Treaty, be decided according to ordinary legislative procedure, the European Council managed to de-facto remain in control of the ambition level of EU climate policy.

The 2014 Council conclusions on climate and energy policy²⁵ have been translated into EU legislation through the Regulation on the Governance of the Energy Union and Climate Action²⁶ as an overarching framework. The

20 Ian Traynor, “WikiLeaks cables: Cancún climate talks doomed to fail, says EU president”, *The Guardian* (3 December 2010).

21 Sebastian Oberthür and Lisanne Groen, “The European Union and the Paris Agreement: leader, mediator, or bystander?”, *WIREs Climate Change* 8, iss. 1 (January 2017).

22 The key targets agreed by the European Council were: at least 40% cuts in greenhouse gas emissions (from 1990 levels), at least 27% share for renewable energy, and at least 27% improvement in energy efficiency. See: European Council, European Council (23 and 24 October 2014) - Conclusions, EUCO 169/14 (Brussels, 24 October 2014). Later in the EU decision making processes, the targets were raised. For recent changes, see: Sebastian Oberthür, “Hard or Soft Governance? The EU's Climate and Energy Policy Framework for 2030”, *Politics and Governance* 7, iss. 1 (2019), pp. 17–27; and Kati Kulovesi and Sebastian Oberthür, “Assessing the EU's 2030 Climate and Energy Policy Framework: Incremental change toward radical transformation?” *Review of European, Comparative & International Environmental Law* (2020).

23 As Oberthür and Groen note (see footnote 18), with the 2030 targets the EU “submitted the highest ‘intended nationally determined contribution’ (INDC) of the major players” (p. 3).

24 Severin Fischer, “The EU's New Energy and Climate Policy Framework for 2030”, *SWP Comment* 55 (December 2014).

25 European Council, EUCO 169/14

26 European Parliament, Regulation (EU) 2018/1999 of the European Parliament and of the Council on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council

Governance Regulation sets the following five objectives of the so-called “Energy Union”²⁷: (1) energy security; (2) an internal energy market; (3) energy efficiency; (4) decarbonisation; and (5) research, innovation, and competitiveness. The Regulation also established new reporting and monitoring processes. For example, Member States are required to submit 10-year National Energy and Climate Plans (NECPs) for the period from 2021 to 2030 as well as national long-term strategies that sketch out domestic processes and future strategies related to the Energy Union and climate policies.

Apart from the Governance Regulation, the most relevant legislations for EU climate policies form the three pillars of EU climate policy.²⁸ Two of these pillars already exist in legislations that address the reduction of greenhouse gas emissions, the Emissions Trading Directive²⁹ and the Regulation on Effort Sharing.³⁰ The third pillar consists of the newly established Regulation on Land Use, Land-Use Change, and Forestry (LULUCF).³¹ In addition to this “inner core of EU climate policy”,³² a wider circle of legislative measures has also been agreed upon. Among them are updates to the Renewable Energy Directive (2018/2001) and the Energy Efficiency Directive (2018/2002). In the aftermath of the Paris Agreement, newly elected Commission President Ursula von der Leyen and Commission Executive Vice President Frans Timmermans proposed increasing the emissions reduction headline target from 40% to 55%.³³

Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (2018): Regulation on the Governance of the Energy Union and Climate Action (21 December 2018).

- 27 The wording of the Energy Union is based on a political initiative by then European Council President Donald Tusk. See: Donald Tusk, “A united Europe can end Russia’s energy stranglehold”, *Financial Times* (April 21, 2014).
- 28 Sebastian Oberthür, “Hard or Soft Governance? The EU’s Climate and Energy Policy Framework for 2030”, *Politics and Governance* 7, iss. 1 (2019), pp. 17–27.
- 29 European Parliament, DIRECTIVE (EU) 2018/410 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments, and Decision (EU) 2015/1814 (Brussels, 14 March 2018).
- 30 European Parliament, REGULATION (EU) 2018/842 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (Strasbourg, 30 May 2018).
- 31 European Parliament, REGULATION (EU) 2018/841 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework, and amending Regulation (EU) No 525/2013 and Decision No 529/2013/EU (Strasbourg, 30 May 2018).
- 32 Sebastian Oberthür, “Perspectives on EU Implementation of the Paris Outcome”, *Carbon & Climate Law Review* 10, no. 1 (2016), pp. 34–45.
- 33 European Parliament, Amended proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on establishing the framework for achieving

These increased EU ambitions and an update to the 2030 climate and energy framework are part of the political initiatives framed as an “EU Green Deal”, presented by the EC elected in 2019.

THE ‘EU GREEN DEAL’ – TOWARDS ‘CLIMATE NEUTRALITY’ IN EUROPE

Since the adoption of the Paris Agreement, the dynamics in climate politics have changed substantially.³⁴ Protests led by youth activists dubbed “Fridays for Future”, as well as new scientific knowledge on the differences between the 1.5°C and 2°C targets in the IPCC’s Special Report on 1.5°C Global Warming, have heavily influenced EU policy making. In particular, they influenced the most recent European Parliament election campaigns and the post-election negotiations to form a new European Commission. Ursula von der Leyen, in her opening speech in front of the European Parliament, promised to raise the 2030 target from 40% to 50-55%, also stating her intention to table an EU Climate Law and announcing an EU Green Deal to be put forward during her first 100 days in office.³⁵ Observers regarded this as part of a strategy to win votes by the Greens in the Plenary and secure a majority.³⁶ Since then, the EU Green Deal has developed into a top priority of the current Commission. Von der Leyen has announced that she will work towards making Europe “the first climate-neutral continent” and described it as “Europe’s ‘man on the moon’ moment”.³⁷ This is mirrored in the fact that the former Socialists & Democrats top candidate for the EC presidency, Frans Timmermans, was appointed as Executive Vice President and made responsible for the implementation of the European Green Deal. The Commission delivered its Green Deal proposal just in time with 2019’s multilateral UNFCCC Madrid climate negotiations. In Madrid, both von der Leyen and Timmermans used the Green Deal as a diplomatic initiative to convince other states to pledge more ambitious climate policies and targets.³⁸

climate neutrality and amending Regulation (EU) 2018/1999 (European Climate Law), COM/2020/563 final (Brussels, 17 September 2020).

- 34 Oliver Geden and Felix Schenuit, “Climate neutrality as long-term strategy: The EU’s Net Zero Target and Its Consequences for Member States”, SWP Comment 33 (August 2019).
- 35 European Commission, Opening Statement in the European Parliament Plenary Session by Ursula von der Leyen, Candidate for President of the European Commission (Strasbourg, 16 July 2019).
- 36 *The Economist*, “Ursula von der Leyen is elected European Commission president Her narrow majority betokens less personal weakness than political fragmentation” (16 July 2019).
- 37 European Commission: Press remarks by President von der Leyen on the occasion of the adoption of the European Green Deal Communication (Brussels, 11 December 2019)
- 38 Stefan C. Aykut et al., “The Accountant, the Admonisher and the Animator...”

Since then, the actual implementation of the EU Green Deal has been specified and translated into an action plan with an ambitious and complex timeline.³⁹ The central element of the European Green Deal is the so-called climate law, adopted with the Regulation EU 2021/1119. In it, EU policymakers have agreed on a more ambitious 2030 target.⁴⁰

In July 2021, the European Commission published a set of initiatives linked to the European Green Deal to achieve the 2030 and 2050 targets. The package contains both new proposals and revisions that will transform “EU economy and society to meet climate ambitions”⁴¹ while also delivering innovation and modernising the economy. Overall, the proposals aim at having an impact on the future of European sustainability in many sectors, such as transport, industry and supply of energy, but also on citizens and the use of land.

EU CLIMATE POLICY AND EU INTEGRATION

As shown above, EU competencies in the climate and sustainability policy field have increased substantially since environmental issues were first regulated at the EU level in the 1970s and 1980s. This could be regarded as majorly successful for the EU’s integration processes. At the same time, however, climate policy has been a prime example of differentiated political efforts to achieve EU-wide targets across EU Member States.⁴² This is also reflected in the balance of power between EU institutions.

In general, the European Commission uses the Green Deal to position itself as a “policy entrepreneur”⁴³ in EU climate policy. The Commission was regarded as a leader in climate policy before,⁴⁴ but its policy entrepreneurship has been

39 European Commission, ANNEX to the COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS The European Green Deal, COM(2019) 640 final (Brussels, 11 December 2019).

40 European Council, “European climate law: Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (‘European Climate Law’)

41 European Commission, “Commission proposes transformation of EU economy and society to meet climate ambitions”, (Press Release), July 14th, 2021.

42 Kacper Szulecki, Severin Fischer, Anne Therese Gullberg, and Oliver Sartor, “Shaping the ‘Energy Union’: between national positions and governance innovation in EU energy and climate policy”, *Climate Policy* 16, iss. 5 (2016), pp. 548–567.

43 John W. Kingdon, *Agendas, Alternatives, and Public Policies*, 2nd edition [reprint] (New York, Longman, 1995).

44 See: Yves Steinebach and Christoph Knill, “Still an entrepreneur? The changing role of the European Commission in EU environmental policy-making”, *Journal of European*

overshadowed by the “deliberate intergovernmentalism”⁴⁵ of recent years, particularly the detailed strategic guidelines for the development and ambition of EU climate policy by the European Council. The EU Green Deal should therefore also be examined with regard to the question of whether this policy initiative might have the potential to transfer political leadership and decision-making power over the EU’s ordinary legislative procedure. The overarching concept and vision of the Green Deal has the potential to strengthen EU competencies in the field of climate and sustainability policy.

As this policy area is the EC’s top priority and has also attracted a lot of attention in the domestic capitals in recent years, the extent to which different actors are trying to either deepen EU integration in climate policy or focus on national interests in this context can be seen as an interesting indicator when monitoring the current state of EU integration in general. The intense political discussion about the 2030 target and other aspects of EU climate policy indicates that the substantial, far-reaching transition towards a sustainable and climate-neutral EU is likely to test the Union’s solidarity and cohesion.

EU GREEN DEAL AND COVID-19: A GREEN STIMULUS PACKAGE

The COVID-19 pandemic has overshadowed all policy issues since its outbreak in early 2020. Yet it is remarkable that there have been discussions about EU-level stimulus packages directly linked to the EU Green Deal and the narrative of a green recovery. This is in stark contrast to the financial crisis in 2008–2009, when a green stimulus did not receive much attention. Frans Timmermans spoke at the international Ministerial meeting on Climate Action in July 2020: “The climate crisis is still there, the biodiversity crisis is still there, and we will have one shot at addressing them together with the recovery plans that will now be made.” According to the proposal made by EU leaders, 30% of the EU recovery deal—750 billion euros—and the multiannual EU budget (2021–2027) is earmarked for investments linked to climate protection. In addition, 17.5 billion euros have been allocated in the Just Transition Fund that aims at supporting the transition in carbon-intensive regions. Although the level of these investments has been criticised for being too low, this new initiative provides an example of how the EU Green Deal and green recovery plan can provide opportunities to ‘expand the pie’ of negotiations on climate ambitions and other policy fields. Therefore, it might help to accelerate the transformation towards a sustainable net-zero-emissions society. ■

Public Policy 24, iss. 3 (April 2016), pp. 429–446; and Jon Birger Skjærseth, “The Commission’s shifting climate leadership...”

45 See: Uwe Puetter, “Europe’s deliberative intergovernmentalism: the role of the Council and European Council in EU economic governance”, *Journal of European Public Policy* 19, iss. 2, pp. 161–178 (8 September 2011); and Severin Fischer, “The EU’s New Energy and Climate Policy Framework for 2030”.

3. OPTIONS AND SCENARIOS

Given the amount of political capital invested in the EU Green Deal, as well as the established and emerging lines of conflicts, it is worth exploring a set of different scenarios for possible developments related to EU climate policy. The main focus is on possible and plausible developments until 2030. The developments described in the scenarios will be crucial steppingstones for the transition towards a circular economy and a net-zero-emissions society by 2050; they will have considerable impact on the degree to which these objectives are “politically feasible” for 2050.

Three scenarios for EU climate policy are considered here: (I) Muddling through, (II) Tackling the most pressing issues, and (III) Changing the EU fundamentally. In reality, of course, the future of EU climate policy will be more convoluted and blurred. These scenarios should not be taken as projections but as a useful exercise that could stimulate further discussion. Before setting out to describe these scenarios, it is necessary to discuss five parameters that will set the conditions for future developments and will eventually define policy outcomes. These are: (1) credible and actionable decarbonisation targets, (2) the degree of implementation of a circular economy, (3) innovation, (4) the future of EU integration, and (5) the role of multilateralism.

CREDIBLE AND ACTIONABLE DECARBONISATION TARGETS

Decarbonisation targets will be an important dimension of climate policy leading up to 2030 and beyond. The figures alone, like 55% by 2030⁴⁶ and net-zero by 2050, are important symbols of the ambition being strived for by the EU and its Member States. But their actual definition and anchoring in climate policy will play an important role in the way they steer the transformation towards

46 In 2020, adopting the new 2030 target received a lot of attention in Brussels as well as in the national capitals. After the Commission decided to propose a 55% reduction, the European Parliament proposed an amendment of 60%. The Commission has currently issued a series of proposals on how to realise the 2030 target plan, while the main objective is to achieve climate neutrality by 2050.

decarbonisation. Therefore, credibility and the degree to which they are legally binding are important dimensions.

TOWARDS A CIRCULAR ECONOMY

A second important dimension of these scenarios concerns the role played by the concept of the “circular economy” in the coming years. This concept refers to an economy in which resources (whether material or energy) are used, transformed and used again in an efficient manner, taking into account the best possible optimisation of recycling, disposal, and waste management processes.⁴⁷ This understanding of the material and energy cycle encompasses the entire production cycle, and will be implemented from the product design phase. In the European Commission’s view, circularity of processes is not limited to materials (such as batteries, electronics, plastics, and textiles), but also includes the construction sector, resource extraction, and land use.⁴⁸ However, it remains crucial to consider the effects of this transition on industry. Measures to encourage circularity in production cycles must consider the involvement of stakeholders whose engagement would help to encourage a cultural change regarding the circular economy.⁴⁹

The circular economy does already and will continue to receive increasing attention, following the adoption of the net-zero-emissions target. In addition, the idea of closing the carbon cycle, e.g., in industrial processes but also by compensating for emissions that are difficult to reduce in sectors such as agriculture, will gain much more focus.⁵⁰

The extent to which a circular carbon economy has the capacity to set incentive structures will be an important signpost on the road towards net-zero societies. Another relevant question will be how biodiversity and sustainability issues can more generally be addressed in a circular economy.

47 European Commission, Circular Economy Action Plan (2020).

48 European Commission, COM2020/98 final “A new Circular Economy Action Plan For a cleaner and more competitive Europe”, 03.2020

49 D.M. Salvioni, A. Almici, “Transitioning Toward a Circular Economy: The Impact of Stakeholder Engagement on Sustainability Culture” Sustainability 2020, 12, 8641; doi:10.3390/su12208641

50 Oliver Geden and Felix Schenuit, Unconventional mitigation. Carbon Dioxide Removal as a New Approach in EU Climate Policy, SWP Research Paper 2020/RP 08 (June 2020).

INNOVATION

Innovations will shape future developments towards sustainable and decarbonised societies. This is not limited to technological innovations supporting decarbonisation (e.g., green and low-carbon hydrogen or carbon management), but such innovations will also be political (e.g., new instruments or alliances) and societal (e.g., behavioural change) in nature.

The development and large-scale deployment of renewable energy technologies have shown how long innovation cycles can take until the broad diffusion and competitiveness of novel technologies can be achieved.⁵¹

Moreover, the alternative offered by the use of nuclear power plants (as well as new technology alternatives)⁵² remains a viable solution for long-term sustainability in Europe. In fact, being a low-carbon alternative, representing an affordable and reliable source of energy, nuclear power can be implemented for clean development – also in support of the Sustainable Development Goals (SDGs).⁵³ Europe’s fundamental contribution to the research, monitoring, and development of sustainable nuclear energy requires constant investment in the development of the sector.⁵⁴ Assessing the prospects for clean nuclear energy is crucial, especially in the light of growing energy needs.⁵⁵

51 Gregory F. Nemet, *How solar energy became cheap. A model for low-carbon innovation* (London, New York: Routledge/Taylor & Francis Group, 2019).

52 IRSN “Nuclear Fusion Reaction”, Fontenay-aux-Roses, 2017, ISSN 2117-7791; See also: World Nuclear Association, “Fast Neutron Reactors”, 2020; For more information: T. Hamacher, M. Huber, J. Dorfner, K. Schaber, A. M. Bradshaw, “Nuclear fusion and renewable energy forms: Are they compatible?”, *Fusion Engineering and Design*, Volume 88, Issues 6–8, ISSN 0920-3796.

53 IAEA, *Nuclear Power for Sustainable Development*, Vienna, 2017 <https://www.iaea.org/sites/default/files/np-sustainable-development.pdf>

54 Investments will be needed not only to foster technological advancement, but also to upgrade also the power grids to transport energy fostering the internal energy market. The European Network of Transmission System Operators for Electricity (ENTSO-E) is the world’s largest synchronous energy transmission network (with more than 40 transmission system operators (TSO) from 34 countries),

55 Since the “Euratom” Treaty in 1957 (consolidated version 2012/C 327/01), the Member States have been constantly cooperating on the development of nuclear energy, perceived as an alternative to the lack of “conventional” energy. The use of nuclear technology to provide energy has been at the centre of the debate on repeated occasions (from the Chernobyl disaster in 1986 and recently after Fukushima in 2011). In the context of growing concerns, the European Institutions worked to reshape the legislation concerning nuclear energy. The current legislative framework aims to ensure high levels of security, while competences are cross-cutting and include different institutions - such as the EU’s Sustainable Nuclear Energy Technology Platform (SNETP) or the European Nuclear Safety Regulators Group (ENSREG).

Another alternative to fossil fuels are so-called biofuels.⁵⁶ These (gaseous or liquid) are obtained from biomass and allow a wide range of materials to be recycled, contributing to the circularity of the economy. The use of such combustibles reduces the environmental impact and the emission of polluting components.⁵⁷

Finally, there are some challenges to consider when talking about renewable energies. First of all, in order to take full advantage of renewables, an electricity system must be highly flexible so as to adapt quickly to the difference in energy demand (and not to incur negative power prices) while storage costs remain very high.⁵⁸ Secondly, the initial costs for implementing renewable energy systems are high and may require a huge quantity of land. In addition, solar, wind, and hydropower generated energy are dependent on weather conditions which, if unpredictable, can lead to losses.⁵⁹ Climate change itself could have an impact on renewable energies (e.g., on biomass production) and influence their potential.⁶⁰ Another related aspect is the willingness of citizens to pay for clean energy. This factor must be considered by politicians in a broader context of spreading a culture of renewables,⁶¹ while active policies to incentivise the use of renewables should consider their economic impact and costs to society and citizens. The path to net-zero emissions in the EU clearly shows that not only will large amounts of renewable energy and other technologies be needed but so will far less well-understood technologies, such as carbon management—which reduces emissions from hard-to-abate sectors and so keeps the target within reach.⁶² Proactive support of innovative processes will therefore be required in the next decade, if their implementation and incremental upscaling is to be realised after 2030.⁶³

56 Oecd-Fao *Agricultural Outlook 2019-2028*, Chapter 9, “Biofuels”,

57 D. Athanasios, N. Ioannis, et. al., “Evaluation of a Hydrotreated Vegetable Oil (HVO) and Effects on Emissions of a Passenger Car Diesel Engine”, *Frontiers in Mechanical Engineering*, Volume 4, 2018; DOI=10.3389/fmech.2018.00007, ISSN=2297-307

58 P. Kefalas, V. Shindew, T. Groth, R. Meade, “The limits to renewable energy”, Report, SWECO, 2019; pp. 30-33

59 Owusu, P.A.; Asumadu-Sarkodie, S. A review of renewable energy sources, sustainability issues and climate change mitigation. *Cogent Eng.* 2016, 3, 1167990.

60 See: IPCC, “Summary for Policymakers. In IPCC Special Report on Renewable Energy Sources and Climate Change Mitigation”, Edenhofer, O., Pichs-Madruga, et al., Eds.; Cambridge University Press: Cambridge, UK; New York, NY, USA, 2011.

61 G.E. Halkos, E-C. Gkampourax, “Reviewing Usage, Potentials, and Limitations of Renewable Energy Sources”, *Energies* 2020, 13, 2906; doi:10.3390/en13112906

62 European Commission, *In-depth analysis in support of the Commission communication COM(2018) 773. A Clean Planet for all - A European long-term strategic vision for a prosperous, modern, competitive and climate neutral economy* (12 December 2018).

63 Gregory F. Nemet, Max W. Callaghan, Felix Creutzig, Sabine Fuss, Jens Hartmann, Jérôme Hilaire, et al. “Negative emissions—Part 3. Innovation and upscaling”,

The way in which decision-makers, businesses, and other stakeholders will take up the challenge of initiating and accelerating innovation cycles will therefore play a crucial role in possible future scenarios of EU climate policy. The manner in which they are designed will also have a significant impact on the feasibility of achieving the net-zero-emissions target by 2050.

THE FUTURE OF EU INTEGRATION

Political challenges during the transformation will take shape and raise contested institutional questions and struggles within the EU. Broader questions about the EU's future integration will be addressed in this transformation. A 'multi-speed integration' approach, for example, would provide more manoeuvring room for actionable climate and sustainability policies at the EU level than the approach of an 'ever closer union', which avoids fragmentation across Member States.

At the same time—and directly linked to these questions—there is the future role of the European Council. Climate policy has been one of intergovernmentalism's prime examples, with the Heads of States and Governments claiming de facto decision-making power over agreed-upon ambition levels in climate policy. Whether and how this might change as regards ordinary legislative procedure will also substantially shape future EU climate policy.

THE ROLE OF MULTILATERALISM

As one of the driving forces behind the multilateral success of the Paris Agreement in 2015, the future of EU climate policy will also be shaped by developments in the UNFCCC and other multilateral fora. If the transition phase towards a voluntary bottom-up regime works and the pledge and review system incentivises countries and other actors to speed up their climate ambition,⁶⁴ then EU climate policy will increase in credibility and effectiveness with regard to decarbonisation as well as securing biodiversity and sustainability. If the Paris Agreement turns out not to have encouraged countries towards more ambitious climate policies, this could also affect developments in the EU.

Environmental Research Letters 13, iss. 6 (June 2018).

64 Stefan C. Aykut et al., "The Accountant, the Admonisher and the Animator..."

MUDDLING THROUGH: KEEP TO THE BEATEN TRACK AND LOSE THE FRONTRUNNER ROLE

In a 'muddling-through' scenario, the developments until 2030 are incremental and follow the well-known paths of EU policymaking rather than a significantly accelerated transformation. There is a risk that the EU Green Deal may prove to be a symbolic overhead structure without concrete political implications. Although the EU institutions and Member States aim for a 55% emissions reduction in 2030 and net-zero emissions by 2050, climate policy struggles are shaped by certain actors' well-known attempts to weaken their legally binding character.⁶⁵ After finding a compromise on the level of ambition and bindingness for Member States and other actors, these political struggles could move to the more technical level in the actual implementation of revised regulations—including discussions about accounting techniques and flexibilities.

If the Union follows the beaten track, then the credibility and feasibility of the long-term EU objective of net-zero emissions would be questioned—not only because these negotiations will lead to loopholes for less ambitious actors but also because uncomfortable issues like residual emissions and balancing them by 2050 are not being addressed. In a muddling-through scenario, a lack of credibility is also to be expected in the context of implementing the concept of a circular economy, along with other sustainability policies.⁶⁶ Although incremental progress will be achieved, the time up until 2030 would hardly lead to substantial political breakthroughs that will facilitate the transition towards a sustainable and decarbonised society by 2050.

It is to be anticipated that incremental progress would lead to a situation in which the focus of political attention will continue be on CO₂ reduction and issues of biodiversity, with sustainability more generally being only symbolically integrated into climate policy. Incrementalism could even hinder proactively coordinated innovation, not only in the context of future technologies such

65 In the context of the 2030 climate and energy framework, the renewable energy target is no longer binding, as it was in the 2020 climate and energy package. See: Kati Kulovesi and Sebastian Oberthür, "Assessing the EU's 2030 Climate and Energy Policy Framework...". With regard to the net zero target, for example, EU institutions and Member States discuss whether the target should be EU-wide or apply on a Member State-specific level. An EU-wide target would leave more room for flexibilities and differentiation of ambition across Member States. See: Oliver Geden and Felix Schenuit, Unconventional mitigation...

66 The prevalence of this risk was articulated by experts and policymakers at the ELF Expert Forum on Sustainability and Climate Change

as Green Hydrogen or renewable energy but also in the development of new political instruments.

In this stylized incrementalism scenario, each Member State is expected to be substantially influenced by its own path-dependencies, and the EU institutions should not have the capacity to significantly streamline or coordinate the transition towards a low-carbon society.

The lack of integration and streamlining of the positions of EU Member States also shapes institutional developments. In this scenario, it is to be anticipated that the overall development of EU integration meanders between the “multi-speed” and “ever closer” approaches—without being able to achieve any possible advantages of either one. Neither would a small group of Member States be capable of agreeing on a way forward without waiting for less ambitious countries in climate and sustainability policy, nor would the EU have the capacities to pool national interests in a way that could develop an integrated and effective policy approach. In this context, it is unlikely that the role of the European Council would change. Although the Commission and the European Parliament have their stakes in the decision-making processes, influencing discussions through strategic initiatives and proposals, the Heads of States and Governments (with their de-facto power) are expected to continuously dominate decision-making regarding ambition levels.

If incrementalism were to shape the upcoming decade of EU climate and sustainability policies, the EU would have a hard time living up to its international role as a frontrunner.

TACKLING THE MOST PRESSING ISSUES: SHORT-TERM SUCCESS AND FRAGMENTATION

In the second scenario, the EU is anticipated to tackle the most pressing issues in climate and sustainability policy. In this stylized pathway, one could expect short-term decarbonisation targets to be taken seriously, particularly the 2030 targets. At the same time, however, long-term targets and conditions for achieving them are anticipated to receive less attention in this scenario. In effect, important prerequisites—both political and technical—to achieve net-zero emissions by 2050 will not be achieved in the coming decade. Although new political support to achieve an ambitious 2030 target will set new processes in motion, only going after the ‘low-hanging fruits’ of decarbonisation could lead to a lack of concrete progress regarding longer-term issues. In this case, achieving net-zero emissions

by 2050 would turn out to be a less plausible future.⁶⁷

In this scenario, EU climate policy is anticipated to shift its focus even more towards the circular economy approach. Its initiatives are likely to mainly focus on process emissions from industry. Carbon capture and storage (CCS) and carbon capture and utilisation (CCU), which are able to transform high-emitting processes like steel production into net-zero emissions processes,⁶⁸ are therefore likely to receive increasing attention leading up to 2030. In the medium term, this would result in large volumes of CO₂ emissions abatement and, in the long term, negative emissions through Bioenergy with Carbon Capture and Storage (BECCS) technology.

The above is the reason why technological innovation plays a bigger role here than in the muddling-through scenario. One potential risk which experts and policymakers may identify is that questions of biodiversity and sustainability are still not fully integrated into EU climate policy in this context. It is to be anticipated, however, that more integrated perspectives will emerge in some areas of climate policy. One concrete example is the Common Agriculture Policy (CAP). The first signs of establishing ‘carbon farming’ and other linkages of CAP subsidies to climate objectives already indicate that this policy field, with the largest slice of the EU’s budget, could be increasingly opened towards climate, biodiversity, and sustainability criteria.

On a more institutional level, the ‘most pressing issues’ scenario could lead to frontrunner coalitions both between countries and across economic sectors. For example, with regard to more ambitious decarbonisation targets: a group of countries aiming for net-zero emissions before 2050 could form a coalition and join forces in achieving their targets.⁶⁹ However, frontrunner coalitions could also emerge that focus on concrete innovations and their R&D and business applications. Possible topics could include green and low-carbon, hydrogen, CCS, or carbon farming innovations. These could act as powerful drivers of innovation in the EU; however, they are not likely to secure followership⁷⁰

67 This was addressed by experts at the ELF Expert Forum. For more details, see European Commission, Impact Assessment: Stepping up Europe’s 2030 climate ambition...

68 See, for example, initiatives by ThyssenKrupp: <https://www.thyssenkrupp-steel.com/en/company/sustainability/climate-strategy/> or Arcelor Mittal: <https://corporate.arcelormittal.com/media/press-releases/arcelormittal-europe-sets-out-path-to-net-zero-by-2050-with-pioneering-technologies-at-the-forefront-of-the-company-s-roadmap-for-carbon-neutral-steelmaking>.

69 Countries having already communicated or adopted pledges to achieve net zero emissions before 2050 include Sweden (by 2045), Austria (by 2040), and Finland (by 2035).

70 See this problem for climate policy described in: David G. Victor, Frank G. Geels, and

among less ambitious countries or sectors in the EU, and this will lead to a fragmented and more complex policy field. Distributional struggles are likely to remain a defining and highly politicised dimension of EU climate policy⁷¹ in this context. Although the European Council will be less important in this regard, now in an environment shaped by frontrunner coalitions, the European Commission—often thought of as an institution pooling domestic interests together and proposing compromises—will have a hard time uniting the policy field and relevant actors. Still, the effective short-term reduction of emissions will safeguard the perception of the EU as a climate frontrunner. UNFCCC negotiations could, at the same time, turn out to be global events where this emerging fragmentation grows more and more visible.

CHANGING THE EU FUNDAMENTALLY: TOWARDS A SUSTAINABLE NET-ZERO SOCIETY

The third scenario is a fundamentally changed EU. In this scenario, sustainable, net-zero emissions turn into the organising principle of EU climate policy as well as that of other policy areas. All climate-related policies and actors linked to them would thus be asked about their individual impact on the long-term, net-zero target of balancing residual emissions and carbon removals. More specifically, an EU-wide and Member-State-specific net-zero greenhouse gas emissions target would be adopted. Differentiations in ambitions would still be possible, but if one country were to achieve net zero later than 2050, then another country would have to compensate by achieving net zero earlier than 2050.

A fundamentally changed EU would also have to start thinking beyond 2050, when—according to the latest climate science⁷²—net negative emissions will be required. In order to keep those targets within reach, EU climate policy for 2030 would have to set into motion a transformation towards a circular economy that establishes incentive structures to substantially alter current business practices. An ambitious and legally binding 2040 target would have to be set as early as possible to provide feasible and credible pathways towards net-zero emissions by 2050 and net-negative emissions thereafter. This combination of legally binding and long-term targets, even beyond 2050, would provide a fertile environment for different kinds of innovation—technological, political, and societal—that would be necessary for such a transformation. At the same

Simon Sharpe, Accelerating the low carbon transition. The case for stronger, more targeted and coordinated international action (November 2019).

71 Kacper Szulecki et al. “Shaping the ‘Energy Union’...”

72 IPCC, “Summary for Policymakers”

time, a fundamentally changed EU would shift the main focus away from carbon emissions and help develop a broader perspective that integrates biodiversity and sustainability criteria without playing stakeholders’ attention against one another. One concrete example would be a full alignment of the CAP, climate policies,⁷³ and the circular economy approach.

On a more institutional level, frontrunner coalitions would emerge by 2030—in contrast to the second scenario—which implement an effective “club” structure,⁷⁴ setting strong incentives for less ambitious countries and other actors to align their efforts with those of the frontrunners. Although the dimensions of the Just Transition would always have to be considered in such a setting,⁷⁵ a ‘multi-speed’ approach that eventually manages to bring other actors on board could even develop into a competitive “race to zero emissions”. This could ultimately help enable new coalition dynamics and overcome the longstanding lines of distributional conflicts, contributing to overall EU integration rather than being a major obstacle in the way of further integration. Leaving distributional conflicts behind could also mean that the de facto veto power exercised by the European Council could lose importance, and the ordinary legislative procedure—as set out in the EU Treaties—would become the standard decision-making process for climate policy. Avoiding the problem of increasingly fragmented climate policies raised in the “tackling the most pressing issues” scenario would also help the EU to act as a credible global frontrunner, demonstrating its track record in decoupling economic growth from emissions and setting an example of sustainability to other signatories of the Paris Agreement. ■

73 On the potentials of aligning CAP and climate mitigation, see: European Commission, Evaluation study of the impact of the CAP on climate change and greenhouse gas emissions (4 July 2019).

74 David G. Victor and Bruce D. Jones, Undiplomatic Action. A practical guide to the new politics and geopolitics of climate change (February 2018).

75 This not only includes support for regions largely shaped by the fossil fuel industry but also energy poverty, as experts at the Expert Forum highlighted.

4

ROADMAP AND POLICY RECOMMENDATIONS

These scenarios show that the political decisions taken in the years up to 2030 will decide whether a sustainable net-zero target in 2050 is both plausible and credible in the long term. The EU Green Deal initiative by the European Commission already provides important prerequisites for the transition towards a decarbonised society. However, the Green Deal will only be successful if the goal of net-zero emissions becomes the organising principle behind EU climate policy. For this to happen, policy initiatives need to be endorsed and co-developed by new emerging coalitions and political majorities. In other words, the EU Green Deal is not a self-fulfilling prophecy, but it does need proactive and continuous support across the political spectrum and different industry sectors. Tomorrow's debates on sustainability and climate change are vital for the future of the continent and the rest of the world. Liberals need to be at the forefront of this debate. The next section of this chapter will offer six policy recommendations that could enable liberals to have an impact on the debate and on the direction that sustainability and climate change regulations will take in the EU.

These policy recommendations are intended to take the core convictions of the ALDE party—freedom, liberty, individuality, progress, and solidarity—as a starting point for shaping the liberal sustainability agenda for the coming 10 years. In addition to that, they were developed based on the manifesto adopted by ALDE prior to the 2019 European elections⁷⁶ and its position paper “A Climate Policy that delivers on the Paris Agreement”.⁷⁷ In these documents, liberals are calling for more effective responses to the collective challenge of climate change which will put the EU into a leadership position. They also already include several concrete steps in this direction: transitioning towards a circular economy, international cooperation to meet the Paris Agreement targets and the Sustainable Development Goals (SDGs), a carbon-neutral economy by 2050,

76 ALDE, Freedom, opportunity, prosperity: The Liberal vision for the future of Europe (2018).

77 ALDE, Resolution: A Climate Policy that Delivers on the Paris Agreement (Athens, 24-26 October 2019).

an ambitious 2030 target, biodiversity, interlinking climate and trade policies, supporting multilateralism, and investing in innovation and research. The policy recommendations formulated below are intended to specify next steps for liberal policymakers in the context of the EU Green Deal and spur debates within ALDE and beyond.

INTEGRATE CLIMATE, SUSTAINABILITY, BIODIVERSITY, AND ECONOMIC POLICY

As ALDE states in its manifesto, the political objectives of a sustainable, net-zero emissions society need to be aligned and complementary to economic growth. Only if an emerging “race to zero emissions” integrates these dimensions (sustainability, biodiversity, eco-friendly growth) proactively and addresses them through innovative policies and international cooperation, it can ensure that the transformation towards net-zero emissions will not be achieved at the expense of biodiversity and other dimensions of sustainability. The EU Green Deal provides a potentially powerful narrative for combining these policy areas—as well as the COVID-19 recovery stimulus packages. Liberals should work towards a post-pandemic EU Green Deal that fosters synergies between climate protection, sustainability, and economic policy.

SET CREDIBLE SHORT-, MID-, AND LONG-TERM TARGETS FOR PATH TOWARDS A NET-ZERO EU

The EU Green Deal has already provided the framework for the 2030 and 2050 targets, and the ALDE party has articulated its support for net-zero emissions by 2050 and -55% by 2030. A 2040 target should be decided upon before 2025. This will not only reduce political ambiguities linked to the 20 years between 2030 and 2050, but it will also provide planning security for industry and other high-emitting sectors. Substantial political capital should be invested to set future climate targets as clearly as possible, including EU-wide and Member-State-specific targets. In addition, the accounting of emission reductions towards the targets should be free of ambiguities—for example, with regard to carbon management and offsets. Finally, political actors should start to explore possible political targets for the time after 2050.

The ALDE party has already addressed the sometimes-controversial issue of negative emissions. As the science is clear that achieving net-negative emissions beyond 2050 will be crucial to limiting global warming to 1.5°C, integrating

net-negative targets as early as possible in the overall EU climate debate would help to accelerate the required transformation towards net-zero emissions and sustainable development. Thinking beyond 2050 could develop into a distinguishing feature of liberal climate policy in the coming years.

The distributional effects of this intended transformation, however, will be important dimensions in implementing these targets. This can also have an impact on fundamental rights. Especially when it comes to energy poverty, i.e., a situation in which households are unable to access essential energy services, the Commission recommends using “a systematic approach to the liberalisation of energy markets”. Moreover, it is fundamental to “assess the distributional effects of energy transition” and to develop “all policies [...] on the basis of meaningful and accountable processes of public participation and broad stakeholder engagement”.⁷⁸ This and other aspects of a just, cost-efficient transition need to be considered by liberal policymakers.

Industrial innovation will be crucial in this regard. Based on the liberal idea of subsidiarity, policymakers should therefore help to shape an EU Green Deal that respects geographical and other differences across Europe. A decentralised EU Green Deal is more likely to secure ongoing societal support for the transformation towards reducing path-dependencies of unsustainable practices.

Finally, the distribution between the cost of the transition on the economy and industry has to be balanced and should be taken into account in decision-making processes in both the short- and long- term. This is essential to avoid overloading the productive sector during the transition to a sustainable Europe.

INSTIGATE INNOVATION AND BE PREPARED FOR BREAKTHROUGHS

Instigating investments in net-zero-compatible innovations will be crucial to achieving this political target. Liberals should aim for an EU Green Deal that provides a technology-neutral framework promoting these investments in innovation and research while giving room and support to emerging new alliances and frontrunner coalitions, either across countries or between sectors. Green and low-carbon, hydrogen and battery, and carbon management are some areas of innovation that are anticipated to gain importance in the upcoming transformation. At the same time, our understanding of innovation should not be limited to technologies; developing effective policy instruments and new

⁷⁸ European Commission, Recommendations (EU) 2020/1563 of 14 October 2020 on energy poverty

business models that are capable of addressing the challenges of climate change, biodiversity loss, and sustainability in an integrated way should also be part of the debate.

There is great potential linked to digitisation: new technologies provide for possible public-private partnerships that enhance sustainability, for example, with regard to electricity systems and the coordination of demand and supply. In this and other contexts, transformative public-private partnerships can play an important role in funding, exploring, experimenting with, and deploying innovation aimed at reducing current path-dependencies of unsustainable practices.

ESTABLISH A CIRCULAR ECONOMY AND INTEGRATE POLICY OBJECTIVES

Policy initiatives should aim to establish an effective policy framework around the idea of a circular economy, a concept that is already part of the liberal climate agenda. If the overall idea of closing the carbon cycle is accompanied by an incentive structure for businesses to adapt their current practices, it has the potential to be a source for crucial innovations to develop on the route towards net-zero emissions. At the same time, however, this concept should be prevented from being hijacked as a means to delay decarbonisation strategies, e.g., through large-scale carbon-offsetting.

The circular economy approach, driven by the objective of sustainable growth, should not only integrate decarbonisation objectives, but biodiversity and sustainability criteria should also be taken into account in this endeavour. It should also include a regulatory framework for the certification of carbon removals, as proposed by the Commission’s Circular Economy Action Plan. The Common Agriculture Policy, as already mentioned in the ALDE resolution on climate change, is one example of this: not only because it comprises the largest part of the EU budget and powerful incentive structures but also because the agricultural sector is responsible for residual emissions⁷⁹ that will have to be offset by removals in order to achieve net zero. Establishing a circular economy will require an intensive dialogue between governments, businesses, and society—in agriculture, industry, and all other sectors. Liberals should aim for the role of facilitator and honest broker in these exchanges.

⁷⁹ European Commission, Impact Assessment: Stepping up Europe’s 2030 climate ambition...

EU INTEGRATION AND INTERGOVERNMENTALISM

Cross-cutting issues of EU integration should not be forgotten in the context of the transformation towards low-carbon societies. The ALDE manifesto adopted in 2019 highlighted the importance of a “united Europe” liberal agenda for the next ten years. Liberals should consider the possible implications for the EU’s future development as a political project. In general, the varying starting points of Member States with regard to decarbonisation and a circular economy leads to a situation in which transformation pathways—with regard to technologies and approaches to achieving decarbonisation but also in its overall speed—are expected to differ across countries. Realistic but progressive political support of their transformations would therefore provide a set of regulations and incentive structures that enable and encourage but also require all actors to move towards net-zero emissions. Here, EU climate policy should provide room for frontrunners, especially new coalitions that are likely to emerge when new issues come up, such as hydrogen or carbon management. At the same time, the EU should always make sure that support schemes and incentive structures are set up in a way that followership is incentivised, supported, and enabled. Domestic path-dependencies will always lead to some degree of fragmentation. Still, based on their core convictions, liberals should work towards an EU Green Deal aimed at making ambitious climate policy a driving rather than a dividing force in EU integration.

MULTILATERALISM

The EU is perceived outwardly and perceives itself as a driving force for multilateral cooperation. The Liberals in Europe have made it clear in their manifesto and most recent resolution on climate change that the EU should continue to act as a leader in this global challenge. Especially in times of increasingly fragile multilateralism—not only in the context of climate change—a liberal agenda should always pursue a policy approach that strongly supports multilateralism and does not take agreements like the Paris Agreement for granted. Securing its viability requires actors like the EU to renew their explicit support for this agreement by playing by its rules and contributing to their further development. In an environment where political struggles between China and the USA are likely to intensify, the EU could try to position itself with a frontrunner role

as well as that of an economic power and an honest broker. Following the idea of a circular economy would also require the EU to pursue the integration of a multilateral climate and trade regime. Driving reforms in the WTO and UNFCCC or negotiating innovative free trade agreements⁸⁰ would be important dimensions in pursuit of the transformation towards a net-zero economy and society. ■

80 Susanne Droege, Harro Asselt, Kasturi Das, and Michael Mehling, The Trade System and Climate Action: Ways Forward Under the Paris Agreement (Climate Strategies Working Paper, October 2016).

CONCLUSION:

The next ten years are crucial in EU climate and sustainability policy. The three scenarios above have shown how different developments may occur and how far-reaching their consequences might be. Initiatives like this book—fostering an open discussion and exchange of views and ideas among scientists, policymakers, and other stakeholders—are crucial in view of the societal, regulatory, and economic transitions ahead. We will not only be dealing with climate and sustainability issues; though these topics are increasingly important for EU citizens, ⁸¹ they also have strong interlinkages with many other policy fields. For instance, the way we address these transitions will also shape the future of European integration. Liberals need to be aware that sustainability and climate change policy can be either a dividing or a driving force when it comes to EU integration.

⁸¹ See: Eurobarometer, Special Eurobarometer 490: Climate Change (2019); and Mitya Pearson and Wolfgang Rüdiger, “The Greens in the 2019 European elections”, *Environmental Politics* 29, iss. 2, (January 2020) pp. 336–343.

LIST OF ABBREVIATIONS

BECCS –

Bioenergy with Carbon Capture and Storage technology

CAP –

Common Agriculture Policy

CCS –

Carbon Capture and Storage

CCU –

Carbon Capture and Utilisation

EC –

European Commission

EP –

European Parliament

ETS –

Emissions Trading System

IPCC –

Intergovernmental Panel on Climate Change

LULUCF –

Land Use, Land-Use Change, and Forestry

NECP –

National Energy and Climate Plan

SDGs –

Sustainable Development Goals

UNFCCC –

United Nations Framework Convention on Climate Change

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**DEMOCRACY
AND RULE
OF LAW**



0 2

CHAPTER

0 3

0 4

THE PATRON

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“

In times of globalisation, democracy and the rule of law should be on the rise across the world. However, in recent years a growing number of countries have gone backwards to a more authoritarian and populist style of governing. Around the world, a democratic backsliding is taking place. In such times, the European Union should be the standard-bearer of democracy, liberty and the rule of law. In times like these, it is the European Union's destiny to speak as one voice for democracy and against the authoritarian uprising and challenges posed by countries like Russia and China.

”

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1. INTRODUCTION

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“Peace and economic, social and cultural development are both conditions for and fruits of democracy. There is thus interdependence between peace, development, respect for and observance of the rule of law and human rights.”

Article 8 of the Universal Declaration on Democracy, 1977

On September 15, eleven days after the European Liberal Forum (ELF) Expert Forum on Democracy and Rule of Law took place, the world celebrated the International Day of Democracy. It was on this day in 1997 that the Inter-Parliamentary Union adopted the Universal Declaration on Democracy. Deeply rooted in European history and culture, democracy as an ideal and as a goal is once again under threat today on the continent and all over the world. Facing the most terrible forms of tyranny, liberal democracy has been in decline before. Today, the same authoritarian opponents seem to be on the rise. Liberals need to acknowledge this threat and make sure that they rise to the occasion.

Arguments in favour of liberal democracy need to be accompanied by inclusive, democratic solutions that work for citizens. Whether we devise solutions that increase social cohesion and economic growth or safeguard human rights and international security, liberals need to organise arguments and policies around the most vital of principles: respect for the rule of law. And although we are by now used to facing one challenge after another, 2020 marked the year when even the rule of law principle was under threat in some parts of Europe.

The post-Cold War world has already seen a spectacular surge of populism, massive state-sponsored disinformation campaigns, new horizons of information warfare and cyberwarfare, terrorism in the heart of Europe, large-scale war in both EU neighbourhoods—East and South—and the rise of illiberal democracy. Even within the EU, illiberalism is a constant source of unrest. The unprecedented scale of the COVID-19 crisis has had serious social, political, and legal implications and seems to exacerbate all these problems. Against the background of the extraordinary measures taken by states to overcome the pandemic, it is also vital to adhere to the rule of law principle, which among other things ensures the right of citizens to have access to legal remedies and due process. Now, even more so than in previous crises, it is important for liberals to reinstate their unshaken belief in democracy and the rule of law.

These issues were at the heart of the Expert Forum organised by ELF and attended by Members of the European Parliament, political scientists, and analysts. During the discussions, participants elaborated some of the most important aspects of the current threats to liberal democracy as well as a roadmap for actions and a set of priorities that liberals need to take into consideration when thinking about Europe ten years from now. These discussions and the possible scenarios that were developed during the forum are the focus of this chapter, which will continue as follows.

First, it will elaborate on the current state of liberal democracy on the continent and the challenges it faces. Then, it will discuss three possible scenarios that define a range of possibilities for future developments in the EU with regard to democracy and the rule of law. The chapter will close with some recommendations for liberals regarding the crucial role they must play in order to ensure a freer and more democratic Europe by 2030. ■



2.

THE CURRENT STATE OF LIBERAL DEMOCRACY IN EUROPE AND BEYOND

From a bird's-eye view, the state of liberal democracy may seem rather pessimistic, as the values that underlie European integration are being questioned both inside and outside the EU. Globalisation and economic integration have produced much prosperity in Europe, but they also have triggered social and political reactions that challenge core liberal values. The wave of democratization has slowed down, and the Western recipe of liberal democracy once exported throughout the world is no longer appealing for many countries. What is more, challenges are emerging not only in those countries thought to be in transition but also in developed democracies. Fukuyama's idea about "the end of history" now seems like an exaggeration, while Huntington's arguments about the clash of civilisations are becoming more relevant. In the face of these changes and the instability that they provoke, now more than ever, it is necessary to reiterate that there is no other form of government that compares with liberal democracy.

To start with, it is an undeniable fact that liberal democracy is a driving force for technological progress. Technology has generated the potential to provide equal opportunities and a better quality of life. However, technological progress has not only enabled the expansion of civil liberties and political freedoms but also created adverse economic inequalities. As a result, democracy is "undermined as economic inequality inevitably translates into political inequality".¹ At the same time, a 'silent revolution' has taken place in the past three decades which has caused profound socio-cultural changes. These include a shift from materialist to postmaterialist values.² The tension between rapid technological progress and socio-cultural modernization, on the one hand, and the influence of tradition, on the other, is driving the emergence of identity politics and challenging the

1 Joseph E. Stiglitz, *The Price of Inequality: How Today's Divided Society Endangers Our Future* (New York: W.W. Norton & Co, 2012).

2 Ronald Inglehart, *Cultural Evolution: People's Motivations are Changing, and Reshaping the World* (Cambridge University Press, 2018).

ontological security of the individual. If indeed "people's values and behaviour are shaped by the degree to which survival is secure", then this threat's perception is moving the wheel of a "cultural revolution" that is reshaping our fundamental values and, thus, reshaping our world.³

Finally, implications of technological progress and a high-tech, ultra-connected society such as fake news, disinformation and foreign influence, viral hoaxes, conspiracy theories, and a whole range of post-truth politics have created the conditions for unprecedented 'political warfare'. This is a permanent state of conflict and instability that can target "the credibility of political institutions, the integrity of liberal democratic processes and the unity of society at large."⁴

The rising tension between technological progress and liberal democracy is alarming. At least in Europe, all these cultural, economic, and political shifts have manifested as a political contestation between liberalism and the forces of populism and nationalism.

Overall, relevant studies on citizens' perspectives about the quality of democracy suggest that the quality of liberal democracy seems to be deteriorating worldwide.⁵ What policymakers conceive of as a working solution can sometimes be perceived as a failure by citizens.⁶ In this sense, the goal of policymakers is not only to create efficient policies but also to restore trust in democracy and political institutions. Liberal democracy cannot work without a civic culture: neglecting the latter throws the stability of the entire political system into question.⁷

Europe has faced a "climate of permanent crisis—from the financial crisis a decade ago to the ongoing health crisis and a looming economic one".⁸ From the 2008 economic recession, the Eurocrisis, the migration and refugee crisis, terrorism, and Brexit to the pandemic and the economic consequences of anti-COVID measures, each of these crises has predestined the emergence of illiberal forces across the EU, bringing the post-war consensus to the brink of collapse.

3 Ibid.

4 Antonios Nestoras, "Political Warfare: Competition in the Cyber Era", *European View* 18, no. 2 (2019), pp. 258–258.

5 Quinton Mayne and Brigitte Geissel, "Putting the demos back into the concept of democratic quality", *International Political Science Review* 37, no. 5 (2016); Susanne Pickel, Wiebke Breustedt & Theresia Smolka, "Measuring the quality of democracy: Why include the citizens' perspective?", *International Political Science Review* 37, no. 5 (2016).

6 Dieter Fuchs & Edeltraud Roller, "Conceptualizing and Measuring the Quality of Democracy: The Citizens' Perspective," *Politics and Governance* 6, no. 1 (2018).

7 Gabriel A. Almond & Sidney Verba, *The Civic Culture: Political Attitudes and Democracy in Five Nations* (Princeton University Press, 1963).

8 Věra Jourová, "Equipping Europe with better tools to defend the rule of law and democratic values" [speech] (Brussels, 8 July 2020).

A recent report on democracy and the rule of law published by the Varieties of Democracy (V-Dem) Institute shows that, for the first time since 2001, liberal democracies are becoming fewer in number each year. The current political world order is acquiring an authoritarian style of government, and this trend does not bypass the EU Member States. While Hungary and Poland are currently the true enfants terribles of the EU with regards to respecting the rule of law and judicial independence, two other Member States are also problematic: Bulgaria and Romania. Since they joined the EU in 2007, the Commission has set up a special transition instrument designed to monitor and support reforms necessary for achieving the European standards in this domain. The so-called Cooperation and Verification Mechanism (CVM) is specifically focused on judicial reform and the fight against corruption as well as, in the case of Bulgaria, organized crime. However, more than 10 years later, the countries' progress is still not considered sufficient for the CVM to be lifted.

Violations over judicial independence and the rule of law are occurring not only in the above-mentioned countries but also in the Czech Republic, Slovakia, and Latvia. All this constitutes an “autocratization alert”, as phrased in the V-Dem report.

With illiberal political developments being directly linked to increased threats to pluralism, alarming assaults on media freedom are occurring in all the above-mentioned countries: from forcing independent outlets off the media market to harassing individual journalists. As crucial as media freedom and media pluralism are to liberal democracy and an open society, such backsliding in this domain within several Member States presents a direct threat to fundamental European values.

The above-mentioned V-Dem report also shows another tendency where, compared to 2009, “the share of countries with substantial pro-democracy mass protests have been raised up to 44% from 27%”.⁹ This means that societies both inside and outside the EU continue to believe in democracy yet oppose liberalism.

The question of multiculturalism has not helped, either. Again, we see the same trend of going back to identity politics due to self-perceived threats to the “individual's self-concept”.¹⁰ Different levels of integration among immigrant communities and Europeans have inevitably led to the formation of

9 Varieties of Democracy Institute, *Autocratization Surges-Resistance Grows: Democracy Report 2020* (University of Gothenburg, March 2020).

10 Angeliki Mikelatou & Arvanitis Eugenia, “Multiculturalism in the European Union: A Failure beyond Redemption?”, *The International Journal of Diversity in Organizations, Communities, and Nations: Annual Review* (2019).

intercultural tensions that are articulated in the political discourse as a clash of civilisations. Furthermore, the immigrant terrorist attacks in European capitals have provoked the re-emergence of “Westphalian sovereignty” as well as the rise of Euroscepticism. This trend was nowhere more salient than in the context of Brexit, where the immigrant issue was one of the most discussed and negotiated questions. Britain's ambition to restore its sovereignty will have a high price not only for Britain itself but also for the EU. The rising phenomenon of “Westphalian sovereignty” has threatened the ability to overcome the challenges which the EU and its Member States have been facing in terms of declining democracy and rule of law as well as the efficiency of EU foreign politics.

In order to appreciate the dynamics and transformative tendencies of European democracy and the rule of law, one needs to consider the trajectory of democratizing processes not only inside the EU but also within the framework of the European Neighbourhood Policy.

In Europe's Eastern neighbourhood, most of the post-soviet political elites were unable to provide the space for a harmonious democratic transition. Political modernization has thus faced serious resistance in many countries. Consequently, as an extreme reaction towards the aforementioned shifts, the end of the democratic transition coincided with the emergence of “post-industrial new-right parties”. The development of what Ignazi calls a “silent counter-revolution”¹¹ has given rise to a plurality of neo-populistic and neo-fascistic movements, leading to the formation of anti-establishment parties and the cult of the “authoritarian personality”.

Turkey's destructive role and unreasoned ambitions in the Eastern Mediterranean, Libya, Syria, and Nagorno-Karabakh should also be highlighted. Turkey's aggression in the Mediterranean and the EU's inability to generate a unanimous decision aimed at defending its Member States both demonstrate how economic and trade interdependence influence the quality of interactions within the EU and beyond its borders, as well as affecting the image of the EU as a bastion of liberal democracy and the rule of law. Authoritarian states like Turkey, Russia, and China challenge both democracy and liberalism.¹² Relatedly, European foreign and security policy is not independent from democracy or the rule of law on a domestic level. Questionable foreign policies can introduce strong contradictions within the EU. ■

11 Piero Ignazi, “The silent counter revolution: Hypotheses on the emergence of extreme right wing parties in Europe”, *European Journal of Political Research* 22, no. 1 (1992).

12 Francis Fukuyama, “Liberalism and Its Discontents: The Challenges from the Left and the Right”, *American Purpose* (5 October 2020).

3.

OPTIONS AND SCENARIOS

MUDDLING THROUGH

This scenario assumes that political developments move along the existing trajectory without bold moves that might help overcome the challenges to democracy and the rule of law. As a result, pessimism over the future of liberal democracy throughout the world remains, including in EU Member States. Moreover, waves of authoritarianism, cultural backlash, and democratic deficits in developing and developed democracies continue.

The deepening of tensions between liberalism and technological progress continues while the chasm deepens between institutional design and policies, on one side, and citizens' perceptions of the quality of democracy, on the other. This, in its own turn, raises the demand for populist agendas. There is a lack of proactive decisions to overcome challenges to democracy and the rule of law, bringing about elected authoritarian regimes within the EU. Some experts believe that these threats are overestimated and that it is premature to panic.

^{13,14,15}

On the one hand, it seems that threats such as Brexit will remain only an exception, so long as some sort of cataclysm does not happen in Europe. Eurosceptics in EU countries have seen enough of the painful negotiations between UK and EU leadership, which have had a sobering effect on the opponents of deepening European integration. Even Matteo Salvini, putting together a 'nationalist international' before the most recent European Parliament elections, said that he would go the other way and, together with his supporters, change the European Union from within. But one must also bear in mind that the balance between

13 Marc Bühlmann, Wolfgang Merkel, Lisa Müller, Heiko Giebler & Bernhard Wessels, Democracy Barometer. Codebook for Blueprint Dataset, v. 1 (Aarau: Zentrum für Demokratie, 2011).

14 The Democracy Barometer is a project run by the University of Zurich and the Zentrum für Demokratie (ZDA) in Aarau, Switzerland.

15 David Sylvan, "Global Internet Governance: Governance Without Governors" in R. Radu, J.-M. Chenou, R.H. Weber (eds.), The Evolution of Global Internet Governance: Principles and Policies in the Making (Basel: Schulthess, 2013), pp. 23–36.

Euro-optimists and Eurosceptics within the EU's Member States is constantly changing.

On the other hand, however, how long can the EU muddle through without addressing the root causes of social, cultural, and economic tensions? Add to these existing tensions the issues of migration and integration, the climate transition, demographics, and all of their economic implications, and you get an explosive mix that could burst at any time.¹⁶ Since the early 2000s, the working-age population has slightly increased (by about 0.32% per year), but negative growth is projected soon (at about 0.6% per year), while the EU's annual GDP growth rate could fall from 2.6% to 1.5%.¹⁷

If left unaddressed, the alarming situation with regards to the rule of law, corruption, and media freedom in Member States will not only persist but will allow for further strengthening of authoritarian regimes. With fundamental freedoms and democratic principles being the golden standard and the international trademark of the EU, allowing their violations within its own borders will inevitably lead to the loss of the EU's credibility both externally and internally.

Even if Europe survives the concurrence of these negative factors, it will have a hard time turning into a global player that can influence world politics, settle regional conflicts, continue fighting climate change, and reaffirm belief in liberal democracy. These trends may also potentially undermine the EU's status as the largest market in the world or hurt its global competitive advantage as an exporter of innovative value-added finished products and services. If nothing is done in this direction, the European model of liberal democracy may lose interest in itself. Muddling through is a losing scenario.

TACKLING THE MOST PRESSING ISSUES

If the threats are indeed exaggerated, then there is no need for panic. If the EU manages to deal with the most pressing issues, then normalcy will return sooner or later. After all, it is possible that even when a certain situation arises in which the rule of law and civil liberties are abridged and there is democratic rollback, the country where this happens will remain largely democratic. Liberal democracy may not be a linear, progressive process but rather a series of ups and downs, a range of possibilities, and a flexible system that overcomes difficulties in the end.

16 European Union, Project Europe 2030: Challenges and Opportunities, A report to the European Council by the Reflection Group on the Future of the EU 2030 (Luxembourg: Publications Office of the European Union, 2010).

17 "GDP growth (annual %) - European Union", World Bank Data.

In this respect, the EU needs to alleviate the adverse effects of the challenges it faces as well as aim to gain more time. This is how, for example, disinformation was highlighted as a fundamental hybrid threat to democracy and, as a result, the EU started the formation of tools to prevent and combat this threat. In 2015, the East StratCom Task Force was established within the European External Action Service (EEAS). In 2016, the Common Framework for Combating Hybrid Threats was approved and, in 2018, the Joint Communiqué on Building Resilience and Building Capacities to Fight Hybrid Threats was approved. By September of that year, it had published a list of measures to ensure free and fair elections in the EU. The same procedure can in fact be applied to concrete actions in other areas, such as independence of the judiciary, strengthening the role of civil society, etc.

Nevertheless, the most important challenges that the EU faces today—populism, nationalism, authoritarianism, and widespread disinformation—do not show any signs of blowing over anytime soon. Moreover, the number of potential threats is quite large (demographics, migration, internal and external security, health care, populism, information warfare), and solutions will be required in the near future. This could complicate the process of effective risk management. Precise actions against specific threats are often successful, but they rarely target the root causes which have interdependent and complex effects. Simply reacting to individual threats is not a holistic approach to solving pan-European or even global issues. The lack of such an approach can lead to the strategic defeat of liberal values.

With the rule of law principle being of central importance for the European project, ensuring respect to it across the bloc belongs to the EU's duties and obligations. In this regard, the ongoing developments in Poland and Hungary present a key internal challenge for the EU. The progressive deterioration of the rule of law in these Member States put into question the very basis of the Union's identity and integrity as well as its credibility, thus calling for urgent solutions. This unprecedented situation resulted, for the first time in EU history, in applying a special procedure envisioned by Article 7 of the EU Treaty and potentially leading to the suspension of EU membership rights.

A big step towards addressing the issue of corruption on the EU level was the launch of the Rule of Law Conditionality Mechanism, which aims at protecting the EU's next multiannual budget and recovery package by sanctioning rule of law violations linked to EU funds. Another key justice instrument meant to fight crimes against the EU budget is the long-discussed yet recently established European Public Prosecutor's Office (EPPO). In particular, the role of the European prosecutor is to address fragmentation and heterogeneity in the EU judiciary and prosecution and provide a European response to those, thus

safeguarding common judicial standards and fundamental values across the EU.

However, the effectiveness of these legal instruments will largely depend on the way they are applied in practice and, first and foremost, on the will and determination of European institutions, mainly the European Commission, to act upon them.

This scenario of addressing the most pressing issues is closer to what the EU is trying to do today, but it is still not a winning scenario for Europe.

CHANGING THE EU FUNDAMENTALLY

A more progressive approach involves more decisive actions. In this scenario, the EU firmly addresses the challenges to liberal democracy on various levels and with various tools, e.g., with deep institutional reforms, the harmonisation of social and economic policies, frameworks for a more just transition to the digital era, the use of mechanisms such as Article 7, and other sanctioning tools. A range of tools and policies is necessary in order to curb the rise of authoritarianism, populism, nationalism, and all the adverse effects on society that they entail. The Conference for the Future of Europe is a great step in this direction, and a review of the Treaties should not be ruled out.

Defending and consolidating liberal democracy for the next 10 years will depend on introducing fundamental changes in education and cultural policies, modernising democratic processes, further institutionalizing the protection of human rights and civil liberties, observing the rule of law, and fighting against misinformation, disinformation, and foreign influence in Europe through media literacy initiatives, the empowerment of women and minorities, and many more activities.

This scenario assumes systemic solutions to all threats, and these solutions may entail additional transfers of sovereignty to the supranational level, especially with regard to protecting the fundamental principles of the EU, both internally and externally, in the domain of foreign policy and security.

There are risks in this scenario as well. There is a possibility that more integration will trigger more centrifugal forces in the EU. Rapid radical changes can create additional tensions. And there is also the risk of external interference in and around Europe. Russia is becoming more assertive in the space of the Eastern Partnership countries, while Turkey is demonstrating a similar (and sometimes coordinated) attitude in the Eastern Mediterranean. The world has become multipolar: the rise of China, as another example, has not left the EU untouched

(e.g., the “16 + 1” format of cooperation with Central and Eastern Europe).¹⁸ Nevertheless, inertia is not a solution. Stability will not return without decisive actions or bold reforms.

This is also evident in the wake of the COVID-19 pandemic. Even if the above crises resolve themselves, a new one may yet appear. This has been the experience of the past decade. No matter how positively we assess the strength of existing institutions or how strongly we value our democracy and the rule of law, it is unquestionable that the number of accumulated threats and risks over the past 10 years has only increased. Gradually, we will move on from managing these risks to living with them every day. Instead of muddling through from crisis to crisis or reacting ipso facto to only the most pressing of issues, the EU needs to develop a strategic view of the future of liberal democracy and the rule of law—on the continent and beyond. ■

¹⁸ Andrew A. Michta, “China in Europe: Facing Up to the Threat” (International Centre for Defence and Security – EESTI, Estonia, May 15, 2020).

4 ROADMAP AND POLICY RECOMMENDATIONS

Liberalism was a great civilisational revolution for Europe and the West. The liberal values of free and rational action, human dignity and rights, civil liberties, and social responsibility, coupled with democracy and the rule of law, are the foundations of progress and the guarantors of freedom. The EU needs to change in order to combat all the emerging threats, but it must do so without losing touch with these values. It needs to fight without losing its own soul.

Also, as mentioned above, the internal state of liberal democracy is not independent from the external promotion of freedom and human rights. The threats that democracy and the rule of law face are global phenomena. The general deterioration of liberal democracy in the world needs to be addressed in parallel to the European situation. Apart from internal reforms and checks and balances, the EU should also keep in mind the Kantian ideal of ‘perpetual peace’ in its external actions. The EU needs to promote a culture of freedom in its external relationships: freedom for individuals and for their societies, their emancipation from authoritarian regimes, and the protection of their dignity and their inalienable rights.

Europe should move decisively along this broad liberal roadmap for the future, framed by an internal and external dimension. In particular, the following recommendations can provide a compass and give a sense of direction to liberal-minded policymakers:

- **Building institutional capacity at home and abroad:** European integration and EU democratic governance have been the prerequisite for peace and prosperity on the continent. The EU should have more powers, both in the internal domain—with the power to sanction any Member violating democratic processes and the rule of law—and in its external actions, with more capacities to act as an independent global actor with an increased degree of autonomy. There are more possibilities now, compared to the recent past, for better coordination among EU Member States in order to develop new mechanisms for more effective EU security policy. Conflict resolution processes and new international discussion groups should also be conditional on democratisation and the rule of law.

- **Improving oversight and response when it comes to rule of law violations in the EU:** the separation and independence of all the branches of power are crucial for liberal democracy and the rule of law. Especially with regard to the latter, the independence of the judiciary is the most important principle that needs to be guaranteed at the national level by each Member State. If the European Commission should act as the guardian of the Treaties, it needs to have more efficient and transparent supervising mechanisms, along with more options to sanction Member States.
- **Reinforcing the safeguarding mechanisms:** the establishment of the European Public Prosecutor's Office (EPPO) was a big step towards strengthening the supranational enforcement authority and safeguarding the fundamental values on the European level. Its purpose is to investigate and prosecute crimes against the EU budget, while the European Anti-Fraud Office (OLAF) will continue to be responsible for administrative investigations. The next step, however, is to make this promising instrument viable and truly effective. This will require a lot of further efforts, including further clarification concerning the coordination and cooperation with the OLAF and national enforcement authorities. Furthermore, it is remarkable that neither Hungary nor Poland has accepted the EPPO's jurisdiction, while also causing delays in the implementation of the conditionality mechanism by launching legal action at the European Court of Justice. This once again points out possible resistance and complications in reinforcing rule of law protection across the EU, and it stresses the need for determination and consistency on behalf of the institutions.
- Another crucial instrument was the introduction of the European rule of law mechanism, which aims at providing a comprehensive qualitative assessment of the rule of law situation in all 27 Member States, based on annual consultations among key stakeholders on the EU and national levels. While this is a step in the right direction, the annual reports that form the basis of this mechanism require further refinement with regards to their conceptualization and methodology. Furthermore, the EU should ideally couple this with a concrete action plan or strategy on how to deal with specific situations and threats.
- **Embrace digitalisation and empower citizens to improve the state of democracy in Europe:** the effective participation of citizens and public access to information are two of the most fundamental principles of the democratic process. The digital transformation that we have been experiencing in recent decades provides opportunities to improve on both of these principles; it therefore holds great potential for empowering

citizens and improving the state of democracy in Europe. Nevertheless, in some cases, the abuse of information and communication technologies may also work against democracy. Authoritarian and illiberal regimes can use digital tools to undermine civil liberties, suppress political contestation, and increase their global influence. We need to be vigilant against these abuses, albeit without stifling digital innovation as a force for good and as an enabler of better democracy.

- **Promote media literacy, media transparency, and education:** independent media that provide access to objective and factual information can enable European citizens to form opinions and participate effectively in the decision-making process. In this respect, the media are absolutely crucial to the proper functioning of democracy. However, although digital technologies and social networks have changed the media landscape and increased the free flow of information, they have also given rise to serious challenges with regard to the quality of information. Fake news and hoaxes, conspiracy theories, disinformation, and a whole post-truth culture are rampant online. In order to address these challenges and facilitate the transition, we need to ensure media transparency, digital inclusion, and quality of information. In particular, Europe needs to focus on fostering media self-regulation, developing or consolidating fact-checking mechanisms, and launching major educational initiatives on media literacy.
- **Work to alleviate economic pressure on the middle-class in Europe and beyond:** liberal democracy is also threatened by extreme economic inequality, or the adverse effects of market disruptions and heavy regulation. Liberals can champion new technologies that will stimulate growth and increase employment. Now it is necessary to take into account the latest trends in the labour market, when people are more inclined to work within flexible hours and try to keep the “life-work” rhythm in balance. It is also necessary to implement changes in social security systems which will attract the population aged 50–70 to the labour market.
- **Work to alleviate socio-demographic concerns in Europe:** the main thrust of the rise of populists takes advantage of the fear and suspicion the middle class holds towards migrants. Migration management, in the direction of control as well as of integration, is vital. An ambitious, comprehensive EU migration and asylum programme that will settle this issue could provide qualified migrant workers with social security guarantees, facilitate integration, and attract talented migrants to the EU market. At the same time, it would stimulate economic growth and alleviate pressures on social security systems.

- **Revitalise EU integration and the Neighbourhood Policy as vehicles of social and political transformation:** the European neighbourhoods in the East and the South are in turmoil, and EU enlargement has been put on hold until further notice. In the past, both of these instruments have been the most successful expressions of European foreign policy as well as the most efficient tools for facilitating social, political, and economic transitions on the continent. Liberals need to speak of the renewed importance of EU Enlargement and the Neighbourhood Policy as the main vehicles for Europe's strategic vision of a new liberal world order.

CONCLUSION:

In this crucial chapter, we reflected on the shadows that loom over liberal democracy, but we also tried to look at the world of tomorrow and how the EU can uphold the rule of law to safeguard our common ideals and values. Liberals everywhere must remind the world that there is no legitimate government without justice, and there is no justice without rule of law.

Populism and authoritarianism in Europe and beyond are the symptoms, not the root causes, of liberal democracy's problems. As a matter of fact, populism and authoritarianism have risen at a time when solutions are absent. And they will recede when solutions arrive. However, real solutions do not come from tackling only the most pressing issues or managing some aspects of the problem.

Long-term and sustainable solutions need to come from a well-rounded approach and a strategic vision of the future. Democracy is interdependent with economic, social, and cultural conditions in our societies. The past decade has seen many watershed moments when both the rule of law and European citizens' civil liberties have been abridged. The next needs to be a decade in which the rule of law and the civil liberties that it safeguards remain fundamental to the European project and to liberal democracy in the world. But, in order to do that, the EU will need to take bold steps in the future.

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**THE INTERNAL
MARKET AND
TRADE**



03

CHAPTER

04

05

THE PATRON

Dita Charanzová

Member of Renew Europe Group
and Vice-President of the
European Parliament



“

Trade and the internal market are without a doubt crucial to Europe's prosperity and success, and even more so as we look to the future in the midst of the Covid-19 pandemic. Covid has fanned the flames of the fire of protectionism that was already on the rise before. But we, as liberals, know that building walls never works. The EU has grown thanks to its liberal values of openness and free trade, which we cannot afford to forget now. The ideas below reflect many different liberal voices and views for how to move Europe forward through strengthening the Single Market and fine tuning our trade policy to be fit for the 21st century.

”

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1. INTRODUCTION



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Long gone are the days in which post-war considerations alone could explain the *raison d'être* and main policy objectives of the European Union's internal market. Indeed, the first European Coal and Steel Community (1952) established joint French-German control over this important sector in order to minimise the risk of unfettered German production of weapons and military equipment.¹ And the European Economic Community (1957) was based on a fundamental “deal” between France and Germany to run a common interventionist agricultural policy (in line with French domestic needs), while creating a common market for industrial products (fostering German export interests).²

Today, however, the international political environment has changed dramatically. The internal market has produced higher living standards throughout Europe. It was the main attraction behind the growth from six to fifteen Member States by 1995 as well as the accession of thirteen more States after the fall of the iron curtain. The European Union has thus become a good example of successful integration by opening up markets.

However, in times of dynamic globalization, the new challenge is how to maintain the European way of life in the future. Against that background, more and more European governments do not perceive the relative economic strength

1 K.J. Alter & D. Steinberg, “The theory and reality of the European Coal and Steel Community”, in *Making History: European Integration and Institutional Change at Fifty*, eds. Sophia Meunier & Kathleen R. McNamara (Oxford: Oxford University Press, 2007) vol. 8, pp. 89-104.

2 Warloutzet, L., “The EEC/EU as an evolving compromise between French Dirigism and German Ordoliberalism (1957–1995)”, *JCMS: Journal of Common Market Studies*, 57(1) (2019), pp. 77–93.

of one or more Member States as a concern but rather as an asset in Europe's global standing. In a time when the global economic order is under threat from protectionist policies and authoritarian state-capitalism, the most urgent question is how to strengthen the economic performance of the entire EU in order to withstand fair international competition (and not-so-fair bullying by other nations).

This chapter will first summarise the current state of the internal market and external trade. In that respect, its main attention is the free movement of goods, services, and workers, while the Capital Market Union and the Green Deal are discussed elsewhere. Following this, options and scenarios will be identified, namely “muddling through”, “tackling the most salient issues”, and “fundamental reforms”. A roadmap with policy recommendations will conclude in order to put teeth into somewhat lofty visions. A final summary will bring home the main liberal messages. ■



2.

THE CURRENT STATE OF THE INTERNAL MARKET AND TRADE

The founding fathers famously endowed the internal market with four fundamental freedoms: the free movement of goods, the free movement of workers, the freedom to provide services, and the free movement of capital.³ Moreover, they foresaw a common commercial policy towards third States. With the Single European Act (1986), a big step for deeper economic integration followed.⁴ The Maastricht Treaty (1993) established cooperation on issues of justice and internal security and the first Common Foreign and Security Policy (CFSP) on top of the economic project.⁵ Further treaty revisions in Nice (1999) and Amsterdam (2003) brought only incremental progress before the Treaty of Lisbon (2009) saved the remains of the project for a European Constitution.⁶ In light of these successive treaty changes, it is important to examine the current state of play and especially how some important dimensions of the internal market have evolved up to now.

FREE MOVEMENT OF GOODS

Under Article 30 of the Treaty on the Functioning of the European Union (TFEU), all customs duties and charges having equivalent effect⁷ are prohibited between Member States. Discriminatory internal taxation runs foul to Article

3 Oliver & W.H. Roth, “The Internal Market and the Four Freedoms”, *Common Market Law Review* 41 (2004), p. 407.

4 C.D. Ehlermann, “The Internal Market following the Single European Act”, *Common Market Law Review* 24 (1987), p. 361.

5 R. Lane, “New community competences under the Maastricht Treaty”, *Common Market Law Review* 30 (1993), p. 939.

6 Pernice, “The Treaty of Lisbon: multilevel constitutionalism in action”, *Columbia Journal of European Law* 15 (2008), p. 349.

7 For a wide definition of charges having equivalent effect, see ECJ, *Commission v Italy*, Case 7/68 (10 December 1968) and *Conceria Daniele Bresciani v Amministrazione Italiana delle Finanze*, Case 87/75 (5 February 1976), para. 9.

110 TFEU. Moreover, Article 34 TFEU also outlaws non-tariff barriers (NTBs) at or behind the border. Such regulatory restrictions can be justified for their public purpose.⁸ Importantly, the European Court of Justice not only applied a broad definition for NTBs in *Dassonville* (all rules hindering trade “directly or indirectly, actually or potentially”).⁹ It also held in *Rewe* (better known as the *Cassis de Dijon* case) that there is “no valid reason why, provided that they have been lawfully produced and marketed in one of the member states, alcoholic beverages should not be introduced into any other member state”.¹⁰

This liberal jurisprudence on accepting the safety standards of the country of origin opened the door for Member States’ mutual recognition.¹¹ However, the possibility to justify unilateral restrictions in the country of destination under Article 36 TFEU or under the rule of reason (for non-discriminatory provisions) still remained. Therefore, under the leadership of Frenchman Jacques Delors, the Commission adopted a White Paper to “complete” the internal market with harmonisation directives for specific sectors.¹² Once a product complied with European standards, there would no longer be any risk that national rules might hinder its circulation. This new push met a positive response in the capitals. The European Single Act of 1986 introduced the new Article 100a EEC, according to which the Council could adopt harmonisation legislation by qualified majority. In the aftermath thereof, an impressive 90% of the proposed EU directives from the White Paper went through by the end of 1992,¹³ and Member States then eliminated physical checks on goods at their borders.¹⁴ The only drawback was the 1992 rejection by Switzerland of the Agreement establishing the European Economic Area: for that reason, the extension of the internal market to neighbouring third countries would only become a reality for Norway, Iceland, and Liechtenstein. For Switzerland, a myriad of bilateral treaties resulted in a similar outcome.

Over the next decade, the focus lay on the implementation of these new Directives.

8 Article 36, TFEU and unwritten grounds of public policy (rule of reason).

9 ECJ, *Dassonville*, Case 8/74 (11 July 1974), para. 5. The limits of the *Dassonville* formula re described in ECJ, *Keck and Mithouard*, Joined Cases C-267/91 and C-268/91 (24 November 1993), paras. 11-18, where the Court found that non-discriminatory selling arrangements are not covered by this provision.

10 ECJ, *Rewe-Zentral*, Case 120/78 (20 February 1979), para. 14.

11 See for a broader reflection, see J. Brettschneider, *Das Herkunftslandprinzip und mögliche Alternativen aus ökonomischer Sicht, Auswirkungen auf und Bedeutung für den Systemwettbewerb* (Berlin: Duncker & Humblot, 2015).

12 European Commission, *White Paper on the completion of the internal market*, 14 June 1985.

13 European Parliament, *Fact Sheet Internal Market*, Point B. <https://www.europarl.europa.eu/factsheets/en/sheet/33/the-internal-market-general-principles>.

14 For a nice cinematographic illustration of this major step, see the famous Belgian film *Rien à déclarer*, dir. Dany Boon, already a cult favourite in liberal circles.

Based on the Action Plan of June 1997, Italian Internal Market Commissioner Mario Monti (1994–1999) took the far-sighted step to measure progress at a domestic level and criticise the “laggards” with yearly “scoreboards”.¹⁵ If this public pressure did not help, the Commission stepped up infringement cases against deficient Member States. Asked by Commission President Barroso to deliver ideas for his second term, Monti also delivered a report in May 2010, entitled “A new Strategy for the Single Market” (the “Monti report”).¹⁶

Michel Barnier (2010–2014) took up some of Monti’s recommendations in 2010¹⁷ and launched the “Single Market Acts I and II” (SMA I and II) in 2011¹⁸ and 2012.¹⁹ The French Commissioner presented twice 12 key actions and underlined the need to address in particular small business and consumer needs. When he left office in 2014, he could point to the creation of a unitary patent protection, the setting up of a system of alternative dispute resolution, cheaper roaming tariffs, new rules for the posting of workers, and internal public procurement rules. On the other hand, the institutions had adopted only nine pieces of legislation under SMA I and not even half of the actions under SMA II.²⁰ In particular, many transport files (fourth railway package, Open Sky II) were stuck and there was no consensus in the Council about how to treat third-country bidders for tenders in Europe.

In the Juncker-Commission (2015–2019) the Polish Internal Market Commissioner Elżbieta Bieńkowska remained rather passive. Probably her most notable achievement was Directive 2019/633,²¹ banning unfair trading practices, such as late payments for perishable goods or last-minute cancellations. Her Digital Market Strategy of 2015²² set up an intensive legislative program in that area, but it was not very successful. Therefore, many files are still on the agenda, as recently confirmed in the COVID-19 communication from the Commission, in which the digitalisation of the single market constitutes the centre of future activities.²³

15 See, for example, the Press Release of the Commission of 18 May 1998: “Single Market: New Scoreboard reflects significant progress”, https://ec.europa.eu/commission/presscorner/detail/en/IP_98_441.

16 Mario Monti, A New Strategy for the Single Market (9 May 2010), <http://ec.europa.eu/DocsRoom/documents/15501/attachments/1/translations>.

17 COM (2010) 608 of October 2010.

18 COM (2011) 206 of 13 April 2011.

19 COM (2012) 573 of 3 October 2012.

20 See EP, Single Market: State of Play (10 June 2014), pp. 3–6: [https://www.europarl.europa.eu/RegData/etudes/note/join/2014/518769/IPOL-IMCO_NT\(2014\)518769_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/note/join/2014/518769/IPOL-IMCO_NT(2014)518769_EN.pdf).

21 OJ L 111 (25 April 2019), pp. 59–72.

22 COM (2015) 192.

23 COM (2020) 456.

FREE MOVEMENT OF SERVICES

The free movement of services is equally enshrined in the Treaty. When a service provider offers a service in another Member State on a short-term basis, or when a consumer benefits from a service of a foreign service provider, or when the service itself crosses the border, the territorial state should not impose discriminatory or disproportionate restrictions on the service provider (Articles 56–62 TFEU). In a similar vein, under Articles 45–55 TFEU, the provision of services in a stable and continuous way in another Member State is guaranteed as the freedom of establishment. For both freedoms, certain exceptions are permitted, in particular when the service involves the exercise of state authority (Article 51 TFEU). As in the case of the free circulation of goods, a liberal jurisprudence of the European Court of Justice has made sure that the service provider can directly invoke the treaty freedoms before the courts of the host state.

In addition, the European Union has legislated to foster the free exercise of certain professions throughout the internal market. We can point to the General Services Directive 2006/123/EC,²⁴ which had been initiated under the Dutch Internal Market Commissioner Frits Bolkestein (1999–2004) in January 2004. Engulfed in bitter antagonism between old and freshly acceded new Member States (one can recall the public discussion about the merits of the “Polish plumber” offering cross-border services), the Member States and the Parliament considerably toned down the original proposal. The Directive calls upon Member States to “simplify” legal or administrative procedures for foreign services (Article 5) and to provide single points of contact (Article 6). This means in practice that an applicant for a cross-border service may direct his application to a single administrative entity for receiving necessary information and handing in his application. Member States also promised to engage in long-term administrative cooperation. Moreover, the Directive curtails the possibility of Member States to operate authorisation schemes (Articles 10–13) or performance requirements (Articles 14–15). It also spells out in more detail the rights of the service provider and the service receiver. However, the Directive maintains the principle that restrictions may be imposed on a case-by-case basis and does not touch services of general interest (such as postal services, telecommunications, and energy services, Article 17). Moreover, under Article 2 of the Directive, very important services, such as financial services, digital services of transport services are excluded from its scope. It follows that the internal market on services is neither very advanced nor complete under the General Services Directive. Another shortcoming is that many Member States did not meet the Directive’s implementation deadline of 2009.²⁵

24 Directive 2006/123/EC, OJ 2006, L 367, p. 36.

25 See the critical resolution of the EP from 15 February 2011 on the implementation of the

In the last decade, an increased ambition for services led to further legislative acts (2010–2018), whose estimated benefits for growth amount to roughly € 250 bn.²⁶ We can cite the revised Public Procurement Directives 2014/24²⁷ and 2014/15²⁸ and a new Directive on Public Concessions (Directive 2014/23²⁹). They have modernised the European procurement regime, based on non-discrimination, transparency and effective competition. At the same time, the Directives authorise public authorities to include wider non-economic criteria for the award of public contracts, which may be seen as a move to allow discrimination between companies because of their social or green performance. A clear positive element of the Directives is the shift to more e-procurement.

Another important element includes professional services and qualifications. Importantly, the revised Directive 2013/55³⁰ made it easier to recognise qualifications acquired in other Member States for those wishing to offer temporary services. In addition, the new Directive 2018/958³¹ imposes a proportionality test before any national administration can enact new requirements for foreign professionals. Despite these achievements, it is still an uphill struggle to push Member States in the direction of faster and more generous acceptance of foreign professionals and qualifications, and the Commission is trying to support such moves by incorporating the topic into its yearly European Semesters.

FREE MOVEMENT OF WORKERS

As another directly enforceable right, the free movement of workers (Articles 45–48 TFEU) gives any person in the Union the right to seek a job in another Member State for six months. Once a person is employed, they are not to be discriminated against in all the relevant aspects of their employment, including remuneration and social security. This powerful tool also extends these non-discrimination principles, to a certain degree, to the family members of a migrant worker. At the same time, Member States may reserve certain jobs for their own nationals, in particular when the profession is linked to the exercise of governmental authority (Article 45 [4] TFEU). According to recent estimates,

General Services Directive, para. 4–6; https://www.europarl.europa.eu/doceo/document/TA-7-2011-0051_EN.html.

26 Jacques Pelkmans, Contribution to Growth: The Single Market for Services (2019), pp. 9, 43, on the empirical evidence underlying these figures. [https://www.europarl.europa.eu/RegData/etudes/STUD/2019/631054/IPOL_STU\(2019\)631054_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2019/631054/IPOL_STU(2019)631054_EN.pdf).

27 OJ L 94 (28 March 2014), pp. 65–242.

28 OJ L 4 (9 January 2014), pp. 73–74.

29 OJ L 94 (28 March 2014), pp. 1–64.

30 OJ L 354 (28 December 2013), pp. 132–170.

31 OJ L 173 (9 July 2018), pp. 25–34.

currently 4.2% of the EU’s workforce is making use of the freedom to work in another EU Member State.³²

While the European Court of Justice developed most of these principles on a case-by-case basis, today’s status quo for EU workers was largely determined by Directive 2004/38/EC³³ and Regulation 492/2011,³⁴ which further specify the rules governing free movement and equal treatment. Importantly, equal treatment does not only apply to the conditions of work but also unemployment.³⁵ Therefore, in principle, migrant workers are entitled to the same unemployment benefits for themselves and family members, as are the unemployed of the host State. Moreover, workers are entitled to carry-over social security rights earned in their home States to host states under former Regulation 1408/71³⁶ and current Regulations 883/2004 and 987/2009.³⁷ Therefore, the internal market *acquis* on workers is deeply ingrained in the operation of social security schemes of Member States today.

In addition, the EU has been growing more active in the coordination of labour markets. Since 2019, the EU Labour Authority has assisted workers and Member States in disseminating information and good practices.³⁸ It also provides services for mobile workers and employers through a single website. The agency is supposed to help Member States in coordination and cross-border enforcement, including joint inspections. We therefore see the start of a centralised EU enforcement of the labour-*acquis*. Moreover, the EU “Youth Guarantee”³⁹ provides an important stimulus to fight against youth unemployment in several Member States.

A contentious issue remains regarding the posting of workers. Here, a company offers a service in another Member State (e.g., the construction of a house)

32 See “Intra-EU Labour Mobility at a glance: Main findings of the 2019 Annual Report on intra-EU Labour Mobility”, p. 3. <http://ec.europa.eu/social/BlobServlet?docId=22289&langId=en>. The full report is available here: <https://ec.europa.eu/social/BlobServlet?docId=21589&%3BlangId=en>.

33 OJ L 158 (30 April 2004), pp. 77–123.

34 OJ L 141 (27 May 2011), pp. 1–12.

35 ECJ, Grzelczyk, Case C-184/99 (20 September 2001), and D’Hoop v. Office National d’Emploi, Case C-224/98 (11 July 2002).

36 OJ L 149 (5 July 1971), pp. 2–50.

37 OJ L 166 (30 April 2004), pp. 1–123, and OJ L 284 (30 October 2009), pp. 1–42.

38 Regulation 2019/1149 establishing a European Labour Authority, OJ L 186 (11 July 2019), pp. 21–56.

39 European Council Recommendation of 22 April 2013 on ‘Establishing a Youth Guarantee’, OJ C 120 (26 April 2013), pp. 1–6. Recently replaced by the Council Recommendation of 20 October 2020 on ‘A Bridge to Jobs – Reinforcing the Youth Guarantee’ [not yet published in the Official Journal – see the text of the recommendation here: <https://data.consilium.europa.eu/doc/document/ST-11320-2020-INIT/en/pdf>].

and uses its own workers to carry out the work. These posted workers are not themselves using the freedom of movement but are rather working in another Member State only for a short time. Therefore, their status is regulated under Directive 2018/957,⁴⁰ amending Directive 96/71/EC.⁴¹ Pushed forward by Belgian Christian Democrat Marianne Thyssen under President Juncker, the Directive gives more weight to the interests of workers and trade unions than it does the interests of companies to exercise their freedom to provide services. In particular, posted workers have to be paid under the rules of the host country, and the Directive makes the labour law of the host country applicable after a certain period, thereby eliminating some of the incentives to employ posted workers in the first place.

Another shortcoming of the current *acquis* on workers is the lack of uniform rules on third-country nationals. Lacking an EU migration law—including rules for legally resident workers from third States—every Member State uses different rules in this area. The *acquis* here is particularly thin: except for a modest blue card for intra-company transfers under Directive 2009/50/EC⁴² and Directive 2014/36/EC⁴³ on seasonal workers, EU rules for third-country workers are virtually non-existent.

EXTERNAL TRADE

From the inception of the internal market, the EU has also developed the external dimension thereof. At the end of the transitional period in the 1960s, it became exclusively competent in foreign trade and enlarged this scope over time.⁴⁴ Today, the EU's competence to conduct a common commercial policy under Article 207 TFEU covers external trade in goods, services, trade, aspects of intellectual property, and foreign direct investment.⁴⁵ Moreover, the EU is a fully fledged-member of the World Trade Organization⁴⁶ and has been able to

40 OJ L 173 (9 July 2018), pp. 16–24.

41 J L 18 (21 January 1997), p. 1–6.

42 OJ L 155 (18 June 2009), p. 17–29. A new Commission proposal of June 2016 (https://ec.europa.eu/commission/presscorner/detail/en/IP_16_2041) is stuck in the Council.

43 OJ L 94 (28 March 2014), p. 375–390.

44 For details on the evolution of the EU's competence on common commercial policy, see C. Kaddous, "The Transformation of the EU Common Commercial Policy", in *The European Union's External Action in Times of Crisis*, eds. P. Eeckhout/M. Lopez-Escudero (Oxford: Hart Publishing, 2016), pp. 429–452.

45 For a legal analysis of the present scope of the EU's CCP, see EJC, Opinion 2/15, EU–Singapore Free Trade Agreement, 16 May 2017, ECLI:EU:C:2017:376.

46 See F. Hoffmeister, "The European Union in the World Trade Organisation – A Model for the EU's Status in International Organisations?", in *The European Union in International Organisations and Global Governance*, ed. C. Kaddous (Oxford: Hart Publishing, 2015),

conclude a number of deep and comprehensive free trade agreements with many other countries and regions.⁴⁷ Representing roughly 15% of global trade flows, the EU remains a major and respected trading power in the world.

At the same time, global trade tendencies are worrying. Under the Trump administration, the United States has abandoned its long-standing policy to favour global free trade. An isolationist and even destructionist Trump policy has led to the enactment of many arbitrary trade barriers to the U.S. market in the last four years, causing others to retaliate. While there are high hopes that the next U.S. Administration will revert this policy, considerable uncertainty about Washington's future course of action remains. Moreover, an imperialist China is carrying out an aggressive version of state capitalism, wherein domestic production is not a function of supply and demand. Import barriers to China, as well as an expansionist outward strategy of many state-owned and state-financed companies, distort international competition and await a strategic reply from Europe. Finally, the departure of the UK from the EU has weakened both Brussels' and London's weight in international affairs.⁴⁸

The legitimacy of the EU's trade policy has come under attack on the part of certain civil society groups as well. While anti-American and anti-globalisation forces have been able to mobilise opposition in some EU Member States, such as Belgium, Germany, Austria, or Italy, against the already abandoned Free Trade Agreement (FTA) with the United States, its parallel agreement with Canada was signed at the European level in 2017.⁴⁹ It has been provisionally applied for roughly three years now (with the exception of the investment chapter),⁵⁰ and none of the projected risks for the environment or social or labour standards in Europe have even remotely proven real. Moreover, as consequence of the ECJ's Singapore Opinion,⁵¹ it has become beyond doubt that almost all areas of such a free trade agreement fall within the EU's exclusive competence, making it easier to approve it only at the European level by a Council decision and ratification in the European Parliament.

However, this does not mean that FTAs are now widely accepted throughout the population. The equally important deal with Brazil, Argentina, Uruguay,

pp. 121–138.

47 For an overview of the EU's DCFTA agenda, see F. Hoffmeister, "Bilateral Developments in EU Trade Policy Seven Years After Lisbon: A look into the Spaghetti Bowl à la Bruxelloise", *European Yearbook of International Economic Law* (2017), pp. 411–436.

48 T. Henökl, "How Brexit affects EU external action: The UK's legacy in European international cooperation", *Futures* 97 (2018), pp. 63–72.

49 Council Decision 2017/37 on the signature of CETA (OJ 2018, L 11/1).

50 Council Decision 2017/38 on provisional application of CETA (OJ 2018, L11/1080).

51 See footnote 45.

and Paraguay (Mercosur) has slim chances of being approved by the Council, at the time of writing, because of Brazil's current political shortcomings and certain civil society concerns in Europe that the agreement might contribute to deforestation in Brazil combined with general opposition against the Brazilian government under President Bolsonaro. This case once again shows that bigger political factors may influence policy-making in the area of external trade. ■

3.

OPTIONS AND SCENARIOS

Progress in keeping the internal market up to date with pressing social and economic changes is slower now than it used to be in past decades. The digitalisation of the internal market, the liberalisation of services, and further steps to increase worker mobility are pressing issues.⁵² All this sits against the backdrop of an ever-changing international environment that creates opportunities and limitations for EU external trade. What are some of the likely options and scenarios for the next ten years? How can we imagine the main trends for the internal market and external trade by 2030?

MUDDLING THROUGH

While good intentions to deepen the internal market may find their way into political declarations, the reality on the ground will not change significantly. In an increasingly digital environment, information about the benefits of the internal market is likely to be easily accessible by many citizens and companies. It will become easier to find job offers, products, services, or business partners in other Member States and, as a consequence, the mobility of citizens and cross-border trade flows will also increase. Most likely, consumers would wish to buy more products and services originating in other Member States without having to move themselves. Some excluded sectors, such as notary services, certain social services, or private security services may be included into the General Services Directive, creating additional welfare gains.⁵³ The Commission could add to this scenario by bringing on more infringement cases and hoping for compliance once the European Court of Justice has found—after several years—that certain domestic regulations are unnecessarily hindering the free flow of services in the Union. In other words: the internal market would continue to

⁵² In its Conclusions of 2 October 2020, the European Council put special emphasis on the liberalisation of services by calling for “removing remaining unjustified barriers, particularly in the area of services, and refraining from creating new ones” (point 4, second bullet point).

⁵³ Jacques Pelkmans, pp. 37–41.

bear fruit but mainly only because of increased transparency and mobility based on technological innovation, not because of a major political push in the area. On the external side, this lack of ambition would be mirrored by a rather passive EU common commercial policy, unable to stop the erosion of a rules-based world trade order.

TACKLING THE MOST PRESSING ISSUES

The second scenario builds on the first one and adds a couple of successful political projects.

First, the internal market will provide more accessible health services and solidarity between Member States as an outcome of the COVID-19 crisis. Common rules on stockpiling and distributing essential medical equipment, more coordination in the prevention and fight against diseases, and close coordination for joint responses will emerge. Incidentally, these moves will also give impetus to answering the question of how to recruit medical personnel from non-EU countries under European rules.

Second, Europe will make record progress in creating the digital single market. An ambitious digital market act will find a proper balance between the interests of digital platforms, those of online users, and high data-protection requirements. The EU COVID-19-related recovery funds will also be used to accelerate the digital transformation, not only to rescue certain industries which were hit by the pandemic.

Third, the EU would tackle certain outstanding issues in the internal market for workers and self-employed persons. A major shift will occur from cumbersome mutual diploma recognition requirements to the possibility of accepting a foreign qualification if a person can pass an outcome test. Companies would convince governments that when making recruiting decisions, the tested knowledge of a candidate is much more meaningful and trustworthy than a potentially outdated degree from a domestic school or higher educational institution.

Fourth, the EU would agree on a common immigration policy for third country workers. A new EU directive would tackle three pressing challenges, namely:

1. How to reconcile the different demands for skilled and unskilled workers by various governments in the EU; most likely, the directive would establish a common scheme of lawful migration for third country-workers based on qualification, plus the possibility to restrict such migration if a government can show that its own market in a specific sector is saturated; moreover, the

need to show that no other suitable national or EU candidate is available for a given job would be abolished.

2. How to harmonise different labour market rules, not only on the access of third-country rules but also on their conditions of employment; inspired by the equal treatment principle for EU workers, national treatment would extend to the remuneration and social security of third-country workers, but not necessarily to family members, and there would be fewer guarantees for continued stays in the country after their employment ends.
3. How to organise an efficient vocational system so that companies may also train non-EU nationals to meet their specific needs without being hampered by restrictive national immigration laws; in that respect, Member State support in providing language classes could be co-financed by the EU.

Fifth, the EU would be pro-active in maintaining the WTO as its central focus for global trade. It would also equip itself with robust new instruments to respond to new challenges. This would likely include a border adjustment measure to offset carbon leakages from certain imported goods and a new instrument to fight foreign subsidies. Moreover, EU-level due diligence rules would be enacted to improve consumers' trust in international supply chains.

FUNDAMENTAL REFORMS

In the third scenario, fundamental reforms of the internal market and external trade would occur. Some policy-makers would perhaps like to increase corporate taxes across the entire internal market. In that narrative, the liberal architecture has mainly benefitted companies without obliging them to pay their fair share of taxes. Henceforth, a European taxation and social policy would take shape with common EU rules for identifying the tax base and for levying corporate tax rates. Moreover, the labour market would be fully integrated with more powers being delegated to a centralised EU agency, which will also set standards to stimulate demand and grant unemployment benefits.

On the enforcement side, another fundamental change would occur in the institutional set-up. The Commission would receive stronger enforcement powers,⁵⁴ and the European Council would engage much more deeply to implement key internal market legislation.

⁵⁴ For more details on this point, 'Support stronger enforcement tools', below).

Finally, the EU's trade policy would develop into a major instrument for implementing other overriding policies, such as foreign policy, international environmental policy, and the protection of labour standards in FTA partner countries. The core economic objectives of trade policy would thus be only one among many others, with the leading strategy portrayed as aiming to achieve the “strategic autonomy of the EU” rather than the “liberalisation of world trade”.



4 ROADMAP AND POLICY RECOMMENDATIONS

When reviewing these three scenarios, the key challenge for liberalism appears to be finding the right balance between two theoretically opposed concepts:

1. The *maintenance and defence* of an open market in Europe against neo-corporatist and protectionist tendencies; and
2. The *progressive modernisation* of the internal market and external trade policy to achieve broader non-economic goals, such as social and environmental protection.

This puts political liberalism in Europe at the political centre with the potential of reaching out to all other pro-European political families. A strong liberal voice is therefore more than necessary. We should not lose faith in market forces internally and should instead conduct a powerful common commercial policy externally. Actually, we can even argue with certain pride that it was precisely the liberal heritage of the internal market which constituted Europe's backbone when tackling the last three crises (the financial and sovereign debt crisis of 2009–2014; the 2015–2016 refugee crisis; and the COVID-19 crisis of 2020) together. At the same time, liberals should not only react to the next crisis, but they also will have to identify their own core projects for the next decade. Against that background, the following recommendations are worth considering.

INTERNAL MARKET

INCREASE TRANSPARENCY FOR THE FREE FLOW OF GOODS AND SERVICES

The default rule for liberals is the free flow of goods and services throughout Europe, where any restrictions or discriminations can only be accepted if there is cogent reasoning in public policy. However, many state restrictions are based on tradition or economic favours for domestic market participants. Therefore, the overall scheme for liberals is continuing to strive for more transparency to allow for it to be questioned whether these are economically justified or just

relicts of the past. Technical restrictions for trade in goods need to be publicly available and based on science; closed services need to be opened by integrating them into the scope of the General Service Directive. Liberals should elaborate special rules for specific services or, where such already exist, constantly review the progress of their implementation through regular reports conducted by the Commission. Job markets should be better integrated by a steady flow of information about demand and offers throughout Europe—here, the European Labour Agency can be of assistance.

CREATE A DIGITAL INTERNAL MARKET

A core project for the next decade will be the creation of an internal digital market.⁵⁵ Acknowledging that the current e-commerce Directive 2000/13/EC is outdated, liberals should push for an ambitious new package on digital services. While online platforms have contributed to more variety in the service of goods within and across borders, new problems need to be tackled: What are the legal responsibilities of the internet provider and the online platform itself? How can the market power of large online platforms be controlled and fair access for smaller competitors be guaranteed? How can consumers be protected against the sending of illicit content? How can the dubious practice of geo-blocking come to an end?⁵⁶ It is hence essential that the Renew Europe Group of the Parliament chooses this topic as one of its flagship projects when the proposal materialises before the end of 2020. In order to ensure a level playing field, all service providers, whether located inside the Union or offering their services from abroad, should be subject to the new rules.⁵⁷ Two key liberal objectives will be ensuring the inter-operability between services and a high degree of data protection.⁵⁸ Moreover, content-control measures should only be imposed when content is clearly illegal under national law;⁵⁹ otherwise, online platforms would become inapt online policemen.

55 See the Communication from the Commission of February 2020, “Shaping Europe’s digital future”, for an overview of the challenges that the Commission wishes to address: https://ec.europa.eu/info/sites/info/files/communication-shaping-europes-digital-future-feb2020_en_4.pdf.

56 For a description of the detrimental effects of geo-blocking on EU consumers and a summary of the European Commission’s attempts to abolish the practice, see J. Reda “Geoblocking: At Odds with the EU Single Market and Consumer Expectations”, in *Digital Peripheries*, eds. P. Szczepanik, P. Zahrádka, J. Macek, and P. Stepan (Springer Series in Media Industries, 2020).

57 See the IMCO report of 28 September on the Digital Services Act, para. 2a, https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/IMCO/DV/2020/09-28/p4_CAs_Saliba_DSA_EN.pdf.

58 The evolution of digital technologies needs to be followed up with suitable data protection measures. See, for instance, S. Wachter, “Data protection in the age of big data”, *Nature Electronics*, 2(1) (2019), pp. 6–7, arguing why the EU’s data protection laws must evolve to capture inferential analytics in nascent digital technologies such as edge computing.

59 See EP, LIBE report of 22 September 2020 on the Digital Services Act and fundamental rights, para. 4–6: https://www.europarl.europa.eu/doceo/document/A-9-2020-0172_EN.html#title6.

MAKE EUROPE A CHAMPION FOR INNOVATION

Europe is lagging behind on innovation. There is still a huge gap when European venture capital is compared with relevant amounts raised in the United States.⁶⁰ Therefore, liberals should dedicate specific attention to improving the business environment for innovative companies. Widespread investment in net facilities and 5G technology needs to be rolled out. Relevant policy proposals should include the creation of specific financial support for innovative start-ups at the level of Member States, co-financed by the European budget. Moreover, a European Agency for springboard innovations would be a major liberal project to make Europe a champion for disruptive technologies.⁶¹

MAINTAIN STRICT AND FLEXIBLE MERGER CONTROLS

Do we need European champions at company level as well as a Europe-wide industrial policy? In principle, European liberals have been sceptical in this regard and rightly so. There is no inherent efficiency or welfare gain when big companies, often under government influence, have very high market shares in a specific market. Rather to the contrary, Europe’s economic strength is also based on its 20 million small- and medium-sized enterprises (SMEs) whose successful business should not be endangered by legal or factual privileges for the “chosen few”. Indeed, the recent failure of the prestigious A380 program of the German-French-Spanish-British-subsidised company Airbus shows the risks run when politicians or high officials with little knowledge of commercial realities in a sector decide to create “champions”, or grant huge subsidies which are unavailable to other sectors or companies. Therefore, there is no inherent need to reform the EU’s state aid or merger control regime with the aim to create new European champions.

At most, liberals could consider a slight modernisation of these rules to take into account increased global competition. When Competition Commissioner Vestager prohibited the merger of Siemens and Alstom in 2019,⁶² a difficult trade-off had to be struck. The companies argued that a merger would increase their competitiveness in international markets in the future. However, at the

60 In 2016, risk capital for EU start-ups amounted to only €6.5 billion, compared to €39.4 billion in the USA. See “VentureEU - the European Union venture capital mega-fund”, <https://ec.europa.eu/programmes/horizon2020/en/ventureeu>.

61 See also the second chapter on innovation in the programme of FDP, the German liberal party, the 2019 European Parliament elections, and the relevant explanations: <https://argumentefuereuropa.de/>.

62 Commission Decision of 6 February 2019 (Case M.8677 - Siemens/Alstom), OJ 300/14 (5 September 2019), p. 12.

same time, the merger would also create a dominant company in the European railway market. In that situation, one possible answer would be to give in to neo-corporatist tendencies in Germany and France and simply decree that a European champion is needed. A rational internal market policy however insists on the application of competition law and shows openness over whether the relevant market for assessing the pros and cons of mergers ought to be restricted only to Europe, or an analysis of the international environment needs to be considered. The liberals should stick to their common wisdom that a strict and flexible merger control policy is the best guarantee to preserve the open internal market.

ENHANCE STATE AID CONTROL OVER FOREIGN SUBSIDIES

Another strategic question relates to the future of the EU's state aid control. Contrary to the allegations of some critics, the Commission's practice to verify whether a national subsidy distorts the internal market has neither curbed the possibility of States to fund research and development, nor has it become a hindrance to foreign investment. Rather to the contrary, European state aid rules have allowed, for example, huge subsidies by four Member States for creating Airbus and enabling it to develop large, new civil aircraft whose development has triggered unusually high commercial risk. Moreover, the internal market has attracted huge flows of foreign direct investment over the last 20 years.⁶³

Nevertheless, the last phenomenon also gives rise to a policy challenge. Does it make sense, when a State does not hand out a subsidy to an EU company to operate a critical piece of infrastructure—because of a possible negative or constraining state aid decision from the Commission in Brussels—but instead confers its operation to a foreign company, which may be massively subsidised by a foreign government? Would there be any issues if the very ownership and background financing of such foreign investors were unclear? Would it not be better to enact transparency and justification requirements that are similar to those already in place for domestic subsidies?

In order to enhance the discussion on this topic, the Commission published a widely noted White Paper in July 2020 on “levelling the level playing field on foreign subsidies”.⁶⁴ It discusses the possibility to establish a general instrument to capture all foreign subsidies having an impact on the internal market (Module 1), a specific instrument to screen foreign

63 From 2013 to 2018 alone, investment stocks held by the rest of the world in the EU increased from €4,864 billion to €7,197 billion. See: Eurostat, dataset bop_fdi6_pos.

64 COM 2020 (253) final of 17 June 2020.

subsidies that facilitate the acquisition of EU targets (Module 2), and the elimination of bids with foreign subsidies in the EU procurement market (Module 3). While awaiting the outcome of the public consultation, European liberals should take this initiative seriously, as it is likely that a legislative proposal will follow in 2021. In the author's view, three guiding principles should shape the liberal input for this project. First, the EU has limited jurisdiction and cannot dictate to other nations what level of subsidies would be permissible to give their own companies, including to those companies investing abroad. Any attempt to regulate in detail the permissible level of foreign subsidies is generally doomed to fail and will create unwelcome retaliation. Second, there is a genuine need to bring more transparency into the financing of foreign companies operating on the internal market. For example, even today, the precise structures of Chinese telecommunications company Huawei or certain state-owned enterprises from other countries remain unclear. Hence, close connections to State structures may exist, which in turn affects European security interests and the need to protect against undue political interference. Accordingly, any system obliging foreign investors to disclose the amount and source of subsidies should be supported. Third, a new instrument should concentrate on the big issues, not create excessive red tape. This militates in favour of Module 2, i.e., restricting the new instrument to controlling big acquisitions by subsidised foreign investors only. The design of such a targeted instrument would also make sure that the Commission could conduct such screening in a relatively short time frame and with sufficient human resources.

ESTABLISH A EUROPEAN FRAMEWORK FOR A FAIR TAXATION POLICY

Another difficult area is the link between the internal market and taxation policy under Articles 110–113 TFEU. From a liberal perspective, the Commission should fine aggressive tax havens when particular tax exemption schemes amount to state aid.⁶⁵ However, an expansionist application of state aid law cannot replace a conscious policy decision on how to protect fair tax competition among EU governments and prevent the complexity of national tax systems from distorting it. Two major liberal projects are recommended in this field.

First, liberals should support any attempt to improve the comparability of taxable company income. It is very saddening that the relevant Commission proposal from 2011 to introduce a common consolidated corporate tax base, re-launched

65 Commission Decision (EU) 2017/1283 of 30 August 2016, implemented by Ireland to Apple, OJ L 187 (19 July 2017), p. 1–110; Judgment of the General Court of 15 July 2020 — Ireland and Others v Commission (Cases T-778/16 and T-892/16), OJ 2020/C 371/05, p. 8.

in October 2016,⁶⁶ is still pending. This directive would not only introduce simpler tax rules, but also tackle the undesired practice of profit-shifting for tax-avoidance purposes. While being seen as a legitimate business practice by some, such possibilities erode citizens' confidence in the fairness of the internal market in the long run.

Second, European liberals should be at the forefront in developing ideas for fair taxation over digital companies. As this cannot be solved with a patchwork of national rules, a European approach is crucial.⁶⁷ Moreover, a common European voice increases the chances to bring this topic forward in the Organisation for Economic Co-operation and Development (OECD). However, if sufficient progress at the international level cannot be achieved, the final decision lies in the court of the European Union. Here, the underlying principles of international taxation law should be revisited: instead of the place of incorporation, the place of the income generation should become a relevant criterion for taxable income. This makes sure that non-European digital companies pay a fair share to the European budget when conducting business which involves the data and activities of European customers.

Third—and probably even more sensitive than a European digital tax—is the question of fair intra-European competition through corporate taxes. As a starting point, every State should be free to set its own corporate taxes, thereby creating the incentive for every government to exercise restraint when imposing financial burdens on its own citizens. A uniform European tax rate for corporate taxes bears the risk that “frugal states” with sound finances would be forced to set their corporate taxes higher than necessary for their economic optimum. Also, a uniformly applied corporate tax level might run counter to the ambition among national decision makers to work on consolidating public spending as a means to levy lower tax rates. However, it is true that Member States having free rein over their national corporate tax rates could create adverse effects as well. As already recognised in the Monti report,⁶⁸ governments which seek to attract corporate income with very low tax rates are likely to compensate by increasing taxes elsewhere, mostly on more stable tax bases such as labour income. As can be drawn from the 2020 edition of the report *Taxation Trends in the European Union*,⁶⁹ this assumption is underpinned by actual figures. While revenues from

66 EC, Press Release of 25 October 2016, https://ec.europa.eu/commission/presscorner/detail/en/IP_16_3471.

67 Besides the ineffectiveness and confusion caused by national-level implementations in this respect, national solo-runs such as the French digital services tax undermine the EU's unity of action vis-à-vis third countries. Furthermore, each Member State alone is more vulnerable to threats of retaliatory actions.

68 Mario Monti, p. 80.

69 European Commission, *Taxation Trends in the European Union*, 2020 edition,

taxes on capital accounted for 21.6% of total EU-27 tax revenues in 2005, this share went down to 20.4% in 2018. Over the same period, the share of revenues from taxes on labour increased from 50.4% to 51.7%.⁷⁰

Such imbalance creates social tensions and dissatisfaction with the internal market. Moreover, it is strange that Member States would more or less agree on reasonable minimum amounts for taxing income but then would have huge discrepancies in corporate taxes. Is it really in the general European interest when investors opt for an EU country with the lowest corporate income tax and thereby obtain the “EU passport” for doing business in the entire internal market? Would it not make more sense to enact a minimum corporate contribution for participation in the internal market for everyone?

Against this background, European liberals should strive for a common European floor for corporate taxes. Inspired by the VAT Directive,⁷¹ the EU could set a minimum (for example, 10%) and maximum threshold (for example, 30%) for fair corporate taxes.⁷² In between these ranges, governments should remain free to set their national corporate taxes, taking into account the preferences of local constituencies, expressed through democratic processes. Creating a European corporate tax range would not only avoid unfair tax competition and free riders but also ease tensions between Member States. It would also take the sting out of the left-wing project to establish a fully-fledged social state at the European level, financed by common EU taxes and high national taxes.

SUPPORT STRONGER ENFORCEMENT TOOLS

As a *Community of law*, the European Union should not rest on its laurels when it comes to enforcement. Some Commissioners, for example Irishman Charlie McCreevy (2004–2010) or Frenchman Michel Barnier (2010–2014), have not been very active in using infringement procedures against Member States, not to mention the generally weak Elżbieta Bienkowska from Poland (2015–2019). European liberals should thus strive for commitments at the

<https://op.europa.eu/en/publication-detail/-/publication/c0b00da7-c4b1-11ea-b3a4-01aa75ed71a1>.

70 Ibid. p. 21.

71 Council Directive 2006/112/EC of 28 November 2006, OJ L 347 (11 December 2006), pp. 1–118, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02006L0112-20200101>. Art. 97 of the Directive determines that the standard VAT rate in EU Member States must not be lower than 15%.

72 It should be noted that some Member States apply multiple company income taxes. For instance, this is the case for Germany, where a municipal trade tax (*Gewerbesteuer*) comes on top of a general 15% federal corporate tax. Taking this into account, the term “corporate tax” is understood in this paper as the sum of all income-based taxes on companies in a Member State.

level of the Commission President that the institution as a whole simplifies its internal procedures to bring on internal market cases. There is no need to wait for a pattern of “offenders” among several Member States before a horizontally significant problem of a directive’s non- or wrong implementation is taken to the European Court of Justice (ECJ). Moreover, the discretion to act upon citizen complaints is too often exercised in a negative way. Therefore, the Secretariat-General should create an internal-market infringement cycle, where progress in identifying and preparing important cases for the functioning of the internal market can be reviewed on a regular basis.

On top of these administrative changes, European liberals should also strive for a more fundamental reform of infringement powers. As Mario Monti argued back in 2010:

In the longer term, there might be reasons to explore whether the Commission powers under the infringement procedures should not be aligned with those it has under competition policy. Ideally, once the Commission has established that there is an infringement, the decision should create an immediate obligation for the Member State in question to comply. This should of course be without prejudice of its right to appeal the decision before the European Court of Justice. Increased enforcement power should be matched by appropriate administrative guarantees for Member States and individuals.⁷³

Indeed, it is hard to understand why the Commission has such strong procedural powers with respect to state aid, cartels, and mergers when it is often just a bystander to crucial internal market problems. In practice, it brings a Court case against the Member State in question, and the latter only faces a “condemnation” for its violation of EU law several years later. This has no pecuniary consequences, unless that Member State ignores the ECJ judgment and would then have to be condemned in a follow-up case brought by the Commission. In order to strengthen the teeth of law enforcement, this system should be aligned with the one accepted in competition law. When the Commission finds a severe and systematic breach of the internal market acquis, it should take a Commission Implementing Decision, under which the Member State is asked to remedy the problem within a short time frame. Absent a remedy, the Commission could then fine that Member State under the judicial control of the Court. A new horizontal enforcement regulation should lay down increased investigative and repressive powers for the Commission to act against breaches of internal market legislation.

⁷³ Mario Monti, p. 97.

COMMON COMMERCIAL POLICY

In their respective trade strategies *Global Europe* (Peter Mandelson, 2006)⁷⁴ and *Trade, Growth and World Affairs* (Karel De Gucht, 2010),⁷⁵ the British and Belgian then-EU Trade Commissioners argued that the rejection of protectionism in the internal market needs to be flanked by a proactive common commercial policy to open up foreign markets. They put strategic emphasis on deep and comprehensive free trade agreements in order to tackle not only tariffs but also behind-the-border barriers. Moreover, both politicians agreed to give priority to Asia, where most of the world’s growth is happening and is expected in the near future. Hence, negotiations with Asian nations intensified, and the EU concluded modern FTAs with South Korea and Singapore, securing market access to European firms for decades in these growing markets. Moreover, the Commission was able to include provisions on subsidies and national treatment in the area of public procurement into these agreements in order to level the economic playing field for EU companies operating in Asia.

With her “Trade for All” strategy (2015),⁷⁶ Swedish Commissioner Cecilia Malmström focused more on issues of legitimacy and came out with a sort of Action Plan. For her, it was important to increase the transparency of the EU’s trade policy and to demonstrate that it could also deliver benefits related to non-trade issues, such as human rights—including women’s rights—social standards, and sustainable development. She thus completed the Asian FTA agenda of her predecessors by adding Japan, Singapore, and Vietnam, but also made more use of the common commercial policy to foster foreign policy goals. Inter alia, she triggered the partial withdrawal of trade preferences to Cambodia in 2019,⁷⁷ ended defensive trade measures on solar panels which would have hampered the transition to the use of more renewable energy in Europe in 2018,⁷⁸ and spent political capital on the question of how to empower women through international trade at the end of her mandate. At the same time, she did not come out strongly

⁷⁴ COM (2006) 567 final.

⁷⁵ COM (2010) 612 final.

⁷⁶ COM (2015) 497 final.

⁷⁷ In February 2019, Commissioner Malmström decided to trigger the partial withdrawal of preferences to Cambodia because of serious violations of the UN Covenant on Civil and Political Rights. After a fact-finding mission and engagement with the Cambodian side, Commissioner Hogan decided to withdraw concessions on 1/5 of Cambodian exports, i.e., in the textiles industry (for details, see EC, Press Release of 12 February 2020, <https://trade.ec.europa.eu/doclib/press/index.cfm?id=2113>).

⁷⁸ The EU first imposed anti-dumping and anti-subsidy measures on imports of solar panels and cells from China in December 2013, coupled with a minimum import price. In March 2017, the Commission decided to prolong the measures only for 18 months, and in September 2018 they were terminated altogether (for details, see EC, Press Release of 31 August 2018, <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1904>).

on Chinese challenges and was almost helpless when confronted with a growing crisis at the WTO.⁷⁹

When thinking about the next ten years, liberals should steer European trade policy back into long-term strategic waters. The new Trade Commissioner, Executive Vice President Dombrovskis, has the chance to design his new trade strategy, expected in spring 2021, accordingly. More specifically, the following direction is recommended from a liberal perspective.

DEFEND THE WTO AS THE HEART OF THE MULTILATERAL TRADING SYSTEM

Established as the successor to the GATT 1947 (a treaty regime liberalising trade in goods only), the World Trade Organization of 1994 has stood at the centre of multilateral trade for over 25 years. It monitors the trade policy of its Members in the areas of goods, services, and intellectual property rights. It provides for effective dispute settlement to enforce commitments, and it serves as a forum for further liberalisation rounds. In short: the WTO is an international organisation that ensures rules-based multilateral trade. At the same time, the WTO also faces a couple of growing challenges. The Doha Development Round of 2001 is essentially stuck because of disagreement over the acceptable level of agricultural support and China's status regarding industrial tariffs. The rulebook on some disciplines, such as state subsidies, is becoming outdated, and the level of commitments in the area of services is low. Most importantly, its dispute settlement capability has been paralyzed since the end of 2019, as the United States has blocked the appointment of any new Appellate Body members. Therefore, no WTO Panel decision can be appealed any longer by the WTO.

Against that distressing background, the EU is called upon to play a proactive role to defend the WTO from slipping into oblivion. Based on a call from the European Council of June 2018, the Commission adopted a concept paper in the autumn of the same year.⁸⁰ It contains a proposal for the modernised rules on subsidies, technology transfer, and sustainable development. It also calls into question the conventional WTO practice in which members can “self-designate” themselves as developing countries and wishes to upgrade the powers of the Secretariat in the working methods of the organisation. Importantly, the EU also

79 EC, “Commissioner Malmström hosts conference on Empowering Women through Trade” (news archive) (Brussels, 30 September 2019), <https://trade.ec.europa.eu/doclib/press/index.cfm?id=2067&title=Commissioner-Malmstr%C3%B6m-hosts-conference-on-Empowering-Women-through-Trade>.

80 EC, Concept Paper on WTO Reform of 18 September 2018: http://trade.ec.europa.eu/doclib/docs/2018/september/tradoc_157331.pdf.

put reform proposals on the table related to the operation of dispute settlements and came up with an intermediate mechanism through which appeals could be heard between those WTO members who agree to do so. This “alternative mechanism” was attractive enough to muster support from important trading partners such as China and Brazil, but has fallen short of widespread approval. As of writing, more than 15 nations have accepted the EU contingency appeal system under Article 25 of the Dispute Settlement Understanding (DSU).⁸¹ It is open for accession on the part of any WTO member and would be operational for as long as the U.S. fails to return to the multilateral dispute settlement system.

The low buy-in so far should not be seen as a setback but rather as encouragement for EU leadership in the WTO. As the EU has now also succeeded in uniting behind the first African candidate, Ngozi Okonjo-Iweala, as next Director-General of the WTO, the latter will likely work closely with the EU if appointed to the top job. From a liberal perspective, this not only means pushing the general points of WTO reform as outlined in the Commission's concept paper but also dedicating more energy to foster EU–Africa trade relations. Seen as a genuine supporter of the WTO as a whole, the EU should find ways to closely heed African concerns while arguing in favour of broadening the Economic Partnership Agreements (EPAs) to services. Only if and insofar as the WTO is still unable to reform itself, even with new leadership in Geneva and Washington, should the EU pursue alternatives. Here, the plurilateral initiatives on green goods, services, and e-commerce come to mind. In that way, the EU should maintain its role as a progressive “rule-setter” on international trade.

REBUILD A CLOSE TRANSATLANTIC RELATIONSHIP AND PURSUE AN AMBITIOUS FTA AGENDA

After the election of Joe Biden as the 46th President of the United States of America, transatlantic trade relations may celebrate a comeback. The EU should use every opportunity not only to overcome unjustified United States trade restrictions (safeguards on steel, threats on automobiles, etc.) but also to engage constructively in finding new common ground to advance mutual recognition in the areas of goods and services. The Communication on a new EU–US agenda for global change of 2 December 2020 is just what the doctor ordered, as it makes a number of important proposals for forward-looking transatlantic cooperation on technology, trade, and standards.⁸² Replacing short-term transactional deals

81 EC, Press Release of 27 March 2020, https://ec.europa.eu/commission/presscorner/detail/en/IP_20_538. The 15 participants are: Australia; Brazil; Canada; Chile; China; Colombia; Costa Rica; the European Union; Guatemala; Hong Kong, China; Mexico; New Zealand; Norway; Singapore; Switzerland; and Uruguay.

82 European Commission/High Representative of the EU for Foreign Affairs, Joint Communication of 2 December 2020 on a new EU–US agenda for global change, JOIN

like the “lobster” agreement of 21 August 2020 (which eliminates EU tariffs on this product over a period of 5 years, whereas the USA cuts tariffs on some EU exports by 50%)⁸³ with the creation of an EU–US Council for Trade would also send the world a greater political signal that trade liberalisation is being backed by the two biggest global trading blocs as an accepted policy goal.

Moreover, the EU must double its efforts to deliver on other ongoing FTAs. For liberals, the ratification of the Mercosur (Southern Common Market) deal should be a priority. Therefore, an earnest discussion should be had with Brazil, assessing which of the agreement’s regulatory parts are to be re-negotiated to ensure passage through the European and national Parliaments. Further negotiations with Indonesia and Malaysia should also come up, as should a continuation of talks with Australia and New Zealand. As mentioned above, EU–Africa trade relations are likely to become the new big topic for the next 10 years. The completion of the Economic Partnership Agreements with African sub-regions, as well as a credible reduction of subsidies for EU agricultural exports, should be on the liberal agenda here.

BECOME TOUGHER ON CHINA

China is the biggest strategic challenge for the EU’s trade policy. In that respect, the EU–China strategy of March 2019⁸⁴ has contributed to a remarkable re-orientation. A couple of action points underscore the need for the EU to become much tougher than before.⁸⁵ In particular, China is expected to conclude the EU–China investment agreement with significant openings. At the same time, the EU could consider a couple of unilateral instruments to re-balance certain unfair elements of its trade policy with China. Among them, an international procurement instrument⁸⁶ would levy price penalties on Chinese firms bidding in the European procurement market, due to the fact that China has still not acceded to the WTO Procurement Agreement and its “buy national policy” keeps European companies out of its lucrative market.⁸⁷ Moreover, EU

(2020) 22 final, pp. 5–7.

83 EC, Press Release of 21 August 2020, <https://trade.ec.europa.eu/doclib/press/index.cfm?id=2178>.

84 JOIN (2019) 5 final of 12 March 2019.

85 For details, see F. Hoffmeister, “Do Ut Des oder Tit For Tat? – Die europäische Handelspolitik angesichts neuer Herausforderungen aus den USA und China”, in *Die gemeinsame Handelspolitik im Europäischen Verfassungsverbund*, ed. C. Herrmann, *Europarecht, Beiheft 2* (2020), pp. 77–94 (86–89).

86 See the Commission Proposal for an International Procurement Instrument, COM (2012) and the revised proposal of January 2016.

87 EP, Openness of public procurement markets in key third country markets (2017), pp. 35–38: https://www.europarl.europa.eu/RegData/etudes/STUD/2017/603840/EXPO_

governments are increasingly tightening security controls: this goes from the screening of investments under the new EU regulation⁸⁸ to barring Huawei from domestic markets out of security concerns.⁸⁹ In the future, going one step further may also be considered. A revised investment screening regulation could give the European Commission not only the right to be informed and consulted but also entrust it with decision-making power. The EU’s trade defence rules could also take account of widespread distortions in the Chinese market, therefore granting it the ability to detect Chinese producers’ dumping of exports when their prices fall below a constructed benchmark of “normal values” established on the basis of data from other representative countries. A gap, though, may still exist with respect to services. Unlike in the area of goods, where an anti-dumping duty may be imposed at the border for goods’ crossing, Chinese services that are traded at artificially low prices—for example, in the construction or dredging sector—cannot be kept at arm’s length. Therefore, European liberals should consider starting an initiative that could tackle at least certain services, whose import into the EU can be easily tracked and whose normal value could be established via reference to comparable services in another representative country.⁹⁰

CONTRIBUTE TO SUSTAINABLE DEVELOPMENT

Another strategic dilemma exists with respect to sustainable development. What is the liberal reply to the question of whether EU trade policy is in fact a contributing factor to the deterioration of the global environment? Do not

[STU\(2017\)603840_EN.pdf](https://www.stu.uni-wuerzburg.de/stu/STU(2017)603840_EN.pdf).

88 Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union, OJ 2020, L 79, p. 1.

89 In October 2020, the Swedish Post and Telecom Authority announced its ban on Huawei and ZTE from large parts of the country’s 5G infrastructure. See <https://pts.se/en/news/press-releases/2020/four-companies-approved-for-participation-in-the-3.5-ghz-and-2.3-ghz-auctions/>. Meanwhile, Slovakia and Bulgaria, among other Eastern European Countries, have signed bilateral declarations with the U.S. administration specifying that any plans to roll out 5G infrastructure should contain an examination of whether its suppliers are subject to “control by a foreign government”. These memorandums are therefore believed to indirectly target Chinese suppliers Huawei and ZTE. The text of the Joint Declaration between the United States and Slovakia can be accessed here: <https://www.state.gov/united-states-slovak-republic-joint-declaration-on-5g-security/>. See also a report published in Foreign Policy about the declarations on 5G security between the U.S. government and Eastern European Countries: <https://foreignpolicy.com/2020/10/27/trump-europe-huawei-china-us-competition-geopolitics-5g-slovakia/>.

90 On that proposition see, e.g., European Dredging Association, “Trade Defense Instrument for Services or State Aid Control Regulations to all non-EU State Owned Companies” (workshop) (Brussels, 17 February 2020), <https://european-dredging.eu/Events/>; and K. De Gucht, “Position Paper: Arguing the case for a TDI for services” (Brussels, 30 November 2020), submitted to Commissioner Thierry Breton (on file with the author).

increasing amounts of global trade lead to more traffic, emissions, and pollution? Does not a liberal import and export regime facilitate detrimental transport activities, which could otherwise be avoided? And does not an increased trade regime between the Union and certain countries incite them to export more products whose production process may be connected with environmentally harmful practices, such as deforestation or extensive farming?

The traditional reply points to the “trade and sustainable development” (TSD) chapters in the FTAs, under which consultation with civil society in both the EU and the FTA partner is organised.⁹¹ While beneficial as a forum to identify domestic issues in the partner country, these chapters do not speak to the more fundamental problem: whether or not the enhanced trade relationship between the EU and the country in question may in fact create undesired, negative environmental effects. Therefore, liberals need to be more honest and explain the trade-offs between enhanced international trade flows and potential environmental degradation. In this respect, two avenues are proposed.

First, the FTAs themselves should be coupled with a clear commitment to implement the Paris Agreement. In other words, the EU should not conclude new FTAs with partner countries who are not serious in their efforts to combat climate change. Technically, such a conditionality can be included as a general clause in any FTA which declares the acceptance and implementation of the Paris Agreement as an “essential element” of the FTA.

Second, FTAs should strive for the joint commitment of all parties to cut greenhouse gas emissions by working towards the establishment of a global emission trading system (ETS). In the meantime, both sides should operate an effective domestic ETS or take other equivalent measures, such as a tax on greenhouse gas emissions.

Third, the EU must consider taking unilateral measures when there is no sufficient political will to introduce decarbonisation measures in the exporting country. This point is reflected in the discussion about a carbon border adjustment mechanism (CBAM). While acceptable as a point of principle, European liberals should be very careful when it comes to designing such an instrument. In

⁹¹ TSD chapters were first included in the 2008 EU–CARIFORUM (The Caribbean Forum) Economic Partnership Agreement and the EU–South Korea Free Trade Agreement in 2009. In response to criticism, the European Commission in 2017 launched a debate around improved implementation and enforcement of TSD chapters, which culminated in a 15-point Action Plan: https://trade.ec.europa.eu/doclib/docs/2018/february/tradoc_156618.pdf. For a recent discussion of the Commission’s reform efforts on TSD chapters, see J. Harrison, et al. “Labour standards provisions in EU free trade agreements: reflections on the European Commission’s reform agenda”, *World Trade Review* 18.4 (2019), pp. 635–657.

order to avoid it becoming a blunt protectionist sword in the name of global environmental policy, at least three conditions need to be fulfilled. The border adjustment measure should only envisage products of particularly CO₂-heavy emission industries, which also fall within the scope of the EU’s internal CO₂ emissions scheme. Second, it must rely upon objective and verifiable data about the actual emissions in the course of production. Otherwise, it risks becoming arbitrary and unmanageable. Third, there should be no discrimination as to the origins of goods—the EU should be fully WTO-compliant and avoid any de jure or de facto discrimination between countries of origin. In sum, border adjustment measures should be acceptable to European liberals as genuine contributions to common global concerns, but they must (a) catch only big fish, (b) rely upon verifiable data, and (c) apply equally across the board.

RESTORE TRUST IN VALUE CHAINS

One of the less often noted but still very important legacies of liberal Trade Commissioner Karel De Gucht was the establishment of a due diligence scheme for the import of four minerals (tin, tantalum, tungsten, and gold) from certain high-risk areas.⁹² It rests on the conviction that consumers must be reassured that the minerals used in the end products they purchase are not financing (bloody) conflicts in the producing country or generating income for (cruel) warlords. If there is a justified doubt whether a certain mineral is “clean” or not, consumers would rather abstain from the purchase of such a product. This, in turn, may dry out an important income source funding wars and human suffering. On the other hand, a general boycott of such minerals may just as well target correct mineral producers or intermediaries. Hence, the solution is a system to check the value chain with certain due diligence and reporting obligations.

While putting a burden on business, such due diligence schemes are an important instrument to restore trust in value chains. Consumers can act in a responsible way without destroying the business of honest producers and traders. Therefore, another big liberal project for the next ten years is to enlarge such due diligence schemes to encompass other goods and avoid uncoordinated activism at the national level. Clearly, it would be detrimental for the internal market and international trade if every Member State started its own due diligence system, as German Minister for Development Gerd Müller has tried with the initiative “Der Grüne Knopf” in the area of textiles. What would be much better is a European

⁹² Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas; OJ 2017, L 130, 1.

approach, which would create legal certainty for all European businesses. Again, such a future EU instrument should comply with a number of liberal principles, such as (a) transparency, (b) no over-regulation, (c) voluntary schemes preceding compulsory ones, and (d) periodic review. Therefore, European liberals should embrace initiatives such as these when they arrive in the International Trade and Internal Market Committees of the European Parliament.

ESTABLISH OPEN, STRATEGIC AUTONOMY WITH AN ANTI-PROTECTIONIST FOCUS

Finally, European liberals should ensure that the new EU trade strategy establishes open strategic autonomy as a measurable goal. Yes, the common commercial policy should endow the EU with the instruments needed to safeguard its interests and promote its values. However, this cannot mean that trade policy is the main instrument to deliver political European independence, global peace, and better protection of human rights and democracy around the globe. Such interventions need to remain the exception and only be sought when other tools of international diplomacy have failed. In this respect, the recently agreed-upon “enforcement regulation”⁹³ points in the right direction: it gives the Commission the power to retaliate against other trading partners in a wide array of areas, but only if the latter has blocked the establishment of proper dispute settlement by the WTO and refuses to engage in the alternative appeal mechanism. In other words, the EU is ready to protect its trade interests by unilateral action, not as a matter of general policy but in reaction to others having left the proper multilateral path and as an inducement for them to come back to the rules-based order.

Moreover, the strategic autonomy of the EU can only function if it remains loyal to the central concept of openness, as underlined by the European Council in October 2020. Instead of becoming overly defensive, the EU should design its internal regulatory policies towards climate neutrality and the digital transition always with a view to integrate the external dimension in order to provide a level playing field. Hence, EU localisation requirements for data, a general requirement that imported goods need to comply with certain processing standards in their country of origin to be admissible in the internal market, or subsidies to “bring back” European production are nothing other than protectionist tools. For liberals, providing Europe with strategic autonomy does not mean turning the Trumpian concept of “*America First*” into “*Europe can do it alone*”. ■

93 EC, Proposal of December 12 December 2019, and EC, Press Release of 28 October 2020, <https://www.consilium.europa.eu/en/press/press-releases/2020/10/28/trade-eu-reaches-political-agreement-on-updated-enforcement-regulation/>.

CONCLUSION:

In sum, European liberals are in pole position for ensuring that the internal market and the common commercial policy remain two of the biggest achievements of European integration. The European Union’s economic success story adds to its political weight and proves the merit of liberal concepts such as fair competition within a rules-based legal framework. Choosing the best elements of the three scenarios painted above, European liberals should strive to:

- (a) Improve the daily operation of the internal market, widen the scope for services and third-country workers, and increase the enforcement powers of the Commission;
- (b) Show courage in creating a future-oriented internal digital market and tackling vast discrepancies in corporate taxation with a balanced legislative initiative;
- (c) Defend the rules-based multilateral trading system, while progressing its liberal FTA agenda; and
- (d) Adopt unilateral instruments for fostering sustainable development and restoring trust in value chains in order to enhance the credibility of the EU’s common commercial policy.

LIST OF ABBREVIATIONS

CBAM –
Concerns-Based Adoption
Model

DSU –
Dispute-Settlement
Understanding

ECJ –
European Court of Justice

EPA –
Economic Partnership
Agreement

FTA –
Free Trade Agreement

NTB –
Non-Tariff Barrier

OECD –
The Organisation for
Economic Co-operation
and Development

TFEU –
Treaty on the Functioning
of the European Union

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**DIGITALISATION
CONNECTIVITY
AND
E-COMMERCE**



04

CHAPTER

05

06

THE PATRON

Svenja Hahn

Member of the European Parliament,
Renew Europe and First Vice President
of the Board of Directors of the
European Liberal Forum



“

Europe must catch up in terms of digitalization and become a truly digital continent by 2030. Many steps have already been taken, but we need to go further. We need to accomplish the digital single market with competitive digital businesses, functioning e-government and excellent digital skills and education. Therefore, the EU needs a future-proof, technology-open and innovation-friendly approach towards the digital transition on all political levels. At the same time, the protection of civil liberties and fundamental rights is essential and not negotiable. Our goal must be to maximize the benefits of digitalization for all citizens and our economy while minimizing the risks.

”

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1. INTRODUCTION



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Digitalisation refers to the digital transformation across all of society and the economy. This digital transformation is a paradigm shift; thus, it causes several challenges and creates numerous opportunities. Like all kinds of global reconfigurations, digitalisation is not something we can truly control. Since we cannot foresee the extent, speed, or direction of the digital transformation as such, we should stick to a technology-neutral approach and keep policy decisions to a horizontal scheme. Besides addressing the challenges (trust, security, privacy, sociological effects), we should simultaneously and continuously utilise all digital innovations and developments in the areas of education, green politics, equal opportunities, and overall economic growth.

The digital transformation is nothing new, but it is the realm in which we usually expect the actual ‘next big thing’ to happen. This chapter will address possible solutions to the challenges brought on by the digital transformation and policy approaches that will allow Europe to benefit the most from this changing paradigm.

As to the specific areas addressed, the following are dealt with in separate sections considering respectively, “digitalisation” (the Internet of Things, Artificial Intelligence, 5G/6G Networks, and future technologies); “the public administration and digital transformation” (including e-governance); “connectivity, social media, and online communication”; and “e-commerce and the digital market”.

We have to note that we use digitalisation and digital transformation interchangeably throughout this chapter and as an umbrella term covering many other subjects at hand (the digital transformation in public administration, connectivity, social media, online communication, e-commerce, and the digital market).



2.

THE CURRENT STATE OF DIGITALISATION, CONNECTIVITY, AND E-COMMERCE

When choosing a path for our future matrix of policies, we have to decide to what extent we will revise (or not) the existing legislative and action framework. Thus, before elaborating on scenarios of different paths that can be taken by the EU in these policy areas, this section will firstly discuss the current state of digitalisation, connectivity, and e-commerce.

Regarding the competences of the European Union, there is no overarching or specific type that includes all three areas that are outlined in this chapter. However, many distinct policy areas conferred onto the EU or which remain within the purview of Member States are affected by the policies at hand, and vice versa. After having a look at data concerning the reality of digitalisation, connectivity, and e-commerce, it is useful to sketch out the current state of these four areas and enumerate their stakeholders.

Legislation or policies may only be applied within the framework set out by the competency list of Articles 3, 4, and 6 of the Treaty on the Functioning of the European Union.¹

Some relevant policy areas may be regulated to the EU level.

- competition rules,
- common commercial policy,
- and concluding internal agreements, under certain conditions.

¹ European Union, Consolidated version of the Treaty on the Functioning of the European Union, Official Journal L. 326/47-326/390 (26 October 2012).

The EU can decide to apply a Common Policy Framework on specific areas:

- the internal market;
- social policy;
- economic, social, and territorial cohesion;
- the environment;
- consumer protection;
- energy;
- freedom, security, and justice;
- and research and technological development.

The EU may support, coordinate, or complement the national legislation and actions of Member States:

- protection and improvement of human health,
- industry,
- culture,
- education,
- civil protection,
- and administrative cooperation.

This means that without overall EU reform, changes can only be made in the areas listed above. Thus, they represent the widest possible extent of a vision regarding digitalisation and its related policy fields.

DIGITALISATION AND NEW TECHNOLOGIES

The Internet of Things (IoT), the 5th and 6th generation mobile networks (5G/6G), Artificial Intelligence (AI), and the European cybersecurity architecture will be crucial for the advancement of European Digitalisation processes.

Every new technology implemented in the European digitisation process must be understood in the light of its dual nature. In fact, by definition, the “neutrality”² of technology is only part of the broader discourse for which it is used at all levels of society and industry. In this context, the technology itself should not be cause for concern, but rather the possibility of its improper applications.³ Being ready to ensure flexible regulation – and regulatory processes – able to adapt to the needs of the future developments will be crucial. This is because advanced digital technologies are able to spread quickly, despite the current regulatory framework: it transcends the idea of traditional markets as well as, national and international borders, putting law enforcement to the test.⁴ Legislators and politicians have to be able to rely on a smart approach in decision-making processes, also in order to safeguard the internal digital market from incorrect behaviour by third actors whose reliability in terms of security, especially concerning personal data, is questionable.

This is the case, for example, of AI, a technology still in development with virtually infinite applications. In this respect, Europe has emphasised a trustworthily and human centred approach at the basis of the implementation of AI. Starting from a number of key principles, the aim is to minimise concerns about privacy and security, while safeguarding minorities and fundamental rights, that could result from an improper use of this technology.⁵ While talking about new technologies, and AI, it is important to follow a proportionate and measured regulatory approach that does not limit technological advancement. To do this, AI systems implemented in the EU market should follow the same rules, despite where they come from. Using a coherent and clear approach will foster the development of the AI market by ensuring a high degree of reliability. And reliability is fundamental: there is no trust without excellence and no excellence without trust.⁶ Beyond the regulatory framework, the future will be characterised by the

2 R. J. Whelchel, “Is Technology Neutral?”, in *IEEE Technology and Society Magazine*, vol. 5, no. 4, pp. 3-8 (Dec. 1986)

3 As per the EC’s definition, we intend any research or technology “involving materials, methods or technologies or generates knowledge that could be misused for unethical purposes” even when it “carried out with benign intentions [but] has the potential to harm humans, animals or the environment”, while the risk of misuse must “be minimised by recognising risks in good time and taking the right precautions”; European Commission, Guidance note — Potential misuse of research: V1.1 — 07.01.2020;

4 OECD, “Regulatory effectiveness in the era of digitalisation”, OECD Regulatory Policy Division, June 2019

5 High-Level Expert Group on AI (AI HLEG), “Sectoral Considerations On The Policy And Investment Recommendations For Trustworthy Artificial Intelligence” (July 2020)

6 However, the field of AI ethics is studied extensively, and ‘ethical’ guidelines can be found in the literature concerning a fair implementation of the technology. See also: T. Hagendorff, “The Ethics of AI Ethics: An Evaluation of Guidelines”, *30 Minds and Machines*, (2020); 99–120;

degree to which Member States, whose priorities are sometimes different, will be aligned on AI implementation within the single market.⁷

The above-mentioned technologies are not evenly integrated into Member States’ societies, education, or internal markets. However, the future of Europe seems to be quite dependent on digitalisation.

Still, there are major differences in progress made regarding the digital transformation across Member States, as reported in the Digital Economy and Society Index (DESI).⁸ Concerning next-generation access and coverage in the area of 5G broadband connectivity, we can see that almost 90% of EU households have next generation access (NGA), meaning networks that are faster and have better quality of service; such broadband access technologies are capable of achieving at least 30 Mbps of download speed.⁹ There are 17 countries in the European Union with a live 5G network.¹⁰ However, it must be considered that there has been a delay in launching commercial services based on 5G technology, and other regions may overtake Europe in the deployment of this new technology.¹¹ This is relevant especially in light of the 2025 connectivity targets for Member States.¹²

Regarding digital skills, we can see that 42% of the European Union’s population does not even have basic digital skills.¹³ There is also a high need for information and communication technology specialists that seems not to have been met. More than 80% of the European population uses the internet at least once a week.¹⁴

With respect to education, only one tenth of Europeans completed at least one online course in 2019. Depending on the definition, this share will most likely be higher in the 2020 tables.¹⁵

7 For a comprehensive focus on AI in the European Union see: S. Larsson et al., “Human-centred AI in the EU - Trustworthiness as a strategic priority in the European Member States”, *Fores-ELF*, Brussels, ISBN: 978-91-87379-81-9 (2020);

8 European Commission, *Digital Economy and Society Index (DESI) 2020: Thematic chapters*.

9 European Commission, *DESI 2020*, p. 11.

10 *Ibid.*

11 European Round Table for Industry (ERT), *Assessment of 5G Deployment Status in Europe* (September 2020).

12 The investment gap to reach European connectivity targets has been growing over the last 4 years. The EIB estimated an investment gap of €30 billion per year in 2016, which has increased to €42 billion per year in 2020. See also: European Commission, *Connectivity for a Competitive Digital Single Market – Towards a European Gigabit Society*, COM(2016) 587 final (Brussels, 14 September 2016).

13 European Commission, *DESI 2020*, p. 12.

14 *Ibid.*

15 *Ibid.*

On the integration of digital technology by businesses, the extent of digitalisation is rather scattered between different types of businesses. Based on several aspects, around one third of large companies had been digitalised by 2019, whereas this percentage was halved among small- and medium-sized enterprises (SMEs).¹⁶

According to the Shaping Europe's Digital Future Factsheet of 19th February 2020,¹⁷ the European Commission aims at:

- ensuring that technology works and benefits Europeans;
- using digitalisation to foster an open, democratic, and sustainable society;
- and establishing (or supporting) a fair and competitive digital economy.

When we talk about digitalisation, the palette of stakeholders is colourful: cities are concerned when we talk about IoT-enabled smart cities; SMEs can profit from the use of digital solutions; digital service providers are the backbone of this policy area; European citizens are the final beneficiaries (or victims) of any digital policy; investors make the digital economy work; and, finally, the EU itself and its Member States also have some opposing interests.

The EU was heavily invested in public-private partnership (PPP) solutions for digitalisation in its last multiannual financial framework cycle. There were projects run in the fields of cybersecurity, photonics, high-performance computing, robotics, and the future of the internet. Especially with regard to cybersecurity, the peculiarities of a public-private approach seem to ensure an optimal balance between technological advancement (and therefore security) and advancement of the internal cybersecurity industry. In addition, in a medium-term period, this type of cooperation could foster the establishment of the digital internal market, offering greater security and privacy guarantees for users.¹⁸

A main tendency in the area of digitalisation is that the EU tends to financially support innovation on a low level while trying to balance the interests of all stakeholders—the only aspect repeatedly missed before 2019 was the redefinition of Europe's role in the global digital economy. Besides this, the vulnerability of digital data also constitutes a systematic deficit.

¹⁶ European Commission, DESI 2020, p. 12.

¹⁷ European Commission, "Shaping Europe's Digital Future" [factsheet] (Brussels, 19 February 2020).

¹⁸ F. Cappelletti, L. Martino, "Achieving robust European cybersecurity through public-private partnerships: Approaches and developments", European Liberal Forum, 2020; ISSN: 2684-6667, DOI: 10.53121/ELFDP3

PUBLIC ADMINISTRATION AND DIGITAL TRANSFORMATION

According to DESI statistics,¹⁹ two thirds of internet users who have submitted forms to public administrations used digital public services to do so. We can gain more data by looking into the 2020 Digital Public Administration Factsheets of the National Interoperability Framework Observatory project. In the national factsheets,²⁰ we can see the average data for 27 European Union Member States and the United Kingdom. Accordingly, more than half of Europeans interact with public authorities: 44% of them obtain official information on the internet, one third of the population downloads official forms, and more than one third of Europeans upload and send official forms electronically. Regarding the e-government performance of an average European Member State, we can see that:

- its services were rated at almost 90% for user centricity ("indicating the extent to which a service is provided online, its mobile friendliness and usability of the service"²¹);
- it was rated at 65.6% for transparency ("indicating the extent to which governments are transparent about [i] the process of service delivery, [ii] the responsibilities and performance of public organisations and [iii] the personal data processed in public services"²²);
- and it scored 67% for enabling businesses' cross-border mobility ("indicating the extent to which users of public services from another European country can use the online services"²³).

Stakeholders in this area comprise EU institutions, Member State governments, national authorities, and EU citizens.

As to the overall trend for this policy area, the EU is financially supporting national digitalisation projects, and digital cooperation mechanisms have been incorporated into EU legislation. Whereas there are several mechanisms with cross-border functionality by digital means, there have been surprisingly few digital developments as far as the exercise of democratic rights is concerned. This latter phenomenon may be the result of a long list of pre-conditions for

¹⁹ European Commission, DESI 2020, p. 12.

²⁰ NIFO – National Interoperability Framework Observatory, "Digital Public Administration Factsheets – 2020," Joinup.

²¹ Ibid., p. 7.

²² Ibid., p. 7.

²³ Ibid., p. 7.

secure and effective online voting, summarised by a European Parliament (EP) briefing as:²⁴

- reliable identification,
- user-friendly voter interfaces,
- required confirmation before casting one's vote,
- the ability to check that one's vote has been correctly cast,
- anonymity,
- transparency,
- and the electronic voting system's testing and certification by an independent body before the actual election or referendum.

CONNECTIVITY, SOCIAL MEDIA, AND ONLINE COMMUNICATION

The 2020 DESI²⁵ shows us that two thirds of European citizens used video calls in 2019—this number is certain to have grown during the 2020 coronavirus crisis. Social media is part of our everyday life, thus causing dilemmas that have never been issues before.

The Digital Single Market Strategy for Europe²⁶ had several goals affecting connectivity. Of them, the following were achieved:

- enhanced connectivity in the EU,²⁷
- cheaper electronic communication,²⁸ better internet connectivity (first

24 Martin Russell and Ionel Zamfir, Digital Technology in Elections: Efficiency versus credibility? [briefing] (European Parliamentary Research Service – EPRS, September 2018).

25 European Commission, DESI 2020, p. 12.

26 European Commission, The Digital Single Market Strategy for Europe, COM(2015) 192 final (Brussels, 6 May 2015).

27 European Parliament, Directive (EU) 2018/1972 of 11 December 2018 establishing the European Electronic Communication Code, Official Journal L 321/36 (17 December 2018).

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steps to 5G, free Wi-Fi in public spaces),²⁹

- and reforming data protection.³⁰

The main stakeholders in this field are EU and Member State legislators, users, businesses, and social networking service providers. Business interests and fundamental rights (e.g., privacy, freedom of speech) clash in the realm of the information society.

However, some aspects are covered by EU legislation (data protection, consumer protection), and compliance with this mostly relies on the cooperation of social network service providers and EU legislative actors, as there is no sui generis regulation regarding social networks, but there is a power imbalance between the regulated market leaders and the EU as legislator.

Yet there is one main issue about which social media service providers and the European Union do agree: tackling fake news to address Russia's ongoing disinformation campaigns. Several measures in the last 5 years have been taken to achieve this goal:

- the EEAS East StratCom Task Force, established in 2015;³¹
- the Joint Framework on countering hybrid threats;³²
- a Communication on a European approach to tackling online disinformation;³³
- a package of measures securing free and fair European elections;³⁴
- the Code of Practice on Disinformation;³⁵

29 European Parliament, Regulation (EU) 2017 amending Regulations (EU) No 1316/2013 and (EU) No 283/2014 as regards the promotion of internet connectivity in local communities, PE-CONS 28/17 (Brussels, 20 September 2017).

30 European Parliament, Regulation (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC of 14 April 2016 (General Data Protection Regulation), Official Journal L119/1 (4 May 2016).

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34 European Council, Conclusions of the Council and of the Member States on securing free and fair European elections – Outcome of proceedings, 6573/1/19 REV 1 (Brussels, 19 February 2019).

35 European Commission and online platforms and advertisers, EU Code of Practice on

- the Social Observatory for Disinformation and Social Media Analysis (SOMA);
- the Action Plan against disinformation;³⁶
- an informal EU27 leaders' meeting in Sibiu on 9 May 2019;
- and the Assessment of the Code of Practice on Disinformation of 10 September 2020.³⁷

E-COMMERCE AND THE DIGITAL MARKET

66% of Europeans used internet banking and 71% shopped online in 2019.³⁸ Considering the coronavirus crisis, this rate will probably reach a much higher percentage for 2020.

The previous digital agenda focused on the digital market, with the Digital Single Market Strategy for Europe³⁹ setting the following goals in 2015 (see Section 1):

- better access for consumers and businesses to online goods and services across Europe,
- creating the right conditions for digital networks and services to flourish,
- and maximising the growth potential of our European Digital Economy.
- The following achievements have since been accomplished:
- reforming data protection,⁴⁰
- legislation on geo-blocking,⁴¹

Disinformation (Brussels, 26 September 2018).

36 European Commission, Joint Communication to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, Action Plan against Disinformation, Joint Communication JOIN(2018) 36 final (Brussels, 5 December 2018).

37 European Commission, "Assessment of the Code of Practice on Disinformation – Achievements and areas for further improvement," SWD (2020) 180 (Brussels, 10 September 2020).

38 European Commission, DESI 2020, p. 12.

39 European Commission, The Digital Single Market...

40 European Parliament, Regulation (EU) 2016/679 of 27 April 2016...

41 European Parliament, Regulation (EU) 2018/302 of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/

- and copyright packages.⁴²

On 25 November 2020, the European Commission adopted its Action Plan on Intellectual Property.⁴³ When we think of e-commerce, we think of online shopping for tangible goods. However, the digital market also entails the commerce of intangible products. These intangible creations are protected by intellectual property rights (IPR), almost without exemption. Thus, whenever a legislator adopts regulations on intellectual property matters, it affects the functioning of the digital market. Addressing this area also means that the European Commission wants to allow IPR-intensive industries to be competitive in global online markets. For instance, Spotify continues to be a very successful player on the music streaming market, significantly outshining its main rival, Apple Music.

Spotify Keeps Apple Music at Arm's Length

Number of paid Spotify and Apple Music subscribers worldwide*



Source: F. Richter, "Spotify Keeps Apple Music at Arm's Length", statista.com (Jun 30, 2020)

EC, Official Journal L1 60/1 (2 March 2018).

42 European Parliament, Directive (EU) 2019/790 of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC, Official Journal L 130/92 (17 May 2019); European Parliament, Directive (EU) 2019/789 of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC, Official Journal L 130/82 (17 May 2019); European Council, Directive (EU) 2017/1564 of 13 September 2017 on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society, Official Journal L 242/6 (20 September 2017).

43 European Commission, Making the most of the EU's innovative potential: An intellectual property action plan to support the EU's recovery and resilience, COM(2020) 760 final (Brussels, 25 November 2020).

However, there don't seem to be any equivalent European players in other areas like over-the-top video content platforms, e.g., Netflix.

Consumers, manufacturers, distributors, service providers, authors, the EU, and Member States all constitute the network of stakeholders in this area. The main issue in this field has long been the fragmentation of the market and its EU-wide legislation. President von der Leyen said in her 2020 State of the Union speech,

“We must make this Europe’s Digital Decade. We need a common plan for digital Europe with clearly defined goals for 2030, such as for connectivity, skills and digital public services. And we need to follow clear principles: the right to privacy and connectivity, freedom of speech, free flow of data and cybersecurity.”⁴⁴ ■

44 Ursula von der Leyen, “State of the Union Address at the European Parliament Plenary” (16 September 2020).

3.

OPTIONS AND SCENARIOS

After reviewing the current scene of digitalisation-related policy areas, let us imagine some possible future scenarios.

When doing this, we not only have to imagine different political landscapes but also different environments. The three possible directions of events—from a scenario of extreme dystopia to one of an unrealistically futuristic landscape—show us the scope of policies which the EU can implement.

In each subsection, we will highlight the liberal priorities to be followed according to certain circumstances. Finally, we will also draw up an ideal liberal scenario.

These increased EU ambitions and an update to the 2030 climate and energy framework are part of the political initiatives framed as an “EU Green Deal”, presented by the EC elected in 2019.

MUDDLING THROUGH

Within this scenario, our basic assumption is that geopolitical, economic, and digital circumstances worsen. Thus, the EU will not be able to take any proactive steps, so it will only have enough resources for quick fixes. In this scenario, the overarching liberal goals—as set out in the ALDE Manifesto of 2018⁴⁵—might only be partially considered when making policy decisions. Scarcity negatively affects all freedoms, whether indirectly or directly, meaning that diversity and a free, prospering market economy remain mostly out of reach. However, more abstract concepts—like a democratic survival plan—can serve as guiding principles through tough moments in history, as well.

In this hypothetical worst-case scenario, the EU budget will significantly decrease as a result of an unexpected series of crises of various kinds. This means that the European Union will have to financially support Member States, which may cause cuts in the recovery fund and NextGen EU that had previously increased

45 ALDE, Freedom, opportunity, prosperity: the Liberal vision for the future of Europe [manifesto] (Madrid, 2018).

support for the digital sector. Meanwhile, disinformation campaigns and cyberthreats will spread all around Europe on a regular basis. The gap between the wealthy and the poor will widen, and the populist rhetoric surrounding these failures will determine the success of extremist and conservative parties. As part of this scenario, we can imagine a uneven technological advancement within Member States, while technologies are imported in order to keep costs low but without guarantees on the safety of products or technologies implemented – nor regarding privacy of citizens.

In the next few points, we will elaborate on how the European Union could survive in this case and what the effect of these circumstances may be on digitalisation.

- Because of the shortage of financial resources, the range of NGA coverage would not expand. Since both finances and time would be scarce, the AI regulatory environment would not change significantly, and the EU will therefore not keep up with technological developments in that area.
- This would mean AI spreading with such speed that many jobs would simply disappear, and unemployment would grow aggressively.
- The financial gap between the highest and lowest margins of society would become so wide that less fortunate Europeans wouldn't have access to new digital technologies—and, thus, fewer and fewer people would possess digital skills.
- Low quality, but cheap and easily accessible, goods (including intangible goods) would result in ad hoc legislative measures in Member States without any European-level coordination. Therefore, European citizens would not enjoy the same consumer protections all over Europe.
- However, the European Union would still see a valuable channel for supporting Europeans through the financial backing of SMEs. Yet the general scheme of support would only keep SMEs alive, without any prospects for growth.
- Europe would not be able to finance a strategic institutional system built to combat fake news and disinformation, which would result in populist political groups gaining power. Digital democracy wouldn't even have a chance under these circumstances.
- In these times, digital education would be promoted and backed by the Union as soon as the financial gaps in healthcare across Europe have been filled. These measures would ensure that digital technology remains in use and manages to develop somewhat up to 2030.

To summarise: digital skills will not become common knowledge and, thus, public services will not become digitalised. The rights to privacy, freedom of speech, and cybersecurity will deteriorate.

TACKLING THE MOST PRESSING ISSUES

In order to deal with the most pressing issues, Europe must first learn from the events of the 2010s. A free, democratic, and overall stable Europe is likely to emerge from the given circumstances in this scenario. However, a smooth, quick, full, and perfect digital transition still remains impossible. So, whereas liberal ideals would be much closer to reach in this scenario, the economy could not be digitalised as much as would be possible or ideal.

In this scenario, Europe is able to renew its earlier bilateral commercial commitments with the United States of America and businesses there. Member State administrations similarly find themselves on a fast track to digitalisation, as they remain alert and consider both data and consumer protection aspects.

The EU starts the decade by planning a specific, technology-focused investment plan for SMEs and strategically choosing specific industries to support. This would enable the EU to at least become competitive in specific digital areas within Europe as well as supporting creative industries.⁴⁶

After the COVID-19 pandemic, digital education becomes more accessible, and many investments are made in the development of distance learning. As a result of the rapid-response infrastructural support during the pandemic, the number of educational institutions with significant digital infrastructure grows not only in larger cities but also in rural areas.

Governments realise the utmost importance of connectivity in an environmentally unstable world. Thus, by 2030, Europe would realise equal access to the world wide web and have a state-of-the-art telecom infrastructure.

However, since this infrastructural development would blind voters to gaps in the legislative framework, overall stagnation would characterise the quality of new legislation. This means that political power holders would not be motivated to make policies based on a forward-thinking approach. Addressing liability in digital industries, intellectual property policies, data protection, and consumer protection would not be placed under systematic scrutiny.

⁴⁶ This process has already been started (e.g., the European Digital SME Alliance); however, the financial and knowledge support does not select specific industries to concentrate on.

All of this would result in following the inefficient legislative practice of codifying targeted solutions, cross financing the media⁴⁷, and a reactionary approach to regulatory segmentation without any concern for what happens across borders.

CHANGING THE EU FUNDAMENTALLY

A stabile, democratic background and a pandemic-free era with a strong global status quo for Europe is the background of the third scenario, where digital issues would be lifted to the capacity of the EU instead of that of Member States. A blooming digital market is almost a given in this scenario, since the EU here appears as a united, almost borderless, single, and free market. In this scenario, all security threats and information deficits are dealt with—thus, regulations not only enable but also set limits on the (otherwise not necessarily safeguarded) ubiquitous reality of the internet.

Developing a flexible legislative framework would ensure that new technologies entering the areas of communication, digitalisation, or the digital market do not remain entirely uncontrolled but are rather kept within limits protecting consumers and balancing freedoms.

No geo-blocking or fragmented regulations of any element of the Digital Single Market or social media would impose a burden on the flow of creative and innovative products within the European Union. However, these unified freedoms would not infringe upon national cultural interests.

The EU becomes a market leader on the digital market and in technology by establishing a “European Silicon Valley” in specific industries.

Everybody will have access to and be able to use cutting-edge technology. Digital skills will be taught from an early age: thus, the European population in 2030 will not even remember digital illiteracy. European e-identity⁴⁸ (eID) will be the basis for all transactions, whether they occur through public obligations or private choices.

47 Johannes Ludwig (2000) The Essential Economic Problem of the Media: Working Between Market Failure and Cross-Financing, *Journal of Media Economics*, 13:3, [187-200](#), DOI: [10.1207/S15327736ME1303_3](#)

48 While the recognition of notified eID became mandatory as of 29 September 2018, the eID system has not been used up to its potential—due to interoperability and security issues as well as because of varying levels of e-administration in Member States.

Digitalisation and Artificial Intelligence will be used to decrease unemployment by making the creation of numerous creative and research-based jobs possible.

Technology becomes a pillar of democracy. Elections will be held online, courts will digitalise almost the entire process of dispute resolution, and government policy data and State administrations will be transparent and accessible.

In this scenario, the economy grows and democracy strengthens as a result of future-proof legislation and the people’s trust in democracy. Europe becomes a global role model of a free and continuously developing digital economy and democracy.

European society will become much less fragmented than it was in 2020, and people will be able to control their futures and fulfil their financial dreams.

By making the greatest use of digitalisation, even green goals could be reached on a faster path.⁴⁹ Connecting people makes it easier to have an impact on environmental issues.⁵⁰

Clear principles and a forward-thinking legislative approach are the keys to flexible, future-proof legislation. Restrictions based on privacy and data protection laws must be paired with measures enabling and fostering economic growth. Finding this balance is an almost impossible exercise. If any becomes stronger than the rest, then the transformation into an overcontrolled surveillance state or a socially-insecure, unequal society will be unavoidable.

49 Digital sustainability is a much discussed topic. On the one hand, the focus is on optimising existing technologies with regard to the energy consumption of modern equipment. On the other hand, new technologies [such as artificial intelligence](#) seem to be a promising tool to optimise the energy consumption of modern and future IT systems.

50 This could be achieved by implementing e-learning technologies, but also by using existing social media to promote a culture of sustainability among new generations.

THE IDEAL SCENARIO FROM A LIBERAL POINT OF VIEW

The ‘liberal ideal’ point of view values those measures which do not overstep the limits of the maximum freedom of individuals within a society.

Thus, policies must enable as many options as possible while making sure that aggregated profits and overall security remain unaffected. In particular, pursuant with the liberal ideal, it is important to adhere to the principle of technological neutrality and to limit government and public sector interventions in the digital sector—when this happens, it should be when there are clear market and social failures and in a manner that is proportionate and limited to addressing only these failures.⁵¹

This means that Europe must concentrate on enabling laws, on the one hand, that:

- Create equal opportunities for all European citizens by
 - ensuring total next generation access (NGA) broadband coverage,
 - financing infrastructural support programs for disadvantaged people,
 - and making sure that digital literacy becomes an everyday skill;
- As well as make other policy areas more effective and innovative
 - in the field of healthcare,
 - regarding education, online classes, and flexible and lifelong learning,
 - and making the European economy a real competitor with China, Japan, and the United States of America,
 - while developing a media financing system that enables an independent and high-quality press,

⁵¹ The “Digital Services Act” proposal, in this sense, confirms prior regulation without tightening monitoring obligations, except for due diligence issues and illegal content (from which ‘harmful’ but not illegal content remains outside). Instead, it has been proposed for large platforms (with more than 45 million users) that the Commission can intervene by notifying about non-compliance and serving penalties. See: European Commission, Proposal for a Regulation of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC, COM(2020) 825 final (Brussels, 15 December 2020).

- and minimising geo-blocking or fragmented regulation over any element of the Digital Single Market or social media while respecting cultural diversity,
- while making efforts to enable the EU to become more of a digital market and technology leader in specific industries and applying these preferences in its financial support systems,
- and using digital means to make everyday life more flexible and tailored to individuals,
- as well as developing digital programs in various fields, from immigration to kindergartens.

On the other hand, it must set up limitations and requirements, such as:

- Not allowing technology to make individual freedoms negligible by
 - making data and consumer protection legislation easily applicable,
 - and ensuring cultural prosperity;
- And protecting democracy
 - through the continuous development of transparency regulations,
 - by tackling disinformation and disarming any information-based threats to democracy, and
 - via the phasing-in of entirely online democratic tools by 2030.

The liberal goals regarding the subject of this chapter are hard to balance out. This means that such a delicate equilibrium can only be achieved with legislative, social, and economic measures like the ones described—the impact assessment of which should be based on a wide consultation with European citizens, academic scholars, and global players on the digital market.

A LIBERAL VISION FOR DIGITALISATION, CONNECTIVITY, AND E-COMMERCE

Technology must support democracy and the economy.⁵² The EU must enable Member States to facilitate the use of technology and digitalisation to create value while protecting EU citizens against making uninformed choices. When imagining a liberal vision, both the principles of policymaking and the results of those policies constitute the whole picture.

Regarding the principles of liberal policymaking concerning digital transformation, e-commerce, and connectivity, it is firstly important that we understand the issues and only then legislate or take non-legislative measures. If we rush in with regulation, we risk inefficient blanket regulation or, even worse, regulation that burdens the digital economy and reduces opportunities for start-ups (and SMEs). Secondly, we can never ignore the fact that the digital transformation is a global shift, so Europe cannot make its policy independently from the approaches of other jurisdictions. Third, we have to make sure that the government is transparent and accountable, since legislation is only effective if people trust its rationale. Finally, Europe also must maintain transparent functioning and embrace decision-making changes.

Digitalisation, AI, IoT, and 5G:

A substantial liberal vision entails a European Union that is a world leader in the digitalisation of healthcare, public administration, manufacturing, and business-to-business relations.

However, the European Union does not have to follow the path of the United States of America, and there is no reason to set up an artificial European ‘Silicon Valley’. The European Union already has existing digital hubs. By 2030, this network will be a strong competitor in the global digital industry.

Also, with regard to digitalisation, uncertainty can be limited by harmonising the regulations made by Member States.

State administration and technology, e-governance:

It is of the utmost importance to make a clear distinction in this area between existing opportunities for enhancing a functional democracy and the actual participation of citizens. The existence of an online voting platform, for example, does not mean that it will be used by citizens.

⁵² ALDE, the liberal European political group, envisions a Europe that embraces the potential of technological and digital evolution. See: ALDE, Freedom, opportunity, prosperity...

As to technology and governance, a liberal approach must entail a vision for an easy-to-navigate and transparent administration and, thus, smart governance. This requires processes that focus on efficiency and have a regulatory background.

Public-Private-Partnerships (PPPs)

PPPs enable public institutions to tap into the capabilities and strategic thinking of private companies, who are given access to the long-term financial stability and plannable resources of public institutions. The optimal outcome of PPP projects is that they are more productive and progressive than simple state-owned enterprises, but they also deliver more to the public than the average profit-oriented initiative. In theory, this is the best of both worlds, providing flexible but stable solutions.

Connectivity, social media, and online communication:

Legislative measures in this area have an enabling role, like letting people make informed decisions. At this point in time, social media enhances liberties instead of hampering them. It is key that connectivity regulations are future-proof, technology blind, and enforceable.⁵³

E-commerce and the digital market:

The number of business-to-consumer (B2C) operations, in which the businesses are SMEs, will have multiplied in 2030. It is important to avoid a liability system or gatekeeping-type regulations towards digital platforms that would impose unintended consequences and unwanted restrictions on newcomer market participants and smaller players. At the same time, regulations should allow for a tailored approach that distinguishes this variety of business model from that of larger market participants.⁵⁴

All in all, technology in 2030 will help democracy and industry flourish as a result of widespread digital education and the trust built up in the preceding decade. Digitalisation will ensure transparency, both in the business and public sectors, after ten years of strictly imposed and enforced regulation. Now that uncertainty and regulatory fragmentation have been minimised, policies on connectivity, digitalisation, and e-commerce will be based on future-proof, technology-blind, and innovation-driven legislation. ■

⁵³ The issue of future-proofing is closely linked to two key factors: first, the commitment of Member States to monitor progress and implementation. Secondly, it is essential to foster the development of the Digital Internal Market.

⁵⁴ In December 2020, the European Commission approved a proposal for a Digital Services Act (COM/2020/825 final), which includes further regulations that will have an effect on all digital service providers, regardless of where their registered offices are located.

4

ROADMAP AND POLICY RECOMMENDATIONS

The four areas covered by this paper are interrelated when it comes to regulation and financial support as well as educational endeavours—thus, it is essential that specific policy decisions are implemented with a view to their interactions with one another. Furthermore, a comprehensive summary needs to be made on the amendments to planned financial budgets emerging from the liberal approach.

Financing the digital transformation:

Without sufficient political power in several crucial parts of the continent, the European Union somehow finds a way to insert itself into political spheres where the current power brokers—Member States—are not able or active. As a kind of multilateral organization, most of the EU's possibilities lie in the sphere of multilateral regulation. Where there is a need to harmonise, direct, or simply declutter the regulatory framework between countries—or, in some cases, between countries and other entities—the EU comes to the rescue. Some of the Union's most spectacular displays of competency have happened in regulating the digital market and, in some cases, this was followed by the EU standing up to Member States individually. The previous seven-year budget of the EU had an astoundingly small amount of money dedicated to digital reform. In the 2014-2020 period, the digital component of the EU budget consisted of several different parts, which totalled 37.4 billion euros or only 3.9% of the total budget. In order to make the most of a very small amount of money, the EU did what it always does: find a solution involving private-public partnerships and institutions to facilitate the most impact.⁵⁵

55 It should be noted that current Commissioner Margrethe Vestager's success reigning in Big Tech has been undeniable; it represents some of the most Commission's most successful work amidst a previous somewhat lacklustre performance. While it is yet to be known whether Commissioner Vestager will indeed receive more powers to act against anticompetitive practices among tech corporations, the fact that some of them are now gaining control over greater parts of our lives than ever before means that it is still good to know that the EU, especially the Commission, has some leverage in this matter.

Let's take a look at how the current budget dispenses funds for digitalisation (in the 2014-2020 period)⁵⁶ and how they should be amended.⁵⁷ There is no single EU programme exclusively dedicated to the digital transformation, but several different initiatives exist:

- the European structural and investment funds (ESIF), under which approximately €21.4 billion is allocated for the digital sector;
- €37.8 billion has been invested in digital projects under the European Fund for Strategic Investments (EFSI);
- and the Connecting Europe Facility (CEF) also has an ICT infrastructure focus in its budget (approx. €1 billion).

As the coronavirus pandemic hit Europe, people exchanged their in-person lives for something very different, most often digital. Across the continent, children are sitting at home in front of iPads and laptops, telelearning through Zoom, while their parents are sitting one room over, churning through meetings on Microsoft Teams. With the pandemic, the streets emptied and Europe suddenly went digital. It is hard to imagine a global catastrophe of this size occurring in a time without broadband or fast mobile data, but still, even in 2020, it was a big change for the continent.

The planning of the seven-year budget preceded the pandemic, of course, but we have to be thankful for its foresight in concentrating a bit more on the digital than in previous years. The Commission proudly announced that digitalisation would shine through the next budget, and there is some truth to that. It would be quite bad if there weren't, since digital technologies have become irreplaceable throughout 2020 and moving into 2021. In order to be on the safe side and survive, we have to drastically increase the financial resources allocated to digitalisation and make the amounts labelled for policy a bit more flexible to move within the budget. Should we enter an age of pandemics, let us have a sound secured network. Also, we shouldn't diminish the significance of a separate, digital-transformation-only budget. With no such dedicated amount, the resources spent on digitalisation will always be done in spite of another sector.

56 Mar Negreiro and Tambiana Madiaga, Digital transformation [briefing] (European Parliament Research Service – EPRS, June 2019).

57 Ibid. However, it should be considered that, in light of the present crisis due to the 2020 pandemic, extensive programmes have been presented to support large-scale investments in specific sectors among Member States and for reforms. The amount of the Recovery and Resilience Facility (RRF) foresees around a 20% increase in investment in the sector. See: European Commission, "Recovery and Resilience Facility," European Commission website.

the EU should be looking to complete its Capital Markets Union to enable the development of a European Venture Capital Market. The lack of a sizeable and workable venture capital market in Europe today is already causing innovators and entrepreneurs to develop and commercialise their digital technologies abroad.

The roadmap to a liberal digital transformation policy:

First, we have to be aware that the digital transformation itself causes challenges related to the realities of operations within the European Union and its Member States, besides—and of course we usually think of this first—opening previously non-existent doors to yet unknown opportunities.

Thus, addressing the challenges of the trust deficit in the digital realm, its operations and regulations, cybersecurity, privacy, and unforeseen sociological and economic effects, we should simultaneously and continuously utilise all digital innovations and developments in the areas of education, green politics, equal opportunities, and overall economic growth.

When choosing an ideal liberal vision and roadmap, we have to concentrate on making European societies and economies richer while also staying the course already taken in previous decades, if they proved to be advantageous for the people of the European Union. When choosing between following the previous path or changing our approach, we must make sure that our policies and legislation are scalable, adaptable, and useable. We also have to ensure that, before we define any solution, the problem is truly and really understood in its depth—this is the biggest challenge when making policy decisions in these areas.

In order to set up an organic roadmap, we first have to overview the restrictive framework of the digital transition, keeping in mind that less might be more when we want to focus on economic growth.

Steps of this stage:

1. Revise the gatekeeping of digital platforms and move to a case-by-case basis for decisions based on algorithms;
2. Make sure transparency is a requirement towards all platforms;
3. Set up a less complicated liability framework.

Instead of repeating the idea of a European Silicon Valley, policymaking must concentrate on finding the focus of digital industries in Europe and, hence, their place in the global digital economy. The recommended areas are healthcare, education, democracy-strengthening, and B2B services in the legislative and financial support of European technology-based businesses.

We also have to keep in mind the overarching principles which must be followed when setting up a new framework of rules:

- making legislation technology-blind
- and harmonising as many technology-based legislative aspects, both regarding the digital market and democracy, as possible.
- while not infringing on cultural diversity.

In order to keep the digital transformation in motion, the European Union must facilitate education regarding digital opportunities, as well as building up trust in technology through local projects supported financially and infrastructurally by the EU.

Finally, since Europe has been trying to catch up with “the West”, we should have a look at the U.S. market. We can be certain that neither strict competition rules nor complex liability structures enabled market players to become global market leaders. If we want to make Europe a competitor with the U.S., we have to:

- make it easier to start a business,
- make it easier to get funding capital,
- cultivate an entrepreneurship culture,
- foster PPP in selected industries,
- deconstruct restrictions,
- make it easier to monetise data and intellectual property,
- deregulate protectionist economic regulations that restrict market entry,
- and start to set up a results-oriented legislative framework.

CONCLUSION:

Europe is part of the world. No possible digital reforms could ever disregard the digital environments of other countries. The digital transformation is happening, whether we promote it or not. As the continent rapidly digitalises, Europeans are enjoying the use of digital technologies more and more. A liberal vision should take these facts into consideration.

Digital markets and environments today are less harmonised than is optimal, but we should play to our strengths. Technology and digitalisation are two fields in which regular nation-states can't be very effective alone, since both sectors have cross-border operations.

We should be bold in planning projects but we also must not hurry. Digital Europe is transforming faster than we ever thought, which means that legislation has to follow suit, though never too fast for European citizens to catch up.

Liberal policymaking has to take two things into account: one is that Europe has its own strengths which can be developed, so we should not copy the paths of other countries but rather find our own. The second is that policymaking should always reflect the needs of European citizens at its heart.

European citizens should have access to world-leading digital services in healthcare, governance, and media, and the sole aim of Europe's digital transformation should be to serve their needs while respecting their rights to transparent, understandable, and enforceable European digital legislation. We should also take into account the fact that Europe's digital environment is in need of constant advancement, as it cannot have a world-leading digital role without good digital infrastructure.

LIST OF ABBREVIATIONS

5G –
the 5th generation mobile network

AI –
Artificial Intelligence

B2C –
business-to-consumer

DESI –
Carbon Capture and Utilisation

EECC –
European Electronic Communications Code

eID –
electronic identification

EP –
European Parliament

IOT –
Internet of Things

IPR –
intellectual property rights

NGA –
next-generation access (broadband internet connection)

PPP –
public-private partnership

SMES –
small- and medium-sized enterprises

SOMA –
Social Observatory for Disinformation and Social Media Analysis

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**FOREIGN AND
SECURITY
POLICY**



05

CHAPTER

06

07

THE PATRON

Katalin Cseh

Member of the European Parliament
and Vice-Chair of the Renew Europe Group



“

The EU is a global player, and it is time to act like one. During the coming years we must leave behind the harmful ‘geopolitical dwarf’ stereotype. In a rapidly changing world beset by a range of interconnected challenges, the EU must step up and become the torchbearer of universal values that have the ability to bring about change far beyond our borders. Matching our foreign policy toolkit with political will and economic, trade, and diplomatic influence, we have a unique opportunity to improve global standards in all policy domains. This chapter will present just how this should be done in a manner that is both efficient and sustainable.

”

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1. INTRODUCTION



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Thomas Sowell said that “reality does not go away when it is ignored”. The reality around Europe is changing rapidly, and EU foreign and security policy has to adapt to those changes. New security threats, power shifting from the Western world to Asia or from nation states to non-state actors, and the increasingly global character of all major challenges that Europe is to face in the next decade are forcing the EU to reform.

This chapter sketches out a plan of reform around four topics:

1. Sources of European power;
2. Projection of European values;
3. European security: Comprehensive approach and strategic sovereignty;
4. Going beyond the neighbourhood – The EU as a truly global actor.

These topics were chosen on the basis of public discussions during the Expert Forum held online by the European Liberal Forum in October 2020.

The chapter is structured as follows. The first part briefly presents the current state of affairs, identifying major problems to be solved. The second part analyses three possible scenarios of EU foreign and security policy development—from sailing where the wind blows to executing fundamental changes in line with the liberal agenda. The final part outlines the set of policy recommendations for the preferred scenario of deep and far-reaching reforms. ■

2.

THE CURRENT STATE OF FOREIGN AND SECURITY POLICY

SOURCES OF EUROPEAN POWER

The European Union is not powerless or weak, as it is sometimes perceived. The portrayal of Europe as an aging, declining force struggling to remain relevant is false. In reality, the picture is different; one can point out many dimensions of European power making the EU relevant as well as influential. They comprise a long list: normative, market, regulatory, civilian, soft, quiet, transformative, integrative, and even knowledge power.¹ A number of these are quite unquestionable sources of the EU's power in the world.

First of all, the EU is a major global economic force that has the ability to set global standards in competition policy, environmental protection, food safety, the protection of privacy, or regulations on hate speech in social media.²

Secondly, Europe has great “soft power,”³ based on the attractiveness of European values, culture, and way of life but also its commitment to humanitarian aid, economic assistance programs, trade deals, international law, and multilateral diplomacy. Jeremy Rifkin once wrote a very persuasive book on this phenomenon, which is now even more relevant than before. Europeans enjoy a better quality of life than most of the world's population and find security not through the accumulation of wealth (as in the U.S.) but through an inclusive society, based on sustainable development, cultural diversity, equality, and respect for human rights.⁴

1 Mitchell Young, Knowledge Power Europe: What Science Diplomacy Can Teach Us about the EU (ECPR General Conference, Wrocław, September 2019), <https://ecpr.eu/Events/Event/PaperDetails/45386>.

2 Anu Bradford, *The Brussels Effect: How the European Union Rules the World* (Oxford, New York: Oxford University Press, 2020).

3 Joseph Nye, *Soft Power: The Means To Success In World Politics*, New Edition (New York: PublicAffairs, 2005); Kristian L. Nielsen, “EU Soft Power and the Capability-Expectations Gap”, *Journal of Contemporary European Research* 9, no. 5 (28 November 2013), <https://www.jcer.net/index.php/jcer/article/view/479>.

4 Jeremy Rifkin, *The European Dream: How Europe's Vision of the Future Is Quietly Eclipsing the American Dream*, Reprint edition (New York: TarcherPerigee, 2005).

Finally, Europe is also a military power. 2019 was the fifth year to have seen an increase in defence spending by European NATO members. European military expenditures are comparable to those of China and far exceed Russia's.⁵ Even if European military capabilities are limited due to the current fragmentation of defence markets, problems with interoperability, and the lack of a European Army,⁶ Europe is not a “military worm” – as Mark Eyskens, Belgium's then-foreign minister, summed it up in 1991.⁷

Military investments – such as common military policies – are developed less than their potential. Although there are rules governing procurement in the field of defence and security,⁸ political will is essential to take a further step in a common defence policy. Thus, there is significant room for improvement in areas such as the EU's credibility as a global power, the quality of the EU diplomatic service, security and common defence, and many others. The EU remains a global power with the ability to shape the world, but only a coordinated approach to European defence policies, shared by all Member States, can guarantee a strategic advantage.

PROJECTION OF EUROPEAN VALUES

The EU is quite clear as far as the set of common European values are concerned. Human dignity, Freedom, Democracy, Equality, Rule of law, and Human rights are not only written into its Treaty but also construct the political identity of the EU in the world. The EU presents itself as an international actor with principled behaviour in foreign policy, not resigned from its idealistic aspiration to advance a better world.⁹

The EU has in recent years started to think about the promotion of its values in much a broader sense than before. To the list of traditional topics such as democracy, human rights, or free trade, now we have to add the green

5 SIPRI Yearbook 2020 (Stockholm International Peace Research Institute, 2020), <https://www.sipri.org/yearbook/2020>.

6 Salima Belhay, “A European Army by and for Europeans” (Initiative Policy Document, May 2019).

7 Mark Eyskens said that Europe is “an economic giant, a political dwarf and a military worm,”: “The Importance of a European Foreign and Security Policy”, *The Economist* (23 March 2017), <https://www.economist.com/special-report/2017/03/23/the-importance-of-a-european-foreign-and-security-policy>.

8 European Commission, “Directive 2009/81/EC on public procurement in the fields of defence and security, to comply with Article 73(2) of that Directive”, Consolidated version of 2020

9 Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy (European Union, June 2016), https://eeas.europa.eu/topics/eu-global-strategy/17304/global-strategy-european-unions-foreign-and-security-policy_en.

transformation or our digital agenda. In particular, the European Green Deal requires engaging other actors—not only foreign states but also cities and enterprises. After all, the EU accounts for only 10 percent of global emissions and any gains made in Europe can be easily wiped out elsewhere.¹⁰

Value projection abroad has never been easy, but the EU has proved to be successful in many cases, particularly in countries that are aiming to become Member States. The use of global diplomatic, trade, and economic power can help to spread values abroad by setting conditions for climate protection or human rights, the rule of law, and equality as a prerequisite for finalising trade or investment agreements.

However, the EU has to actively search for political ways that help it to be more efficient in this regard by including specific clauses for the implementation of aid programmes to third countries, together with an intelligent and efficient sanctions policy.

Predominantly, the EU has to answer the question of how to reach beyond the neighbourhood and become a transformative power in the global sense. Taking into account that “the world is being Asianized”,¹¹ with five billion people living there who produce 40 percent of global GDP, having an impact on Asia becomes one of the most important challenges ahead of Europe—not only in terms of projecting European values but also in securing European economic interests.

EUROPEAN SECURITY: COMPREHENSIVE APPROACH AND STRATEGIC SOVEREIGNTY

The traditional approach to security is very much concentrated on military issues and confronting military threats. When we change the security referent from territory and state to people, trying to answer the question about what makes people insecure, we see a different picture. Our everyday threats are related to topics such as health security (Covid-19 is just one example), climate change, terrorism, cyber-attacks that may affect our privacy, disinformation undermining our democracy, or migration, also perceived as a security problem. In other words, taking into account the experience of the pandemic, the number of beds for people in hospitals is more important to their security than the number of tanks, and the number of doctors and nurses is far more important

10 Dimitris Valatsas, “Green Deal, Greener World”, Foreign Policy (17 December 2019), <https://foreignpolicy.com/2019/12/17/united-states-democrats-green-new-deal-eu-europe-technically-feasible-environment-progress/>.

11 Parag Khanna, *The Future Is Asian* (New York: Simon & Schuster, 2019).

than the number of soldiers. The distinction between internal and external security threats is not very relevant anymore; however, it is still present in many analyses and political discussions in cliché form.

Europe needs to spend more on security not only in order to build resilience but also to achieve strategic sovereignty, which needs to be compatible with that of NATO commitments.

Alliance with the U.S. is a cornerstone of our security policy, but the Trump presidency has clearly shown that our dependency on America puts Europe in quite an uncomfortable position, one that is reliant on the American political cycle. It means that there is a need to spend more, to build our own capabilities, to enhance cooperation and integration. However, the recent budget negotiations suggested that few are willing to pay the price. The agreed-upon numbers are significantly lower (e.g., the European Defence Fund shrank by 39%) than what the European Commission initially proposed at the start of the MFF process in 2018.¹² This creates a risk of an even broader gap between rising expectations and limited resources.

European citizens are not against further integration in areas of security and defence. Public backing for it has remained unchanged at 75% over the past 30 years. Europeans tend to express support for reducing government spending, but they counter-intuitively prefer cutting civilian over defence funds. Thus, lack of progress in EU security and defence cooperation cannot be attributed to a lack of public support but rather the attitudes of national elites, such as defence bureaucrats, or protected national industries, who benefit from the status quo.¹³

Reframing our security policy, making it more comprehensible, and focusing on non-traditional security threats (such as, for instance, cybersecurity, health, or environmental threats and countering disinformation campaigns) may even strengthen public support for spending increases and foster European security cooperation.¹⁴

12 Niklas Novaky, “The Budget Deal and EU Defence Cooperation: What Are the Implications?”, Euractiv (blog) (22 July 2020), <https://www.euractiv.com/section/defence-and-security/opinion/the-budget-deal-and-eu-defence-cooperation-what-are-the-implications/>.

13 Kaija E. Schilde, Stephanie B. Anderson, and Andrew D. Garner, “A More Martial Europe? Public Opinion, Permissive Consensus, and EU Defence Policy”, *European Security* 28, no. 2 (3 April 2019): pp. 153–72, <https://doi.org/10.1080/09662839.2019.1617275>.

14 Lili Bayer, “Meet von Der Leyen’s ‘Geopolitical Commission’”, *POLITICO* (4 December 2019), <https://www.politico.eu/article/meet-ursula-von-der-leyen-geopolitical-commission/>.

GOING BEYOND THE NEIGHBOURHOOD – THE EU AS A TRULY GLOBAL ACTOR

EU foreign policy is very much concentrated on regional issues and relations with big powers, such as China and the U.S. Despite heralding global ambitions as in its “Geopolitical Commission” and having some capabilities to act globally (e.g., regulatory power), the EU is not perceived as a truly global actor. On the other hand, the major challenges facing the EU (climate change, migration, cyberattacks and disinformation, fragmentation of power, decline of the Liberal Order, etc.) are global in nature, not merely regional issues. They require a security policy approach capable of combining internal actions (on various levels) as well as boosting the EU’s role on the world stage and not only in the region.

However, the EU’s foreign activities and resources are very much concentrated on the neighbourhood. To some extent, it is understandable due to the political programmes in the region (such as the Neighbourhood Policy)¹⁵ and a series of regional crises that require a European response, such as security challenges posed by Russia, the situation in Libya, or relations with Turkey.

This is also a result of the political preferences of many Member States, which define their national interests in local contexts and are predominantly focused on their neighbourhood. It results in a lack of solidarity and advancement of very narrow-minded policy choices. There are a number of examples of such behaviours: from Poland and some other CEE countries blocking fair burden-sharing during the migration crisis¹⁶ to Germans building the Nord Stream 2 pipeline despite its detrimental effect on energy security for the whole Union and CEE states in particular.¹⁷ Each of these cases creates a lot of tensions between Member States, sometimes even unproportionally to the real importance of the problem, which hinders the building of a common foreign and security policy.

This is strictly related to the behaviour of Member States undertaking unilateral action against problems that could be better solved in the European context. The immediate effect is the lack of coordination with regard to the choices of individual states in foreign policy. From a political point of view, this can be the

15 Agnieszka K. Cianciara, *The Politics of the European Neighbourhood Policy* (Routledge, 2020).

16 Alexandra Brzozowski, “Poland Rejects Southern Europe’s Push for Mandatory Relocation of Migrants”, Euractiv (blog) (18 September 2020), <https://www.euractiv.com/section/justice-home-affairs/news/poland-rejects-southern-europes-push-for-mandatory-relocation-of-migrants/>.

17 Balázs R. Sziklai, László Á. Kóczy, and Dávid Csercsik, “The Impact of Nord Stream 2 on the European Gas Market Bargaining Positions”, *Energy Policy* 144 (1 September 2020): 111692, <https://doi.org/10.1016/j.enpol.2020.111692>.

consequence pursuing the national interest. But in terms of external projection (i.e., how European power is perceived), it can be a factor of weakness for the whole Union - especially in the perception of rivals or enemies.

There have been signs, however, that the EU is really pivoting towards geopolitics. The European External Action Service has been relocating its resources to better match current needs. For instance, in 2019 the EU presence in the Middle East and in Central Asia was strengthened with the opening of Delegations in Kuwait and Turkmenistan.¹⁸ In March 2019 the Juncker Commission and High Representative Federica Mogherini adopted a joint communication presenting the strategic outlook on China.¹⁹ This document set a precedent for the EU by positioning China as a ‘systemic rival’ and an economic competitor. That was accompanied by a series of assertive actions to confront China’s abusive behaviours, such as the implementation of an EU foreign investment screening regulation²⁰ or the initiation of reforms to curb the distortive effects of foreign subsidies on the European market.²¹

Such an update of Europe’s defensive economic toolkit “has ramped up regulatory shields to protect European firms from unfair foreign competition”.²² It was a necessary move towards greater economic sovereignty that will help to protect EU citizens from the downsides of globalisation and increase efficiency in the great power competition.

Yet the European Union has not stopped cherishing international cooperation as the most effective way to meet global challenges. This liberal way of thinking is deeply rooted in Brussels and drives the EU’s policies. The change of power in the U.S. gives hope that America will come back as a fellow defender of the Liberal World, based on rule of law, free trade, cooperation, and promoting democracy and human rights. Joe Biden, presenting his foreign policy plan,²³

18 Human Resources Report 2019 (European External Action Service, July 2020), https://eeas.europa.eu/sites/eeas/files/eeas_human_resources_report_2019.pdf.

19 EU-China – A Strategic Outlook (European Commission, 12 March 2019), <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52019JC0005>.

20 European Commission, Regulation (EU) 2019/452 of the European Parliament and the Council of 19 March 2019 Establishing a Framework for the Screening of Foreign Direct Investments into the Union (Brussels: 21 March 2019), <https://eur-lex.europa.eu/eli/reg/2019/452/oj>.

21 “WHITE PAPER on Levelling the Playing Field as Regards Foreign Subsidies” (Brussels: European Commission, 17 June 2020), https://ec.europa.eu/competition/international/overview/foreign_subsidies_white_paper.pdf.

22 Nicole Koenig and Nils Redeker, “After One Year of the ‘geopolitical’ Commission, It’s Time to Get Real”, Euractiv (blog) (14 September 2020), <https://www.euractiv.com/section/eu-priorities-2020/opinion/after-one-year-of-the-geopolitical-commission-its-time-to-get-real/>.

23 Joseph R. Biden, “Why America Must Lead Again”, *Foreign Affairs* (2020), <https://www.>

clearly stressed the value of transatlantic relations and cooperation on issues where our interests converge, such as combating climate change. ■

3. OPTIONS AND SCENARIOS

The next decade of EU foreign and security policy is far from being clear. There are a lot of possible paths but, in line with the concept of this Liberal White Book, we are going to sketch out and assess three alternative scenarios.

- Scenario 1: Muddling through
- Scenario 2: Tackling the most pressing issues
- Scenario 3: Changing the EU fundamentally

MUDDLING THROUGH

No major institutional nor conceptual changes are implemented. EU foreign and security policy remains responsive, not active, and while much effort is concentrated on regional issues and military threats, it is not efficient in any of these. The divergences between Member States and within them play an even more important role with some help from outside actors. China and Russia, but also the United Kingdom and the U.S., manage to use those divisions to pursue their own aims.

Europe is divided, particularly on Russia and China, and policy coordination is extremely difficult. There are significant caucuses in favour of the policy of engagement with both countries, backed by the political and economic interests of certain Member States and companies. In the case of Russia, this division clearly follows the division of Europe between East and West, with CEE countries threatened by Russian dominance in the post-Soviet space and an aggressive

neo-imperialist policy. Russia has successfully blocked any further integration of Ukraine or Belarus with Europe. In case of Ukraine, there is a lasting deadlock created by the “frozen” conflict over Crimea and Donbas. In Belarus, civilian protests, deprived of European support, have died; and a consolidated regime has driven the country even further into the Russian sphere of influence.

Countries continue to compete against each other in search of commercial advantages in the Chinese market and in order to attract Chinese investors. Beijing continues to play into the bloc’s divisions, building a strong position in some Member States eager to develop relations with Beijing on a bilateral basis rather than within the EU framework. Those countries search for bilateral agreements with Beijing that infuriate other Members and undermine any common efforts to coordinate policies towards China.

Incoherencies are also visible between certain European policies. Trade relations and development policy are implemented in their “black boxes” without any coordination with the Common Foreign and Security Policy (CFSP). Inter-institutional policy conflicts over security, development, and crisis management objectives interfere with intergovernmental disputes over leadership—repeating the EU policy failure in Libya from 2011²⁴ over and over again.

The EU’s role in the world is declining, and rifts are growing with not only Russia and China but also the U.S. Washington, struggling with the rise of China, is both disappointed with the fact that Europe cannot be a more serious partner in the global power game and is simultaneously ready to use that European weakness.

Advancing globalisation and technological transformation are making the EU even more dependent and vulnerable. With the usual caveat that accompanies every prediction, one can say that international relations are at the dawn of a digital revolution. Those having the best AI, the best robots, may have the best warfare advantage and the most productive economies. They will lead the world if only they can manage to adapt to the system when the production of goods is almost completely divorced from work; this may cause AI-driven mass unemployment.²⁵ The next 10 years might further set the scene before these great changes are brought on by the digital revolution. Europe, not able to overcome its divisions, is on track to lose in a competition with China and the U.S. Europeans will observe increasing economic, political, and military vulnerability and dependence. Their economic, health, cyber, or military security will be in the hands of others.

24 Michael E. Smith, “The European External Action Service and the Security–Development Nexus: Organizing for Effectiveness or Incoherence?”, *Journal of European Public Policy* 20, no. 9 (1 October 2013): pp. 1299–1315, <https://doi.org/10.1080/13501763.2012.758441>.

25 Kevin Drum, “Tech World. Welcome to the Digital Revolution”, *Foreign Affairs* (2018), <https://www.foreignaffairs.com/articles/world/2018-06-14/tech-world>.

TACKLING THE MOST PRESSING ISSUES

In this scenario, the EU concentrates its foreign and security policy on a few major partners and problems—firstly on improving relations with the U.S. in order to defend and strengthen the Liberal Order, based on common values such as democracy, rule of law, or universal human rights. The reinforced transatlantic community manages to strengthen cooperation in order to confront climate change on the basis of the Paris Agreement.²⁶ The EU and the U.S. accelerate their cooperative climate action by engaging other countries, cities, regions, businesses, and civil society members across the world. The transatlantic partners also finalise a new version of the Transatlantic Trade and Investment Partnership (TTIP),²⁷ liberalising one-third of global trade. This agreement gives the West substantial leverage to shape the global rules of the road not only on trade but also labour, technology, and environmental regulations.

Secondly, EU policy towards China has shifted towards a more realistic and assertive approach that started in 2019. China is perceived as a partner in dealing with global issues, such as climate change or health protection. At the same time, China is defined as an economic competitor in the pursuit of technological leadership and a systemic rival promoting an alternative model of governance.²⁸ The EU sticks to the redefined understanding of reciprocity with relation to China—European markets are closed to China in all those areas where China remains closed for the EU. The creation of high-level U.S.–EU dialogue on China has helped to coordinate efforts and implement a set of measures to protect Western interests vis-à-vis Beijing.

The EU’s “global transformative power” remains limited, but Europe is efficient towards the countries in its neighbourhood. The EU is still a magnet for its neighbours, who make a lot of efforts to retain the possibility of becoming Member States. In 2030 there are no new members apart from the Balkan states (Serbia, North Macedonia, Montenegro, and Albania), but a few others are well on track. Ukraine, Belarus, and Georgia have decided to integrate and have started formal negotiations. Turkey has resigned from pursuing full membership but, similarly to the United Kingdom, still has very close relations with the EU, being de facto economically dependent on the European market.

26 The Paris Agreement | UNFCCC, accessed 28 November 2020, <https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement>.

27 Will Kenton, “Transatlantic Trade and Investment Partnership (TTIP)”, Investopedia, accessed 28 November 2020, <https://www.investopedia.com/terms/t/transatlantic-trade-and-investment-partnership-ttip.asp>.

28 Justyna Szczudlik, “The EU’s New China Policy Works”, China Observers (blog) (14 October 2020), <https://chinaobservers.eu/the-eus-new-china-policy-works/>.

With no major change in EU policy towards Russia, relations with the country remain difficult and frosty. The continuity of sanctions²⁹ has finally brought about partial success—the Kremlin has reluctantly loosened its grip over post-Soviet countries in Eastern Europe and the Caucasus. The territorial conflict with Ukraine is resolved, but there has been no political transformation in Russia itself. Isolated and jeopardised, the Kremlin regime still poses a security threat for Europe and has instruments to destabilise its neighbours and the EU itself.

In terms of security policy, the EU has not moved forward very much. Discussions on the European army and integration of defence markets are far from over, and the EU stays militarily dependent on the U.S. Thanks to more efficient cooperation with non-state actors, such as big tech companies or transnational organisations, the EU is much more resilient in some aspects like health, cyber, or environmental security.

CHANGING THE EU FUNDAMENTALLY

In this scenario, the EU manages to make a few steps forward in the process of strategic sovereignty and successfully adapts to the changing international environment.

First of all, there is a consensus in Europe on common global interests and the perception of threats. Security policy is based on a comprehensive defence system that engages actors on different levels: municipalities and regional authorities, national governments, and EU institutions. There is no division over external/internal or traditional/non-traditional threats, which are perceived as irrelevant. Major security problems have their external and internal elements, and you cannot be successful without combining different means to face them. Terrorism may serve as the most obvious example, with clearly “external” military, digital, or financial actions against the ISIS caliphate combined with fighting second generations of radicalised terrorists living in Europe. Instead of having only a subsidiary role as provider of internal security,³⁰ the EU has become a core player in the advanced institutionalized system of security cooperation and coordination.

Europe has also changed its perception of security, resigning from “the state-centric orthodoxy of conventional international security, based upon military

29 Matěj Bělín and Jan Hanousek, “Which Sanctions Matter? Analysis of the EU/Russian Sanctions of 2014”, *Journal of Comparative Economics* (21 July 2020), <https://doi.org/10.1016/j.jce.2020.07.001>.

30 Monar, Jörg, “EU Internal Security Governance: The Case of Counter-Terrorism”, *European Security* 23, no. 2 (3 April 2014): pp. 195–209.

defence of territory against ‘external’ threats”.³¹ Instead, it successfully employs a human security perspective, which privileges the individual as the referent of security analysis. In this approach, military instruments (and expenditures) are only part of a much broader policy area that consists of several dimensions: climate security, health security, food security, economic security, cyber security, environmental security, etc.³² Consequently, providing security to European citizens becomes a fundamental policy goal of the EU, and the idea of a more comprehensive security policy becomes one of the most important policy areas of the EU, taking precedence over many others. To take decisive action in the field of security, it is essential to act and decide in a timely manner at EU level. A key discussion in this context is the use of qualified majority voting with regard to foreign and security policy.³³

The European Army is finally at the full disposal of the EU³⁴ and its internal defence market is integrated around the European Defence Agency, which ensures coherence between Member States and with NATO. Due to this, the EU is less dependent on the U.S. and has moved closer to strategic sovereignty.

The European Commission acts in a truly geopolitical manner, thinking “big” and using common resources to reach ambitious goals. In other words, the EU is performing as a real global power. In close cooperation with the U.S., Japan, Canada, and other democratic leaders, it is striving for democracy’s strong position back on the global agenda. The process of retreating democracies and declining global freedom³⁵ has not only been stopped but also reversed.

Europe’s presence in the world has also been strengthened thanks to the development of the European External Action Service (EEAS). With a much larger budget and reinforced staff, the EU diplomatic service invests its financial and diplomatic resources on every continent. Particular attention is being paid to the fast-developing Asian region. The EU has resigned from focusing its Asia

31 Edward Newman, “Critical Human Security Studies”, *Review of International Studies* 36, no. 1 (January 2010), pp. 77–94, <https://doi.org/10.1017/S0260210509990519>.

32 Roland Paris, “Human Security: Paradigm Shift or Hot Air?”, *International Security* 26, no. 2 (2001), pp. 87–102.

33 In the light of reaching impactful foreign policy initiatives, Ursula von Der Leyen, in her State of the Union speech sustained the idea of adopting a qualified majority voting system in areas pertaining to the Common Foreign and Security Policy (CFSP) and Common Security and Defence Policy (CSDP). This will help acting promptly when facing challenges. Although the Treaties provide for this possibility in certain contexts (so-called “passerelle” clauses), the facts have shown that in certain situations the necessary alignment of Member States in taking such decisions is still lacking.

34 Belhay, “A European Army by and for Europeans”

35 Democracy in Retreat. Freedom in the World 2019 (Freedom House, 2019), <https://freedomhouse.org/report/freedom-world/2019/democracy-retreat>.

policy predominantly on China, now distributing its awareness and resources much more equally among different Asian partners. Thanks to this, the EU benefits from Asian growth and has a growing political impact on the situation in the region. In particular, the EU is able to impose its vision of rules-based connectivity—rules and regulations that allow for efficient, fair, and smooth movement of people, goods, services, and capital between Asia and Europe.³⁶

WHAT IS THE IDEAL SCENARIO FROM A LIBERAL POINT OF VIEW?

The ideal scenario for European liberals is the third one. Even if the EU altering its foreign and security policy fundamentally through this courageous vision and coherent set of actions clashes with the expectations of some individual states, it is the best solution for the whole continent.

The core assumption of this scenario is that Europe acknowledges the external challenges that we are facing and adapts to them. Recognition of the most important trends that are going to shape the world in the next decade is necessary for efficient policymaking. These trends include (among many others) the globalisation of security threats and fragmentation of power—or pluralisation of diplomacy, meaning that diplomatic practices, institutions, and discourses are no longer limited to traditional inter-state diplomacy.³⁷ The EU’s adaptation to them requires “1,000 small sanities”, borrowing from the title of Adam Gopnik’s book on liberalism.³⁸ In other words, the change has to be made by many steps, sometimes small but still necessary: there is no need to call for a revolution.

The liberal vision for foreign and security policy could be framed around four points:

A LIBERAL VISION FOR FOREIGN AND SECURITY POLICY

- The EU’s global actorness should be based on the set of existing sources of power that have to be reinforced. Firstly, this means regulatory power

36 Connecting Europe & Asia: The EU Strategy (European Commission, 19 September 2018), https://eeas.europa.eu/headquarters/headquarters-homepage/50699/connecting-europe-asia-eu-strategy_en.

37 Noel Cornago, *Plural Diplomacies: Normative Predicaments and Functional Imperatives* (Martinus Nijhoff, 2013).

38 Adam Gopnik, *A Thousand Small Sanities: The Moral Adventure of Liberalism* (New York: Basic

(sometimes called “the Brussels Effect”),³⁹ which enables Europe to set global norms in many areas. Secondly, our attractive values (from respecting freedom of media to upholding judicial independence) should be defended and promoted both in Europe and globally. Thirdly, this includes our system of alliances and transatlantic cooperation in particular, with NATO as its cornerstone. Fourthly, our professional diplomatic service today is too small to be efficient. Finally, we should build on our credibility as a global power, which must include military capabilities at the disposal of the Union’s political leadership.

- The EU should not resign from value projection or building a liberal order globally in close cooperation with democracies around the world (e.g., the U.S., Canada, Australia, middle powers in Asia). To be more efficient, we should make better use of European diplomacy, including public diplomacy.⁴⁰ Our diplomatic activities should target not only states but (taking into account the fragmentation of power in the world) also non-state actors such as cities, regions, NGOs, or big corporations—which are going to be even more powerful in the next decade. They may serve as transmission belts for our ideas, bringing them to people. Value projection is important not only for our interests (e.g., commercially) but also to our security. For instance, the successful transformation of Russia into a stable, prosperous, and democratic state should be included in the long-term vision of European politicians who intend to keep Europe secure. It means that we should not resign from supporting civil society in Russia⁴¹ and other places, bolstering the people who have stood up against authoritarian regimes. We should never underestimate the significance of people-to-people contacts in the form of promoting European culture, students’ exchange programmes, academic cooperation, etc. that may, in the long run, contribute to political change.
- The EU should understand security in a comprehensive way that merges a traditional, military-oriented approach with the human security concept. Such a comprehensive defence system should be multi-level and acknowledge areas traditionally not perceived as related to security. The prime example is education, which provides security to the people. In the same way we have to educate citizens to live in the Digital Age, we should also educate them to live in a world full of new threats (from pandemics of

39 Bradford, The Brussels Effect.

40 Davis Cross, Mai’a K. and Jan Melissen, *European Public Diplomacy: Soft Power at Work* (Springer, 2013).

41 Joseph R. Biden and Michael Carpenter, “How to Stand Up to the Kremlin”, *Foreign Affairs* (2018), <https://www.foreignaffairs.com/articles/russia-fsu/2017-12-05/how-stand-kremlin>.

viruses to spreading disinformation) which undermine not only our security but also our democracy.

- The major challenges facing the EU are global in nature, so there is no sense in concentrating so much of our foreign policy resources on regional issues. European policy should acknowledge the major power shifts in the world and adapt to them. Western domination over world politics has ended. The flow of wealth and power is turning from West to East, defining our age and shaping the lives of people all over the world.⁴² Europe should not be blind to this but should follow the U.S. in its “pivot to Asia”,⁴³ not in the form of a temporary transfer of attention towards Asia but rather as a fundamental rebalancing of foreign policy.

42 Gideon Rachman, *Easternisation: War and Peace in the Asian Century*, 1st edition (London: Vintage, 2017).

43 Janan Ganesh, “US Shift to Asia Is More than a Short-Term Pivot”, *Financial Times* (20 February 2019), <https://www.ft.com/content/1f3dab26-346c-11e9-bd3a-8b2a211d90d5>.

4

ROADMAP AND POLICY RECOMMENDATIONS

WHAT IS A REALISTIC LIBERAL ROADMAP TO REFORM THE EU'S FOREIGN AND SECURITY POLICY?

We should follow liberal tradition and concentrate on gradual reforms rather than calling for revolution. This means that we should advocate:

1. Better use of existing resources, re-allocation to match changing needs

In particular, the EU should adapt to major world power shifts, paying more attention to developing its relations with Asian countries, big companies, or cities which, in this century, are becoming the nexus of economic and political power.⁴⁴ Bosses of big technological companies are drivers of the digital transformation. Megacities are central actors when it comes to facing many global challenges: from climate change and mass migration to fighting poverty. The EU should recognise this fact and adjust its diplomacy accordingly. In the next decade, we will probably reach the point where the idea of sending an EU ambassador to Google becomes a reality.⁴⁵

2. Strengthening existing European institutions (e.g., European Commission, EEAS) rather than creating new ones

The EU does not need new institutions. All those which are crucial for an effective foreign policy are already there—the EEAS, European Commission, or European Defence Agency. The problem is that they lack enough capabilities, have limited budgets, and are understaffed. The EEAS, for instance, only employed 4,500

44 Just forty city-regions are responsible for over two-thirds of the total world economy and most of its innovation. See Parag Khanna, “How Megacities Are Changing the Map of the World”, Ted Talks (2016), <https://www.youtube.com/watch?v=U7y4GlmwPLQ>.

45 This idea was expressed during the ELF Expert Forum event.

people in 2019,⁴⁶ while the German Federal Foreign Office currently has around 11,500 members of staff.⁴⁷ Without the reinforcement of a European diplomatic service, we cannot realise ambitious global political goals.

3. Changing European discourse, abandoning old-fashioned ways of thinking, e.g., security perceptions

Foreign policy discourse in Europe and security discourse in particular are dominated by archaic ideas that do not fit with the reality of the 21st century. Talking about armies, we think of 20th-century wars. Talking about diplomacy, we imagine white-tie state banquets and older gentlemen with cigars discussing politics. In the next decade, we should try to better understand the world we live in: with hybrid wars that are never declared; with cyberattacks and disinformation campaigns that are our “bread and butter, everyday wars”; with diplomats who spend more time on Twitter than at parties and communicate mainly with a foreign public rather than government officials.⁴⁸

4. Consolidating cooperation with allies on the basis of common interests

Different interests of Member States have been obstructing integration in the areas of foreign and security policy. They are not going to disappear anytime soon, but their significance might diminish in the face of the large-scale common challenges that we have to confront. Defending the liberal order based on international law, confronting China to secure a level playing field for European business, or fostering the green transformation beyond Europe are in the interest of all Member States. Unfair competition from foreign companies or unjust burden-sharing of global climate change policy might affect all Europeans. In the next decade, alongside progressing globalisation and global power shifts, the number of areas where it is possible to clearly agree on what is in the common, European interest may only grow larger.

5. Cherishing cohesion and coordination between Member States as well as different policies (trade, development aid, CFSP)

European foreign and security policy is formulated and implemented on three levels: by EU institutions, by Member States' governments, and by regional/local authorities. Problems with coordination between levels are serious, but bringing together different European institutions might also prove difficult.

46 Human Resources Report 2019.

47 Auswärtiges Amt, The Foreign Service - Staff (German Federal Foreign Office), accessed 9 November 2020, <https://www.auswaertiges-amt.de/en/aamt/-/229736>.

48 Tom Fletcher, *The Naked Diplomat* (William Collins, 2017).

The pillar construction of the European Union after the Maastricht Treaty,⁴⁹ however long gone, has left an imprint. Quite often, the high-level politics of the CFSP have their own black boxes, different from the black boxes of lower-level political areas managed by the European Commission. The sooner the EU eliminates these black boxes, the better and more efficient foreign policy it will have. In the world of complex interdependencies where we live, coherency across policies matters more than ever; but this is also very difficult to obtain. The need to enhance inter-institutional, horizontal coordination should steer any changes in EU foreign policy architecture.

WHAT ARE THE POLICY RECOMMENDATIONS WITH RESPECT TO EACH OF TOPICS?

1. Considering different sources of power

With regard to “European Power”, the market size and regulatory power (the so-called “Brussels Effect”) will give the EU an increasing impact on international relations. Liberals should seek out ways to make these instruments even more effective. Brexit, on the one hand, may diminish the EU’s market size; on the other, it could make greater room for pro-regulatory coalitions in the EU.⁵⁰ Either through multilateral agreements or, if it proves impossible, by unilateral action, the EU should try to globalise its regulations—particularly in such areas as the digital economy, the environment, market competition, or consumer health and safety. With 2030 in mind, European regulations should form the core and influence global regulations on climate issues, consumer health and safety, and market competition.

Alliance with the U.S. has been one of the cornerstones of the European position in the world. In trying to reach strategic independence, we should not forget about maintaining transatlantic links. The United States’ newly elected President Joe Biden is right in stressing that the world does not organise itself and someone has to write the rules, forge the agreements, or animate the institutions that guide relations among nations and advance collective security and prosperity.⁵¹ Europe has to work with its closest partner to mobilise collective action on global threats and promote the liberal world order. One of the steps to be taken is a TTIP that, apart from economic benefits for both sides, might help to set global standards for trade, spreading Western values around the world. In this respect, the TTIP should be signed by 2030.

49 “European Union - The Maastricht Treaty”, Encyclopaedia Britannica, accessed 28 November 2020, <https://www.britannica.com/topic/European-Union>.

50 Bradford, *The Brussels Effect*, 187.

51 Biden, “Why America Must Lead Again”.

Values and future of diplomacy

With regard with Projection of European values, considering the transformation of politics known as “mediatisation”,⁵² the EU should pay more attention to developing relations with big media outlets. This should be one of the main tasks for EU diplomats if they want to be effective in public diplomacy. The “bad boys” of this world, enemies of Europe, do use social media as instruments of disinformation campaigns or even information warfare.⁵³ Apart from efforts to defend itself against such attacks, we should not hesitate to organise our own campaigns aimed at promoting European ideas or influencing the actions of foreign actors. This should become a routine diplomatic activity that is carefully planned and properly financed. Digital diplomacy in 2030 will have a crucial role in the very centre of European foreign activities

Non-state actors and EU Foreign Relations

In order to be more efficient, the EU should also develop its relations with important non-state actors: big companies, NGOs, cities, networks of cities, etc. Even if we will not refer to our officers delegated to work with Google or New York City as “ambassadors”, they will play the important role of facilitating everyday contacts with those powerful and important international actors. Such actors could either be our allies in promoting values or partners without whom we cannot impose some important regulations. For instance, it would be rather impossible to regulate the digital economy (e.g., securing personal data safety) without close cooperation with Facebook or Google.

The EU should also acknowledge the importance of the sub-national dimension of foreign affairs. Cities and regions are very active internationally, building bilateral relations and transnational networks (e.g., C40 and ICLEI).⁵⁴ The rising importance of sub-state links has become a reality in European relations with China;⁵⁵ cities can also be security providers,⁵⁶ and they are absolutely crucial in climate policy. Although climate policy is formulated at national and supra-national levels, cities are responsible for its implementation. Brussels should

52 F. Esser and J. Strömbäck, eds., *Mediatization of Politics: Understanding the Transformation of Western Democracies* (Palgrave Macmillan UK, 2014), <https://doi.org/10.1057/9781137275844>.

53 Peter Pomerantsev, *This Is Not Propaganda: Adventures in the War Against Reality*, Main edition (Faber & Faber, 2019).

54 Michele Acuto and Steve Rayner, “City Networks: Breaking Gridlocks or Forging (New) Lock-Ins?”, *International Affairs* 92, no. 5 (2016), pp. 1147–66, <https://doi.org/10.1111/1468-2346.12700>.

55 Tomasz Kamiński, “The Sub-State Dimension of the European Union Relations with China”, *European Foreign Affairs Review* 24, no. 3 (1 October 2019), pp. 367–85.

56 Ian Anthony, “Cities and Security”, SIPRI (26 November 2015), <https://www.sipri.org/commentary/essay/2015/cities-and-security>.

build channels of communication with partners on the sub-national level, trying to coordinate the para-diplomacy of regional and local actors with EU foreign policy. By 2030, Europe should develop a network of daily communication channels with key non-state actors.

Multilateralism should remain the “default choice” for any European policy initiatives because defending liberal values is not possible without our allies’ support. Building and cultivating relationships with traditional allies, such as the U.S., the UK, Canada, or Australia, should be accompanied by a search for new ones. The EU is attractive to states like Ukraine, Georgia, Asian middle powers, or some African countries. They are ready to cooperate, to learn, or to follow our regulations. Europe should be ready to assist them in identifying areas of common interest and managing points of conflict. By 2030, the EU should expand its network of free trade and association agreements, reinforcing multilateralism.

2. European security: comprehensive approach and strategic sovereignty

The European Union should change its security referent from territory to people—looking at security challenges in a much more comprehensive way than today.

People’s security depends on actions taken at different levels. Therefore, there is a need for continuous public debate over how to divide tasks between different levels of administration, how to employ private business, etc. The need to cooperate with different stakeholders such as cities, companies, governments, and transnational organisations in order to build a comprehensive defence system is rather obvious. The problem is how to build effective channels of communication with all those actors on all those levels. This task is even more complicated than building a European army and is much more important from citizens’ perspectives. Europe must aim at developing a security policy with a multi-level system and a clear division of responsibilities by 2030.

Security depends not only on the number of troops or aircrafts. Military expenditures should only be one part of a much longer list, including cyber defence, climate, healthcare, and education. If the European Union is to be a security provider, it has to have much more say in some of the spheres that are now in the competences of Member States, such as health policy or education. Further integration in many areas should be presented to European citizens from a security perspective—as a necessary step for increasing the resilience and well-being of society in the context of different threats. In 2030 the EU will have an important role in providing health security, and there is a developed common

system of education for security and resilience in all European countries.

3. Going beyond the neighbourhood - the EU as a truly global actor

Recognising that all major challenges that we face are global in nature, the EU should not resign from active policies towards its neighbours. The accession of the Balkan countries should only be a matter of time—they should become Members as soon as they meet all the requirements. Yet, at the same time, we have to keep the doors open for other neighbours like Ukraine, Turkey, and Georgia. The perspective of accession is the single strongest instrument that the EU has at its disposal, allowing huge influence over countries interested in joining. We should not be rash when thinking about further enlargement, but neither should we deny access or resign from this powerful political instrument.

Brexit talks and the many different possible options of relations between the UK and the EU have shown that a more differentiated Europe, based around the idea of a variable geometry of integration, is indeed possible. In reality, some countries might be better off standing outside the core structure of the EU while still being a part of the Single Market or other policies. Uffe Ellemann-Jensen, former Danish foreign minister, recalls that at the time of the Maastricht Treaty negotiations, when different Danish opt-outs were discussed, such thinking was captured in the phrase: “To be or not to be, that is the question; to be and not to be, that is the answer”.⁵⁷ Moreover, accession policy is still the major instrument shaping the EU’s relations with its neighbours and a road to continue looking at 2030.

Adaptation to the major power shifts in the world means a need for the fundamental rebalancing of foreign policy. The EU should strengthen its presence in Asia, beyond China, in particular. Asian middle powers (e.g., Japan, Korea, Thailand, Indonesia) offer economic opportunities and potential political cooperation in areas such as green transformation or restraining Chinese influences. Europe should not resign from building a strong position in the fastest developing region in the world. The Europe of 2030 should forge stronger political ties with the central powers in all continents, but especially in Asia and with the rapidly developing powers of this region. ■

57 “Europe’s Future Is Multi-Speed and Multi-Tier”, *The Economist* (23 March 2017), <https://www.economist.com/special-report/2017/03/23/europes-future-is-multi-speed-and-multi-tier>.

CONCLUSION:

Liberals tend to believe in reforms rather than big revolutionary ideas. As Adam Gopnik writes: “The one central truth liberals know is that effective reform almost never happens as the result of big ideas sweeping through the world and revolutionizing life. Whenever we look at how the big problems got solved, it was rarely a big idea that solved them. It was the intercession of a thousand small sanities. A thousand small sanities are usually wiser than one big idea”.⁵⁸

The main argument of this chapter is in line with this way of thinking: European foreign and security policy need no revolution but rather a set of necessary reforms, smaller and bigger steps that allow the EU to adapt to a changing world and use its political power to change the world. We should reform the EU with full awareness achieving a state of Union by 2030 will require... a set of necessary reforms. We will have to advocate against particularisms that split and impair, plan adaptations to the changing international environment, search for ways to promote our values in the world, and answer the question of how to keep Europeans safe. Like it or not, liberals always see something that needs to be reformed.

58 Gopnik

LIST OF ABBREVIATIONS

CEE –
Central and Eastern
Europe

CFSP –
Common Foreign and
Security Policy

EC –
European Commission

EDA –
European Defence
Agency

EEAS –
European External
Action Service

EP –
European Parliament

MFF –
Multiannual Financial
Framework

TTIP –
Transatlantic Trade and
Investment Partnership

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**A LIBERAL
ROADMAP FOR A
RESILIENT AND
PROSPEROUS
EMU 3.0**



06

CHAPTER

07

08

THE PATRON

Luis Garicano

Member of the European Parliament and
Vice-Chair of the Renew Europe Group



“

In only a few months Europe has delivered an unprecedented economic response to the economic fallout from the coronavirus pandemic. What a few people thought as impossible a few months ago, European common debt, is now a reality. As funds from the European recovery plan will start to flow in the coming months, it is time to start thinking of where to take our Economic and Monetary Union next, and this chapter does just that. Moreover, it demonstrates the capacity that we have as liberals to put concrete, realistic, and yet innovative proposals on the table to improve the economic and institutional framework.

”

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1. INTRODUCTION



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The euro has made a great journey over the last two decades. It represents the crown of the Economic and Monetary Union (EMU), which also involves the coordination of economic and fiscal policies and a common monetary policy. In spite of sceptic voices early on—such as those of Milton Friedman, who famously quipped about “Why Europe can’t afford the euro”, or Martin Feldstein, who at the height of the eurocrisis in 2012 prematurely discarded the euro as “an experiment that failed”—the euro is still alive.^{1,2} This is not the Panglossian euro, since it is still fraught with multiple challenges, as shown in this chapter.^{3,4} However, it is alive and kicking, if only judged by the latest available Eurobarometer 481 data which covers support for the euro. In November 2019 76% of eurozone citizens whose life is being actively shaped by the euro claimed that the euro is good for the EU, a record high since 2011.⁵ Furthermore, 65% of them also claimed that the euro is good for their own country, as compared to

1 Milton Friedman, “Why Europe Can’t Afford the Euro”, The Times (London: 19 November 1997), https://miltonfriedman.hoover.org/friedman_images/Collections/2016c21/1997novtimesWhyEurope.pdf

2 Martin Feldstein, “The Failure of the Euro The Little Currency That Couldn’t” Foreign Affairs (January/February 2012), <https://www.foreignaffairs.com/articles/europe/2012-01-01/failure-euro>.

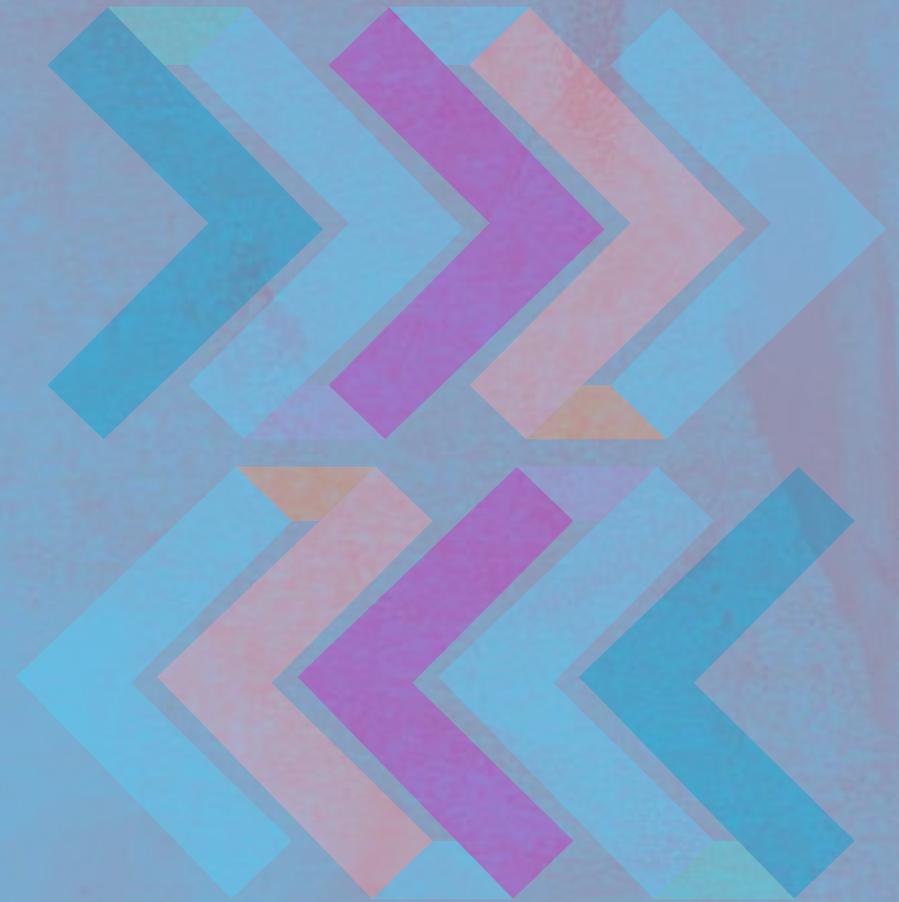
3 Milton Friedman, “Why Europe Can’t Afford the Euro”, The Times (London: 19 November 1997), https://miltonfriedman.hoover.org/friedman_images/Collections/2016c21/1997novtimesWhyEurope.pdf.

4 Martin Feldstein, “The Failure of the Euro The Little Currency That Couldn’t” Foreign Affairs (January/February 2012), <https://www.foreignaffairs.com/articles/europe/2012-01-01/failure-euro>.

5 European Commission, Eurobarometer 481 - Europeans show record support for the euro (Brussels, November 2019), https://ec.europa.eu/info/news/eurobarometer-481-europeans-show-record-support-euro-2019-nov-29_en.

the low of 56% in November 2011. However, even setting aside the challenges of a COVID-19-induced economic shock that might dial back several percentage points on euro support from these previous highs, those very encouraging figures should not have lulled policymakers or citizens into a false sense of complacency or passivity. The EMU definitely needed a reboot even before COVID-19, but now this challenge will be all the more important in light of the imperative to ensure a robust post-pandemic recovery. The next sections of this chapter will reveal where we currently stand in terms of the EMU's overall architecture (EMU 2.0.)⁶, the possible scenarios that lie ahead in a post-pandemic world, and the new institutional framework and policy remedies necessary to address major challenges in the coming years. An upgraded and rebooted EMU 3.0 would include: improved division of work between monetary and fiscal policy in the EMU, the adoption of new fiscal rules that better reconcile debt sustainability and fiscal policy's stabilisation function, the completion of both a Banking Union and Capital Markets Union, and the achievement of structural convergence on behalf of the EMU/EU economies, which would ultimately lead to more social cohesion and less toxic politics. ■

6 EMU 1.0 refers to the EMU's first decade until the eurocrisis hit in 2009.



2.

EMU EVOLUTION OVER THE LAST 20 YEARS: IMPROVED ARCHITECTURE, STILL PLENTY OF WORK TO DO

In this section we will look at the viability of the common currency from two different angles. The first one refers almost strictly to the economics of monetary integration as summarized by three pioneers of optimal currency area (OCA) theory: Robert Mundell, Peter Kenen, and Ronald McKinnon. This theory states that an area or region, not bounded by national borders, can benefit from the use of a common currency.

Understanding OCA theory

OCA theory features some criteria to understand which region or group of countries should share the same currency. Three of them (classic or economic) are labour mobility, production diversification, and openness. Another set is composed of political criteria, which are fiscal transfers (OCA countries compensate each other for adverse shocks), homogeneous preferences (in the form of consensus when dealing with shocks), and an approach considering solidarity instead of nationalism (in case of conflicts of national interest, the common fate of a currency area leads the acceptance of costs extending solidarity).

However, this angle does not shed enough light on the politics of monetary integration or on the set of political preconditions needed to keep a monetary union together. Therefore, we complement the views espoused by OCA theory

by introducing core elements of politically-embedded currency area (PECA) theory. Neither theoretical framework demands the full satisfaction of all of their core elements for the monetary union to prosper and thrive.

If we look at the EMU's evolution strictly from the viewpoint of OCA theory, we might wish that more policy homework had been done by both EU and national policy-makers. This theory does not provide us with a clear answer to whether the eurozone is an optimal currency area or isn't, but it allows us to carefully ponder both the costs and benefits arising from sharing a common currency. From this point of view, it often seems as if the eurozone is still built on a very wobbly foundation, with EMU membership apparently offering an adverse trade-off between the costs and benefits of monetary integration. Euro opponents or sceptics often claim that the costs stemming from the lack of an independent monetary and exchange-rate policy are simply too great to ignore, in spite of the existing benefits such as facilitated trade and investments. Therefore, it is of the utmost importance to assess the plausibility of these claims.

In spite of a significant increase in labour mobility⁷ and more flexible collective-bargaining arrangements in the wake of the 2009–2012 financial crisis,⁸ primarily in the hardest-hit EU Member States, we still cannot fully apply Robert Mundell's criterion of labour mobility to the EMU (especially when compared with intra-US labour mobility).⁹ Things look more favourable when observed from Peter Kenen's angle, concerning product diversification.¹⁰ EMU members produce a wide and similar range of goods, as shown in The Atlas of Economic Complexity created by Harvard University, and in that regard the eurozone satisfies the criterion of product diversification. Satisfying this criterion allows for the better absorption of the impact of potentially asymmetric macroeconomic shocks or makes them increasingly rare.¹¹ Another criterion that looks quite favourable for the eurozone as a whole pertains to trade openness. According to Ronald McKinnon, a country having its own exchange-rate policy is quite useless when the distinction between domestically and internationally-produced goods

7 European Commission, 2019 Annual report on intra-EU labour mobility (Brussels, 30 January 2020), <https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8242&furtherPubs=yes>.

8 Ludmila Fadejeva, "Labour Market Reforms in the European Union: an Overview", Macroeconomics (Latvijas Banka) (Riga: 24 September 2019), <https://www.macroecconomics.lv/labour-market-reforms-european-union-overview>.

9 Richard Baldwin and Charles Wyplosz, The Economics of European Integration, Sixth Edition (London: McGraw-Hill, 2020).

10 "Countries whose production and exports are widely diversified and that have a similar structure can form an optimum currency area", Kenan (1963)

11 The Atlas of Economic Complexity, Country & Product Complexity Rankings, <https://atlas.cid.harvard.edu/rankings>.

grows more and more blurred. Only between 2015 and 2019, intra-EU trade increased by a staggering €492 billion, which contributed to an annual growth rate of 4.5%.¹² Hence, increased trade openness and product diversification have led to remarkable business cycle synchronisation. EMU members have converged over time in terms of their individual preferences for expansionary vs. restrictive monetary policy, given their prevailing unemployment and inflation rates.¹³ This has come about in spite of rather infrequent cases of misalignment between nationally-preferred and EMU interest rates set by the ECB. However, this misalignment might have been attenuated by better anti-cyclical macroprudential and fiscal tools, primarily in the domain of national policy-makers. In the words of Financial Times journalist Martin Sandbu, the euro often seems like an orphan being blamed for policy errors which might have been prevented anyway.¹⁴

Optimal currency areas theory inspires the view that if some pieces of the puzzle like labour market mobility and/or wage and price flexibility are insufficient or missing, then one needs to compensate for the impact of asymmetric macroeconomic shocks with insurance mechanisms in the form of fiscal transfers aimed at crisis-hit regions and countries. In that regard, the EMU's current architecture is incomplete due to a lack of central stabilisation of fiscal policy. One of the most often proclaimed arguments defending the status quo is the risk of moral hazard that might reduce incentives for prudent behaviour on behalf of Member States (MS), followed by substantial macroeconomic imbalances in the form of rising debt levels and subpar productivity growth. However, moral hazard is only one side of the story that needs to be reconciled with the goal of establishing a new cross-border adjustment mechanism between creditors and debtors, in pursuit of an aggregate demand rotation from surplus towards deficit MS.

At the moment, neither a fully formed fiscal union (EMU 4.0) nor a return to EMU 1.0, which outsourced fiscal discipline to financial markets, is both politically and economically feasible. Therefore, the EMU would profit from a better balance between the centralisation and decentralisation of fiscal policy

12 Eurostat, Intra-EU - most traded goods Statistics Explained (Brussels, March 2020), <https://ec.europa.eu/eurostat/statistics-explained/pdfscache/39713.pdf>.

13 Nauro Campos, Jarko Fidrmuc, and Iikka Korhonen, "Glass half full or half empty: Reviewing the dispute about the effects of the euro on the synchronisation of business cycles", Vox/CEPR (26 September 2017), <https://voxeu.org/article/effects-euro-synchronisation-business-cycles>.

14 Martin Sandbu, *Europe's Orphan: The Future of the Euro and the Politics of Debt* (Princeton University Press, 2017).

in a new hybrid model (a clear path from EMU 2.0 to EMU 3.0) that will check the politically exhausting debate on permanent transfers. This issue will be addressed in the recommendation section. Additionally, the mechanism for smoothing out these accumulated macroeconomic imbalances should not only come in the form of public transfers, but it can also include private transfers from creditors to debtors.¹⁵

The aforementioned debate shows that the Eurozone still has only partially homogenous preferences with regard to inflation level, debt, and deficit dynamics, as well as institutional solutions for labour and product markets. As evidenced by the relatively recent past, EMU members are sometimes at odds when it comes to discretion vs. rules, stimulus vs. austerity, and solidarity vs. liability debates.¹⁶

To sum it up, the euro has gradually started to fulfil more and more OCA criteria, and especially in its second decade it seems to have the potential to meet the requirements of an OCA. For an abbreviated version of the arguments expressed above, see Table 1.

Table 1: Euro and OCA Criteria

Optimum currency area (OCA) scoreboard	Satisfied
Labour mobility	Partially
Wage and price flexibility	Partially
Trade openness	Yes
Product diversification	Yes
Business cycle synchronisation	Yes
Fiscal transfers	No
Homogeneity of preferences	Partially

SOURCE: AUTHOR'S ADAPTATION FROM BALDWIN AND WYPLOSZ (2020)

15 This issue shall be dealt with in the recommendation section with regard to the introduction of the EU's sovereign debt restructuring mechanism (SDRM).

16 Markus K. Brunnermeier, Harold James, and Jean-Pierre Landau, *The Euro and the Battle of Ideas* (Princeton University Press, 2017).

As already mentioned at the beginning of this section, assessing the EMU's resilience and efficiency only through the lenses of OCA theory would be far from adequate, since no currency union in human history has fulfilled all the requirements postulated by the theory. On the contrary, what actually constitutes a successful currency union is the tightly-glued political fabric behind it.¹⁷ Therefore, it is important to complement OCA theory with another approach, one which puts a lot more weight upon building common institutions and politically embedding the very process of monetary integration. This approach might be called politically-embedded currency area (PECA) theory. Given PECA's core tenets (see Table 2), the EMU has made great progress on several counts in years marked by radical uncertainty, once again substantiating Jean Monnet's dictum that "Europe will be forged in crises and will be the sum of the solutions adopted for those crises".

Table 2: Euro and PECA theory

Politically-embedded currency area (PECA) scoreboard	Satisfied
Lender-of-last-resort	Yes
Common financial market regulation	Yes
Bailouts and bail-in resolution mechanisms	Partially
Common deposit guarantees	No
Sovereign debt pooling and enhanced role for centralised taxation	No
Common and democratic institutions of economic governance (e.g., European Economy and Finance Minister, community method in ESM governance)	No

SOURCE: AUTHOR'S ADAPTATION FROM MCNAMARA (2015)

17 Kathleen R. McNamara, "The Forgotten Problem of Embeddedness: History Lessons for the Euro" in Matthias Matthijs and Mark Blyth (eds.) *The Future of the Euro* (Oxford University Press, 2015).

STRENGTHENING THE EMU: FROM THE EUROCRISIS TO COVID-19

Since 2010, when Greece first tottered and Europe ushered in the European debt crisis, the EMU has either added new or profusely used the existing institutional anchors to stabilise its macroeconomy. In chronological order, in 2011 the European Central Bank (ECB) made an initially shy move with its Long-term Refinancing Operations (LTRO) in containing financial panic. The gloves were only removed in July 2012 when Mario Draghi managed to unfreeze frightened financial markets with his "whatever it takes" message, without at first firing any single shot from the ECB arsenal. However, the abundance of liquidity started to flow in March 2015 and this is exactly the point in time when the ECB started to deliver on its lender-of-the-last resort role by dialling up its quantitative easing (QE) operations. By the end of 2019, the ECB had amassed more than €2,500 billion in assets purchases and had more than doubled its balance sheet.¹⁸ Finally, the ECB's most recent reaction to the COVID-19-induced economic shock has showed that, unlike in the 2010–2011 period, this time around the ECB did not leave Europe in the lurch and played the lender-of-last resort role with its pandemic emergency purchase programme (PEPP) to the tune of €1,350 billion.¹⁹

As compared to the eurocrisis period—when financial markets gained tremendously in speed, size, and leverage, with a corresponding power shift from regulatory authorities to market forces—this skewed power relationship gradually improved with the launch of the banking union. It aims to cut the diabolic loop between sovereigns and banks, which was on full display during the eurocrisis. In order to reduce risk for sovereign states originating from undercapitalised and loss-ridden banks, and vice versa, the EMU needs a three-pillared banking union in place. As of this writing, the latter formally consists of only two pillars: the Single Supervisory Mechanism (SSM) and the Single Resolution Mechanism (SRM), with the Single Resolution Fund being incrementally filled in by banking sector contributions. The third pillar in the form of deposit insurance is still missing due to a risk-sharing vs. risk-reduction debate that has pitted primarily Northern vs. Southern EMU members against one another. However, out of the three mentioned pillars, only the first one functions appropriately and fully conforms to PECA theory.

18 European Central Bank, Annual consolidated balance sheet of the Eurosystem (Frankfurt, June 2020), <https://www.ecb.europa.eu/pub/annual/balance/html/index.en.html>.

19 European Central Bank, Pandemic emergency purchase programme (PEPP) (Frankfurt: ECB, June 2020), <https://www.ecb.europa.eu/mopo/implement/pepp/html/index.en.html>.

Apart from creating the SSM, the macroprudential framework has been reinforced with the adoption of the CRD IV (Capital Requirements Directives), shoring up capital and liquidity requirements for EU banks and making them gradually more immune to any stress. However, the second pillar is occasionally being circumvented by actions on behalf of MS who still try to protect investors from incurring losses, as witnessed during the bailout of Veneto Banca and Banca Popolare di Vicenza (BPVI) in 2017. Unfortunately, the spirit of the Bank Recovery and Resolution Directive is at times undermined, which erodes the credibility of common rules and increases moral hazard.

Currently, the Single Resolution Fund (SRF) passed the 33-billion-euro mark in 2019 and is expected to exceed the threshold of €60 billion in 2023 (approximately 1% of the covered deposits of all banks in participating MS).²⁰

This figure is considerably less than the 72-billion-euro estimate representing the equivalent sum necessary to keep wobbling banks afloat during the euro-crisis. Along with the potential to impose ex-post contributions of three eighths of €55 billion, the SRF might eventually surpass €72 billion. However, the main problem in case of any repeated systemic banking crisis can be found in the lack of a common fiscal backstop to the SRF.²¹ Despite the fact that the Treaty governing the European Stability Mechanism (ESM) was revised at the Eurogroup summit in December 2019, it has yet to be ratified in national parliaments according to national procedures. Hence, the second pillar still has a vulnerable flank, and the ratification procedure should be sped up. Furthermore, ESM decision-making might be an impediment when emergencies arise. While the current emergency voting procedure envisages an 85% majority, once both the ECB and European Commission (EC) deem that the EMU's stability is under threat, the new proposal might reduce the majority threshold to a 72% reinforced qualified majority of votes.

As a final stage in completing the Banking Union, EU leaders have to agree on the very design of common deposit guarantees or, officially, the European Deposit Insurance Scheme (EDIS). A multinational deposit insurance system definitely raises the credibility of national deposit schemes and addresses the diabolic loop issue. It deactivates the potential that eroded creditworthiness on behalf of national banking systems might jeopardise sovereign creditworthiness and vice

20 Single Resolution Board, SRF grows to €33 billion after latest round of transfers (Frankfurt, July 2019) <https://srb.europa.eu/en/node/804>.

21 Daniel Gros and Willem Pieter De Groen, "The Single Resolution Fund: How much is needed", Vox/CEPR (15 December 2015), <https://voxeu.org/article/size-single-resolution-fund>.

versa. However, EMU leaders have been unable to reach a major agreement; this issue will be addressed in the final section dealing with recommendations.

The next PECA criterion proxies strong fiscal support for the euro by the very act of pooling MS sovereign debts and by introducing centralised taxation. This criterion corresponds to OCA expectations on fiscal transfers, but it augments it with additional steps such as the already mentioned role of centralised taxation and debt pooling. However, while sovereign debt pooling might politically be a no-go area for the EMU, this criterion could be at least partially fulfilled through the gradual introduction of new EU-owned resources (plastic tax, carbon border tax, financial transaction tax, revenue from carbon emission trading schemes) and the introduction of a Common Consolidated Corporate Tax Base (CCCTB). This roadmap could critically reinforce both the newly proposed centralised fiscal stabilisation tool and decentralised fiscal capacity on behalf of MS. This is important because the EMU cannot depend on monetary policy alone as the "only game in town" to fight future crises. Already prior to the COVID-19 shock, the ECB had been overburdened with vast asset purchases and, given the current pace of purchasing, the ECB's balance sheet could reach a staggering 60% of Eurozone GDP by the end of 2020.

When comparing this figure with the EU budget ceiling before the COVID-19 era that was set at roughly 1% of EU GNI (gross national income), the imbalance in burden sharing between monetary and fiscal policy can be clearly seen. Yes, public finance expenditure amounted to 46.7% of EU-27 GDP in 2018.²² Nevertheless, it would be more than advisable that Next Generation EU (NGEU) becomes a permanent fixture in the post-pandemic EU, within the permanently and not just temporarily increased EU budget ceiling of 2% of EU GNI. The European Council conclusions on 21 July 2020 were indispensable in narrowing the interest-rate spreads between the EMU's Northern and Southern MS. Interestingly, as opposed to ECB President Christine Lagarde's initial reluctance in calling for NGEU to be made a more permanent feature, her recent statements²³ show an awareness of the need to overcome the current divisions within the ECB Governing Council and growing distrust towards ECB monetary policy actions on behalf of external institutions such as Germany's Federal

22 European Parliament, Composition of Public Expenditures in the EU (Brussels: Economic Governance Support Unit, June 2020), [https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/634371/IPOL_BRI\(2019\)634371_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/634371/IPOL_BRI(2019)634371_EN.pdf).

23 Carolynn Look, "Lagarde Urges EU to Consider Recovery Fund as Permanent Tool", Bloomberg (19 October 2020), <https://www.bloomberg.com/news/articles/2020-10-19/lagarde-says-ecb-still-has-options-if-pandemic-crisis-worsens>. Treaty on the Functioning of the European Union, Article 127 (1).

Constitutional Court. While too much fiscal dominance could curtail the ECB's independence in the long run via increased pressure for debt monetisation, excessive fiscal prudence can also ultimately lead to the same scenario due to the central bank's inability to fulfil its mandate, which is to ensure price stability and balanced economic growth.²⁴

According to the PECA final count with regard to possessing common and democratic institutions of economic governance, the EMU lacks a European Finance and Economy Minister to complement the role of the ECB President. Furthermore, European Parliament lacks the power to hold certain actors more accountable and thereby boost the democratic legitimacy of EMU policies and measures. Notwithstanding the creation of a true federation, the EMU could still improve on this count by raising procedural quality (throughput), policy effectiveness (democratic output), and policy effectiveness (output), all with the overarching goal of increased democratic legitimacy. One cannot merely rely on “governing by the rules and ruling by the numbers”, in the parlance of political scientist Vivienne A. Schmidt.²⁵ Therefore, democratic legitimacy requires far more than only a fetishist application of the rules, independent of reality. Apart from clear and easily communicable rules, one also needs politics that appeal to citizens alongside policies that work. So far, we have compared the EMU architecture against OCA and PECA benchmarks. The next section will outline three different scenarios for the EMU's future. ■

24 Treaty on the Functioning of the European Union, Article 127 (1).

25 Vivienne A. Schmidt, “The Forgotten Problem of Democratic Legitimacy: ‘Governing by the Rules’ and ‘Ruling by the Numbers’”, in Matthias Matthijs and Mark Blyth (eds.), *The Future of the Euro* (Oxford University Press, 2015).

3.

POSSIBLE SCENARIOS AHEAD: WHAT TO DO AND WHAT NOT TO DO

There are basically three scenarios for the EMU's future: muddling through, tackling the most pressing issues, and changing the EMU fundamentally. In the following section, we will try to provide a short description of each of them.

MUDDLING THROUGH

Muddling through implies an increased real and structural divergence in the post-pandemic EU, followed by political backlash and further political disintegration down the road. No political integration can permanently endure a narrative of having second-tier or underclass countries, ones which neither share in the better-off countries' prosperity nor are being offered effective help when crises strike. This scenario has to be avoided at all costs: it jeopardises several decades of integration and corresponding achievements. Doing nothing or too little and waiting for the storm to peter out will hamper structural integration (the EU-wide percolation of resilient and efficient business and social models), which is indispensable for achieving real economic convergence or closing the economic gap between richer and poorer regions or MS.

Figure 1 shows beta-convergence among the EU-27 MS in the period between 2000 and 2019. According to neoclassical growth theory, growth in GDP per capita depends negatively upon initial income levels. Hence, Figure 1 shows that MS which had been poorer in 2000 grew faster than richer ones (convergence). This could be explained by the stylized fact that it is easier to achieve catch-up growth, as opposed to cutting-edge growth, due to a diffusion of technology and efficient business models. However, while post-socialist MS achieved rapid economic convergence—with some minor exceptions (blue-shaded dots)—Mediterranean MS disappointed and achieved cumulative growth that was

far slower than what the theory predicts (red-shaded dots, with an especially worrisome discrepancy in the cases of Greece and Italy). At the level of NUTS-2 regions, one can observe the same findings with regard to σ -convergence. Only this process can facilitate σ -convergence, or reduced within-EU income inequalities over time.²⁶ However, in order to get there, besides overhauling the EMU's current architecture, one also needs to take into account the role of institutions in fostering economic prosperity. Figure 2 shows that, in the period between 2000 and 2018, there was a very strong relationship between real GDP per capita and our Worldwide Governance Indicators (WGI) Index.

The WGI index represents a composite governance index calculated by multiplying each country's yearly score in every category with equal weight. This procedure is conducted across all six categories (rule of law, regulatory quality, control of corruption, government effectiveness, political stability, and voice and accountability). We have added this score for every subcategory, for every given year and country, in order to produce a cumulative score which proxies the overall quality of governance. In the final step, we have calculated the mean for both variables for the given timeframe.

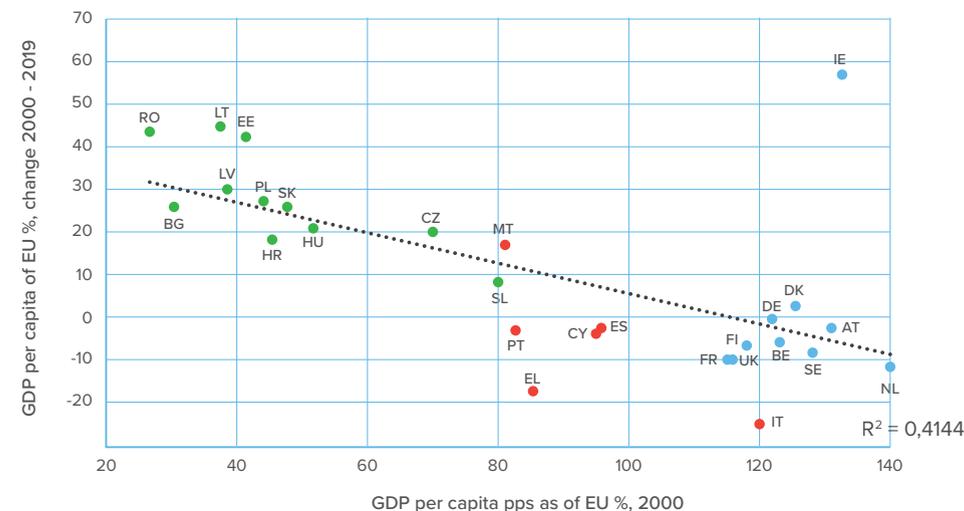
If EMU policy-makers accept muddling through and neglect reforms of its architecture, as well as structural reforms at the level of MS, it won't be able to stem further divergence, let alone create stronger σ -convergence in the future. The endgame could be depicted as a tale of two markedly different speeds.²⁷ The devastating scenario of the eurocrisis would be repeated again, only this time with even more far-reaching consequences for social cohesion in the EU. Unfortunately, the countries and regions hardest-hit by the COVID-19 shock are exactly those countries that took a beating during the previous crisis.

26 σ -convergence is measured by a coefficient of variation (standard deviation divided by the mean – GDP per capita in PPS). Lower coefficients of variation lead to lower inequality and vice versa.

27 Cinzia Alcidi, Jorge Núñez Ferrer, Mattia Di Salvo, Roberto Musmeci, and Marta Pilati, *Income Convergence in the EU: A tale of two speeds* (Brussels: CEPS, 2018), <https://www.ceps.eu/ceps-publications/income-convergence-eu-tale-two-speeds/>.

FIGURE 1: Beta-convergence among the EU-27 MS, 2000-19

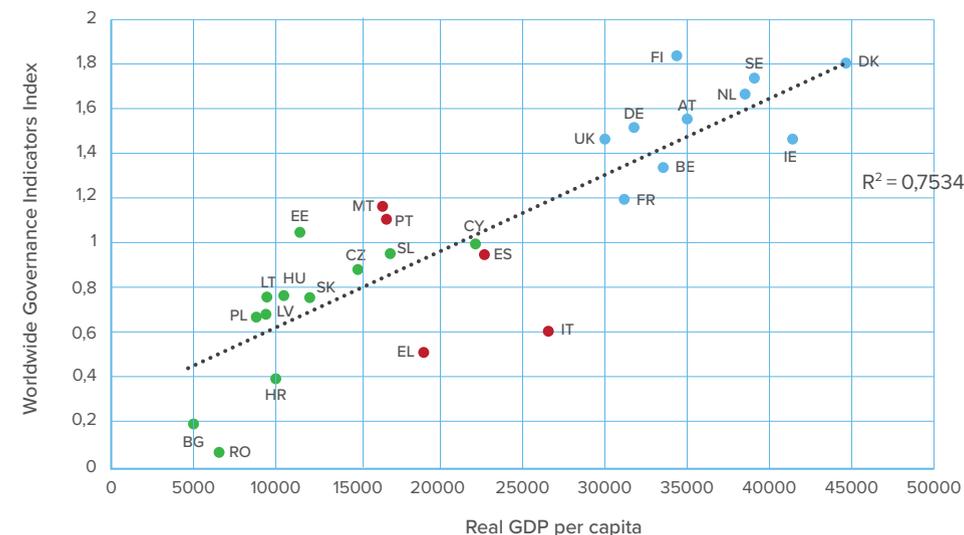
β -CONVERGENCE IN EU MEMBER STATES



SOURCE: EUROSTAT; AUTHOR'S OWN CALCULATION

FIGURE 2: Relationship between real GDP p/c and WGI Index

INSTITUTIONAL QUALITY IS DECISIVE FOR ECONOMIC PROSPERITY (2000 - 2018)



SOURCE: EUROSTAT; AUTHOR'S OWN CALCULATION

TACKLING THE MOST PRESSING ISSUES

Since economic integration in the EMU has so far outpaced the extent of political integration—the latter proxied by the creation of new institutions and governance frameworks necessary to firmly embed the euro—tackling the most pressing issues, as explained in the previous and final section, would make the EMU significantly more resilient and efficient at raising the economic welfare of many millions of Europeans. Strengthening political integration would help tackle the most pressing issues for the EMU in several respects: the need to improve the division of work between monetary and fiscal policy, the adoption of new fiscal rules that better reconcile debt sustainability and fiscal policy’s stabilisation function, the completion of the Banking and Capital Markets Unions, and the achievement of structural convergence on behalf of the EMU/EU economies. Details of these reform proposals shall be discussed in the final section.

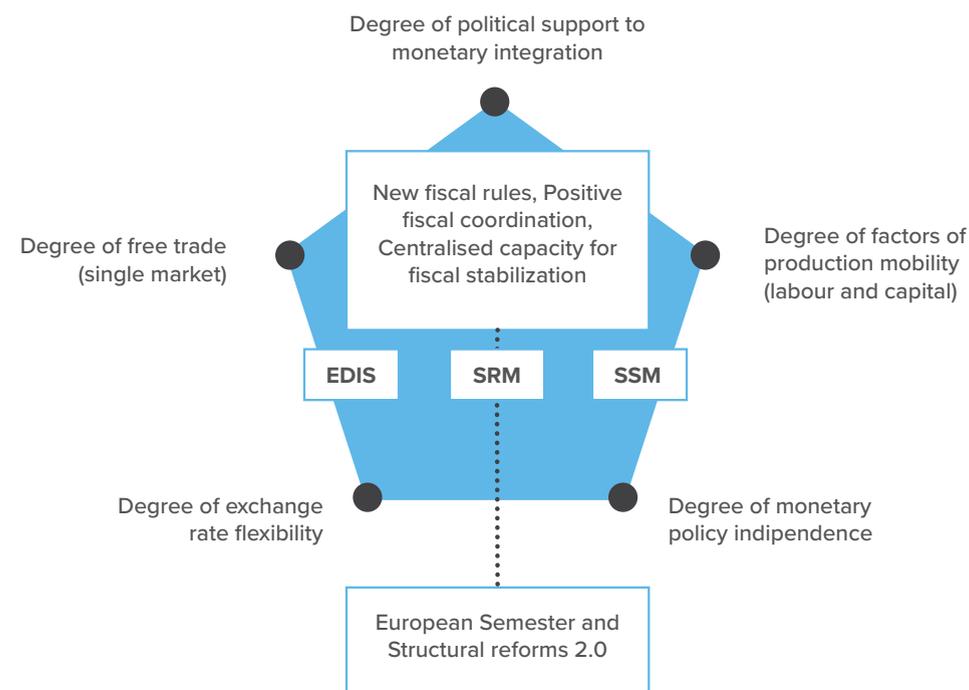
This scenario would also enable the “Those Who Want More Do More” scenario to unfold, as outlined in the European Commission’s *White Paper on the Future of Europe*.²⁸ Increasing the minimum requirements to make integration more sustainable and resilient is indispensable. In other words, there should be no opt-outs with regard to the full Banking Union and Capital Markets Union rollouts and only minimal tolerance for poorly performing MS when it comes to fostering structural and real convergence through structural reforms 2.0. On the other hand, it could be possible under enhanced cooperation to let certain countries press ahead with new initiatives. This might include a separate Eurozone budget or a budget for a subset of Eurozone countries willing to pool together more resources. Far from weakening the EU, this flexible approach, aiming to create integration through differentiation, might lead to more resilience and overcome existing fault lines. Therefore, instead of “one club that fits all”, there could be more clubs but also joint EU institutions to ensure consistency and avoid à la carte integration.²⁹ The second scenario represents a controlled tightrope walk above the abyss of disintegration. While walking too slowly or just standing in place would lead to a loss in balance (muddling through), the same could be said if the task were performed too hastily (changing the EU fundamentally). We can visualise the EMU’s reformed architecture by using a concept called the

28 European Commission, White Paper on the Future of Europe: Reflections and Scenarios for the EU27 by 2025, COM(2017)2025 (Brussels, 1 March 2017), <https://op.europa.eu/en/publication-detail/-/publication/ba81f70e-2b10-11e7-9412-01aa75ed71a1/language-en>.

29 Jean Pisany-Ferry, One club does not fit all in Europe (Brussels: Bruegel, 2 October 2018), <https://www.bruegel.org/2018/10/one-club-does-not-fit-all-in-europe/>.

impossible pentagon.³⁰ The choices are not binary but imply different degrees of freedom. One extreme would imply a perfect textbook monetary union with full mobility of production factors and no need to ensure genuine political support for the monetary union. The other extreme would be a closed monetary union driven by protectionist impulses. Our collection of proposals in the final section anchors this pentagon horizontally with a fully-fledged Banking Union and vertically with a revamped fiscal framework and improved structural policies (see Figure 3).

FIGURE 3



SOURCE: AUTHOR'S OWN DRAWING

30 Velimir Šonje, Euro u Hrvatskoj: za i protiv (Zagreb: Ekonomski Lab, 2019).

CHANGING THE EU FUNDAMENTALLY

Changing the EMU fundamentally would imply a big leap of faith, the so-called true Hamiltonian moment whereby the EU would turn into the United States of Europe in a relatively short span of time. Far from just improving the existing governance framework and adding several new institutions to the current institutional set-up, this step would create a genuine fiscal and political union in the mould of the United States of America. For example, the EU could make a big step forward with the creation of a common Eurozone finance minister. However, as is the case with all great leaps forward which do not enjoy a strong popular support and democratic legitimacy, this would provoke a strong political backlash and paradoxically hamper integration as an evolutionary process. Exactly this kind of scenario presupposes that EU citizens predominantly feel themselves European or as Europeans only, in stark contrast to their existing conceptions of national identities. However, the latest Eurobarometer poll shows that the large majority of EU citizens still identify primarily or exclusively as citizens of their respective Member States (see Figure 4). Having in mind this barrier to deep political integration (the existing hierarchy of identities), fully embracing this scenario might prove to be too politically costly. In the era of fake news and heightened social polarisation, one should not tilt the political balance in favour of populists and Eurosceptics with too-ambitious plans that could be interpreted as directly assaulting nation-states.

On the contrary, integration in a piecemeal fashion might either create a more resilient and prosperous EMU, as an endpoint of integration (hybrid integration or integration sui generis without any precedent in human history), or it might finally usher in a totally new federal state (similar to the integration history of the United States or Germany). However, the decision over which of these two scenarios to embrace should solely rest on the political support of the majority of EU citizens, and it will crucially hinge on the hierarchy of their identities—something that goes far beyond the timespan of a decade, as also shown in the history of the United States of America. Hence, the second scenario of tackling the most pressing issues and beefing up the EMU’s capacity to act coherently represents the most desirable scenario.

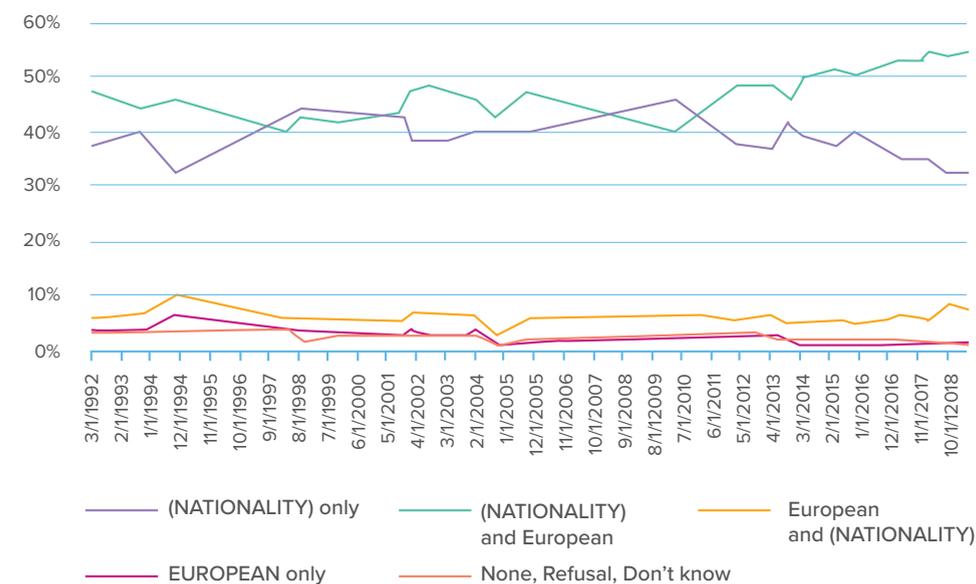
There is some good news on the horizon opening up space for gradual integration in key areas. Not only are there fewer and fewer EU citizens since 2010 who claim only their national identity, but more of them embrace both their national and European identities. This shows that while the EU is still not ripe for a Hamiltonian moment, it finds itself in a Milwardian moment when more and

more EU citizens prefer joint EU action over self-reliance in many areas. Hence, their goal is not to transcend the concept of a nation-state but to make their politics stronger in a world where they increasingly feel that they have lost control and that this could be compensated by pooling sovereignty in areas of utmost importance. This conclusion can be also inferred from the most recent European Council on Foreign Relations (ECFR) survey.³¹ While the majority of EU citizens deem that the EU has not lived up to its responsibilities in the first half of 2020, as well as that the EU has been irrelevant during pandemics, 63% of respondents claim that the coronavirus has shown the need for greater European cooperation. The old adage goes that “the perfect is the enemy of the good”. This wisdom should be especially embraced by liberals who believe in the gradual evolution of human societies. ■

FIGURE 4: European and National Identities, 1992-2018

EU HIERARCHY OF IDENTITIES:

IN THE NEAR FUTURE DO YOU SEE YOURSELF AS...?



SOURCE: EUROBAROMETER; AUTHOR'S OWN CALCULATIONS

31 Ivan Krastev and Mark Leonard, Europe’s Pandemic Politics: How the Virus has Changed the Public’s Worldview (Berlin: European Council on Foreign Relations, 2020), https://ecfr.eu/publication/europes_pandemic_politics_how_the_virus_has_changed_the_publics_worldview/.

4

LAYING THE FOUNDATION FOR EMU 3.0 : A LIBERAL ROADMAP

Given the fact that iconic liberal thinkers prefer the spontaneous evolution of societies/ economies and decentralisation to any attempt at grand centralisation which concentrates political power beyond the capacity to pair it with democratic oversight and participative politics, the best scenario for a liberal Europe in 2030 would be for the EMU to gradually continue on the path of integration to make itself almost totally crisis-proof. This would imply a journey from EMU 2.0 (the current state of integration) towards EMU 3.0. This path reconciles the Commission's third scenario, "those who want more do more", outlined in its *White Paper on the Future of Europe*, and is a variation on its fourth scenario, "doing more and doing it more efficiently".

There are generally five crucial steps to combine risk reduction, risk sharing, and growth support for the EMU's successful reboot.³² First, in order to increase private risk sharing, the EMU needs a fully-fledged Banking Union. Second, a Capital Markets Union should significantly curtail fiscal risk by allowing more room for equity-financed schemes and enterprises. Third, the EMU needs some hybrid form of centralised fiscal capacity that is both politically-expedient and effective in order to alleviate the stress currently put on the ECB's shoulders. Fourth, the EMU should definitively avoid the pitfalls of a bottom-up fiscal coordination that in the end would disregard the EMU's overall fiscal stance, both in relation to monetary policy and in terms of its breakdown across MS. New fiscal rules that are simpler and possess more credibility are more than necessary. Fifth, risk reduction in the form of a new SDRM (sovereign debt restructuring mechanism) should instil more financial discipline and alleviate

32 Marco Buti, *Economic policy in the rough: A European journey* (London: Centre for Economic Policy Research, January 2020), <https://cepr.org/content/new-cepr-policy-insight-economic-policy-rough-european-journey-marco-buti>.

the problem of moral hazard, while providing room for the creation of an ex-ante framework to facilitate private transfers (being debt restructuring private transfers of income) in case of unsustainable debts. This, unlike debt mutualisation, does not entail the use of public transfers to validate the existing debt claims on behalf of creditors.

These proposals would enable better cross-border risk-sharing through different channels as a percentage of asymmetric shock to output. This would leave only a small part of the asymmetric shock to economic output unsmoothed, since capital and labour income flows—as well as limited private and public transfers in the form of fiscal transfers and sovereign debt-restructurings—would create the space for a smoother adjustment. Finally, the fifth step requires growth support for the EMU in the form of a more effective European Semester and structural reforms 2.0. All of the aforementioned steps would create a virtuous cycle of enhanced growth and resilience. In the following lines, we will sketch out a detailed roadmap of how to arrive at EMU 3.0.

BANKING UNION COMPLETION

How to solve the problem of moral hazard

Reducing moral hazard in the private sector can be achieved by a combination of enhanced "Basel III" and credible SDRM. Reducing moral hazard in the public sector can be achieved by a combination of Safe Portfolio and the credible restructuring framework, where ESM won't act as a cavalry every single time when the sovereign portfolio of a single Member State is on the brink of a collapse.

As already mentioned above, the Banking Union encompasses three pillars and only the first one is now standing firmly. The incomplete design or total absence of both the second and third pillars casts grave doubt over the EMU's financial stability if the diabolic loop between sovereigns and banks still constitutes a real threat.³³ Besides having a credible and potent backstop in the form of ESM credit lines, the SRM would also profit from the introduction of a Safe Portfolio, which would emulate the role of a European Safe Asset. Under this proposal,

33 Heike Mai, *Corona crisis: The sovereign-bank nexus is tightening* (Deutsche Bank, 1 July 2020), https://www.dbresearch.com/servlet/reweb2.ReWEB?rwsite=RPS_EN-PROD&rwobj=ReDisplay.Start.class&document=PROD0000000000509860#.

banks would face capital charges (or concentration charges), depending on the distance between the composition of their own EU-wide sovereign portfolios and the benchmark set by the ECB's capital contribution key.³⁴ This solution would balance between avoiding any implicit or explicit cross-country guarantees for ailing banks in countries with a large sovereign portfolio and the imperative for banks to fund sovereigns within the reasonably set constraints.³⁵

Moreover, considering the approach introduced by Perry Mehrling with regard to banking and money, it can be said that in order to increase money supply, new credit should be introduced into the system³⁶ that can be aimed either at the public or private sector. In this respect, protecting and ensuring financial stability also implies having control over excessive credit growth – while both the public and private sectors are prone to moral hazard.

Bank resolutions should also be harmonized as much as possible by adopting a common framework for Public Interest Assessment on behalf of the Single Resolution Board (SRB), with the main goal of avoiding any erosion of SRM credibility by “washing the dirty laundry at home”. The latter process basically entails using taxpayers' money instead of insisting on the bail-in approach when resolving failed banks.

Furthermore, in order to sever the diabolic loop, the EMU also needs the introduction of EDIS. However, as one ELF Expert Forum participant noticed, the current deposit guarantee schemes under EU rules foresee insured deposits to the tune of €100,000, and that is certainly too high of a limit. EDIS might only be feasible if this limit were at least halved, which might break the stalemate between the opposing blocks mentioned earlier. Additionally, EDIS should not entice a moral hazard on behalf of those who profit from insurance. In that regard, EDIS would require: substantial ‘bail-in-able’ equity/debt and charging banks who enjoy access to the ESM line of credit. Market-value-based pricing of a multinational deposit insurance system would rely on the existence of a junior or subordinate set of liabilities whose risk premia would be higher, thus elevating deposits in the hierarchy of secure claims.³⁷

34 European Central Bank, Capital subscription (Frankfurt: ECB, 31 January 2020), <https://www.ecb.europa.eu/ecb/orga/capital/html/index.en.html>.

35 Luis Garicano, Two proposals to resurrect the Banking Union: the Safe Portfolio Approach and SRB+ (Brussels: Bruegel, December 2019), <https://www.bruegel.org/wp-content/uploads/2020/02/Two-proposals-to-resurrect-the-Banking-Union-by-Luis-Garicano.pdf>.

36 Perry Mehrling, “Re-imagining Central Banking.” in Contemporary Issues in Macroeconomics, Lessons from the Crisis and Beyond, edited by Joseph Stiglitz and Martin Guzman. Palgrave Macmillan, 2016; pp. 159-171

37 Esa Jokivuolle, George G. Pennacch, “How to design the European Deposit Insurance

Finally, there are some additional steps for reinforcing the foundation of a Banking Union. As one ELF Expert Forum participant cleverly noticed, EU banks should be incorporated at the EU level via a European banking charter. This approach would provide for single capital requirements and no silos, per various MS, which would then enhance efficiency. In the final instance, EU policy-makers should be wary of the emergence of ‘national champions’ arguments that allow for the creation of too-big-to-fail banks; that was one of most important ingredients in the toxic cocktail which made the last eurocrisis so challenging.³⁸ Uncritical arguments for further rounds of mergers and acquisitions under the guise of creating ‘European champions’ might stimulate diversification, but it would certainly entangle an increase in systemic risk that would be more than preferable to avoid.

CAPITAL MARKETS UNION COMPLETION

In the words of one ELF Expert Forum participant, “we should make equity sexy again”. This approach offers numerous advantages over the current situation, where EMU banking sectors' assets are three times the size of the EMU's GDP, a ratio which is significantly higher than that of the USA.³⁹ If we look at Figure 5, we can observe that the total leverage (debt) of the EMU non-financial sector is now on par with that of the USA and China. However, in the wake of the eurocrisis, the EMU only managed to deleverage starting in 2015, and the main driver of this process was its favourable external position (large current account surpluses).⁴⁰ However, in the post-pandemic world that will only heighten protectionist impulses and de-globalisation triggered by the USA-China strategic rivalry, the EMU will not be able to simply export itself out of debt. This means equity should play a much bigger role in financing aggregate demand as opposed to debt. Equity financing would tackle rigidities and the potential disruption of default and bankruptcy processes as well as prevent local thinking or myopia on behalf of investors blinded by fixed-debt contracts. However, in order for equity financing to work its magic and improve the growth-financial stability nexus, the EMU needs to complete a Capital Markets Union (CMU).

Scheme”, Vox/CEPR (15 December 2015), <https://voxeu.org/article/how-design-european-deposit-insurance-scheme>.

38 Anat Admati and Martin Hellwig, The Bankers' New Clothes: What's Wrong with Banking and What to Do about It (Princeton University Press, 2013).

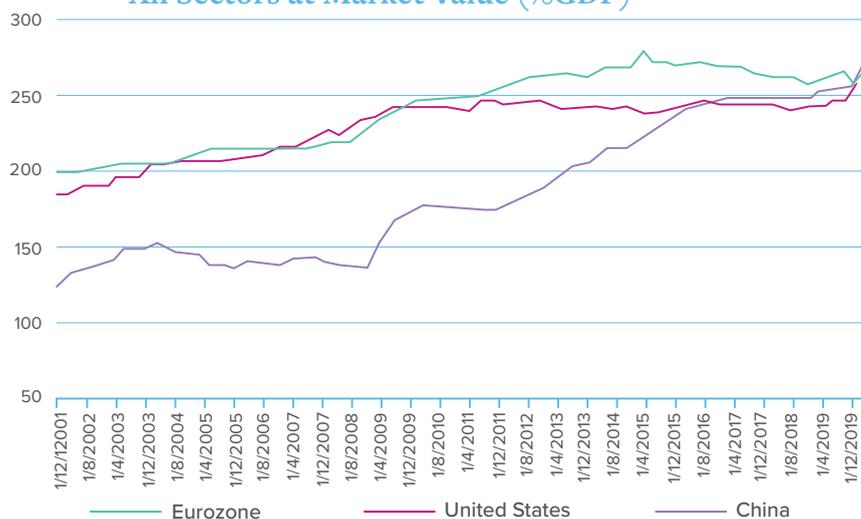
39 ECB Statistical Data Warehouse, Consolidated banking data, <https://sdw.ecb.europa.eu/browse.do?node=9691144>.

40 European Central Bank, Euro area monthly balance of payments: May 2020 (Frankfurt: ECB, 20 July 2020), https://www.ecb.europa.eu/press/pr/stats/bop/2020/html/ecb_bp200720~7e7353f803.en.html.

There are two important steps on this journey. First, the EMU needs to end the existing tax-bias towards debt-financing that not only increases systemic risk but also distorts the capital structure of companies and offers possibilities for profit-shifting via a transfer of debt, thereby harming public finance. Hence, liberals should start advocating for the harmonisation of national and EMU tax systems that still allow for tax deductibility of interest payments under most corporate income tax systems, while no such measure is foreseen for equity financing.⁴¹ Furthermore, regulatory frameworks for pension funds and life-insurance funds should also be adapted to this new reality. Second, harmonising rules that allow for an easier cross-border flow of equity would provide precious financing to various promising enterprises and allow for new rounds of post-COVID-19 recapitalisation. There are numerous valuable proposals set in the new CMU Action Plan.⁴²

Nevertheless, one of the most important structural barriers to address is a stark divergence between national insolvency regimes. Table 3 shows that insolvency proceedings ought to be far more predictable and that there are still great disparities in the effectiveness of national insolvency frameworks among MS.

FIGURE 5: Total Credit to Non-Financial Sector from All Sectors at Market Value (%GDP)



SOURCE: BANK FOR INTERNATIONAL SETTLEMENTS, AUTHOR'S OWN CALCULATION

41 Serena Fatica, Thomas Hemmelgarn, and Gaëtan Nicodème, The Debt-Equity Tax Bias: consequences and solutions (Brussels: European Commission, July 2012), https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/gen_info/economic_analysis/tax_papers/taxation_paper_33_en.pdf.

42 Dolores Utrilla, "Insight – 'Completing the Capital Markets Union: the Commission's new Action Plan'", EU Law Live (25 September 2020), <https://eulawlive.com/completing-the-capital-markets-union-the-commissions-new-action-plan/>.

TABLE 3: Resolving Insolvency in EU Member-States

	Resolving Insolvency rank	Resolving Insolvency score	Recovery rate (cents on the dollar)	Time (years)
Austria	22	77.4	79.9	1.1
Belgium	9	84.1	89.4	0.9
Bulgaria	61	57.8	37.7	3.3
Croatia	63	56.5	35.2	3.1
Cyprus	31	72.5	73.8	1.5
Czech Republic	16	80.1	67.5	2.1
Denmark	6	85.1	88.5	1.0
Estonia	54	60.1	36.1	3.0
Finland	1	92.7	88.0	0.9
France	26	74.6	74.8	1.9
Germany	4	89.8	79.8	1.2
Greece	72	53.1	32.0	3.5
Hungary	66	55.0	44.2	2.0
Ireland	19	79.2	86.1	0.4
Italy	21	77.5	65.6	1.8
Latvia	55	59.8	41.4	1.5
Lithuania	89	46.7	40.3	2.3
Luxembourg	93	45.5	43.9	2.0
Malta	121	38.3	39.2	3.0
Netherlands	7	84.4	90.1	1.1

TABLE 3: Resolving Insolvency in EU Member-States

	Resolving Insolvency rank	Resolving Insolvency score	Recovery rate (cents on the dollar)	Time (years)
Poland	25	76.5	60.9	3.0
Portugal	15	80.2	64.8	3.0
Romania	56	59.1	34.4	3.3
Slovak Republic	46	65.5	46.1	4.0
Slovenia	8	84.4	90.0	0.8
Spain	18	79.2	77.5	1.5
Sweden	17	79.5	78.1	2.0

SOURCE: THE WORLD BANK

LIMITED FISCAL UNION

As already mentioned in previous sections, the EMU still lacks appropriate fiscal tools to foster a coherent fiscal stance. During the eurocrisis, the EMU's fiscal position in the years from 2011 until 2014 can be best described as that of pro-cyclical restriction. If all MS stick to the agreed upon deficit targets, the problem of inadequate fiscal support might still remain since negative coordination does not suffice. Unfortunately, in the context of the then-constrained monetary policy, this kind of fiscal policy created high multipliers and spillovers that amplified the downturn. However, the COVID-19 shock is also placing too much pressure on the ECB, in spite of its active support this time around.

In that regard, besides ramping up the EU budget, which should better prioritise allocation and smart pre-market distribution functions by making NGEU a permanent fixture, the stabilisation function should also be tackled in a separate facility for the EMU alone. For this to happen, there needs to be a complete mind-set change surrounding negotiations prior to the next Multiannual Financial Framework (MFF) adoption. In short, the next MFF should start with first setting properly defined net balances for every single MS, which would then

shorten the negotiation period and would critically support the EU budget's allocation and smart or pre-market distribution function. Namely, under this scenario, no state would have an interest in fighting for a policy whose value alone is that it benefits from it, regardless of its impact on the rest of the EU.⁴³ Furthermore, the EU should more strictly evaluate its cohesion policy, which carries an important redistributive role. Cohesion policy reform should focus on: better strategic planning, simplification with stricter controls when corruption risk is high, interregional cooperation, and synergies with other EU and national programmes.⁴⁴ It should also set a national co-financing rate on the basis of fiscal constraints, the additionality principle, and corruption risk. Populists too often portray the EMU's current structure as a juggernaut that creates a stark division between losers and winners in the integration process. At the moment, the EU budget is trying to play a redistributive role and ensure a necessary political buy-in. However, due to its limited size and 'sticky' structure, it is often incapable of doing so. Any future EU budget increase must primarily serve the provision of European public goods; even EU citizens of 'frugal states' would be willing to endorse an increase in expenditures if they were paired with more efficiency and less corruption.⁴⁵

Closing the gap with centralised taxation

Adopting the CCCTB and new taxes (plastic tax, digital tax, carbon border tax, financial transaction tax, revenue from carbon emission trading schemes) would effectively close the gap between the previous EU budget ceiling of 1.29% and the temporary EU budget ceiling set at 2% of EU GNI.

Utilizing the full capacity of the EU budget within the future MFFs and under the current budget ceiling amounting to 2% of the EU's GNI could be paired with the introduction of a limited form of centralised taxation capacity to balance planned

43 Jean Pisani-Ferry, "A Radical Way Out of the EU Budget Maze", Project Syndicate (25 February 2020), <https://www.project-syndicate.org/commentary/navigating-european-union-budget-proiess-by-jean-pisani-ferry-2020-02>.

44 Zsolt Darvas, Jan Mazza, and Catarina Midoes, How to improve European Union cohesion policy for the next decade (Brussels: Bruegel, 23 May 2019), <https://www.bruegel.org/2019/05/how-to-improve-european-union-cohesion-policy-for-the-next-decade/>.

45 Susi Dennison and Pawel Zerka, The transformative five: A new role for the frugal states after the EU recovery deal (Berlin: ECFR, 25 November 2020), <https://ecfr.eu/publication/the-transformative-five-a-new-role-for-the-frugal-states-after-the-eu-recovery-deal/>.

expenses with new revenues. This budget ceiling should be kept unchanged over the next two MFFs in order to impose hard budgetary constraints and ensure appropriate reform momentum.⁴⁶

However, newly introduced taxes should be primarily Pigouvian taxes that aim at polluters of various sorts (debt and CO₂ emissions both pollute) and should not turn into protectionist measures that stifle innovation and growth. When it comes to the CCCTB, it is noteworthy to mention that this move effectively addresses the challenge posed by ‘fiscal termites’ that are chipping away at the state’s capacity to finance itself (base erosion and profit-shifting via tax-havens and intra-corporate trade). Not only is the current taxation system unfair, since it shifts taxation burden from multinationals onto small and medium-sized enterprises, it also reduces efficiency by tilting the playing field in favour of big players and by increasing market concentrations.⁴⁷

While enhanced MFF and NGEU should focus on producing European public goods and financing the structural transformation of EU economies, the EMU’s separate budget would encourage the development of its own stabilisation function. This might come in the form of a separate EMU unemployment insurance scheme, which might act as a reinsurance to national unemployment schemes. This kind of automatic stabiliser would not establish unidirectional fiscal transfers. On the contrary, it would enable each MS to tap into a ‘rainy day fund’ that would be filled by MS contributions in the upswing of the business cycle. Under this proposal, paying 0.3% of GDP every single year into a common budget would allow for a 10% cyclical variation of a 3% GDP crisis impact over the course of ten years. Similarly, one could also pioneer more ambitious Solvency Support Mechanisms and InvestEU programmes for businesses to act as stabilisers; these were not given any chance in the July 2020 European Council conclusions.⁴⁸

46 In that regard, adopting the CCCTB and new taxes (plastic tax, digital tax, carbon border tax, financial transaction tax, revenue from carbon emission trading schemes) would effectively close the gap between the previous EU budget ceiling of 1.29% and the temporary EU budget ceiling set at 2% of EU GNI.

47 Simon Tilford, “The Free-Market Case Against Tax Competition”, Project Syndicate (17 September 2018), <https://www.project-syndicate.org/commentary/free-market-case-against-tax-competition-by-simon-tilford-2018-09>.

48 Jean Pisani-Ferry, “When Facts Change, Change the Pact”, Project Syndicate (29 April 2019), <https://www.project-syndicate.org/commentary/europe-stability-pact-reform-investment-by-jean-pisani-ferry-2019-04>.

REFORM OF EMU’S FISCAL GOVERNANCE FRAMEWORK

The current fiscal rules embodied in the Stability and Growth Pact and Fiscal Compact are helplessly complex. Numerous new legislative pages have been added to the existing framework but to no avail. The present rules lack both flexibility in bad times and teeth in good times. Instead of putting emphasis on estimating Member States’ cyclically-adjusted budget deficits—a notoriously difficult calculation—new fiscal rules should emphasise government expenditure that must not grow faster than long-term nominal output, and this pace should be even slower for countries with high public debts. New rules will be easier to communicate to the general public, and policy-makers will be more able to internalise them. Finally, the EMU’s new fiscal watchdog shall assess and ensure the EMU’s coherent fiscal stance. It might decide on the appropriate issuance of ‘tradable deficit permits’ which might serve as a tradable instrument between surplus and deficit MS. Deficit countries might purchase debt certificates from surplus countries, and overall fiscal discipline would be taken care of by an appropriate deficit permit ceiling and market-based risk premia associated with the level of indebtedness among MS who buy them.

NEW AND CREDIBLE SOVEREIGN DEBT RESTRUCTURING MECHANISM

The next step for better risk-sharing and risk-reduction reflects the design of a new and credible approach to the sovereign debt-restructuring mechanism (SDRM).⁴⁹ Indeed, although a desirable solution, pure market incentives, as reflected in yield differentials on “Bonds”, could hardly solve the problems alone. Bond yields will not necessarily dissuade creditors from purchasing risky sovereign debt (if they are not required to participate in debt restructuring). SDRM, intended as an orderly restructuring process,⁵⁰ can act as an additional protective layer against reckless creditors who are not turned away by the debtor’s risk profile. Hence, market mechanism and debt restructuring are not in contradiction; quite the opposite, they are complimentary.

49 A. Krueger, “A New Approach to Sovereign Debt Restructuring”, IMF, 2016

50 G. Pavlidis, “Designing a Sovereign Debt Restructuring Mechanism for a European Monetary Fund”, *Intereconomics*, Volume 53, 2018, Number 4; pp. 221–224

If during the eurocrisis “capitalism was not applied to capitalists”, in the words of Martin Sandbu, this also represented an enormous political challenge.⁵¹ In hindsight, we can attest that shying away from bail-in as an option at the table comes with a huge political cost. Bond yields are not a magical solution to prevent excessive debt-creation, as shown in the history of the eurozone crisis, and they need to be complemented with an additional layer of protection in the form of SDRM. Hence, in order to prevent repeating the same errors again, EMU needs a credible and predictable mechanism for tackling unsustainable debts and preventing both disorderly restructurings as well as potentially endless bailouts. This mechanism would go beyond a single debt instrument and solve the collective action problem by preventing hold-out resistance through a qualified majority of 75%. In order to encourage creditors’ willingness to support restructurings and entice heavily indebted sovereigns against waiting too long to activate the mechanism, it should also be equipped with: a stay on creditor litigation after the suspension of payments; mechanisms that protect creditor interests during the stay; and the provision of seniority for fresh financing by private creditors.⁵² Single-limb Collective Action Clauses within the reformed ESM Treaty are the right path to take, since they prevent minor creditors from obstructing the whole process. Furthermore, to prevent a potential conflict of interest, the SDRM should be established separately within the European Court of Justice to independently arbitrate between opposing claims, while the ESM (EMF) would provide financing and facilitate negotiations between creditors and debtors. Finally, SDRM should address key challenges when it comes to debt restructuring as identified by the IMF: debtor’s procrastination, lack of financing, asymmetric information between creditors and debtors, and lack of commitment on behalf of debtors, as well as a lack of coordination among creditors.

EUROPEAN SEMESTER AND STRUCTURAL REFORMS 2.0

Finally, in order to raise prosperity and improve resilience, the EMU needs to undergo a deep structural transformation. Structural reforms ‘2.0’ that provide for equality of opportunity and are aimed at pre-distribution will lead to less inequality in market outcomes. This is exactly what can renew the damaged social contract. Such reforms should focus on enhancing human capital and tackling rent-seeking. They also have to be carefully sequenced, as was painfully

51 See Note 9.

52 Anne O. Krueger, *A New Approach To Sovereign Debt Restructuring* (Washington: IMF, April 2002), <https://www.imf.org/external/pubs/ft/exrp/sdrm/eng/sdrm.pdf>.

learned during the eurocrisis when labour market reforms were pushed ahead of product market reforms, to the detriment of the unemployed. European Semester 2.0 reforms should pay special attention to shaping an innovation ecosystem. Given swift progress in AI and automation that will profoundly alter the current division of work, the EMU would be ill-advised to ignore this challenge. Innovation should complement rather than supplant workers. Tax-systems should also guide and assist this transformation.

The experience of recent years shows that the European Semester was not very successful in pushing up structural reform performance on behalf of MS. Figure 6 shows the Country-Specific Recommendations (CSR) implementation score in this regard. Besides pushing for conditionality upon upholding the rule of law, which basically implies a negative approach (punishing non-compliance), the EU should also take care to design a reward system that takes a more positive approach. In the next MFF that will start in 2028, the EU should finally introduce an ambitious performance reserve system. At least 15% of European Structure and Investment Funds (ESIF) disbursements should target the most efficient operational programmes or single programming documents, with only 85% being allocated according to MS at the outset. This reward mechanism will ensure that EU funds are not taken for granted, regardless of their efficiency. Finally, within the current MFF 2021–2027, European Parliament should be included within an oversight process regarding how NGEU funds are being used in order to shore up democratic legitimacy and ensure the prudent use of European taxpayers’ money.

FIGURE 6: EU-wide CSR implementation score, 2012-19



SOURCE: EUROSTAT; ADAPTED FROM ANGERER ET AL.⁵³

53 Jost Angerer, Kristina Grigaitė, and Ovidiu Turcu, *Country-specific recommendations: An overview* (Brussels: Directorate-General for Internal Policies, 2020), [https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/624404/IPOL_BRI\(2018\)624404_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/624404/IPOL_BRI(2018)624404_EN.pdf).

CONCLUSION: HOW TO NAVIGATE THE EMU'S UNHOLY TRINITIES

The EU has successfully graduated from the eurocrisis of 2009-2012 and started the era of EMU 2.0, in spite of the fact that it might have reacted far better, with less acrimonious politics and less social upheaval. However, some unresolved problems have remained. This time around, the challenges of keeping a prosperous and resilient EMU together in the post-pandemic era are so great that EU policy-makers cannot continue “kicking the same can down the road” or muddling through. Policy-makers should carefully navigate the EMU’s existing ‘Unholy Trinities’ and avoid picking the italicized options in the following brackets: (*lack of ambitious structural reforms – welfare state sustainability – fiscal discipline*); (*fiscal stability – financial stability – lack of a credible common supervision and resolution framework*); (*no monetary financing – no debt-restructuring – no bail-outs*); (*deregulated banking – deposit security – no socialisation of private debts*); and (*a clean ECB balance sheet – no fiscal transfers – temporary within-EMU current account imbalances*). We laid out detailed reform proposals in the previous section and shall not recap them here once again. However, we shall reiterate that building EMU 3.0 has no alternative. If policy-makers stay behind the curve and rely on ‘business as usual’, then the COVID-19 shock will inevitably crush the EMU. If they try to overreach with overly ambitious reform proposals that correspond to EMU 4.0 or a federalist structure, without a clear political mandate bestowed upon them by the majority of EU citizens, the effect will be the same and the EMU shall perish. Therefore, do not let the perfect be the enemy of the good and let’s build together a prosperous, resilient, and liberal Europe.

LIST OF ABBREVIATIONS

ECB – European Central Bank

EDIS – European Deposit Insurance Scheme

EMU – Economic and Monetary Union

ESM – European Stability Mechanism

GNI – Gross National Income

MFF – Multiannual Financial Framework

MS – Member States

NGEU – Next Generation European Union

NUTS-2 – Regions usually having between 800,000 and 3 million inhabitants

SDRM – Sovereign debt-restructuring mechanism

SRM – Single Resolution Mechanism

SSM – Single Supervisory Mechanism

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**SOCIAL
POLICY**



CHAPTER

08

09

THE PATRON

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“

We have been hit by the worst medical, social and economic crisis in recent history. Common issues require common responses, and European solutions are the key, as they are also flexible enough to apply to national systems' specificities. Social systems are the backbone of effective responses, but the citizens remain the core. They need access and opportunity for an autonomous life fit for the current and forthcoming challenges. Populism wins when citizens are driven by insecurity, fear, and lack of trust. Europe must make them feel secure. Structural reforms of social systems and investments with social impact will safeguard European democracy and values and protect them from illiberal attacks.

”

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1. INTRODUCTION



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Effective social policy is one of the core tenets of the European model. The resilience of European nations largely depends on their ability to effectively redistribute both financial and non-financial support to those in need while providing everyone with equal opportunities to develop their capacities and realise their potential. By investing in systems of solidarity that support people at times of vulnerability or dependency in their lives, European nations invest in building individual capabilities and opportunities and, in so doing, help to maximise their own social and economic potential as well as that of European peoples as a whole.

However, as economic, demo-graphic, and political changes sweep across Europe, our welfare states are coming under additional strain. Systems established for social protection decades ago have often not kept pace with social and economic changes, and they are becoming increasingly unaffordable in many countries. Different nations of the EU have different structures of social support, predicated on different value systems or principles of contribution or responsibility. This can create tensions between nations or between communities, especially if such systems are seen to be unfair to some groups.

Furthermore, throughout 2020, the health crisis alone exposed multiple structural deficiencies and inequalities across Europe. The need for reforms and transformations is further accelerated by the course of greening and digitalising at the heart of EU plans for a postpandemic recovery. While these current processes are of an increasingly cross-border and all-encompassing nature, an adequate response to them requires a common European approach to the social protection of citizens in these challenging and unprecedented circumstances, in both an immediate and a long-term perspective.

Now is the moment to reconsider how we can meet the goals of our welfare and social protection systems. Rather than assuming the systems themselves are still fit for the purpose, we need to be ready to change them for the radical shifts in circumstances facing us in the coming decades. While the need for a coordinated European response is more pressing, it also presents a major challenge in itself, considering the lack of EU competences in this domain.

This chapter begins by outlining the overall context and presenting the most recent developments and debates concerning the European social framework; it also briefly discusses the varying incarnations of welfare systems across Europe. Then it identifies the key issues that European social and labour policies must address as a matter of priority: the current and upcoming problems, structural deficiencies, and particular needs of vulnerable groups across the EU. Later, through discussing three possible scenarios with varying degrees of EU investment in creating a common social policy framework, the chapter proceeds with setting out a liberal agenda for European social reforms: reforms that focus on the actualisation of individual potential, to the benefit of all, and which can be applied across the diversity of social systems across the Union. ■



2.

THE CURRENT STATE OF AFFAIRS: A WINDOW OF OPPORTUNITY FOR EUROPEAN SOCIAL POLICY?

The question of developing a European social framework or set of common principles, standards, and related social policies to be applied across the EU has recently been gaining in both weight and relevance among European citizens and policymakers. The pandemic and subsequent economic fallout from prolonged restrictive measures are currently changing the socio-economic landscape across Europe, directly affecting millions of citizens. Researchers from the European Studies Centre at Oxford University have discovered that the intensity of the crisis is fuelling Europeans' existential insecurity, which is leading to the radicalization of their positions on social issues (e.g., demanding more guarantees and social benefits).¹ With 9 in 10 Europeans (88%) expecting the EU to contribute to their economic and social security,² EU policymakers are placing social issues high on the agenda.

The European Commission has claimed social challenges among its key concerns. Its 2021 Work Programme has indicated “an economy that works for people” as one of its priority dimensions, aiming to ensure that “no one is left behind in Europe’s recovery”.³ In early May 2021, the Portuguese Presidency of the Council and the Commission held an unprecedented EU Social Summit in Porto to discuss a common EU approach to mitigating the social implications of the

1 Timothy Garton Ash & Antonia Zimmermann, “In Crisis, Europeans Support Radical Positions: Climate Change and Social Welfare Issues Most Salient”, *eupinions* [brief] (6 May 2020).

2 European Commission, “New Eurobarometer survey shows Social Europe is a top priority for large majority of EU citizens” (1 March 2021).

3 European Commission, “Remarks by Executive Vice-President Dombrovskis at the press conference on the Recovery and Resilience Facility” [press release] (Brussels: 28 May 2020).

COVID-19 pandemic as well as the transition towards a digital and sustainable Europe. The Summit has also been seen as a way to advance the implementation of the European Pillar of Social Rights,⁴ approved in 2017 in Gothenburg,⁵ with the European Social Fund Plus (ESF+) as its key financial instrument and a focus on youth as the most affected social group.⁶ Overall, the Summit has been publicised as a breakthrough for European social policy and an opportunity for European institutions and policymakers to demonstrate their added value for Europe. In this regard, there is a growing determination to push for more initiatives in social and labour policies on the European level.

EUROPEAN WELFARE STATES: REFORMS AND REVOLUTIONS, DIFFERENCES AND SIMILARITIES

Before delving into the most pressing issues to be tackled by European social policy, let us first take a brief look at the history of European welfare states and the decisive role that moments of crisis have played in their evolution. Bismarck is often credited with the founding of the European welfare state in late-19th-century Germany, where he introduced a sickness insurance, an industrial accident scheme, and an old age and invalidity insurance.⁷ Slowly but surely, other European nations followed suit at varying paces.⁸ The aftermath of the Second World War led to the reformulation and expansion of many countries' welfare states,⁹ which sought the actualisation of citizens for their own benefit, as an alternative model to the warfare state which sought to mobilise citizens for its own benefit. These ideas can be found in the works of William Beveridge, rooted in the understanding that protecting individuals benefits the collective interest and is therefore worth the collective investment.

The contours and boundaries of the post-war welfare state in Western Europe were reset not by accident but by design. As Beveridge put it in his report to the British government during the war: “Now, when the war is abolishing

4 European Commission, “Delivering on the European Pillar of Social Rights” [video].

5 Catherine Stupp, “‘Let’s do our work’ on social policy, Juncker tells member states”, *EURACTIV* (17 November 2017).

6 European Commission, “Commission welcomes political agreement on the ESF+” [press release] (29 January 2021).

7 Michael Stolleis, “Origins of the German welfare state: Social policy in Germany to 1945”, in *Origins of the German Welfare State* (Berlin, Heidelberg: Springer, 2013), pp. 23–176

8 On the example of the Nordic states, see: Stein Kuhnle, “The beginnings of the Nordic welfare states: similarities and differences”, *Acta Sociologica* (1978), pp. 9–35.

9 Colin Hay & Daniel Wincott, *The political economy of European welfare capitalism* (Macmillan International Higher Education, 2012).

landmarks of every kind, is the opportunity for using experience in a clear field. A revolutionary moment in the world's history is a time for revolutions, not for patching.” A similar mood was present as the nations of Eastern Europe moved into the liberal democratic model towards the end of the 20th century: the democratic revolution was an opportunity to rewrite the rules of the state and the model of protection it offered. The question now is whether the pandemic that swept across Europe and the world in 2020 proffers a similarly revolutionary moment, potentially surpassing the level of national responses and moving towards developing a coordinated European approach.

To answer this question, we must first recollect that, for all their similarities, there is no single model of a European welfare state. Welfare states differ quite dramatically in the size of the budgets devoted to them, with net social spending ranging from a low 13.3% of Gross Domestic Product (GDP) in Estonia to a high 31.6% of GDP in France (2013 data).¹⁰ As the seminar held by this programme identified, beyond aggregate figures, there are also a number of models in place which differ in scale and scope as well as in eligibility and mechanism. These are often identified as falling into the following models: Social Democratic/Nordic, Conservative/Corporatist, Anglo-Saxon/Liberal, and Post-Communist. They vary in their approaches to social contributions and income redistribution, which reflect their diverse priorities, e.g., with regards to prioritising the needs of certain age groups (the elderly vs. youth) or putting the main emphasis on encouraging employment or ensuring social protection in times of unemployment.

However, in the current unprecedented context, the growing number and increasing importance of common challenges suggest that establishing common social standards would benefit Europeans with increased protection and greater certainty about their future. More and more, national differences and divergencies are being balanced out with similar demographic trends, the global impact of the changing nature of modern work, and common long-term goals and policies with regards to the post-pandemic recovery and double transition. Furthermore, the European perspective allows for tackling issues outside the national scope, e.g., mitigating the social impact of regional disparities among Member States and ensuring the global competitiveness of the European workforce in the decades to come.

The following presents an overview of the most pressing concerns, with regards to both current demographic trends and socio-economic developments, that call for urgent solutions and have to be addressed on the European level.

¹⁰ Compare your country – Expenditure for Social Purposes”, Compare your country tool, OECD website.

AGEING

One of the clearest and most challenging trends facing Europe is that our populations are getting older as the result of increasing life expectancy and falling birth rates.¹¹ Overall, the population of the EU is projected to increase 2% by 2080.¹² The EU faces a potential future dominated by an ever-increasing population of retired citizens, without enough younger workers to fund (via taxes) retirement programs or other state welfare agendas.¹³ While variation across the EU is substantial, the trajectory is similar. The political challenges of reducing support for the elderly are high—extremely high in some cases—even when this is phased in slowly, not least because older voters are more likely to vote while children have no direct democratic rights of their own, and their needs are only given democratic representation by proxy through their parents.

In *The Generational Welfare Contract*, Birnbaum et al. analyse the welfare states of a number of countries through a generational lens, thus with regards to how benefits are allocated across the age range and whether they favour one group at the expense of another (e.g.,¹⁴ elderly people at the expense of youth). As the age profile of European states changes, and as life expectancies increase, the authors argue that it is vital for us to consider the generational impacts in light of pressures being faced by European welfare states. Birnbaum et al. believe that a positive-sum game is possible, one where the collective interests of each generation are met, as long as we use a balanced social protection system that supports people in all life stages.

These findings provide a point of reference for developing a European social response to the ageing phenomenon as based on balancing the needs and concerns of all age groups.

¹¹ Zbigniew Długosz, “Population ageing in Europe”, *Procedia - Social and Behavioral Sciences* 19 (2011), pp. 47–55.

¹² Timothy Heleniak & Nora Sanchez Gassen, “Scenarios for 2015-2080: The impact of migration on population and ageing”, *Nordregio Policy Brief* (Stockholm: Nordregio, 2016).

¹³ Petra Marešová, Hana Mohelská & Kamil Kuča, “Economics aspects of ageing population”, *Procedia Economics and Finance* 23 (2015), pp. 534–538.

¹⁴ Simon Birnbaum, Tommy Ferrarini, Kenneth Nelson & Joakim Palme, *The Generational Welfare Contract: Justice, Institutions and Outcomes* (Cheltenham, UK: Edward Elgar Publishing, 2017).

DIVERSITY

A range of global forces are contributing to the increasing diversity of EU populations. On 1 January 2019, an estimated 22 million “non-nationals” were living in European Union Member States, accounting for about 5% of the population.¹⁵ This includes both EU citizens residing in another EU Member State and nationals of non-EU states.¹⁶ As diversity increases, we have to be ready to rebuild our social welfare systems to make them meet modern challenges and help our societies keep up with fast-changing environments on both local and global levels. To incorporate non-nationals into the working population, active labour market policies should be prioritised to provide them with opportunities to contribute to society. With regards to social protection and solidarity, new migrants potentially find themselves at a fundamental disadvantage in the system, unable to match the resources of their peers earning similar wages. Tackling this issue presents a challenge to social welfare systems and requires changes, including possibly moving towards insurance models.

DISABILITIES

The increasing quality, availability, and capability of healthcare provisions means a steady increase in the number of people living for many years with substantial disabilities.¹⁷ This is not simply a factor of increased life expectancy nor the diseases of old age, such as dementia, although these do have a huge impact on the EU’s disease burden. It also includes an increasing number of working-age adults living with life-limiting conditions, in part because of increases in the number of children surviving pre-term birth, and improvements in the treatment of disabilities that used to preclude survival into adulthood like cystic fibrosis. Rightly, demands for support among disabled children and disabled adults of working age are rising along with their expectations of being able to fully participate in the economic and social life of the nation.

¹⁵ “Migration and migrant population statistics”, Eurostat website (May 2020).

¹⁶ 10 million non-nationals were living in Germany alone, with about 5 million each living in Italy, France, and Spain. 6 million non-nationals were living in the UK, which has left the European Union. In relative terms, the EU-27 Member State with the highest share of non-nationals was Luxembourg, as non-nationals accounted for 47% of its total population. A high proportion of foreign citizens (10% or more of the resident population) was also observed in Austria, Belgium, Cyprus, Estonia, Germany, Ireland, Latvia, Malta, and Spain. In contrast, non-nationals represented less than 1% of the population in Poland and Romania.

¹⁷ John W. Rowe & Robert Louis Kahn, *Successful aging* (New York: Dell Pub, 1999).

Mental illness and disability are increasingly well understood, and common mental disorders may be increasing among young people. This, too, creates new challenges for a welfare system, including demand for increasing amounts of long-term welfare-to-work provisions for working-age adults who may have only limited connections to the labour market throughout their lives. Old-age disabilities also increase the care burden, which is additionally shifting from informal towards formal care, as more women enter the labour market. Furthermore, while people with disabilities are seen as beneficiaries of the digital economy, European policies must consider the dubious impact which labour market digitalisation may have on them.¹⁸

INDIVIDUAL RISK BEARING

With regards to the state of spending by European welfare states, as well as future pressures to be faced, Eurostat provides the following baseline statistics:

In 2017, the total expenditure on social protection benefits in the EU amounted to 4,131 billion euros or 26.8% of GDP.¹⁹

In 2017, some 46% of the total expenditure on social protection benefits in the EU was earmarked for the old age and survivors’ function, followed by the sickness/healthcare function with almost 30%. During the 2008–2017 period, the fastest expansion in expenditure on social protection benefits was recorded for the housing and social exclusion function, while the lowest rate of growth was for the unemployment function.

Shifts in employment patterns and worker entitlements have increased the amount of lifetime risk individual workers are expected to bear across most EU Member States. Entitlements and rights vary substantially, but the trend towards non-employment models and risk transfer is prevalent—in many cases, compromising sick- and parental-leave provisions. Pension provisions continue in the same generational shift away from defined benefit (DB) to defined contributions (DC), where the individual rather than the company bears the risk associated with non-performing investments. As Pensions Europe describes the situation:

Millions of citizens across Europe already rely upon workplace DC pension plans to supplement the pension benefits that they receive from the state. This number is likely to continue to increase significantly in the coming decades, as employers look for a less risky alternative to DB pension plans and governments across

¹⁸ See: Ministry of Labour, Republic of Austria, *The Impact of digitalisation on labour market inclusion of people with disabilities [final report]* (Vienna: Federal Ministry of Labour, Social Affairs, Health and Consumer Protection, 2019).

¹⁹ “Social protection statistics – social benefits”, Eurostat website (November 2020).

Europe consider ways to help close the gap that is emerging – for economic and demographic reasons – between state pension provision and citizens’ income needs in retirement.²⁰

The pandemic has both highlighted and reinforced the extent to which individuals have increasingly been asked to bear this risk. Most EU States have offered unprecedented support during the acute phase of the pandemic. As economies have suffered, automatic stabilisers built into welfare systems have responded to increased claimant counts, but governments have also supplemented these interventions with discretionary support packages amounting to hundreds of billions of euros. However, most EU governments have been clear that these are temporary measures. Risk has been absorbed by the state when it is responsible for closing down parts of the economy, but individuals will start to feel the impact once the pandemic is over. We can predict that the economic impact for many will be profound, with rising unemployment, increases in poverty, and a higher rate of small business closures and bankruptcies.

SKILLS AND EDUCATION IN THE CONTEXT OF THE EU DOUBLE TRANSITION

There are two enormous dynamics affecting the kind of skills needed in our labour market. The first is technology. There is a growing consensus that we are at the start of a fourth industrial revolution driven by developments in Artificial Intelligence, machine learning, robotics, the Internet of Things, 3-D printing, nanotechnology, biotechnology, 5G, new forms of energy storage, and quantum computing.²¹ The second era-defining dynamic is the urgent need to shift away from high-emission industries in order to tackle climate change. The climate change emergency is not just a phrase: preventing catastrophe is of vital regional interest, and Europeans must play our part in the global effort. Two shifts that have already been institutionalized on the European level through the double digital and green transition will set the course for the EU’s development in the decades to come. It is incorporated into EU recovery plans and thus affects national priorities across the Union.

In Europe, there is also a trend towards high value-added industries which require a higher skilled workforce. Therefore, the need for sustained increases in the availability and taking up of lifelong learning has never been greater. Yet this is still an area where there is little evidence to back up many government-

20 Pensions Europe, Pension Funds Statistics and Trends (March 2020).

21 Klaus Schwab, The Fourth Industrial Revolution (New York: Currency Books, 2017).

led initiatives. To address inequality and exclusion, it is not enough simply to redistribute or rely on rising GDP. Instead, we must increase the number of ‘good jobs’ and equip people to fill them in a way that maximises worker wellbeing while mitigating the risks faced by the vulnerable. There have been attempts to do this, mainly via training programmes conducted to meet employer demand, but the problem has persisted: the quality of the demand itself needs improving through education, training, and thus skills supply aligned to this improved quality. The risk is that too many people and places will be left behind if the barriers to lifelong learning, and better jobs, cannot be overcome.

Finally, the economic shock of the 2007/8 financial crisis was huge, but across much of Europe the recovery was at least jobs-rich. Productivity and wages stagnated in far too many places, but the personal and national costs of unemployment remained surprisingly low. Some fear that the recovery from the pandemic will be different. The pressure to find alternatives to face-to-face interactions during the public health crisis has triggered a widescale adoption of new technology and increased automation. While governments mostly intervened to protect jobs during the acute phase of the pandemic, there is broad consensus that, as this support unwinds, many businesses and jobs will be lost and economic inactivity will take years to recover in full. Leading analysts of the fourth industrial revolution continue to forecast the possibility that there will be a substantial drop in the need for human labour, especially low-skilled human labour, in the economy of the future.²² While this outcome is by no means certain, welfare systems and social policy will need to adapt to the changing realities of labour demand.

AMPLIFIED INEQUALITIES AND REGIONAL DISPARITIES ACROSS THE EU

The COVID-19 pandemic has impacted labour markets and exacerbated existing social inequalities and divisions. For instance, due its disproportionate impact on women, the pandemic has amplified gender inequalities. Women constitute the majority among first responders in healthcare.²³ But gender-specific burdens due to lockdowns have also ranged from the increased unequal distribution of childcare and unpaid household work to domestic violence against women.

22 Martin Ford, Rise of the Robots: Technology and the Threat of a Jobless Future (New York: Basic Books, 2015).

23 UNDP, “Coronavirus vs. inequality” (2020).

Furthermore, the cross-border nature of the crisis and the European double transition require us to pay close attention to the varying impact that these processes have on different EU countries and regions, as well as the ways in which they provoke further inequalities among European citizens. Already in pre-pandemic times, the socio-economic polarisation between social groups and regions across the EU constituted a major challenge for European democracy. In particular, regional inequality is considered to be among the major causes of mistrust in both national and supranational institutions.²⁴ COVID-19, digitalisation, and a green economy will further deepen this gap, highlighting inequalities not only in incomes but also in access to knowledge, skills, and resources.

For instance, the massive transition to teleworking affects poorer regions where less of the population is involved in activities that can be done remotely.²⁵ Besides, while the pandemic presents a threat to education and the futures of children and young people across the EU, we might expect it to be particularly difficult for those living in more remote and long-deprived regions.²⁶ Disregarding a long-term perspective will inevitably result in this inequality being transmitted from generation to generation, further widening regional disparities across Europe. The green transition will also have a drastically uneven impact across regions, entailing fundamental socio-economic changes in regional economies that are still fully reliant on carbon-intensive sectors or fossil fuel extraction and likely causing unemployment for a significant portion of the population, especially among older people.²⁷ ■

24 Jana Lipps & Dominik Schraff, “Regional inequality and institutional trust in Europe”, *European Journal of Political Research* (4 December 2020).

25 Michael Irlacher & Michael Koch, “Working from Home, Wages, and Regional Inequality in the Light of COVID-19”, *De Gruyter* (14 January 2021).

26 The Lancet, “COVID-19 – break the cycle of inequality”, *The Lancet Public Health* 6(2) (1 February 2021)

27 “The inequalities-environment nexus: Towards a people-centred green transition”, OECD Green Growth Papers No. 2021/01 (Paris: OECD Publishing, 15 March 2021).

3.

OPTIONS AND SCENARIOS

The picture painted above is one of enormous stress and challenges for the welfare states of the European Union as well as for its citizens. The interplay between the pandemic and the double green and digital transition is multiplying the scope and complexity of existing demographic trends and socio-economic challenges that Europe will have to face in the future. The cross-border nature of these developments and their long-term and far-reaching implications for European citizens require coordination on the EU level. This presents a major challenge in and of itself, calling for unprecedented solutions and measures.

We shall now review the alternative approaches that EU policymakers can take to ensure adequate social protections across Europe in the next decade.

MUDDLING THROUGH

In the short term, the easiest option is to try to mitigate the challenges, patching up the most unaffordable elements of national social protection schemes with some minimal involvement on the EU’s part, e.g., through non-binding recommendations on certain issues. In this case, governments wary of dramatic change could make a number of smaller adjustments at the margins of their welfare states.

On the national level, we could see continued efforts to raise national retirement ages and encourage more older people to stay in the labour market for longer. This will keep some downward pressure on the dependency ratio. However, the skills and training requirements for new jobs are often hard for older workers to navigate, combined with pressure to “make space” for younger workers, meaning that it is by no means certain whether there will be enough good work for all those in their 60s and 70s who want it. The costs of social protection could also be mitigated by tightening entitlements. This could come about by changing uprating rules to freeze entitlements in cash terms or reduce the rate at which they rise. It could include conditionality or time-limits on a number of benefits. One obvious danger of reducing parental or child-related benefits is that doing so may reduce the fertility rate among EU nationals; in those countries which have a specific target to increase the birth rate, politicians may prefer to increase

family entitlements. Of course, any financial encouragement for women to take up caring responsibilities rather than a place in the paid labour market will have knock-on consequences for the economy and tax revenues. When it comes to skills and the impact of technology, governments could increase funding for existing schemes and turn a blind eye to their relative ineffectiveness.

While some issues could be changed on the national level, to varying degrees of proportionality and suitability with regards to the current circumstances, the lack of advancement concerning the development of a common European response as such is the trickiest aspect of this scenario. In the context of the limited EU competences in this domain, a mere patching of the most immediate issues on the national level so far seems to be the path of least resistance. The EU can point to certain issues, e.g., the rights of platform workers, and suggest measures that could be applied on the national level. However, this scenario would leave unaddressed the majority of problems that could be best tackled on the EU level.

First, many Member States have outdated social legislation which simply overlooks new challenges and the needs of entire social groups. Furthermore, such rules are deeply contradictory among Member States, which points out the varying degrees of social rights and protections given to similar categories of citizens and workers across the bloc. Second, the lack—or insufficiency—of European-level coordination would neglect the above-mentioned regional disparities, which are even greater on the European level than they are within any given country. Therefore, ad-hoc patching on the national level and only minimal EU involvement in this regard will block the potential to tackle more large-scale problems and will prevent European social models from adequately adjusting to current demands.

TACKLING THE MOST PRESSING ISSUES

With a little more political courage, the EU can seek out more comprehensive solutions to the main challenges. Certain steps in this direction have already been taken. The EU's priorities in social policy are reflected in the already mentioned European Pillar of Social Rights, which advances twenty key principles structured around three broad categories, namely: equal opportunities and access to the labour market; fair working conditions; and social protection and inclusion. To put them into practice, on 4 March, the Commission presented its Action Plan setting out concrete targets to be achieved by 2030.²⁸ The Plan

²⁸ European Commission, The European Pillar of Social Rights Action Plan.

takes into account the societal challenges presented by the ongoing COVID-19 pandemic as well as the upcoming policy changes related to the European green and digital transitions. In particular, the three headline targets in the domains of employment, skills, and social protection are meant to guide Member States in reforming and modernising their social policies throughout the recovery and transition processes. Here, possible approaches are set out to ensure the advancement of the Pillar across the EU in line with liberal priorities, specifically in response to the challenges outlined in the section above.

AGEING

Addressing the demographic challenge of ageing presents us with an opportunity to reset the narrative about retirement and recalibrate the conversation about work. Those who choose to continue working past conventional retirement age usually do so because they value their independence and the purpose work gives them, and they are able to adapt their working lives to their changing physical capabilities. Those who oppose increases in the retirement age accuse governments of asking us to “work until we drop”. But what if work did not make so many of us “drop” with exhaustion at the end of the week, let alone at the end of our lives? What about developing sustainable future-oriented policies that reflect the changing socio-economic circumstances and truly match our values and long-term priorities?

With the increasing life expectancy and changes in the nature of work, the retirement age is gradually rising. On the one hand, this is necessary to ensure that our societies and welfare systems remain equitable, fiscally sustainable, and able to provide the elderly with the necessary protection and care. On the other hand, this allows for maximizing the economic and creative potential of the European workforce, without limiting people's productive age to a certain (outdated) mark.

Raising the retirement age goes hand-in-hand with addressing other systemic challenges. First, pension systems need to be reformed. To make them meet the demands of the time, there is a need for greater flexibility and additional pension provisions. We should move towards mixed or hybrid schemes that include private pension provisions and minimum investment in vetted funds.

Second, European social policies need to aim at creating a more sustainable working life and a fairer job market for older people. With new approaches to building the quality and flexibility of jobs, encouraging more people to work part-time throughout or for protracted parts of their working lives, we could move away from the concept of retirement altogether. With flexibility the norm

in our working patterns, it would be far easier for people in their 60s and 70s to take a decade or two to slowly reduce their working hours and move towards retirement. Pensions, too, could be more adaptable, with stronger incentives to keep working as part of your post-60 income package. Addressing the demographic challenge of ageing also includes providing fiscally sustainable social insurance programmes and the required level of care.

Technology is often seen as a barrier to labour market participation for older generations. But it also offers enormous opportunities. Remote working makes it easier for those who are not able to commute long distances to stay connected. Adaptive software and hardware make it easier for those with hearing or visual impairments to participate. However, the elderly need to be provided with access to information and the necessary digital education to take advantage of these opportunities.

DIVERSITY

Liberals tend to celebrate diversity as the product of individual freedom to live life in the ways, and in the places, that suit us best. However, the existing systems of social support were largely predicated on relatively homogeneous and static populations, and liberals should not be frightened to observe—even if they do so criticisingly—that rising diversity may reduce collective solidarity.

It is vital that liberals make both a pragmatic and a values-based case for diversity. From a pragmatic point of view, diversity is a product of the freedom, including freedom of movement, that has been so essential to the success of the European economic model. Without diversity, we would all be poorer. From a values-based perspective, we need to remember that liberals strongly oppose any attempt to build that collective identity on the basis of ethnicity, so we need to find alternative ways of building solidarity: a civic nationalism or a civic demos that can hold together both individual Member States and the peoples of Europe as a whole.

If we agree on these two principles, we can agree on addressing the needs of such socially vulnerable groups as immigrants and minorities, including Roma, through facilitating their integration into the labour market and their access to social protection mechanisms (an example would be an amended Fund for European Aid to the Most Deprived, FEAD).²⁹ Another key measure is related to fostering labour mobility across Member States and regions. Among the ways to promote free movement for EU workers is ensuring the full mutual recognition

²⁹ Renew Europe, “We urge Member States to make use of additional aid to the most deprived citizens”, Medium (21 January 2021).

of qualifications gained across the EU and the portability of social rights and entitlements without administrative burdens, e.g., through agreeing on the Revision of the Regulations concerning Coordination of social security systems (2016/0397(COD)).³⁰

DISABILITIES

We should celebrate, vocally, the lives that have been saved, extended, or improved by modern medical science. But we must not pretend away the financial consequences of the rising number of disabled children and adults in our society. They have every right to live life to the fullest and contribute as citizens, as economic actors, and as members of our society. This requires continued and sustained investment which should be focused on maximising their independence, not dependence. Welfare-to-work support (explored more fully below) needs to be harmonised with healthcare support for working age adults with both physical and mental disabilities. Personal budgets for care support should be encouraged and facilitated to put maximum control into the hands of recipients when it comes to choosing the package of support that works best for them. What is urgently needed to coordinate this process on the European level is a swift implementation of the measures presented in the ten-year Strategy for Disability Rights presented by the Commission.³¹

TACKLING (YOUTH) UNEMPLOYMENT

The ongoing crisis, coupled with the double green and digital transition, is transforming the labour market in both a short- and a long-term perspective. High unemployment rates, the precarious social situation of vulnerable groups, and an inevitable sectoral restructuring of the economy all require labour market policies that effectively address both immediate urgencies and more distant yet long-lasting consequences.

For instance, young people are likely to bear the greatest economic impacts of the COVID-19 pandemic, and it is vital that Europe intervenes to minimise the scarring effects on this generation. This will require us to think radically about what employment support should look like: there was a clear view that state employment services are extremely underwhelming. They rarely offer career advice, are often only available to those who are out of work rather than those seeking to better themselves, and are generally staffed by low-skilled workers,

³⁰ European Parliament, “Revision of regulation on social security coordination – labour mobility package” (December 2016).

³¹ Renew Europe calls for swift implementation of the new EU disability rights strategy” (3 March 2021).

themselves poorly qualified to offer advice about the future of local, let alone national or European, labour markets.

We need to focus on the problem of youth unemployment, which has become even more pressing during the COVID-19 pandemic, and consider the disparities among Member States and regions in this regard. We should provide support to young people, including those without vocational education, at their point of entry into the labour market and at the later stages in their career, in particular through creating broad pan-European apprenticeship and internship possibilities (e.g., a system similar to what Erasmus has been for educational opportunities, thus developing a European Apprenticeship Statute).³² Reducing education inflation also needs to be among our priorities. The number of university students is to be considered as a benchmark to measure and regulate the performance of our educational systems.

Our best protection against a jobs-light recovery is to adapt public employment services to actually be employment services, rather than just benefit agencies. These will need radical improvement, especially in Eastern Europe and for those outside formal employment working in the gig economy. There are operational challenges associated with the rise of platform work, which can be extremely unreliable, and yet benefit recipients may be required to take them on as part of conditionality schemes. This specific problem is symptomatic of a wider struggle to ensure agility on the part of state-backed institutions, which are rarely able to adapt at anything like the pace of our labour market. One of the measures could be modernising and strengthening public employment services—such as the European Network of Public Employment Services (PES)—to enhance their capacity, cooperation with members, and the quality of their services, effectiveness, and efficiency.³³

INDIVIDUAL RISK BEARING

The changing economic landscape and upcoming transformations must lead us to reconsider the existing balance, or rather disbalance, between active and passive labour market policies. Active labour market policies (ALMPs) are central to preparing European workers for the upcoming challenges through up- and re-skilling.³⁴ In particular, in light of the Commission's announced focus on

32 Renew Europe, "Renew Europe calls for boost to students' and workers' professional development" (17 December 2020).

33 Renew Europe, "Action taken to continue fighting the high unemployment rates many Europeans face" (11 November 2020).

34 Cinzia Alcidi, Sara Baiocco & Mattia Di Salvo, "The skill challenges posed by Covid-19: Is Europe Ready to Invest in Its Labour Force?", CEPS (25 November 2020).

youth, designing future-proof ALMPs must be made a priority across Europe. At the same time, the valid question to address at this moment is whether we can focus exclusively on activating the workforce in times when the market itself is not active. The direct social effects of such a devastating crisis require more immediate responses, including support and social protection for vulnerable groups, e.g., self-employed workers and youth.

The welfare state acts in our collective interest. It is far more than a zero-sum game in which money taken from one citizen is given to another. By enabling us to work together to pool risk, it allows us to take greater risks both as individuals and as part of the economy as a whole. It enables support to be given to those who have lost their jobs or are experiencing poor health, so that they can make it back into the labour market and contribute once again as taxpayers. It enables financial support to be given to children, improving their outcomes and the economy of the future. It enables people to maintain a good standard of living and continue to contribute to the economy in their later years.

But the state is not the only agency enabling individuals to bear less risk. Companies have shouldered much of the burden of redundancy payments, health protection, pension entitlements, and more. The shift away from this corporate risk pooling—as employment protections are reduced, more and more people work on a freelance or self-employed basis, and people change jobs more frequently—means that risks will either fall on the individual or exclusively on the state. If the state is to bear greater risk, it will need to transfer some of that back to the private sector in the form of taxation or regulatory burdens. If individuals take on too much risk, it is to the detriment of us all. As technology disrupts the economy, we must continue to adapt the legal framework for employment to ensure that risk pooling in societies can be appropriately maintained.

IMPLEMENTING THE EUROPEAN SKILLS AGENDA

There was strong consensus at the forum that skills funding needs to change radically if it is to keep up with the fast-changing landscape of our labour markets. We need to build a cross-national and cross-generational consensus for skills investment and lifelong learning. Too often, discussions are held only about the curriculum taught in schools, without recognising that people will increasingly have to train and retrain multiple times in their lifetimes. The shift to a lower-carbon economy over the next 30 years will be an enormous catalyst for economic change and will require huge investment, both on the part of the state and that of companies, for skilling up the workforce. Digital skills investment should be

a top priority across the whole of the European Union, not just for school-age children but for people at every stage of life. Increasingly, digital inclusion will be an essential component of being able to participate in civic and economic life. We cannot afford to leave anyone behind.

Reducing mismatch between skills and jobs can be achieved by putting a ‘New Skills Agenda’³⁵ at the heart of European social policy. This aims at ensuring equal access to vocational education and training (VET)³⁶ for all citizens—regardless of their sex, age, or ethnic origin—and equipping the European workforce with the set of skills required for the 21st century³⁷ while bridging the generational digital skills gap and regional disparities.

We should adapt our educational systems to support skills for living as well as working. Children need to develop more adaptive skills and mental capacities to deal with risk and uncertainty in life, and schools should take a proactive role in building mental resilience if we are to reduce growth in the numbers of people experiencing common mental disorders. Skills funding needs to be radically decentralised if it is to respond at the needed pace. We should put more power, budgets, and information into the hands of individuals rather than institutions—and transfer more funding to the local level, too, where it can be more directly targeted to the needs of local labour markets. Employers also need to adapt and get better at recognising transferable skills rather than simply hiring based on direct experience.

AMPLIFIED INEQUALITIES AND REGIONAL DISPARITIES ACROSS THE EU

The EU’s social role is crucial in tackling inequalities across the bloc. There are multiple ways that European policymakers can benefit citizens: from preventing in-work poverty, which is especially pressing in Eastern Europe (e.g., Romanian workers, whose risk of being in poverty while working is almost double the risk of the average European), to showing solidarity with displaced workers and making it easier for citizens who have lost their jobs to get help in finding a new job, reskilling, or setting up their own business through special funds, e.g., a revised European Globalization Fund for displaced workers.³⁸

35 Renew Europe, Position Paper on Skills at the Heart of Europe (June 2020).

36 Renew Europe, “Renew Europe calls for boost to students’ and workers’ professional development” [press release] (17 December 2020).

37 Linda Aziz-Rohlje for Renew Europe, “Lifelong learning for all: Boosting citizens’ digital skills will increase competitiveness”, Medium (11 February 2021).

38 Renew Europe, “New agreement will empower redundant workers to create new opportunities” (16 December 2020).

Another key dimension for EU involvement is mitigating the uneven social effect of the green transition. This could be done through strengthening the social dimension of the Just Transition Fund (e.g., activities aimed at increasing social inclusion, supporting vocational training and re-skilling, smart local mobility, and investing in SMEs and microenterprise in the regions³⁹ most affected by the transition). With regards to the digital transition, EU-level regulation of new forms of employment linked to digital development, particularly teleworking, is needed to promote safe and healthy work environments and flexible work arrangements and to lay down common minimum conditions and standards for the management of telework throughout the EU.⁴⁰ Finally, it is the EU’s task and responsibility to make Europe a leader in digital innovation to ensure the EU’s growth and competitiveness as well as harness new opportunities for workers and businesses in the labour market.

An important component of tackling unemployment and social deficiencies is to realize the economic potential of a social economy and social entrepreneurship, which currently remains untapped. This could be done, for instance, through supporting the 2021 adoption of an Action Plan on the Social Economy.⁴¹ The ongoing COVID-19 crisis presents a window of opportunity for the EU to encourage new SII market development initiatives,⁴² particularly in Central and Eastern European countries, through promoting them as an innovative and sustainable alternative to tackling short- and long-term societal challenges as well as supporting them with EU-level policies and funding programmes. Besides, the EU needs to support small and medium enterprises (SMEs) and micro-enterprises to help them remain competitive, especially through ensuring their efficient use of national recovery and resilience plans and ESF+ funding.

CHANGING THE EU FUNDAMENTALLY

Of course, we could—and should—go further. Liberals might choose to be radical reformers in harmonising the diversity of welfare states across the EU. While a European social welfare state might not be feasible, at least in a short- and

39 ALDE, “Just transition fund: the climate neutrality is only fair if it is shared by all” (10 December 2020).

40 European Parliament, Draft report on fair working conditions, rights and social protection for platform workers – new forms of employment linked to digital development (2019/2186 (INI)), EMPL, Rapporteur Sylvie Brunet (9 February 2021).

41 Social Economy Europe, The future of EU policies for the Social Economy: Towards a European Action Plan (2018).

42 Raimonda Mackevičiūtė et al., Social Impact Investment: Best Practices and Recommendations for the Next Generation [study requested by the EMPL committee], European Parliament (November 2020).

mid-term perspective, the quickly changing reality invites us to shape a future-oriented European social framework that would interpret fundamental liberal ideals in order to make them serve our current and future needs.

Our focus thus needs to be on ensuring that European welfare systems respond to demographic and social changes as well as foster the inclusiveness of our societies, since they are becoming more complex and diverse. European social policies of the future must show solidarity with all social groups across the Union and effectively address phenomena such as poverty, social exclusion, discrimination, barriers to work, and increasing inequality in access to education.

Apart from the direct benefits of adapting the European social model to the future, this would also allow the EU to respond to antiliberal populist discourses that deny its added value to Europeans and fuel mistrust in the European project as such. Considering all the above-mentioned key challenges, this is the time for the EU to demonstrate its added value to Europeans by acknowledging and addressing their immediate and long-term needs, safeguarding equal access to benefits and risk protection without sacrificing individual freedoms.

Current socio-economic circumstances call for combining the flexibilization of labour markets with a robust safety net. To maintain a balance between social and economic interests, the concept of flexicurity has been formulated at the European level.⁴³ Apart from ensuring an optimal balance between flexibility and security for all employment relationships, to the benefit of both employers and employees, the European flexicurity model envisions the active involvement of social partners.⁴⁴ In this respect, it could also be regarded as a reference point for strengthening the social economy in the EU.

One of the challenges for the Single Market is the varying systems of social support across Member States. And the reality is that the Single Market is affected by the differential entitlements which workers—in particular—can receive. High in-work benefits can act as a kind of corporate welfare, enabling employers to attract and retain staff at lower wages than might otherwise be possible. State-funded skills and training can make it easier for companies to find the employees they need without having to contribute directly to these costs. There is therefore an argument for substantially greater harmonisation of welfare systems, particularly for working-age and family benefits, across the EU to support the better functioning of the Single Market. But what kind of system could the EU Member States, with their varying attitudes to welfare, entitlement, contribution, and citizenship, agree on?

43 <https://link.springer.com/content/pdf/10.1007/s10272-008-0244-0.pdf>

44 <http://erc-online.eu/wp-content/uploads/2014/04/2011-00998-E.pdf>

In light of these considerations, what could be done is sharing best practices and developing an integrated, future-oriented, citizen-centred reference point for European social standards which respects the diversity of national welfare systems and provides Member States with the necessary support and room for adjustments in adopting them.

The liberal concept of European social policy should be based on sharing a deep belief in the individual capacities of each person and his or her potential to thrive, prosper, and contribute to society in a meaningful and unique way. Following on this firm conviction, liberals are determined to help citizens nurture their abilities and realize their creative potential while also providing them with the necessary support in times of hardship and uncertainty.

Besides creating equality of opportunity, welfare benefits should push their recipients to go back to work to the greatest extent possible. They should be generous but limited in time and conditioned to an active search for work. At the same time, one must be cautious to not develop a ‘poor hunt’, wherein those entitled and in need of benefits simply cannot access them due to the complexity of procedures and are therefore penalized. This comes down to finding the balance between individual responsibility and social protection. It is crucially important that the necessary support in times of crisis is not downgraded into a long-lasting dependence on subsidies, generating a dangerous disincentive to labour supply activation and, even worse, promoting the spread of long-term unemployment. This overall standpoint needs to be translated into a set of concrete policies that specifically address these challenges.

There is rising enthusiasm, both on the left and the techno-libertarian right, for a Universal Basic Income: an amount of money paid to every citizen (or resident) as a right which ought to be sufficient to live on. However, apart from being hardly feasible and harmful for ensuring fair labour market competition across the EU, this idea is also fundamentally opposed to liberal beliefs and ideals. Claiming that society at large has the inherent responsibility to take care of you and protect you from social risk contradicts the liberal idea of empowerment and incentivising. Besides, despite our moral duty to support the least well-off, we should also understand that, for the benefit of UBI, governments might be forced to cut other programmes, including the most effective measure for social cohesion: education.

Rather than inventing new complicated schemes, we should radically reform our welfare states and implement what had been very well argued for by Milton Friedman: a flat tax on all incomes combined with a negative income tax for those whose revenue falls below a certain threshold. This is the best way to ensure that work always pays more than inactivity and to avoid putting the charge of

financing the system on companies, as is the case with the minimum income. We all benefit from a society where people are safe and feel secure about their livelihoods. We all benefit from well-off societies, where people feel that they have a better life ahead of them and that they can make it on their own merits. The freedom to create and to challenge are the fundamentals of progress.

A liberal social framework would thus be based on establishing such a balance between active and passive labour market policies across the EU that would allow for providing citizens with the necessary support without creating dangerous incentives for life-long unemployment and the so-called ‘inactivity trap’. The cost-benefit balance of employment should always remain higher than that of unemployment. In this regard, the conditionality mechanism needs to be provided so as to ensure that working and realising one’s potential is more beneficial for an individual than relying on available social support systems. Instead, the latter should be seen only as a temporary means of last resort. It is therefore important to reaffirm conditionality between passive and active policies as a key principle in the design of new measures, recalling a fair balance between individual rights and responsibilities.

However, another essential factor to be kept in mind is that conditionality is closely linked to creating necessary opportunities which allow it to function in given circumstances. In other words, activating the labour force goes hand-in-hand with other policy areas, and it first and foremost involves support to small and medium enterprises and easing conditions for businesses. This chain of interrelated principles and corresponding measures allows for maintaining fair and healthy competition in a creative environment that drives forward individual European citizens as well as our societies and economies at large.

One alternative would be to build a more cohesive system of earned entitlements and contribution-based welfare. A system more closely allied to the corporatist/conservative models outlined above could be a way to boost solidarity, especially with new migrant populations. Making it clear that there is always a “something-for-something” approach to social support systems could help counter the anti-migrant narrative of benefit tourism or migrant dependency.

The main advantage of having a comprehensive European social policy is that it allows for shaping such policies in a systematic way that makes them interrelated, mutually-reinforcing, and coordinated with other policy areas, such as education and the Single Market. It is only through a systematic approach that these proposals can have a much-needed effect across the EU with regards to empowering and protecting citizens as well as ensuring the global competitiveness of the European labour force and economy. ■

4. ROADMAP

So, what path should liberals choose? Tweaking our systems will, it seems, only defer problems to the next generation. The scale of the changes we face, in terms of our demographics and our transforming labour markets, cannot be ignored. Their social impact is complex, multi-layered, and ambiguous. The COVID-19 pandemic has accelerated the digitalisation and greening of our economies, but it has also impacted labour markets and exacerbated existing social inequalities and divisions. Digitalisation in Europe will potentially create new opportunities for European citizens, workers, and businesses as well as lead to jobs creation, greater inclusivity of the labour market, and increased labour mobility. At the same time, however, the digital transition urgently calls for a re-skilling agenda regarding updated, modern policies and regulatory frameworks to protect the social and labour rights of those involved. Similarly, while the transition to a sustainable circular economy has huge potential to foster jobs and economic growth, the broader distributive consequences of climate policy may also reinforce pre-existing or introduce new socio-economic and societal cleavages⁴⁵ (between poor and rich, high- and low-skilled,⁴⁶ etc.).

Keeping all this mind, we cannot deny the fact that in the current unprecedented context, when social issues transcend national borders, greater coordination at the supranational level is as relevant as ever. Europe and its national governments are thus presented with the task of developing a comprehensive social policy strategy that would address these—at times contradictory—tendencies without sacrificing citizens’ individual well-being or strategic European objectives. The sustainable implementation of such measures across the EU will require well-coordinated labour markets, social institutions, and policies that will ensure no one is overlooked or left behind.⁴⁷

In this respect, a key question concerns the division of competences between the national and supranational levels, or a seeming collision between the subsidiarity

45 Hauke Engel & Magnus Tyreman, “Why Europe must reskill workers to reach its climate goals”, EURACTIV (4 December 2020).

46 Frédéric Simon, “Eleven million jobs at risk from EU Green Deal, trade unions warn”, EURACTIV (9 March 2020).

47 Ibid.

principle and the very idea of EU social policy. Subsidiarity is one of the guiding principles of European integration, according to which decisions should be taken at the lowest possible level, with a higher authority intervening only in cases of necessity or substantial added value.⁴⁸ The rationale behind it is to guarantee the maximum amount of independence to local, regional, and national authorities in adopting measures that have a direct effect on their communities. With social policy belonging to the domains of (limited) shared competences between the EU and Member States, EU intervention in this field is only justified when common objectives could be better achieved at the EU level. ■

CONCLUSION:

While the development of European social policy might be a controversial issue that goes beyond the scope of EU competences, the unprecedented global developments call for a change of perspective. Common challenges require common solutions, and these solutions will directly affect the daily lives of Europeans. If European nations are uniting their forces to jointly deal with global warming, the digital era, and the economic consequences of the pandemic, they should not disregard the EU's untapped potential in supporting and empowering their citizens through these turbulent transition times—and beyond.

The times when European societies and economies are shaken by turmoil and unpredictability present a chance for the EU to demonstrate its ability to address individual concerns of every citizen while enhancing the collective resilience and prosperity of Europe as a whole. On the one hand, advancing European social policy is a chance to create a comprehensive set of updated social standards, designed specifically to mitigate the effects of the recent and upcoming challenges and based on the core European values and best national practices. On the other hand, adopting a common long-term course on protecting the wellbeing and realising the creative and economic potential of the European labour force is a major way to ensure Europe's global competitiveness and resilience in the future.

Finally, this is an opportunity for the EU to practically respond to antiliberal populist discourses that deny its added value to Europeans and fuel mistrust in the European project as such. The sense of solidarity is built upon shared values, goals, and interests, and it is the right moment to start shaping the discourses and policies that will clearly demonstrate to citizens that “we are all in this together”. This is hardly feasible without advancing the common

48 European Parliament, “The principle of subsidiarity”, Fact Sheets on the European Union.

European standpoint on major social concerns. If we are to have hope for restoring the trust between citizens and institutions, we need European policies that address citizens' immediate and long-term needs and provide them with both the security and incentives to conduct meaningful, productive, and creative lives.

To sum up, now is a unique point in the EU policymaking process. Social issues are high on the agenda, and there is a clear drive towards more EU competences in social policy. In these crucial years, liberals have a responsibility to put their core principles into practice and contribute to shaping a modern, future-oriented, and citizen-driven social model that aims to protect the rights and freedoms of every European citizen while pushing forward common long-term goals.

LIST OF ABBREVIATIONS

DB – pension – defined-benefit pension

DC – pension – defined-contribution pension

UBI – universal basic income

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