

## **The European Union 2005-2008 Crisis, impasse or renewed progress?**

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**W**as the European Union plunged into a state of crisis following the negative referenda in France and the Netherlands in mid-2005 or are we simply experiencing one of the many hiccups or temporary impasses that have characterised the European integration process since the beginning? It now seems that the latter description is more to the point.

Part of the explanation of the impasse around the draft constitutional Treaty can be found in the weakness or lack of political courage demonstrated by leading politicians in member countries, including the convenient but incorrect habit of blaming “Europe” or “Brussels” for many domestic problems and mistakes. This attitude was evident in several countries.

A realistic analysis should distinguish between two different developments in the process of European integration, the first being opposition among large segments of the population in a substantial number of member countries to the proposed changes in the institutional structure of the EU. To a substantial extent, the critics railed against perceived aims in the Treaty that were based on misunderstandings, particularly the common misconception that Europe was heading in the direction of becoming a ‘superstate’. The fact of the matter is that the idea of a federal European Union as contemplated at the time of the Treaty of Rome (1957) is no longer a matter of serious political discussion. The current draft Reform Treaty (Treaty of Lisbon) addresses several of these concerns and focuses, appropriately, more attention on the central role of the citizens in Europe and topics of direct interest to them. Moreover, it provides more opportunities for the national parliaments to influence the decision-making in “Brussels” (thereby operationalising the principle of subsidiarity).

Simultaneously, however, the same citizens of Europe should become more aware of the fact that the EU is already functioning very effectively in a number of policy areas of the utmost importance (with major advantages for those citizens!), namely:

- internal market,
- international trade policy,
- competition policy and
- monetary policy and the single currency (in the euro area only).

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These achievements of European integration are based on European law. They function well and changes are neither proposed nor needed in the Treaty of Lisbon.

What is now urgently needed – both for the sake of achieving further progress in European integration and creating more guidance and clarity for the citizens – is agreement on a political roadmap for Europe in which three distinct categories of action are spelled out, as follows:

1. The abovementioned policy areas where European integration is already functioning satisfactorily and where, therefore, no fundamental changes are called for.

2. A limited but important number of policy areas where more action is needed, not for the abstract sake of European integration as such but because member countries are not – or no longer – able, in a world of globalisation, to cope individually with the challenges posed in a satisfactory way. A common EU policy is called for in these areas, in the interest not only of Europe at large but equally so of each member country individually, including its citizens and companies. A common policy means a binding cooperation based on the rules of the European treaties – rather than on a voluntary or optional arrangement codified in a bilateral or intergovernmental agreement.

One can argue about which policy areas this intensified integration should apply, but based on widespread, though not unanimous, opinion with which I agree, two are singled out: first, Justice and Home Affairs comprising internal security (internal in the sense of including cross-border and common-EU border issues but inside the EU). This area concerns immigration, crime and drugs as well as the threat of terrorism. The widened application of qualified majority voting (QMV) to decisions on these subjects, which is prescribed in the Treaty of Lisbon, is most helpful to reach decisions in the EU on a common policy in these delicate matters. The second area consists of environmental and energy policies. Recent global developments in these areas point to the urgent need to address, through a common policy, the growing problems that confront all member countries dealing with the deteriorating environment and climate change as well as the growing dependence on oil and gas imports at rising prices. The difficult relations with Russia and its geopolitically-driven policies regarding its substantial oil and gas exports to EU countries present an additional argument for Europe to speak with one voice. Arguments are being made by several member states, including the Netherlands, that the EU also needs a shared policy in a third area affecting external security: a common foreign and defence policy. Real progress here, however, is unlikely in the near future. National interests and sovereignty still dominate these sensitive issues, such as the how to deal with the conflict in the Middle East, most prominently in large member countries but in certain cases in small members as well. Moreover, QMV is not (yet) the rule in these policy areas.

3. In all other policy areas where common EU policies do not exist, the national and EU politicians should make it clear that no (further) integration is called for. Accordingly, national decision-making will prevail in these areas rather than a common policy. The rationale for this posture is the absence of any need to adopt a common policy and the application of the principle of subsidiarity and/or strong feelings among the people in the respective member countries that they do not want to relinquish national sovereignty. This applies to matters such as culture, education and substantial parts of social policies.

A major reason for the negative outcome of the Dutch referendum was related to feelings of uncertainty, unease and misunderstanding among the population about the future character of the EU and the impact (or lack thereof) of Europe on their daily lives. In other words: how much Europe? Therefore, a clear answer should be given.

A debate has been going on in Europe for decades whether priority should be given to deepening or widening. By 'deepening' is meant an intensification of the degree of integration among the member states, and 'widening' means increasing the number of member states via enlargement. In fact, however, the EU has actually made much progress on both counts, although not always in a balanced way. I happen to approve of both developments.

The two thrusts are not contradictory or mutually incompatible, but ideally the integration process should first intensify the deepening: put your own house in order before you invite new guests. In reality, however, not enough preparatory work was done in this area when a new wave of enlargement took place in 2004, when 10 new countries joined. It had become clear some time before 2004 that the prevailing institutional structure of the EU was no longer fit to efficiently handle an increase from 15 to 25 and now even 27 members. The previous amendment of the EU Treaties, the still prevailing Treaty of Nice in 2000, proved highly inadequate in this regard. This was explicitly acknowledged in provisions that could work only in an EU with no more than 27 members. So, the effort to launch a new "constitutional treaty" leading finally to the, still to be ratified, Treaty of Lisbon was urgently needed. The link between deepening and widening was confirmed in the case of Turkey: there is widespread agreement in the EU that Turkey's application for membership cannot succeed on the basis of the Treaty of Nice, quite apart from other reservations, political or otherwise, about the suitability of Turkish membership that have been raised in several member countries.

Another fundamental question is related to the pro's and con's of a 'Europe at two speeds'. Whereas the EU originally consisted of member states with the same rights and obligations and could therefore be characterised as homogeneous (apart, of course, from differences in size and voting power), a growing number of policy areas gradually emerged in which some members decided to accept a more limited degree of integration obligations than the majority of the EU. The most important current examples of Europe at multiple speeds are first, the membership of the euro area and second, membership of the Schengen Agreement of open internal borders; but there are more cases looming on the near horizon, such as the harmonisation of corporate taxation.

I agree with those who consider this situation as undesirable, as it goes against the fundamentals of European integration. But, unfortunately, it is a fact of life today. The Treaty of Lisbon even recognised the existence of different speeds as an integral part of European integration through the concept of 'Enhanced Cooperation' among a (minimum) number of members who accept certain additional obligations in a defined policy area with regard to the relations among the participants. This development clearly is a second-best solution. If one wants to focus on its positive side three arguments can be presented. First, this progress among a selective group is better than no progress at all. Second, this kind of Europe at different speeds is from an institutional point of view better than the alternative: a spontaneous initiative of a number of member states to reach an agreement of an intergovernmental character, which is outside the framework of

integration based on the European Treaties. At least, the above-mentioned Enhanced Cooperation is incorporated in the Treaties, with the appropriate roles to be played by the European Commission, the European Court of Justice and all the other institutions spelled out. Third, ideally this approach serves as a stepping stone for later participation by all members. In this optimistic scenario, Enhanced Cooperation is a transitional or temporary device which ultimately will lead to the desired goal of homogeneous progress. Something to this effect is happening indeed for monetary integration: membership of the euro area is growing with the addition of Cyprus and Malta on 1 January 2008. I hope that even the UK will ultimately join, since the absence of sterling continues to be a major lacuna in the European monetary framework.

I express the hope that developments and decisions as described above will set the framework for the EU to resume further integration of Europe in a balanced and well-defined manner.

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