

Separate yet together

How the EU can break free from the unanimity trap

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1 Key aspects

- Two great narratives laid the foundations for the EU after the Second World War: "Peace and prosperity for all". The splendour of this founding myth has now faded.
- In the 1980s, European integration took a big step forward: the single market was created and the euro was adopted. The aim was to catch up with other, new economic powers.
- Today, the EU consists of a common economic area with increased cross-border competition. The economic benefits of integration are distributed unevenly - losers become visible.
- The readiness for "more Europe" is fading, as the member states have very different structures, cultures and visions.
- The global financial crisis and "Brussels bashing" have made the EU - often wrongly - the scape-goat. It is often seen rather as a problem than a solution.
- The EU is a unique attempt to coordinate 27 sovereign states. The decisions are therefore complex and cumbersome.
- A variety of solutions are demanded of the EU - but often it has been given neither the mandate nor the necessary resources by the member states. It must, however, only act within the European Treaties.
- The treaties and decision-making procedures can only be changed by the member states unanimously. In some member states, the consent of the population must also be obtained (referendum). Therefore, an amendment of the treaties is now considered impossible.
- Numerous and significant new problems have arisen which could be better addressed by the EU than by the individual Member States. These include climate change, the positioning of the EU between the USA, China and Russia, migration and asylum, economic inequality and the fight against terrorism.
- Because the member states have such different goals and views on the right policy, the necessary unanimity is only achieved very late or not at all.
- As a result, the EU and its member states are virtually paralysed in the face of current and future challenges.
- The escape from the "unanimity trap" requires a flexibilisation and differentiation of procedures. A number of approaches have been in existence for a long time, such as "enhanced cooperation" or the "opt-out". However, these do not provide the necessary room for manoeuvre.
- A division of the 27 members into fixed sub-groups similar to each other is being discussed ("North-South", "Centre-Periphery", etc.), but would not provide a workable solution.
- This paper therefore proposes the concept of a "coalition of the willing". For this purpose, member states willing to cooperate join forces to tackle jointly selected problems. For this purpose, they organise themselves into "Open Clubs", which can be joined by other 27 states if they wish. They will sign international treaties among themselves without having to amend the European Treaties.
- The concept of the "Open Clubs" makes the states more capable of acting together. The negative side effects could be an erosion of the EU and a fragmentation of the current community.
- Despite the risks, an attempt must be made to overcome the current blockade.

2 What it is about

A wide range of demands and expectations are placed on the EU: It should protect the citizen, bring about economic success, secure peace, control external borders, promote weak regions, ensure respect for European values and democracy and much more. At the same time it should respect the diversity of cultures and views of life and should not interfere with the sovereignty of the member states.

However, the EU is not equipped for these tasks and cannot act effectively and flexibly within the framework of current rules and procedures. Bold steps are needed to further develop European integration, even if there are risks involved.

Citizens ask: "Why is the decision making process in the EU so slow and why is the EU not dealing with the important issues? Is the EU once again afflicted by "sclerosis", which prevents it from meeting existing and new challenges?

This paper presents and critically assesses the current decision-making procedures of the EU. In the face of pressing global and local challenges, the paper explains which issues the EU should address - even though it currently has neither the competency nor the budget to do so. Finally, ideas for a solution to the current blockades are discussed. The "open clubs" procedure is particularly emphasised.

3 How the EU became what it is today

3.1 Narrative of the foundation after 1945

A variety of factors have contributed to the foundation of the EU². After the end of the Second World War, the integration of the six founding members was justified by two "tales": "**No more wars**" and "**Prosperity for all**". These two expectations have only partly been fulfilled - and if they have, it is not only because of integration into the EU. In the 1980s, an additional theme emerged: The "**Euro-Sclerosis**", which supposedly made the European states fall behind in global competition.

3.1.1 War and peace

The vision of the European Union as a peacemaker was based on the suffering and destruction of the Second World War. In particular, the "hereditary enmity" between Germany and France was to be overcome by a new form of cooperation between the peoples. For this reason, the raw materials coal and steel, which are important for military power and industrial potential, were removed from national control and transferred to a supranational authority ("European Coal and Steel Community" / ECSC³). This was to finally overcome the old rivalry between France and Germany over areas that were important for the development of heavy industry. The next step was to concentrate the development of the civil use of nuclear power and its supervision in a European authority (EURATOM). This was also intended to curb the uncontrolled development and proliferation of nuclear weapons in the member states.

The transfer of decision-making power and resources from the national level to a higher, supranational level became the model for a movement that hoped for "more Europe" resulting in less conflict between states and thus **lasting peace**.

² Schneider, H., 2013

³ See also the "Schuman Declaration" of 9 May 1950 (https://europa.eu/european-union/about-eu/symbols/europe-day/schuman-declaration_de; 13.11.2018); Trausch, G., ed.

There have not (yet) been any armed conflicts between EU member states, which is seen as proof that integration works as a peace project. In the period between 1945 and the disintegration of the Soviet Union (1989), however, the East-West conflict, with its "balance of threat" and the dominance of the military power USA in (Western) Europe, also made the **long period of peace** in the European Union possible⁴. Last but not least, the integration of the Western European states - including Germany - into NATO as a bulwark against the Soviet expansionism of the time was a driving force for integration. In the enlargement to the East (2004 and 2007) as well as in the "neighbourhood policy" with Ukraine, Georgia and the Balkan countries, the informal link between NATO and EU membership was again made clear.

It should not be forgotten that the "peripheries" of Europe (the Balkans, the Aegean, Cyprus, the "Near and Middle East", Ukraine) have been and still are unstable. The disintegration of Yugoslavia led to bloody civil wars in the 1990s, whose tensions have not yet been overcome, and the wars in Syria and Ukraine continue. The countries of the EU are affected in many ways. In the context of the new foreign policy under US President Trump, the EU member states must readjust their security policy as well as their military capacity and strategy.

3.1.2 Prosperity for all

The economic promise of European integration was "**growth and prosperity**" through cross-border economic cooperation. The starting point was the economic hardship and destruction at the end of the Second World War. Even after the agreement on coal and steel and on the peaceful use of nuclear power, the markets of the member states were still highly isolated from each other until 1992:

- Imports of goods from EU member states were subject to customs duties or similar restrictions,
- Workers did not have free access to jobs in the other member states,
- the cross-border transfer of capital and investments was regulated and restricted by the state,
- the exchange into currencies of other countries was limited,
- services were subject to strict national restrictions and
- the states pursued policies to protect their domestic industries from EU foreign competition.

Preferential treatment of domestic market participants and thus discrimination against EU foreigners was standard practice.

The opening of goods markets through the introduction of a customs union (completed in 1968) was the first step towards cross-border competition in goods markets; however, the norms and safety standards for goods were still set nationally. Capital, labour and services were not allowed to move freely across borders. It was only with the Maastricht Treaty (1992) that a borderless "internal market" was agreed in which goods, services, labour and capital were allowed to move freely within the EU. In addition, the Euro, which was introduced in 1999, was intended to eliminate the revaluations and devaluations of the various currencies. This ambitious project of market integration, unique in the world, has intensified the economic exchange between the member states, but its "completion" is still pending: There are still considerable hurdles in the field of services as well as in financial markets.

The promise of growing prosperity seemed to be fulfilled by cross-border economic exchange: Unemployment fell, economic growth was high and the hardships of the war and post-war years were overcome for most people. However, the German "economic miracle" or the French "glorious thirty years"

⁴ Calleo, D.P., 2001; Patel, K. K., 2018:296-301

are not only based on economic integration. Rather, the reconstruction of a war-destroyed Europe⁵ and support through US loans (Marshall Plan⁶) also played a role. Public awareness recognised the EU as an engine of economic success - this changed with the financial crisis of 2008 - but the EU still has a strong attraction for the - mostly poorer - candidate countries.

3.1.3 Heal the "Euro-Sclerosis"

By the end of the 1970s, the European Community had made no further progress with economic integration and global competition was putting pressure on the economies of the individual member states. The stalemate in the opening of markets was referred to as "Euro-sclerosis", which was meant to be overcome by more competition in liberalised markets. The economic rationale behind these efforts will be briefly presented here.

3.1.3.1 Why borders weaken the economy

The rules for the production and exchange of goods and services are laid down in laws by the parliament of a state and, ideally, compliance with them is enforced by the courts. The relationship between capital and labour is also regulated nationally by law. Markets and economic relations are built on and limited by regulation⁷. In principle, this regulation applies within a state - other regulations usually apply beyond the border. Economic exchange has been and is hampered by national borders.

Economic exchange across borders involves various costs. They range from customs duties on goods, the need to have your educational qualifications recognised, fees and risks when exchanging currencies, to dealing with other legal systems and country-specific security regulations. At the borders, there is usually a lot of "paperwork" that needs to be done, which leads to additional work and waste of time. These costs of crossing the border come on top of the domestic costs. Producers, employees and customers therefore concentrate on the domestic market, which - depending on the size of the country - offers too small a market volume to be efficient.

However, a market as large as possible is an essential competitive factor, especially for producers in large-scale industry: the more units of a product are manufactured, the lower the fixed unit costs are. If the market now ends at the national border, a separate product variant must be manufactured for each foreign market in order to comply with the respective national regulations: thus the cost advantage of growing market size cannot be used. Moreover, industrial production cannot be organised on a trans-national basis: Neither intermediate goods nor labour from countries with lower wages can be brought into the country to reduce domestic costs.

3.1.3.2 "Internal Market" and the EURO as a way out of stagnation

In the 1980s, the large industrial companies in the advanced industrialised countries of Europe were under global competitive pressure from producers in the USA and the emerging "tiger states" (Japan, South Korea, Taiwan, Singapore, Hongkong) and threatened to be squeezed out of important markets. They were therefore looking to expand their respective national markets through borderless economic transactions between the member states. The Round Table of European Industrialists (ERT)⁸, the lobby group of major European companies, advocated the opening and liberalisation of markets across the EU. The internal market thus became an element of globalisation, as accelerated by the collapse of the Soviet Union (1990s) and the opening of China to a capitalist market system (1980s). With the

⁵ Lutz, B., 1969; Jánosy, F. 1971; Eichengreen, B. and A. Ritschl, 2009

⁶ Maier, C. C. and G. Bischof, eds. , 1992

⁷ Egan, M. P., 2001

⁸ Cowles, M. G., 1995; ERT European Round Table of Industrialists, 1999

introduction of the Euro, the exchange rates that make economic exchange more uncertain - at least for those countries whose currency has often been revalued - were to disappear.

3.2 What kind of EU do we have today?

The EU member states are fairly similar in some areas, while at the same time they show a huge diversity in others. What profile has the current EU acquired as a result - what is dealt with jointly - what is left to the member state?

3.2.1 Integrated markets and common currency

In 1992, the member states of the EU agreed on an Economic and Monetary Union (EMU) with the Maastricht Treaty. This encompasses the complete opening of markets for goods, services, labour and capital as well as the introduction of a common currency. This was accompanied by the prohibition of preferential treatment of domestic players and discrimination against EU non-national players. This removed, for example, the priority given to domestic workers, subsidies to domestic enterprises and protection for domestically produced goods. There were also attempts to push back the state as a provider of goods and services by means of extensive privatization. The intended consequence was an intensification of competition in all markets. Although the internal market has increased overall economic prosperity, these gains are not distributed evenly and some sectors and regions, and therefore the people affected there, are losers of economic integration.

Negative consequences of the intensified cross-border competition are particularly noticeable for workers in the previously richer member states. When production is relocated, jobs are lost and the immigration of workers puts pressure on local wages. Less qualified workers are usually particularly affected by this. In services, too, cross-border competition can lead to the displacement of previously protected workers, as shown in the case of truck drivers. The general situation in the previously poorer countries is improving by integration into the internal market; however substantial hardship did and still does result from adaption to increased competition. Put simply, the vulnerable workforce in the poor countries competes with the vulnerable workforce in the rich countries, while companies and workers with a secure market position benefit, as do consumers for whom the products become cheaper.

The losers of the fiercer competition are left to the care of their respective states. The EU has neither the mandate nor the means to take care of the weak and disadvantaged⁹. This is why it is also called the "neo-liberal project".

One less appreciated positive side effect of the internal market is the agreement of uniform standards in important areas of life, such as occupational health and safety, environmental and consumer protection or product safety, which prevents a "downward spiral" in these areas.

The Euro¹⁰ was introduced as a "political project" whose symbolic power should unite the peoples of the EU. The economic rationale in favour of a common currency is controversially discussed in the scientific community. As the price for adopting the Euro, governments must limit their deficits and debts in order to be able to maintain access to the capital market at reasonable interest rates. Additionally the devaluation of the currency as a short-term, convenient alternative for increasing competitiveness is no longer available.

⁹ Social policy remains the responsibility of the member states and the EU's "globalisation fund" has only a very small budget.

¹⁰ Brasche, U., 2017:201-265

Before the introduction of the Euro, each member state of the EU had its own monetary policy and was thus able to use lending rates and the exchange rate as an instrument for steering the economy. The individual states had different attitudes towards the stability of money and the solidity of the national budget¹¹ - however, each country had to cope with the economic advantages and disadvantages of its financial and monetary policy itself. With the adoption of the Euro, the interest rate and exchange rate are no longer at the disposal of national economic policy. In addition, each Euro country must comply with strict rules to limit public deficit and debt. In countries that find it difficult to comply with these rules, the single currency is often - in my view erroneously - perceived as the cause of economic problems: The Euro is being made the "scapegoat" for the failure of national policies.

3.2.2 Different societies

The EU brings together states that each have their own history, culture, mentalities, economic and social structure, economic power, socio-political views and governance¹². For example, there are differences in the level of taxation, the size of the public sector, the coverage of social security systems (health, unemployment, pensions) and the population structure and its development. Strengthening future competitiveness through investment in education, research and innovation remains largely the responsibility of each member state. But poorer countries in particular have fewer resources to do so. Existing differences in material prosperity are thus perpetuated.

Joint political shaping of societies and their coexistence at European level is difficult when the conditions and ideas are very different¹³. If compliance with already agreed rules is monitored from the EU level, this often has a negative effect on the EU's image: the hardships that can result from these rules are negatively attributed to the EU. An example is the Stability and Growth Pact of the Euro, which limits the deficits and debts of the state (austerity) and thus supposedly cements unemployment.

Despite an internal market and the prohibition of cross-border distortion of competition, the member states compete against each other in the taxation of companies (tax havens, flat tax) - the member states could not agree on a harmonisation of taxation. Not even the shift from unanimity to majority voting on tax matters could be achieved in the Council.

The individual member states have sovereignty over wages, labour and social security legislation. Some high-wage countries blame low-wage countries for "wage dumping" or "social dumping" - combined with the demand for an increase in wages and social benefits in the countries with lower levels. But if wages were raised too quickly, companies would no longer be able to survive in the market and jobs would be lost again in these countries.

3.2.3 From vision to scapegoat

The promise of "peace through integration" fades with the memory of war; for the coming generations the possibility of military conflict within the EU seems completely unthinkable. The narrative of "prosperity through integration" had great appeal as long as economic development in the member states promised a better economic future for all. However, the more the losers of integration became visible and especially after the financial crisis of 2008, this promise lost credibility.

The actual positive results of integration are often masked by justified and false criticism of the EU today. Usually a wishful thinking is compared with the EU as it actually is - the difference between the two leads to disappointment. In addition, unrealistic promises by EU players (Commission, Parliament) fuel frustration. Various pictures of an EU that would be the desired one, are painted in the

¹¹ Brunnermeier, M., H. James and J.-P. Landau, 2016

¹² Raines, T., et al., 2017; Alesina, A., et al., 2017; Middelaar, L. v., 2019

¹³ Spolaore, E., 2013, 2015b

member states, by political parties and social groups. Those pictures, however, are also constantly changing over time and, furthermore, are contradictory to each other, which would render it impossible to be fulfilled at the same time. Often, in the public debate, the expectation or promise is that the EU

- protects against globalisation and cares for the vulnerable,
- needs less money, but performs better,
- funds projects generously, but does not interfere with the member states,
- takes up national interests but does not demand compliance with the rule of law.

The following actual or perceived shortcomings of the EU are repeatedly addressed in the public debate in the media, parliaments and civil society

Fight for money

With the Eastern enlargement of the EU by 10 new members (2004, 2007), the already sharp conflict over the "net contributors" to the EU-budget intensified further: Which country pays how much into the EU budget and how much can it expect to get back? The intensity of the dispute is not rational given the relatively small scale: only 1% of GDP goes to "Brussels". The European vision was more and more displaced by the mindset of shopkeepers who wanted to get as much as possible back from the common purse. Legendary is the then British head of government Thatcher, who demanded "her money back". But the benefits of European integration lie in the freedom of the markets and peaceful cooperation between states, not primarily in the fairly small EU budget. This is not appreciated in the dispute.

Until now, revenues and expenditures of the EU are allocated by unanimous decisions of the member states. To avoid the dispute over net payments, the EU could be granted its own tax sovereignty. Some even want the right for the EU to incur debts on its own - which it has so far been forbidden to do. However, there is no agreement among the member states on all these plans, as they would then have to give up their veto rights in financial matters.

False stories and scapegoats

Another image problem of the EU results from the spread of false stories, such as the directive on the curvature of cucumbers. Although there was such a directive, it was only introduced by the EU Commission at the request of vegetable wholesalers: Classification and standardization helps with trade. When the directive was abolished because of the constant mockery, the dealers protested. There are many such examples¹⁴ - but of course not every criticism of European (over-) regulation is unjustified. The EU Commission has started its "REFIT / Better Regulation" project¹⁵ to remove unnecessary bureaucratic burden.

"Those in Brussels have decided on nonsense again - and we must implement it". This sentence can be heard from politicians who have just returned from Brussels, where they were involved in this very decision. But it is easier to point the finger at "Brussels" among the electorate at home than to explain complicated but generally useful European directives. If you want a European market, then European standards are necessary. These always represent a compromise, which is denounced by opponents of the EU as a loss of national autonomy. This was done extensively and successfully in the campaign on BREXIT.

¹⁴ See <http://4.brasche-europa.de/krumme-gurken-und-ol-kannchen/>

¹⁵ European Commission, 2018b

The European Commission (2017b:12) notes: *"The fact that problems are blamed on "Brussels" and that successes are basically booked for themselves, that there is a lack of personal responsibility for joint decisions and that the blame is habitually always put on others has already caused damage"*.

Particularly problematic are, for example, the campaigns in Hungary, where the head of government, Mr Orban, accuses the EU as a whole, and especially some of its leaders, in an inappropriate and slanderous manner in order to fuel the resentment of some sections of the electorate and make domestic political capital out of it. The long-term damage of such "EU-bashing" was shown in the voting behaviour on BREXIT, which is partly due to the systematic poisoning of the climate by some media and the lies of some politicians.

Rescue or attack?

With the financial crisis that broke out in 2008 and has not yet been overcome, hopes of prosperity have been dashed in some countries. The EU Commission, the European Central Bank and the IMF together ("Troika") saved the EU members Greece, Spain, Portugal and Ireland from national bankruptcy when they were no longer creditworthy on the capital markets¹⁶. This was associated with conditions on budgetary discipline, which had painful side effects for the population. That is why the EU - especially in the crisis countries - was not perceived as a saviour but as an aggressor and the cause of the problems. It was blamed for unemployment and loss of national economic autonomy.

It is debatable whether all the Troika's measures were appropriate and helpful, but it is undisputed that the causes of the problems lay in the crisis countries themselves and in the international financial system. In my opinion, the Euro and the EU were not and are not the cause of the economic problems.

Disappointments

There are many expectations directed at the EU, some are disappointed. This is either because the EU has promised too much or is not able or not mandated to deliver. Up to now, European integration has concentrated primarily on the liberalisation of markets. The EU can only provide limited protection against internal (terrorism) and external threats (military threats, cyber war) or uncontrollable immigration (refugees, asylum). The protection of the weak through social benefits (unemployment benefits, pensions, social assistance, help for young people) can't be provided by the EU, or only to a cosmetic extent: it has neither been given the mandate nor sufficient resources for this by the member states. Nor can the EU pull the economy out of recession or even out of a crisis - any more than the individual member states can do this.

... and yet

Despite all justified criticism, the EU is a precious historical achievement. With the network of institutions and agreements, the states have created a platform on which they can negotiate compromises in a peaceful and civilised manner. Before that, secret diplomacy and changing alliances of states were often linked in an attempt to dominate the other side - also militarily.

Despite this positive assessment, the "stars of the EU" are fading: EU-sceptical groups or parties have emerged and some of them participate in power through elections. The referendum on BREXIT even led Britain out of the EU. Nevertheless, the EUROBAROMETER shows a high and again increasing

¹⁶ Brasche, U., 2017:251-265

popular approval of the EU in most member states. The younger and better educated the respondents are, the higher this rate is¹⁷.

4 Who makes decisions in the EU?

The media report on endlessly long meetings in committees that laboriously find compromises behind closed doors. This process can be understood by specialists only – if at all. The average well-informed citizen wonders why the "right" decisions are not taken quickly in the EU and why the EU does not give priority to the most important issues. The following therefore briefly explains who is dealing with whom and about what. It will become clear that this decision-making system needs to be improved if the EU is to tackle and solve important tasks quickly and successfully in the future.

4.1 Many players on the field

On the "playing field of Europe" many players cavort and each tries to bring in the interests of his group

- The 27 member states
- The European Commission
- The European Parliament
- The Council of the European Union
- The European Central Bank
- Interest groups, lobbyists

There is no hierarchy among the players, i.e. there is no superordination or subordination like in a company, the military or an public authority. On the "European playground" many – often opposing - interests must be constantly balanced. The complex and opaque institutional setting of the EU is made for this purpose.

4.1.1 The EU power triangle

The EU is an association of sovereign states that have committed themselves in treaties to do certain things together, while in all other fields each state acts on its own. The member states have created institutions by EU treaty in which they negotiate and decide on matters where they have agreed on joint action. A consensus is to be reached between the member states and the EU as a whole. The institutions Council, European Council, European Commission and European Parliament together form a sensitive system of power and counter-balance of power, which ultimately always leads to compromises in which different interests and influence are expressed.

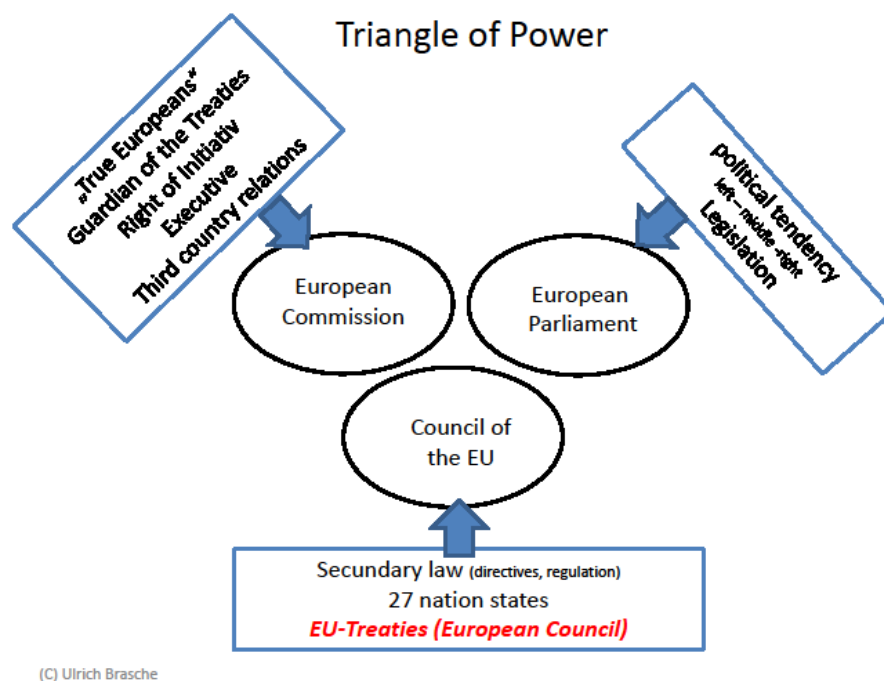
The negotiations and decisions are hardly transparent for the citizens. Here, the most important participants will be briefly introduced so that it becomes clearer who represents which interests and what limits exist for their enforcement.

4.1.1.1 The „true European“

The **European Commission** is responsible for protecting the overall interests of the EU. Although their members come from the member states, they do not have to perform their duties as representatives of their country of origin, but are supposed to be Europeans only; they must not accept instructions from the member states. This is particularly important in the following tasks of the Commission:

¹⁷ Europäische Union, 2019

- **Right of initiative:** The Council and the European Parliament can jointly adopt legislation, so-called secondary legislation in the form of directives or regulations. In order to prevent the creation of European law that serves the interests of (powerful) groups but violates the spirit of European integration, only laws proposed by the European Commission may be put to the vote.
- **Guardian of treaties:** If member states or companies violate European law, the European Commission can and must prosecute this and ultimately take the case to the European Court of Justice.



The independence of the Commission from national interests is an important concept and has in principle proved its worth. However, the independence of the Commissioners is repeatedly attacked.

4.1.1.2 The representatives of the member states

Member states meet in two configurations to negotiate and take decisions in European matters. In both bodies, compromises must be found that take into account the interests of all member states to such an extent that at least a majority can agree. These bodies do not bring together "Europeans" but representatives of their states. Negotiations and positions are often to be understood only in terms of the political situation "at home", where voters and interest groups expect government representatives to push through national interests "against Brussels".

Council of the European Union: At the working level, substantive issues are negotiated, such as transport, agriculture or regional development. To this end, the respective ministers from the individual member states meet in the Council of Ministers - also known as the Council for short. To support the Council, there is a body of officials (COREPER) in Brussels which prepares the Council's decisions both technically and politically. The Council also has a major role in the adoption of new European directives and regulations (secondary legislation).

European Council: When politically sensitive and fundamental decisions have to be taken, it is not the ministers but the Heads of State or Government who meet in the European Council. It is here, for example, that the European treaties, the primary law of the EU, are concluded and all issues are negotiated that cannot be resolved at the working level of the specialist ministers. The European Council plays a decisive role in dealing with crises such as the financial crisis and the resulting threat of financial bankruptcy of some EU member states. In unscheduled rounds, it was primarily the leaders of the powerful member states who initiated new solutions in "fire-fighting actions". Examples are the "rescue parachutes" (EFSF, ESM) and the Banking Union. Even in the so-called "refugee crisis" (2015), there were no workable solutions at European level, so that the bosses had to seek ad hoc ways to take joint action.

4.1.1.3 The political colours

There are very different political ideas about the shaping of society and the economy. These are traditionally organised in a "left - centre - right" spectrum of parties. The parties are - depending on the election results - represented in the parliaments of the member states and contribute to organising the political decision-making of the population in the respective country. At the European level, the **European Parliament** has been assigned this function for the EU as a whole. It is organised in parliamentary groups combining national representatives. However, this Parliament differs both from its national "model" and from the ideal that it aspires to:

- The election campaign for election to the European Parliament is conducted nationally and not Europe-wide and the candidates are drawn up and elected in their member states; there are (still) no EU-wide lists and transnational issues.
- The European Parliament does not have exclusive legislative powers, but can only adopt new EU legislation on the initiative of the European Commission and in consensus with the Council.
- The European Parliament cannot drive the political development of the EU on its own initiative and cannot determine its direction in a decisive way; this is done by the Commission with its right of initiative for EU legislation and by the European Council in the revision of the European Treaties or in the ad hoc solutions of acute problems for which there is (still) no EU-wide regulation.

The European Parliament and its interaction with the other EU institutions deviates significantly from the traditional blueprint of the separation of powers in a state. The accusation of a "democratic deficit" of the EU is based on this. However, it is controversial whether this otherness of the EU's setting is to be considered a deficit¹⁸.

4.1.2 Guardian of the Euro

Under pressure from Germany, the **European Central Bank (ECB)** was modelled on the Deutsche Bundesbank. Its sole purpose is to ensure the stability of the Euro, irrespective of political influence and without taking account of national interests or the concerns of individual sectors. The ECB's objective is defined as an average inflation rate in the Euro area of close to but below 2% per year. In pursuing this objective, it must not shy away from a slowdown in the economy and thus an increase in unemployment.

This concept of an independent central bank, which contributed to Germany's economic success after the Second World War, was and still is controversial in the EU: Some countries - e.g. France - want to subject monetary policy to democratically legitimised government control, while others - e.g. Germa-

¹⁸ Brasche, U., 2017:49-54

ny - want to remove the government's access to the "money printing machine". Although Germany has prevailed with its concept in the beginning, later the ECB has drifted into a new role due to the financial crisis:

- The ECB has brought about the rescue and stabilisation of the financial system by facilitating the financing of banks and, indirectly, of governments. The reduction of the key interest rate to zero and the extensive purchase of government and corporate bonds were the instruments for this.
- In July 2012, ECB President Mario Draghi pledged to "do everything possible to save the Euro"¹⁹ by agreeing to provide unlimited liquidity to countries in financial distress. In this way he prevented the collapse of the over-nervous financial market and thus of Western capitalism as a whole.
- In the newly created Banking Union, the ECB has taken over banking supervision, as no new institution could be created for this task without amending the EU Treaties - but amending the Treaties is almost impossible. Conflicts of interest may arise between the original task of the ECB and the new task of banking supervision, which may call into question the independence of the ECB.

In doing so, the ECB has extended its mandate - perhaps even exceeded it - and has become a player in the economic and financial policy wrangling to stabilise the financial industry and prevent (further) national bankruptcies. Since it has stepped in to compensate for the failure of member states' fiscal policies, it is no longer apolitical. It has no choice but to deny this publicly.

4.1.3 Interest groups

Hard to grasp, but probably of considerable influence, are the many lobby groups in Brussels and Strasbourg. This includes a broad spectrum of civil society groups on topics ranging from the environment, health, gender equality or refugee policy to representatives of individual sectors, companies and regions. They work at all levels of the European institutions to bring their views and interests to bear in decisions, right up to the legislative stage. Although lobbying has a rather poor public image, it generally makes sense for legislators not to make their decisions detached from the people concerned. The specialised expertise of lobbyists can also help to improve decisions. The transparency of influence for the public is central, as is an "level playing field" of different social groups in lobbying. Neither is given.

4.2 What is decided at what level?

4.2.1 Only within the limits of the Treaty

The European Treaties (primary law) are fundamentally the common basis enabling cooperation between the member states. They regulate what the EU can do and who should do it and how. In particular, it lays down the rules under which voting on various issues in the EU takes place. The treaties apply equally to all member states. They are known by the name of the city where the heads of state and government met to sign the treaties (Rome 1957, Maastricht 1992, Amsterdam 1999, Nice 2003, Lisbon 2009, among others). Before signing, there were usually long months and nights of negotiation until a compromise was found that could be supported by all. However, the renewed Treaty needs more approval before entering into force: the parliaments of all member states have to give their assent and in some countries a referendum is mandatory. It happened that the people of a country did not follow the will of their parliament and government and rejected the treaty - it then failed. This happened e.g. in 2005, when the people of Netherlands and France rejected the proposed treaty.

¹⁹ Draghi, M., 2012

This long and arduous process leading to unanimity is now being shunned. If a new solution to a problem would require an amendment to the treaties, this is avoided and detours are sought instead: Examples of this are the transfer of banking supervision to the ECB instead of to a new, independent EU authority, or the establishment of the ESM ("rescue shield") outside primary legislation in an international treaty.

4.2.2 Searching for majorities

While the EU Treaties lay down the basic structures and procedures for cooperation, the details based on them are laid down in **directives and regulations**; these form the EU's **secondary legislation**. It must comply with the EU competences assigned in primary law, but can interpret and specify them. The subtleties of secondary legislation determine the concrete effects of EU law in countries, regions and industries. Therefore, its formulation is often fiercely contested. Secondary legislation is adopted jointly by the Council of Ministers and the EU Parliament on the basis of a proposal by the EU Commission (sole right of initiative), so that a balance must be struck between the member states, the European Commission and the EU Parliament.

Majorities in the Council of Ministers

The votes in the **Council of Ministers reveal** the often divergent interests of individual member states. The EU Treaties specify the voting procedure for each issue. The main features of this will be described below.

There are different **thresholds** at which a majority in the Council of Ministers is reached for a legislative proposal.

- If **unanimity** is required, each member of the Council of Ministers must agree, i.e. each country has a veto position by which it can block a decision. Unanimity is required for sensitive issues (finance, foreign and security policy, enlargement, social security, sanctions for breaches of EU values, etc.).
- If a **simple majority** is required, each country - regardless of its size - has one vote. If 14 out of 27 members agree, the proposal is adopted. This procedure hardly plays a role anymore.
- A **qualified majority** is achieved if the members of the Council from the majority of the member states agree and in addition at least 65% of the EU population lives in the agreeing states. Mirroring the qualified majority, a relatively small blocking minority is sufficient to make a proposal fail. This procedure is mandatory for most topics. It is always a source of conflict when member states cannot accept that they have lost the vote and still have to follow the law. This was particularly striking in the vote on the distribution of refugees in the EU (22.9.2015): Some states refuse to implement the legally binding decision, which has been confirmed by the ECJ.

The **European Parliament** decides by simple majority on legislative proposals that have been approved by a majority of the Council of Ministers and then forwarded to Parliament. The Parliament shapes its majority formation along political groups. However, members of parliament also represent the interests of their country of origin where they were nominated for election.

Ping-pong between Council and Parliament until a decision is taken

Neither the government representatives in the Council nor the European Parliament can adopt a law alone. If the two bodies do not reach agreement in the first step ("first reading"), they may seek agreement on an amended proposal in four further steps. If in the end no compromise can be found

that the Council can agree to by a clear majority and the EU Parliament by a simple majority, the legislative initiative has finally failed.

Trilogue as a new procedure - little transparency

In order to make the process of reaching consensus on the creation and adoption of a European law (directive or regulation) more efficient and shorter, it is explored whether all sides could possibly agree before the formal procedure is started. The aim is to identify as early as possible which draft law all parties involved can probably agree to. The necessary discussions between the EU Commission, the Council of Ministers and the European Parliament (trilogue) take place outside the official procedure in informal circles. They are therefore criticised as non-transparent "backroom rounds". In 2016, the European Ombudsman has made proposals to achieve greater transparency.

4.3 How good is this decision-making system?

4.3.1 (Too) Slow but peace building

The process leading up to the adoption of European legislation (secondary legislation) goes through numerous steps before a decision is taken, which serve to find compromises. This process shows that the EU is not an organisation with a hierarchical structure of "top and bottom", but a balanced system of negotiation and consensus-building. The advantage of this system is that it enables peaceful agreement among states with different interests and unequal political power: "The EU is a negotiated system for further negotiations"²⁰. In the "normal case" the system is stable and functions adequately. The price for this approach is firstly the slowness of²¹ the process and secondly the agreement on the lowest common denominator. Compromises are seldom clear and unambiguous solutions, but they can be supported by all parties involved. In view of the warlike history of European states, this path of consensus-building must be highly valued as an achievement of civilisation.

"Fire fighting" actions and crises

The critical shortcomings of the slow process described above become evident when a rapid response and the use of previously unavailable instruments are required, as is the case in crises. The European Treaties contain rules for the "normal case" of political interaction - crises are not foreseen in them²². The financial crisis required a rapid response and the creation of new instruments. The traditional decision-making process was too slow, resulting in the formation of ad hoc groups, initiated and dominated by the leaders of a few powerful member states. This gave rise to the powerful troika (ECB, IMF, EU Commission), which is not anchored in European primary law, the ESM as a new institution of growing importance, and the Banking Union with a problematic special role for the ECB.

In 2015, the so-called "refugee crisis" showed that the EU did not have the common will, the power or the instruments to organise a common approach. Instead, states have taken action individually, creating a *fait accompli* for the community. When the Council then decided within the scope of its powers - albeit not unanimously - to distribute refugees among individual member states, not all member states accepted and implemented this legal decision, which was confirmed by the EU Court.

²⁰ Bolle, M., 2011

²¹ Chancellor Merkel in Davos on 23.1.2020: "...but Europe is much too slow. We must overcome this slowness, otherwise we will not become a geopolitical factor; we know that.

²² Middelaar, L. v., 2019

4.3.2 In the trap of unanimity

The EU is not a static or even ready-made structure: in addition to the expectations and challenges of the six founding states of the 1950s, there are new demands and tasks of the current 27 members in a globalised world. The distribution of tasks and responsibilities between member states and the EU must be adapted and the EU budget does not meet the current requirements, and less so of future challenges. In other words, a far-reaching restructuring and expansion of the EU must be negotiated, decided upon by and constantly developed between the member states. This also includes the entire decision-making system.

There is broad agreement among the member states on the need to further develop the EU and make it more flexible. Finally, an adaptation of the European Treaties, the primary law, must be accomplished. Herein lies the decisive hurdle: Primary law can only be amended unanimously and it is not enough for the heads of state and government to agree, since in some countries the population must necessarily approve the amendment in a referendum. This was never easy and always took years, but it succeeded again and again (1951, 1957, 1967, 1986, 1992, 1999, 2003, 2009).

In 2005, a revision of the treaty was put to the vote, with the aim of adopting a "Constitution for the EU". Negotiations had been underway since 1999, and the vote failed in two countries (France, Netherlands) due to rejection in a referendum. In other member states where no referendum was required, there would have been no prospect of a majority support from the electorate. Since then, a further amendment of primary law has been considered impossible and political leaders have not taken any initiative to overcome this deadlock in order to create a more appropriate primary law.

Ways out hardly possible within the current law

This criticism of the paralysis of the reform process is not shared by those who point to a new clause in recent primary legislation (Lisbon Treaty, 2009): The **passerelle clause** in Article 48,7 makes it possible to move from the unanimity procedure to the qualified majority procedure without having to go through the cumbersome procedure of unanimously amending primary law. However, the transition to majority voting can only be decided unanimously in the Council: in some countries, the national parliaments must also give their prior consent. Furthermore, this approach is not allowed for all policy areas. So this path cannot lead out of the blockade.

Conclusion

The EU as a whole, with its decision-making system, is caught in the trap of being forced to reach agreement among all members. It is therefore neither able to correct existing shortcomings of the current structure by amending the European Treaties, nor to provide timely and comprehensive common responses to crises and new challenges. This paralysis renders the EU incapable of action in essential areas and thus threatens its sustainability.

5 Where should the EU act?

5.1 (Future) challenges for the EU

To date, the EU has developed into a crisis-tested association of member states, placing markets and currency in particular under a common set of rules. The integration process took place against a background of considerable upheaval. Changes in technology, society, the economy and politics have had an impact both globally and in the member states. Not least the collapse of the "Eastern Bloc" and the

integration of a rapidly growing China into the world market have changed the conditions for business and politics.

The EU's structures and procedures have not been and are not ideally suited to manage and cope with the continuing dynamics of change. Changes will continue to take place at local, national and global levels: The table lists a part of it. The question that arises in the following is how the EU must develop in order to play a positive role for the people in the member states.

Present and future challenges	
Global challenges	
<ul style="list-style-type: none"> • Demography: EU is ageing and shrinking - Asia and Africa are growing • Transformation in the "East" after the collapse of the Soviet Union • Economic and political rise of China • Global value chains are being rearranged • Inequality and precarious living conditions in densely populated regions of the world increase migration pressure to Europe • Climate change requires de-carbonisation and lifestyle changes • Overuse of the planet; fair access to its resources (raw materials, energy, water, ...) and waste management • End of the bi-polar world order (USA - SU) and reorganization of power systems • Rule-based international order is pushed back by bi-lateral relations ("Trump effect") • NATO loses importance for Europe 	
Challenges in the member states and their "neighbourhood"	
<ul style="list-style-type: none"> • The narrative of the EU ("peace and prosperity") is losing its binding force; a new one has not (yet) been found • Globalization and increasing competitive pressure unsettle and lead to "Retrotopia" (Z. Baumann) and nationalism • Division (city - country), opponents and supporters of modernization • Populism, anti-EU sentiment • Erosion of the community of values and the constitutional state ("Il-liberal democracy", erosion of the constitutional state and freedom of the press, autocracy, oligarchy, corruption) • growing inequality within / between member states • A feeling of growing threats raises uncertainty (terrorism, migration, ...) • Separatism in some member states • BREXIT and its political and economic consequences • Financial crisis not yet overcome (over-indebtedness of states, non-performing loans in banks' balance sheets, ...) • Poor governance and resistance to reform • Technology (digitalization, ...) erodes previously strong industries • Tensions and (military) conflicts "next door" (Ukraine, Syria, Balkans, ...) 	
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5.2 Locally, nationally or by the EU Community?

How must the EU change to respond more effectively to future challenges? To shed light on this question, a set of criteria is offered to help decide which policy areas should be taken on by the EU. Today's division of responsibilities between the EU and its member states has grown historically. It reflects the compromises that were possible between the member states and then enshrined in primary law. In the following we therefore ask how the tasks could be optimally distributed - irrespective of the political feasibility of such a distribution.

The table lists criteria for an economically reasonable distribution between the local, national and European levels. These criteria, which political economy provides us with²³, are to be understood rather as a tool for reflection: Neither the decision nor the political implementation could be controlled by those criteria alone - this is explained in chapter 4.3.3 further.

Allocation of competences between member state and EU	
National, local responsibility	Central (EU) competence
<ul style="list-style-type: none"> • Local preferences • Information asymmetry • Democratic control 	<ul style="list-style-type: none"> • Economies of scale • Public goods • Cross-border effects • Absorbition of local shocks • policy failures, free riding
Source: Brasche, U., 2017:6	

5.2.1 Regulating rather on local or national level

If one of the following criteria applies, the respective policy area should not be the responsibility of the EU, but should remain at local or national level.

Local or national preferences

In many regions or nations of the EU there are different ideas about how society should be shaped and what political solutions are appropriate. This reflects the diversity of the EU, which must be respected. Solutions to these problems should therefore also be found locally. For example, the individual member states each have their own ideas about the "right" foreign policy, so that they cannot decide on joint military action. Also, the idea of a religious and cultural "purity of the nation" may lead some countries to refuse to accept people from a different background, while other countries accept – or even appreciate - more diversity.

Information asymmetry

The local players are better informed about local problems than decision-makers in "far-off Brussels". Centralisation would apply "one-size-fits-all solutions", which may be less appropriate. A simple example is the construction standards for workplaces: While in the south, the windows should be as small as possible to protect against the heat, in the far north people want to get the scarce day light to their workplaces through the largest possible windows. Furthermore, the provision of local infrastructure can also be better decided by local actors: These have an information advantage over a more distant, central institution.

Democratic control

Political action in a **democracy** is subject to the control by the **voters**. They shape politics by giving or shifting their vote or even by "voting with their feet" - i.e. by emigration. The closer the contact between voters and the elected and the smaller the electoral district, the more direct this democratic control can be. With centralization, this effect is correspondingly weaker, especially since the votes of a region lose electoral clout when cast in a much larger entity.

²³ Wyplosz, C., 2015b:22; Badinger, H. , 2018; Alesina, A., et al., 2005.

5.2.2 Regulation rather on EU-level

If at least one of the following criteria applied to a policy area, it would be economically rational to have the relevant measures implemented centrally by the EU rather than nationally. This involves the transfer of decision-making authority from the national level to the central office. This has so far been the case, for example, with monetary policy or competition policy.

Economies of scale (“Big is beautiful”)

If a task is performed better or more efficiently in larger units, cross-border cooperation is preferable to national solutions. Here, similar economic mechanisms apply as in the case of the superiority of large companies over small companies. The creation of common technical standards or the development, production and use of large-scale technical equipment are examples of economies of scale.

Public goods

If, firstly, the usability of a good or service does not diminish, if the number of users increases and, secondly, no one can be excluded from its use even if they do not contribute to its financing, it is a public good (not to be confused with goods and services provided by the public sector). National defence, border security or economic management are examples of this. Such a constellation invites states to refuse to contribute to the costs of an international public good: They are “free riders”, as they cannot be excluded from the benefits²⁴. A recent example is external border security and the asylum crisis.

(Negative) Cross-border effects

If the actions or omissions of residents in one country have economically significant negative effects beyond national borders, the rules for limiting damage can no longer be established and enforced by one country alone. This is obvious in the case of climate change and environmental protection, but applies to many other policy areas - such as the regulation of the financial industry and the fight against crime.

Insurance against local shocks

Adverse events usually have a locally limited effect. Such shocks can be better cushioned by collective insurance. Examples are bank failures or natural disasters that would hardly be bearable for the affected member state alone. However, such common coverage presupposes that the risks are not asymmetrically distributed, but could affect each country equally. Neither should the joint insurance lead to a reduction in the risk provisioning of the individual countries (“moral hazard”).

Policy failures and free-riding

If policymakers in one country could act selfishly and thereby accepted consequential damage in other countries (“cross-border effects”), it would be rational to place these policy areas at the central level. This is also true when countries fail to make their own provisions and efforts because they rely on the expected contributions of others (“free riders”). Examples include the financing of measures to limit migration and banking supervision.

²⁴ Fuest, C. and J. Pisani-Ferry, 2019

5.3 Additional tasks for the EU

The current allocation of tasks to the European level does not follow a rational concept. The distribution of tasks therefore should be changed: Some tasks could be returned to the member state, while the EU would have to take over such tasks from the member states, which could be better dealt with jointly according to rational criteria. In the following, it is shown how the member states could transfer new tasks to the EU. Furthermore, it is debated whether the EU has not already been given too many competences. It is outlined what additional tasks are involved and why these have not (yet) been transferred to the EU.

5.3.1 Allocation of its tasks

At the starting point of European integration, all responsibilities for regulating social, economic and political problems lay with the respective member state. The parliaments passed laws as the basis for the actions of all parties in the country. The first step away from exclusively national competence to joint competence was taken with the establishment of the European Coal and Steel Community (ECSC). All other tasks performed by the state remained unchanged in national hands. With the further development of the European Treaties, more tasks were transferred from national competence to either a mixed competence, in which the member state and the EU are jointly responsible, or to the sole competence of the EU²⁵.

The transfer of new or additional competences from the member states to the EU requires a unanimous revision of European primary law. Under no circumstances should the EU be allowed to choose for itself what issues and problems it wants to address and how much money it wants to spend on them. Rather, it may only act where competence has been transferred in primary law and only use the resources allocated to it by the member states. The member states keep a close eye on this to ensure that the EU does not transgress its competences.

In close connection with the tasks, an appropriate budget should be made available. This is where the expectations of the EU's performance are calibrated: the budget amounts to slightly more than 1% of the national product of all member states. Of this share, about 40% is earmarked for the common agricultural policy and about 30% for the support of disadvantaged regions. The allocation and use of funds is also decided unanimously by the member states and is fixed for a period of seven years.

The distribution of tasks and budget is the result of political compromises between all member states. As a result, the EU does not necessarily carry out the tasks that would be best in its hands (more on this in section 5.3.3). If the EU is not allowed to address the issues that citizens expect it to address - such as social welfare and protection - it will result in further disappointment.

5.3.2 Does the EU already have too many competences?

Before considering new competences for the EU, it is important to address the frequently heard criticism that the EU has already taken on too many competences. This allegation was verified in three activities:

- The then Prime Minister of the British government, David Cameron, wanted to substantiate this criticism and the rejection of his country's EU membership. In 2003, he had the laws of the EU, which bind the member states, investigated. The aim was to identify those policy areas that would be better returned to the member state. Overall, the results of this study showed

²⁵ Brasche, U., 2017:6-14

that there was – not even in the UK - no significant criticism of the current division of tasks between the member states and the EU²⁶.

- The head of government of the Netherlands, Mark Rutte, argued that the EU should concentrate on fewer tasks. A study commissioned by him should identify the tasks that should be transferred back to the member state. But the Netherlands also accepted the current division of labour and in 2013 listed a few areas in which future EU legislation should give the member states more leeway²⁷.
- The EU Commission under its President Jean-Claude Juncker has launched an initiative "Better Regulation" from 2012 and has reinforced its objective in the "White Paper on the Future of Europe" (2017) with the scenario-4 "Less but more efficient". New regulations should be reviewed for their necessity and appropriateness as they are created²⁸.
- The principle of **subsidiarity** is enshrined in the European Treaties. It stipulates that the EU may only take action where the national level cannot act at all or cannot act efficiently. In addition, the Lisbon Treaty (2009) gave national parliaments the opportunity to defend themselves against "encroaching" legislative initiatives. However, little use is made of this option²⁹.

Summary: There are no calls for a significant withdrawal of the EU from existing competences. The accusations of an excessive transfer of competences to the EU could not be proven by the critics.

However, a "white spot" remains in this discussion: the EU's responsibility for agricultural policy exists only out of history, not based on economic considerations. As the EU spends about one third of its budget on this area, it is mainly the countries that receive substantial funds from agricultural policy that oppose a possibly sensible transfer of agricultural policy back to the respective states (re-nationalisation). They fear that their contribution to the EU budget would not be reduced accordingly, so that they would have to raise additional funds from their domestic budget to compensate for the loss of European payments to their agricultural sector. Similar considerations apply to the second largest EU policy, the promotion of regions.

5.3.3 What additional tasks should the EU take on?

In chapter 4.2, a decision-making tool for the allocation of policy areas to the national or EU level was presented. It was assumed that this distribution is clear-cut and in accordance with "economic rationality". Here, this consideration is extended: for each policy area, both central and at the same time national or local competence may seem appropriate. These criteria alone cannot therefore be used to clearly assign a policy field to the level of responsibility³⁰. For example, in the case of military hardware, economies of scale and cross-border effects point at joint development, production and sales of defence equipment, while different national preferences in foreign and defence policy argue for national competencies. Political differences of opinion became apparent in the dispute between Germany and France over arms exports to (potential) crisis regions.

In the following, selected challenges are discussed, which the EU has so far not dealt with yet or not dealt with sufficiently. The focus is on global or international aspects, while the problems within the member states are not in the foreground. All the themes listed meet the criteria of economies of scale,

²⁶ Emerson, M. and Blockmans, S., 2013; Emerson, M.; Blockmans, S., et al., 2014; Emerson, M.; Avery, G., et al., 2014

²⁷ Government of the Netherlands, 2013

²⁸ European Commission, 2017b

²⁹ Brasche, U., 2017:Chapter 1.1.2.1

³⁰ Wyplosz, C., 2015c; Weiss, p., et al., 2017; European Commission, 2017b; special scenario 3; Kotanidis, p., et al., 2018

common good and cross-border effects and therefore suggest EU competence³¹. Irrespective of these criteria, the preferences for a particular approach to these issues may differ between member states. The more heterogeneous the member states are on potential Community issues, the higher the cost of agreement³².

Economic and Monetary Union (EMU)

The internal market with its “four freedoms” (goods, services, labour, capital) meets criteria that justify further EU competence (economies of scale, cross-border effects). There is a large consensus in the EU to add some elements. These include:

- Completion of the Banking and Capital Markets Union.
- Permission for the ECB to act as a “lender of last resort” - this is what the ECB has done so far stretching its mandate with the promise of the then President of the ECB, Mario Draghi: „...what ever it takes...”³³.
- The transfer of banking supervision from the ECB into an independent authority.
- A European Monetary Fund as successor to the ESM (“rescue umbrella”).

With this list the common ground between the member states ends. The further development of EMU is highly controversial, as two ideas are irreconcilably opposed:

- Solidarity and joint liability

Some countries - e.g. France and Italy - want to use public finances to steer the economy, i.e. to spend more through public debt in recessions. To this end, all members are to pay into a common EU fund. Savers should also be protected against the bankruptcy of their bank by an EU-wide deposit insurance scheme. They also want to install an EU-wide insurance against sovereign bankruptcy and unemployment. However, the states are not prepared to hand over the decision on their income and expenditure to the EU level accordingly.

- Decision and responsibility in one hand

Other countries - e.g. Germany, the Netherlands, Finland - emphasise that each country should not only decide on its own finances, but should also bear the responsibility for these decisions itself. They also point out that common funds always invite disproportionate use³⁴ and that the risks are not equally distributed. Italy, for example, is more likely to need assistance from other countries than The Netherlands.

Networks and infrastructure

The infrastructure for telecommunications, energy and transport must usually also facilitate cross-border use. The planning and development of the networks and their technical standards and operating conditions should therefore be managed at EU level - financing can still be provided by the respective member state or by private capital. In this way, the infrastructure could be used with less frictional losses in a common economic space.

³¹ A systematic treatment is found in Weiss, S.; Heinemann, F., et al. 2017

³² Spolaore, E., 2013, 2015b

³³ Brasche, U., 2017:Chapter 3.5.3; Sinn, H.-W., 2018

³⁴ Osterloh, S., et al., 2008; Eichengreen, B., et al., 2011

Climate and environment

Global warming with its negative consequences is a challenge that cannot be addressed within the EU alone. But action at EU level is indispensable both for the joint action of the member states and for their negotiating position on the global stage.

Environmental pollution does not stop at national borders. Compliance with environmental standards is a prerequisite for health and food safety. Uniform, coordinated protection is therefore also required in a common space. Last not least, “environmental dumping“ can’t be accepted in an internal market.

External borders, migration and asylum

Global migratory pressure towards the rich countries of the EU will not only continue, but will increase in view of the expected increase of the population on the neighbouring continent of Africa. Nor can crises be ruled out that could suddenly cause the number of migrants seeking to enter the EU to rise significantly. The management of both regular and irregular immigration requires the securing of the EU's external borders and the implementation of a new EU-wide asylum law and procedure. Currently, the asylum law serves as a dysfunctional vehicle for immigration³⁵. The system of open borders within the EU, as laid down in the Schengen Agreement, can only be maintained if controls at the external borders become effective. These fields of action should therefore be at Community level. However, the debates about the powers of the EU border guard FRONTEX and the insufficient redistribution of refugees between European members show the tensions between sovereignty, free-riding and rational solutions. Furthermore, the different ideological positions in the member states on asylum and migration also point out that a simple application of the criteria "economies of scale“ and "cross-border effects“ is not sufficient for shaping policies.

Foreign Policy

The EU is a highly interdependent economic area that wants to be a community of values in addition to the “four freedoms“. member states vary in size, which gives them different weight on the foreign policy stage, among other things. It is obvious that joint representation vis-à-vis other powers (Russia, China, USA) is more successful than individual member states could be. Current examples of this are China's "New Silk Road“ and the defence of a rule-based order against bilateral agreements. However, the interests, traditions and political preferences in most member states are so different that they can only agree on a common foreign policy on a case-by-case basis – if at all. In most cases, some large member states such as Germany and France claim the leading role or are pushed into taking it over. At Community level, there is a parallel political structure headed by an "external representative“. Thus, the EU does not currently have a common foreign policy, but "27-plus-EU“ policies.

Military technology and deployment

The countries of the "West“ have so far organized their defences within the framework of NATO. In the EU, the military of the individual EU member states is under national command and control. The development and production of military equipment is also essentially national. This has led to a variety of standards and types that is inefficient in development, production and maintenance, as well as incompatible in military activity. In case of high fixed costs and small quantities, joint development and production is useful. The EU is trying to develop more common ground in military and security policy, especially since the post-war order under NATO is changing dramatically. To this end it has

³⁵ Betts, A. and P. Collier, 2017

agreed on "permanent structured cooperation" (PESCO)³⁶. However, several problems arise in the pooling of military forces at EU level:

- The development and production of military technology provides high-end jobs, so that each member state wants to have as large a share as possible within its borders. This results in a splitting of the value chain from a political point of view, which may reduce the desired economic efficiency.
- An efficient defence industry must be allowed to serve the market beyond the EU in order to profit from economies of scale. In addition, the sale of military technology to selected states also serves as a means of foreign policy. However, in many EU member states there are different views on the ethically and politically appropriate arms deals. This hinders joint projects.
- The use of the military force results from the opinion about the appropriate foreign policy in the respective case - but there are considerable differences of opinion between the member states about this. Moreover, a military operation ultimately demands the sacrifice of life. In Germany, for example, only the parliament may decide on this; a delegation of this decision to "Brussels" is unlikely to be politically accepted.

Taxation of companies, tax evasion and money laundering

Larger companies can use differences in national tax systems to legally "optimise" the tax burden. This is also used by EU member states to compete through low tax rates: The accusation of "tax dumping" is in the air. Tax law has so far been national law and agreements at EU level can only be made unanimously. The transition from the unanimity rule to the majority rule currently under discussion could also only be agreed unanimously. A uniform tax base and transparent reporting by transnational companies on their actual tax payments per country would be a sensible step towards a more just and fair taxation.

The countries of the EU are used as a safe haven for assets. It is suspected that part of the investment capital comes from unclean sources - it could be money laundering. It is for the national authorities to prosecute such suspicions. Since politically influential professional groups such as notaries, lawyers, consultants, brokers and bankers earn well from these transfers, it is suspected that these offences are not pursued vigorously enough at national level. An independent authority at EU level would therefore be preferable.

Secret services and justice

The threat of crime and terrorism is transnational - prevention and prosecution, however, is organised nationally. The judiciary is part of the core area of the delegation of power from the sovereign to the state and is subject to rules and controls that vary from one member state to another. For example, in Germany the experience from the "3rd Reich" has led to a separation of the domestic intelligence service, foreign intelligence service and national police. On top of this each of the sixteen federal states have their own services. Following a number of terrorist attacks in member states, cooperation between security services has improved and their powers have increased. The civil liberties of citizens and their need for prevention and security can conflict with each other. EU-wide coordination and information exchange has also been initiated. It must be assumed that the services of the partner countries maintain the same standard of protection of civil liberties as is required for their own country.

³⁶ Wolfstädter, M. and V. Kreilinger, 2017; Blockmans, S. and D. M. Crosson, 2019

5.3.4 Tensions in the allocation of tasks to the EU

The EU has already taken more or less intensive steps in many of the tasks mentioned above. The division of tasks between the EU and its member states is always controversial. The self-interests of existing institutions and concerns about national independence often stand in the way of an appropriate setting.

National selfishness

The self-determination of people and institutions within a state is perceived as paramount and an intervention "from outside" is usually rejected as a violation of national sovereignty. This is also effective when former national competences are to be transferred to the EU. In addition to this rather emotional motive for independence, there may also be tangible interests of individual groups against communitarianisation:

- Along with the responsibility, the budget required for the fulfilment of the delegated tasks must also be transferred to the EU and is thus no longer available nationally.
- When EU-wide competent institutions replace national institutions, jobs will be lost in those member states that are not allowed to host the new authority.
- The EU may not carry out the tasks to the high standards that have been common in some member states. Nor can national specificities be taken into account adequately.
- Joint projects, such as the Galileo satellite system or the development and construction of military equipment, are hampered by the desire to use the capacities of their own industry to the full through the joint project. The dispute over the placement of research and production facilities can considerably delay such projects and make them more expensive.

National selfishness is evident when negotiating the EU's medium-term budget. Each member state calculates whether it pays in more than it receives back from the common budget. In the public debate, the so-called "net contributors" are in focus and they try to keep their (net-) contribution as small as possible. If the EU is to perform more tasks at central level, the necessary funds must also be transferred from the member states to the central budget. It is to be expected that not the - difficult to quantify - benefits of joint action, but the "net payment" will receive the greatest attention.

Who is in control?

Decisions are taken in different constellations in the EU, so that different actors can influence them. If the Council decides, the member states can bring in their national interests. If, on the other hand, an independent European institution is responsible, then the possibility of exerting influence is smaller. This is evident, for example, in monetary policy, which is shaped solely by the European Central Bank, or in the implementation of competition policy, which is the responsibility of the European Commission.

Other examples are budgets for the prevention or management of economic and financial crises. Some countries, including France, want to introduce a budget for the Euro zone. Furthermore they want to install the European Commission as an "independent European" having this budget at its disposal. Other countries, e.g. Germany, would only agree to such a budget if the Council was allowed to dispose of it. Only then could individual governments enforce their preferences in the use of the money – finally exercising a veto. The focus is on "conditionality" in the allocation of funds: EU aid should only be given against corresponding - mostly unpopular - conditions. In the Council, the member states would tend to impose rather strict conditions on the recipient countries, as their money was at

stake. The EU Commission, on the other hand, is likely to tend to allocate funds with easy conditions in order to service the “European idea” – and to maintain its popularity.

The European Parliament (EP) is also seeking greater influence on policy-making, which it is more likely to obtain if decision-making power is at EU level. This was evident, for example, in the austerity measures to deal with the financial crisis after 2008, in which the EP was not involved, even though the social impact was considerable.

Together with the EU, the member states have divided up precisely who is allowed to create which laws and how the respective competences are distributed; this is laid down in the European treaties. Over time, another instance has been installed in this process: The European Court of Justice. In interpreting European law, which takes precedence over national law, the judges have intervened in the political process without the national parliaments being able to express their position. The same applies to the European Court of Human Rights.

Sovereignty and solidarity

Solidarity between the peoples of the EU is kept in high esteem in the European treaty (Article 2 EU Treaty), but it is controversial how it is to be granted in practice. From the point of view of the (potential) recipient, aid is desirable, but the economic and political sovereignty of the recipient country should not be affected. The (potential) donor countries, on the other hand, only want to provide aid in return for a say on taxation and spending of the recipient country (conditionality). They hope that by imposing appropriate conditions, they will be able to persuade the recipients not only to become independent of further aid soon, but also to repay the financial aid declared as loans. Otherwise, under the guise of solidarity, a permanent transfer of resources from donor to recipient countries ("transfer union") could arise. The incentive for the governments of the recipient countries to act in an economically "reasonable" but domestically conflicting manner would then be minimal ("moral hazard"). Examples of this conflict include

- The conditions imposed by the lenders (EU Commission, European Central Bank and International Monetary Fund) on Greece, Ireland, Spain and Portugal to cut their social security benefits in order to reduce government over-indebtedness,
- The controversy over the concept for a "European Monetary Fund", which is to provide aid even without conditions or only under strict conditions only.

In the campaign for BREXIT, slogans such as "I want my country back" or "Regain control" appealed to this feeling of British citizens, who felt that they were alienated and patronised by the EU's common institutions and regulations.

There is also a tension between sovereignty and solidarity in securing the external borders of the EU. If the border troops in some member states are too weak to control irregular migration, the EU wants to help out with officials from other member states within the framework of the European border agency FRONTEX. However, their deployment has so far only been possible with the consent of the hosting member state - and the assistance offered is hardly ever accepted. A deployment without their consent would violate national sovereignty and is therefore not possible. The then President of the Commission Juncker even accused the member states of hypocrisy³⁷.

The sovereignty of the member states is expressed, among other things, by the fact that the data they report to the European statistical authority EUROSTAT must not be checked by EUROSTAT at

³⁷ Protection of EU external borders, 2018

source. This has allowed Greece, for example, to conceal its budgetary data. The then head of the Greek statistical office was even prosecuted in his country for "daring" to report the correct figures to the EU without consulting politicians³⁸.

6 How could the EU get moving again?

The previous chapters have shown why today's EU is not capable of responding adequately to new challenges and unexpected crises:

- The European Treaties contain rules and procedures for policy areas where joint action has been agreed. There are no rules for new challenges or suddenly erupting crises³⁹.
- The agreements on common ground do not necessarily follow rational criteria, but are determined by the defence of power, influence and sovereignty.
- The requirement for unanimity delays or prevents the agreement of common solutions in the face of differing national interests and preferences.

How could the EU develop in order to become sustainable and what approaches could be appropriate to achieve this? The possible answers range from pragmatic, often small-scale improvements to a new foundation of the EU⁴⁰.

Two competing worlds

Since the foundation of the European Community after the Second World War, two ideas for the further direction of European integration have been competing and contradicting each other:

- Overcoming the previous nations in favour of a common, supranational unity was and still is the goal of the federalists; they are striving for the Republic of the "United States of Europe". In an "ever closer union"⁴¹, the importance of the nation state is to recede, and more and more state functions and the budget required for them are to be communitised, i.e. transferred to the EU. The political organisation of societies would then be decided at Community level. In such a construct, the European Parliament and the European Commission would be the most powerful actors, while national governments would lose much of their importance. In the European political discourse, this development is also addressed by the positive-sounding slogan "completion of the EU".
- The opposite concept is a "European Association of Independent States" in which strong and independent nation states remain, which agree among themselves on measures for selected political goals without necessarily transferring extensive and irrevocable powers and budgets to a "central entity". This so-called "Union method"⁴², or intergovernmental method, is used when problems have to be solved for which there are no provisions in the European Treaties. The strongest players would remain the elected governments of the member states. The European Commission and the European Parliament would have little influence in this setting. As early as the 1960s, De Gaulle called this development direction "Europe of the Fatherlands".

But no federation is for ever, since all international agreements can be terminated unilaterally; in other words: everything is ultimately intergovernmental. The BREXIT is an example of this.

³⁸ Veron, N., 2018; Called to account, 2016

³⁹ Middelaar, L. v., 2019

⁴⁰ Breuss, F., 2016

⁴¹ Bellamy, R., 2013; Berger, H. and V. Nitsch, 2015

⁴² Merkel, A., 2010; Kindler, S.-C. and Sarrazin, M., 2012

In today's EU, elements of both concepts are implemented. For example, monetary, competition and agricultural policies are the responsibility of the EU, while fiscal and social policies have remained national. A consensus on the future direction of the EU, its finality, has not yet been reached and is not foreseeable.

6.1 "Ever closer union" - a completion of the EU?

The vision of an "ever closer Union" is mentioned as an objective in Article 1 of the "Lisbon Treaty". Even Monnet wanted to gradually transfer selected economic functions of the states to the Community, which would raise new problems that would inevitably lead to the next step of communitarisation. An example will illustrate this: Following the introduction of free movement of workers, the problem of mutual recognition of degrees and professions arises. This would be solved by aligning education and training systems and ultimately transferring them to a European body. In a "chain reaction", this would ultimately lead to political integration in which most political fields of action are dealt with at EU level, i.e. by the European Parliament and the European Commission, according to the so-called Community method.⁴³ The now powerful Council would then be largely disempowered.

The supporters of such a construct hope that a European central power would be free of negative manifestations of nationalism and would represent only the common good beyond particular interests. The conflicts between nation-states, which have developed so horribly during the war, should thus be overcome and the disputes and disagreements that now prevent solutions would supposedly be ended. Unspokenly, for some the advocates of an "ever closer union" are considered the "good Europeans" who are morally superior to the advocates of strong member states⁴⁴.

The EU has carried out a "deepening" of integration in various steps, with crises providing impetus for further steps⁴⁵.

The following aspects speak against further pursuit of the "closer union" model:

6.1.1 Political resistance

The EU had started to adopt a constitution around 1999 (Laeken process). In this process, the different views on the future shape of the Community became clear: some member states wanted to lead the Union towards a federal state by means of a constitution, while others sharply opposed precisely this direction. The Constitutional Treaty had to undergo a referendum in some member states before it could enter into force: It failed in 2005 in the Netherlands and France due to popular rejection.

After the failure of the planned constitution, the goal of "ever closer union" was written into the next version of the European treaties ("Lisbon"), but all the insignia of a constitution (anthem, flag, ...) were removed. There has been and continues to be resistance to the objective of "ever closer union" and voices for the deletion of this passage were raised.

The president of the Council, Donald Tusk, got to the heart of it: *"Forcing lyrical and in fact naïve Euro-enthusiastic visions of total integration, regardless of the obvious good will of their proponents, is not a suitable answer to our problems. Firstly because it is simply not possible, and secondly because - paradoxically - promoting them only leads to the strengthening of Eurosceptic moods, not only in the UK."*⁴⁶

⁴³ Majone, G., 2014b

⁴⁴ Middelaar, L.v., 2019:Chapter 5

⁴⁵ Brasche, 2017:Chapter 1.1.3

⁴⁶ Tusk, D., 2016b

In Great Britain there has always been a clear rejection of a supposedly aspired European superstate. The campaign for the BREXIT focused more on this issue. But also in other EU member states there is growing rejection of further deepening or even of the whole project of a community.

6.1.2 Could a centralised Union be (more) successful?

The goal of "closer union" is usually implicitly implies that decisions at a supranational level could be taken more quickly and more in the interest of the common good. However, this hope is unlikely to be fulfilled so easily, since very different cultures, preferences, traditions, economic potential, institutions, etc. are united under the roof of a large community. The fiction that everyone is the same or at least will come closer and closer together would not materialise.

A great heterogeneity within and between member states

- calls for competences at the local level; this is already respected by the principle of subsidiarity⁴⁷ in the European Treaty.
- does not allow a common "European identity" to emerge, so that groups do not feel sufficiently represented and respected in the larger community and consequently would seek their separation. Examples are the autonomy efforts in Catalonia and Scotland, the difficulties of running a functioning state holding three nations (Belgium) and in extreme cases, the withdrawal of a complete country (BREXIT).

Politico-economic mechanisms for negotiating policy also apply in larger units, so that even in a larger, integrated EU, blockades, "horse-trading", the assertion of particular interests and the preference of today's benefits over future damage would occur; this is the case, for example, with climate change. Decisions on the budget would be subject to the same mechanisms for maintaining power as in the individual member states: Important groups of voters should not be upset and major unrest should be avoided. Even in an integrated EU, for example, the "yellow vests" would block an environmental tax, and the much-flying middle class would reject a high kerosene tax or a ban on SUVs.

6.1.3 Parliament's prerogative must be respected

Policy making usually requires resources for its implementation. In Western democracies, the sovereign determines, through the elected parliament, how much tax is levied from which social groups and for what purpose the state expenditure is to be used. With limited resources and differing interests, social spending (pensions, unemployment benefits, health insurance, and assistance to the needy) competes with other preferences, e.g. education, innovation, military, infrastructure, disadvantaged regions or agriculture. The level and structure of taxes and public spending differs from one member state to another, so that standardisation neither seems achievable nor likely to reflect the preferences of voters.

In the discourse on the further development of the EU, a wide range of demands are being made, which may also require a transfer of income between the member states. These include, among others

- A banking union with joint risk coverage, e.g. in a European deposit fund or the joint recapitalisation of banks.
- Joint coverage of national public debt, e.g. through "Euro bonds" .
- The redistribution from "rich" to "poor" member states, e.g. via cohesion policy or a European unemployment insurance scheme.

⁴⁷ Brasche, U., 2017:9-10

- The creation of a “social Europe that protects and shows solidarity” which may lead to considerable redistribution, depending on how it is put into practice.

If the political discourse presented a majority for redistribution between taxpayers of different member states, a parliamentary majority would have to be won for this in each member state according to its specific rules. This is not to be expected in any of the member states. In the case of Germany, the Federal Constitutional Court has ruled that parliament must not be bypassed when decisions are made on the budget. Even as a crisis reaction, the government may not transfer additional funds ad hoc to another member state without the prior consent of parliament.

Even if the planned redistribution of resources is presented with positive-sounding words (solidarity, social welfare, protection, etc.), it needs acceptance not only by the recipients but also by the donors. This also involves feelings such as "fairness", "justice" and "solidarity". Slovakia, for example, has refused to make a financial contribution to Greece during the crisis because the population of Greece is economically better off than the population of Slovakia in the "normal case" despite the crisis. A consensus on (re)distribution of revenues and burdens is more likely to be reached within a perceived "we-group", i.e. within a nation. The EU, as a trans-national institution, does not (yet) have this binding force and, in my opinion, will not acquire it in the foreseeable future.

For redistribution to be accepted, it must be possible to control it to prevent abuse and corruption. Under EU rules, the beneficiary countries themselves are responsible for the correct use of EU funds. If, however, the opposing forces (judiciary, press, opposition, NGOs) in a member state are unable to function as control effectively, then mistrust increases and solidarity dwindles.

6.1.4 Transition and democracy

The creation of an "ever closer union" requires the transfer of rights and responsibilities from each member state to the supranational level of the EU. In this process, the hitherto sovereign state would be eroded in substance and become a subordinate member of a larger community. Such a transfer can only be democratically legitimized if a qualified majority in each country agrees. Referenda as well as highest court decisions of the respective state must also be "risked" and respected. Experience with binding or non-binding referenda⁴⁸ suggests that sovereign consent is not guaranteed in all countries.

If the ever closer integration is pursued by the elites of the respective countries or by interest groups behind the backs of their peoples, then this integration would have to be described not as a democratic process but as a coup. In the recent past, integration steps were taken as "fire-fighting actions" in crises: The Banking Union and the "rescue umbrellas" are examples of this. In view of the tight situation in a crisis, the end may have sanctified the means. Other steps towards integration were accepted by societies as legitimate as long as the tangible or hoped-for benefits outweighed them. Scharpf (1999, 2013) speaks here of legitimation through output. If, however, there is growing doubt among the population about the benefits of EU membership, then the tacit toleration of further integration is no longer given. The "enlargement fatigue" and the rejection of financial risk-sharing are signs of this.

6.1.5 Conclusion

An "ever closer union" is also associated with the catchword "completion". This is intended to suggest that the current state of the EU would be transformed into a final, positive state through more communitarisation. However, this concept is rejected by most member states and is no longer tacitly accepted in the belief that EU action will have positive effects. The successes of the "Community method" to date have not always been sufficiently convincing or have been criticised as being too distant from the

⁴⁸ Hobolt, S., B., 2009

citizens. With the growing scepticism towards globalisation and the shift towards more regional or national reference circles, the willingness to further communitisation is also declining. Next steps of deepening, e.g. moving away from unanimity in favour of majority decisions in the Council, could only be taken after unanimous amendment of the European Treaties.

A closer Union cannot be achieved on a democratically legitimate basis in the foreseeable future and is therefore not a pragmatic approach to meeting future challenges.

6.2 Differentiation - opportunities and risks

For a long time the goal of "ever closer union" dominated the discourse on European policy - any deviation from this goal was viewed rather sceptically. The prevailing view on deepening EU integration was that all states are equal and take the next step together at the same time in the same direction. In the same time, however, various models for differentiation in integration were discussed⁴⁹. These include:

- Integration at "different speed" assumes that some countries lead the way and all others follow at a later stage.
- With a "variable geometry", integration could bring together different groups of countries in different policy areas.
- A "core Europe" formed by those countries that are willing to cooperate more closely.
- An EU of "concentric circles", where the degree of common ground decreases with distance from the core.
- A "Europe à la carte" in which each country chooses those policy areas in which it wishes to cooperate.

Not all models require cooperation within the legal framework of the European Treaties. Non-EU members can also be involved. If agreements were made at government level, the European Parliament and the European Commission would be excluded.

A differentiated integration of the EU has not only been discussed for a long time, but has already been realised⁵⁰ in various forms. The following options are provided for in the EU Treaties.

Example: Enhanced cooperation

One way of achieving joint action without unanimity is through "enhanced cooperation" (Article 20 TEU). This allows a group of at least nine member states to act jointly and within the EU framework on a given issue, i.e. to adopt European laws within the framework of primary law. A qualified majority of the member states in the Council must first agree to the formation of this group. Any new laws that are passed must be accepted by all members of the cooperating group. Other EU member states can join the group at any time. To date (2019), the enhanced cooperation procedure has been applied in the following cases⁵¹:

- Divorce law of international couples (2010)
- European patent (2011)
- Matrimonial property regime for international couples (2016)
- European Public Prosecutor (EPPO) (2017)

⁴⁹ Leuffen, D., B. Rittberger and F. Schimmelfennig, 2013; Schmidt, V. A., 2019; Leruth, B., S. Gänzle and J. Trondal, 2019

⁵⁰ Dewatripont, M., et al., 1995; DeWitte, B., 2017; Patel, K. K., 2018:58-62; Tekin, F., 2019

⁵¹ European Commission, 2019a:2-3; Wessels, W. and Gerards, C., 2018

- Permanent structured cooperation (PESCO) in military projects (2017)
- In preparation: Financial Transaction Tax
- In preparation: Investment in super-computers

The then President of the European Commission, Juncker, described a "Scenario 3" in his White Paper in 2017, in which a so called "coalition of the willing" takes further deepening steps. Other states should be able to join at any time. This scenario⁵² could lead both to further integration at "different speeds" and to⁵³ a division of the EU into a core group and "the others" - not to say "the laggards".

Example: Opt-out, opt-in

In general, all member states are equal before the European treaties. In order to achieve the unanimity required for the further development of the Treaties and the necessary unanimity for the admission of new members, individual states have repeatedly been granted exceptions to the rule for selected policy areas. You can choose not to participate in these policies (opt-out) or to participate later (opt-in). Examples are Great Britain, Denmark and Sweden, which do not have to adopt the Euro - but could do so later if they wished so⁵⁴.

Examples: "maturity test" for the Euro and "Euro group"

In principle, all EU member states must adopt the Euro as their currency. However, they must first pass the convergence criteria of the Maastricht Treaty of 1992, in which they must demonstrate that they reached certain macroeconomic indicators of their economy. The countries that have adopted the Euro organise themselves as the "Euro group", in which they make political arrangements that may also be of relevance to the non-Euro countries, without the latter having any say. As an exception to the rule, Sweden, Denmark and the United Kingdom refused to adopt the Euro, even though they were qualified to do so⁵⁵.

6.3 Separate yet together

The requirement of unanimity for decisions in the EU leads to paralysis and inability to act. One solution lies in the formation of sub-groups of member states that can agree and act among themselves. This has been discussed for a long time and in some policy areas this is already implemented. Whether this approach is successful depends on the design of the relationship between the subgroups and the community.

In the following, two forms will be presented:

- 1) The formation of stable and closed groups of member states
- 2) The formation of "open clubs" with changing topics and participants

6.3.1 Stable, closed groups

The member states are all very different. This makes it difficult to agree on common action, especially unanimously. In the public discourse, different subgroups from the 28 member states are brought together, which are supposed to or claimed to have great similarities. These sub-groups could therefore - it was concluded - more easily agree on joint action. The members of a group are attributed character-

⁵² European Commission, 2017b; for more details see Callies, P. 2018

⁵³ Piris, J.-C., 2012

⁵⁴ Tekin, F., 2012; Vos, E. and Weimer, M., 2016

⁵⁵ Brasche, U., 2017:226-241; 258-264

istics that simplify the actual circumstances and are partly based on stereotypes. Some examples of such grouping are:

North - South

The countries of the "North" are said to be technologically highly developed and economically successful. Its population has an above-average standard of living. They are more committed to a liberal market model and performance-oriented. Compliance with rules and paying taxes are accepted. This is also associated with the willingness to respect the limits on public debt and the high level of payments into the EU budget. The "South", on the other hand, is rather assigned the opposite characteristics.

Even if a grain of reality is captured in each stereotype, it is still unclear which member state could be placed in which group. Geography does not help here, as the following examples show. Germany and France violated the Euro debt criteria, while Spain and Ireland - later crisis countries - had their public finances in good order. Italy is both a technologically and economically successful country, and a country where public debt is threatening to spiral out of control and state institutions are weak and slow to function. In France, under the current President Macron, the political will to deepen integration is more pronounced than in Germany, where the fear of a "transfer union" dominates.

Conclusion: "North - South" is therefore not a suitable characteristic for the formation of homogeneous groups within the EU.

East - West

Until the collapse of the Soviet Union, the EU was a Western European union with the centres of power in Paris, Bonn and Rome. The accession of eight Central and Eastern European countries (2004/2007) initially seemed to lead to a firm integration of these countries into NATO and the Single Market - a continued dominance of the previously strong countries was implicitly assumed. However, tensions have arisen between some Eastern countries (Hungary, Czech Republic, Poland, and Romania) and EU institutions (Commission, Council, EU Parliament) on the issues of refugees and the rule of law. However, the former "East" is not a homogeneous block, neither in these nor in other issues. The transformation from a planned to a market economy has also led to an economic catch-up process, after which the division into "poor" and "rich" countries no longer lies on the East-West dividing line. In foreign policy, especially in the attitude towards Chinese expansion and Putin's Russia, the positions in the former „East“ are as different as in the „West“.

Conclusion: „East-West“ is therefore not suitable for meaningful group formation within the EU.

Centre - Periphery

On the map of Europe, relative prosperity (GDP per capita) is unevenly distributed. Rather wealthy zones tend to be located in the centre (states and capitals), while poorer zones tend to be located on the periphery. The distribution of wealth is accompanied by a distribution of political influence. From this, a „centre-periphery“ pattern can be constructed. However, a closer look reveals that this pattern does not correspond to the borders of the member states. Although the statistical average of GDP per capita does indeed vary between member states, the differences within a country are even greater: In the capital cities and other conurbations with good infrastructure, the economy prospers more than in the remote, mostly rural areas. This agglomeration effect applies not only in the EU but worldwide. It is often stable over long periods and can hardly be changed by regional policy⁵⁶.

⁵⁶ Brasche, 2004a; 2013:Chapter 6

Conclusion: Individual member states cannot or cannot clearly be assigned to an economic centre or a periphery.

Conservative and nationalist - liberal and cosmopolitan

Particularly before the European Parliament elections in 2019, there was speculation about whether the more conservative and EU-sceptical political parties would join together to form a strong group in order to better assert their vision of the future EU. However, such a bloc does not exist, since on key issues such as migration or the limitation of the national deficit and risk sharing, even within the member states there are different views in the conservative or nationalist parties.

Conclusion: The societies of the member states are not homogeneous in themselves in terms of ideology, and in addition, conflicts of interest on other issues run right across political views and nationalities.

Closed groups - more problems than solutions

The above examples show that no convincingly homogeneous subgroups of member states can be defined. But even if this were possible, the following problems are likely to overshadow group formation rather than contribute to improved problem solving:

- A member state's membership of a subgroup is also defined by the preferences of the government in question. After the next election there may be a change, which would make the groups unstable.
- A permanent division of the community into different classes could be expected if the economically more successful ones shut themselves off. The EU's promise to increase prosperity would no longer be credible and thus the possible burden of solidarity would no longer be acceptable.
- Any group formation would bring together very heterogeneous states that do not necessarily agree on all important issues. This would not make a joint decision any easier than in the Group of 28.
- If the sub-groups differentiate themselves from each other, an antagonism between the groups is likely. The willingness to compromise and to solve common and global problems will then become even more difficult.

Conclusion: The formation of stable groups would not be a promising solution in search of a more efficient and effective European Union.

6.3.2 Open clubs

The real problems do not wait for the ability of a group of states to reach unanimous decisions and to start joint actions. In view of the urgency of issues such as climate, asylum and migration, geopolitical changes or terrorism, it would be better if some states move forward together and leave the subsequent participation open to others. It does not necessarily have to be the case that in the end everyone participates. It should be emphasized here that differentiation must not be confused with re-nationalization or withdrawal into the nation state. It is not a question of dissolving joint action, but rather of flexibly reconfiguring the EU member states into units capable of acting. For this purpose, as much common ground as necessary should be sought on a topic in order to achieve as much problem solving capacity as possible. The EU as a community of values must remain the basis in each and every configuration.

6.3.2.1 There are already Open Clubs in the EU

Such an approach is often negatively referred to as “Europe à la carte” or “cherry-picking”. This evaluative wording should not exclude the possibility that such an approach could be used for a positive end. A differentiation of the EU into sub-groups is intensively discussed⁵⁷. As early as 1974, the then Federal Chancellor Willy Brandt is said to have proposed a continuation of economic integration according to the economic strength of the states⁵⁸. In 1994 Schäuble and Lamers⁵⁹ made proposals for integration in a „variable geometry“.

Open clubs already exist in the EU, as the following examples show

- Only those member states that have adopted the Euro as their currency belong to the **Euro Group**. Its members take far-reaching decisions, e.g. to deal with the financial crisis, which also affect the member states that have not (yet) adopted the Euro⁶⁰.
- The **Banking Union** comprises, firstly, the countries that have adopted the Euro and, secondly, those EU member states outside the Euro area that wish to join the Banking Union.⁶¹ They must cooperate closely with the European Central Bank. The goal is a more stable financial system – within and beyond the borders of the EU.
- Most EU member states and some other countries have joined the **Schengen Agreement**. Similar to the introduction of the Euro, conditions for membership in the Schengen area must be fulfilled - in particular the ability and willingness to protect the external borders of the EU.

Furthermore, beyond the common European law, informal circles of groups of member states exist in which further integration is being considered „outside the protocol“. These include the „Weimar Triangle“, in which Germany, France and Poland are jointly considering the further development of defence policy. The „Visegrad Four“ consist of the member states Czech Republic, Hungary, Poland and Slovakia. In this configuration they discuss the joint representation of their interests in the EU and NATO.

6.3.2.2 Able to act through radical restructuring?

Since the EU is not adequately able to act within the framework of the existing treaties, a „restructuring“ could help - although the question of implementation is still left out of the equation. The discussion suggests, among other things, a „re-founding“, which would require existing members to leave the „old“ EU and come together to form a new entity⁶². The demand for a dissolution of the nation states, which are to be merged into a European republic⁶³, goes even further; it remains unclear whether this goal could only be achieved by a "coup by the elites" or whether a democratically legitimate process could lead to this result. In contrast to such radical ideas, Demertzis and her co-authors⁶⁴ have proposed a new configuration of the EU. Their model provides for a new grouping of the fields of commonality:

⁵⁷ Ear, R., 2007; Jewelry, O., 2017; WEEE, 2018:Chapter 3; Demertzis, M., J. et al., 2018

⁵⁸ Kuhn, J.-M., 2015:11

⁵⁹ Schäuble, W. and Lamers, K., 1994

⁶⁰ Braun, B. and M. Hübner, 2019

⁶¹ Beck, T., ed., 2012; Bremus, F. and C. Lambert, 2014; Kuhn, J.-M., 2015; Brasche, U., 2017:194-198

⁶² Breuss, F., 2016

⁶³ Guérot, U., 2016

⁶⁴ Demertzis, M. et al., 2018

- A core which contains fundamental values, policies, treaties and institutions that are binding for all
- Four „clubs“ in which the current EU member states can become members voluntarily, but bindingly and permanently
 - Club 1: Economic and Monetary Union, including the Euro
 - Club 2: Migration, asylum and Schengen Agreement
 - Club 3: Military and foreign policy
 - Club 4: Other policy areas

Each „club“ is to be given an independent „government“ consisting of the Council and Parliament, whereby - depending on the policy area - the Community method or an intergovernmental procedure can be applied.

This bold outline of a new approach must leave many questions unanswered at this stage, such as

- Are the three policy areas mentioned the most important - can climate policy, for example, be dealt with under „others“?
- What should be the motivation for a country to join the „core“ and thus subject itself to certain rules and restrictions?
- Are the „right“ countries joining forces for the respective topics?
- How are the costs of club membership distributed and how can „free-riding“ be excluded?
- Can the three topics mentioned above be dealt with separately and how are overlaps and synergies dealt with?
- How should known and future problems that are not (yet) covered in the EU-treaties be assigned to one of the clubs - should new clubs be formed ad hoc?

How the transition to a new configuration could be designed remains an open question. One of the lessons of BREXIT is the willingness to move away from the model of „ever closer union“ and to make the scope and intensity of cooperation more flexible, so that more countries can engage in „co-operation a la carte“.

Remaining in the status quo is harmful and will endanger the EU in the long run. Therefore, the ideas of Demertzis, among others, are an important contribution, although the hazards on the way to a new configuration can be manifold⁶⁵:

- Such a disparate entity is no longer governable
- Individual clubs solidify into exclusive, „rigid subgroups“
- The feeling of unity and common responsibility are lost
- "Carrot and stick“ no longer works
- A few strong states prevail
- The citizens of the member states are not involved in the „restructuring“ process and turn their backs towards the EU
- Etc., etc.

A more prominent role for the citizens of the nations that make up the current EU is not envisaged in the above concept. Without trust in and approval of cross-national political processes, people will not

⁶⁵ Jewellery, O., 2017; Merler, S., et al., 2018

get involved in the reshaping and continue the already foreseeable retreat into the supposedly secure national level.⁶⁶ BREXIT can also repeat itself in other countries.

Conclusion: The flexibility of „open clubs“ poses risks for the cohesion of the EU and at the same time the potential for faster and more effective responses to problems. These clubs are formed by agreements between governments and therefore neither the European Commission nor the European Parliament determines the policy of these clubs. The clubs are based on intergovernmental agreements and are thus contrary to an „ever closer union“ with its centres in Brussels and Strasbourg.

⁶⁶ Merler, S., et al., 2018; Frey, B. S., et al., 2018; Brasche, U., 2015b

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