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THE STATE OF THE EUROPEAN UNION

Relaunching Europe

2017

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Presentation

A new European social contract

The year since the publication of our previous report in April 2016 has been nothing short of an *annus horribilis* for the European Union. The victory for Leave in the UK referendum was followed by the triumph of Donald Trump in the US elections and his stated support for the further weakening of the EU, an attitude that the President of the European Council, Donald Tusk, has described as a threat. At the same time, there have been a number of significant events, both in Europe and elsewhere in the world, which we analyse in this 6th Report on the State of the EU, produced in partnership between Fundación Alternativas and the Friedrich Ebert Foundation.

With European integration immersed in the worst crisis of its history, we ask what lessons we can learn from the financial crisis, Brexit and the rise of nationalism and populism in Europe and the United States if we are to guarantee the survival of the European project. To meet these challenges, this project must address four key problems.

Stability deficit: the effects of the financial crisis have spread throughout the EU in the form of a series of national budget crises. Although the so-called euro crisis is not really a crisis of the common currency but rather (depending on the country) a combination of state debt, household debt and debts held by individual financial institutions, the euro is the spearhead of European integration and its failure would pose a significant risk, threatening the political future of the EU.

Structural deficit: the pressure exerted by the financial crisis has revealed the structural deficit in economic policy in the eurozone, making it clear for all to see that the region lacks a common economic and financial policy, and shining a light on the obscure and inadequate regulations that govern the creation of monetary policy by the ECB. Unsurprisingly, the fiscal compact is increasingly regarded as a cost that does not produce any benefits, and it is becoming impossible to ignore the social and political costs of austerity. At the same time, macroeconomic divergence between members of the eurozone, far from declining, has in fact risen, and this is

reflected in the growing gap between balance of payments deficits and surpluses.

Social deficit: in addition to the imbalances identified above, there is growing inequality between individual countries. The progressive policies that were the flagship of a social Europe have not had any real political impact, while the process of liberalisation, and the increased "flexibility" of the internal market and of the shared currency (at least in the form they have taken to date) are weakening the provisions of the national welfare state, restricting the impact of progressive measures in employment legislation and exerting downward pressure on salaries.

Democratic deficit: in a crisis, the government must take responsibility. The tension between the need to take decisions at a European level and the need to establish legitimacy at the level of national governments has intensified in recent years. The political landscape of the EU is being transformed not only by the crisis itself, but also by the way in which the effects of the crisis have coincided with an influx of refugees and have been amplified by the fear generated by terrorist attacks. As a result, populism is growing across the continent. Coming in both left-wing and right-wing guises, national-populism "defends" the poor against the elites and neoliberalism or, alternatively, defends the country's national identity against Islamists and foreigners, fostering xenophobia. Europe's traditional parties have gradually lost ground both to the left and to the right. They have been unable to strike a balance between integration and versatility. Moreover, they have failed to find a solution to the growing concern with regard to Europe's borders: a significant proportion of the population are uneasy in the face of open frontiers and a wave of migration of people whom they view as coming from a different religious and ideological background and holding completely different values. A section of the population no longer feels itself to be culturally or politically represented, and we therefore need to repair our institutions of representative democracy, both at the national and at the European level.

The repatriation of competencies to individual states, combined with ill-considered recommendations with regard to the current eurozone, are unlikely to solve the problem. It is difficult to calculate what the consequences of this non-integration could be. Over the long term, the foundations of European life – democracy, freedom, peace, cultural variety and prosperity – would be threatened, and this would in turn undermine the possibility of maintaining a social model that differs from the one offered by the USA or by Asian capitalism.

We need European solutions that take account of and protect democracy in each individual member state and throughout the EU. A new social

contract would provide the foundations for a progressive European policy to introduce a democratic union of welfare and security. The regulation of globalised European capitalism offers an opportunity: progressives worked hard to contain the market economy within the confines of the nation/state: now, their task is to establish new regulatory templates for globalised capital. These Europeanised policies make sense, but only if they are genuinely capable of controlling the market and not – as has happened to date – merely support economic globalisation in the name of promoting the internal market and competition. There is also the opportunity to create wider alliances as awareness of the negative economic, social and political side effects of rising inequality grow among the business community.

At the same time, differentiated integration options would make it possible to reconcile the interests of those who want to advance more quickly with the interests of those who prefer to move at a slower pace. Such an approach means that member states which wish to pursue integration and are capable of achieving it will be able to intensify their cooperation in a number of political spheres, while the others would benefit from solutions that take account of their reservations with regard to political integration. This would offer fresh policies to new member states, and free them from the straitjacket of social or economic criteria. Europe has long been dominated by markets that are changing at breakneck speed; it is now time for democratic politics to reassert itself.

Events and their consequences

One key development has been the rise of nationalist and so-called populist movements in a number of countries, a trend which could threaten the very existence of the EU were the National Front candidate, Marine Le Pen, to triumph in the upcoming French presidential elections. The national-populism that haunts Europe, however, is far more substantial than any ghost, and draws its nourishment from a deep and long-lasting economic crisis that has been poorly and unfairly managed, and which has had a devastating impact on the lives of millions. In addition, those who are committed to undermining and ultimately destroying the EU have enthusiastically resorted to demagoguery in their exploitation of the tragic situation of refugees and migrants. They garnish votes by campaigning against the supposed threat posed by such "strangers", drawing freely on lies and the tactics of post-truth politics. Their discourse, which promotes xenophobia and equates immigrants with terrorists, finds an echo among many

who have been harmed by an exclusive globalisation that is presented as the source of all their problems.

At the same time, although the welfare state (education, health, pensions etc.) has resisted the crisis and retains the support of citizens, it has been eroded throughout Europe as a result not only of economic policies but also due to the phenomenon of tax avoidance/evasion, which undermines the tax base and fuels the growing debt problem of some states.

It also seems clear that the change of administration in the US is not good news for Europeans. In the short time that Donald Trump has spent in the Oval Office, he has threatened to upset many of the well-established lines of US foreign policy, whether with regard to NATO, the EU, Mexico, the Middle East, the Israeli-Palestinian conflict, Iran, China or Russia. The outlook for trans-Atlantic relations is far from rosy. Despite this, there are new opportunities for the EU in the international sphere. One of these is Latin America. Trump's policies towards Mexico represent an attack on the entire continent, and it would be a mistake to allow the vacuum that this may create to be filled by other powers who do not share our values. Instead, we should grasp the opportunity to strengthen ties with Latin America, finalise the agreement with Mercosur and support positive developments in Cuba.

Defence and security is another area where the EU needs to make progress. Even if we ignore his declarations regarding the obsolescence of NATO, Trump's proposals boil down to making US support for the alliance conditional on greatly increased financial contributions from Europe while policy decisions would remain firmly in American hands. The EU is already committed to developing its own initiatives in this area – despite the problems that may arise from Brexit – in order to ensure that it does not find itself defenceless or obliged to back policies that it does not agree with. Acquiring greater strategic autonomy is therefore essential.

One encouraging development was the signature of the Paris Agreement on climate change. Implementing this agreement is essential for our future, and we must do everything possible to prevent any of the major countries from disavowing the agreement, because other large states would almost certainly follow suit. In this area, the EU still needs to tackle the creation of an energy union. Despite the fact that the EU has its origins in the European Coal and Steel Community and in the European Atomic Energy Community, we have not yet created a common energy market. Encouraging the development of a clean energy union and promoting a digital agenda that would place the EU at the cutting edge of the new technologies are two short-term objectives that would not require

any treaty modifications. But this is only possible if we place research and investigation at the centre of public policy.

However, we must be careful not to deceive ourselves. The real problems faced by the EU are not Brexit, the election of Donald Trump, the Ukraine–Russia crisis, or the conflicts in the Middle East. The real problem is that for too long we have been stuck, failing to move forward, failing to take initiatives that could deepen our union as the fires of nationalism spread. The EU is in urgent need of a relaunch to coincide with the 60th anniversary of the Treaty of Rome, because simply continuing as we are is no longer an option. That, in summary, is the thrust of this Report on the current situation in Europe: the future, as the great German philosopher Immanuel Kant might have said, "depends on what we do".

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Introduction. Europe and globalisation

Diego López Garrido

The United Kingdom's exit from the European Union is bad news, not only because it deprives the EU of its second-most important member in terms of GDP – and the leader in terms of military capacity – but also because the UK decision is merely the most serious expression of a phenomenon that can be found across the continent: the tendency to turn back to the Nation State in response to the EU's failure to offer a just and balanced solution to the financial and economic crisis, and the fear of globalisation which many also identify with the European project. The crisis has intensified a narrow emphasis on national self-interest, as nobody wants to share the burden of what they see as other people's problems.

The challenge facing the EU is of such a magnitude that it is threatening the most powerful, integrational project our continent has ever known. In this context, and particularly following the UK's decision to leave the EU, it is hardly a surprise that both the European Parliament and the European Council have recognised the need for a wide-ranging debate about the future of Europe. It was for this reason that the 27 heads of state or government met in Bratislava in September 2016 (all of the EU members except for the UK) and again on 25 March 2017 to celebrate the 60th anniversary of the Treaty of Rome and establish guidelines for the future of the Union. They will address the issue for a third time at an important meeting of the European Council in December 2017, following the elections in France and Germany. This, then, is a crucial moment for the EU, at which it is required not just to deal with transitory problems but to address and overcome a fundamental challenge to its very existence.

The crisis has created a legacy of youth unemployment, low salaries and chronic inequality, striking at the very core of European societies. One effect has been the unexpected rise of populist parties, particularly those

of the far right. These parties present the destruction of the European project and closing our borders to immigration as a panacea, ignoring the damage that such measures would inflict on our economy and fomenting the poison of xenophobia and racism in response to the arrival of refugees (See chapter by Enrique Ayala.)

These ideas – if that is the right word – are also bolstered by the threat from ISIS which, like all forms of terrorism, is a sworn enemy of democracy. Similar developments have been seen in neighbouring countries, with Putin in Russia and Erdogan in Turkey pursuing policies that are not exactly pro-European. And there are also threats from within the western geopolitical camp, such as the worrying discourse of isolationism, nationalism and protectionism from the Trump Administration and from some elements on the European right.

As if all of this were not enough, part of the EU – the United Kingdom – has decided to break away, a move that poses a huge threat to the Union and to its citizens in particular. Brexit threatens their right to move, live and work freely in the UK, and the reciprocal rights of UK citizens in the EU. The UK has committed a historical error in its incomprehensible decision to abandon one of the greatest benefits the EU offers (See chapters by Mercedes Guinea and José Candela.)

There is a danger that the European project will be profoundly weakened if the values based on human rights, the rule of law, democracy, the welfare state, and social and economic convergence between the members of the EU are not transmitted to its 500 million citizens.

The individual chapters and recommendations of this report offer an in-depth study of the State of the Union, and we propose a series of measures or lines of action to relaunch the EU:

- Above all, within each of the individual countries that make up the EU, we need to defend and argue for the rule of law, the separation of powers, and judicial and parliamentary control of the executive, all of which are essential elements of our democratic political culture and basic requirements of EU membership.
- The restatement and extension of the main and most cherished achievement of the EU: the freedom to move, live and work within the EU, and the right to social assistance and human rights for both majorities and minorities: in other words, European citizenship. There are currently 14 million Europeans who live in another EU country (including more than three million in the UK and a further one million UK citizens elsewhere in the EU, primarily in Spain).

- Maintaining an open, anti-protectionist trade policy that is also designed to defend the social achievements of the European continent, in contrast with the closed borders policy being pursued by the current US administration.
- Focusing on the creation of high-quality employment through a policy of productive investment, with a particular focus on R&D+i, education and equal opportunities, while also promoting energy infrastructure, discarding failed policies of austerity, and seeking to capitalise on the revolution in technology and automation that threatens to damage the European labour market. (See chapters by Manuel Ausaverri and by Philipp Fink, Antoine Guillou and Robert Schachtschneider.)
- Clear progress towards an environmentally sustainable economic union that involves fiscal, banking and budgetary union (with EU resources). In practice, this means creating a Treasury or Monetary Fund within the eurozone with the capacity to lend money and issue debt, and a harmonised tax system with the primary objective of abolishing tax havens and stamping out the shocking practice of tax avoidance by multinationals. (See chapter by Juan Moscoso del Prado and José Luis Escario.)
- In parallel, the EU must unequivocally demand the USA's cooperation in the fight against tax evasion, something which the USA, unlike other OECD members, has so far refused to do.
- The construction of an autonomous European defence and foreign policy, without prejudice to existing NATO commitments. (See chapters by Patxi Aldecoa, Vicente Palacio, José Manuel Albares and Carlos Carnero.)
- The construction of a social Europe that guarantees the entire European population decent levels of protection for workers' rights, healthcare, a minimum wage, and unemployment and pension provisions. This should be regardless of the country of residence or nationality of citizens, and must defend children's rights. (See chapter by Juan Moscoso del Prado.)
- Welcoming refugees who are fleeing war and political persecution, by creating safe routes to reach Europe without the immense loss of life in the Mediterranean (5,000 lives in 2016), and with costs shared among all the countries of the EU. (See chapter by Petra Bendel.)
- A European agreement setting out detailed and effective cooperation between legal systems and police forces to combat one of the biggest problems our societies face: violence against women.

However, even if all of the above measures were implemented it would not be enough. The EU, in addition to implementing the policies identified above, needs to create a new set of instruments and to develop a political will that it currently lacks in order to confront the defining phenomenon of the 21st century: globalisation. Addressing this challenge cannot be achieved simply by applying solutions derived from Rodrik's trilemma. Instead, what is required is a long-term approach that draws on a renewal of the European project designed to oppose the disheartening lack of a shared vision between member states, and a worrying dichotomy between north and south that is the product both of the crisis itself and of the restrictive policies applied in the EU's southern countries. This is compounded by another division: that between east and west, most clearly visible in the issue of solidarity in the response to the arrival of refugees.

Without political unity, it will be impossible to maintain the pace of quantitative and qualitative growth which, over the last 60 years, has been a characteristic of the great democratic project that brought peace and prosperity to a Europe devastated by two world wars and was a political inspiration to millions of people across the globe.

Proposals such as those identified here must allow a core of countries that wish to progress more rapidly to do so, while leaving the door open to others who may wish to join later, and without jeopardising the cohesion of the 27 member states. At the same time, EU-wide approaches must predominate over intergovernmental ones, strengthening the European Parliament and the Commission, while the European Council sets out broad guidelines that affect the sovereignty of member states.

When the EU was created, it had a powerful plan: to achieve peace and reconciliation in Europe, and to deliver the social and economic regeneration of a continent that had been crushed by war. Policies were developed and implemented at the national level, as was the welfare state, and the project counted on the support both of social democratic and Christian democratic parties. The involvement of the USA in European security, primarily through NATO, was very clear from the outset. Thirty years later, the EU renewed itself through Economic and Monetary Union and the creation of the euro, achieved political reunification with the fall of the Berlin Wall, and made the idea of European citizenship a reality through freedom of movement and residence. This was supported by the European Court of Justice, whose authority the UK government is now eager to reject.

Today, although the EU is geographically larger and politically more powerful, it lacks any real plan for the future and is threatened by a combination of neoliberal policies, the impact of the crisis, the danger of fragmentation, and hostility from abroad (Trump and Putin). The old ideas

have run their course but there is no sign of a replacement. This creates a gap that the new populist parties – primarily of the right but also of the left – have sought to exploit with anti-European formulae and the false promise of closed borders. The results include Brexit and the democratic crises in Poland and Hungary.

The EU needs a revitalised project, a relaunch – as the title of this Report suggests – because it is the best thing to have happened to generations of Europeans. This Report therefore puts forward a range of ideas for this relaunch. The EU has to regain its leadership by offering the policies that the continent, and the world, needs. It must create a specific proposal, with immediate commitments, that has the power to convince Europeans.

Populism and nationalism versus Europeanism

José Enrique de Ayala

The two events of 2016 bound to have the greatest repercussion in Europe in the near future – British voters' approval of Brexit in June and the election of Donald Trump as president of the United States in November – have much in common. Both victories were fuelled by upswings of nationalist, exclusionary sentiment bordering on xenophobia, nostalgia for a glorious past that will never return and the rejection of globalisation, a phenomenon that has tended to level inequalities throughout the world. Both were also achieved by manipulating the anxieties and fears of broad segments of the public and disseminating falsehoods: in other words, by means of the tactics of populism.

In Europe, at the same time and in step with and bolstered by these two key events, there has been a significant rise in support for right-wing political parties that has gone from being mere threat to a hard reality in Poland and Hungary and has the imminent potential to spread to other, more relevant countries. The current attempts of these ultra-nationalist and anti-European parties, some of which are not new (the Austrian FPÖ having been founded in 1956, the French FN in 1972, the Danish DF and the True Finns in 1995 and the Hungarian Jobbik in 2003), to exploit the economic, security and refugee crises in which Europe is currently mired to woo greater numbers of militants and voters could well have grave and lasting consequences for the future.

The question is no longer whether to advocate a faster or slower pace of European integration or specific common policies intended to solve the challenges we face or even to implement one strategy or another that might possibly mitigate the effects of globalisation. What is now at stake is not the European Union per se but democracy itself: the values and principles on which our coexistence is based and the institutions and rules developed under the auspices of democratic welfare states that have underpinned the progress this continent has achieved since the Second World War.

Globalisation and protectionism

Globalisation is not a new phenomenon. The geographic scope of commercial and political relations has progressively expanded throughout history, the regional focus of the Roman and Han Empires eventually giving way to interre-

gional relations sparked by trade along the Silk Road, the era of discovery and European empires and the dawn of railways and steamboats, to cite only a few of its previous vectors. Europe was a protagonist in this process from the very beginning, promoting and benefitting from it at every turn, even though the profits it supposed were reserved for a privileged few. Since the 1990s, with the disappearance of the blocks that defined the Cold War era, the expansion of multinational corporations and the rise of China and other emerging nations, the pace of globalisation has accelerated exponentially, driven by advances in telecommunications and transport technology that have diminished the importance of geographic distances. Nevertheless, Europe has been neither a prime mover nor a principal beneficiary of this latest phase.

It is clear that globalisation has its advantages and disadvantages. The formers have included the possibility for millions of people in emerging countries to escape abject poverty, international cultural and scientific exchange, the specialisation and mobility of highly qualified workers and, most particularly, a progressive confluence of values and interests that can reduce the incidence and relative scale of international conflicts. No sector has reaped as many benefits of globalisation as the financial sector, which buoyed by deregulation measures introduced during the 1980s by the Reagan administration in the United States and the British government under Margaret Thatcher has indulged in a sustained and highly lucrative spree of speculation that has imperilled the development and stability of certain countries and regions as well as a number of currencies.

Those worse hit by globalism have been low-skilled workers in developed countries suddenly confronted by the unfair competition of companies operating in countries in which even the most basic labour rights are not respected. Neoliberal globalisation has triggered a race to the bottom in which the labour, environmental and health regulations and social services achieved in developed countries are being progressively devalued and dismantled. The desire to maximise corporate profits has translated into industrial relocations that provoke unemployment and attempts to boost competiveness that undermine wages and working conditions. Globalisation has also heightened the risk of the loss of cultural diversity in a world caught up in a drift towards greater uniformity. Nevertheless, the worst threat we collectively face today is the loss of democratic control over economic activity, a clear possibility given that globalisation has not been accompanied by the creation of supranational entities with the authority to curb its excesses.

It is *this* unregulated and unbridled globalisation that works mainly to the benefit of finance capitalists and large multinational corporations that left-leaning political parties and social movements seek to reject. Capitalism is not anti-globalist but it is anti-regulationist; it only takes refuge in protectionism when it considers international regulations or treaties to be detrimental to its interests. Globalism is unstoppable, but it can, when regulated properly, be beneficial if it promotes the extension of labour and social rights throughout the globe and puts competition back on a reasonable footing. Protectionist reactions and the closing of borders do nothing but create tensions and aggravate the problem. The protectionism that arose in the 1930s in the midst of the Great Depression not only deepened the effects of that financial crisis but also contributed to the conditions leading to the Second World War. In the long

term, free trade and its expansion – both inherent aspects of globalisation – mean prosperity, growth and development for everyone.

Populism, the extreme right and nationalism in Europe

The Great Recession, which has had an especially hard impact in Europe over the past decade, has left a legacy of mounting inequality, employment insecurity and uncertainty about the future and declining living standards and prospects for broad swathes of society, particularly middle class citizens whose social and economic status has seriously deteriorated and low-skilled workers. In other words, it has created a fertile ground for the growth of extreme right-wing parties quite similar to that which nourished the rise of fascism in Europe in 1930s.

This situation is the consequence of a neoliberal economic system bent on growth and the optimisation of profit margins at the expense of equality and fair distribution that has no qualms about undermining the European model of the welfare state. The alt-right – the newest euphemism for the extreme right – seeks to draw attention away from this reality by casting the blame for everything gone wrong on globalisation and advocating protectionism in the form of a return to closed national borders as the cure-all. It is easy to exploit people's anxiety for the future and rage triggered by exclusion and convert them into animosity for the other – which can be anyone viewed as being different on the basis of his or her religion, language, skin colour or ideology. If to the consequences of the economic crisis we add a massive influx of migrants perceived by the most disadvantaged strata of society as an unbearable source of competition for jobs and social services and terrorist attacks that provoke a heightened sensation of insecurity, we have all the ingredients of a perfect storm.

Populists purport to be the voice of the people whose mission is to point out the differences between the interests of the public and those of traditional politicians on the right and the left alike. Behind this benevolent facade, however, lies a conscious attempt to play on the public's fear, rage and anxiety, circulate falsehoods and exploit collective emotions to achieve their own political ends. What sets them apart from other politicians (who from the beginning of time have been guilty of such behaviour at one point or another in their careers) is their habit of doing it on a systematic basis. Political populists indulge in demagoguery and tell people what they want to hear even when perfectly aware that it is false. They pitch simple solutions for complex problems they know are unviable and coyly present themselves as alternatives to other politicians (who they refer to as the elite and blame for all of society's ills) even though their objective is to wield the power they claim to distain. Populists distrust the media but attempt to use them to their own ends.

Extreme right-wing populism, the most widespread and pernicious form, is also ultranationalist, anti-European, identitarian, exclusionary and xenophobic. Its primary scapegoat is the immigrant, who it blames for all of society's problems including terrorist attacks regardless of the fact that the majority of those who have perpetrated terrorist attacks in Europe have been born there. The parallels between today's extreme right-wing populists and the fascist movements of the twentieth century are clear, the only distinction between them being a shift from anti-Semitism to Islamophobia. The demographic targets of these groups have not changed: they continue to be impoverished

middle-class citizens and low-skilled workers whose disillusionment with the political parties they have traditionally supported and unions has led them to seek miracle solutions to their desperate situations. All that is lacking to make the picture complete is political expansionism and the emergence of mass movements. Times have changed. We will not be seeing torch-lit processions of brown shirts or supreme leaders in military uniforms shouting slogans. Today's extreme right-wing movements nevertheless pursue the same dual objectives: to deflect people's anger away from those truly responsible for their problems and direct it towards imaginary enemies and to shore up the very system they outwardly criticise. Their concern for workers is as false as their patriotism. A few days after the election, Stephen Bannon, the archetypal alt-right populist in charge Donald Trump's presidential campaign who now serves as senior White House strategy advisor, was quoted in a Bloomberg Businessweek article as having said, "This is not the French Revolution ... What Trump represents is a restoration – a restoration of true American capitalism".

Annex I provides an overview of recent electoral results for the majority of the nationalist and anti-European parties currently active in EU member states, which represent a wide variety of interests and positions. Although all are openly anti-European, nationalist and populist, Great Britain's UKIP has nothing else in common with the anti-Semitic Hungarian Jobbik party nor does the German neo-Nazi party (NPD) have anything else in common with Alternative for Germany (AfD). Electoral support for these parties doubled between the two most recent national election cycles in Europe, in the last of which they received a total of over 32 million votes. The creation of two new parties during the interval between these two election periods – the AfD in Germany and the Five Star Movement (M5S) in Italy – partially accounts for this impressive groundswell in voter support.

Given its usefulness as a paradigm of demagoguery and populism in Europe, it is worth focusing briefly on the Italian Five Star Movement. The M5S was co-founded by Internet communications expert Gianroberto Casaleggio and the popular anti-establishment comedian Beppe Grillo, a charismatic leader who describes it as a movement organised in "circles" that bases its decisions on the online votes cast by its members. The M5S was the first party to refer collectively to mainstream politicians as "the political caste" – the abolition of whose privileges appears to be the most important, if not the only, plank of its political platform. Grillo's use of gutter language (*vaffanculo* days) and personal, off-the-cuff style of leadership has already provoked the defection of a number of office holders elected under the party banner. Although the M5S defines itself as being "neither left nor right", its Eurosceptic outlook, opposition to the euro and support for the penalisation of illegal immigration speak for themselves. Members of the European Parliament affiliated with the M5S form part of the Europe of Freedom and Direct Democracy group, a parliamentary coalition whose members include extreme-right parties such as UKIP, AfD and Democrats of Sweden. An M5S proposal to join forces with the Alliance of Liberals and Democrats for Europe – a parliamentary group that defends diametrically opposed principles – was sharply rebuffed.

Is there such a thing as left-wing populism? The answer is a resounding yes. The regimes established by Hugo Chavez in Venezuela and Evo Morales in Bolivia are prime examples. Lenin used populism to great effect. There are leftist parties in Europe that use populist techniques to

a greater or lesser extent to achieve their political objectives. Podemos, a party that emerged from the 2011 M15 indignant movement in Spain, has appropriated various aspects of M5S culture such as the use of the term "caste" to denigrate more established rivals and the practice of organising militants into circles. Like their counterparts in Italy, some of its leaders have frequently purported to lead a "movement" unaligned with either the right or left. Pretensions notwithstanding, Podemos is an alliance of left-wing political forces whose ideologies range from radical anti-capitalism to an academic form of populism rooted in the post-Marxist theories of Ernesto Laclau. Syriza, an alliance of left-wing parties in Greece that swept into power in 2015 on the basis of populist promises of political renovation and rebellion against EU-imposed bailout conditions it has unsurprisingly been unable to make good on, has since formed a coalition government with the radical right-wing nationalist Independent Greeks in order to survive. Nevertheless, despite their common use of populist tactics such as framing themselves as the sole defenders of the people against the rest of the world and proposing unworkable solutions, there is a fundamental difference between these parties and their alt-right counterparts: the two pursue diametrically opposed objectives. Whereas the ultimate goal of the radical right is to strengthen capitalism, that of the radical left is to dismantle or, at least, control it.

The political consequences of the economic crisis

The rise of populism and nationalism has undoubtedly been the gravest consequence of the economic crisis, the management of which here in Europe has been disastrous for many, but not all, countries and strata of society. Public debt has reached new heights, industrial and business sectors have been weakened, unemployment has risen sharply and labour rights and social services and benefits have deteriorated throughout the EU, all of which has led to a growing, widespread sensation of uncertainty. Looking at the situation from a deeper perspective, it is now clear that given the notable structural differences in the various economies within the Union, what was good for some was detrimental to others. The imposition of the vision of the most powerful member state under the leadership of Angela Merkel, based as it was on fiscal retrenchment and reduced demand, has worked to the advantage of exporting countries within the Union such as Germany but been disastrous for others whose upwardly spiralling burdens of sovereign debt have left them with unmanageable account deficits they have no option to address by means of monetary devaluation. The Obama administration, in contrast, took a far different, neo-Keynesian approach to the crisis in the United States, employing a strategy of stimulating investment and demand that has produced far better results.

Neoliberal economic prescriptions are fallacious and crafted solely to benefit capitalist interests. If lowering taxes and cutting social services were an effective means of balancing budgets, Scandinavian countries would be the laggards of Europe and those along its southern rim its greatest success stories. In reality, things work the other way around. Robust tax revenues, public investment and redistribution are needed to stimulate demand and economic growth. The burden of the crisis has fallen on the shoulders of the middle class and workers, provoking new levels of inequality, leaving many

people previously well integrated into society in situations of marginalisation and precarity and laying bare the fallacy of another neoliberal mantra, which is that growth benefits everyone across the board. This is the root of the political disaffection and desperation that has led so many Europeans, including a significant number who have traditionally voted for socialist or even communist parties, to unwittingly embrace the populism of the extreme right.

Disaffection would never have reached such levels if moderate left (social democratic) parties had offered citizens viable and coherent alternatives. Unfortunately, social democratic forces, whether in power or in the opposition, have fallen in step with neoliberal policies in the mistaken belief that they constituted the only way forward. And although it is abundantly clear that any alternative approach is difficult, if not impossible, for a single country to pursue in a world in which financial markets hold sway (we have only to look at the problems of Syriza in Greece for an example) the prospects for doing so on a European scale are quite different. Nevertheless, social democratic parties have not attempted to take this route at either the national or European level, opting instead to abandon concepts such the regulation and democratic control of the financial sector and the maintenance of the labour rights and social benefits that lie at the heart of their original mission and essence. The adherence of the majority of them to the social liberalism championed at the turn of the century by Tony Blair in Great Britain and Gerhard Schröder in Germany has made social democracy irrelevant in the eyes of voters in many parts of Europe. Social democratic parties' shift towards neoliberalism, which has blurred the traditional distinctions between the right and the left, has deprived voters of the option of choosing an alternative path or even dreaming of having the opportunity to do so at some point in the future. Miscalculation on this scale carries a hefty price tag. The perception of many citizens affected by the crisis is that conservative and socialist parties are very much of the same ilk and that radical parties are more likely to provide solutions to their problems.

The last remaining liberal socialist in power, French President François Hollande, has left his party in a deplorable state it will take years to recover from. All recently conducted polls have indicated that the Socialist party candidate has no chance of surviving the presidential elections first round to be held in that country on April 23. The prospect that French voters will ultimately choose between the centre-right, staunchly neoliberal Emmanuel Macron and the extreme right-wing Marine Le Pen provides a vivid idea of the degree to which support for the French left has deteriorated. Even if Le Pen loses by a large margin in the second round, the triumph of neoliberalism under Macron will signify a major step down the road towards financial deregulation.

Prior to this process, Geert Wilders's ultranationalist, Islamophobic, and anti-European Party for Freedom (PVV) may have already swept the March legislative elections in the Netherlands or have come in second with at least double the votes it won in the previous election. As in France, such a victory would come at the expense of the Labour Party, which could see its legislative representation fall from 25 % to as low as 8 or 9 %, although Wilders will probably be unable to form a government if democratic forces refuse to enter into a coalition with his party. In Germany, public support for Germany's SPD, which has risen dramatically following its nomination of Martin Schultz for chancellor, is now close to that enjoyed by the CDU-CSU.

Merkel is nevertheless likely to remain in power even if she fails to shine in these elections as the projected return of the Liberals to the Bundestag and debut of the AfD in that body substantially lower the possibility of a red-green-red coalition between left-wing and green political parties.

The resignation of Italian Prime Minister Matteo Renzi following the defeat of his referendum on constitutional reform could lead to early elections in that country this autumn. The M5S stands a chance of winning despite voter disaffection provoked by appalling errors on the part of the M5S mayor of Rome, and one cannot rule out the possibility of Grillo forming a government with the support of another faction, an outcome that would be comparable to a Le Pen victory in France. Finally, polls in the Czech Republic indicate that the Czech Social Democratic party could receive 5 % less of the overall vote in the upcoming October elections than it did in 2013 (15 % compared to 20 %) and consequently the status of most-voted party, which would logically go to the populist ANO 2011.

The horizon is stormy, especially for social democracy, which has emerged as the greatest loser of the crisis from a political perspective and suffered a setback that, as noted previously, was unfortunately caused to a large degree by social democratic parties themselves. To this we must add the populist government in Poland directed from the side-lines by Jarosław Kaczynski, which is drifting farther and farther from democracy and ever closer to authoritarianism to the glee of Hungarian prime minister Viktor Orban and the despair of a European Union helpless to prevent what constitutes a clear violation of European values and treaties.

Should socialists fail to revive their core leftist political vision, offer citizens a coherent and viable alternative and regain the confidence of the middle classes and workers hit hard by the crisis, Europe will inevitably undergo a dramatic political transformation. Populist parties will swell their ranks with voters disenchanted with the left, citizens will be forced to choose between right-wing and extreme right-wing candidates (as will soon happen in France) and there will be more European governments similar to those now in power in Poland and Hungary inclined to flout the most basic tenets of democracy. Right-wing neoliberals will take advantage of the rise of the extreme right to consolidate their positions and chip away at what remains of the welfare state. As the American investor Warren Buffet has observed, "There's class warfare, all right, but it's my class, the rich class, that's making war, and we're winning".

The European Union in peril

European extreme-right populist parties manifest varying degrees of hostility toward European integration, which range from advocating withdrawal from the Union (as UKIP has recently managed to achieve) to flouting EU norms they consider inconvenient while enjoying the advantages membership (as PiS in Poland has frequently done) and calling for their countries to abandon the euro (a position embraced by Italy's Northern League). The EU's failure to deliver balanced and fair solutions to the economic crisis has made citizens across the continent question its efficiency. The longstanding consensus between European conservatives, liberals and social democrats that has sustained the impetus of the Union for years, has effectively blocked the emergence of any credible political alternatives. This stasis and the overweening policy role played by the European Council under the thumb of Angela Merkel has led many to believe that the painful austerity policies

implemented in reaction to the crisis will never be reversed and that the sole answer to their problems lies at the national level.

The EU has been mired for several years in the worst crisis it has faced since its beginnings as the European Economic Community 60 years ago – a multifaceted crisis that presents challenges on a number of fronts. The severity and longevity of the economic crisis has revealed the limits of solidarity between member states and the ineffectiveness of community mechanisms in place to deal with it and triggered new levels of inequality, employment insecurity and social exclusion. An internal and external security crisis that has made Europe more vulnerable has been aggravated by the disinterest of the newly elected US president in European security. The refugee crisis has laid bare the weakness of our much-proclaimed values and underscored, once again, our societies' meagre capacity for solidarity. Underlying these circumstances is the greatest problem of all: a growing lack of internal cohesion on the economic plane, most vividly illustrated by the expanding economic breach between the EU's northern and southern members, and the political plane, which has been typified by an anti-democratic drift in Poland and Hungary that threatens to spread to more relevant member states – an ominous trend the EU has yet to formulate an effective response to.

The internal and external pressure against the EU is mounting, perhaps in part due to the fact that viewed from the most radical neoliberal perspective in a highly-globalised world, Europe is the only significant, albeit weakened, bastion of the welfare state. The European Union stands as the last remaining obstacle to the worldwide imposition of the law of the jungle, which is nothing less than total financial deregulation and the global suppression of labour and social rights. The EU is also a supranational framework with the potential to make Europe a global power in the true sense of the word, a possibility that is viewed with apprehension in certain Anglo-Saxon political and economic circles. No member state has ever previously decided to withdraw from the Union. Neither has any previous US president attacked the EU as directly or brutally as Donald Trump. Never before have so many called for a "re-nationalisation" of European politics or advocated "less Europe".

Less Europe is the worst thing that could happen to Europeans. It would mean more nationalism, more protectionism and more distrust between neighbours – all of which could lead to hostilities. The assertion made by François Mitterrand during his final speech in 1995 that "Nationalism is war" holds true today. The dismantling of the EU would mean a return to the Europe of 1930s, and we all know well how that story ended.

The most tepid new Eurosceptics have come up with the tautology that we need a better Europe rather than more Europe. The two, in reality, are the same because improving the way the EU functions inevitably supposes empowering community institutions, the European Parliament and the European Commission and weaning ourselves away from the intergovernmental method, which has been the greatest contributing factor to the situation in which we now find ourselves. The intergovernmental method produces confrontations between winners and losers in that it allows individual governments (voted into power by domestic electorates) to defend national rather than collective interests. It is furthermore perceived as being manifestly undemocratic by European citizens tired of leaders they haven't voted for making decisions against their interests, not to mention slow and inefficient – reaching a consensus

among 27 or 28 countries supposes eternal discussions that often end in decisions watered down to the point of inanity. Given that countries in the position to do so routinely leverage their power and the size of their contributions to the community budget to get their way, it is furthermore neither objective nor neutral. In the final instance, it is always conditioned by national election cycles and referendums, which in some cases can paralyse community decision-making for more than a year.

The only way to improve the efficacy and internal balance of the Union is to vest more power in communitary institutions. However, this does not mean granting them additional competences that can be held by member states; the Commission is currently in the process of correcting what may have been an overzealous approach to regulation. The principle of subsidiarity must be upheld at all levels of governance. Nevertheless, the EP, the only communitary body whose members are directly elected by EU citizens, and the CE, the composition of which is contingent upon the EP and is accountable to that institution, must have the effective power to implement the Treaties and set specific policies while the European Council serves as a collective head of state that approves the general direction of policy-making and presides over issues concerning sovereignty such as the entrance of new members and areas of a purely intergovernmental nature such as foreign affairs and defence. For this to come about, the functions of these institutions must be streamlined and enhanced. The European Parliament must be given full legislative authority (which it currently shares with the Council), greater control over the Commission that includes the right to pass a constructive vote of no confidence in that body's leadership and a mechanism by which eurozone countries can pursue a common economic policy. Once ratified by the EP, an EC president should be free to choose the members of his or commission (which must be balanced in terms of regional representation and gender), the duty of which should be to implement well-defined policies subject to the assessment and approval of voters in subsequent European elections, who will thus determine the direction of, and assume responsibility for, decisions made at this level. Given that he who pays inevitably calls the shots, it goes without saying that community budgets would be best funded through some form of European taxes rather than by means of contributions from member states. Such a system would make the EC accountable to European citizens rather than national governments, as is currently the case.

However difficult it may appear, this is the path that must be taken. The satisfactory resolution of a number of crises now affecting people across Europe will require more than the mere coordination of national policies. In the sphere of finance, for example, a harmonised deposit guarantee scheme is needed to achieve common banking union. Problems in the area of migration can only be solved by means of the homologation of national laws and regulations and the establishment of firm quotas. At a time when the EU may need to face a growing number of problems along its external perimeters alone, European security and defence (whether conventional or focused on terrorism or cybercrime) requires an organised communal effort. We must also construct a social Europe, beginning with a community guarantee of social rights such as a standard minimum wage and unemployment benefits that builds upon national governments' social commitments and strengthens public perception that EU citizenship provides direct benefits.

Implementing a direct, decisive and sufficiently dissuasive mechanism for sanctioning member states failing to comply with democratic norms or violating the Charter of Fundamental Rights that curtails both their voting rights in the Council and their access to community funds is of the utmost importance. The EU cannot afford to tolerate the type of violations of the principles of full democracy and the separation of powers on which it was founded that are currently being perpetrated in Poland simply because it is hampered by a slow, ineffective sanction procedure requiring an unanimity frequently difficult to achieve. A timid reaction now could tempt other countries to go down the same perilous path, which would inevitably lead to the breakup of the Union and a dangerous future for all.

The question now is whether the EU will be able, in spite of the present hostile climate, to sustain and further the convergence process so essential to the resolution of shared problems and maintain the principles of freedom, peace, respect for human rights, solidarity and internal and external inclusion, the ideals of justice and equality and the social advances of the welfare state. For this is what the citizens of Europe want. If we can convince them that the EU will uphold these principles, work to overcome national and class egotism and make European institutions more effective and transparent, the soft neo-fascism that now threatens us from so many directions will not prevail.

Annex I. Electoral results of nationalist and anti-European parties in the two most recent national elections held in Eu member states[1]

		Penultimate election			Last election			Variation	
Country	**Party**	**Date**	**%**	**Votes**	**Date**	**%**	**Votes**	**%**	**Votes**
Germany[2]	National Democratic	09/09	1.5	635,525	09/13	1.3	560,828	-0.2	-74.697
	Alternative for Germany	09/09	-	-	09/13	4.7	2,056,985	+.7	+2,056,985
Austria	Freedom Party	09/08	17.54	857,029	09/13	20.51	962,313	+2.9	+105,284
Belgium	Flemish Interest	06/10	7.74	506,697	05/14	3.67	247,746	-4.07	-258,951
Bulgaria	Attack	07/09	9.40	395,707	05/13	7.30	258,481	-2.10	-137,226
Czech Rep.	Dawn	05/10	-	-	10/13	6.88	342,339	+6.8	+342,339
Denmark	Danish People's Party	09/11	12.3	436,726	06/15	21.1	741,746	+8.8	+305,020
Slovakia	National Party	06/10	5.07	128,490	03/12	4.55	116,420	-0.52	-12,070
Finland	Finns Party	04/11	19.1	560,075	04/15	17.65	524,054	-1.45	-36,021
France[3]	National Front	06/07	4.29	1,116,136	06/12	13.6	3,528,373	+9.3	+2,412,237
Greece	Golden Dawn	06/12	6.92	426,025	09/15[4]	6.99	379,722	+0.0	-46,303
Nether-lands	Party for Freedom	06/10	15.4	1,454,493	09/12	10.1	950,263	-5.3	-504,230
Hungary	Jobbik	04/10	16.7	854,745	04/14	20.22	1,020,476	+3.5	+165,731
Italy	Northern League	04/08	8.3	3,024,758	02/13	4.08	1,390,156	-3.9	-1,634,602
	5 Star Movement	04/08	-	-	02/13	25.55	8,689,168	+25	+8,689,168
Poland	Law and Justice	10/11	29.89	4,295,016	10/15	37.58	5,711,687	+7.6	+1,416,671
United Kingdom	British National Party	05/10	1.9	564,321	05/15	1.9	1,667	-1.9	-562,654
	Independence Party	05/10	3.1	919,471	05/15	12.6	3,881,129	+ 9.5	+2,961,658
Romania	Greater Rumania	12/12	1.25	92,382	12/16	1.04	73,264	-0.21	-19,118
Sweden	Sweden Democrats	09/10	5.7	339,610	09/14	12.86	801,178	+7.1	+461,568
TOTAL			16,607,206			32,237,995		+ 15,630,789	

Compiled by the author on the basis of publicly available data.
[1] For countries with bicameral systems, data correspond to election results for the lower house.
[2] Figures represent numbers of party list votes.
[3] Data correspond to first round election results.
[4] National elections were held twice in Greece that year. Data correspond to those held in September.

A modest resurgence of social policy in a Europe threatened by persistent poverty and inequality

Juan Moscoso del Prado Hernández

Social policy made a timid comeback on the EU agenda in 2016. In a Union in which it is increasingly difficult to detect any signs of change or reform and even fewer of deepening, the European Commission has pulled this issue off the back burner in an attempt to make good on at least some of the commitments announced at the beginning of the Juncker mandate.

It is too soon to determine whether this initiative represents an intention to pursue this issue vigorously or merely the technical fulfilment of a vaguely articulated promise that must be addressed before the end of the five-year tenure of the Juncker Commission, which has now passed its halfway mark. Social policy is inevitably mentioned in every EU road map given its key importance to the European way of life: notwithstanding periodic dips caused by austerity measures such as those enforced in the wake of the recent economic crisis, EU social expenditure normally accounts for 30 % of European GDP and 50 % of global social expenditure. Actually, devoting the political capacity and will required to achieve new social objectives is however a completely different matter.

The construction of a European pillar of social rights

Early this year the European Commission completed a long round of extended discussions and consultations with member states, social partners, civil society organisations and citizens focused on the role and content of the future European Pillar of Social Rights, for which a formal proposal is expected to be presented in March. Looking ahead, the Commission and the Swedish government will also be co-hosting the Social Summit for Fair Jobs and Growth, a high-level meeting on the same topic to be held in Gothenburg, Sweden on 17 November 2017.

More than 16,000 views and comments were received during a public consultation

period devoted to this initiative. The European Parliament has issued a related resolution, the European Economic and Social Committee (EESC) and the EU Committee of the Regions (CoR) have presented formal opinions and social partners Business Europe and the European Trade Union Confederation (ETUC) have also issued studies.

During his 2015 State of the Union address, Commission President Juncker announced his intention to develop a "European Pillar of Social Rights" that would take into account the complex and swiftly changing realities of a globalised world and serve as both a "compass" for convergence within the eurozone and a vehicle for moving forward towards the long-standing but unfulfilled goal of full economic and monetary union. As initially envisaged, this initiative was to focus primarily on eurozone countries but be open to the voluntary participation and future inclusion of any other interested member states.

The plan for completing economic and monetary union was further articulated in the Five President's Report[1] issued in June 2015, which set out working agendas in four areas in which progress would be required to meet this objective. This document was the result of extensive consultation with the Sherpas of member states, the Sherpas of the presidents of EU institutions involved and the five presidents.

On 8 March 2016, the Commission presented an outline[2] for the new pillar, which according to this communication will draw upon principles shared by eurozone states and have a specific focus on addressing the needs and challenges they face in the area of employment and social policy.

The Commission launched an open consultation process in 2016, during which EU authorities and institutions, social partners, civil society organisations and citizens expressed their views concerning the ways in which the new pillar could and should contribute to the construction of a fairer and deeper economic and monetary union. The final text defining the European Pillar of Social Rights will be based on the results of this consultation, reflection and debate.

The European pillar of social rights will build upon the EU's established social acquis, complementing it whenever necessary to ensure that the Union's economic and monetary policies support the proper functioning and fairness of European labour markets and welfare systems.

The new principles it establishes are not meant to replace social rights now in effect but rather provide a new means for improving the performance and results of national employment systems and social policies. The intention is that once adopted, the Pillar will serve as a reference framework for evaluating the employment and social performance of participating member states, a means of driving reform at the national level and, more specifically, a compass for renewed convergence within the eurozone. Activity on this issue during 2016 focused on

[1] Juncker, J. C.; Tusk, D.; Dijsselbloem, J.; Draghi, M., and Schulz, M.: *Completing Europe's Economic and Monetary Union, report prepared by Jean-Claude Juncker in close cooperation with Donald Tusk, Jeroen Dijsselbloem, Mario Draghi and Martin Schulz*, Brussels, 22 June 2015.

[2] CCOM(2016) 127 final: *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Launching a consultation on a European Pillar of Social Rights*, Strasbourg, 8 March 2016.

the public consultation process mentioned above, which was part of a broader structured dialogue intended to sound out the opinions of the widest possible range of national authorities, social partners, and citizens. In parallel to this public consultation mechanism, the Commission also established direct channels of contact, discussion and exchange of opinion with other European institutions, national and parliamentary authorities, labour unions, business associations, NGOs, social services providers, academic experts and the general public.

During this period, the Commission has sought to mobilise public opinion and stimulate an exchange of ideas and proposals on which to base the formulation of the Pillar by encouraging interested parties and stakeholders to organise grassroots events on the topic.

The structured dialogue launched by the Commission divided issues related to employment and social policy into three basic categories, each of which covered a number of relevant subordinate policy points and objectives.

These three categories are:

– Equal opportunities and access to the labour market, which covers the development of professional skills, lifelong learning and active support for job seekers – areas that have been identified as key to broadening the scope of workers' employment opportunities, facilitating their career transitions and improving their employability.
– Fair working conditions, which addresses the need to achieve a balance between workers' and employers' rights and obligations that offers the combination of flexibility and security needed to support job creation, facilitate career transition, allow companies to adapt to change and promote constructive social dialogue, and
– Adequate and sustainable social protection, which concerns the quality of, and access to, health care and social protection services (including those that provide support for children and infants, the elderly and the disabled) considered key to ensuring the personal dignity of all citizens and the mitigation of social risks they may face over the course of their lives. Policies in this area must guarantee that all EU citizens have the opportunity to enter the labour market and participate fully in society.

Every EU institution is participating in the development of the new pillar as befits its particular mandate. The European Economic and Social Committee, for example, has organised 28 national debates on issues related to the proposed pillar that have generated invaluable input from every member state and helped to identify the specific needs of those belonging to the Economic and Monetary Union.

The Report on a European Pillar of Social Rights[3] issued by the European Parliament's Committee on Employment and Social Affairs, which contains a motion for an EP resolution subsequently adopted by that body, called on the Commission to present a proposal that goes beyond a declaration of principles or good intentions and represents an initiative capable of having a positive impact on the lives of EU citizens. As such, it constitutes a demand for the end of routine declarations grounded in general, undefined principles unaccompanied by specific provisions for the creation of a truly social Europe. The contrast between the indeterminate nature of European social policy and the highly specific measures that have been

[3] http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A8-2016-0391+0+DOC+XML+V0//EN

approved regarding competitiveness and the single market, for example, provide ample justification for this concern. The Parliament has therefore sent the Commission a clear message that it wants to see an ambitious proposal containing concrete measures and legislative initiatives that will set Europe on track not only to deal with the challenges supposed by globalisation and the digital revolution but also to improve the quality of employment and establish wages that allow families to rise above the poverty line and live in dignity.

The EP has also called upon the Commission to ensure that the European Pillar of Social Rights includes a framework directive defining a core set of enforceable rights that delivers on the objectives and rights set out in the EU Treaties and the European Social Charter, puts social rights on an equal footing with economic freedoms and advocates the establishment of a decent minimum wage in all EU member states.

It furthermore requests that the Commission work with social partners on the development of a proposal for this directive, which should provide for decent working conditions based on the principles of fair treatment and non-discrimination, be applicable to all types of contractual agreements and employment relationships including non-standard types of employment and ensure that all workers enjoy:

- Health and safety protection.
- Protection during maternity leave.
- Provisions on working time and rest time.
- Work-life balance.
- Access to training.
- In-work support for people with disabilities.
- Information, consultation and participation rights.

Freedom of association and representation and collective bargaining.

Employment, social developments, social protection and inclusion in Europe

As in prior years, in 2016 the Commission issued two annual reports dealing with employment and social developments and social protection and inclusion.

The first, employment and social developments in Europe report[4], contains analytical data used during the European Semester to guide initiatives such as A New Skills Agenda, the European Agenda for the Collaborative Economy, The New Start for Social Dialogue and the Action Plan on the Integration of Third-Country Nationals as well as the formulation of the European Pillar of Social Rights.

This report analyses convergence and divergence in the E(M)U and the outcomes of employment and social policies. It also addresses employment dynamics and their social implications, especially in terms of inequality and poverty, the integration of refugees into the labour market, the implications of information and communications technology (ICT) and digitalisation for the employment market and capacity building for social dialogue.

Although unemployment levels remain unacceptably high and there continue to be significant gaps in performance between member states in this area, three million jobs were created in the Union during 2016.

Commissioner for Employment, Social Affairs, Skills and Labour Mobility Marianne Thyssen recognises in the foreword to this report that although a significant number of jobs have been created in Europe and fewer Europeans are at risk of poverty or social exclu-

[4] http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7952&type=2&furtherPubs=yes

sion than at the 2012 post-crisis peak of these problems, many EU citizens continue to be trapped in low-paying jobs – a clear indication that a greater focus must be made on the quality of employment being created. Another issue addressed in this document is the transformation of the employment market and society in general brought on by the emergence of new technologies, which have simultaneously created new opportunities and new challenges. Along these lines, Commissioner Thyssen underlined the need to link the European Pillar of Social Rights to programmes previously introduced as part of the Commission's New Skills Agenda.

Statistics show that 232 million Europeans are now gainfully employed – the highest number on record. Nevertheless, as of October 2016, 8.3 % (more than twenty million) remain unemployed, more than half of whom have been out of work for over a year. The crisis has generated wide disparities between the unemployment levels throughout the EU. During the post-crisis period (2008–2013) only one in eight unemployed workers managed to find permanent full-time employment within three years. Youth unemployment across Europe has declined to slightly over 20 %, although it remains much higher in countries such as Spain, where it currently stands at 46.5 %. The recent influx of more than two million refugees, many of whom lack the skills and language qualifications necessary to compete in the European labour market, has aggravated this problem.

The percentage of the EU population in risk of poverty or social exclusion is at its lowest point in the last five years (23.7 %). The best protection against poverty is full-time employment. However, according to 2015 statistics, approximately 119 million in Europe remain at risk of poverty or social exclusion.

The Commission is aware that the future of employment is irrevocably linked to the digitalisation of the economy. It is expected that the development of digital platforms in the context of the collaborative economy, for example, will generate many new opportunities for self-employment. Although a third of EU's economic growth during the period of 2005–2010 was in some way related to information and communications technology, progress towards the fulfilment of Europe 2020 targets for ICT investment and similar previously established objectives continues to be slow. Meanwhile, surveys indicate that European companies are finding it difficult to fill vacancies for jobs requiring ICT skills. It is clear that in order to reap the full benefits of the digital revolution, Europe must invest more in ICT training and do more to foster the greater implementation of ICT in business and industry.

Social partners and social dialogue must adapt to this changing environment and assume a greater role in meeting the challenges of today's employment situation. To this end, the European Pillar of Social Rights must help boost citizen's prospects of securing gainful employment, make labour markets and societies in general more inclusive, drive convergence within the eurozone and improve performance for indicators related to stable employment, wages, social protection.

Although Europe has 1.6 million fewer unemployed young people and 900,000 fewer NEETS (young people between the ages of 15 and 24 not employed or pursuing an education or training) than it did in 2013, much more needs to done to assist this particular demographic segment of European society, beginning with additional support for the recently refunded Youth Guarantee programme, the related Youth Employment Initiative and all

other programmes conceived to help European young people succeed in today's highly challenging labour market. All of these policy initiatives must be sustained, particularly in those countries hit hardest by the crisis, if significant progress is to be made going forward. In addition to their initial purpose, these programmes provide a golden opportunity to consolidate a European-level policy that not only complements national efforts severely hindered by budget cutbacks but also serves as a model for future EU internal policymaking.

This report also reveals the failure of national governments throughout Europe to maintain appropriate levels of funding for active labour market policies following the financial crisis. According to the statistics in contains, the average annual relief and support expenditure per jobless person in Europe actually declined by between 5 % and 10 % between 2010 and 2013 despite a sharp rise in unemployment during this period.

The second relevant document issued in 2016 was the Social Protection Committee's annual report[5], a study it prepares every twelve months in fulfilment of its mandate – established in article 160 of The Treaty on the Functioning of the European Union (TFEU) – to monitor the social situation in the European Union and the development of social protection policies in member states.

Although the latest Social Protection Performance Monitor (SPPM) points to the continued favourable evolution of the European labour market, according to the most recent data available, the risk of poverty and social exclusion in the European Union continues to be unacceptably high and much remains to be accomplished if 2020 social inclusion targets are to be met.

This report contains the following observations regarding what the Social Protection Committee has identified as trends to watch:

- Figures for relative poverty and the depth of poverty indicate a persistent deterioration of social wellbeing in the EU. The percentage of EU citizens residing in quasi-jobless households is on the increase as are risk-of-poverty rates for such households. Children account for one fifth of the individuals currently at risk of poverty or social exclusion in the Union. However, a reported rise in household incomes in many member states indicates that severe material deprivation rates and the relative burden of housing costs are now both falling in these countries.
- Long-term unemployment and the scarcity of job opportunities for young people between the ages of 15 and 24 continue to be major challenges. NEET and unemployment rates have only fallen slightly.
- The labour market participation rate for older workers as well as income and living conditions of the elderly relative to the rest of the population has continued to improve.
- There continues to be a wide dispersion and divergence in income inequality within the EU and the income gap that has widened dramatically in nearly half of them since 2008 has yet to reach a point of inflexion.
- Underperforming member states must do more to improve the effectiveness of benefits they provide to working-age citizens, enhance the social services they offer and make their labour markets more inclusive. This will best be accomplished by placing greater emphasis on coverage and the adequacy of

[5] http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7936&visible=0&preview=cHJldkVtcGxQb3J0YWwhMjAxMjAyMTVwcmV2aWV3

social benefits and the role both play in activation, raising income support as required, targeting social transfers, facilitating access to quality social services, improving monitoring tools and encouraging labour market (re) integration by means of support for activation. Member states can improve and ensure the coverage they offer by simplifying access procedures, taking care not to define low-income targets too narrowly and guaranteeing that benefits provided are adequate. They can likewise avoid the fragmentation of service delivery by providing integrated services tailored to individual needs. Enhancing existing incentives to work is another pending task.

- If they are to reduce child poverty and break generational cycles of poverty and exclusion, member states must make their social protection systems fairer and more inclusive. This can be accomplished by means of integrated strategies that cover both prevention (early intervention and family assistance) and support – particularly that which facilitates parental insertion into the active workforce.
- Citizens' access to health care continues to vary according to income bracket. National governments must develop adequate and sustainable means for financing universal health care systems and make the best possible use of innovations and technological advances in this area. Health policy at the national level must also meet the need for adequate, affordable, quality long-term care. Doing so may require adopting a more proactive approach to delivering health and social services that lessens the demand for long-term care by helping people preserve their independence.
- Encouraging citizens to extend their working lives by addressing the impacts of aging, bringing pension ages into line with current life expectancy, equalising retirement ages for men and women and reducing existing gender pension gaps is another priority. To ensure the future of pension systems, policy reform carried out at the national level must factor in today's increased life expectancy, be designed to lower unemployment rates, contemplate raising the legal retirement age, encourage the incorporation of more women into the workforce and promote personal savings plans that complement public retirement benefits. Social partners must play a role in achieving the broad political and social consensus required to effect such changes.
- Gender mainstreaming must be made a cornerstone of policy in general and social policy in particular to ensure that ever greater numbers of citizens become active participants in European economies and societies.
- Strengthening the ability of social protection systems to prevent and reduce poverty by means of the implementation of effective social insurance and assistance programmes and social investment is the surest strategy for achieving the EU's 2020 poverty and exclusion target and ensuring the continuous improvement of employment and social outcomes in the Union going forward.

EU economic policy in 2016. An incomplete EMU: towards a fiscal union

José Luis Escario Díaz-Berrio and Juan Moscoso del Prado Hernández

The current unsustainable euro policy

Quantitative easing is having a diminishing effect

The moderate pace of economic recuperation in Europe in 2016 can by and large be attributed to a single factor: the decision of the European Central Bank (ECB) to continue implementing quantitative easing (QE), a transitory policy that cannot be extended indefinitely and has unfortunately not been accompanied by any substantial effort on the part of national governments or the European Council to foster economic growth or job creation. In consequence, the effectiveness of the euro as a single currency – a fundamental, but not the only, element of economic and monetary union (EMU) – has suffered due to the political paralysis in which the European Union has been locked since the outset of the financial crisis in the summer of 2008.

The current model of growth, imperfect and unsustainable as it is in the medium to long term, has produced modest results but impeded the Union from fine tuning its macroeconomic policy mix despite of clear signals of its limitations and defects. The EU's potential for growth continues to decline; temporary factors other than monetary policy that have contributed to the recuperation such as the recent drop in energy prices in general, the price of oil in particular and an uptick in exports have been slowly running their course while the need to stabilise national budgets has found its way back onto the political agenda. Implementation of the Stability and Growth Pact (SGP) will be postponed to the latter part of 2017 due to elections taking place in a number of European countries during the first six months of the year. Additional geopolitical factors such as Donald Trump's entry into White House with an unorthodox team of advisors and an unclear set of new policy objectives and doubts as to the growth prospects of emerging economies threaten worldwide economic growth and raise the general level of global uncertainty. Any surge in protectionism, reduction in the volume of international trade or heightening of trade tensions could neutralise

the positive effects of any eventual depreciation of the euro.

In light of these circumstances, the European Union, and most of all its eurozone members, must act to correct the troubling weaknesses of the present state of the EMU. Despite the efforts of the ECB, equal access to credit within the EU has not been achieved. Companies in southern member states still have a tougher time securing financing than their counterparts further north. While there has been encouraging rhetoric on the part of politicians and economists, the investment and support for productivity and competitiveness needed to generate quality sustainable employment has not been forthcoming. Although European companies have generally managed to continue meeting overhead and other expenses, austerity measures have hurt sectors that must demonstrate medium- and long-term competitiveness, especially in southern eurozone and Mediterranean countries. If economic stagnation in France and the delicate state of Italian banking system were not troubling enough, Greece continues to struggle to recover not only from the crisis of 2008 but also the overdose of austerity measures that followed. The austerity regime imposed on countries such as Spain, in which only a minor reduction of public and private debt has been achieved at the cost of wage stagnation, the erosion of employment stability, an incalculable rise in the number of families pushed to the brink of poverty and a dramatic increase in the percentage of the working poor, is clearly not the best recipe for ensuring sustainable growth and strengthening social cohesion. Countries such as Spain cannot afford the luxury of basing their economies solely on strategic sectors subject to shifts in international economic and geopolitical trends such as tourism or exportation instead of investing in education, digitalisation, job creation, competitiveness, research, development and innovation, at a moment at which they are suffering rising levels of social inequality and poverty that threaten the prospects of a rebound in domestic demand.

The eurozone must have instruments of fiscal policy

The asymmetric realities of northern and southern eurozone countries underscore the lack of instruments with which to address simultaneous but distinct problems within the group. Monetary policy cannot correct these problems, and although fiscal policy could be used to address them, northern states have relentlessly blocked the implementation of measures capable of reactivating investment and demand in the southern states hit hardest by the crisis. Spain, for example, has yet to bring its GDP back to its 2007 level, and when it finally manages to do so later this year after a decade of budget tightening, it will be against a backdrop of unemployment and loss of social cohesion impossible to imagine prior to the onset of the crisis. Employment opportunities in Spain going forward will be of poorer quality, more precarious and pay less. The country will be less equitable, with a growing percentage of its active workforce moving from one precarious job to the next and unemployed workers over 45 and young people in need of training trapped on the threshold of poverty with diminishing hope of improving their lot.

Reducing these disparities will require investment, monetary transfers and local countercyclical policies tailored to tackle specific problems such as long-term employment and the need to strengthen worker qualifications – actions that the EU has been loath to undertake to date.

The European economic agenda

As the European legislature that began in the summer of 2014 reaches its halfway point, it is patently clear that its lead initiative, the Juncker Plan, has fallen short of the mark. It was a well-meaning move in the right direction that was nevertheless insufficient for the task at hand and implemented too slowly. Nine years after the onset of the economic crisis, we have yet to fully recover. Beyond the growing inequality, high unemployment and low growth rates we continue to deal with, new geopolitical uncertainties sparked by Brexit, political changes in the United States and events in the Mediterranean are also clamouring for our attention.

The European Commission's autumn 2016 economic forecast[1] spoke of "modest growth in challenging times". According to this document, a series of negative factors are set to restrain economic growth throughout the EU during 2017. The growth rate in the eurozone is expected to be modest despite recent labour market gains and rising private consumption, which according to the Commission's analysis are likely to be offset by various hindrances to growth and the weakening of support factors. It is expected that private consumption sustained by rising employment will continue to be the main driver of European economic growth until 2018.

Insufficient support for Moscovici's investment plan for Europe and call for fiscal stimulus

The European Commission has attempted to promote a European plan for investment and fiscal stimulus on various occasions. European Commissioner Pierre Moscovici has repeatedly insisted on the need for measures that would foster economic growth. The stimulus plan he proposed in November 2016 enjoys the support of the European Central Bank and its president Mario Draghi, who has publicly acknowledged that he has already done what he could to bolster the flagging European economy. It must also have the backing of the European Parliament to go forward, but to judge from the tenor of the December Eurogroup meeting, at which eurozone finance ministers rejected the Commission's proposal for across-the-board fiscal expansion of up to 0.5 % of GDP during 2017 and agreed that only member states with large budget surpluses such as Germany and The Netherlands should be spending more, the Council appears to be completely against the idea. In a reiteration of its sustained and unquestioning support for austerity measures contrary to the interests not only of Spaniards but all European citizens, the Spanish government provided no direct support for the Moscovici plan at this meeting.

A return to policies that promote the growth, productive investment and innovation needed to prevent Europe from falling behind in areas such as digitalisation and robotics is beyond the shadow of a doubt one of the main, if not the foremost, of the EU's obligations to the citizens of Europe. The degree of its willingness to address this issue in a definitive manner will determine whether or not Europe will capable of creating quality employment going forward.

Prospects for growth

The winter 2017 economic forecast released by the Commission on 13 February contained the warning that Europe is "navigating choppy waters".

[1] https://ec.europa.eu/info/business-economy-euro/economic-performance-and-forecasts/economic-forecasts_en

Although this report stated all member states are poised to grow in 2016, 2017 and 2018, it also admitted, "the outlook is surrounded by higher-than-normal uncertainty". It is anticipated that unemployment will fall but remain above pre-crisis levels. Private consumption is expected to rise and investment will grow, albeit at a subdued pace.

The European Commission forecasts that GDP will grow by a modest 1.6 % in the eurozone during 2017 and 1.8 % in 2018. The EC's winter economic forecast nevertheless enumerated a litany of downside risk factors threatening to affect results for this period that included "risks to the growth outlook stem from legacies of the recent crises; the UK's vote to leave the European Union; potential disruptions to trade; faster money tightening in the United States, which could have a negative influence on emerging market economies; and the potential consequences of high and rising debt in China".

The Commission also predicts a rise in inflation and prices after three years of relative decline and stagnation, a shift mainly driven by an upswing in energy prices. Inflation is expected to reach new levels although fall short of the target figure of "below, but close to 2 % over the medium term" defined by the European Central Bank as price stability.

The need to make the EMU a true monetary and fiscal union with policy mechanisms such as a banking union and a common labour policy

Towards a fiscal union

Economic theory and history have long indicated that monetary unions bereft of compensatory fiscal policies are unsustainable due to the need to address crucial aspects of economic policy such as stabilisation and redistribution.

One of the main reasons (if not the only reason) why the economic crisis has lingered so long and done so much damage here in Europe and particularly in eurozone countries is our lack of a common fiscal policy[2]. To date, Europe has been unable to implement countercyclical stabilisation measures geared to remedy the problems of individual countries or economies subject to asymmetric shocks such as the burst of the construction bubble in Spain or, to provide another example, the sovereign debt crisis in Greece.

Disputes arising between supposed debtor and creditor countries over economic imbalances within the EMU that have not been strictly fiscal in nature (an unsustainable balance of payment deficit in Germany's favour being one example) have done nothing but add fuel to the fires of nationalism, weaken the future prospects of the European project and derail European economic growth.

There have been enough highs amidst the lows to keep hope alive. Although the process has been unnecessarily slow, the creation of the banking union not only signals the need to move forward with the development of fiscal instruments that would institutionalise solidarity between member states but also, to a certain extent, represents a step in the direction of full fiscal union. The fact that the Juncker Plan has demonstrated once again that community budgets can be used to guarantee bonds issued by the European Investment Bank as a means of project financing is also interesting, as it suggests the possibility of issuing community bonds as well.

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[2] Fernández, J.: "Hacia la unión fiscal en Europa", *Temas para el Debate* no. 266-267, February 2017.

In any case, there have been signs in 2016 that lead us to believe the asymmetries and shortfalls of EU economic policy in a general sense and regarding the eurozone in particular are being corrected albeit in a curious patchwork fashion.

Against all odds, great strides are being made towards aspects of European integration. European citizens appear to be unaware of these advances, which have great social or political impact, although they do react swiftly, if superficially, to issues linked to the north-south debate. It would thus appear that the public either doesn't want to see or doesn't understand the profundity and irreversibility of important changes taking place.

A case in point is the ECB's implementation of quantitative easing (QE) during 2016, the first full twelve-month period during which it pursued this policy. This was an unequivocal exercise in the communitisation of public and private debt. Many experts believe that had it not been for the creation of the banking union, which handles the supervision, resolution, and liquidation of banks and credit institutions within the eurozone, QE would never have taken place. As previously mentioned, all other things being equal, without QE it would have been impossible to expect the slightest hint of growth anywhere in the eurozone today given the current economic climate.

Banking union is slowly but surely taking shape

One of the tools in the current arsenal of the banking union is the Single Resolution Mechanism, a system by which the ECB and the national supervisory authorities of participating countries jointly supervision the activity of all the major banks in the eurozone. The Single Resolution Fund, which was established to finance the restructuring of failing credit institutions and thus mitigate the consequences of potential banking crises, is another key element of fiscal integration. Although the resources at its disposal are limited, this fund represents an important first step in the mutualisation of debt risk.

The banking union nevertheless continues to lack a common deposit fund to ensure the protection of money deposited throughout the system. The European Commission presented a proposal for the creation of a European deposit insurance scheme in November 2015 that is still under discussion.

From a political perspective, all substantive debate regarding banking union and fiscal union lead to a single point, which is the assumption that the construction of a monetary union-backed banking union inevitably hinges on the creation of a European financial instrument of last resort.

The European Stability Mechanism (ESM) created in 2012, through which disbursements related to various European bailout operations have been channelled, could in fact be considered the de facto embryo of a future last resort scheme allowing for the mutualisation of risk and debt in the eurozone in response to unforeseen problems of a fiscal or financial nature. This idea is not particularly revolutionary, having been mentioned as far back as the Five President's Report[3] released in the summer of 2015. However, as a practical means of getting around a range of problems blocking its initial formulation – which included impediments to the bail-

[3] Juncker, J. C.; Tusk, D.; Dijsselbloem, J.; Draghi, M., and Schulz, M.: *Completing Europe's Economic and Monetary Union, report prepared by Jean-Claude Juncker in close cooperation with Donald Tusk, Jeroen Dijsselbloem, Mario Draghi and Martin Schulz*, Brussels, 22 June 2015.

out of sovereign debt established in the Treaties and the legal systems of certain member states – instead of weaving the ESM into the Union's institutional fabric, it was created by means of an intergovernmental treaty. This state of affairs notwithstanding, the Five President's Report suggests that it continues to be a prime candidate for conversion into a treasury accountable at the European level at some future point.

Unsurprisingly, proposals to reform the ECB's mandate and make the ESM a European treasury or monetary fund with the capacity to issue eurobonds have been part of the agendas of European progressives and Europeanists for many years.

At the end of the day, Europe needs a common economic policy that takes the euro into account and resolves the economic asymmetries aggravated by the crisis, which would not have occurred had the right community instruments been in place. A community budget for European-wide policies conceived to stimulate demand and productivity through investment and improve and expand educational and R&D programmes where needed would have made a big difference, not to mention a budget for the eurozone, and a mechanism for managing major investment in growth and competitiveness and financing countercyclical policies. Looking forward, public debt must be mutualised and guaranteed collectively.

Employment policy challenges in Europe

Beyond fostering growth, employment policy could also contribute towards a fuller realisation of monetary union. European-level support for training and reinsertion should be provided as a complement to unemployment benefits perceived in the countries worse hit by the crisis.

Additional support on the part of the European Social Fund (ESF) for long-term employed and unemployed workers over the age of 55 must be a priority. Fund expenditure, which currently represents a mere 0.07 % of European GDP, is insignificant compared to that of other compensation mechanisms.

The EU must do more to improve the quality of employment in Europe, reverse the trend of growing employment instability, reduce the numbers of the European working poor and guarantee that all European workers have an opportunity to earn a decent living. This will entail formulating a minimum interprofessional wage index that takes into account each member state's relative level of development, cost of living and median wage.

Towards a real tax union: the fight against tax avoidance

The euro crisis has exposed the underlying weaknesses in the manner in which the EMU was constructed, one was which was the decision to create a monetary zone without the benefit of full fiscal union. Under the Treaties on which the EU is based, member states are almost completely free to structure their tax regimes as they see fit. The intensification of the movement of capital, goods and people within the EU subsequent to the creation of a single market coupled with a lack of coordination on tax policy has provoked major imbalances.

Economic governance initiatives undertaken in the wake of the crisis have however focused almost exclusively on expenditure control at the national level, and tax union[4] has been left sim-

[4] The EU's principal expenditure control measures are the Two-Pack, Six-Pack and the Fiscal Compact.

mering on the back burner. A prime example is the European Semester's lack of fiscal indicators. Annual national stability and growth and reform programmes should address taxation issues. The European Semester should also incorporate reporting on the measures taken by member states to reduce tax avoidance and avoidance.

What happens without fiscal convergence: unfair competition between member states and higher levels of corporate tax avoidance

The lack of a common tax policy has created favourable conditions for corporate tax avoidance and fiscal dumping between member states. As a means of attracting investment, certain EU countries have resorted to lowering corporate taxes to ridiculous levels or creating special tax regimes for particular companies or income categories. In order to protect their tax bases, others have adopted unilateral anti-avoidance measures that often create new legal loopholes.

The EU has nevertheless made some progress on this front by means of a Commission-driven anti-avoidance strategy partially based on the OECD's approved Base Erosion and Profit Shifting (BEPS) programme[5] that fosters broader coordination between states.

The shared objective of the Union and the OECD is to achieve fair and effective taxation and ensure that companies pay taxes in the countries in which they make their profits and generate value.

The EU anti-tax avoidance strategy

In January 2016, the Commission presented its Anti-Tax Avoidance Package, an initiative it had previously outlined in its June 2015 Action Plan. This package contained a number of measures intended to make corporate taxation in Europe fairer and more effective and to boost transparency regarding taxes and taxation.

The central component of the package is the Anti-Tax Avoidance Directive (ATAD), adopted in July 2016, which laid out a series of rules against tax avoidance we will describe in detail going forward. First and foremost, ATAD gives an important number of points laid out in the BEPS programme legal force by incorporating them into community law. It must be remembered that community directives are legally binding and that questions regarding compliance are settled in the European Court of Justice. Although some BEPS reports contemplate minimum standards, those that regulate matters covered by ATAD do not[6]. What the OECD initiative offers is a set common methods and best practices. Countries participating in its programme do so voluntarily and are not bound to implement or enforce programme recommendations.

ATAD also regulates certain areas not addressed by the OECD BEPS programme. At a time when multilateralism is being called into question by a number of big players, it is more important than ever for the EU to assume leadership on issues of fiscal governance rather than waiting to reach global agreements on measures that require supranational action. Another important point is that while ATAD establishes minimum standards, member states are free to

[5] Programme initiated by the OECD in October 2015 to address flaws in international tax laws.

[6] Certain aspects of the BEPS programme such as country-by-country reports do establish minimum standards.

adopt more stringent regulation regarding any issue addressed in the Directive.

Several of the measures contemplated in the ATAD are particularly worth mentioning. The controlled foreign companies rules addressed in articles 7 and 8 concern multinational companies that artificially shift profits from their parent companies located in high tax countries to controlled subsidiaries in others with more favourable tax regimes. Control in this context is deemed as 50 % or more of share capital, voting or economic rights of the subsidiary. Under ATAD, a member state in which a parent company is located has the right to tax any profits that company has parked in a low or no tax country and thus recover this otherwise lost tax revenue.

The exit taxation rule is intended to prevent companies from relocating high value assets from member states to no- or low-tax countries to avoid paying tax in the EU on the profits these assets generate when sold. This form of tax avoidance is largely related to the transfer of patents and other forms of intellectual property set to deliver high future profits. This rule allows member states to apply an exit tax on such assets when they are moved from their territory based on the value of those assets at that time.

Hybrid mismatch rules address situations in which companies lower their taxes by exploiting differences in the ways in which countries treat the same type of income, operation or entity for tax purposes. For instance, multinational companies aware that what is considered a loan by one country may be classified as a capital injection in another country often take advantage of this mismatch to deduct income related to such operations in both countries (a practice referred to as double deduction) or to get a tax deduction in one country on income that is tax exempt in the country of destination (referred to as double non-taxation). Article 9 of the ATAD establishes that in the event of such a mismatch, the legal characterisation given to a hybrid instrument or entity by the member state where a payment originates shall be followed by the member state of destination; whereby, in the context of the example provided above, the operation would be considered a loan in both of the countries implicated.

Switch-over clauses are another important type of anti-abuse measure. Member states are increasingly using foreign income exemptions as a way of avoiding double taxation. This practice has unfortunately been used by certain companies to achieve double non-taxation. Double non-taxation is most apt to occur in the course of operations involving the repatriation of dividends and capital gains from foreign subsidiaries. By taking advantage of instruments available under current EU law, multinationals are often able to bring revenue not previously taxed or taxed at a very low rate elsewhere into the internal market without paying their fair share of taxes in the country to which it is repatriated.

Switch-over clauses resolve this problem by denying exemptions on transfers from third countries if the effective tax rate in that country is less than 40 % of that of the member state in question.

Although contemplated in the Commission's initial proposal, due to a lack of consensus a switch-over clause was not included in the text of the ATAD eventually approved by the Council.

A proposal to establish a common consolidated corporate tax base (CCCTB) for the EU

In addition to the anti-abuse measures enumerated above, in November 2016 the Commission proposed the establishment of a consolidated

corporate tax base throughout Europe. The CCCTB proposal constitutes a radical and holistic solution to corporate tax avoidance in the form of a system of unitary taxation by which all European nations would abide by a single rulebook for taxable corporate profits.

As it supposes a profound rethinking of fiscal practices in Europe, Council negotiations over the next few months concerning the adoption of a CCCTB framework will be complicated. A similar proposal put forth in 2011 failed for lack of consensus.

The Commission has chosen to re-launch the initiative at a moment of relatively higher public consciousness regarding the need to control tax evasion and avoidance. Its current proposal is also tougher than its predecessor on a number of salient points. For example, in contrast to the scheme proposed in 2011, in which corporate participation would have been optional, compliance with the present proposal would be mandatory for groups of companies with an annual turnover of over euro 750 million.

A two-phase approach

This time around the Commission has decided to take a flexible, two-step approach comprised of an initial Directive establishing a common corporate tax base (CCTB) followed by a second focused on consolidation (CCCTB). Nevertheless, it is essential for the two to be closely linked and to take effect within the respective maximum time frames proposed, which are January 2019 and January 20121.

At present, the tax bases of the European entities of multinational companies maintaining operations in various EU states are calculated by authorities at the national level. In contrast, the CCTB scheme proposed would establish a common tax base for all corporate operations carried out within the EU calculated at the European level according to harmonized community rules. This is to say that an expenditure considered deductible in one member state would be recognised as such in all others as well, a posture that would help reduce tax competition between European countries.

The Commission has proposed that the first Directive include a 100 % "super deduction" of corporate R&D expenses. Start-ups, for example, would be able to deduct up to 200 % of their R&D costs under set conditions.

These deductions are meant to drive growth and job creation. Nevertheless, oversight will be needed to ensure that companies do not attempt to pass off expenditure in other areas as costs related to R&D. It would therefore make sense to estimate the impact that such deductions have on incoming tax revenue.

The super deduction could however be a valid replacement for patent box schemes, which have become the favourite tool of member states most inclined to engage in questionable forms of tax competition.

The current CCTB proposal also includes an "Allowance for Growth and Investment" that contemplates deductions related to equity financing. Although the idea behind this measure is to redress the debt-bias of present taxation regimes, the best way to put an end to this problem would be to phase out the existing deduction for interest payments on debt load rather than give companies a new tax break related to equity financing.

The importance of consolidation

The key element of the Commission's proposal, which constitutes the nucleus of the second Di-

rective, is consolidation. Under the CCCTB, a company's tax base would be calculated on the basis of the aggregated profits and losses of all of its operations on EU territory. Consolidation will eliminate the need for the complex transfer pricing system now in place. Given that 70 % of all tax avoidance operations involve transfer mispricing, the shift to consolidation will make an enormous difference.

Each country's share of any tax revenues owed would be pegged to an EU-wide consolidated tax base and distributed by means of a formula taking three equally weighted criteria into account: labour (payroll and number of employees), assets and sales. This formula, which is meant to ensure that profits are taxed where they are earned, is nevertheless the most controversial aspect of the CCCTB proposal. The sales criterion favours the interests of larger destination countries whereas the assets and labour factors favour the interests of smaller countries.

The second pillar of community strategy for fiscal union: transparency, fiscal cooperation and a united front against tax havens

If the ATAD and the CCCTB provide the foundation for the first pillar of the community strategy for fiscal union, which is fair and effective taxation, instruments conceived to guarantee greater fiscal transparency in the EU constitute the second. These include Directives on the automatic exchange of information (AEOI) in the field of taxation and corporate country-by-country reporting (CbCR), by which multinational companies must disclose information regarding their activities in each of the countries in which they maintain operations.

Transparency between member states: the automatic exchange of information on tax rulings

Progress was made on this front by means of amendments to Council Directive 2011/12/UE on Administration Cooperation (DAC), the legislation currently in effect on the exchange of fiscal information between EU countries. This amendment was made in the wake of the LuxLeaks scandal, which exposed a number of secret rulings between Luxembourg tax authorities and almost 400 companies that lowered the tax rate of the companies involved to an average of 2 %. Since the most recent Directive on Administrative Cooperation came into force in January 2017, all member states are required to routinely share information regarding cross-border tax rulings and advance pricing arrangements in their jurisdictions, an obligation that effectively eliminates the option of withholding such information on the grounds that divulging it would constitute the violation of a professional or trade secret. In theory, this requirement should allow the tax authorities of all member states to detect agreements orchestrated by others that stand to undermine their tax bases.

Although it was expected in some quarters that the LuxLeaks scandal of November 2015 would dissuade countries from issuing new tax rulings, this has unfortunately not been the case. Data released by the Commission indicates that 1,444 such agreements were sealed during 2015 – 49 % more than in 2014. It is therefore to be hoped that the entry into force of the DAC amendment at the beginning of 2017 will reverse this trend.

Greater corporate transparency by means of country-by-country reporting

The most recent amendment to the DAC in 2016, which made the automatic exchange of information between national tax administrations on country-by-country reporting compulsory, was done to ensure that member states transposed political commitments under BEPS into their national systems in a coherent and coordinated fashion (Action 13). However, this measure stopped short of requiring public access to information contained in country-by-country reports. Following the release of the Panama papers a proposal was made to amend the Directive once again to make the content of country-by-country reports available to the public. If approved by the Council, such an amendment would allow the general public and investors to track the fiscal behaviour of multinational companies.

An EU list of tax havens

One of the initiatives related to taxation to have moved up several notches on the community agenda over the past few months is a proposal to create a European blacklist of the tax havens most often employed for tax avoidance purposes. There is no doubt that a single list accepted by all member states would carry much more weight than the patchwork of lists currently employed at the national level in efforts to pressure non-EU countries refusing to comply with community tax good governance standards. Such a list would also prevent tax planners from abusing mismatches between national lists of tax havens.

To this end, during the January 2016 presentation of its anti-tax avoidance package, the Commission announced its intention to draft a community list of non-cooperative third-country tax jurisdictions. On November 8, 2016, Ecofin members approved a series of criteria that need to be considered when determining whether a country should be classified as a non-cooperative jurisdiction. The first of these is whether a country has committed to and started the legislative process to effectively implement the OECD international standard[7].

The second is whether it maintains harmful tax regimes meant to attract offshore operations that deprive EU countries of legitimate tax revenue and favour the creation of offshore structures without economic substance.

The third is whether a country has received a positive peer evaluation as regards the implementation of anti-base erosion and profit shifting (BEPS) measures. It is striking that the criteria established to date for identifying non-cooperative jurisdictions do not include determining whether a country imposes corporate taxes or if it does, if the rate for that category of tax is zero or ridiculously low.

However, the most glaring defect of the tentative blacklist currently being circulated is that the possibility that it might include a member state seems to have been ruled out from the onset. As mentioned earlier in this chapter, there is a notably high level of fiscal competition within the highly-integrated economy and single market of the EU. The sweetheart tax arrangement Apple has negotiated with Ireland and similar cases being investigated by the Commission have made it clear that certain member states are actively abetting corporate tax avoidance.

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[7] The Common Reporting Standard (CRS) was approved by the Council of the OECD on 15 July 2014 and the G20 presented its Common Reporting Standard Implementation Plan later the same year.

It is therefore essential to compile an EU list of non-cooperative countries based on truly objective criteria and untainted by political interference and horse-trading. The fact that a country is a member state or special ally should not be a factor in determining whether or not it should figure on the EU blacklist.

Last but not least, the EU needs to develop and implement strong defensive measures to fight tax avoidance and impose sanctions on countries that make the list. While the Council has spoken in favour of taking these actions, no details of the measures being contemplated have been announced.

The United States and Europe: the end of an era

Vicente Palacio

Introduction: the big shift

Transatlantic relations, which for most intents and purposes are perceived as the relations between the United States and Europe, have proved to be solid and strong enough to resist the force of periodic tensions and differences of opinion that have arisen between the two over the last seven decades. The outbreak of the financial crisis of 2007 demonstrated not only their interdependence in terms of the economic and social hardships both suffered as a result, but also the need to face this challenge jointly by means of a greater level of coordination and global agreements in every sphere of governance.

Economic transatlantic interdependence has steadily deepened over the years, especially in terms of commerce and investment involving emerging economies (BRICS). Statistics for 2016 bear this out. Commerce between the EU and the US not only accounts for 35 % of annual world GDP at purchasing power parity weights, 25 % of world export trade and 30 % of world import trade but also sustains over 15 million jobs in the EU and the US. US direct foreign investment in Europe accounts for 60 % of total US DFI. (Asia, in comparison, receives 16 %.) Ties between American and European companies, international subsidiaries and banking and financial service sectors continue to strengthen, technology is being shared as never before and digital connections between the US and Europe are expanding exponentially. To this one must add the two continents' interwoven strategic and political aspirations, common outlook regarding world order and membership in the North Atlantic Treaty Organization (NATO).

This chapter, however, focuses on the sea change in EU-US relations that has taken place in the light of the most recent US presidential election campaign, the exit of Barak Obama from the White House and Donald Trump's assumption of the presidency on 20 January 2017 – a time frame during which the traditional business-as-usual tenor of transatlantic relations has given way to tension and uncertainty. This period, which began with the atmosphere of tense calm and impasse characteristic of all US presidential campaign periods, was preceded by a number of political developments that in one way or another affected European interests: a halt in negotiations on the Transatlantic Trade and Investment Partnership (TTIP), a flare-up of diplomatic tensions between the U.S. and Russia over sanctions and compliance with the Minsk II Treaty in Ukraine, the deteriorating situation in war-torn Syria and debate regarding the future status of Bashar al-Assad. There was, nevertheless,

a certain degree of continuity in terms of cooperation within the Atlantic Alliance. The U.S. was active in the Middle East and the Persian Gulf, participating as a member of the P5+1 in the negotiation of the Joint Comprehensive Plan of Action (JCPOA), a historic agreement with Iran reached in July 2015 concerning the civil use of nuclear technology in that country, and carrying out airstrikes on ISIS positions in Syria and Iraq as the leader of a coalition that included several EU countries.

The air of expectation surrounding the possible outcome of the American election campaign, which had been growing tenser and tenser in the light of Donald Trump's Eurosceptic remarks, sharp criticism of NATO, cozy relationship with populist leaders such as UKIP's Nigel Farage and professed admiration for the pro-Brexit movement, finally burst with the republican candidate's victory and inauguration as the forty-fifth president of the United States. Fed by the resentment of the portion of the middle class in middle-western and southern states worst hit by the overseas relocation of industry and immigration brought on by globalisation, the populist fervour held in check during the Obama administration had swept a political outsider into the White House. Populist and nationalist sentiments had finally percolated their way into US foreign policy and, by extension, into relations with Washington's main partner, the European Union.

The abrupt transition from Obama to Trump

TTIP negotiations officially ground to halt during the lame-duck phase of Obama's presidency (November 2016 through 20 January 2017) after fifteen rounds of negotiation triggered by the launch of the initiative in 2013 by Obama and EU Commission President José Manuel Barroso. Nevertheless, the writing had been on the wall ever since the July 2016 Democratic and Republican conventions, at which the majority of the militants of both parties had come out strongly against pursuing free trade agreements of any kind. It became obvious in both Europe and the US that given the prevailing political climate (clouded by social crisis, high unemployment and the resistance of the governments and parliaments of France and several other member states) full ratification would be highly unlikely. Thus was the end of an ambitious but controversial economic and geopolitical megaproject, which in spite of the points that had it manifestly unpopular on both sides of the Atlantic, had originally been conceived as a means of giving the U.S. and Europe the upper hand in the regulation of twenty-first century international trade and investment.

However, the greatest change on the US foreign affairs agenda, initially articulated during the US election campaign and now set to take shape under the Trump administration, concerns strategic rather than economic matters. Under the Obama Doctrine, Europe was seen as a fundamental part of a multilateral liberal world order for which the United States had provided leadership since the end of the Second World War. Obama had always tended to view Europe more as an appendage of NATO whose members had to be bullied and cajoled into to meeting their 2 % military defence spending commitments than as a fledgling political union. But while communications between Washington and Brussels may have been generally low profile throughout Obama's two terms in office, the working relationship between the US and the EU on NATO issues continued to be fluid. The two mounted a coordinated response to

threats from Russia at the NATO Summit held in Warsaw July 8 and 9, 2016, at which Barak Obama and European representatives took a clear stance on mutual defence in the wake of Russian sabre-rattling toward Poland and the Baltic states. The new pillars of transatlantic co-operation announced at this meeting included joint efforts to defeat the Islamic State (ISIS), enhanced intelligence sharing and the rotating deployment of a deterrent force of four alliance battalions in the three Baltic states and Poland intended to thwart perceived Russian ambitions in the zone that promptly triggered a build-up of Russian forces along these borders and the installation of Iskander and S-400 missile systems in Kaliningrad. The future of all these commitments has been much less clear since Trump's electoral victory in November.

Transatlantic synergies on the global climate change agenda and renewable energy goals set at the UN Summit on Climate Change in Paris (COP21) in December 2015 also appear to have faded. The Paris Agreement, by which the US and other nations had pledged to convert to renewal sources of energy and support the fight against global warming, stood to alter the dynamics of global geopolitics long driven by competition for fossil fuels and provide new opportunities for the United States to provide world leadership. The Obama administration introduced a "clean power plan" that several Republican-governed states subsequently sought to derail by means of a joint lawsuit against the federal government that may or may not be subject to a US Supreme Court ruling depending on decisions taken at the district court level and moves by the Trump administration to bowdlerise the programme.

The possibility of a new breakdown in relations between the U.S. and the EU – much more serious than that which occurred in 2003 during the war in Iraq mounted by the Bush administration – surfaced during the first one hundred days of the Trump administration. It was evitable that the election of a president as openly populist and xenophobic as Trump would have an impact on the United States' relations with Europe. Throughout his campaign, Trump provided ample proof of his lack of knowledge of, and interest in, European integration and the historical role the U.S. had played in that process. He referred to the EU as an "economic competitor" on at least one occasion, mocked the pillars on which the EU was founded and ridiculed Angela Merkel's refugee policy.

Trump's manoeuvres on the domestic front – which included continuous attacks on media organisations as diverse as *The New York Times*, *The Washington Post*, CNN and Fox and attempts to tinker with congressional rules in ways that threatened to subvert the liberal creed set out in the US Constitution – set alarm bells ringing in Europe. The inaugural address he delivered on January 20 in Washington left no doubt that the protectionist philosophy and disdain for multilateralism he had expressed on the campaign trail would soon be translated into policy – a posture that suggested a certain shift towards deglobalisation on the immediate horizon and a bumpy road ahead for the country's relations with foreign allies and adversaries alike and multinational organisations such as the UN and NATO. Europe now faced the worrying prospect of navigating its way in a more fragmented world plagued by setbacks on regional integration between Europe, Latin America and the Asia Pacific, a region in which the U.S. was set to relinquish a degree of its influence as a result of its unilateral withdrawal from the Trans-Pacific Trade Partnership (TTIP) it had recently signed alongside 11 other countries.

The transition between the Obama and Trump presidencies has supposed an unprecedented and radical shift. The political principles and agenda of the present administration will give form to a new Trump Doctrine that will undoubtedly entail a 180-degree change of tack on the country's longstanding alliances with Europe (NATO) and Asia (Japan and South Korea), relationships with Russia and China and positions on global governance in areas such as trade, terrorism, migration and climate change. Trump's plans do not appear to involve the implementation of a policy of isolationist retrenchment but rather a presidential display of his much-vaunted talent for striking deals, first with Russia and China, but eventually with European countries, other regional powers and emerging economies as well, in what could amount to a new division of the world. His professed intention is to strike a "better deal" for the United States based on burden sharing that will reduce the need for US interventionism going forward.

Part and parcel of this convulsive start has been Trump's lack of prior political experience, which has hindered his ability to piece together a coherent policy, much less a strategy for its implementation. Senate confirmation hearings exposed differences of opinion between the new president and various members of his cabinet such as Michael Flynn (forced to step down from his position as national security advisor almost immediately due to his links to the Russian government) as well as Secretary of State Rex Tillerson and Defence Secretary James Mattis (neither of whom completely shares Trump's outlook on NATO, Russia, China, Iran and the Middle East). The first steps taken by the new administration signal a curtailment of the free trade policies and active support for Western democracy that have served as the paradigm for US foreign and security policy for the last seven decades. As presently articulated, Trump's "American First" stance is poised to rupture a bipartisan consensus that has guided world affairs since the end of the Second World War. The new president vaunted an impressive array of (albeit mostly regressive) actions and initiatives during his first state of the union address on 28 February that included an executive order clearing the way for the construction of the Keystone XL and Dakota pipelines, the US withdrawal from the TTP, a stop entry order blocking travel from seven predominantly Muslim countries to the US, the negotiation of pledges from companies such as Ford and General Motors to invest in US-based installations, the presentation of plans for a wall along the US-Mexican border, the imminent renegotiation of the North American Free Trade Agreement (NAFTA), an upcoming major cut in corporate tax rates and a proposal for legislation to fund a trillion-dollar national infrastructure programme.

A divided Europe under the shadow of Brexit

For the EU, 2016 was a year of relative stability during which it managed to contain the worst effects of the economic and refugee crises it had been mired in for some time. The general sense of calm was nevertheless marred by disturbing developments on a number of fronts that threatened European well-being and cohesion. The first was a wave of concern for public security provoked by a series of terrorist attacks perpetrated in Paris in November 2015 and heightened by another attack in Brussels in March 2016, both of which put security forces throughout the EU on high alert. Another was a deteriorating social and economic climate marked by a festering rise in inequality that fuelled the

growing influence of populist and xenophobic forces from France and Holland to Hungary and Poland. However, the greatest shock to the European body politic was the outcome of the British referendum on EU membership held on 23 June 2016, by which Britons voted by a narrow margin (51.9 % to 48.1 %) to leave the Union, a decision that supposes a long and difficult period of Brexit negotiations ahead. The immediate consequence is an uncomfortable breach between the EU's remaining 27 member states and Great Britain, which has been plunged into a protracted political and governmental crisis that began with the resignation of David Cameron and the rise of the Eurosceptic Theresa May to the position of prime minister and appears to be far from over. On 29 March 2017, after fending off resistance in Parliament and the House of Lords, May triggered activation of Article 50 of the Lisbon Treaty, the formal step required to begin the process of Great Britain's withdrawal from the Union.

The turbulence on both sides of the Atlantic – a brusque change of political direction in the US and division within Europe – has meant that the basis of transatlantic relations in 2017 and beyond will be profoundly different. Steps taken by the Trump administration in this context have not been heartening. The new president met with Nigel Farage (UKIP) and Marine Le Pen (Frente Nacional) in his private office in New York prior to his inauguration and received enthusiastic congratulations upon his victory from European heads of state such as Poland's Jarosław Kaczynsky and Hungary's Víctor Orbàn.

German Chancellor Angel Merkel, in her capacity as the leader of the country that will inevitably be the linchpin of whatever new transatlantic relations that are eventually negotiated, has taken a different stance, choosing to send a courteous but critical message of warning to the incoming president that highlighted the importance of a common respect for rights and freedoms. On 19 March, she flew to Washington for her first face-to-face encounter with her new American counterpart. While the atmosphere between them was noticeably chilly, they did manage to forge closer positions regarding NATO and Merkel reiterated Germany's determination to comply with the 2 % military expenditure commitment it had made at the 2014 NATO Wales Summit by 2024 as scheduled. Other points discussed during her visit, such as their differing positions on Russia and possible means of reducing the United States' whopping 50-billion-dollar trade deficit with Germany (which Trump maintains is the result of a Berlin-driven weak-euro policy) were not resolved. French President François Hollande and Spanish President Mariano Rajoy adopted a more conciliatory tone in their first telephone conversations with Trump. The high expectations for British Prime Minister Theresa May's visit to Washington for a meeting and press session, which took place only a week after the inauguration, were only partially fulfilled. Although the two leaders were obviously on the same page regarding Brexit, their positions proved to be substantially farther apart on issues such as free trade, NATO (which London regards as a central, untouchable piece of British security strategy), relations with Russia and Trump's proposed measures for US immigration control. On the basis of this initial contact, earlier suppositions that both a renewed "special relationship" between London and Washington and an alternative Anglo-Saxon world order were in the offing are beginning to look more like naive wishful thinking.

Relations between Washington and Brussels did little to help to dispel the fog of uncertainty that had floated over initial bilateral contacts between governments. Brussels' first direct response to the transition took the form of a letter

sent by European Council President Donald Tusk on 30 January to the leaders of the remaining 27 member states that contained a "united we stand, divided we fall" message in which he described the Trump presidency as a threat to EU and called for unity and deeper integration. Tensions rose once again in early February when the heads of the European Parliament's main political parties petitioned the European Commission and Council to reject Trump's newly appointed ambassador to the EU Ted Malloch, an outspoken critic of the EU. Relations took a slightly more positive turn at a 10 February meeting between EU High Representative for Foreign Affairs and Security Federica Mogherini and US Secretary of State Rex Tillerson in Washington during which they discussed their differing positions on immigration and trade but also expressed a willingness to establish common ground.

A new agenda of uncertainties

Protectionism: "balanced" trade

The ramifications that policies now being implemented by the Trump administration might have for the European economy are not yet clear. On the one hand, a policy of protectionist retrenchment in the US would depress the world economy and have a negative impact on labour markets on both continents. Any new euro crisis provoked by American retrenchment would aggravate this turmoil and be particularly damaging to the US economy. On the other hand, and somewhat paradoxically, a decision by the US Federal Reserve to raise interest rates to counter inflation triggered by the higher military and infrastructure expenditure Trump is calling for could very well put pressure on eurozone countries in general and Germany in particular to abandon austerity policies in favour of a pan-European stimulus and growth policy.

The Trump administration has made no bones about its intention to rewrite the rules of international trade and any agreements the US government has signed to date it considers contrary to US interests. This was made clear at both the January 2017 World Economic Forum meeting in Davos, Switzerland and the G20 meeting held in Baden-Baden, Germany two months later, which US Secretary Treasury Steven Mnuchin attended. In spite of the G20's pro-trade stance, the declaration issued at the end of this encounter was conspicuously devoid of any reference to free trade and avoided condemning protectionism, a term that Mnuchin artfully managed to supplant with the expression "balanced trade". The same declaration also omitted any reference to financing of action on climate change agreed to during the COP21 meeting in Paris.

Once both negotiating parties realised that further progress on TTIP was effectively blocked (the clearest indication being the absence of any reference to the pact during the US presidential debates), the project was quietly put aside pending a change of political and social climate, after which various European leaders have suggested that negotiations could be revived, albeit on different basis. The EU has meanwhile concluded the Comprehensive Economic and Trade Agreement (CETA), a parallel treaty with Canada that could serve as a model should the TTIP be revived at some point in the future. CETA was approved by the European Parliament on 15 February 2017 following successful negotiations between the central Belgian government and the regional parliament of Wallonia, Belgium, which had voted to block the deal back in October 2016. As a "mixed agreement", the

new pact will be implemented provisionally as of April 2017 until ratified by member states. How well the agreement functions in practice may well determine what goes into any future TTIP agreement and the way in which it is likely to be negotiated. Of particular importance will be whether safeguard clauses guarantee states the flexibility they need to protect vulnerable domestic sectors, labour rights and environmental standards are respected and "losing" sectors are provided with sufficient levels of social protection and professional support. Of further interest to any future revival of TTIP negotiations is the City of London's plan to negotiate a post-Brexit bilateral agreement with Washington. Given that a treaty of this nature cannot be signed prior to Great Britain's formal exit from the EU, nothing along these lines can be expected to take place until at least March 2019.

The end of multilateralism: bilateral pacts with Russia and China

Transatlantic relations are also very likely to be altered by policy shifts driven by Trump's desire to frame China rather Russia as the primary rival of the United States, an objective based on the perception that China will be in a unique position to challenge US economic and geopolitical supremacy at whatever point in the twenty-first century its growing economic power translates into advanced military capacity and global political clout. This U-turn in US policy is part of a greater Trump administration strategy for orchestrating a new division of the world, which might possibly entail a "New Yalta" or a "New Reykjavik" along the lines of the historic meetings that took place between Roosevelt and Stalin in 1945 and Reagan and Gorbachov in 1986. Trump may regard a closer relationship with Russia not only as a means of gaining an ally in the fight against ISIS and stabilising the eastern flank of Europe, but also, and perhaps more fundamentally, as a lever for weakening China, which could be relatively isolated and contained if the two countries were to view it as a common competitor in Asia. An opportunity for closer detente with Washington could be very attractive to Putin, in that it would allow Russia to wriggle its way out of the isolation and the sanctions it has had to deal with since its annexation of Crimea, balance the pressure exerted by the EU regarding its aggression in Crimea and failures to embrace democratic practices at home and make him an essential partner in the resolution of problems in hot spots such as Iraq, Syria and Ukraine. One of the bigger dividends of such an arrangement for the Kremlin would be the strengthening of Russia's position in the standoff in Ukraine: should the US stop providing unconditional support to Kiev, Ukraine could drift back into the Russian sphere of influence. All it would take for this to occur is a decision on the part of the US to lift the sanctions it has imposed on Russia and tweak the terms by which the Minsk II agreement is implemented – especially those pertaining to the Dombass – in Moscow's favour.

Trump does not appear to be interested in maintaining Obama's Asian pivot strategy, preferring instead to strike a "grand bargain" with China for which he is likely to draw red lines on two issues: a change in China's monetary policy geared towards reducing the US trade deficit with that country and the abandonment of the Asian giant's island-building venture in the South China Sea. Paradoxically, his decision to pull the US out of the TTP agreement will diminish US influence in the Pacific to the enormous benefit of China. Trump's initial direct and indirect moves

on China policy – personal telephone contact with the president of Taiwan only days after the November election, Defence Secretary Mattis's remarks regarding China's actions in the South China Sea and Mattis's trip to South Korea and Japan in February – may be considered tactical manoeuvres meant to establish negotiating positions.

For the EU, all these plans for grand bilateral agreements that do not take the Union into account supposes the weakening of its position in international affairs and a possible loss of autonomy. Any such accord between the US and Russia is bound to deepen the existing rift between its Eastern European members (the Baltic states and Poland) and others on Russian policy. Belligerence on the part of Washington towards China could also translate into unnecessary economic and political tensions between Brussels and the governments of member states and Beijing.

Security: the linchpin of the Atlantic Alliance

During his campaign, Donald Trump described NATO as "obsolete" and threatened to break the United States' ties with the organisation if he were elected president. NATO fell short of the candidate's standards: it had been ineffective in the fight against terrorism and cost-wise constituted a bad deal for the US, which accounted for less than half of the aggregated GDP of alliance members but footed the bill for approximately 75 % of NATO military expenditure. The fifty-third Munich Security Conference held on 17-18 February 2017 provided an opportunity for Europeans to size up the position Trump was likely to take on the alliance as president of the United States. Contrary to expectations, Vice-president Mike Pence and Secretary of Defence James Mattis maintained a reassuring tone during their presentations at this event. Both reiterated the importance of transatlantic cooperation to the US while underscoring the need for members of the alliance to comply with the 2 % military expenditure targets established at the Wales Summit in 2014. In her capacity as German Chancellor, Angel Merkel underscored the importance of multilateral organisations such as NATO, Germany's intention to comply with its expenditure commitment and the synergies between NATO and European defence. It is in the context of this tug-of-war between Washington and Brussels that Great Britain must define its future role within the alliance. I was made clear in Munich that unlike the Baltic states, the Trump administration views NATO more as a vehicle for combating transnational terrorism than a means of Russian containment. Upcoming meetings between Trump and Xi Jin Ping and Vladimir Putin may provide clearer indications during the run-up to the next NATO summit scheduled for 25 May.

Policy outlook for the Middle East

It is very difficult to piece together a comprehensive picture of the new US administration's forthcoming Middle East policy on the basis Trump's remarks as presidential candidate or subsequent statements made by Secretary of State Tillerson and Secretary of Defence Mattis. Although nothing to date indicates the development of so much as a general plan for the region, it does appear that Trump might consider steering certain points of US Middle East policy in new directions that could lead to new fissures in the transatlantic alliance. The first involves Syria, where Trump must pursue the dual objectives of defeating ISIS and other jihadist factions

and stabilising a country currently controlled by Al Assad with the aid of Russia. From the perspective of the EU, any resolution of the current situation in Syria must involve a national transition agreement leading to the end of Al Assad's rule, the democratisation of the country, constitutional reform and territorial decentralisation. The conclusions of the December 2016 European Council meeting were fully in line with proposals put forth at the Geneva I and II conferences and UN Security Council resolutions, both of which the EU continues to support.

Trump's approach to the Israeli-Palestinian conflict is at odds with the multilateral and legalist strategy embraced by the EU. His plan appears to be to force a new round of negotiations between Israeli government and Palestine authorities by moving the US embassy to Jerusalem, a mission he has entrusted to his son-in-law Jared Kushner. Kushner's "Jerusalem first" strategy for achieving peace between the two factions calls for striking a joint sovereignty agreement on Jerusalem before moving on to issues related to division of territory, settlers, refugees and security. Before taking office, Trump attacked the nuclear agreement with Iran negotiated during the Obama administration, promising to undo it and negotiate "a much better deal" once he was elected. However, a confrontation with Tehran may not be in the best interests of the United States at this particular moment given that Trump will need the cooperation of Iran and Russia to sort out the current mess in Syria and any such move would sow discord with the EU, which has much invested in the nuclear agreement and seeks to further the regional integration of Iran.

Global governance and climate change

Energy and climate change policy could also suffer serious setbacks. Should the Trump administration act on its professed intention to implement a pro-hydrocarbon policy, rupture between the US and the EU on yet another issue could be inevitable in the near-term future. If the US pulls out of the Paris agreement as Trump has promised, it will not only diminish its global influence (especially over China, given the decisive role the co-leadership provided by Chinese leader Xi Jin Ping and Barak Obama played in the success of the Paris summit) but, by setting a precedent for non-fulfilment of pledges made at the COP21 that certain other European countries may be tempted to follow, also endanger one of the most successful multilateral initiatives supported by the EU to date.

European response and a new transatlantic relationship

2017 marks the sixtieth anniversary of the Treaty of Rome, the international agreement signed on 25 March 1957 that established the European Economic Community (TEEC). The air of drama surrounding this landmark moment has been heightened by a number of key elections taking place on the continent this year. The nature of Europe's response to the new Trump administration will be conditioned by the results of these electoral processes, especially the two-round French presidential election to be held in April and May and the German legislative elections slated for September. Although anti-Muslim candidate Geert Wilders managed to steer the debate during the recent Dutch general election campaign, his party came in second. Electoral results aside, a close run for the money or

substantial gains on the part of a xenophobic political party in either France or Germany would influence European positions going forward in a number of areas from relations with Russia to economic, migration and energy policy. Economic performance within the eurozone, whose growth rate is expected to be only slightly better than half that forecast for the US for 2017 (1.4 % compared to 2.5 %) and inflation rate is expected to remain under the 2 % target established by the ECB, could also be a politically debilitating factor. Given these circumstances, the EU could respond to strategic policy shifts taking place in the US in a number of ways.

Its first option is to sit tight and do nothing in the light of the elections taking place throughout the continent and disagreement on topics such as Russia, NATO and European defence among its 27 member states, a few of which (the UK, Hungary and Poland to be precise) are currently governed by Eurosceptic, Europhobic or populist parties. Given that internal discrepancies on matters related to immigration and economic policy could make the Union particularly vulnerable to a divide-and-conquer strategy on the part of Washington, this would logically be a short-term posture.

The second option would be to mount a mirror response in the form of a First Europe coalition led by the most prominent EU states – not a First Europe in the sense of a strong, united Europe but rather a Union bent on more or less direct confrontation with Washington that gives tit for tat in terms of protectionist policies, pulls back on security and defence cooperation with the US and seeks to enlist third-country allies in conflicts in other areas. In addition to being an improbable path given the presence of populist governments and forces within the EU, such a purely reactive response would generate negative effects that would exacerbate existing divisions within the Union, spur nationalism and add to the inertia the EU already suffers when it comes to foreign and security policy.

The third possible scenario would be a deepening of the EU's framework for security and defence, an initiative led by the most prominent members of the eurozone and framed as a complement to the Atlantic Alliance but inevitably tinged by a cooling of relations with Washington. Any response of this type would logically require pro-European governmental and political forces in France and Germany to sign onto the idea of joint capacity building geared towards the creation of a future European army as well as the greater integration of intelligence, cyber-defence and crisis prevention operations. Although difficult, this path would at least seem to hold greater promise for the long-term. During the September 2016 Bratislava Summit, French President François Hollande and German Chancellor Angela Merkel outlined plans for a qualitative leap forward in military cooperation between their two countries and Council President Donald Tusk and Commission President Jean Claude Juncker jointly announced a plan to create a strategic European defence fund for RDI as part of a greater European Defence Action Plan. Much emphasis was placed at the 15-16 December European Summit on the use of the permanent structured cooperation contemplated in the Treaties as a vehicle for differentiated integration, whether in the form of "multispeed" integration (pursued by member states desiring to adopt policies and instruments others do not want to participate in) or *a la carte* integration (of interest to those wishing to opt out of certain policies and programmes). On 1 March Juncker presented a Commission White Paper suggesting five possible scenarios for the EU in 2025. Those in favour

of European integration were aptly titled "Those who want more do more" (scenario 3) and "Doing much more together" (scenario 5). One unexpected consequence of the shift in US strategic policy and Great Britain's decision to leave the Union has been Germany's willingness to rethink economic policy, provide momentum for European integration in the areas of security and defence and frame its political discourse in terms of European values and rights. Current circumstances position Germany to assume a greater leadership role in EU foreign policy.

Conclusion: the end of an era

Although the United States and the European Union together constitute one of the most integrated and interdependent blocks on the planet, the future of transatlantic relations is mired in uncertainty. Under the Trump administration, the substance and tenor of a once firm partnership has begun to change, with an American government on one side of the Atlantic that does not believe in the EU project and a EU riven with internal divisions that has yet to fully believe in itself on the other. We have reached the point at which the framework that has sustained relations between the US and the Europe throughout the seven decades following the end of the Second War is beginning to show signs of wear. US strategic interest in Europe has waned with the recent political turnover in Washington and fissures within the EU threaten to aggravate global instability. Although economic, political and social ties between the US and Europe remain strong, many of the principles and perspectives that have long underpinned their relations – free trade, a common respect for rights and freedoms, the function of NATO as the pillar of North American security and the privileged position of Europe within the wider constellation of US allies – may be set to change. For an unknown period of time moving forward, we must take into account the fact that regardless of what specific policies the US may pursue, Donald Trump can be expected to frequently act as a sixth columnist for populist, xenophobic forces in Europe.

From a European viewpoint, one of the more negative aspects of the new US foreign policy now being articulated is its shift from the multilateralism embraced by the Obama administration to a more bilateral approach. This 180-degree turn constitutes a frontal blow to EU High Representative Mogherini's global security strategy, which, in contrast, focuses on multilateral accords such as the Paris Agreement on climate change and the Iran nuclear deal and calls upon the UN to play a pivotal role. In short, the thrust of the new approach to US foreign policy not only challenges the role of Europe in future global affairs but also signals the possibility of disagreements between the two blocks on issues of great importance to both such as trade, monetary policy and the resolution of the current situation in Ukraine.

The complicated political campaigns taking place throughout Europe during 2017 suppose a short-term period of instability that will undoubtedly put the European project to the test. However, one cannot rule out the possibility that the Trump administration might succeed in furthering dialogue with Russia and China on a range of issues that have remain deadlocked to date. The US could declare that it has no intentions to engage in further imperialist conflicts, establish a closer working relationship with Russia that includes joint efforts to achieve peace in hot spots throughout the world such as Syria and Ukraine and negotiate new wide-ranging trade agreements (once the TPP and

TTIP have been definitely rejected) that offer a greater degree of social protection. A US "withdrawal" from Latin America and the Pacific could open up opportunities for a greater European diplomatic and economic presence these parts of the world. More importantly, any weakening of the Atlantic Alliance could stimulate further European integration in the areas of defence and security and, by extension, greater European autonomy.

The nature of any eventual European response to Trump foreign policy and the impact of the Trump doctrine on transatlantic relations remains unclear. We must be prepared to weather a turbulent period of readjustment that could last until the midterm congressional elections scheduled for November 2018. Meanwhile, it is clear that the US and Europe will continue to need each other, albeit in different ways than in the past. This is a reality that both need to come to terms with.

EU 2016: another step to being an important global power

José Manuel Albares and Carlos Carnero

Introduction

The Foreign Policy of the European Union serves a dual purpose. On the one hand, it allows the Union as such to take a stance and act internationally. It is, therefore, the external expression of the EU's very existence. On the other hand, it projects the external action of the member states more forcefully. Acting together and in coordination with the European Union, the force and effectiveness of European positions increase. The European Union has clear comparative advantages for deploying an external action with an impact. Its demographic and economic weight affords it an enormous diplomatic influence. The EU is the biggest commercial player on the planet and has one of the most solid and solvent currencies: the euro. It is the world's biggest donor of development aid. The EU is a key player in keeping the peace and security of the world and a leading authority on human rights, democracy and the rule of law. However, the definition and design of the EU's Foreign Policy are complex. Defining the European interest is not easy, while the different national interests of each EU country are plain to see. While the European interest always appears blurred, national interests are very clear. That is why, on a good number of occasions and in the face of the most delicate issues, just when a common approach in Foreign Policy would be most necessary, the members of the EU are divided. Moreover, leadership of the Union's External Policy has different players. That was what the Lisbon Treaty (2009) established, gathering the content of the European Constitution drawn up by the Convention (2003). The European Council, made up of the Heads of State and Government of all the member states, defines the principles and general guidelines. The High Representative, currently Federica Mogherini, who chairs the Foreign Affairs Council made up of the Foreign Ministers of the EU countries, is in charge of driving the EU's external action in a consistent manner. To achieve that, she has the European External Action Service (EEAS), which acts a diplomatic service of the European Union through 139 (at present) delegations and offices spread across the globe. Lastly, the President of the Commission is also a

competent authority for the EU external relations. So, for example, on migration matters, the issue that has occupied the political agendas of every EU member state over the last two years, President of the Council Donald Tusk called the Valetta Summit with the African countries in late 2015 and President of the Commission Jean-Claude Juncker called the Brussels Summit with the Balkan countries most affected by the refugee crisis.

There can be no credible external action without a credible military response in the face of certain threats. That is, without doubt, the weakest aspect of the Union's external action. The EU has sent numerous peace missions abroad, it has taken part in disarmament, conflict prevention and military assistance operations, but it still does not have a real operational capacity that guarantees security. This aspect continues to fall exclusively to the forces of the member states and the coalitions that wish to assemble. Since January 2007, the EU has had a rapid reaction force made up of two tactical groups of 1,500 troops each. However, there has been a succession of crises in the EU's surroundings without them being used.

At a time of crisis like the present one, following Britain's opting for Brexit, Foreign Policy is one of the dimensions of the EU that can fortify fresh progress in European construction.

A geopolitical context marked by the Islamic State group and migrations

The presence of Daesh in the Middle East: the key to security and stability

The European Union had to contend with a difficult and complex geopolitical context over the course of last year. Yet again, the main area of concern for the Union remained the Middle East. In that region lie the two main challenges facing the EU in terms of foreign and security policy: terrorism and the refugee crisis. The terrorist challenge of the self-styled Islamic State, established in Syria and Iraq and with branches in other countries such as Libya, has become a lasting and major threat to security on the streets of Europe and the main source of instability in Europe's vicinity. The terrorist attacks of so called Islamic State or by individuals who had sworn allegiance to it continued in 2016. France and, to a lesser extent, Germany continue to be the most directly affected countries.

In 2016, the attack using a truck to mow down civilians in the city of Nice on 14 July was the most serious of all, killing 85 and introducing a new terrorist method that was equally brutal, but simple to organize. This type of attack was copied in Germany, where on 20 December 12 people lost their lives in an identical manner at a Christmas market in Berlin. The refugee crisis in the Union remains ongoing, especially involving refugees from Syria. However, the number dropped considerably. Germany, the most affected country, saw arrivals fall by 69 % between 2015 and 2016.

Against the same backdrop, two very important events are shifting the balance on the ground in the war against Islamic State. On the one hand, in December, Bashar Al Assad's army took Aleppo, a city razed to the ground in which its 250,000 inhabitants had to survive for weeks under intense artillery fire. On the other, in Iraq, the army, along with Shiite and Sunni militias, launched the battle for Mosul to regain control of the Islamic State capital. Another important milestone in the fight against Daesh was the taking of Sirte, its stronghold in Libya, by the country's national unity government, on 6 December.

In the region, Turkey, a fundamental partner of the European Union in tackling the Syrian refugee crisis, was destabilised not only by repeated attacks that left 295 dead in 2016 alone, but also by an attempted *coup d'état* on 15 July, followed by an extensive and deep purge of the administration, with 120,000 expelled from public service and the closure of 160 media outlets.

The election of Donald Trump and the doubts about transatlantic relations

Donald Trump's victory in the last US presidential elections surprised public opinion. People were not expecting it. Immediately, his statements during the election campaign raised doubts and uncertainties about how relations between the European Union and the United States would be conducted over the coming years, in two areas in particular: security and trade. Trump's openly protectionist approach – "America first" – clashed with the spirit of the negotiation of the Transatlantic Trade and Investment Partnership (TTIP). Likewise, his statements on the possibility of turning his back on NATO if Europe did not pay for its own security, as well as his preference for strong leaders, especially Vladimir Putin, raised many questions in numerous European foreign ministries. The commitments undertaken by Donald Trump on migration issues during the election campaign also raised the possibility of the reinstatement of European citizens requiring a visa to enter the United States.

The first gestures of European political leaders were significant. Marine Le Pen, the leader of the French far right, was the first European political leader to congratulate him on Twitter. The first known photo of Trump with a European politician following his election was for the British pro-Brexit populist Nigel Farage. Dutch anti-European leader Geert Wilders was also quick to welcome Trump's victory. However, Angela Merkel and François Hollande were much more cautious. The German leader expressed her willingness to cooperate with the new administration but "putting unquestionable values and principles first". The French president went further and made a call to be "vigilant, as a period of uncertainty is opening up". For her part, High Representative Federica Mogherini said, "the bonds between the EU and the United States are much deeper than any political change". Undoubtedly, the vicissitudes that transatlantic relations may suffer will be the key to the EU's foreign policy in 2017 and beyond.

The changes in Latin America mark the European Union's foreign agenda

Latin America occupied the Union's foreign policy in 2016 as it had not done for years. Several events contributed to that. There was the peace process in Colombia after 52 years of armed conflict, which was rejected in the referendum of 2 October 2016 by 50.21 percent of the vote and, finally, resumed thanks to the second peace agreement voted by the Colombian Congress on 30 November. There was the ongoing and crushing political tension in Venezuela. Above all, there was the change in Cuba's international relations, with the reestablishment of diplomatic relations between Cuba and the United States in July 2015, followed by the first visit to the island by a US President for 90 years (Barack Obama made an official visit to Havana on 20 March), all of which was capped by the demise of Fidel Castro on 25 November.

The influence of the socioeconomic environment on the European Union's foreign policy

Nowadays, the line between domestic and foreign has disappeared. Geopolitical, economic and social factors influence foreign policy. The international context is much more than mere bilateral relations. That is why two events were especially significant for the European Union in the last few months.

First, the revelation by 108 media outlets of the so-called Panama Papers, documents from the Panamanian law firm Mossack Fonseca that exposed the way in which tax havens operate. It is an issue on which the European Union can and must apply effective pressure with a view to their control and disappearance, as public opinion increasingly demands.

Second, Brussels' huge fine of 13 billion euros on the Apple company for having benefitted from tax advantages in Ireland between 2003 and 2014, distorting competition. Both Apple and the Irish Government, which had come to an agreement on the penalised tax rules, have appealed the decision, but the fine marks a European Union milestone in the face of the multinationals and the countries that act unfairly through tax advantages.

The new global strategy on European Union Foreign and Security Policy

Taking a hugely important step, the High Representative presented the European Council in June 2016 with a new Global Strategy on European Union Foreign and Security Policy, under the name *Shared vision, common action: a stronger Europe.*

In it, Federica Mogherini – whose management after two years in office the member states, community institutions and public opinion judge positively – says that the first justification for it is the fact that "the purpose, even existence, of our Union is being questioned". She works on the principle that none of the member states of the Union can meet the challenges facing them alone.

The EU is presented as a global civilian and military player, but with limited power. In fact, the new Strategy formulates a concept of the European Union on the international stage as a "soft power" that uses its influence and incorporates various civilian and military instruments to tackle international crises and conflicts.

Among the challenges that the EU must face, it mentions terrorism, nuclear proliferation, regional conflicts, organised crime, cybercrime, piracy, energy security and climate change. They are all global challenges, so the Union is the natural framework for their resolution.

It also states that the EU cannot do it all alone and proposes acting in a united manner internally and promoting strategic alliances with other countries and regional blocs.

The Strategy establishes five priorities for the EU's external action.

First, security in the broad sense. The threats to the Union, consequently, go beyond military threats. Thus, terrorism, hybrid threats, economic volatility, climate change and energy insecurity are mentioned specifically. One of the responses that the Strategy proposes is collective security of Europe that must come both from the collective action of the member states and cooperation within NATO.

The second priority is the state and societal resilience of our neighbours to the east and south. The Strategy establishes a clear link between the internal situation of the member states and the stability and development of the

countries and societies to the east of the EU into Central Asia and to the south of the EU to Central Africa. The Strategy places the accession process of the eastern candidates and Turkey in that framework. The construction of security in the European neighbourhood is a goal of the Union, then.

The third priority of the Strategy is the integrated approach to conflicts. It specifically points to the cases of Syria and Libya, in which the dimensions to be addressed are local, national, regional, and global.

The fourth priority is support for cooperative regional orders in Europe, of course, but also in the Mediterranean, in the Middle East and Africa, across the Atlantic, in Asia and in the Artic.

Lastly, the Strategy advocates a Global Governance for the 21st century in which the EU champions a strong United Nations as the bedrock of the order based on the rules of international law.

The EU's foreign relations in 2016: between tension and collaboration

Migrations and refugees mark national agendas with Turkey as the central partner

Migratory movements were the key to explaining the state of European public opinions and many of the election results in 2016. Undoubtedly, immigration was the most decisive element for understanding the triumph of the "leave" vote in the British referendum. Many Britons chose to vote in favour of the United Kingdom's departure from the EU based on what they believed to be a lack of control in the free movement of people and in the entry of immigrants into the country. Likewise, the rise of far-right movements and populism across Europe owes much to that perception. In all certainty, the Dutch elections in March 2017, the French elections in May and the German elections in September will not escape a debate focused on that subject matter.

The European Union's borders have been under intense pressure since 2015, both because of the arrival of refugees, essentially from Syria, and because of the economic migrations across the Mediterranean. That year, 2015, entries into the Union hit the figure of 1.8 million. In 2016, however, there was a significant drop, according to Frontex figures, to 500,000 entries. United Nations calculations produce the same data: a reduction in entries of over 70 %. The drop was largely due to the agreement reached between the EU and Turkey in March 2016. The best example is the number of entries through Greece, which fell by up to 79 % from one year to the next. The same can be seen in the entries via the Balkans, with a fall of over 80 %. Despite the reduction in the figures, they remain well above those of the years prior to the refugee crisis.

However, given that the causes that give rise to these population displacements continue – instability and war in Syria and the Middle East and lack of development in Africa –, the closure of one migratory route leads to the opening of another. Migratory flows across the central Mediterranean, especially from Libya to Italy, grew by 18 % between 2015 and 2016. Deaths in the Mediterranean also increased by 38 %, from 3,175 in 2015 to 4,400 in 2016. The nationalities of those entering the EU did not change. Syrians (88,000) and Afghans (50,000) remained at the top of the list.

European public opinion is highly polarised in the face of this situation. Angela Merkel suffered a major drop in popularity largely because of her favourable positions on taking in migrants. The continuation of the conflict in Syria

and the instability in Libya presage further constant pressure on European borders.

More serious still is the return of ISIS combatants to European Union countries, because of the threat of the highest order that it poses to European security, not forgetting its possible political consequences in an election year in countries such as France and Germany. That is why Germany, Austria, France, Sweden, Denmark and Norway maintain border controls in the Schengen Area.

Turkey has become the EU's main partners on migration matters. That was what the summit on refugees of 29 November 2015 established. It adopted a dual dialogue with Turkey: it relaunched the candidacy for accession to the EU and made it a key partner on matters of migration and refugees. As a result of that summit, a Joint Action Plan was activated on the management of migrations and refugees. The financing of the support fund for the refugees in Turkey was increased to 3 billion euros for the period 2016-2017 and the freeing of visas for Turkish citizens was speeded up. Turkey has also been on the EU's foreign agenda because of the attempted *coup d'état* on 15 July. The EU reacted swiftly, condemning the coup and calling for respect for democracy, rights and fundamental freedoms, underscoring the need to uphold the principles of the right to a fair trial. The EU framed the call within the European Convention for the Protection of Human Rights and Fundamental Freedoms, including Protocol 13 on the abolition of the death penalty.

There is also continued tension between Turkey and Cyprus, with the now traditional position of the EU in support of Cyprus's sovereignty, including over its Exclusive Economic Zone. Awaiting confirmation, the prospects of an agreement after decades of division are nearer than ever in early 2017.

The complex search for Eastern association

The achievement of stability and development in the EU's eastern neighbours is a longstanding goal of the Union's foreign relations.

Migration, terrorism and energy security are issues that are inseparable from the stability and development of the countries to the east of the EU. The refugee crisis and the tension with Russia over Ukraine have revived reflection in Brussels and in many European capitals over the action to carry out in the region according to the degree of future integration envisaged with each of the countries and the degree of progress in the reforms that the EU wants to realise with each of them. In May 2016, the ministerial meeting of the Eastern Association reiterated the principles on which those relations must be built: democracy, stability and development.

Three countries (Georgia, Moldova and Ukraine) have continued to make progress in the execution of their association agreements with the EU, which encountered major obstacles in the institutional reforms that have to be introduced. In the cases of Georgia and Moldova, the agreements came into force on 1 January 2016. For Ukraine, given its internal crisis, the agreement is being applied provisionally. The internal situation of the country has remained a source of concern on the European external agenda and a central element of EU-Russia relations. Both its political stability, which is very precarious and tense, and its economic sustainability depend on the support and assistance of the EU. At the same time, Brussels insists on the need to put a stop to the structural weaknesses regarding rights and freedoms and combating corruption, which continue to hang over the immediate future. Energy cooperation with Ukraine is also continuing in an intense manner. It should materialise into a strategic

energy association agreement that is under negotiation.

The future of EU-Ukraine relations is inseparable from its relationship with Russia and, in turn, has an overwhelming influence on the EU-Russia agenda. The line constantly maintained by the EU from the outset of the crisis in Ukraine was reiterated on 17 October 2016 in the European Council's CFSP report *Our Priorities in 2016*. In it, it said "the EU does not recognise the illegal annexation of Crimea and Sevastopol, which led to restrictive measures against Russia (followed by retaliation measures from Russia), nor does it recognise the elections in the Crimean Peninsula". The EU's German-driven foreign policy demands the full application of the Minsk Agreements of 2014 and 2015. The EU links the continuation of the restrictive measures against Russia to the full implementation of those agreements. Therefore, the destabilisation of Ukraine will continue to have a considerable impact on Russia's relations with the Union, limiting dialogue between the two. In fact, the Council report acknowledges that impact, which is also down to Russia's action in Syria since 2015, reducing the space for bilateral dialogue even further.

The EU's external agenda towards the East is not only focused on bilateral relations, it also keeps close tabs on the internal evolution of each one of the countries. Thus, in Georgia, the conflicts of South Ossetia and Abkhazia remain ongoing. The EU supports the territorial integrity and the sovereignty of Georgia and the resolution of the conflict through its Special Representative of the Monitoring Mission for the South Caucasus and Georgia. Azerbaijan is another country whose internal evolution the EU is following very closely, bearing in mind that it is key for the diversification of the EU countries' energy sources. That is why the EU is trying to reach a new global agreement for its relations. There were two main obstacles to that in 2016: the Nagorno-Karabakh conflict and the human rights record. Lastly, there was indeed progress with Belarus in 2016. The Council decided to lift most of the restrictive measures, stressing, however, the shortcomings on human rights and democracy and condemning the application of the death penalty, on which it called for a moratorium on executions.

Terrorism and migrations also provided a new focus to the EU's relations with the Balkan countries. Last year, the decision was taken to prepare a Plan 2017-2019 for regional assistance to the Balkans with regard to terrorism, organised crime and border security, funded by the pre-accession instrument. In the same region, the politicisation and risk of violence in Kosovo prompted extending the European Rule of Law Mission (EULEX) to June 2018. Similarly, the United Nations Security Council voted to renew the EU's military operation in Bosnia-Herzegovina (EUFOR/ALTHEA). Lastly, the accession negotiations with Serbia continued to move forward after the first two chapters were opened in December 2015.

The lack of opportunities combines with radicalisation and migrations in the Mediterranean

The border between the European Union and Africa is the most unequal on the planet, no matter which indicator one might use as a yardstick. The differences between the income per capita of the EU and that of the African countries can be as much as 1 to 30. The average birth rate on the African continent is 4.7 children per mother, compared with an average European rate that is in the region of 1.6. On

top of this is a profound lack of job prospects for the young people of a continent where in many countries under-25s make up over 50 % of the population. The migratory pressure on the EU's southern border is a response to that reality.

The Valetta Summit between the EU and Africa focused on these aspects of the migratory movements from Europe's southern neighbours. The idea was to attack the deep root causes of the phenomenon and not just the migrations themselves. To do so, specific plans have begun in five pilot countries: Ethiopia, Mali, Niger, Nigeria and Senegal. This phenomenon has combined with the vulnerability of many African countries in the face of radicalisation, extremism and terrorism, from Libya and the Sahel strip, where the Boko-Haram group has become the most macabre example of jihadi extremism, to Somalia in the Horn of Africa.

In 2016, the fight against terrorism and the prevention of radicalisation, support for the security sector and border management occupied a large part of the EU's foreign policy in the Mediterranean and Africa. In Libya, the EU is supporting the Government of National Accord with 100 million euros. In Mali, EU funding remains key to implementing the peace plan signed in 2015.

In the Israeli-Palestinian conflict, there has been no progress on the ground, or changes in the stance of the EU, which continues to support the two-state solution and to condemn the settlements as "illegal and an obstacle to peace and threatening the two-state solution", as the High Representative and the European Council have recalled on several occasions. The latest initiative in support of the two-state solution was calling a Summit in Paris attended by all the EU countries and the High Representative, as well as representatives of 42 other states.

Latin American, more present in the EU's foreign policy, but far from the weight of the region

The EU's relations with Latin America have been losing importance in the Union's external action since the mid-1990s. The thaw in relations between the United States and Cuba, the hope of peace in Colombia and the ongoing tension in Venezuela gave the region greater prominence in European diplomacy in 2016.

The most important moment was undoubtedly the normalisation of the EU's relations with Cuba, which for 20 years had been guided by the so-called Common Position, making institutional relations conditional on democratic and human rights advances in the island, without having achieved any of its declared goals. On 12 December in Brussels, Federica Mogherini, the High Representative for the EU's foreign policy, and Cuban Foreign Minister Bruno Rodríguez put their signatures to the end of that policy. The new approach to relations revolves around three central points: political dialogue, which includes governance and human rights; cooperation, which opens the door to greater investment in development; and economic and trade affairs, which will facilitate economic exchange and investment from the EU, which is now the world's biggest investor in Cuba and its second-biggest trade partner, behind only Venezuela. There is every reason to believe that EU-Cuba relations will intensify very significantly over the next few years.

Last year was also a turning point for peace in Colombia. The negotiations between Colombia and the guerrilla group Revolutionary Armed Forces of Colombia (FARC) ended in a peace agreement that was put to a referendum, and rejected, in late 2016. Despite that, both sides – government and guerrilla – have decided

to stick to their roadmap for the definitive cessation of violence. The EU has not played a primary role in the peace process in Colombia, but it certainly has been present through former Irish Foreign Minister Eamon Gilmore, Federica Mogherini's Special Representative. In support of the peace process, the Union launched a trust fund of 95 million euros, established in December, in the presence of Colombian President Juan Manuel Santos and focused on reconstruction projects in the country's rural areas. The definitive end of this process with the FARC guerrilla group, as well as the culmination of a similar agreement with the other guerrilla group active in Colombia, the National Liberation Army (ELN), will necessarily be on the EU's foreign agenda.

Venezuela, the third country that has regularly appeared on the foreign agenda of the Union countries, did not receive the same attention as the previous two from EU foreign policy. The intense mediation work of former Spanish Prime Minister José Luis Rodríguez Zapatero is currently the main European instrument for facilitating a solution to the tense and complex situation in Venezuela. The Council issued a statement on Venezuela in July, in which it "fully supports the mediation effort by former Prime Minister José Luis Rodríguez Zapatero". The same statement called on the High Representative to maintain regular contacts with Rodríguez Zapatero. However, the effort lacks stable formal backing from the EU, such as the appointment of a Special Representative so that the EU's support for the mediation efforts could be deployed to its full potential.

The EU-CELAC Summit in the second half of 2017 will be the moment to determine whether Latin America, beyond its crises, really is back on the European agenda.

What can we expect in 2017 and beyond?

The EU's foreign policy still punches well below its demographic and economic weight in the world. National realities prevail over joint action on the thorniest issues. However, the vital need for the EU to take a leap forward in its integration to counteract the effect of Brexit and a possible US uncoupling from European security may be an opportunity, a catalyst, to take a definitive step towards joint and coordinated external action, especially on the most serious issues affecting the security and freedom of Europeans – those in which, to date, European action has had least scope for action.

If it happened, it would make a substantial contribution to the culmination of European political union. For years, the EU has had all the institutional instruments and necessary economic resources to be and act like a major global player in the world. In addition to the two factors, it still lacks sufficient political will to exercise that power – even if every year, as in 2016, steps are taken to close the gap.

Let nobody be deceived: if the divisive effect and reversal of a populist election victory in any of the main EU member states in 2017 were felt anywhere, it would be in the Common Foreign and Security Policy. The citizens of Europe, of its partners, allies and neighbours anywhere in the world would pay dearly.

More than ever, the world needs a strong and resolute EU on the management of global issues, be they the promotion of sustainable development and the reduction of poverty, socially and environmentally regulated free trade against protectionism or deregulation, combating climate change, the negotiated solution of conflicts, countering terrorism, the defence of international law and support for the United Nations and its new Secretary General – the

European and former Portuguese Prime Minister Antonio Guterres – and, in short, the promotion of freedom, democracy, human rights and the rule of law as universal values and conquests that cannot be relativized.

The task of turning the EU into a relevant global power is one to which Spain, out of conviction, trajectory and interest, after two years as a non-permanent member of the Security Council and having left behind many months of interim government (including a good part of 2016), can and must be at pains to apply itself, as people are calling for in Brussels and other European capitals.

The defence policy of the European Union within the framework of a Global Strategy on Foreign and Security Policy

Francisco Aldecoa Luzárraga

During 2016, there was a shift in the development of defence and security policy which reflects the profound changes in these issues in the European region since 2013. This chapter analyses recent developments in the area of defence policy, particularly as a result of the EU's growing role both diplomatically and in establishing international law, and the prospects that are opening up as a result of approval of the "Global Strategy on Foreign and Security Policy" in June 2016.

The need to strengthen the Common Security and Defence Policy (CSDP) and to transform it into a genuinely independent European defence policy is largely – although not exclusively – a response to the increasing threats that Europe has faced in recent years. The key innovation in this area has been the transformation of security and defence policy: while the previous policy (the European Security and Defence Policy or ESDP) primarily consisted of overseas crisis management, the new approach constitutes a comprehensive defence policy, entailing an obligation of mutual defence in the event of external aggression against any EU member state.

In this chapter, we analyse the development of a European defence policy within the framework of the Global Strategy on Foreign and Security Policy. This strategy was officially approved during the week of the Brexit referendum in June 2016, which understandably meant that it went almost unnoticed at the time. However – and contrary to expectations – the UK's departure from the EU is not proving an obstacle to implementation of the European defence policy.

Origins and development of a European defence policy

The need to address the issue of security and defence has been a part of the European project since the outset. Shortly following the signing of the Treaty of Paris to create the European Steel and Coal Community (ESCC) in 1951, a proposal to create a European Defence Community was put forward in an international context that was increasingly dominated by two opposing power blocs and concerns about the Soviet threat. The project ultimately failed in 1954, due to France's decision not to ratify the treaty following the death of Stalin and Nikita Khrushchev's new policy of peaceful coexistence.

It would be more than 30 years – after the fall of the Berlin Wall and the disappearance of the Soviet bloc – before a new security and defence initiative would be launched. It was the Maastricht Treaty on European Union, in 1992, that transformed what had been an economic organisation into a political one, providing the basis for the gradual development of an intergovernmental Common Foreign and Security Policy (CFSP).

The Treaty of Amsterdam in 1999 created the position of High Representative for CFSP, a role filled by Javier Solana for the first ten years. (This post was the forerunner of the current position of High Representative for Foreign Affairs and Security Policy.) It also established the European Security and Defence Policy (ESDP), with the EU using armed forces for overseas crisis management operations for the first time. Since then, 34 civilian-military crisis management operations have been conducted, of which almost half are ongoing.

The current CSDP has its foundations in discussions in the European Convention of 2002-2003, which addressed the need to deepen and reform central aspects of Europe's role in the world, establishing three major initiatives: the Defensive Alliance, Permanent Structured Cooperation and the European Defence Agency. For the first time, the CSDP was formalised in the Constitutional Treaty that came out of the Convention. However, the Constitutional Treaty was rejected in referendums in France and the Netherlands in May and June 2005, respectively, and was never ratified. Despite this rejection, the substantive elements of the treaty – and, in particular, those relating to Europe's role in the world and the CSDP – were revived in the Lisbon Treaty, signed in December 2007.

European Union defence policy in the Treaty of Lisbon

The Treaty of Lisbon took a big step towards addressing, for the first time, the issue of providing the EU with permanent defence structures that went beyond ad hoc crisis management mechanisms. It improved the existing institutions of the ESDP, expanding the range of situations in which Petersberg tasks could be conducted (extending them to include terrorism prevention). It also allowed an EU mission to be entrusted to a single member state or group of member states, and simplified the procedures for funding missions.

At the same time, the Treaty of Lisbon established the new CSDP institutions: the Defensive Alliance (art. 42.7 TEU); Permanent Structured Cooperation (art. 42.6 TEU) and the European Defence Agency (art. 42.3 and 45 TEU), designed to strengthen cooperation in the sphere of military capacity. Another innovation was the "solidarity clause", to prevent and react to terrorist attacks or natural or man-made disasters (art. 222 TFEU).

However, the biggest innovation in the Treaty of Lisbon in the area of defence policy was the mutual assistance clause, which is at the core of the Defensive Alliance and imposes a mutual defence commitment that goes beyond article 5 of the NATO Treaty, stipulating in article 42.7 that "If a member state is the victim of armed aggression on its territory, the other member states shall have towards it an obligation of aid and assistance by all the means in their power".

At the same time, to make the Defensive Alliance credible, the Treaty of Lisbon allowed for the possibility of creating a permanent rapid intervention force to provide an immediate response to aggression. This took the form of Permanent Structured Cooperation, as described in art. 42.6 TEU, which established that "those member states whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish Permanent Structured Cooperation within the Union framework". In other words, it creates the possibility that a group of States may establish such cooperation without the need for unanimous agreement.

As a result, since December 2009 – the date when the Treaty of the European Union came into force – there has been a defensive alliance between the members of the EU, providing a solid legal basis for implementing a European defence policy. However, this policy has not actually been implemented because (for a variety of reasons) it is only very recently that the provisions of the Treaty of Lisbon have actually been put into practice.

The development of a European defence policy

In the last few years, and in particular since 2014, events have intensified the need to implement a European defence policy.

The deterioration in the security situation of the EU since 2014

The worsening security and defence situation, particularly on the EU's eastern and southern borders, has been apparent for some time, and this problem has gradually become worse since 2014, with the growth of ISIS (so-called Islamic State) and the use of force by Russia, in particular with regard to the annexation of Crimea.

Places where the new risks and threats are at their most serious include: eastern Ukraine; Syria and Iraq, with the escalation of ISIS; the crisis in Libya; terrorist threats in Africa (particularly in the Sahel, Libya and the Horn of Africa and – more recently – acts of piracy in the Gulf of Guinea).

The objective of the Juncker Commission: to create a more powerful global player

The European elections of 2014 represented a new start (as reflected in the title of the European Commission programme) and, in accordance with article 17.7 TEU, for the first time the membership of the Commission itself reflects the election results. As a result, the new Commission enjoys a greater level of legitimacy than its predecessors.

With respect to defence policy, the Commission programme makes reference to the need to strengthen integrated defence

capacities and, in particular, to implement Permanent Structured Cooperation during the 8th legislature.

The appointment of a new High Representative for Foreign Affairs

Even before she took office, Federica Mogherini (at the hearing in September 2014) had set out her desire to strengthen European foreign and security and defence policy, and there have been plenty of indicators of her priorities during the two and a half years since her appointment. One sign of this was her decision, as both High Representative and Vice-president of the Commission, to move her office to the Berlaymont building, which houses the other commissioners. This was intended to emphasise the fact that she had an EU-wide rather than an inter-governmental mandate, part of a strategy of correcting the tendency to treat the external dimension of EU policy as an inter-governmental issue. Defence policy has been given a higher profile through the appointment of Spain's Pedro Antonio Serrano de Haro as Deputy Secretary General for Common Security and Defence Policy.

Mogherini's approach has been described as one of extending boundaries and challenging limits. A good example of this has been her frequent attendance at the United Nations Security Council to expand the mandate for the use of force in Operation Sophia, designed to break the business model of smugglers and people-traffickers in the Mediterranean.

French activation of the mutual assistance clause of art. 42.7

Following the Paris attacks of 13 November 2015, the French government unexpectedly invoked the mutual assistance clause contained in article 42.7 TEU at the Foreign Affairs Council of the European Union on 17 November 2015. This means that the EU has become not just a *de jure* but a *de facto* defensive partnership, on a par with the Atlantic Alliance. The problem, though, is that French activation is being implemented bilaterally by member states with scant participation by EU institutions, and is having very little practical impact. Despite this, it is of great political importance.

For example, the preamble of European Parliament resolution of 13 April 2016 states that "the current activation of Article 42(7) TEU should serve as a catalyst for unleashing the potential of all the security- and defence-related Treaty provisions". This resolution was central to the development of the new Global Strategy presented two months later by the High Representative.

Strategic autonomy in the Global Strategy on Foreign and Security Policy

After lengthy negotiations and many delays, the Global Strategy was approved, under the full title "Shared Vision, Common Action: A Stronger Europe. Global Strategy on Foreign and Security Policy for the European Union". Negotiation took more than two years, and the process involved the governments of member states, members of the European Parliament and an expert group comprising members drawn from the different countries.

The Strategy takes as its starting point the fact that the international defence and security situation has changed, the world is a different place, and the international security environment is less safe, less predictable and more volatile. It states that "Europeans must be better equipped, trained and organised to contribute decisively to such collective efforts, as well as to act autonomously if and when necessary. An appropriate level of ambition and strategic autonomy is important for Europe's ability to foster peace and safeguard security within and beyond its borders".

Its most important contribution may be that it transforms the legal obligation of mutual defensive aid, established in article 42.7 TEU as noted above, into a political commitment where it states that "the European Union will promote peace and guarantee the security of its citizens and territory". This converts the legal commitment of the Treaty into a strategic objective of the first order, one that implies a qualitative change in the scope of defence policy, extending it from crisis management operations to the defence of citizens and territories, an area that was previously the exclusive responsibility of member states.

The Global Strategy reiterates the concept of a "European Security Strategy, a safe Europe in a better world", formulated in December 2002 by Javier Solana, the first High Representative. However, also it contains two innovations: one of these is the consequence of a new international scenario of heightened threats which require the development of defence policy; the other is more action-focused, taking the form of what has been described as "values-based pragmatism".

Development and application of elements of a European defence policy

The Global Strategy is based on values and is designed for action. It draws on the vision and ambition of a stronger EU, one that is both willing and able to make a positive difference for its citizens and the world. Despite the expectations of some that it would never be more than words, this approach has been implemented rapidly through a number of measures.

- The Joint Declaration of the European Commission and the Secretary General of NATO, following the informal meeting of 27 EU Defence Ministers on 26 and 27 September 2016 in Bratislava, stating that the EU and the Alliance are seeking a new relationship based on mutual aid and cooperation, confirming a new climate and acceptance of the Global Strategy. The Declaration contained a set of conclusions adopted by the respective Councils, including more than forty proposals.
- The European Defence Action Plan, adopted by the European Commission and published on 30 November 2016, elaborates upon the Global Strategy for Foreign and Security Policy. Its objective is to create the conditions to convert the ambition of this Strategy into actions. It presents a range of proposals, including a common defence market and the use of the EU budget to create a defence union. The most ambitious proposal is the creation of a European Defence Fund focused on research and capacity-building.
- The European Council of 15 December 2016 aimed to achieve permanent operational capacity for strategic planning and implementation, greater relevance and operational capacity to use and deploy rapid response

instruments, with the aim of making the principle of strategic autonomy a reality.

– In this regard, and building on the European Council position described in the previous point, on 6 March 2017 the Council of Foreign Affairs decided to create an operational command, which would take immediate charge of operations already in progress. This office – conceived as an embryonic military HQ – was not created, because the UK exercised its veto on the basis that such an HQ should be the reserve of NATO.

These decisions are just some of the measures designed to illustrate the development and application of the first steps towards a joint defence policy, and it seems likely that more will be adopted over the coming year.

Implications of Brexit for European defence policy

On 29 March 2017, London triggered Article 50, giving notification of the UK's intention to leave the EU. Taking into account the role played by the UK over the last 45 years – one that has been characterised by obstruction of attempts to promote integration, and opposition towards the federal project that is the driver of European construction – the UK's exit, in principle, represents an opportunity for the EU, facilitating cohesion (as has been demonstrated during the nine months since the referendum vote), and opening the way for the process of deepening the EU.

In the sphere of defence policy, it is important to remember that the CSDP was influenced by the Franco-British Saint Malo Declaration (by Chirac and Blair), and that the UK played a key role in the early military crisis management operations during the first decade of the twenty-first century. However, when the Conservatives came to power in 2010, participation in such operations was reduced, reflecting a decision to emphasise NATO operations. As a result, the UK is only the fifth-largest contributor to CSDP military operations – behind France, Italy, Germany and Spain – and the seventh-largest contributor to civil operations.

Military experts therefore believe that the UK is not essential to European defence, preferring to emphasise Atlantic defence instead. At the same time, the White Paper on Brexit presented by Theresa May on 14 February stresses her commitment to maintaining security and defence cooperation with the EU and its member states. It will be interesting to see what form this relationship takes.

Despite being announced at the same time as the Brexit referendum, the Global Strategy has been applied and developed through the medium of a European defence policy. Although the UK has put some obstacles in its path, this has not prevented implementation of the strategy. It therefore seems likely that, while Brexit may make the challenge of developing a defence policy more difficult, it will not constitute an insurmountable barrier.

Pending issues in the development of European defence policy

Although significant steps have been taken within the framework of the Global Strategy over recent months and some aspects of a defence policy have been developed, there are still a number of key issues pending if the strategy is to be credible on the international stage. Perhaps the first measure should be a unanimous decision by the Council to separate common defence from foreign policy. This, in turn,

depends on a number of other decisions, the most important of which is the implementation of Permanent Structured Cooperation. Other measures could include the following.

- A policy of communicating with European citizens to raise awareness of the fact that the EU is a defensive alliance, which means that violation of any of the external borders of the EU should be defended by all member states with the same vigour that they would apply to their own national defence.
- This entails activating Permanent Structured Cooperation, as defined in article 42.6 TEU and article 1 of Protocol 10, a commitment that was adopted in Juncker's "New Start for Europe" and in various European Parliament resolutions, in particular in the resolution of 16 March 2017, points 30 to 34. Point 30 "underlines the importance and necessity of participation in permanent and efficient structured cooperation by all member states willing to advance their defence integration to the highest level of ambition" and "believes that a permanent 'European Integrated Force' (EIF) should be set up as a multinational force". It should also be noted, as identified above, that the Treaty establishes that Permanent Structured Cooperation is for those States that wish to pursue it and which satisfy certain military requirements (in a manner similar to the convergence criteria for Economic and Monetary Union). This cooperation must serve both as a means of managing foreign crises and for the purposes of territorial defence.
- Creation of a Council of Defence Ministers, chaired by the High Representative for Foreign Affairs and Security Policy, with the aim of coordinating implementation of the CSDP and making it more effective. This would involve separating it from the Foreign Affairs Council, as there would be two separate sets of policies – foreign policy and defence policy – that should be viewed as such, and which are treated separately in individual member states.
- It is vital to establish a fully-fledged HQ, perhaps building on the operational HQ established on 6 March. This HQ should be fully independent of NATO HQ as each organisation must be completely autonomous, notwithstanding the need for compatibility and their complementary nature. It is therefore necessary to move beyond the "Berlin plus" model.
- Continuing with cooperation in weaponry and capacity, following the lead of the European Defence Agency. It is important to note, as the Agency's Executive Director Jorge Domecq explains, that "cooperation in defence has made more progress over the last twelve months then in the preceding ten years".

Although operational issues are not analysed in this chapter, they are unquestionably of great importance. By way of example, there is the need to transfer NATO HQs – in particular the two air control HQs, one of which is located in Torrejón (near Madrid) – to the EU, as control over the airspace of member states is currently the responsibility of NATO.

The European Parliament resolution of 16 March 2017 on defence policy, already referred to above, sets out a clear guide to the steps required to make such a policy operational within the near future.

On 1 March 2017, the European Commission published a White Paper on the Future of the European Union, setting out five possible scenarios, and establishing a timetable for presenting five reports corresponding to each of these, as a basis for analysis of the future of Europe.

One of these reports relates to defence, and will be published in June. It is to be hoped that it will explain in detail the European Commission's understanding of what constitutes defence policy.

Why we need to strengthen defence policy

In my opinion, there are at least five reasons for strengthening an autonomous defence policy:

- The gradual escalation of risks and threats in neighbouring regions (noted above) which shows no signs of slowing. These are risks and threats not just to individual member states but to the EU as a whole, to its political and social model, and to the values that underpin it. A collective response is therefore required.
- A global political player must be responsible for its own defence and cannot subcontract it to others, as currently occurs with NATO. If it wishes to be an independent player, the EU must take responsibility for defending its citizens and its territory.
- As we have seen, the Treaty of Lisbon established the legal basis for developing and consolidating such a policy. Now what is needed is the political will to implement the instruments required to achieve this goal.
- The Global Strategy on Foreign and Security Policy, which contains the principle of strategic autonomy, transforms the legal obligation to defend citizens and territories into a political commitment. The purpose of defence policy measures is to make this commitment a reality.
- Over recent years, and in particular since 2015, internal and external security have become increasingly linked, with the result that defence policy is a necessary component of anti-terrorism strategies. In this case, the two areas are opposite sides of the same coin.

Why do we need a defence policy? To consolidate the EU as a global, normative and diplomatic player with an increasing role in global governance, providing the external dimension of the EU's internal model. It is important to note that defence policy is not an adjunct of foreign policy, but rather an essential means of ensuring that the global actor can operate without its activity being constantly conditioned by military pressures. The EU's presence in the world will never be the result of its military capacity but will instead reflect the defence of its values and interests and its social model, through such instruments as trade and cultural, humanitarian and development policies. However, for this to be possible the EU needs a collective defence that enables it to act in the world.

Conclusion: the need to formulate a genuinely autonomous defence policy for the EU

Throughout this chapter, we have seen that defence policy and shared defence represent a European aspiration that goes back almost 70 years. This both reflects a general need and has been conditioned by specific international factors. Today, international factors are still driving both the move towards deeper integration (in this case, particularly Brexit and the election of Trump) and the development of defence policy (the problem of ISIS and the Russian threat).

Recently, with French activation of the defensive clause, it has become clear that the CSDP should not be concerned solely with civil crisis operations and foreign military endeavours but should also strive to defend the EU's

citizens and territories, and this in turn calls for the articulation of an authentic defence policy that is separate from European foreign policy (as occurs within member states).

The first steps in this direction are now being taken. The first of these is the Global Strategy on Foreign and Security Policy, which involves agreement based on common values and seeks to intervene pragmatically in the regulation of global governance through the combined action of a stronger Europe. In order to achieve this goal, we are seeing the development of a strategically autonomous defence policy designed to defend citizens and territories. The second step is to be found in a series of concrete decisions that have been taken in the sphere of defence policy (some of them endorsed by all 27 remaining members of the EU) with the aim of achieving the objective of strategic autonomy based on an autonomous defence capability.

The "Declaration of the leaders of 27 member states and of the European Council, the European Parliament and the European Commission" of 25 March 2017, known as the Rome Declaration, pledges to work towards "a safe and secure Europe: a Union where all citizens feel safe and can move freely, where our external borders are secured, with an efficient, responsible and sustainable migration policy, respecting international norms; a Europe determined to fight terrorism and organised crime". The declaration goes on to identify the goal of "a Union ready to take more responsibilities and to assist in creating a more competitive and integrated defence industry; a Union committed to strengthening its common security and defence, also in cooperation and complementarity with the North Atlantic Treaty Organisation, taking into account national circumstances and legal commitments; a Union engaged in the United Nations and standing for a rules-based multilateral system, proud of its values and protective of its people, promoting free and fair trade and a positive global climate policy".

The European energy union: spurning integration or business as usual?

Philipp Fink, Antoine Guillou and Robert Schachtschneider

Introduction

Sixty years after the signing of the Treaty of Rome, the European Union with its unique project of integration is witnessing rough times. Its fundamental values, its legitimacy and its future are being questioned. Increasingly, there are calls for a renationalisation of the political domain with the referral of competencies back to member states, effectively stalling further integration. Furthermore, societies all over Europe are confronted with the growing threat of populism, demagogy and xenophobia. What has been long thought to be left behind through integration is suddenly rekindling a divisive flame with the potential to further disintegrate the European Union.

On the background of these developments both European institutions and member states have been authorised to develop strategies to overcome anti-European sentiments and integration fatigue by formulating concrete policies that not only create macro-economic gains but more so generate real benefits for the citizens of Europe. This entails the arduous task of finding the common denominator between the diverse member state interests. By increasingly catering for people's livelihoods and sentiments, it is essential that the European project reconnects to people's lives, by finding an issue field, which affects every single citizen across the Union. As the history of European integration shows, it was always successful, when it focused on a prioritised project or policy field.

It is somehow also the founding myth of the European Union to start with sources of energy and pool competencies as the six founding members did in the 1950s. In this faith, President Juncker announced the European Energy Union, for which he identified five key dimensions, aimed to take into account the concerns of all member states – (a) energy security, solidarity and trust; (b) full integration of the European energy market; (c) energy efficiency as a means to moderate demand; (d) decarbonisation of the economy; (e) research, innovation, and competitiveness. These were developed in a Framework Strategy published on 25 February

2015 which set out 15 action points. Everything you can think of when it comes to energy policy was included, but one could argue there was no clear indication on what were the priorities or the level of ambition in each field. In January 2016, a paper published on the Energy Union,[1] as part of an initiative bringing together several European think tanks and academics, advocated for the Energy Union to focus on three main challenges: a more coordinated governance at both political and technical level, a structural reform of the electricity market design, and stronger integration of energy policy with Europe's broader policy goals.

In the meantime, concrete proposals have been made, called the Clean Energy Package. This legislative proposal is mainly driven by electricity market logic, covering aspects of electricity production, transmission, distribution and consumption. The proposal aims to guide the Union and its member states towards successful integration as well as a decarbonisation of the electricity mix. This paper aims to analyse a selection of proposals and evaluate it against the goal of cheap, secure and sustainable energy for all, also bearing in mind the three main challenges we identified back in January 2016.

The complex polity of energy policy

Energy supply is at most times taken for granted. Nearly everywhere in the EU access to energy is considered as given. Hence, for most people it ensures a certain living standard. In these terms, the debate is, therefore, on the nature of energy (renewable, nuclear and fossil), the level of consumption and most certainly the price: "Cheap, clean energy at every time of the day, the week, the year". Moreover, energy is an important cross-sectional policy field, affecting various interrelated issue areas: Climate change, competitiveness, innovation, foreign policy, structural policies and regional development – to name a few. Furthermore, a common energy policy has to deal with multiple actors with divergent interests and exceedingly complex technical and legal issues. Hence, energy policy is currently faced with tremendous challenges.

European and national energy policies have been and still are arguably diverse and not always consistent, be it between member states or even within a single country. This is in part the result of the Treaties' straightjacket, which allows the Commission formulate objectives and goals on European level (i.e. the 2020 goals of the climate and energy package), but hinders the Commission to reach them by directly influencing the national energy mix. The Commission therefore has to resort to wield its only sharp sword: competition policy and the further development of the common market.

Nevertheless, the decision for a rollout of renewable energy and the increase of energy efficiency as a means to reduce CO_2 emissions, with objectives being set at European level, eventually triggered a transformation of the whole energy landscape. However, this process did not take place simultaneously in all member states. In the beginning, energy transformation was driven by only a few member states, implementing national legislation and designing their own support schemes. By now, we face a situation where all of this has to be put together in a functioning Europe-wide system. Each member state by itself is not able to be successful and

[1] Derdevet, M.; Fink, P.; Guillou, A.; Instytut Spraw Publicznych; Schachtschneider, R.; Scholten, D., Schramm, C.: *New and ambitious or just more of the same? The energy union at a crossroads. Politik für Europa #2017 plus*, Friedrich-Ebert-Stiftung, Bonn, 2016.

will reach its limits due to overarching costs, technical limits, and the physics of gas, electricity as well as interconnected networks. The awareness that more and improved cooperation is needed is underlined, on the one hand, in electricity, by the effects of a strongly interconnected network such as loop flows and ever decreasing marginal prices due to the abundancy of installed generation capacity. On the other hand, in gas, by the vulnerability of the Union due to energy dependency (cf. Ukraine crisis). Concerted action is needed.

The Commission's proposals

At the end of November 2016, the European Commission released a whole set of legislative and regulatory proposals to reach the ambitious European Union's energy targets set in different papers and key documents before (i.e. A policy framework from 2020 to 2030[2], a roadmap for a low carbon economy in 2050[3]). The Clean Energy Package aims to streamline the existing measures, introduce new regulation and enforce better and more coordinate governance to "equip all European citizens and businesses with the means to make the most of the clean energy transition".[4] The proposal covers energy efficiency, renewable energy, electricity market design, electricity security of supply and governance. It follows the overall goal to create a low carbon economy by 2050 (as a consequence of the Paris COP21 agreement), putting energy efficiency first, achieving global leadership in renewable energies and providing a fair deal for consumers.

Even though the Union is on track to reach it's 2020 goals, one can argue that more profound changes have to be undertaken if the EU is to reach its objectives for 2030, and even further to fulfil its commitment as a party to the Paris COP21 Agreement. The Winter Package ignores the structural deficits of the present energy market systems. Leaving aside the fact that investments in the energy infrastructure and the installation of new capacities are motivated by wholesale prices, the Emission Trading System (ETS), which lies at the heart of the decarbonisation strategy, as it is aimed to increase low CO_2-investments, is crippled by the abundancy of CO_2 certificates. Increasing shares of renewable energy are concentrated within some regions of the European Union. Furthermore, the current state of the energy landscape is conditioned to a huge extent by a dysfunctional market environment, defined by over capacities, low markets prices, grid congestions, stranded investments and growing (re)dispatch costs. The Winter Package does not account for this diagnosis; instead business as usual is preferred over a profound market transformation towards a market in which both renewables and energy efficiency are driven by investment signals and a long-term political commitment by all member states. The package's formulated policy goal (energy efficiency first and renewable leadership) thus remains mere lip service.

When it comes to electricity market design in detail, the Commission is proposing to recast

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[2] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions*: A policy framework for climate and energy in the period from 2020 to 2030*. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014DC0015&from=EN.

[3] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: *A roadmap for moving to a competitive low carbon economy in 2050*. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011DC0112&from=EN

[4] http://ec.europa.eu/energy/en/news/commission-proposes-new-rules-consumer-centred-clean-energy-transition

the Electricity Directive and the Electricity Regulation (whose last updates date back to the Third Energy Package of 2009), intending to deepen the integration of the European electricity market. Several provisions aim at further linking short-term markets, while others push for even more regional cooperation of Transmission System Operators (TSO). The Electricity Regulation also deals – for the first time in the European legislation – with capacity mechanisms, notably with the objective of making cross-border participation mandatory in national capacity mechanisms. While this is overall going in the right direction (although many debates could arise on the details of each provision), the Commission's approach towards the electricity market design is arguably closer to "business as usual" than to a fundamental rethinking of the electricity market design.

Regarding electricity security of supply, the Commission is mirroring its recent initiative on gas security of supply. While here again the initiative is welcomed, the regulation proposal focuses on technical cooperation. The essential is thus elsewhere: political governance.

Precisely, regarding governance, the Commission is proposing a brand-new regulation. The recognition of the importance of good governance at all levels (local, national, European) is very welcome, if the Energy Union is to be successful. For sure, improved coordination, monitoring and enforcement are keys to investment security and a fair effort sharing. However, a look at the details reveals that key decisions have been spared out. Member states have to submit a draft national energy and climate plan to the Commission by 2018 in which they stipulate their approach to meet the overall union goal (including national objectives, targets and contributions of each of the five dimensions, a description of the policies they aim to pursue (status quo, projection, impact assessment) and the envisioned trajectory. The final energy and climates plans will to be monitored by the 2019 biennial including Commission recommendations and national updates.

In general, one can argue that a national planning procedure is based on voluntary contributions. The Commission in a next step is asked to evaluate the 28 plans and evaluate if the overall Union-wide target is met. In case of a so-called ambition gap the Commission is asked to adapt to those plans for finalisation. So far, it is not clear which instruments the Commission has in order to overcome the ambition gap of member states, since no mechanism to define national contributions or targets are foreseen. More coordination of national energy policies and regional cooperation are welcomed and needed to achieve union targets. However, a coherent and continuous monitoring is the basis for planning and investment security for market actors and the needed generation of private investment.

Still, the absence of clear national targets or defined burden sharing bears potential for conflict not only in case of contrasting national policy targets for renewables or the energy mix as a whole but also for security of supply if system imbalances further increase (lack of grid expansion, lack of interconnectors, increasing shares of volatility in some regions). This will very likely materialise in market intervention and increasing macro-economic costs.

Finally, one can expect debate on a fair burden and cost sharing. A fund at the European Union level to realise renewable energy projects and to close the gap is definitely a good idea, but it is too early to comment on the effectiveness to boost the installation of renewable capacities since the design and volume is not fixed yet. In how far the instrument of stronger regulation in

the field of energy efficiency is perceived as an admirable tool by the member states is questionable but definitely a last resort, if the goals are not achieved.

None of the above-mentioned instruments have been yet spelled out. There is need for more clarification on the specific design of instruments (e.g. member state contribution to the fund) and measures that apply in case of underplanning and underperformance. How will EU measures be selected after failure to meet targets? Which rights do member states have in this process? The Commission's proposals fall short of addressing the key challenges of European Energy Policy and follows a business as usual approach, thereby shying away from a clear commitment to structure a common energy policy for the future.

Governance and planning

The inherent governance weaknesses of the EU ETS (notably the fact that it brought together too many sectors and countries with very diverse starting points) have led to a very weak and volatile carbon price in Europe, which does not provide sufficient certainty to allow investments in the energy sector. We are thus more and more moving away from a market-driven approach, towards a policy framework based on public planning and regulated investments, both at European level (notably through the renewable and energy efficiency targets) and national level (with national targets, renewable support schemes and capacity mechanisms). Such an energy policy based on more public planning is not necessarily a problem in itself (provided the planning is efficient), but this reality must be acknowledged so that the appropriate governance framework can be put in place accordingly. Instead the Commission continues to follow its market-oriented stance by focussing on competitiveness issues and the strengthening of market instruments in an increasingly regulated environment.

Hence, the Commission's proposals on the Energy Union governance, which should have been the political core of the package, are very much lacking ambition and vision. The Commission is dispersing the attention on very technical issues, also giving ground to criticism of centralised overregulation and neglecting subsidiarity. More and more investments in the energy system and in particular the electricity system are based on public planning – notably with the development of renewables and the associated investments in the electricity grid –, and many of them can have significant cross-border impacts. There is thus a crucial need to improve the coordination of national planning exercises on which those investments are based. Unfortunately, although some of the Commission's initiatives are welcomed (such as the proposal to open national renewable support schemes to producers from other European countries, thereby incentivising member states to design their support schemes in closer cooperation), the issue is insufficiently addressed. The proposed Governance framework mainly focuses on reporting obligations from member states to the Commission, but does not create the conditions for proper cooperation between member states themselves, neither at political nor at technical level.

On the contrary, a political cooperation framework should be devised at European level with the creation of a "European Parliamentary Platform on Energy". This platform could ensure exchange and debate between European and national parliamentarians of the member states involved in energy policy and interrelated

fields. Hence, it would ensure the participation of the national parliaments in the further integration process. At a technical level, reporting obligations should not be seen as a mere administrative act, but should include real impact assessments of national energy policies. Their impacts should be identified in regard to their positive or negative effects on neighbouring countries. This should not prevent member states from pursuing their own energy policies, but it should at the same time ensure the regional or European consequences can be identified and discussed, at both technical and political level.

Market design

Similarly, when it comes to market design, the Commission's proposals do not seem to recognise that the world has fundamentally changed since the internal energy market was first conceived in the 1990s. Moving away from a system mainly based on already amortised, centralised, fossil fuel power plants with mainly variable costs to a system requiring new investments in capital intensive renewable investments and flexibility requires new instruments and support structures (e.g. demand-side response, storage and back-up plants). Although the large majority of new investments in electricity generation or flexibility means Europe now benefits from regulatory support one way or another (through renewable support schemes, capacity mechanisms or both), the Commission seems to overlook this key trend, and only proposes marginal improvements of the current market design. There was no proper diagnosis of why the market design from the 1990s could be fundamentally unfit for today's challenges. In other words, the Commission is trying to make renewables fit into the old market design, rather than to renew the market design for a future based on renewables.

The current market is in a dilemma situation, increasing shares of decentralised volatile renewable energy in some regions meet overcapacities in conventional, fossil base load power generation across the Union (partly inefficient and carbon intensive) in a market that does not trigger adequate long-term investments ("missing money problem"). On the background of the overall policy goal of decarbonisation at the EU level the internal market integration by itself is unlikely able to deliver the formulated policy outcome without improved coordination and streamlining of national energy mixes.

A closer coordination of national energy policies and planning stipulates the creation of publicly controlled (or regulated, such as the TSOs or a regional subsidiary of several TSOs) contracting entities at regional level. Such entities would allow investments in renewables, storage, demand-side response and back-up facilities to happen by providing investors with sufficient certainty through long-term contracts, while ensuring competition between them. This new market design would not replace short-term markets, which could still provide the appropriate incentives for operational decisions and dispatch, but it would replace the uncoordinated (and thus costly) national renewable support schemes and capacity mechanisms.

Funding innovation and technology at European level

In a rapidly changing energy sector, innovation is the key. The energy system of the future will be based on smart grids, it will take advantage of storage facilities and electric vehicles, and

digitalisation will impact on the whole value chain. It is crucial for the European energy transition that the European energy industry remains at the forefront of such innovations. This will certainly not happen overnight and needs a strategic and truly European approach towards public policies supporting R&D and innovation. The Clean Energy Package unfortunately leaves this key challenge unaddressed. National research and innovation agencies should jointly elaborate their funding programmes; merge available funds at European level, thereby spreading best practices in terms of innovative financing, and to develop early on common technical standards to allow for the emergence of strong European industrial players for the energy transition.

The Commission goal of increasing energy efficiency is definitely a key pillar to success. As tapping the tremendous potential not just in buildings but also in production reduce the amount of required installed capacity of renewable energy and the connected land-use. A prerequisite for efficiency gains is technology and innovation. However, the sole emphasis of the Commission on striving for global leadership in renewables ignores the huge economic implications of energy efficient products, services and knowhow that can also be exported. Hence, the policy framework should encourage efficiency innovation. Moreover, most technologies that will dominate the energy world of the 2050s have still to be invented or developed. This is why the Commission should step up Europe's efforts in developing strategic energy, efficiency and climate technologies with a focus on a few key topics and sufficient funding for innovation in energy efficiency technologies, energy storage, smart grids and clean mobility.

Reforming the ETS

A reform the current ETS is paramount to attain the right price signals within the decarbonisation strategy. It is therefore necessary to reform the governance of the EU ETS taking into account the governance of the Energy Union, in order to be able to adjust the volume of carbon allowances made available depending on the results of other policies, for instance regarding energy efficiency. This is also true for those sectors, which are not included in the EU ETS (e.g. transportation and agriculture). Concerning those sectors lacking a single carbon price at European level, member states should explain how their emissions are priced at national level. This should progressively foster further coordination and harmonisation and, on the medium term, could allow for the creation of a European-wide carbon tax for these sectors until they are eventually integrated into the ETS. When it comes to the issue of energy cost competitiveness, the aim should be to avoid any type of energy cost dumping across member states. Rather, a level-playing field in Europe needs to be created without excessively burdening energy-intensive industries that operate in global markets. Such a goal can only be reached by in depth-analyses of the cost of energy for energy-intensive consumers in all member states (i.e. considering not only wholesale prices, but also network costs and taxes including exemptions on tariffs and taxes), and above all by defining a convergence strategy across the Union, notably thanks to EU-supported energy efficiency policies.

Integrating energy policy with broader European policy goals

With its strong – almost exclusive – focus on the electricity sector, the Clean Energy Package

does not really tackle the challenge of replacing energy policy in the wider context of the European Union's policy objectives. While it is of course understandable that not all topics can be dealt through legislative texts at the same time – the Clean Energy Package is already impressively dense – it is more worrying not to see any global strategy framework, which would outline the articulation of the Package with crucial issues such as carbon pricing (both in and outside the EU ETS), energy and transport infrastructures and energy competitiveness for the European industry as well as agriculture. Such absence of a general strategy clearly shows that the "holistic" approach promoted by the Commission, not only has not been yet translated into acts, but, more worryingly, might not even have been thought through yet.

However, it is crucial to coordinate the governance of the Energy Union with broader policy goals. If we are to meet our goals for 2050, one has to be aware that neither a linear extrapolation of the past is possible, nor can a step-by-step policy account for the need to completely change our mode of energy generation and consumption. The underlying goals of the Winter Package, namely putting energy efficiency first, striving for international leadership in renewables and focusing on consumers, define the priorities regarding the direction of the new energy policy. However, these priorities need to be further spelled out. The energy landscape has become more diverse over the last decades. New actors with innovative business models and technologies enter the market. The regulatory framework should facilitate market entry and reduce privileges of the old (fossil) players.

Moreover, the Commission approach is to a great extent energy sector biased; meaning that there is a lack of an all-sector encompassing strategy. Current debates in member states with high levels of volatile renewable energy centre on how to successfully couple sectors or more so how to integrate energy sectors. The Commission proposal to install e-vehicle infrastructure with new buildings falls short in pushing this approach. What is needed is the development of concrete concepts and derived from that a regulatory framework that promotes sector coupling, using synergies. Mirroring the trans-European transportation networks, the establishment of cross-border "Green Corridors" for instance could be established to promote long-range e-mobility technologies while at the same upholding the free movement of citizens and goods in decarbonised times. Likewise, the funding of research and the build-up of industrial-scale power to gas installations and local as well as industrial power to heat facilities could help solve the issue of storage of fluctuant renewable electricity. Furthermore, power to gas plants could, if large enough, contribute to increased energy security by supplying gas.

The transformation of our energy system also means structural change, affecting jobs, livelihoods and the economic and social well-being of regions. This is especially the case of CO_2-intensive regions defined by high emitting and energy intensive industries. Hence, policies have to be devised to guide regions that are considered energy-intensive on their path of transition. Looming unemployment and structural upheavals in CO_2-intensive regions need guidance and financial support, in order to forestall the development of lost regions. The further development of the EEU should therefore expand its strict technical and economic stance to encompass the social dimensions of energy transformation by addressing regional development issues. The Commission must acknowledge that a transformation of the European

energy system cannot take place without the support of the European citizens.

Conclusion

With the introduction of the Clean Energy Package the European Commission has completed its policy suggestions for the creation of the European Energy Union. Originally envisioned as a radical step for increased integration in times of wavering support for the European project, it has unfortunately fallen far short of its promise. The Commission's proposals follow a business as usual approach. In part this is due to the essentially weak position of the Commission in energy policy vis-à-vis the member states. Whilst it can set climate goals, the Commission cannot directly influence the energy mix of the member states and must resort to influencing energy policy via competition policy within its remit to deepen the common market. In part the disappointing proposals suffer from an inherent lack of vision and acknowledgement that the energy game has sufficiently changed since the role out of renewables. The singular perspective on energy markets and more so on electricity is technically understandable, but important CO_2 emitting sectors are omitted from the strategy. As a result, valuable time to decarbonise the economy and develop perspectives for CO_2-intensive regions is being lost. The overbearing technical dimension of the proposals hinders an effective political and societal debate and fails to reconnect to people's livelihoods. Europe can do better.

EU refugee policy in crisis

Petra Bendel

Although refugee and asylum policy has been repeatedly at the top of the European Union's agenda for over 15 years, it never carried as much political weight as in 2015 and early 2016, when over a million people suddenly entered EU member states.

Starting from a crisis situation

In late 2015, the so-called refugee crisis, which should better be termed a crisis of European refugee policy, led to unprecedented political polarisation between the member states and deadlock in negotiations between the European institutions. This may have manifested itself in the form of disputes about the (mandatory) distribution of refugees among the member states, but there was a deep underlying ideological disagreement about the question of EU competences in the area of refugee and migration policy and the direction of future policy. Ultimately Europe was divided over ethical, legal and political responsibility towards refugees and asylum seekers. The current crisis in EU refugee policy is also rightly seen as a crisis of solidarity and shared responsibility among member states. As a genuine crisis, it involves the risk of further division of interests, renationalisation and an increasing drop in levels of solidarity regarding the issue of refugees in Europe. However, it also implies an opportunity to rethink and refocus on the basic principles of human rights and the values of the European Union.

The current situation of conflict and deadlock between member states, and between states and supranational bodies, gives little grounds to hope for a refugee policy that is more proactive rather than reactive (Mayer/Mehregani, 2016), more long-term rather than ad hoc, and more consistent rather than fragmented (Pascouau, 2016). It may be possible to resolve it through a "two-speed" or "multi-speed" Europe, with appropriate incentives for countries that by and by participate in a distribution mechanism based on solidarity. Another option is a division of tasks ("job-sharing"), where the countries on the external borders permanently act as a hub for admitting, redirecting and returning possible refugees, while states in the centre and the north work more with integration. In view of the upcoming elections in important member states and a growing polarisation of public opinion, stronger

supranational control of EU refugee and migration policy seems unlikely, although recent individual policies giving Frontex and EASO more coordinated competences indicate a certain move in this direction. In a system with a more supranational approach, in which the EU could overcome its fragmentation and control the movement of refugees effectively and in line with international law, EU policy could even help improve global protection of refugees. However, this is unlikely, given the contextual factors mentioned above: public opinion and upcoming elections in important member states.

The content of EU refugee policy can be analysed in terms of three related circles. Listed in order of focus from external to internal issues, the following areas can be distinguished (Bendel, 2016):

1. Cooperation with refugees' countries of origin and transit.
2. Verifying and monitoring transit routes and external border controls.
3. Lastly, within the European Union and its member states, all measures regarding registration, admission and distribution of refugees, and all rights to which they are entitled as soon as they reach the territory of a member state.

The focus of this policy has increasingly moved to external issues. It originally focused on internal and justice policy, before successively concentrating more on external, security and defence policy, and the latest changes since 2015 have further intensified this change. Various content questions arise, particularly regarding the outsourcing of the European responsibility to provide protection. Also, apart from on internal and justice policy, the European Parliament has hardly any co-determination rights, and EU member states often lack a shared position and the ability to strengthen third countries in conflict resolution, promotion of democracy and development. This text follows the three concentric circles. It will describe recent developments and address the question of how human and refugee rights can be protected and guaranteed.

Cooperation with refugees' countries of origin and transit

Considerable commitment is required at a European and international level to plan a forward-looking refugee policy and to tackle the causes of refugee migration by guaranteeing stability, the rule of law and opportunities for participation in countries of origin. Based on better data and on predictions like those made by the United Nations High Commissioner for Refugees (UNHCR), Frontex and the European Asylum Support Office (EASO) predictions of refugee movement patterns and a quicker mechanism to effectively process any future inflows, coordinate the efforts of member states and maintain reserves for large flows of refugees.

In any case, it is vital that the EU and its member states continue to push for global distribution of responsibility for the issue of refugees. Many observers were disappointed to see that the first high-level plenary session of the United Nations General Assembly on refugees and migration in September 2016 was not able to establish this principle in a binding way. Two global compacts to be negotiated by 2018 (the Global Compact for Refugees, and the Global Compact for Safe, Regular and Orderly Migration) should now replace previous ad hoc reactions to large flows of refugees with regulated processes and prevent a disproportionately high load falling on individual host

countries. There has also been a debate for years now regarding whether the Convention Relating to the Status of Refugees (also known as the 1951 Refugee Convention) is still relevant 65 years after they were passed, and how international law on refugees can also take into account reasons for seeking asylum that were not included in the 1951 Refugee Convention. At the global political level, all eyes are currently focused on Europe's response to the so-called refugee crisis. It also has a bearing on Europe's credibility when it calls for refugees' rights to be respected at the global level.

Faced with considerable secondary migration, the responsible decision-makers in Brussels are increasingly aware of the paramount need to cooperate with the countries of first arrival, which have admitted the greatest proportion of refugees over recent years. Ultimately, developing countries host 86 per cent of refugees worldwide, although they often do not have adequate access to international protection (UNHCR 2015). Protracted stays in refugee camps – lasting 18 years on average – and a lack of resources among countries of first arrival are also push factors for onward migration, often in the direction of Europe. The EU has also identified partner countries of origin, transit and first arrival in Africa, with which it is keen to make "migration pacts", "compacts" or "migration partnerships". Instruments from development cooperation, the Common Foreign and Security Policy and Common Security and Defence Policy (CFSP/CSDP) overlap more than ever with asylum, refugee and migration policies, which originally come under Justice and Home Affairs. Both initially claim to focus on tackling the reasons causing people to seek asylum. However, the aim is also to stem the flow of irregular migration, and to prevent people smuggling and trafficking.

In order to reduce the drivers for onward migration from countries of first arrival above all the EU should increase asylum standards along migration routes and recruiting countries of transit and first arrival for cooperation. It should not rely on unsafe partner countries with dubious human rights records. It may be worth investing resources and political capital in building up the border-monitoring systems of third countries, but these policies must be accompanied by an expansion of protection and opportunities for refugees (Garlick, 2016). The EU and its member states are bound to seriously apply these basic principles of human and refugee rights in negotiations with third countries. Cooperation with states with questionable records on human rights and the rule of law is problematic in normative terms, but also on the grounds of diplomatic credibility. A single-minded focus on migration control in such partnerships should give way to a broader, humanitarian, development-oriented and rights-based approach. A human rights mainstreaming approach should be developed for each of the stages of refuge and migration.

A cornerstone of the new cooperation system with third countries is the EU-Turkey Statement (Batalla Adam, 2016; Collet, 2016; Jacobsen, 2016). It has been criticised due to a lack of human and refugee rights guarantees in Turkey itself and also in Greece (Amnesty International, 2017; Human Rights Watch, 2016; Medecins sans Frontiers, 2016). In spite of this criticism, the Statement still serves as a blueprint for further agreements with North African countries. EU cooperation with third countries is obviously worthwhile for controlling large migration flows particularly via the sea route. Turkey proved itself to be entirely capable of limiting irregular migration on its coastlines. However, since the attempted coup in 2015,

Turkey has come to be an increasingly unreliable partner, actually generating a large number of refugees itself. In fact, the agreement is being implemented at a time when Turkey is taking significant steps backwards in the area of the rule of law, human rights guarantees and protection for minorities, thus returning to authoritarianism.

Yet even before this, a key requirement for the deal had been called into question: recognition of Turkey as a "safe third country". Although Turkey recognises the 1967 Protocol Relating to the Status of Refugees, it maintains a geographical limitation, only applying the convention to refugees from Council of Europe member states. This means that 95 per cent of Syrians are only granted "guest" status, and enjoy only temporary protection. So far, the only refugees returned under the EU-Turkey Statement have been those who did not apply for asylum in Greece, retracted their application or had their application rejected. Nonetheless, human rights organisations have made serious allegations about the treatment of refugees and migrants in Turkey. They claim that refugees' right to non-refoulement is often not considered, they often have no way to access a fair and efficient asylum process and get confirmation of their status, and they have no prompt access to a lasting solution, such as return, integration or resettlement. There have been documented cases of arbitrary arrest, and refusal of access to legal support and specialist medical treatment, and refugees' overall access to healthcare, education and the labour market is often said to be precarious.

Despite this criticism of the EU-Turkey Statement and its implementation up to now, the EU aims to use it as a model for further similar agreements with countries in the Middle East and North Africa. This applies particularly in the event that migration movements return from the Aegean/Balkan route to the Central Mediterranean route, often involving transit through Sudan or Morocco. In terms of the conditions relating to human and refugee rights to be required by EU refugee policy, the central question is under which conditions the European Union and third countries can enter into agreements like the "Turkey deal", and above all which standards should be observed in collaborations with third countries.

In view of the disastrous human rights records of the main North African transit countries, Libya and Egypt, it seems unlikely that they could be classed as safe third countries. Asylum applications from people coming from these countries can simply not be classified as "manifestly unfounded". One cannot assume that European standards, which even many member states fail to implement, can be imposed immediately on third countries. However, the European Union must be guided by the following principle: When it collaborates with third countries, it must encourage them to observe the highest possible standards for protection and processes, and it must continuously monitor these itself.

The EU can achieve this through training measures, liaison officers, and human rights monitoring instruments hitherto little used in this policy area. It is possible to monitor the protection of human and refugee rights standards by compiling existing monitoring instruments such as country reports, intelligence gathering documents and reports from EU agencies, and by drafting recommendations through dialogue with the third countries. In this way partner countries can always be bound to common principles and their standards can be compared to those established in the 1951 Refugee Convention, the European Convention on Human Rights (ECHR) and the Common

European Asylum System (CEAS). The advantage establishing a commission of independent experts accepted by both countries over human rights standards is that they can meet regularly and on their own initiative. Contrary to courts, expert commissions are independent of claims and individual cases and they can agree to carry out further investigations. A systematic human and refugee rights monitoring system can clarify the responsibilities of third countries and the EU. It avoids exposing intercepted people to persecution or other risks, it guarantees access to international protection at borders and it ensures disembarkation only at a place of safety. It prevents collaborations with police and border authorities that use violence against refugees and migrants, avoids detention except as a last resort, and eliminates "pushbacks".

At the same time, is quite important to extend legal access routes, as developed to some extent in the EU-Turkey deal and currently proposed in a resettlement framework from the European Commission (Collett *et al*., 2016; EMN 2016; Grote, *et al*., 2016; Rummery, 2016). Proposals for refugee-oriented measures such as humanitarian admission programmes, visas on humanitarian grounds, and schemes for temporary protection have been on the table for years (FRA, 2015; UNHCR, 2016). These could be bolstered by regular mobility measures such as extended family reunification, mobility for work and study, and medical evacuation measures. However, they must be designed to ensure people smugglers and traffickers cannot exploit them, and they must offer guarantees against exploitation in host countries. In the medium and long term, creating legal access routes does not just relate to the migration of refugees, but also to legal and controlled paths for labour migration at all levels of education, even in the low-wage sector.

External border controls: European coast and border protection and hotspots

The crisis in European refugee policy in 2015 and 2016 further shook confidence in the functioning of the Dublin System, which had been crumbling for some time. The significant influx of migrants has been mainly a burden on countries with an external border (although not exclusively, as the case of Germany shows). This led to an overloading of the asylum system in these places, and extensive human rights violations. This situation resulted in the construction of new borders, the reintroduction of temporary border controls at Schengen borders with a corresponding reform of the Schengen Borders Code, and partial closure of the Balkan route. Rules that had been jointly agreed were broken; asylum seekers were turned away, "waved through" or detained in violation of the non-refoulement rule; EU standards were not observed; there was few consultation on decisions (Carrera *et al*., 2017); and there were also human rights violations as a result of the enormous pressure on countries with external borders.

There was quickly consensus among member states that open internal borders should only be restored when external borders had been appropriately secured. However, this must not be at the cost of human and refugee rights requirements, and systematic sea rescue is required, with a consistent approach in order to end the deaths in the Mediterranean (Goodwin-Gill, 2016). Expansion of Frontex, the European Agency for the Management of Operational Cooperation at the External Borders, to create a European Border and Coast Guard, aims at increasing exchange of information, and also at better coordinating the system of integrated border management. In the hotspots in Greece and Italy, this agency works with other agencies

such as EASO, Europol and Eurojust in a coordinating role, for registration, resettlement and return of refugees and migrants arriving there.

A reserve pool of 1,500 quick-deployment border guards was formed, to be operational within five days. This measure came in response to the fact that Frontex had previously had difficulties in recruiting sufficient numbers of local border guards from member states. Article 13 of the new regulation states that the EBCG is responsible for a common vulnerability assessment – carrying out a sort of stress test of the external border to identify gaps in borders before crises arise. The border guards are also intended to prevent irregular border crossings, return migrants, and rescue shipwrecked persons. The EBCG at the same time has the competence of placing liaison officers in member states. Deployment of these liaison officers is initially planned in Turkey, then in the West Balkans and Niger.

Observers and academics were astounded above all by the expanded right of the "Agency 2.0" to act in member states with external borders without the need for the consent of the affected country in extreme situations. This right, which has far-reaching effects on the sovereignty of member states, comes as a result of experiences with Greece. Other member states found this country's external border protection to be too lax during the so-called refugee crisis. In situations at external borders requiring urgent action due to a threat to the Schengen Area, the agency can organise and coordinate immediate deployments to secure borders, send European Border and Coast Guard teams from the immediate deployment pool, and where necessary deploy additional European Border and Coast Guard teams. It can send such teams to support the migration authorities in hotspots, and coordinate activities on external borders for one or more member states, including joint actions with neighbouring third countries. However, it is doubtful that affected member states will really submit to this new mechanism. This is closely linked to the observation that the newly formed agency will have to maintain a difficult balance between national sovereignty and supranational elements.

Initial academic assessments (Rijpma, 2016; Carrera *et al*., 2017) have already revealed that the reformed agency is no supranational body: the new ordinance does not create an original "European" border and coast guard, nor does it give the agency command and control capabilities over personnel appointed at a national level. The EBCG does not replace national border protection organisations, it does not have the right to intervene or impose the law, and ultimately it cannot guarantee uniform application of the Schengen Borders Code. It still has "shared responsibility" with member states for the implementation of European integrated border management. This question of competences is closely linked to the question of accountability for decisions and actions: who has the ultimate responsibility in case of doubt? This issue is particularly relevant in terms of guaranteeing refugee rights and upholding human rights.

Unlike the Frontex reform, the hotspot solution on the Italian and Greek islands was one of the EU measures introduced during the crisis. However, the system only started up gradually. Not only did it lack an efficient way to assign staff from other member states; it was also particularly lacking in human rights standards for admission, access to the asylum system, and questions relating to detention, identification and treatment of vulnerable persons and unaccompanied minors. Hotspots might remain on external borders as hubs for registration, distri-

bution and return. However, it would then be urgent to ensure that the agreed EU standards were observed, quick asylum processes were implemented, and adequate treatment and protection were guaranteed. This also includes identifying the people that require special treatment during admission or processes. Vulnerable persons must be treated appropriately. Fingerprints must be taken without the use of force (Guild *et al.*, 2015), and detention must only be used as a last resort (ECRE, 2016). There is a need for a strict monitoring system led by international organisations, NGOs and independent agents such as an ombudsman to check that the hotspots function in accordance with European standards. The link between the hotspots and the poor functioning of the Dublin System is clear. A new edition of this system is due shortly.

A new edition of the Common European Asylum System (CEAS)

The CEAS, first reformed in 2013, proved itself to be entirely insufficient under pressure from increased immigration in 2015 (Mouzourakis, 2016; Wagner *et al.*, 2016; Türk, 2016). Large divergences in admission, the asylum procedure and finally admission rates continued or even increased, as the rising number of people arriving triggered a "race to the bottom". This resulted in a lowering of standards and stricter barriers to entry. The European Commission had started 40 infringement procedures relating to transposition and implementation of CEAS directives, but these could hardly have any effect before the European Commission started a revision of the directives and regulations of the CEAS. The aim of this new reform is to speed up the asylum process and harmonise standards across the EU. As these comprehensive reforms are currently still at the negotiation phase, this text can only include a brief overview of the most important elements proposed so far in the upcoming third edition of the CEAS.

The European Commission suggested a new edition of the much-criticised Dublin System right from the start. Alternative proposals for a fair distribution of asylum seekers among member states appeared in an initial communication, but it proved impossible to implement them. While the European Parliament recommended a thorough overhaul, the Visegrád group categorically rejected it. The Commission finally opted for a less ambitious version of a "Dublin plus" system, with the following key aims:

– Transforming the previously temporary relocation system into a permanent "corrective allocation mechanism" – a distribution system based on population size and GDP, which would automatically come into force, as soon as a member state had admitted 150 per cent of the number of asylum seekers allotted to it. The figure of 150 per cent was one of the most controversial proposals, as this threshold would once more place the asylum systems of countries of first arrival under excessive strain, and cement the notion of an "emergency mechanism" rather than a proactive distribution system.
– Introduction of a system for financial balancing or penalties – a "financial solidarity mechanism". If member states refused to admit asylum seekers, this system would force them to pay 250,000 euros for each asylum seeker that would otherwise have been allotted to this member state within twelve months.
– Stricter requirements for member states: particularly a restriction of the member state sovereignty clause and no shifting of respon-

sibility in case of overrun of deadlines.

– Stricter requirements for asylum seekers: they would be obliged to apply for asylum in their country of first arrival. If they do not meet this obligation, the responsible member state must assess their asylum application in an accelerated process. Asylum seekers should only receive benefits in kind in the member state responsible for their asylum process (except for emergency medical treatment). Failure to carry out these duties would incur sanctions, which remain in the hands of the member states.

Despite all these proposals, the Dublin System essentially retains the principle that the countries of first arrival in the EU must still shoulder a particularly large burden, and are responsible for admitting asylum seekers, and sending them on for relocation or returning them to safe third countries. This means that Dublin IV is only a light "alteration which remains in previous logic" (Hruschka, 2016) rather than an "initiative for necessary reform to achieve a more functional and efficient system" (*ibid*). Until now, no consideration has been given to differentiated proposals for stronger involvement of asylum seekers themselves ("free choice", "limited choice", "Dublin minus", see Maiani, 2016). Repeated demands have been made to include family and social bonds, language skills, job matching and other criteria for asylum seeker selection, to provide positive incentives for asylum seekers to stay in their allocated country, and to open up the possibility of internal mobility within Europe through the mutual recognition of asylum processes (Wagner *et al*., 2016, Guild *et al*., 2015a: 10 on). The proposal also significantly cuts the rights guaranteed in the Dublin III regulation and includes new sanctions for irregular onward migration (Maiani, 2016; Hruschka, 2016).

EASO will become a fully-fledged agency. It can contribute to greater convergence between the member states in the future. The relationship between the agency and member states is to be changed: exchange of information is to become obligatory in future, rather than a form of voluntary cooperation as previously. In future, EASO should regularly check the member states' list of safe countries of origin, pass on information about countries that a member state wants to add to the shared list, and create guidelines on best practices for the implementation of the CEAS. EASO should also provide tailored support for individual member states. The agency should also use its teams to carry out operative and technical tasks of CEAS implementation in the member states, particularly those under a high level of pressure from migration. EASO is gradually expanding to become an asylum agency that could implement harmonised application of common rules in the member states, even if not requested to do so, and if a member state lacks the necessary ability or will, it could intervene independently. This development may offer an opening, and even the European Commission sees it as a "long-term opportunity" (European Commission, 2016). The aim would then be to gradually eliminate the differences in admission rates, which should not exist according to the specification of the CEAS, and thus end the asylum lottery that has previously existed in Europe. However, until now, the agency has only had competences for supporting process implementation, and it has not been able to implement the processes itself. Despite their increased importance, Frontex and EASO still only play a support role for national border and asylum authorities. A real EU asylum agency is thus still not in view.

In addition to the improved competences for

the agencies, there is a second line to the CEAS reform in the second package: replacing the previous directives grounds for granting refugee status (Qualification Directive) and the Asylum Procedures Directive with new regulations. The Commission believes this will result in fewer friction losses and stronger harmonisation during the implementation of existing EU rules, as unlike directives, regulations apply directly in the member states and do not have to be transposed and implemented first into national law. It is therefore to be expected that member states will be keen to ensure they get as much leeway as possible from the negotiation stage. Although the regulations foresee some improvements, such as compulsory access to legal support from the start, NGOs such as ECRE (2016) and Amnesty International (2016) as well as several groups in the European Parliament have been highly critical of the fact that more duties are imposed overall on member states and above all on asylum seekers.

There have been fears that the current race to the bottom among member states, which accelerated since 2015, could now even result in a reduction of human and refugee rights standards in the directives and regulations of the EU (see for example Balleix, 2016; Pascouau, 2016). Despite some improvements, particularly in the area of legal assistance and the rights of vulnerable persons and unaccompanied minors, these fears do not seem to be unfounded in light of the increased strictness mentioned above. On the contrary, this is precisely the right time for the EU to refocus on human rights as an ideological guiding force.

However, with regard to shared responsibility and solidarity, it seems to be already too late for a reorientation. The Dublin reform proposed by the Commission was not ambitious enough, and turned out to be a slightly adapted new edition of the old system. This and the other regulations and directives still offer much scope for a more solidarity-based system and more commitment to human and refugee rights in negotiations by the European Parliament. This applies particularly to serious issues in the new draft regulations such as detention. However, the reform of the European Asylum Support Office (EASO) offers an institutional medium and long-term opportunity to drive forward the harmonisation of the European asylum system, to reduce the risk of a continued asylum lottery in Europe, and to ensure that all member states offer asylum seekers essentially the same standards, which meet the same level. A consistent, rights-based approach, as described by Keudel Kaiser *et al*. (2016), would not just have to open up and strengthen the access opportunities outlined above, but also result in reform of the Dublin System and consistent implementation of standards during and after asylum processes. This could certainly also have an effect on secondary migration.

However, the European Parliament still has an opportunity to raise the standards proposed in other regulations and directives, and not simply defer to the ministers in the Council. The results of elections in important member states are still pending – the responsibility to turn the crisis into an opportunity also lies with the voters.

Brexit: negotiating the United Kingdom's withdrawal from the European Union

Mercedes Guinea Llorente

Brexit and the constitutional policies of the European Union

On 23 June 2016, the people of the United Kingdom brought 43 years of membership of the European Union to an end when they voted for Brexit.[1] The referendum was the result of a reckless political gamble by David Cameron, as he sought to renegotiate the UK's status in the EU as part of a wider strategy to strengthen his position within the Conservative Party against his Eurosceptic rivals and to see off the threat of UKIP in the 2015 General Election.[2]

In this chapter, we do not propose to consider the political ramifications of the withdrawal of a member state from the EU and the consequences that this may have for European integration. Nor do we intend to offer an analysis of why the majority of British voters decided to opt for withdrawal, a decision that in some

[1] Some 51.9 % of votes were cast in favour of Leave, against 48.1 % for Remain. Analysis of the polling data has revealed a society that is deeply divided along lines of age, education, geography and income, and points to a vote in which hostility towards globalisation was a significant factor. For detailed analysis see: Hobolt, S.B.: "The Brexit vote: a divided nation, a divided continent", *Journal of European Public Policy,* vol. 23, no. 9, 2016, pp. 1259-1277.

[2] In a study conducted for the European Union, we analysed both the United Kingdom's limited participation in European integration in general, and the specific political process that drove Cameron's attempt to renegotiate the country's constitutional status within the EU. See: Aldecoa Luzárraga, F.; Guinea, M.; Llorente, M.: *Renegotiation by the United Kingdom of its Constitutional Relationship with the European Union: Issues related to sovereignty,* Brussels, European Parliament, 2016. Available at: http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556938/IPOL_STU(2016)556938_EN.pdf

ways simply represents the final act of Britain's already very limited participation in the construction of a shared European home.

Instead, our study will focus on how Brexit ushers in a series of political changes for the EU, and we will consider these changes from the perspective of the European political process. This process has worked in two directions: "deepening", as a result of which member states transfer competencies to the EU; and "widening", as the EU incorporates new member states.[3] Seen in this context, Brexit can be said to represent a process of shrinkage, leading to a fall in the number of member states for the first time in the history of the EU. This is a new political phenomenon and, as such, requires further analysis.[4]

This study is, however, only a preliminary attempt to define the issues, as negotiations between the UK and the EU had not even begun at the time of writing (February 2017). Our aim here is to identify the rules that have developed and been consolidated during the ongoing process of European constitutional change, and to use these rules as a basis for analysis of the upcoming negotiations on the UK's exit from the EU.

The withdrawal process: article 50 of the Treaty of the European Union in the context of EU constitutional policies

The withdrawal of a member state is governed by article 50 of the Treaty of the European Union. This Treaty was drafted and agreed by the European Convention as one of a number of changes to the European Constitution, and the procedure it establishes in article 50 is not simply the reverse of the process by which states become members.[5] Instead, it contains a number of significant differences, raising several problems that will need to be addressed during the negotiation process.

The first point to make is that article 50 was drafted as a means of allowing member states to leave the EU as part of a broader transition towards the constitutionalisation or federalisation of the EU, a transition that did not ultimately occur. The European Convention's desire to move towards a more federal EU included, by way of compensation, the option for all member states to decide whether to remain within this more political and more federal Europe. However, although this federal process did not develop as planned, the withdrawal mechanism was retained.

The members of the European Convention decided to facilitate the withdrawal of member states and to enshrine this as a unilateral decision. In particular, it was argued that participation in the integration project should be presented as an ongoing democratic choice by all

[3] Aldecoa Luzárraga, F.: *La integración europea. Vol. II. Génesis y desarrollo de la Unión Europea (1979-2002),* Madrid, Tecnos, 2002, pp. 50-52.

[4] Although there have previously been cases where the territory covered by European Treaties has become smaller, such as when Algeria gained independence from France (1962) or when Greenland withdrew from the EEC (1985), there has never been a fall in the number of Member States.

[5] For analysis of article 50, with reference to the context within which it was drafted, see among others: Louis, J. V.: "Union membership: accession, suspension and membership rights and unilateral withdrawal. Some reflections", *The treaty on a constitution for Europe. Perspectives after the IGC,* Nomos, Baden-Baden, 2005; Grosclaude, L.: "La clause de retrait du Traité établissant une constitution pour l'Europe: réflexions sur un possible marché des dupes", *Revue trimestrielle de Droit européen*, vol. 6, no. 11, 2005, pp. 533-548; Guinea Llorente, M.: *La Convención Europea: la génesis del Tratado de Lisboa*, Monografías del Congreso de los Diputados, Madrid, 2011, pp. 597-600; Hillion, C.: "Leaving the European Union, the Union way. A legal analysis of article 50 TEU". SIEPS, *European Policy Analysis*, no. 8, 2016.

members. The wording of the article, suggested by the Secretary General of the European Convention, Lord Kerr, was based primarily on the relevant international law – the Vienna Convention on the Law of Treaties[6] – although the procedure also reflects the need to make provision for the possibility of withdrawing from a federal European Union.

Withdrawal starts with unilateral notification of the European Council by the member state, "in accordance with its own constitutional requirements". There is some dispute as to whether European institutions are empowered to rule on the constitutionality of the notification.[7] It is our understanding that they are not, and that this clarification was introduced solely to allow for the possibility of rejecting a notification of withdrawal submitted by a government that had gained power through unconstitutional means.

Another important issue, which has major practical implications, concerns whether the member state notifying its intention to leave the EU may then withdraw this notification at any time.[8] The European Council will have to clarify this question as part of the process of agreeing a series of principles to address the gaps in article 50. In our opinion – applying the precedent that has already been set for the expansion process – it would appear that the member state may withdraw its notification at any time, even after negotiations have begun.[9] From a political perspective, EU law needs to reflect the process in the member state. If there was a significant change in the national political situation – for example, forces opposed to withdrawal winning power at a general election or a second referendum reversing the result of the previous one – then basic democratic principles would surely require EU institutions to respond to this change in the political landscape. However, the conditions governing notification require further clarification to prevent the member state from using the possibility of withdrawing its notification as a form of blackmail if it is unhappy with the outcome of negotiations.

There are a number of differences between the withdrawal procedure established in article 50 and the procedure for joining the EU. The European Council establishes the general guidelines for the negotiation, the Commission presents its recommendations to the Council, and the Council appoints a negotiator and enters into negotiations. In so far as there is any reference to article 218.3 of the Treaty of the European Union, it is understood that the Commission will be responsible for conducting the negotiations, as in the case of any international agreement involving the European Union. Article 50 does not state that the rest of article 218 must be applied but, given the nature of the negotiations, it seems likely that the European Council will follow its precedent and that the actions of the Commission will be controlled by a committee of representatives of the member states.

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[6] See: Secretaría de la Convención Europea: *Título X: de la pertenencia a la Unión,* Brussels, 2 April 2003, (CONV 648/03).

[7] In this respect, see: Rieder, C.: "The withdrawal clause of the Lisbon Treaty in the light of EU citizenship: between disintegration and integration", *Fordham Int. Law Journal,* vol. 37, 2013, pp. 147-74.

[8] The notion that lodging notification is an irrevocable legal act that necessarily leads to withdrawal from the EU was one of the principal argument of the plaintiffs in their action in the High Court that called for a ruling on the need for Parliamentary authorisation prior to invoking article 50.

[9] Iceland withdrew its application for membership in March 2015, following the election of a new government, even though negotiations were already under way.

With respect to the final agreement, article 50 specifies that this should cover two areas: the conditions under which the member state's withdrawal occurs and the framework of its future relations with the EU. This agreement must be approved by a reinforced qualified majority of the European Council, and by the European Parliament.[10] Both institutions therefore have "constitutive power", an arrangement that is consistent with the EU's federal political structure, which draws on the dual legitimacy of member states and EU citizens. By contrast, the decision to admit a new member must be approved unanimously by the Council. The relative flexibility of the arrangements for approving withdrawal are to be understood as a reflection of the desire to facilitate the member state's wish to leave the EU.

In the same spirit, article 50 provides for the possibility of withdrawal without agreement, where this is not reached within a period of two years and in the absence of a unanimous agreement by the European Council to extend negotiations. This scenario has been dubbed "dirty Brexit" and would be nothing short of a disaster, as it would create a legal vacuum and generate huge uncertainty.[11]

In contrast with the Treaties or Acts of Accession, any future withdrawal agreement does not require ratification by all member states to take effect, but need only be ratified by the withdrawing member. This has significant implications from a constitutional perspective as it means that such an agreement does not have the status of Primary Law and, as a result, approval of any withdrawal treaty would not, in itself, modify the Treaties of the EU. Therefore, in addition to the withdrawal agreement, whenever a member state leaves the EU this will inevitably give rise to the requirement to review the European treaties in order to, as a minimum, eliminate all reference to the departing state.

Among those analysing the probable pathway towards Brexit, a consensus is emerging that it is unlikely to be possible to conclude the twin negotiations on withdrawal conditions and the framework of the future relationship within a two-year timeframe.[12] A more realistic goal is to agree on the conditions and the withdrawal date, and to establish the rules that will apply during the transition period. After that, and without the pressure of a looming deadline, it would be possible to negotiate the contents of the future relationship, in what could turn out to be a lengthy process. However, it is important to realise that it is in the interests of the UK to negotiate both agreements while it is a full member of the EU, as this would enable the country to negotiate from a position of greater structural power, and would give it access to resources, information and influence that would not be available if its relationship to the EU was that of

[10] The qualified supermajority or reinforced qualified majority, as defined in the Treaty, requires the support of 72 % of Member States, representing at least 65 % of the population. In a 27-member EU (excluding the United Kingdom) this requires 20 Member States to vote in favour, representing at least 288,712,996 inhabitants.

[11] With respect to the problematic legal effects of withdrawal without agreement, see: Lazowski, A.: "Unilateral withdrawal from the EU: realistic scenario or a folly?", *Journal of European Public Policy*, vol. 23, no. 9, 2016, pp. 1294-301.

[12] Aldecoa Luzárraga, F.; Guinea Llorente, M.: "The constitutional future of relations European Union and the United Kingdom", *After the UK Referendum: Future Constitutional Relationship of the United Kingdom with the European Union. Workshop for the Committee on Constitutional Affairs. Outlines of Presentations,* Brussels, 5 September 2016; Duff, A.: "Brexit: What Next?" *Statement to the Constitutional Affairs Committee of the European Parliament,* 8 November 2016.

a third party. This second agreement also raises the problem that, as a combined agreement, it must be approved unanimously and ratified by all the member states before it comes into force.

The players prepare for the "game": anticipating the negotiations

At the start of 2017, there is considerable uncertainty as to what the future holds for the EU and the UK. How will the current process proceed? How long will it last? And, most importantly of all, what shape will the final outcome take in terms of the relationship between the EU and the UK? In this regard – and despite the inflammatory speeches of some of the most hard-line brexiteers – it seems likely that, even after withdrawal, the UK will retain close ties to the EU through some kind of formula designed to provide for the differentiated integration of a non-member state.[13] However, it is difficult if not impossible to anticipate what the final content of any such negotiated agreement might be.

Politics is an unpredictable business at the best of times, and all the more so given the volatility and political and social fragmentation that characterise the current UK situation. Although, at the time of writing, article 50 had yet to be triggered and the British government continued to strike a belligerent public attitude and to talk of a clean break, we should not ignore the possibility that, as the political process develops and tempers cool, traditional British pragmatism will prevail and lead to a civilised separation process based on a calm assessment of the UK's national interests.

The negotiations will be conducted between the EU-27 and the UK. During autumn 2016 and the opening weeks of 2017, the two parties have focused on preparing their respective negotiating structures and setting out the positions they will be defending, even if almost no details of these positions have been made public. Although a constitutional process such as this must be the subject of clear communication and public information in order to ensure democratic legitimacy, the negotiation process itself must inevitably be conducted with a significant degree of discretion.[14]

Prime Minister Theresa May: sailing through stormy waters

In the wake of the political crisis following the referendum result, Theresa May was appointed Prime Minister on 13 July 2016. In her first speech, she made it clear that her government's main focus would be on the process of withdrawing from the EU, with the slogan "Brexit is Brexit".[15] The referendum also sparked an unsuccessful challenge to Jeremy Corbyn's leadership of the Labour Party, while UKIP held two leadership elections before settling on Paul Nuttall. In addition, the result has opened up the possibility of a renewed territorial crisis. Early elections held in Northern Ireland after the collapse of the power-sharing government

[13] Aldecoa, F: "El referéndum británico: una posible oportunidad para el proyecto europeo", *Revista Aranzadi Unión Europea,* no. 11, 2016, pp. 33-44.

[14] This is the majority position in both houses of the UK parliament, whose members have sought a level of involvement in the negotiations that falls short of the kind of micromanagement that could prejudice the outcome. European Union Committee - House of Lords: *Brexit: parliamentary scrutiny. 4th Report of Session 2016-10,* 20 October 2016, (HL Paper 50).

[15] May, T.: *First Statement as Prime Minister in Downing Street,* London, 13 July 2016.

resulted in a significant rise in support for Sinn Fein, and saw the Unionist parties lose their majority in the Northern Ireland Assembly for the first time. Meanwhile, the Scottish government is threatening to call a second independence referendum if, as seems likely, the final outcome of Brexit fails to represent Scottish demands for a settlement that reflects pro-European sentiment north of the border. On top of this, Ivan Rogers, UK Permanent Representative to the EU, decided to resign after warning about the potential consequences of the confused and contradictory statements issued by different members of the Cabinet.[16]

The structure and composition of the new Cabinet reflects the Eurosceptic hegemony within the Conservative Party. May has put three of the most fervent supporters of withdrawal in charge of the departments responsible for Brexit and its consequences: she made Boris Johnson Foreign Secretary, appointed Liam Fox as Secretary of State for International Trade, and named David Davis as head of the newly created Department for Exiting the European Union, which will be responsible for overseeing the withdrawal negotiations. These decisions show that May's priority is to consolidate her control of the party by entrusting the mission of making Brexit a success to the party's most hardline Eurosceptics (and thus limiting internal criticism should the process end in failure). The fact that May is sharing her Sherpa for the negotiations with her "Minister for Brexit", David Davis, also suggests that the two are in harmony.

Since July 2016, the British civil service has been mandated to start preparing the government's negotiating position.[17] Every department has launched a wide-ranging consultation process with interested parties to define the risks and opportunities raised by Brexit in its field of responsibility, and to identify the best and worst scenarios. These departmental reports will then be used in a bottom-up process to establish a detailed negotiating position by March 2017.[18] The government has had to recruit a huge number of people in areas such as international trade negotiations to provide the technical knowledge and expertise required to handle Brexit.[19]

Although the British government's official negotiating position has not been set out in detail, it is possible to deduce a number of basic principles from the Prime Minister's various speeches and the contents of the White Paper presented to Parliament in February 2017, which would appear to clear up some of the confusion generated by the contradictory statements of different Ministers.[20] These principles are: returning control of laws to Westminster and to the devolved parliaments; taking back control over decisions regarding migration into the UK; guaranteeing the rights of EU citizens living in the UK and of British nationals in the EU; maintaining close cooperation with European partners in the fight against crime and terrorism; and establishing the freest possible trade in

[16] Rogers, I.: "Letter to staff in full", *BBC News,* 4 January 2017. Available at: http://www.bbc.com/news/uk-politics-38503504.

[17] European Union Committee - House of Lords: *Brexit: parliamentary scrutiny, op. cit.*, p. 12.

[18] House of Commons: *Oral evidence: The UK's negotiating objectives for its withdrawal from EU. Witness: Rt. Hon. David Davis MP, Secretary of State for Exiting the EU*, 14 December 2016, (HC 815).

[19] House of Commons - Foreign Affairs Committee: *Oral Evidence: Implications of Leaving the EU for UK's Role in the World. Witness: Rt. Hon. Oliver Letwin MP,* 5 July 2016, (HC 431).

[20] HM Government: *The United Kingdom's exit from and new partnership with the European Union,* 2017 February, (Cm 9417).

goods and services with the EU and with the rest of the world.[21]

At the Conservative Party Conference in October 2016, the Prime Minister promised to notify the EU of the UK's intention to withdraw by the end of March 2017.[22] She also announced that the withdrawal process would include a Great Repeal Bill. This legislation, which would take effect on the day the UK officially leaves the EU, would repeal the European Communities Act 1972 and transpose EU law into domestic law wherever possible. This body of legislation would then be subject to review. This is a far-reaching decision that is designed to prevent or minimise the disastrous consequences of withdrawal without an agreement, and to avoid creating a legal vacuum.

With respect to the future relationship, the British government appears to be aligning itself with a hard Brexit, one that puts control over immigration and recovering sovereignty before access to the European Single Market. At the same time, May advocates the project of "a truly global Britain", seeking to strike trade deals with its preferred partners – the USA and Commonwealth countries, in particular – at the earliest possible date. There is, however, some debate as to whether the UK can start negotiations while it remains an EU member.

It is also worth considering whether the involvement of the UK Parliament, backed by the Supreme Court ruling, might lead to an eventual softening of the government's stance. Although a majority in both Houses have expressed support for membership of the EU on several occasions in the past, democratic imperative means they have no choice but to accept the referendum verdict. However, it is possible that their involvement throughout the process – seeking to make a positive contribution without restricting the government's room for manoeuvre – may influence the final outcome in favour of a softer Brexit.

Preparations within the 27-member EU

Paradoxically, the response of EU institutions to the negotiation has been characterised by a traditionally British "wait and see" approach. Immediately following the referendum, the EU's leaders agreed not to enter into any negotiations (either formal or informal) before notification of withdrawal, and to obey article 50 to the letter.[23] The reason for this is that it is for the UK, as the country that wishes to leave, to make clear its negotiating position. Against all expectations, the unity of the 27 and of the EU's institutions has held firm, and nobody has given way to British pressure to open up informal pre-negotiations.[24]

However, this does not mean that EU institutions have failed to make preparations for notification. The negotiations will be led by the European Commission, and on 27 July 2016 President Juncker appointed former commissioner Barnier, a federalist who is an expert in

[21] In her speech, May referred to twelve principles, although only five of these actually establish the government's negotiating priorities. May, T.: *Speech "The government's negotiating objectives for exiting the EU",* Lancaster House, London, 17 January 2016.

[22] However, the EU asked May not to time the announcement to coincide with the 60th anniversary of the Treaty of Rome on 25 March.

[23] Schultz, M., Tusk, D., Rutte, M., Juncker, J. C.: *Joint statement,* Brussels, 24 June 2016, (STATEMENT/16/2329).

[24] As an example of European resistance to British tactics of pre-negotiation, see: Tusk, D.: *Letter in reply to some UK parliamentarians on the status of EU citizens in the UK and UK citizens living and working in Europe,* 29 November 2016, (Press Release 696/16).

the Single Market, to head the Commission's team.[25] Barnier has put together a taskforce of experts to handle the talks, is holding regular meetings with heads of state and heads of government, and has organised two technical seminars with the aim of defining the EU's position.[26] Meanwhile, the Conference of Presidents of the European Parliament has appointed the leader of the Liberal group, Verhofstadt, as the parliament's point man.

Since November, the European Council has been preparing the general guidelines required by the Treaty. There have now been several meetings between the Sherpas and President Tusk to establish a joint position, while heads of state or government representing the EU-27 held informal discussions at the European Council Summits in December 2016 and 3 February 2017.

At their December meeting, the 27 adopted a set of procedural decisions which clarify institutional roles with respect to the negotiation.[27] In accordance with the Treaty, the European Council will provide political leadership and will be responsible for defining the overall position once notification of withdrawal has been received. Procedural decisions and guidelines on the content of negotiations will be taken by the General Affairs Council, thereby assigning a role to the rotating Presidency. The European Council has invited the General Affairs Council to appoint the Commission and its representative Barnier as chief negotiator, but has specified that the negotiating team must include a representative of the rotating Presidency. The negotiations will also include representatives of the Presidency of the European Council, in a supporting role. As is normally the case in negotiations with third parties, the Commission will be controlled by a Working Group made up of representatives of the 27.

A surprising aspect of the European Council decision is the meagre role reserved for the Parliament. It will not be represented at the negotiating table, and is instead relegated to the role of observer. However, its representative has been invited to participate in the Sherpa meetings that will prepare the European Council meetings, its President will be invited to address the European Council meetings, and both the Commission and the rotating Presidency have been asked to keep the Parliament informed and to exchange points of view. In light of the fact that the Parliament must approve the final agreement, its scant participation in the actual negotiation process seems anomalous, and the Parliament has made the European Council aware of its views in this regard, going so far as to warn that such exclusion could have grave consequences.[28]

As we have seen, article 50 is very brief and raises more questions than it answers. One issue not addressed in the Treaty but which is of prime importance is whether there are any red lines with respect to the contents of the negotiations or whether all options are potentially open. In particular, it is unclear whether withdrawal can be an unrestricted process of constitutional change or whether there are certain

[25] European Commission: *Minutes of the 2179th meeting of the Commission,* Brussels, 27 July 2016, (PV(2016) 2179 final), p. 14.

[26] Barnier, M.: *Press Briefing,* 6 December 2016. Available at: https://ec.europa.eu/unitedkingdom/news/first-press-conference-michel-barnier_en.

[27] *Informal meeting of the Heads of State or Government of 27 Member States, as well as the Presidents of the European Council and the European Commission,* Brussels, 15 December 2016.

[28] European Parliament: "Grave consequences if Parliament is all but excluded from EU Brexit talks", *Press Release,* 14 December 2016, (Ref. 20161214IPR56183).

basic rules that both parties must respect. Based on the limited statements that EU leaders have made in this regard, a set of rules with respect to the withdrawal process is beginning to emerge, and these would constitute the red lines for the EU. However, these rules are still far from comprehensive and will need to be supplemented by the general guidelines which the European Council will presumably approve in March 2017.

The rules that, so far, constitute the *acquis* or political-legal principles of the withdrawal process and that supplement the contents of article 50, are as follows:

1. The negotiations will not start – either formally or informally – until notification has been received. This is the first of the rules to emerge from the joint declaration by the leaders of EU institutions on the day after the referendum. There has been impressive unity on this point and, more than six months after the result, neither institutions nor member states have given in to pressure from the UK government to enter into informal talks or to hold some kind of pre-negotiation to resolve pressing issues such as the acquired rights of citizens.
2. In the words of Michel Barnier, the Commission's chief negotiator for the withdrawal of the UK, "Being a member of the EU comes with rights and benefits. Third countries can never have the same rights and benefits since they are not subject to the same obligations".[29] In other words, the EU's member states and its institutions would appear to share May's conviction that "Brexit means Brexit". Withdrawal must have real costs and any status short of membership must therefore entail the loss of some benefits. Politically, this is essential for the EU, as neither the 27 member states nor the EU institutions can permit Brexit to be an unbridled success. This would merely encourage the Eurosceptic parties that already threaten many of the EU's governments, and could provoke a stampede.
3. The unity and indivisibility of the four freedoms: if the UK wants to maintain access to the Single Market, then it must accept the free movement of people. This puts an explicit limit on what is open to negotiation when defining the future relationship between the EU and the UK, and rules out the possibility of cherry-picking.

A timetable also appears to be emerging: although the Treaty provides for the possibility of extending the two-year negotiation period, the European Parliament elections in 2019 impose an implicit limit. It would be politically suicidal for the EU to hold elections without having already mapped out a clear solution to the existential crisis represented by Brexit. In order to do this, negotiations must be completed and the agreement signed by spring 2019, so that the European Commission and candidates to the European Parliament can present themselves to citizens with a positive plan to revitalise the European project.

Brexit and the EU of the future: the time for truth

Brexit heralds the start of a journey into politically unfamiliar territory, a process that inevitably raises more questions than answers, as it is the first time that a member state has withdrawn from the EU. It will be a hugely complicated process because the EU is not only an

[29] Michel Barnier: *Press Briefing, op. cit.*

international organisation but also a political system for integration between nation states. Such integration presupposes the existence of a tight network of political, economic and social relations both at the level of member states and of individual citizens, as the result of 43 years of integration. Although the UK, with a history of jealously preserving its sovereignty, is the least integrated member state, the task of undoing this integration is a daunting one that will affect every area of government.

It therefore seems likely that Brexit will give rise to three separate treaties: a treaty of withdrawal, a treaty defining the future relationship between the UK and the EU, and a third treaty to reform the Union itself. If the process is to be a success, then the 27 remaining members and the EU's institutions must engage in the calm but decisive renewal of the European project, enabling the EU to be a credible player on the global stage and delivering the results that its citizens expect.

Reviving the debate on political union after Brexit

José Candela Castillo

There have been important signs, some of a historic nature, in 2016 that reinforce the need to revive the debate on political union and give it at least the same intensity as is currently given to the debate on economic and monetary union.

Two sides of Brexit

The United Kingdom's departure from the EU marks the end of a difficult coexistence between a community and a succession of governments obsessed with the national sovereignty of a State that, since joining in 1973, constantly asked its partners for exceptions to the application of common rules (particularly in the areas of the community budget, free circulation and monetary union). Most importantly from the point of view of political union, the United Kingdom impeded or tried to impede major steps forward in the process of European integration.

The climax of this difficult coexistence had two defining moments in 2016: first, the Agreement of the Heads of State and Government in February on a new settlement for the United Kingdom within the European Union,[1] and second, the British referendum in June.

In that Agreement, to be precise in the draft Decision that came with it, a reinterpretation of the Treaties was made of such scope that it threatened to undermine the foundations of the Union.

By getting that agreement among its partners, the United Kingdom not only curbed the Union's capacity to advance, it also caused a setback in the realisation of the European project just when it needed a major boost following the convulsion caused by the global economic crisis.

The whole draft Decision of the European Council was steeped in an ideology very far removed from the principles of economic and

[1] European Council: *Document EUCO 1/16, Annex 1*, 2016. Available at: http://data.consilium.europa.eu/doc/document/ST-1-2016-INIT/es/pdf.

monetary integration (Section A, "Economic Governance") and social cohesion (Section B, "Competitiveness"). Yet the most important thing was what appeared in the second paragraph of Section C ("Sovereignty"): "The references in the Treaties and their preambles to the process of creating an ever-closer union among the peoples of Europe do not offer a legal basis for extending the scope of any provision of the Treaties or of EU secondary legislation. They should not be used either to support an extensive interpretation of the competences of the Union or of the powers of its institutions as set out in the Treaties".

The seriousness of the Agreement of the Heads of State and Government results from comparison of the text with this other one, in Article 1 of the Treaty on European Union: "This Treaty marks a new stage in the process of creating an ever-closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen".

What the United Kingdom's Conservative government achieved, then, was to get the members of the Union, who until then had been resolved to "continue the process of creating an ever-closer union among the people of Europe", to declare for the first time and unanimously that their resolve was not legally binding. In other words, it did not bind them together.

Ditching the resolve to make Europe ever more integrated also raised the possibility of making the union among the people of Europe ever looser, that is to say, of breaking it up.

In a surprise result, the British people decided in the referendum of 23 June that the United Kingdom should leave the Union, which neither the British Conservative government nor the Union institutions wanted. They had been poorly informed of the fact that with the Decision of the European Council the United Kingdom could gain even more national sovereignty.

The negotiation of the withdrawal agreement that the EU and the United Kingdom have to sign will be long and difficult (it will last at least the two years provided for in Article 50 of the Treaty on European Union). Nor is the Union expected to offer any concessions that prompt other countries to seek exceptions or explore the same exit route, particularly if there are victories for ultranationalist parties in national elections. Therefore, a reinforcement of the Union's political authority and integrationist inclination will be necessary.

Brexit weakens Europe, yet at the same time it spurs us to revive the debate on its political union.

Towards the revival of the debate on political union

From the creation of the Delors Committee in 1988 to the inception of the European Union in 1992, the acronyms EMU (Economic and Monetary Union) and EPU (European Political Union) were in common use and the mention of one frequently appeared along with the other. It was the title given to the two intergovernmental conferences in preparation of Maastricht. The plan of the then President of the European Commission, in tune to a certain extent with some of the Europeanist leaders of the day, included bringing about EMU at the same time as EPU in the shape of a federation of nation states.

After Maastricht, a period began that ended in the failed attempt to provide Europe with a political Constitution in 2005. The failure was partly overcome by the Lisbon Treaty in 2007.

Since then and until now, institutional initiatives and the political debate on European

political union have primarily been of an intergovernmental nature, low-intensity and short-lived, largely because of the accumulation of convulsions and emergencies that swamped the European agenda as a result of the global economic and security crises.

Sixty years after the signing of the Treaties of Rome, 2017 may see the start of the revival of the process of political union, but only if we can overcome certain fears and a certain lack of political will and if the drawing up of complete and realistic visions of the future takes priority.

To gauge the chances of that revival happening, we have to analyse recent documents of strategic importance.

First, the one known as the Five Presidents' Report,[2] which was drawn up on the initiative of President Juncker, in close cooperation with the President of the Euro Summit, the President of the Eurogroup, the President of the European Central Bank and the President of the European Parliament. It had an integrationist intent: To move beyond the intergovernmental approach that characterised the political management of the economic and monetary crisis over the last seven years.

The report follows the viewpoint that "we need to shift from a system of rules to a system based on the institutions to guarantee that EMU rests on a transparent and extremely solid architecture".[3]

Over the last few years, a high-level discussion like that one, seeking the way to "guarantee that the political union rests on a transparent and extremely solid architecture" was unthinkable.

However, from now on, it may not be so unthinkable, insomuch as, as in 1992, the constitutional reform of the structure of EMU is seen to be inseparable from the reinforcement of political union.

Second, an important European Commission document currently in the process of drafting could contain the vision of the future of a feasible political union through the putting into practice of concrete proposals. It is to be adopted in 2017, coinciding with the 60th anniversary of the signing of the Treaties of Rome on 25 March 1957. We are talking about the *White paper on the future of Europe*.

What can we expect from the document?

Its announcement appears in the address on the State of the Union by the President of the Commission in September 2016 in the following context: "Europeans are tired of the endless disputes, quarrels and bickering. Europeans want concrete solutions to the very pertinent problem that our Union is facing. And they want more than promises, resolutions and summit conclusions. They have heard and seen these too often. Europeans want common decisions followed by swift and efficient implementation. Yes, we need a vision for the long term. And the Commission will set out such a vision for the future in a White Paper in March 2017, in time for the 60th anniversary of the Treaties of Rome. We will address how to strengthen and reform our Economic and Monetary Union.

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[2] Juncker, J. C.; Tusk, D.; Dijsselbloem, J; Draghi, M., and Schulz, M.: *Completing Europe's Economic and Monetary Union. Report by: Jean-Claude Juncker in close cooperation with Donald Tusk, Jeroen Dijsselbloem, Mario Draghi and Martin Schulz,* Brussels, 22 June 2016. Available at: http://ec.europa.eu/priorities/sites/beta-political/files/5-presidents-report_es.pdf.

[3] European Commission. Available at: http://ec.europa.eu/news/2015/06/20150622_fr.htm. The translation is ours.

And we will also take into account the political and democratic challenges our Union of 27 will be facing in the future. And of course, the European Parliament will be closely involved in this process, as will national Parliaments. But a vision alone will not suffice. What our citizens need much more is that someone governs. That someone responds to the challenges of our time".

The implicit meaning of the last sentence could be interpreted like this: While the "outline of a vision of the future" has still to be given content (it is, in theory the goal of the White Paper in March), the expression "what our citizens need is that someone governs" certainly has been given content, in the short term. It is the so-called "Bratislava roadmap",[4] adopted by the European Council in September.

There is the possibility, then, that the "outline of a vision of the future" will boil down to a timetable in the Bratislava roadmap.

We will have to go back to the matter in more detail once the Commission's White Paper is published.

The persistence of the Commission's low profile in its role as the promoter of political debate

The Commission's work programme for 2017 demonstrates the weakness of the current institutional line on European governance. From that point of view, it offers little in the way of hope of a revival of the role as a promoter of debate on political union that the Commission took on in the past, for the sake of the general interest of the Union.

The essential content of the programme is made up of the so-called "Ten political priorities". Only the last one refers to improvements under way in aspects of European governance, but not to innovations that correspond to an ambitious vision of the future. Indeed, the priority amounts to no more than a suggestive idea ("a Union of democratic change"), but its development is somewhat disappointing:

"A Union of democratic change […] Better regulation, accountability and transparency continue to be the core business model of this Commission and all EU institutions need to apply these principles in a consistent and committed manner if we want to win back the trust of our citizens. The Commission will work closely with the European Parliament and the Council to ensure that the Interinstitutional Agreement on Better Law-Making is fully implemented and applied, and will also engage in constructive negotiations with both institutions on our recent proposal for a mandatory Transparency Register covering the European Parliament, Council and Commission. The Commission will also bring forward amendments to the Framework Agreement with the European Parliament to ensure that Members of the Commission can stand for European Parliament elections.

The Commission will propose legislation to align existing acts with the Treaty provisions on delegated and implementing acts, thus phasing out the regulatory procedure with scrutiny. We will also assess the democratic legitimacy of existing procedures for the adoption of delegated and implementing acts and consider options for changing existing procedures for the adoption of certain secondary acts.

To ensure that the EU's legal instruments have the intended effect, the Commission intends to step up its efforts on the application, implementation and enforcement of EU law.

[4] http://www.consilium.europa.eu/press-releases-pdf/2016/9/47244647412_es.pdf.

This includes the package of measures for better enforcement of single market rules and, in the environmental area, a REFIT proposal to simplify environmental reporting following the recent Fitness Check, and measures to facilitate access to justice and support environmental compliance assurance in member states".[5]

After reading the document, in which the Commission acknowledges that it is concerned about "winning back the trust of our citizens",[6] it seems clear that the current "European Government" has dropped the proper vision of the true meaning of the three main principles of European democratic governance that it itself places in the definition of its last political priority: better regulation, accountability and transparency.

First, "better regulation" is a programme or series of political decisions of a certain ideological content that, since its British origin and adoption by the European Commission some 15 years ago, has essentially sought to abolish as much as possible the regulation that is supposed to hinder economic activity, including social and environmental regulations. On that point, the work programme maintains a certain consistency with the prevailing political ideology in the current college of commissioners.

However, on the subject of accountability the Commission's programmatic line is not consistent with the principles on which it says it rests. From 2001[7], the European Commission adopted a much more ambitious concept of accountability than the current Commission appears to use. Indeed, to limit the work programme as regards accountability to the mere declaration of this great principle of European democratic governance, with no clear programmatic initiative to match it, is, in our view, to thwart the expectations that legitimately arise in any European citizen after reading the title of the tenth and final political priority of the Union for 2017: "A Union of democratic change".

Lastly, on the subject of transparency, the current Commission also thwarts the aspirations of citizens, as it reduces the work programme to the reform of the institutions' transparency Register, when in this field there is an urgent need for many reforms, especially with regard to the decision-making process in the Council of the Union. The lack of transparency in the current negotiation process of the Transatlantic Trade and Investment Partnership (TTIP) is the most recent reflection of that need.

This short-sighted view of European governance on the part of the Commission must not make us forget, on the one hand, the need for the Union to consider to what extent the current global crisis of representative democracy affects it as a political organisation. Nor, on the other, that the Union still has pending an improvement in its structure and in its political function after the Lisbon Treaty took effect, chiefly on matters of participation[8]. Yet nor can the question of how and when to tackle this improvement be avoided.

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[5] European Commission: *Commission Work Programme 2017. Delivering a Europe that protects, empowers and defends*, 2016, p. 17 (COM (2016)710 final). Available at: http://ec.europa.eu/atwork/pdf/cwp_2017_es.pdf.

[6] *Ibidem*, p. 2.

[7] European Commission: *European Governance – a white paper*, 2001, p. 7. Available at: http://eur-lex.europa.eu/legal-content/ES/TXT/PDF/?uri=CELEX:52001DC0428&from=ES.

[8] From 2001, the European Commission adopted its own definition of "good governance", which has remained valid to this day, through the mention of six chief political principles: openness, transparency, accountability, coherence, effectiveness, and, in first place, participation. See European Commission: *European Governance – a white paper*, 2001, p. 7. Available at: http://eur-lex.europa.eu/legal-content/ES/TXT/PDF/?uri=CELEX:52001DC0428&from=ES.

Towards a European Convention?

The European Parliament is currently discussing a draft Resolution that seeks the calling of a Convention in 2017 to reform the treaties.[9]

There are, perhaps, as many arguments in favour of calling a Convention as there are against it.

Among the former is that only with the deliberation and decision of the greatest number of participants possible can we truly overcome the crises that affect us all. From that point of view, in the history of European integration, a Convention has been and always will be a useful tool for the advancement of integration, apart from its results. After years of authoritarian "integration" (the Heads of State and Government, particularly of the chief European power, were virtually the exclusive originators of the decisions that imposed austerity, often to the detriment of the "community method"), it may be the only way, in the medium and long term, of avoiding the progression of the current decline of the Union.

One might think that had the decisions taken, for example, on the issue of the Greek crisis or in the refugee crisis been effective (which remains to be seen), this authoritarian integration would be at least partially justified. Yet it can never be denied that greater participation from those affected by the decisions in the process of making them would have given them greater legitimacy.

However, to tackle a reform of the treaties correctly, we must avoid urgency or improvisation, mixing the negotiation of the United Kingdom's withdrawal with the pursuit of integration and putting national electoral interests before European political union (elections in several member states in 2017).

As we said, the negotiations with the United Kingdom will last at least the two years laid down in Article 50 of the Treaty on European Union. In our view, it would be a good idea for the European Council to separate the management of the negotiations with the United Kingdom from the handling of the rest of the priority matters in progress so that there is no mutual negative influence or inefficiency in either process.

Moreover, a reform of the treaties requires prior education of those who in most States (in some member states, European treaties are not ratified by referendum but by Parliament) are going to have the last word on approving it, that is to say, the citizens. We must give time to the institutions of the Union, to the national administrations and European civil society to carry out that pedagogical work and make it politically profitable, preparing the debate well.

Among the underlying issues is the fact that recent surveys show that there is a certain preference among European public opinion for an increase in actual European legislation (employment, migration, security) over formal legislation (reinforcing democracy).[10]

In any case, the symbolic charge and political returns of declaring the will to stage a wide-ranging political debate on political union stems from the fact that if the Union gets ahead by taking the initiative, the anti-European and

[9] See Verhofstadt, G.: *Possible evolutions and adjustments of the current institutional set up of the European Union,* 2016 (draft Resolution of the European Parliament, currently pending a first reading in the Parliament). Available at: http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=fr&reference=2014/2248(INI)

[10] See Eurobarometer 2016 on the "future of Europe" in: http://ec.europa.eu/COMMFrontOffice/publicopinion/index.cfm/Survey/getSurveyDetail/yearFrom/1974/yearTo/2016/surveyKy/2131

pro-disintegration movements and parties will come up against a clear, prior and resolutely integrationist and pro-European momentum on the part of the Union come the elections this year (especially in France and Germany).

For a future Convention to be a complete success and to ensure that the European people do not reject its conclusions, as happened in 2005, the Convention has to be as participative as possible for European citizens. The last word has to go to them, limiting to the maximum the decision-making power of intermediary bodies in which only the state powers and the European institutions are represented (as was the case, for example, of the Praesidium of the Convention of 2003).

In other words, it would be necessary to organize the governance of the Convention so that European citizens really do decide, through their involvement in the Convention's decision-making process from start to finish. The citizens of each State, then, after being able to draw up projects of their own on decisions of the Convention and also when it came to ratifying its conclusions in a referendum, would understand what they are ratifying and vote accordingly. Only those who are involved in a decision-making process from start to finish understand the process and its outcome and can claim them as their own.

The constant need to improve the quality of European democracy

Beyond the current crisis in the Union, what is happening on a global level is a crisis of representative democracy.

The European Union is currently suffering from the same symptoms as the national democracies of its member states. In the same way that in these (on the right and on the left) the vote is on the rise for political parties that spring from the identification of that crisis to champion changes in the representative model, the European Union should foresee that only surmounting both crises simultaneously will restore citizens' faith in the European project.

The revival of the political debate in the EU must begin by getting beyond the idea of political union as an issue only involving nation states, without prejudice to the reasonable calculations that recommend confirming that the realistic ceiling of the debate is the concept of a federation of nation states[11]. Above all, it is without prejudice to the inescapable certainty that "welfare state and democracy together form an inner nexus that in a currency union can no longer be secured by the individual nation state alone".[12]

On the basis of these considerations we can conclude that, along with the institutionalisation of the reform of the structure of EMU, certain reforms that would have considerably improved the quality of democracy in the Union as a whole and which were left with no legal backing in the Treaty of Lisbon (because of the pace of the historic process of European integration) appear more reasonable than ever and could

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[11] The current President of the Commission said recently "we should stop talking of a United States of Europe". See Juncker, *On the political future of Europe*, speech delivered on the occasion of the 20th anniversary of the creation of the *Notre Europe* Foundation, Paris, October 2016. Available at: http://www.delorsinstitute.eu/011-24117-For-an-ambitious-europe.html.

[12] Habermas, J.: *The players resign*, interview given to the channel *Zeit on line* on 22 July 2016. Available at: http://www.zeit.de/kultur/2016-07/juergen-habermas-brexit-eu-crises-english/seite-3. See also by the same author, "Bringing the Integration of Citizens into Line with the Integration of States", *European Law Journal*, vol. 18, no. 4, 2012, pp. 485-8. This appropriate phrase from Habermas is reminiscent of Rodrick's famous trilemma.

possibly be introduced in the medium to long term.

To end, find some of them below:

– Increase the participation of European citizens in the decision-making process of the Union through:
  • The establishment of systems of direct ballot by citizens or of referenda on a European scale with maximum use of the electronic vote[13] for a certain series of constitutional issues.
  • Increasing the coverage of the system of public consultation on the part of the Union prior to the start of any legislative procedure until it covers all legislation.[14]
  • A reform of the Union's legislative initiative procedure, by which popular legislative initiatives are submitted by their creators to the Commission and the Parliament at the same time.
– Provide the European Parliament with new powers, particularly to increase its legislative capacity and its power of control over the Commission and the Council, including a power of maximum recall of the members of the Commission and full powers of co-decision on budget matters.
– Turn the European Commission into a true democratic government of the Union through the establishment of a transnational citizens' vote for the election of its President.
– Establish a system of maximum transparency for the decision-making processes of the Council of the EU and the European Council.
– Secure, through an upgraded decision-making system of the Council of the Union, the most widespread use of the qualified majority vote.

[13] Electronic voting has already been introduced or is in the process of being introduced into several States of the Union. On the subject, see: http://www.euskadi.eus/botoelek/otros_paises/ve_mundo_est_c.htm

[14] As of the Lisbon Treaty, around 90 % of European legislation is open to public consultation prior to the European legislative process. See: Ponzano, P.: *Une démocratisation accrue de l'Union européenne,* 2010, p. 5. Available at: www.europeanrights.eu/public/commenti/Ponzano.pdf

The Digital Agenda

Manuel Ausaverri

The importance of R&D+i for companies and jobs

After several decades of economic globalisation and the resultant impact on flows of goods and services, it is possible to identify some of the geostrategic effects on the global economy. There has been a gradual segmentation and specialisation of the different regions of the world in accordance with their key competitive advantages, whether on a planned basis or purely as a result of market forces. Despite Europe's assets and our undoubted ability to compete on a global scale – and with the caveat that the picture varies from country to country – it is clear that, in the context of this division of economic roles, Europe is failing to achieve and sustain levels of growth that are similar to those in other regions of the world.

Although European societies are unlikely to be able to compete globally on the basis of access to cheap raw materials or low labour costs, we can certainly be successful if we focus our energies on becoming global leaders in the innovation and development of products and services, both technological and non-technological. This commitment to high added value is, moreover, entirely consistent with the sustainability of the European social model, a cohesive system designed to provide extensive protection for every layer of our society, and one to which millions of people around the world aspire.

However, this model is under strain as a result of Europe's very weak performance in both growth and employment. Since 1999 (the year in which the euro was introduced), the eurozone has grown more slowly than comparable countries such as the USA, Canada, Norway and the United Kingdom, and unemployment has been higher. Since 2010, the eurozone has been the only economic region of the world to fall back into recession, with Europe's economies yet to find a formula for competing successfully and achieving vigorous growth in the current globalised environment. Addressing this situation requires a range of actions and reforms but also depends on developing and sustaining an economic and productive model based on innovation and on the ability to design and produce high-value goods and services. In this context, R&D+i represents a key strength.

The EU's member states and institutions are increasingly aware of the vital importance of European leadership in knowledge and innovation for our economic development. Innovation must take centre stage in the European economy. It benefits citizens both as consumers and as workers, accelerating and improving the design, development, manufacture and use of products, industrial processes and new services. And

it is fundamental not only to efforts to create better jobs, construct a more sustainable society and improve our quality of life, but also to attempts to maintain the EU's competitivity in the global market, something on which everything else depends.

The fourth industrial revolution

Technological transformation and the ways in which the new digital technologies are giving rise to a fourth industrial revolution are high on the strategic agenda of companies and governments, have been the focus of copious media coverage, and are a regular topic of discussion and analysis. For Europe, the stakes could not be higher, and our societies and companies will pay a very steep price if they fail to keep up with these changes.

This is not the first time that technological and scientific progress have caused profound, long-lasting economic upheaval. More than two centuries ago, the first industrial revolution transformed manufacturing processes through the application of steam power. The use of mechanical power replaced human muscle and animal traction as basic forces of production, and industries such as textiles, iron- and steelmaking, and transport (with the arrival of railways) were transformed, bringing about permanent social change. Many of the effects are still visible today, some two hundred years later.

The second industrial revolution combined electricity, capital goods and sophisticated manufacturing processes to create the production line, used to manufacture complex products such as cars in huge factories. Only a few decades ago, the third industrial revolution occurred as a result of developments in the fields of electronics, and information and communication technologies, with computers and IT applications soon becoming widespread.

We are now in the fourth industrial revolution, one that is characterised by the fusion of digital technologies and an acceleration in the pace of change, a trend that has combined with the hyperconnectivity of people and objects to transform our world, bringing about the increasing hybridisation of the physical, digital and biological spheres. There is no question as to the scale of the disruptive change that these new technologies are generating in society, affecting how we relate to each other, how we learn, our patterns of social interaction, and our political and administrative structures.

Digital transformation opens the way for profound innovations in our business and social models, changes that undermine the "established order", blur boundaries between countries and sectors, lower the entrance barriers to new agents, and create new networked models that challenge traditional businesses. There is no need to list the impacts – so obvious to all – of the digital revolution. The scale and speed of technological transformation means that Europe has a lot at stake.

European countries and EU institutions are aware that other parts of the world are better positioned in the sphere of technological innovation, whether due to the presence of a stronger technological and business ecosystem, because of strong and sustained public investment in R&D, or as the result of the (alleged or real) conservatism of European business. None of the global tech giants in the key sectors is European, and our competitors – countries such as the USA and China – are striving to achieve hegemony and leadership in this technological revolution.

Investment in R&D+i: necessary but not sufficient

It is generally accepted that European policy on science and innovation, both at the level of the EU and of member states and regions, has an essential role to play in making European industry a global leader. In particular, innovation policy provides an interface between technological research and development and industrial policy, creating a framework through which ideas can be brought to the marketplace. As such, it will necessarily occupy an ever more important place in European legislation.

EU innovation policy is closely linked to policy in other areas, such as employment, competitiveness, the environment, industry and energy. The purpose of innovation policy is to convert the results of research into new or improved products and services, so that Europe can remain competitive in the global market. However, such innovation requires consistent investment. Before the 2009 financial crisis, spending on research and development was growing at an annual rate of approximately 7 per cent. According to the Global Innovation Index 2016, global R&D growth had slowed to just 4 per cent by 2014, as a result of lower growth in emerging economies and of pressure on R&D budgets in developed economies.

Although the most recent data points towards a slight recovery in some of Europe's more innovative countries, Europe as a whole allocates 0.8 per cent less to research and development than the USA and 1.5 per cent less than Japan as a proportion of GDP. If this trend is sustained over a significant period of time, a difference of 1 per cent of GDP can have a very significant impact on the capacity to generate and sustain scientific and technological leadership.

There are other differential effects that are linked only indirectly to financial input, such as the scientific prestige of the top American universities or the existence of a well-developed capital market to support investment in technological entrepreneurship. Whatever the specific factors, the effect is to attract talent as the best researchers and entrepreneurs go wherever the best conditions and opportunities are to be found. Although the Single Market is the largest in the world, it remains fragmented and is less attractive than some of its competitors.

The European digital single market

In response to this concern, and in addition to programmes to support innovation as part of the Horizon 2020 Strategy, the European Commission has made the development of a digital single market one of its ten priorities. In the Commission's own words, Europe has the capacity to lead the global digital economy but is failing to exploit this capacity to the full. The EU is hampered by fragmentation and barriers within the single market. Reducing these barriers could add 415 billion euros to the area's GDP, and bring out the true value of a market with 500 million inhabitants. A digital economy supported by a digital single market could expand markets and promote better services at more competitive prices, offering more choice and creating new sources of employment.

The rules of the game have changed

The technological and digital revolution is creating a new landscape for competition and employment for European societies and companies, with technological and scientific progress

shaping a new social, employment and business environment in which technology and innovation play a central role. In this gradual hybridisation of the physical and digital worlds, brought about by the total connectivity of people and objects, citizens are changing their behaviour and their consumption patterns. Their expectations of public services and of political leaders are changing. Millennials are an increasingly important part of the target market, with digital consumption habits that evolve as the internet changes, and with a huge capacity for spontaneous association.

Rising consumer expectations mean that efficient operations are a key strategic asset of any organisation. Digitalisation opens up new ways of operating that bring about dramatic shifts in the efficiency, speed or precision of operations, whether informational (for example, banking operations) or physical (such as manufacturing or logistics).

Finally, in a world where information has greater strategic value than ever before, data protection becomes a priority for both countries and companies. Cybersecurity and authentication solutions are vital to protect organisations against fraud and hacking attempts. A growing number of critical public and private systems are managed digitally, and this creates a need to protect these systems, mapping out a likely battleground of the future.

In general, the inexorable shift from "simple" digitalisation (the computers of the third industrial age) to collaborative innovation based on combined technologies, amplified by the hyperconnectivity of people and things (the fourth industrial revolution) is forcing social and economic agents to consider how we are going to face the future and be successful in the digital era. The future holds exciting prospects. At the risk of being labelled a "techno-optimist", there is the unlimited potential of millions of people connected via mobile devices, with unprecedented processing and storage capacity, and instant access to information and knowledge. These developments provide a platform for technological progress that creates an exponential multiplier effect through the development of artificial intelligence, robotics, autonomous vehicles, 3-D printing, nanotechnology, quantum computing and biotechnology.

Obstacles to European innovation leadership

Europe has been the birthplace of many of the most disruptive innovations in the fields of science and technology, and European companies – since the start of the first industrial revolution – have been technological leaders in their sectors or have shared this leadership with their rivals in other advanced economies, primarily the USA. However, this position is clearly under threat when we look at what has happened in the digital era. Although Europe continues to be home to some of the most promising and innovative scientific developments in the world, its problems lie in the difficulty experienced when converting these ideas into economic value. In Europe, there is a gap between scientific research and the economy which, in more innovative regions such as the USA or some Asian countries, is generally bridged by venture capital funds, which help to transform great ideas into profitable businesses.

Although interest in entrepreneurial activities has grown rapidly in Europe and the number of start-ups is rising across the continent, very few of these manage to make the transition to become mature, global leaders of their respective sectors. European entrepreneurial

and financial agents in different sectors continue to lack the capacity to translate innovation into new business projects with prospects for high growth. This is no trivial issue. Without successful digital companies, the European business ecosystem is at risk of premature ageing and technological obsolescence. This would leave European companies in a position of dependency, easily dominated in the medium term by their non-European digital competitors, some of whom are insatiable global giants.

Is Europe afraid of risk?

Compared to the USA, this would appear to be the case. Any undertaking involves a degree of individual risk and great determination to overcome obstacles (or a high degree of motivation by the prospects of success); in order to succeed one must be intensely committed to the project. Despite this, the chances of success are low.

Although I don't want to become embroiled in sociological or cultural issues (which are not my specialist area) the educational, social and business model in the US strikes me as more in tune with the challenges posed by this kind of risk. However, many of the most talented individuals in the entrepreneurial ecosystem of Silicon Valley, including CEOs and founders, are not originally from the US, and many of them are European. Areas of significant difference between the USA and Europe include the scale of incentives – primarily financial – associated with successfully developing an idea, the existence of a technological and financial ecosystem that supports entrepreneurs through the development process, and the social importance attached to business success and failure.

The drawbacks of operating without a single market

Although there is free movement of goods and people within the EU, in practice there are still substantial barriers to sales between different European countries, and these barriers are very hard to remove. The EU has 24 official languages, 27 different political, tax and administrative systems, different sets of technical regulations, and hundreds of hidden barriers. All of these factors create practical obstacles to free trade in products and services.

This creates a purely economic factor that goes a long way towards explaining the difference between the USA or China and the EU in the entrepreneurial sphere. Any project in the USA has immediate access to a service market of more than 300 million people who share the same language and all live in a high-income country, while the "pan-European" equivalent of this market does not exist in reality, and is instead constituted by a series of far smaller national markets. In other words, there is no need to explain Europe's relative underdevelopment in the entrepreneurial field with reference to the continent's alleged risk aversion. There is a clear size factor involved.

It is far from easy in practice, to develop business ideas – however innovative they may be – that are truly able to cross Europe's national borders, and as a result the volume of such intra-European economic transactions is almost negligible. The statistics indicate that technological and digital business primarily takes place within the national borders of individual countries, and between each country and North American companies. Activity between European individuals and companies across national borders is almost inexistent.

There is, then, a clear disadvantage for the EU, one that is evidenced by start-up rates, by the quality and success of those businesses that are created and, as a result, the volume of investment that flows towards technological innovation when considered in relation to population size and levels of wealth.

Risk capital is essential

Any European entrepreneur who wants to overcome the barriers described above in order to succeed in other national markets will require funding. This sort of investment is termed risk capital and is provided by investors who understand technology, have a vision of the potential of products and markets, are prepared to take risks, and have valuable experience and networks of contacts. Often, such investors play a key role in helping entrepreneurs define their business model.

In Europe, the majority of such investors are private capital companies, in which until recently the partners were generally drawn from the banking sector and had little experience in the creation of start-ups. This is changing as investors become more sophisticated, experience of such ventures is growing, and new European transactions generate profits, all making the European market more attractive. Although the gap between technology risk capital investment funds in the USA and those in Europe continues to be huge in both quantitative and qualitative terms, this gap is gradually narrowing, particularly in the main European financial centres such as London, Amsterdam or Berlin, where a new market focusing on this sector is now emerging.

Failure to understand the importance of intellectual property

Adequate protection of intellectual property rights has historically been one of the key factors in the development of the market economy, guaranteeing a return on investment in innovation, and protecting incentives so that technological progress can be rewarded. However, such rights have to be registered by patent processes and must be protected by the authorities.

The decision as to which property to protect is taken by the technology offices of research institutions or their counterparts in private companies, but this needs to be backed by funding and talent. In some countries and in many universities the true value of intellectual property is not appreciated, whether due to scepticism as to the ability of the courts to afford real protection, the costs associated with the process of asserting such rights, or a lack of business ambition.

Automation: how great will its impact be?

The impact of digital technologies on work is, in some senses, similar to that of the steam engine in the first industrial revolution. Over 200 years ago, machines began to substitute the physical labour performed by people and animals, and have now almost completely displaced it. Today, our intellectual capacities are also under threat, and we are seeing computers replicating and at times surpassing what had hitherto been thought to be inherently human skills. We need to recognise that this fourth industrial revolution looks set to usher in not just a future full of promise but also threats of the first order: threats to which we do not yet have a response.

As technology progresses, computers and robots will become capable of performing more and more tasks, more quickly, with greater precision and at lower cost; as a result, companies will be able to manufacture goods and provide services with a smaller workforce.

Although technological progress causes society as a whole to advance and generates considerable added value for consumers, it may exclude many people from the labour market. Some evidence of this may be found by observing the evolution of office working spaces (where administrative or accounting tasks are performed), car factories or distribution and logistics warehouses. In a relatively short time, technology has dramatically changed the way in which we perform basic workplace functions. Thirty or forty years ago, offices were full of busy staff typing, filing, handling goods and orders, carrying papers from one place to another, queueing in the canteen or waiting to clock on or clock off at the beginning or end of the working day. Today, just a fraction of these employees remains, and the majority of these tasks are performed by machine or by computer.

We are talking about millions of jobs that have evaporated: the jobs of middle class people and their families that are the backbone of European societies. With this precedent and in view of the huge progress in automation and robotics of recent decades, the digital revolution inevitably places a major question mark against the whole issue of employment.

In 2014, the Pew Research Center asked a panel of 1,896 experts if they thought artificial intelligence would destroy more jobs than it would create over the coming decade. It is interesting to note that the responses – from people ranging from senior managers at Google to scientists at MIT – were inconclusive, and the group divided more or less down the middle.

At President Obama's suggestion, the White House's Council of Economic Advisors presented a study of the impact of robotics on the US workforce. The significance of their conclusions should not be underestimated. Breaking employment down into three groups based on median hourly wage (correlated primarily with the level of skills or qualification required), the worst-paid jobs had a median probability of automation of 0.83. These are jobs with a high level of routine processes: manufacturing, transport or logistics, public service, cashiers, shop staff etc. The medium and high-paid groups had values of 0.31 and 0.04, respectively. Put simply, according to this study there is an 83 per cent probability that a low-paid job in the United States will be automated. This means that 62 per cent of all the jobs that currently exist in the United States will be threatened by the digital revolution. This is too many jobs to ignore. There have been plenty of studies into this issue that draw broadly similar conclusions, pointing towards automation threatening between 40 and 60 per cent of jobs.

Other more "techno-optimistic" studies emphasise the millions of highly paid, creative jobs that could be generated as a result of the adoption of new technologies. Which scenario will turn out to be correct? What will be the net long-term effect of these tectonic shifts in the structure of the labour market? Will the jobs that are currently being destroyed or that will be destroyed in the future by the adoption of new technologies be replaced by employment in the creation, design, operation and supervision of these same technologies?

It is very possible that some of the negative impact on employment and the sustained increase in productivity will be offset in the same way that they were during the 20th century: through reductions in the working week, the

growing importance of the service sector, and higher demand for leisure or culture services that do not even exist at the moment. However, nobody can accurately foresee the net impact on jobs and social cohesion, particularly if technology fails to deliver the growth in productivity that it promises (the thesis of one prominent US economist) or if growth is concentrated in the regions that are leading this new era while the rest are left to languish.

Techno-pessimism?

Following Brynjolfsson and McAfee (*The Second Machine Age*, 2014) we will consider the four major variables of a society's economic well-being: per capita income, productivity, number of jobs, and average family income. For several decades following the Second World War, these indicators all improved steadily in the developed economies. The economy as a whole grew, and there were also increases in the working population, productivity, average income and GDP growth, both in national and per capita terms. There were, of course, times when economic recessions caused downturns or periods of stagnation, but even during such periods the declines were never dramatic and the indicators generally continued to be correlated.

However, since the 1980s growth in median incomes has been more erratic, with tendencies towards stagnation. (Here, median income is defined as the annual earnings of an individual or family in the 50th population percentile, halfway up the socio-economic pyramid.) Over the last 15 years, this figure has actually fallen in real terms. Once the effects of inflation are taken into account, a household in the 50th percentile in the USA earns less than it did in 1998. This phenomenon is not specific to North America, with studies in Germany, Sweden and Finland, and data from a number of other European countries, telling a similar story.

However, in these countries that have seen stagnation both in job numbers and in low to middle incomes, the economy as a whole has continued to grow as part of a general upward trend driven by rising productivity. As a result, income from work has accounted for an ever-smaller share of the economy.

The question is: could this be at least in part a result of the ever-increasing automation which, with the appearance of the new technologies, is encroaching on economic activity (with the resultant impact on jobs)? Very probably, although this is not the sole cause. There are certainly other factors too, ones that are unrelated to technology and that are threatening the salaries of the middle and working classes in the countries analysed: these include economic globalisation, imbalances as a result of migratory flows that have not yet been addressed, and the offshoring of manufacturing activities to other countries.

This offshoring is one of the most visible effects of globalisation, and it is interesting to note that the impact of automation is not limited to factories in the USA and Germany, but will also extend to those in China, India and every other corner of the planet. An example of this was provided by the report by Taiwanese news agency CNA on 29 December 2016, regarding the plans of Foxconn – which manufactures iPhones and iPads for Apple – to automate all of its factories in China, where the company employs more than a million people. The plan will consist of three stages, with the final goal of complete automation, according to the director general of Foxconn's automation technology development committee. Will this be an isolated instance or is it a sign of the future for China's

immense manufacturing sector (which employs millions of workers)?

It seems likely that the gradual automation of processes will ultimately affect all industrial activities, wherever they may be located, so long as this is supported by an economic cost-benefit analysis and is not prevented by legislation. The greatest and fastest impact will occur where there is the greatest quantity of labour to replace, and where manufacturing activity is based on low salaries for unskilled tasks (which are, therefore, more easily automated). Many emerging countries are very aware of this threat.

What can we do in such a challenging environment?

As with the previous revolutions, the fourth industrial revolution has the potential to raise global incomes and to improve the quality of life of the planet's population. Until now, the biggest beneficiaries of change have been consumers with access to the digital world: technology has made possible new products and services that increase the efficiency of their work and allows them to enjoy their free time.

At the same time – as many economists have noted – the revolution could generate more inequality as disruption extends to the labour market. Because automation replaces human work in the economy, the net displacement of workers by machines could widen the gap between the return on capital and the return on labour, and between the incomes of the rich and those of the poor.

It is also possible that the displacement of workers by technology could, overall, lead to a net increase in more creative, better paid jobs with shorter working hours, leaving more time for leisure and culture. It is impossible to predict with any certainty which scenario will prevail, and history suggests that the outcome will be a combination of both effects, with moments of huge instability and occasional, local disruption until the impact of the new technology has spread and stabilised.

It seems very likely that technological development will give rise to an increasingly segregated labour market: one characterised by a division between the skilled and the unskilled, with corresponding differences in terms of income and opportunities, leading to the gradual erosion of the middle class under the threat of automation. It goes without saying that this scenario is both socially unstable and economically inefficient.

This intensification of the segmentation of wealth and opportunities will inevitably also be reflected in differences between those countries and regions that are at the vanguard of the digital revolution, and those that prove unable to adapt to the new situation. In this respect, the priority for Europe is to focus all its efforts on ensuring that our labour force – at every level – is properly prepared, and that education and training are given the priority they deserve. Talent and knowledge will be key assets in the competitive challenge that lies ahead.

Is the European Union ready to meet this challenge?

The next few years will be decisive in determining whether the Europeans are to be global protagonists of the digital age or mere spectators. Are we to be driving the train or will be stuck in the caboose?

If our societies are to cope with the economic and social challenges that lie ahead, we must make a firm commitment to education, innovation and

talent. We need to create an environment that facilitates the creation of new ideas and businesses, to help these businesses to thrive on the global stage and create high-quality employment. This is the only way to facilitate economic growth and social cohesion for all EU countries in the digital era.

The improvement in scientific capacities in our region, and in Spain in particular, over recent decades has been impressive, and the quality of our technological centres, universities and research groups is beyond dispute. However, if we are to become global leaders, we need to bring our investment in R&D up to the levels of those countries that are setting the pace of the technological revolution.

There are grounds for optimism. The *EU Industrial R&D Investment Scoreboard 2016*, published in December 2016, shows that EU companies invested 188.3 billion euros in research and development during the financial year 2015/16. This represents an annual increase of 7.5 per cent, a faster rate than the global average and one which suggests EU companies are moving in the right direction. European public investment in R&D has also recovered in the majority of countries since the crisis (during which it fell sharply), and we can only hope that Spain will also benefit from this trend. However, we also need to improve our capacity to transfer innovation to ambitious entrepreneurial and business projects, and developing a European risk capital ecosystem with growing levels of investment and transaction volumes could play a vital role in this regard.

Finally, in addition to public investment in R&D, there is nothing more effective than leading by example. Public bodies have a vital role to play in this regard. Major public sector technology projects can provide the impetus that helps to expand our technological horizons, driving innovation and ambition throughout society.

European governments and EU institutions can provide the leadership we need in this period of change. They can offer a vision of the future that mobilises change and generates hope, directing resources and commitment along the right channels, positioning us to confront a future that is already here. We have to mobilise the energies and efforts of a wide range of stakeholders, both public and private, so that we can use innovation to become more competitive in order to safeguard the opportunities of future generations of Europeans.

Recommendations

Recommendations

European Affairs Council of the Fundación Alternativas[1]

1. Political union

– The Union needs to increase its legitimacy with European citizens.
– During 2017, European institutions – the European Parliament, the European Council and the Commission – should propose a route map towards political union ("ever closer Union"), involving a European Convention before the end of the current European legislature if possible. This proposal should be the focus of debate at every level of political life in the EU, and should be based on the principles of maintaining and strengthening Europe's democratic values, respect for the rule of law and human rights, and increased participation by citizens and national parliaments. This must be done without diminishing the powers of existing EU institutions, which need to be unashamedly strengthened against the threat of populism, and also without reducing the importance of representative democracy as an aspect of European identity. Above all, EU-wide approaches must take priority over intergovernmental ones.
– This route map must be underpinned by a recognition that those countries that wish to engage in structured cooperation should be able to do so, now that the British brake on such progress has been removed. We also need to abolish the requirement for unanimity in European Council votes and when reforming EU treaties.

[1] The European Affair Council of the Fundación Alternativas is composed as follows: Diego López Garrido (director), Nicolás Sartorius, Juan Moscoso, Carlos Carnero, Vicente Palacio, Manuel de la Rocha Vázquez, José Candela, Jesús Ruiz-Huerta, Enrique Ayala, Carlos Closa, José Manuel Albares, José Luis Escario, María Muñiz, Emilio Ontiveros, María Joao Rodrígues, Francisco Aldecoa, Soledad Gallego, Irune Aguirrezábal, Josep Borrell, Doménec Ruiz and Xavier Vidal-Folch. Permanent guests at meetings of the Council are Gero Maass, Delegate to Spain of the Friedrich-Ebert-Stiftung, and María Pallares, programme coordinator, also of the Friedrich-Ebert-Stiftung.

2. Economic union

- European Union fiscal policy (particularly within the eurozone) must return to an emphasis on growth, productive investment and innovation to prevent Europe from being left behind in the digital revolution, and to increase productivity and generate the kind of high-quality jobs that are not threatened by automation.
- The European Stability Mechanism (ESM) must be transformed into a "final guarantee" in the face of fiscal or financial imbalances (with the objective of converting it into a European Treasury or European Monetary Fund with the capacity, in the medium term, to issue eurobonds).
- Europe must draw up a list of European tax havens, based on objective criteria and free from political interference. Inclusion in this list should incur a range of penalties.
- The European budget should be increased to 3 per cent of the EU's GDP (over two legislatures) funded, at least in part, by a financial transaction tax. This would be part of a wider move to make immediate progress towards enhanced cooperation.
- Investment in R&D+i must be increased to 3 per cent of EU GDP.
- We need to further develop the Digital Single Market, migrating the specific application and development model to European standardisation within the existing framework of EU regulation, and implementing educational programmes at all stages that place the necessary emphasis on technology, innovation and enterprise, both at the theoretical and the practical level.

3. Social Europe

- A social Europe must be based on solidarity.
- The programme of establishing a "European Pillar of Social Rights" must be accompanied from the outset by the approval of a directive on decent employment conditions to guarantee a basic set of enforceable rights, Europe-wide, designed not to obstruct but instead to promote labour mobility and freedom of movement and residency within the EU, with a particular focus on young people (as already occurs with the Erasmus programme in the educational sphere).
- We also need to begin the process of incorporating a social protocol into the Treaties, affording the same guarantees to social rights that are already provided for economic freedoms.

- The European Semester reports must be modified to include social indicators, with the aim of implementing counter-cyclical policies to generate economic activity and to fund active employment policies. Such policies have suffered from funding cuts since 2008, despite the increase in unemployment as a result of austerity policies.
- European economic and monetary union should be complemented by the formal launch of a European employment policy, one that would not only generate jobs and promote investment but would also include other measures such as the creation of a European element of national unemployment benefits, helping those countries hardest hit by the crisis to retrain their unemployed people, a strengthening of the European Social Fund (ESF) for the long-term unemployed, and the creation of a European minimum wage framework, taking into account the cost of living and average salary in each member state to guarantee all workers a living wage.

4. Protection of refugees

- Solidarity should be strengthened in this field, with the creation of a European Fund to support refugees.
- Legal access routes should be expanded: humanitarian welcome programmes, humanitarian visas and temporary protection schemes must be accompanied by normal mobility mechanisms such as reuniting families, employment mobility and mobility for students, along with evacuation procedures for medical reasons. At the same time, these measures must be designed in ways that prevent their manipulation by people traffickers, and must include safeguards against exploitation in recipient countries.
- Within the EU, a thorough-going revision of the directives and regulations of the Common European Asylum System (CEAS) still needs to be negotiated. Faced with a high volume of refugees, the Dublin system has been found wanting and has failed to ensure that EU member states comply with their responsibility to protect refugees. Despite this failure, current plans for Dublin IV retain the existing principle that asylum seekers must be accommodated by the country of first arrival. The European Parliament and the Council still have the option of aligning cooperation between countries of arrival and transit, controlling external borders, and rules within the European Union, based on the consistent evaluation and monitoring of human rights.

5. Foreign and defence policy

- Donald Trump's election and Brexit (each of which undermines support for European security) represent both challenges and opportunities for the EU to act as a major global power. To achieve this, there will need to be a coalition of the willing between EU institutions and the leading pro-European member states that wish to make progress in foreign and defence policy.
- The EU needs to complete its Foreign Policy provisions by establishing its own integrated military force. Without such a move, the EU will not be able to help re-establish peace, take military action to bring an end to war, deal with threats to European security or protect civilian populations that are affected by conflict.
- The EU needs to establish a Europe of Defence and Security if it is to be able to act with strategic autonomy. This can be done within the framework of the Global Defence and Security Strategy through permanent structured cooperation funded by the European defence fund announced by the Commission, by individual countries and, if necessary, through strengthened cooperation in this specific area.
- The EU should open an internal debate to address the failed Transatlantic Trade and Investment Partnership (TTIP) with the USA. This review should place an emphasis on social issues, putting trade and investment at the service of jobs and not vice versa. The agreement should be part of a pan-European strategy for sustainable global development, economic growth, the generation of high-quality jobs, and public support for R&D+i.
- The EU should unequivocally distance itself from the positions taken by the new US administration with regard to trade (protectionism), migration (restrictions on Muslim countries), and energy and climate change (disregarding the Paris climate change agreement). Likewise, the EU should make clear its disapproval of Trump's aggressive stance towards China, his boycott of the nuclear agreement with Iran regardless of the latter country's compliance, or his advocacy of a unilateral solution to the Israel-Palestine conflict.

6. Brexit

- The 27 member states and the EU institutions must maintain the unity and cohesion around the issue of Brexit that they have displayed so far and which are the only way to defend the interests of European citizens and to ensure the survival of the European project. It is essential, throughout the negotiations, to resist the appeals to narrow interests and the "divide and rule" tactics that the UK's negotiators will undoubtedly seek to deploy.
- The European Parliament must be a full member of the negotiating team, both for democratic reasons and because the Treaty means that any agreement will require its approval.
- The 27 member states and the EU institutions must approach the negotiations in a positive, constructive spirit, resisting the temptation to seek to exact revenge or to sabotage the Brexit process. The member states of the EU are interdependent and it is therefore in the interests of everyone to reach a good agreement; were the UK to crash out of the EU without an agreement, this would be negative for member states and citizens, and it is therefore important to avoid such a failure.
- The negotiations should be conducted rapidly and efficiently, bearing in mind that the withdrawal agreement needs to be finalised by May 2019. This is an absolute priority, as the EU cannot enter elections to the European Parliament in the midst of a crisis, lacking a clear project or clear leadership.
- After the United Kingdom has left the EU, it will be necessary to negotiate the framework for future relations between the two parties.
- The priority in the initial withdrawal negotiations must be maintaining the reciprocal rights of European citizens resident in the UK and of British citizens in the EU.

Biographies

José Manuel Albares. Career diplomat. He has served as Spanish Consul in Colombia and member of the Permanent Delegation of Spain to the OECD in Paris, during which time he filled the position of Vice-Chairman of the organisation's Development Assistance Committee (DAC). José Manuel Albares has also held the positions of Acting Director General for Africa and Deputy Director for Sub-Saharan Africa at the Spanish Ministry of Foreign Affairs and Cooperation and Director of the Department for Cooperation with Sub-Saharan Africa in the AECID. Ha has coordinated the electoral program of the Socialist Party (PSOE) on foreign affairs in the last Spanish general elections. He is the author of various studies on foreign policy and external action, as well as numerous press articles on these topics. He has been visiting professor at the l'Institut d'Études Politiques in Paris (Sciences-Po) and has led and participated in several summer courses at the Complutense and Menéndez Pelayo Universities. He holds a Bachelor of Laws and a Diploma in Business Studies from the University of Deusto. He holds as well a diploma of National Defence Course (Ceseden).

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Manuel Ausaverri has been Director of Innovation, Strategy and Alliances at Indra since 2015. Head of corporate units responsible for strengthening the company's technological and business leadership in these three areas, Ausaverri designed and implemented the new model of open innovation employed by Indra and its Office of Strategic Projects. In addition to a degree in civil engineering, he earned an MBA through IESE.

Prior to joining Indra, he accumulated twenty years of professional experience in the fields of business and corporate management, during fourteen of which he worked as a strategic

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José Enrique de Ayala. Brigadier General of the Army, retired. Ayala holds diplomas from the Spanish Army General Staff and Joint Staff Colleges as well as a degree in International Relations from the Centre for International Studies. He has served as military attaché to the Spanish Embassy in Germany and as Chief of Staff of the Eurocorps.

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Petra Bendel is a Professor for Political Science with a focus on migration, integration and refugee policies at the Friedrich-Alexander Universität Erlangen-Nürnberg, Germany. She has been the Academic Director and General Manager of the international and interdisciplinary Center for Area Studies since 1997 as well as Cofounder and Vice President of the Center for Human Rights Erlangen-Nuremberg (CHREN), where she focuses on the human rights of refugees and migrants.

Petra Bendel also works as a consultant: she is the chairwoman of the Academic Advisory Council of the Federal Office for Migration and Refugees (BAMF), member of the Expert Council of German Foundations on Integration and Migration (SVR) and a consultant for numerous expert commissions on European, national and regional levels.

José Candela Castillo is a member of the European Affairs Council of the Fundación Alternativas. He has been an official of the European Commission since 1986 to 2014 as Member of the Cabinet of the Vice-President of the Commission and as Head of the Units of Application of Community Law and Governance in the General-Secretariat of the Commission. He took part in the Group of Commissioners responsible for preparing the Maastricht Treaty in 1992, chaired by Jacques Delors and was editor of the European Commission's *White Paper on European Governance* in 2001 and Assistant to the representation of the European Commission in the Convention on the future of the Union that drafted the European Constitution in 2003. He has also been an advisor to the Spanish Secretary of State for the European Union. He has given numerous courses and lectures and published several chapters of collective books and articles on European Union Law and Governance in journals such as the *Revue du Marché Unique Européen*, the *Revue du Marché Commun et de l'Union Européenne* or the *Revista Española de Derecho Europeo*. José Candela Castillo is Professor of Philosophy of Law, Morals and Politics at the Faculty of Law of the Universidad Complutense de Madrid.

Carlos Carnero. Managing Director of Fundación Alternativas. Carnero has served as a member of the European Parliament (1994-2009), Spanish ambassador-at-large for European integration 2009-2012), and Vice-President of the Party of European Socialists (2006-2009). He was also a member of the Convention that drafted the European Constitution. He has collaborated on several books, including *Construyendo la Constitución Europea. Crónica política de la convención, Manual de instrucciones de la Constitución Europea, Europa en la encrucijada* and *La diplomacia común europea: el servicio europeo de acción exterior, Gobernanza económica de la Unión Europea y salida de la crisis*. Carnero holds a degree in Tourism. He is a professor in the master programme on EU of the Institute of European Studies at the University CEU-San Pablo. Carnero is member of the Scientific Council of Real Instituto Elcano. The Spanish government awarded him the Order of Constitutional Merit and the Order of Civil Merit for his work related to the European Union and foreign affairs, and the European Parliament with its Medal.

José Luis Escario Díaz-Berrio graduated in law and is Master of International and Community Law from the University of Leuven. He has worked in the European Commission, European Parliament and the Spanish Administration. He has been Policy Advisor for Taxation in Oxfam Intermón and Coordinator for European Union Affairs at Fundación Alternativas (FA). Currently he is Advisor of MEP Ramón Jáuregui to the Inquiry Committee on the Panama Papers. He is also member of the FA Council of European Affairs and has been coordinator of the *State of the European Union Report*. He is the author of books and numerous scientific articles on European and taxation issues.

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Diego López Garrido is an economist, has a Chair in Constitutional Law and is Legal consultant for the Spanish Cortes. Former member of the Spanish Parliament and of the NATO Parliamentary Assembly. He was Secretary of State for the European Union (2008-2011) and coordinated the 2010 Spanish Presidency of the EU. He also served as the Socialist Group's spokesman in the Congress of Deputies and has been elected as MP for six terms. He was member of the Convention for drafting the European Constitution, representing the Spanish Parliament (2002-2003). He is author of many books on human rights, economics, politics and European Community Law. His last book (2015) is *The Ice Age. Bailing out the welfare state in the era of austerity*, London Publishing Partnership.

Gero Maass represents the Friedrich Ebert Foundation in Spain. He studied political science

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His particular areas of interest include the future of the welfare state, the process of European integration, common European foreign and security policy, and the development of social democracy in Europe.

Juan Moscoso del Prado Hernández has been a Member of Parliament (MP) – Congreso de los Diputados in Spain – between 2004 and 2016. As MP he was spokesman of the Economy and Competitiveness Committee between 2014 and 2016, and before, Spokesman of the European Union Committee between 2006 and 2014, also, member of the Foreign Affairs Committee and Deputy Chair of the Spanish Delegation to the IPU Assembly. Previously, Juan has been member of the Federal Executive Committee of the Socialist Party of Spain (PSOE) between 2012 and 2014 as Secretary for Europe ("shadow minister"). Also, between 2009 and 2012 he chaired the Spanish delegation to the Council of Europe Parliamentary Assembly. In 2011 he was the PSOE candidate for major of Pamplona. Juan holds a PhD in Economic Sciences from the Universidad Autónoma de Madrid (Spain), a Master in Economic Sciences from the College of Europe, Bruges (Belgium), and a Bachelor in Economics from Kent University (UK). He has been Associate Professor of Economy at the Carlos III University of Madrid, Economics Department (1997-2004). He has also worked as an Economist and analyst at Analistas Financieros Internacionales (AFI) (1993-1994) – Spanish consulting firm –, at Banco Español de Crédito (Banesto), at the Economic and Social Council of Spain (CES) 1994-2004, and as an international consultant for the European Commission and the International Labour Organisation (ILO). Juan has published 350 articles about politics, economy and international relations in media and specialised magazines. On April 2014 he published his latest book, *Being now a progressive* (Deusto), and before, *Entrepreneurship in Spain, a scarce resource?* (Instituto de Estudios Económicos 2008). Lecturer, speaker, panellist, professor, in all kind of forum (universities, graduate schools, think-tanks, foundations), participant in 200 conferences and seminars in 61 different countries. Trustee and board member of several relevant Foundations and Think Tanks.

Vicente Palacio is director of the Fundación Alternativas Observatory of Spanish Foreign Policy and professor at the School of International Relations of the Instituto de Empresa. He has directed and coordinated research for the Socialist Group in the Spanish Parliament and the Ministry of Foreign Affairs and Cooperation of Spain. Palacio has been associate professor of International Relations at Syracuse University and a Visiting Fellow and Visiting Researcher at Harvard University's Department of Government. He is author of dozens of analyses and articles for the specialised press on the subjects of Spanish and EU foreign policy, transatlantic relations and EU-Latin American relations. His latest book is *After Obama. The United States in No Man's Land* (Catarata, 2016). He is a frequent contributor to the journal *El País*.

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Nicolás Sartorius. A lawyer and journalist by profession, Sartorius is executive vice-president of the Fundación Alternativas. Imprisoned for several years during the Franco dictatorship for his trade union activities, he was co-founder of Comisiones Obreras and member of the Spanish Parliament for the Spanish Communist Party and Izquierda Unida for several terms up until 1993. He participated in social and political negotiations during the Spanish Transition. Since that time, he has devoted the greater part of his time to writing. He is a frequent contributor to newspapers such as *El País* and is the author of numerous essays including *El resurgir del movimiento obrero, El sindicalismo de nuevo tipo, Un nuevo proyecto político, Carta a un escéptico sobre los partidos políticos, La memoria insumisa: sobre la dictadura de Franco, El final de la Dictadura: la conquista de la libertad en España* and contributor to *Una nueva globalización: propuestas para el debate*.

Robert Schachtschneider works in the field of energy policy and was former assistant to MP Dirk Becker, former spokesperson for energy and economy, Social Democratic Party, Germany.

Acronyms

3-D: Three-dimensional
AECID: *Agencia Española de Cooperación Internacional para el Desarrollo* (Spanish Agency for International Development Cooperation)
AEOI: Automatic Exchange of Information
AfD: *Alternative für Deutschland* (Alternative for Germany)
AFI: *Analistas Financieros Internacionales* (International Financial Analysts)
ANO 2011: *Akce nespokojených občanů* (Action of Dissatisfied Citizens in the Czech Republic in 2011)
ATAD: Anti-Tax Avoidance Package
BAMF: *Bundesamt für Migration und Flüchtlinge* (Federal Office for Migration and Refugees)
Banesto: *Banco Español de Crédito* (Spanish Credit Bank)
BEPS: Base Erosion and Profit Shifting
BRICS: Association of five major emerging national economies: Brazil, Russia, India, China and South Africa
CbCR: Country-by-Country Reporting
CCCTB: Common Consolidated Corporate Tax Base
CCTB: Common Corporate Tax Base
CDU-CSU: The Union Parties CDU (*Christlich Demokratische Union Deutschlands* [Christian Democratic Union of Germany]) and CSU (*Christlich – Soziale Union in Bayern* [Christian Social Union Bavaria])
CEAS: Common European Asylum System
CELAC: *Comunidad de Estados Latinoamericanos y Caribeños* (Community of Latin American and Caribbean States)
CEO: Chief Executive Officer
CES: *Consejo Económico y Social de España* (Economic and Social Council of Spain)
Ceseden: *Centro Superior de Estudios de la Defensa Nacional* (Spanish Centre for National Defence Studies)
CETA: Comprehensive Economic and Trade Agreement
CFSP: Common Foreign and Security Policy
CHREN: Center for Human Rights Erlangen-Nuremberg
CNA: Central News Agency
CNN: Cable News Network
CO_2: Carbon dioxide
COP21: UN Summit on Climate Change in Paris, December 2015
CoR: Committee of the Regions
CRS: Common Reporting Standard
CSDP: Common Security and Defence
DAC: Council Directive 2011/12/UE on Administration Cooperation
Daesh: الدولة الإسلامية في العراق والشام, *ad-Dawlah al-Islāmiyah fi 'l-'Irāq wa-sh-Shām* (The Islamic State of Iraq and the Levant)
DAC: Development Assistance Committee of the OECD
DF: *Dansk Folkeparti* (Danish People's Party)
DFI: Direct Foreign Investment
EASO: European Asylum Support Office
EBCG: European Border and Coast Guard
EC: European Commission
ECB: European Central Bank
ECHR: European Convention on Human Rights
Ecofin: Economic and Financial Affairs Council
ECRE: European Council on Refugees and Exiles
EEAS: European External Action Service
EESC: European Economic and Social Committee
EEU: European Energy Union
EIF: European Integrated Force
EMU: Economic and Monetary Union
EP: European Parliament
EPU: European Political Union
ESCC: European Steel and Coal Community
ESDP: European Security and Defence Policy
ESF: European Social Fund
ESM: European Stability Mechanism
ETS: Emission Trading System
ETUC: European Trade Union Confederation
EU: European Union
EU-27: 27 EU Member Countries
EUFOR/ALTHEA: European Union Force Althea, military deployment in Bosnia and Herzegovina
EULEX: European Union Rule of Law Mission

Eurojust: The European Union's Judicial Cooperation Unit
Europol: European Police Office
FA: *Fundación Alternativas* (Alternatives Foundation)
FES: *Friedrich-Ebert-Stiftung* (Friedrich Ebert Foundation)
FN: *Front National* (National Front)
FOX: Fox News Channel
FPÖ: *Freiheitliche Partei Österreichs* (Partido de la Libertad de Austria)
Frontex: *Frontières extérieures* (External Borders)
G20: Group of Twenty, International forum for major economies
GDP: Gross domestic product
HQ: Headquarters
ICT: information and communications technology
IESE: *Instituto de Estudios Superiores de la Empresa* (Institute of Higher Business Studies)
ILO: International Labour Organisation
IPU: Inter-Parliamentary Union
ISIS: (so called) Islamic State of Iraq and Syria, Daesh
IT: Information Technology
JCPOA: Joint Comprehensive Plan of Action
M15: Anti-austerity movement in Spain on the 15th of May, 15M Movement
M5S: *El Movimento 5 Stelle* (Five Stars Movement)
MBA: Master of Business Administration
MEP: Member of the European Parliament
Mercosur: *Mercado Común del Sur* (Southern Common Market)
MIT: Massachusetts Institute of Technology
MP: Member of Parliament
NAFTA: North American Free Trade Agreement
NATO: North Atlantic Treaty Organization
NEET: Not in Education, Employment or Training
NGO: Non-governmental organization
NPD: *Nationaldemokratische Partei Deutschland* (National Democratic Party of Germany)
OECD: Organisation for Economic Co-operation and Development
P5+1: Five Permanent Members of the UN Security Council China, France, Russia, United Kingdom and United States plus Germany
PhD or Ph.D.: *Philosophiae doctor* (Doctor of Philosophy)
PiS: *Prawo i Sprawiedliwość* (Law and Justice Party in Poland)
PPP: Public-private partnership
PSOE: *Partido Socialista Obrero Español* (Spanish Socialist Worker's Party)
PVV: *Partij voor de Vrijheid* (Party for Freedom in the Netherlands)
QE: Quantitative easing
R&D: Research and development
R&D+i: Research, development and innovation
REFIT: European Commission's Regulatory Fitness and Performance
SGP: Stability and Growth Pact
SPD: *Sozialdemokratische Partei Deutschlands* (Social Democratic Party in Germany)
SPPM: Social Protection Performance Monitor
SVR: *Sachverständigenrat deutscher Stiftungen für Integration und Migration* (Expert Council of German Foundations on Integration and Migration)
TEEC: Treaty establishing the European Economic Community
TEU: The Treaty on European Union
TFEU: The Treaty on the Functioning of the European Union
TPP: Trans-Pacific Partnership
TSO: Transmission system operators
TTIP: Transatlantic Trade and Investment Partnership
UK: United Kingdom
UKIP: United Kingdom Independence Party
UNHCR: Office of United Nations High Commissioner for Refugees
USA or US: United States of America

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The EU renewed itself through Economic and Monetary Union and the creation of the euro, achieved political reunification with the fall of the Berlin Wall, and made the idea of European citizenship a reality through freedom of movement and residence. This was supported by the European Court of Justice, whose authority the UK government is now eager to reject.

Today, although the EU is geographically larger and politically more powerful, it lacks any real plan for the future and is threatened by a combination of neoliberal policies, the impact of the crisis, the danger of fragmentation, and hostility from abroad (Trump and Putin). The old ideas have run their course but there is no sign of a replacement. This creates a gap that the new populist parties – primarily of the right but also of the left – have sought to exploit with anti-European formulae and the false promise of closed borders. The results include Brexit and the democratic crises in Poland and Hungary.

The EU needs a revitalised project, a relaunch – as the title of this Report suggests – because it is the best thing to have happened to generations of Europeans. This Report therefore puts forward a range of ideas for this relaunch. The EU has to regain its leadership by offering the policies that the continent, and the world, needs. It must create a specific proposal, with immediate commitments, that has the power to convince Europeans.

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