THE PROGRESSIVE POTENTIAL OF THE EU

RICHARD CORBETT

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What the EU is, why it matters, how it works,
and how the centre-left can use it and reform it

FEPS
Primer Series

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Foreword

Speaking about the European Union's institutions and competencies in an imaginative, captivating way is a form of art. It takes passion, conviction, and technique. It requires a balancing act, reuniting the dry language of treaties with meaningful words articulating people's dreams for a better future. And it takes the speaker's courage to go off the beaten track, not merely retelling the EU's existing competencies but pointing to a remaining potential that, if fulfilled, could bring the Union to yet another level. It is in view and in honour of all potential readers who would like to acquire and develop this aptitude that we are thrilled to present this very first FEPS primer: The Progressive Potential of the EU. What the EU is, why it matters, how it works, and how the centre-left can use it and reform it by Richard Corbett.

This first volume in the primer series begins with a journey back to the late 1940s and early 1950s. The author recounts the familiar facts of how the European Communities came to exist against the backdrop of the tragic experience of World War II, thanks to a shared under-standing that all efforts should be directed towards rebuilding and ensuring that armed conflicts would become a thing of the past. But what makes the primer exceptional from chapter one is its focus on social democrats and socialists. Their vision, their concerns, their in-put – in short, their political legacy in the EU – is brought to the lime-light. This is in welcome contrast to mainstream publications which tend to pass over instances of political leadership and contestation while skipping from the founding fathers to later conferences. Corbett's book corrects the record and consistently, throughout the chapters, underlines how much ideological differences matter in EC, and now EU, politics. In that narrative, he also shows how much effort it takes, and what an achievement it is, to reach agreement in the multi-stakeholder community. Corbett explains that the logic of the Union's institutional structure leaves decision-makers with two

kinds of political allegiance: to their respective political families and towards the country they come from. He argues convincingly that combining both is not a contradiction, contrary to what Eurosceptics and anti-European parties would like citizens to believe.

This is one among several core arguments that Corbett conveys while comprehensively tracing the EU's evolutionary developments, analysing the nature of crises, and highlighting ground-breaking decisions that kept European integration moving forward. He looks at the competencies that the EU acquired, the policies it defines, and the institutional structure on which it relies. The catalogue of issues that he covers is an empowering resource, as it may allow us to imagine and begin a different kind of conversation about the EU. After all, even EU-level operatives, who are fluent in so-called 'Brussels jargon' and know their specific dossiers like the back of their own hand, tend to be anxious about the moments in which they are confronted with interlocutors outside of that particular bubble. Indeed, this hesitancy to communicate may form part of a kind of vicious cycle in which stereo-types lead citizens to believe that talking about the EU institutions is elitist and dull. At the same time, those in a position to frame those debates stay under the impression that the general public knows very little about the Union. This may lead to the assumption that, before entering the substance, citizens crave detailed instructions on governing procedures to understand how the EU works (and excuses for certain deficiencies and limitations). Clearly, this communication strategy is not conducive to creating a connection. An improved connection between the EU and its citizens is, however, very much desirable for European democracy to work better in its representative, deliberative and participatory aspects. Against this background, the bridge that the author provides between what is close to the heart of institutionalists and what may be more appealing to experts of the other disciplines, alongside the guidelines on how to break out of those mutually dis-empowering prejudices, are compelling reasons making this book a meaningful read – amid the Conference on the Future of Europe, ahead of the next European elections and in fact, at any given moment now and in the future.

Furthermore, Richard Corbett is an outstanding academic with an impressive record of scholarly publications that explain the European Union. But he is also a practitioner who throughout his years of service as a Member of the European Parliament and as Chair of the European Parliamentary Labour Party has been involved in shaping a number of public policies. Having had to argue in favour of various bold proposals inside the EP's Committee of Constitutional Affairs, in the plenary, and while campaigning in the UK pre-Brexit, he is an author grounded in political reality who effortlessly translates abstract concepts into the framework of tangible policy solutions. Corbett shows how the conversation about the EU and its institutional reform can become an exciting exchange among diverse interlocutors with vastly diverging takes on both grand visions and minute details. He presents a variety of anchoring points allowing people of very diverse backgrounds to connect with what they might have thought of as distant issues. A great example of that is the entire Chapter 5, where Corbett shows how fundamental some current discussions in the EU are: on the veto power in the Council, the institution of spitzenkandidaten, the introduction of the transnational lists, or the reform of the European Citizens Initiative. That is, they will prove fundamental if we are indeed serious about reinforcing the Union when it comes to democratic criteria of accountability and legitimacy.

To that end, the primer by Richard Corbett is designed in such a way that it can be read from cover to cover, but also as a reference source regarding specific topics. The reader will therefore find inside: a record number of concrete examples on the institutional challenges of the EU which can be used instead of the traditional, but somewhat dry narrative about the 'treaty reform of the EU'; a number of info boxes providing snapshots of rudimentary knowledge; a glossary and, finally, a list of progressive personalities whose contributions are at the heart of significant developments in the EU's history. Consequently, this is a volume that complements and completes readers' knowledge about the EU, and also equips them with a set of skills. It is written so that it can provide inspiration for any debate, at any key moment, and in diverse political contexts. As

such, we are convinced that it not only delivers upon the promise the concept of a primer entails but also offers an essential contribution to empowering progressives with thought-provoking ideas and arguments thanks to which they can master the experts' conversations about the EU and set a new qualitative standard for citizen dialogue.

Dr Ania Skrzypek
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1   Introduction

The interdependence (economic, environmental and political) of European countries means that political choices need to be made – and political battles fought – not just at national, regional and local levels, but at European level too.

Whether we like it or not, this interdependence means that a growing number of problems can only be adequately addressed jointly.

The EU is the primary framework for organising joint action at European level. It involves almost all countries in Western and Central Europe (and those that aren't in it often choose to, or have to, follow its rules). It has a significant capacity to adopt common legislation and has a common budget. The policies, legislation and decisions taken by the EU are of considerable importance in many fields (as we will see later).

The most significant of these is the EU's single market, which is the world's largest market: how it is regulated, shaped, managed, directed and corrected is of central importance. On the centre-left, we know that a market with no rules, a corporate free-for-all, would be a disaster. Markets need to be corrected and shaped in the public interest.

Most such corrections are at national level: redistribution of income, universal provision of healthcare and education, the welfare state, and much else. But it is largely at EU level that we adopt legislation to protect consumers, to guarantee workers' rights, to protect the environment and to regulate large companies, especially multinational ones, and to ensure fair competition without exploitative monopolies.

The political battle to make sure the European market has such rules has been fought over many years. Crucially, the fact that it is very difficult to adopt any legislation at EU level without the approval of the S&D Group in the European Parliament (EP), or without the agreement of socialist-led governments in the Council, has

meant that a grand bargain was struck: the harmonising legislation needed to create a cross-border market at EU level was only accepted if it contained (or was accompanied by) protective and corrective legislation and entrenched workers' rights.

Certainly, some of that EU legislation in these fields could be better and needs strengthening. But it is already significant enough to deeply antagonise right-wing neo-liberals. They are going all-out to not just prevent any new legislation of this kind, but to undo what exists. They were also the driving force behind Brexit. The ideological battles at EU level are hotting up.

Political conflict is also hotting up in another field: basic values. While some initially saw the EU as a purely economic transactional relationship among countries, the centre-left saw it as a values-based union. Indeed, the EU treaties now (thanks in no small part to successful battles won by the centre-left) set out very clearly the values and aims of the Union (see Box 1).

There can be no doubt that the Union, and all its Member States in their sovereign decisions to ratify the treaties, signed up to these values and objectives. But it is equally clear that some political forces and some national governments are seeking to escape from these obligations. Some of them even challenge the basic legal order of the EU and the respect of the rule of law that all Member States are required to uphold.

There are many other fields in which political battles are being fought at European level. And, of course, the EU itself isn't perfect. Its focus is sometimes wrong, it often lacks the necessary tools to deliver, its procedures can be cumbersome, and its democratic accountability is not visible enough.

Just as we fight to change policies and reform structures at national level, the same is needed at EU level. That can be more complicated, and is at times vulnerable to misunderstandings and misconceptions, but it must be done. And whether that is about defending values, promoting progressive policies, pooling resources to achieve economies of scale, deploying greater leverage in international affairs, or simply showing solidarity, we can often achieve more together than we can separately.

Box 1: EU values

Preamble to the TEU: The signatories confirm "their attachment to the principles of liberty, democracy and respect for human rights and fundamental freedoms and of the rule of law".

- Article 2 TEU: "The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities."
- Article 3 TEU on the aims of the Union provides for it to aim for "full employment and social progress, and a high level of protection and improvement of the quality of the environment" and to "combat social exclusion and discrimination" and "promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child". It shall also "promote economic, social and territorial cohesion, and solidarity among Member States".
- Article 7 TEU details the procedure for dealing with "a serious breach" of the "values referred to in Article 2" and empowers the European Council to "suspend certain of the rights deriving from the application of the Treaties to the Member State in question, including the voting rights of the representative of the government of that Member State in the Council".
- Article 10 TEU states that "the functioning of the Union shall be founded on representative democracy".
- Article 10 TFEU lays down that "the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation".
- The EU Charter of Fundamental Rights obliges EU institutions and all legislation and decisions adopted by them, to respect the rights contained in the charter and in the ECHR.

2   A little bit of history

To understand the EU, it is useful to know a bit about its history.

The initial impetus for creating what became the EU was the search for peace. In a continent where almost every generation from the fall of the Roman Empire until 1945 slaughtered each other on the battlefields of Europe, we simply had to find a better way of doing things. After the First World War, the great hope was that it had been "the war to end wars". The League of Nations was established. But within a generation, Europe was at war again.

In the anti-fascist resistance movements of the Second World War, the lesson was learned. A great man of the Left, Altiero Spinelli, when still a prisoner on the island of Ventotene, wrote in 1941, that if, after the war, we simply re-established the system of totally sovereign nation-states in shifting alliances, then one day we would have war again. He advocated the creation of a structure bringing the countries of Europe together in a binding structure in which common interests could be developed.

It is clear from the very first integrative treaty, the ECSC, that this was the original motivation for the European Union. The treaty preamble was highly resonant: "resolved to substitute for age-old rivalries the merging of their essential interests [...] to create the basis for a community among peoples long divided by bloody conflicts".

Nowadays, the significance of this is underestimated (although the EU was awarded the Nobel Peace Prize in 2012) and it is all too often taken for granted. Yet we do so at our peril. We need only look just beyond the borders of the EU – to Belarus, Ukraine, the Middle East or North Africa (or recently to the former Yugoslavia) – to see how precious is the stability that the EU has created. The value of even a day of peace is enormous.

In that sense, tying European countries together with a body of common laws, a common currency, a European Court, common institutions, shared economic objectives and millions of personal ex-

periences, has certainly helped to keep age-old rivalries from resurfacing and tearing Europe apart.

The first steps towards European integration were tentative. Loose and largely intergovernmental frameworks were set up, such as the Council of Europe in 1949. It still exists today with 47 Member States. It has done important work in the legal and cultural fields and, of course, is the framework in which the European Convention on Human Rights was established, with its own Court of Human Rights. But there was no pooling of sovereignty in significant economic or political fields.

When it became clear that attempts to deepen the Council of Europe would be blocked (at the time by Scandinavian countries and the UK), six countries decided to go further by themselves. They started with the European Coal and Steel Community (ECSC). The idea, conceived by Jean Monnet and made public on 9 May 1950 by French Foreign Minister Robert Schuman, was to transfer responsibilities for managing these industries to a common central authority. At that time, coal was the main energy supply and steel was seen as the foundation of military strength, so its significance was immense, especially so soon after the war. Schuman described it as "a first step in the federation of Europe".

The ECSC started work in 1952, with four institutions: a High Authority composed of independent appointees, a Common Assembly composed of national parliamentarians, a Special Council composed of national ministers, and a Court of Justice. These were the precursors for today's Commission, Parliament, Council and Court.

Almost immediately, following the start of the Korean war and with fears, founded or imagined, of a Soviet invasion of western Europe, it was proposed to add to this a European Defence Community with a common European army (also to avoid recreating a separate German army). A treaty to this effect was signed in 1952, but France, after acrimonious internal debate, eventually declined to ratify it in 1954.

In the intervening two years, the governments had asked the Common Assembly to draft an overarching political framework – a constitution that would integrate both the ECSC and the EDC and provide for economic integration, too, under strengthened "federal

or confederal" institutions. It did so, but the proposed constitution died with the demise of the EDC.

This was a major crisis in the process of European integration. Many thought that would be the end of it. But the following year, the foreign ministers of the ECSC met in Messina and decided to "relaunch" the process of European integration by focusing on economic matters (albeit ones with major political implications): the creation of a customs union and a common market, and cooperation on developing atomic energy. They set up a committee chaired by the socialist former Belgian Prime Minister Paul-Henri Spaak to produce a report on the step-by-step road map to do this. It led to the creation of the European Economic Community (EEC) and the European Atomic Energy Community (EAEC) in 1958, with the same institutional model as for the ECSC (except that, instead of a High Authority, there would be a slightly less powerful Commission).

Creating a customs union and a common market had significant spillover effects. A customs union meant agreeing on who gets external access to that market. That meant negotiating as one on international trade talks within GATT/WTO and bilaterally. That also meant trade sanctions could only be done jointly, thereby bringing foreign policy and security considerations into the realm of joint policymaking. A common market meant common rules for product standards, consumer protection and fair conditions for production, including workers' rights and equal pay. It meant agreeing a common policies in areas where governments intervene extensively in markets, such as agriculture and transport – and indeed agreed rules for state aid to avoid a competition among governments bidding for the favour of private companies. It also generated pressure for a common currency, with a first agreement to aim for a monetary union taken at a summit in the Hague in 1969 (though subsequently delayed for many years after the turmoil on international currency markets when the international Bretton Woods system of fixed exchange rates was abandoned).

Besides economic spillover, there was political dynamic. The habit of working together, of having common institutions which pressed for further fields of cooperation, and sometimes external pressures,

induced the EU countries to expand the remit of the EU to new subjects. Some of these were partly linked to the common market: for instance, the free circulation of labour pillar of the common market generated pressure to define the rights of citizens working and living in other Member States and this developed the concept of common citizenship. Others were less so: common research programmes for example, student exchanges, and cooperation on police and justice matters.

Institutionally, too, things evolved. Although limited but significant legislative powers were pooled from the beginning, they were exercised mainly by the Council of ministers, acting by unanimity (in practice, even in those areas where a vote was permitted by the treaty), behind closed doors, with no real say for the European or national parliaments. This became known as the democratic deficit.

Once the European Parliament became a directly elected and full-time body as of 1979, institutional change was firmly on the agenda. The EP – and its MEPs within their political parties across Europe – pressed constantly for change, even adopting a proposal in 1984 for a new treaty to completely replace the EEC, ECSC and EAEC treaties. But treaty change required the unanimous agreement of Member State governments and subsequent ratification in each country. So, what resulted was a series of incremental revisions to the EEC treaty (see Box 2), each one a partial and insufficient compromise with agreement to return to difficult issues at a later date. Each one also combined policy objectives with institutional changes. But cumulatively, they transformed the Community into the Union as we now know it, with a wider remit and a different balance of power among the institutions, as we shall see below.

Box 2: The treaties

The treaties constitute the basic rulebook (in practice, constitution) of the EU. They lay down the EU's field of competence, its procedures, and how people are elected or appointed to its institutions. But an attempt to rewrite those treaties and *formally* label them as a 'constitution' failed in 2005, in part because of reticence in some countries to the idea of the EU being a state-like federation.

The founding treaties were the Treaty of Paris (signed in 1951, establishing the European Coal and Steel Community (ECSC) and two Treaties of Rome signed in 1957, one establishing the European Economic Community (EEC) and the other the European Atomic Energy Community (EAEC, or "Euratom"). The EEC treaty had the widest remit and became central, while the ECSC expired in 2001 and Euratom remains marginal.

The EEC treaty was substantially revised and added to, notably in the:

- Single European Act (signed 1986)
- Treaty of Maastricht (signed 1992)
- Treaty of Amsterdam (signed 1997)
- Treaty of Nice (signed 2001)
- Treaty of Lisbon (signed 2007)

The series of five revisions of the basic framework within just over 20 years indicated both a need for change and the fact that each revision was a half-measure, leaving some issues open to be settled later in a subsequent revision. This was because the procedure for amending the treaties requires unanimity among all national governments in a special Inter-Governmental Conference (IGC), followed by ratification by national constitutional procedures.

Cumulatively, these revisions transformed the European Communities into a European Union with wider competences (adding, notably, environment policy, research, monetary

union, foreign policy and security, justice and home affairs), more effective decision taking procedures (extending the field in which the Council takes decisions by a qualified majority rather than unanimity), and more democracy (notably, co-decision powers for the EP on legislation, EP ratification of international treaties, EP confirmation of the Commission and its president, a greater role for national parliaments, public access to documents and publication of the results of votes in the Council).

The treaties are now consolidated into *two main treaties*:

- **Treaty on European Union** (**TEU**)
- **Treaty on the Functioning of the EU** (**TFEU**)

But the Euratom treaty still exists as a separate treaty, as does a Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG), signed in 2012 which is legally outside the EU framework but nonetheless confers powers on its institutions.

3   What it does

We saw above how the initial aim of creating a customs union and a single market required common policies on international trade, competition policy and so on, and had spillover effects that triggered common legislation to protect consumers, workers and the environment, and paved the way for the EU structure to be used for common policies in other fields too. The range of EU responsibilities is now of huge significance, and how they are carried out is a major part of political battles fought at European level.

Let us now look at the range of EU activity and policymaking. The following is not a comprehensive analysis but gives a flavour of the wide range of EU activities and policies – and why they can be important, controversial, and subject to political divisions, normally between the left and the right.

Social policy and workers' rights

A key battle for the centre-left has been to develop EU-level policies to mitigate the effects of free markets by protecting workers' rights and preventing social dumping. There was much resistance to this on the right, and the EU's competences in the treaty were at first limited to three main things:

– the coordination of social security and health systems of Member States (to facilitate life for individuals exercising free movement rights by ensuring that they can access such services in other Member States);
– the principle of equal pay for equal work for men and women;
– the creation of the European Social Fund, initially focused on vocational training and resettlement allowances for workers affected by economic restructuring, but later broadened to fighting youth

unemployment and improving the inclusiveness of the labour market (now reaching the level of €88bn over the 2021–27 period).

Recognition that more needed to be done at EU level, and the amendment of the treaties to provide the EU with the competence to act, came in stages. In 1972, a summit of the (then 6) heads of state or government declared that they "attached as much importance to vigorous action in the social fields as to the achievement of the Economic and Monetary Union." This triggered the adoption of a first Social Action Programme in 1974 and a series of directives aimed at providing workers with protection in cases of collective redundancies and of insolvency of employer and transfer of undertakings, as well as better protecting equal pay, equal treatment, and social security entitlements.

In 1989, the Delors Commission proposed a *Charter of Fundamental Social Rights* as a complement to its programme to complete the single market by 1992. The Thatcher government in the UK opposed the Charter on the ground that it would curtail and restrict free enterprise, and refused to sign it. The other Member States approved it as a declaration of intent. In 1992, with the signing of the Treaty of Maastricht, the Social Charter was appended to it as a protocol, but still not applicable to the UK. Once the Labour government took office in the UK in 1997, it signed up to it and the Protocol was incorporated into the treaty via the Treaty of Amsterdam, along with a new treaty chapter on employment. Three years later, the full recognition of the social rights of workers was laid down by the Charter of Fundamental Rights of the European Union. The Charter was proclaimed by the institutions in December 2000 and was given full legal value equal to the Treaties by the Treaty of Lisbon (2009).

This step-by-step strengthening of the EU's competence and powers enabled a growing body of legislation to be adopted establishing minimum standards of labour rights in four main fields: individual labour rights, anti-discrimination regulations, job security, and rights to information, consultation, and participation at work. In virtually all cases, the EU follows the principle that Member States can always create rights more beneficial to workers – the intention

is to create a floor to avoid a "race to the bottom" whereby Member States compete by lowering standards. However, there is a risk that such minimum standards may become the norm. Also, the EU is precluded by the treaty (Article 153(5) TFEU) from legislating on "pay, the right of association, the right to strike or the right to impose lock-outs", which are all left to divergent national laws.

Some notable examples of EU legislation in the social field include:

– The directive on equal pay for men and women, first adopted in 1975 and since updated, which prohibited all discrimination on the grounds of sex in relation to pay, giving more teeth to the principle already laid down in the Treaty of Rome
– The Working Time Directive, first adopted in 1988 and since updated, which gives EU workers the right to at least four weeks in paid holidays each year, rest of at least 11 hours in any 24 hours; rest breaks during the day; limits on excessive night work; a day off after a week's work; and provides for a right to work no more than 48 hours per week (provisions where the current battle is to ensure that such rights apply also to platform workers and the "gig" economy)
– Many pieces of legislation on safety and health of workers, including on exposure to chemical and biological agents, workplace signs and personal protective equipment, overall workload, rules for specific workplaces (eg temporary work sites, extractive industries, fishing vessels), rules for specific groups of workers (eg pregnant women, young workers, workers with a fixed duration employment contract), and three directives to protect workers in atypical forms of work (eg part-time work or temporary agency work)
– Measures to improve accessibility of goods and services for the disabled
– A directive on information and consultation of workers in companies based in the EU, which provides for workers and their representatives to be given data on a company's activities and economic situation, employment structure and probable development, especially if there is a threat to jobs and decisions that could lead to

substantial changes in the way work is organised or in contractual relations. Consultation must take place at the relevant management and employee representation level, with a view to reaching agreement on decisions that could lead to substantial changes in the way work is organised or in contractual relations.

– A directive to protect workers posted by their company to another Member State, later amended to add protections for local workers from unfair competition from posted workers.

These achievements were always the result of significant political battles. Some are compromises that are not strong enough. The regular review and amendment of EU legislation should normally give opportunities to strengthen them, but in the years following the financial crisis, little was done. After much pressure from trade unions and the European Parliament, the European Council, at a special meeting in Gothenburg in 2017, approved the idea of a "European Pillar of Social Rights" to "update the social rulebook to the twenty-first century". The Pillar affirms 20 principles and rights, structured around three priorities: equal opportunities for education and training and access to the labour market; fair working conditions; and access to social protection for all. The issues addressed range from the right to minimum wages in all EU countries to work-life balance and stronger social protection. The Pillar forms the backdrop for all of our initiatives in the area of employment and social affairs. It was reaffirmed at the Social Summit in Porto in May 2021, but still needs to be fully implemented.

Protecting Consumers

A significant amount of EU legislation concerns the protection of people as consumers, both as regards their health and safety and as regards their economic interests and their rights to informed choice. It covers issues such as the safety of products, misleading advertising, the clarity of labelling, food standards, the right to replacements or refunds, the liability if things go wrong, and much more.

A single market with different rules in each Member State would be ineffective for consumers and often a nightmare for producers too, who usually prefer to have a single set of rules to adapt to rather than 27 or more. But agreeing the principle of having common rules is one thing – agreeing on their content and the level of standards and protections that apply is another, and has often given rise to political conflict between those, mostly on the centre-left, defending high standards and those whose primary motive is to cut costs for businesses or allow dubious business practices.

A good example of this was the 2014 Tobacco Products Directive, adopted despite fierce resistance and a massive lobbying campaign from the tobacco industry, who employed a massive number of lobbyists (more than 160 by Philip Morris alone). There was even a burglary at the Brussels offices of two anti-tobacco NGOs. The directive was nonetheless adopted. It places limits on the sale and merchandising of tobacco and related products in the EU. It applies to the manufacture, presentation and sale of cigarettes, cigars, loose tobacco, electronic cigarettes, and herbal products for smoking. It requires the tobacco industry to submit detailed reports on the ingredients used. It requires accurate health warnings covering 65 percent of the product packaging. It bans all promotional advertising of tobacco products, allows Member States to prohibit internet sales of tobacco related products and introduces EU-wide tracking and tracing to prevent illegal trade of tobacco products. It also promotes the creation of smoke-free environments, tax measures and anti-smoking campaigns.

Similarly, the EU has legislated on, for instance:

– food safety (laying down requirements and procedures for securing high levels of food safety – and animal and plant health – at all stages of food production and distribution with strict rules and monitoring procedures);
– medicines and pharmaceutical products (with a coordinated testing and certification system, important both for safety and for eliminating the €350m annual cost to pharmaceutical companies

previously incurred by having to win separate approvals from each individual Member State);

- cosmetics (regarding prior safety tests and avoiding duplication thereof by providing for mutual recognition and ingredient inventories);
- toy safety requirements (mechanical danger, toxicity and flammability);
- air transport (rules on compensation and assistance to passengers in the event of denied boarding, cancellation and long flight delays, and on air carrier liability for baggage);
- core rights when purchasing timeshare or booking a package holiday (including the right to full information before booking, the right to transfer a booking to another person if one cannot go oneself, and the right to a refund and repatriation if the organiser goes bankrupt);
- long-term holiday products (including seller's obligation to provide information on the constituent parts of the contract, and the consumer's right to withdraw without any costs and without giving any reason, within 14 calendar days);
- unfair commercial practices (such as pressure selling, misleading marketing and advertising and practices which use coercion as a means of selling);
- liability for defective products or price indications;
- consumer credit (laid down in the Standard European Consumer Credit Information – a form containing all relevant information about the contract, including the real cost of credit – and allowing consumers to withdraw from a credit agreement without giving any reason within a period of 14 days after the conclusion of the contract);
- energy markets (to ensure that complex information on the energy consumption and performance of specified domestic appliances is presented in a clear and understandable format);
- roaming charges (preventing telephone companies from charging extra for telephone and data use when someone crosses an internal EU border);

- chemicals (setting the rules for allowing individual chemicals on its market – including how they are tested, classified, packaged, labelled and what they can be used for);
- E-commerce, regulating online telesales of goods and services and the corresponding financial transactions;
- cross-border TV to preserve public-interest objectives, such as banning advertisements for alcoholic beverages, tobacco, and medicines, and programmes involving pornography or extreme violence, while providing for events of major importance for society to be broadcast freely in unencoded form, even if exclusive rights have been purchased by pay-TV channels;
- a General Product Safety System whereby *any* consumer product put on the market, even if it is not covered by specific sector legislation, must meet certain standards relating to the provision of information to consumers (including labelling), safety and traceability;

and much else. It is a significant body of legislation and consumer rights that applies across the European Union (and sometimes beyond).

All such legislation – and regular updates – involved significant conflict between private commercial interests on the one hand and those seeking to represent the interests of the wider public on the other. The centre-left has achieved significant victories on behalf of the latter, but many of the above-mentioned legislations have lacunae, loopholes or insufficiencies that need improvement.

Competition policy

The EU has a competition policy intended to ensure fair competition within the single market. In this field, powers have been given to the Commission to act as the EU's competition authority. The Commissioner for competition has enormous powers to oversee the market in this regard. How these powers are used, and for what purpose, is of great significance and controversy, especially for the centre-left.

The EU's competition rules aim to avoid the emergence of restrictive practices (such as cartels and price fixing) by businesses, to prevent the abuse of dominant positions, and to regulate state aid to industries. They empower the Commission to vet and veto mergers and acquisitions.

They are also a powerful tool for taking on multinational companies. The EU has more clout than individual countries in challenging multinational companies, as it has done with Google, Microsoft, Gazprom, Volkswagen, Deutsche Bank and many others. For example, in 2018 the Commission imposed a fine of €4.3bn on Google for abusing its dominant position in relation to search engines on mobile telephones that use the Android operating system.

Importantly from a centre-left perspective, the rules do not prohibit public ownership. Indeed, this remains common practice across Europe, for example for railways. Article 345 TFEU specifies that the question of ownership is a national one. But when state-owned firms are participating in a competitive marketplace for profit, they can be subjected to the competition rules. This is sometimes a borderline that is difficult to define.

Regulating state aids (government subsidies to businesses) can also be controversial. The EU can intervene only in so far as it affects trade between Member States, but that nowadays involves many economic sectors. Article 107 TFEU specifies that state aids should not be used simply to favour one undertaking over another, but can instead be permitted for "aid having a social character", or to deal with "exceptional occurrences" such as natural disasters, or "to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment", or "to remedy a serious disturbance in the economy of a Member State" or to develop "important projects of common European interest" or "to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Union to an extent that is contrary to the common interest".

The exact interpretation of these principles is a matter of political debate. For example, a frequent centre-left criticism is that the Commission is insufficiently sensitive to the justification of short-term

subsidies to avoid job losses in communities dependent on a single employer. Another is that the rules must be flexible regarding investment in renewable energy – it is actually in the public interest to give renewables a competitive advantage over fossil fuels. That the EU rules can be flexible when needed was shown during the covid-19 pandemic when there was an almost blanket waiver of rules to allow subsidies to keep numerous firms and sectors afloat.

Article 109 TFEU specifies that the Council may "make any appropriate regulations for the application of the state aid rules" and may specify "categories of aid exempted from this procedure" (though this is a matter on which the Council can legislate without the agreement of the EP, which is merely "consulted" on the matter). That is a key provision for fine-tuning the rules and making sure they are not applied in a rigid and doctrinaire way.

The arguments about the conditions for state aid will continue, but a key point about having common EU-wide rules for allowing state aid is that it avoids governments outbidding each other to secure the favours of multinational companies, who would play off one country against another. Without them, the richest countries would win any bidding war. But the devil is in the detail.

Regional funding

Establishing a single market benefits some regions more than others. The centre-left has always argued that this requires support to less prosperous regions. The EU Regional and Cohesion Funds were set up for this purpose. A major strengthening of these funds was part of the "deal" when the deadline of 1992 to complete the single market was set in 1985, and they were doubled again when the objective of a single currency was set by the Maastricht treaty. Nowadays, the regions that receive the most funding are mostly located in the states of central and southern Europe. Total funding will come to no less than €290bn over the 2021-27 period.

The policy's stated aims are to reduce economic, social and territorial disparities across the EU, restructure declining industrial areas and diversify rural areas by fostering economic growth and cre-

ating new jobs. The policy also has been updated to address climate change, energy supply and the context of globalisation.

These funds are regularly under threat from the right, at least in the richer Member States. They are also vulnerable to corrupt use in certain Member States where there has been democratic backsliding or where state structures are vulnerable to mafias. On both fronts, the centre-left must be vigilant.

There is also an ongoing debate about the focus of these funds. Many of the factors driving inequality are local, not just regional. The availability of quality housing, schools, hospitals, shops, and other infrastructure has huge local variations. Voices on the centre-left have argued that EU structural funding must focus more on such social infrastructure.

Wider economic stimulus

The covid pandemic, which had severe economic consequences for all Member States, brought about a significant extension to the EU's role in stimulating economic investment. It was also clear that the economic impact of the pandemic was greater for some Member States than others and was particularly hard on those where tourism is a big sector of the economy. This raised the prospect of a serious economic decline that would threaten the cohesion of the whole EU single market and the euro, not to mention bringing direct social consequences and possible disorder.

In July 2020, the European Council agreed to a €750bn response package, branded Next Generation EU (NGEU), with €390bn in grants and €360bn in loans to Member States, to be dispersed by 2026 at the latest. It constitutes the largest stimulus package ever in Europe, and is financed by the issuance of common debt, through EU sovereign bonds.

The NGEU was hailed by many as a 'Hamiltonian' move towards greater fiscal union within the EU: for the first time, a sizeable sum was obtained by jointly guaranteed borrowing, making the EU the world's largest issuer of supra-national bonds. This was not without

controversy. Four Member States – dubbed 'the frugal four' – initially resisted the proposals.

This was an important step forward from a centre-left perspective. However, there remain questions about whether it is sufficient in size (it was agreed during the first lockdown, whereas second and third lockdowns have since caused further damage to the economy), and about what it is targeted at, with each Member State having to submit a programme to the Commission to show that their spending plans meet agreed EU targets, which broadly aimed to "make Europe greener, more digital and more resilient". The NGEU also provoked further discussion about whether the EU should provide support for countries such as Poland and Hungary, where democratic backsliding was taking place. On this, a conditionality clause was inserted into the legislation that has yet to be activated.

Already, the debate has opened as to whether the NGEU is a one-off or a starting point for an EU borrowing and lending capacity. Some centre-right governments and parties say that it should be wound up, not rolled over (let alone expanded) in 2026. But Eurobonds have been a success. Why eliminate such an instrument? Renationalising bonds would help no-one. On the contrary, we should extend and enlarge this instrument and make it part of a contracyclical macroeconomic policy.

Mention should also be made of the European Investment Bank (EIB), which is the world's largest, public, long-term lending institution. Set up by the EEC treaty in 1958, it is run on a not-for-profit basis. It is funded, not by the EU budget, but by raising money by issuing bonds and lending on at low rates of interest to finance small and medium sized enterprises and public development and infrastructure projects. Political debates in the EP and the Council have shifted its priorities. It is now one of the biggest financiers of green finance in the world. In 2007, it became the first financial institution to issue green bonds. In 2019 it committed to stop funding fossil fuel projects by the end of 2021 and plans to invest €1trillion in climate-related projects by 2030.

Environment and climate

The legal basis for EU environmental policy was only established in 1987 with the introduction of the Single European Act, although some measures had been adopted before that under single market legislation harmonizing environmental standards. Since then, over 500 pieces of legislation have been adopted on air pollution, water quality, waste management, nature conservation, chemicals, industrial hazards, habitat and species protection, and biotechnology. It has become one of the biggest areas of EU legislative activity, reflecting its cross-border nature.

In recent years, the EU has also played a key role in worldwide environmental governance, helping negotiate and secure the ratification of the Kyoto Protocol and the Paris Accords, and pushing for more ambitious implementation than most other industrialised countries, as recently illustrated at the Glasgow Conference of the Parties.

Mitigating climate change is now the top priority of EU environmental policy. A central element of the European Green Deal is the European Climate Law, adopted in June 2021, setting the objective of a climate-neutral EU by 2050 and an intermediate target of a reduction of net greenhouse gas emissions by at least 55 percent by 2030 compared to 1990. The EU will also aim to achieve a higher volume of carbon net sink by 2030. The adoption of the European Climate Law paved the way for a set of specific regulatory initiatives with the European Commission presenting a series of proposals – the "Fit for 55" package – to ensure that the 2030 climate target can be achieved. There is resistance to it on the right of the political spectrum. Adopting this package and implementing it is a major battle ground over the coming period.

Agriculture

The Common Agricultural Policy (CAP) is one of the EU's oldest interventionist policies. Creating a single market in agriculture – a sector in which every government intervened in the market – meant

agreeing a common policy of market intervention and correction. But that common policy has been controversial.

The CAP was set up in 1962. Its objectives were initially set with the post-war shortages in mind: to increase agricultural production, provide certainty in food supplies, ensure a decent standard of living for farmers, and stabilise markets to ensure reasonable prices for consumers. For some more rural Member States, the CAP triggered significant modernisation and social transformation. But the original policy's price guarantees led to considerable overproduction with "butter mountains" and "wine lakes" of stocked surpluses, often dumped on world market at below-cost prices. It was also costly, absorbing most of the EU budget.

From the 1990s, the CAP went through several reforms. Spending was shifted away from subsidies for products, toward direct payments to farms on condition that they comply with a number of policy objectives, notably environmental. This was better, but still costly, with no cut-off for the size of farms, meaning that large landowners pocketed large sums. Until the 1980s, the policy accounted for over 70 percent of the annual budget of the EU. It is now less than 30 percent. Arguments about the CAP continued: not just about its cost, but also about making it more environmentally friendly (such as in the use of pesticides), less damaging to the climate (as with certain types of meat production) and healthier food. For some more rural new Member States, the CAP triggered significant modernisation and social transformation.

In 2021, the EP, the Council of the EU and the Commission agreed on a new reform of the CAP which will come into force in 2023. CAP payments will be linked to a stronger set of mandatory requirements. At least 25 percent of the budget for direct payments will be allocated to eco-schemes, providing stronger incentives for climate- and environment-friendly farming practices and approaches (such as organic farming, agro-ecology, carbon farming, etc), as well as animal welfare improvements. On every farm, at least three percent of arable land will be dedicated to biodiversity and non-productive elements, with a possibility to receive support via eco-schemes to achieve seven percent. Wetlands and peatlands will also be better

protected. The second pillar of the CAP that supports rural development (as opposed to individual farmers) will allocate at least 35 percent of its funds to measures that support climate, biodiversity, environment and animal welfare.

The reform was also criticised on the centre-left for being inadequate. The European Parliament had wanted a more ambitious target for eco-schemes, but compromised on the lower 25 percent figure, which itself contains a massive loophole allowing countries to go below it, if they reach the separate 35 percent threshold in the rural development pillar. There are also numerous exemptions and loopholes in the rules on a list of good farming practices.

The issue of CAP reform is far from settled. Periodic half-measures every five years are far from adequate.

Fisheries

A Common Fisheries Policy (CFP) was originally set up in 1970, to create a single market in fish and fish products and common rules on fishing. It was agreed that fishermen from any state should have access to all waters, except for the coastal strip which was reserved for local fishermen. A fund was created to assist modernisation of fishing vessels and onshore installations.

The greatest problem facing fishing was over-fishing and the decline of stocks, which had been going on for over 100 years, but which got worse as new sonar and other technologies become available to fishers. The EU agreed on a system of setting an annual Total Allowable Catch for each species of fish, intended to be at a sustainable level. The TAC was then divided into national quotas (in proportion to the traditional size of each country's catch). The TACs were fixed annually by the Council of ministers, who frequently watered down the Commission's proposals which were based on scientific advice. Each Member State then distributed their quotas among their fishermen using their own different systems. They were also responsible for policing their own quotas. The system failed to stop the decline of stocks.

In 2013 a much-needed reform of the Common Fisheries Policy was approved (strongly influenced by the EP, which had just gained co-decision powers on legislation in this field from which it was previously excluded, and which had an S&D rapporteur), including much stronger measures to protect endangered stocks, and better enforcement of the rules, also banning discards. The new CFP was phased in as of 2014, with a strong focus on the principle of maximum sustainable yield to allow depleted fish stocks to recover. But its implementation has been slow.

This is an area where the centre-left has sometimes found it difficult to balance social and environmental considerations. But in the long run, environmental sustainability must prevail: ultimately, no fish means no fishers.

Energy

The EU has had some legislative power in the area of energy policy since the days of the original ECSC. A more comprehensive European energy policy was agreed in 2005, seeking to boost interconnections between electricity grids (including undersea links), diversify energy sources, increase renewable energy, develop systems for responding to a crisis, and provide research funding for new energy technologies. Increasingly, the focus is on switching to renewable sources and cutting CO_2 emissions to net zero. The centre-left has been crucial in securing these changes.

One constant controversy is the EU's dependence on natural gas imports. The building of North Stream and North Stream 2 – a gas pipeline directly from Russia to Germany via the Baltic Sea – has been controversial for obvious political reasons, but also in the context of gas being a fossil fuel, albeit less damaging than coal or oil. Another controversy is about the use of nuclear energy – a national choice, not a European one, and where member states have taken very divergent positions.

Infrastructure

The EU tries to improve cross-border infrastructure, for example through the Trans-European Networks (TEN). Projects supported over the years include the Channel Tunnel, the Fréjus Rail Tunnel between France and Italy, the Öresund Bridge between Denmark and Sweden, the Brenner Base Tunnel under the Alps and the Strait of Messina Bridge to Sicily. The European Rail Traffic Management System (ERTMS) was introduced to enhance cross-border interoperability of rail transport in Europe.

The new battle is to achieve a modal shift away from road and air travel, and to generally reduce CO_2 emissions. The Commission has now proposed to eliminate diesel and petrol vehicles within 20 years. That too will be a major political battleground.

Monetary Union

The creation of a single market triggered pressure for a single currency. Asking producers, traders and consumers in a single market to use different currencies which fluctuated in value from one day to the next, was like asking them to work with a metre that could change in length, or a kilo that could change in weight, from one day to another. It imposed extra costs on businesses having to "hedge" or insure against unfavourable changes in exchange rates for any cross-border sales within this "single" market. It was a paradise for currency speculators. It also left Europe vulnerable to the supremacy of the US dollar.

Hence the agreement to introduce a single currency. But such a pooling sovereignty was too much for some. Even today, only 19 Member States have so far joined the monetary union and use the euro. Some hope to do so in the near future, but some, such as Poland, Czechia and Sweden, show no intention of doing so, despite having signed and ratified a treaty requiring them to do so at some point. Only Denmark has a legal opt-out of this obligation. Nonetheless, the euro is now the world's second largest reserve currency and the second most traded currency in the world after the US dollar.

The euro, and the monetary policy of the Eurozone, is run by the European Central Bank (ECB), whose president and board members are appointed by the European Council, by a qualified majority after consulting the European Parliament.

The ECB's mandate is to maintain price stability, which it defined as an inflation rate close to, but below two percent (and recently relaxed, post covid, to two percent with short term rises above it). In pursuing that goal, it was, in the early years of the euro, hawkish in its monetary policy, raising interest rates whenever there was a slight chance of inflation rising above two percent. But during the 2008-14 financial crisis, ECB President Mario Draghi vowed to do "whatever it takes" to save the euro, lowering interest rates and embarking on quantitative easing of the money supply.

Having a common currency also means a single exchange rate on international currency markets (with no individual devaluations or revaluations of separate national currencies) and a single interest rate. This reduces the number of national tools for managing economies. On the other hand, it increases the collective clout of the EU in international markets, cuts costs (eliminating exchange costs and risk), and reduces the opportunities for speculators to make a fortune at the public expense.

Fiscal policy

The Maastricht treaty created a monetary union without creating a fiscal union or a bigger EU budget to counter troughs in the macroeconomic cycle, and provide the EU with a greater borrowing capacity. Instead, it was intended to coordinate national fiscal policies and some basic rules were agreed requiring Member States to avoid excessive government deficits (as a general rule three percent of GDP) and limit the government debt to a sustainable level (below, or declining towards, 60 percent of GDP), except in an economic downturn when a fiscal stimulus is needed.

These rules have been controversial, and some have argued that they encourage austerity. In fact, the treaty sets no limits on the level of public expenditure, only on financing such expenditure by

excessive borrowing. It is certain individual governments who have chosen to reduce their deficits by cutting expenditure (austerity) rather than by raising taxes (or by reducing tax evasion). Those were national political choices.

As such, the avoidance of excessive government debt is a laudable objective: more debt means a greater proportion of tax revenue is spent on servicing that debt (repayment and interest) instead of on public services and investment. However, achieving lower debt levels must be done with the necessary flexibility to avoid exacerbating economic downturns and in any case without cutting necessary social spending and investment. Indeed, a more reasonable criticism of the Maastricht treaty rules (and their subsequent embellishment through the Fiscal Compact (see Box 3) is that they do not give sufficient allowance for higher deficits when spending is used for investment that will ultimately produce a financial return for governments.

In any case, these rules were suspended during the downturn triggered by the covid pandemic. They need re-negotiation to take account of new realities of higher debt levels and lower rates of interest – and of the need for greater flexibility for public investment that generates future growth and tax returns. This will be a key issue for the centre-left over the coming period.

		MFF	NGU	TOTAL
1.	Single Market, Innovation and Digital	149.5	11.5	161.0
2.	Cohesion, Resilience and Values	426.7	776.5	1 203.2
3.	Natural Resources and Environment	401.0	18.9	419.9
4.	Migration and Border Management	25.7	-	25.7
5.	Security and Defence	14.9	-	14.9
6.	Neighbourhood and the World	110.6	-	110.6
7.	European Public Administration	82.5	-	82.5
	TOTAL	1 210.9	806.9	2 017.8
				1 824.3

A related debate is about whether the EU should be given a fiscal capacity of its own, with a bigger budget and a borrowing and lending

capacity and a greater ability to transfer resources between Member States. As we saw in the Economic Stimulus section above, the NGEU is seen by many as a first step in this regard, and the debate about whether this can be renewed and extended is underway.

Box 3: The "Fiscal Compact": a prescription for austerity?

Forged during the Eurozone's sovereign debt crisis in 2012, the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG) contains a "Fiscal Compact" which places strict restrictions on national deficits and requires Member States to have automatic correction mechanisms if excessive deficits arise. It defines a balanced budget as a general budget deficit not exceeding three percent of GDP, and a structural deficit as not exceeding a country-specific Medium-Term Budgetary Objective (MTO) which at most can be set to 0.5 percent of GDP for states with a debt-to-GDP ratio exceeding 60 percent, or one percent of GDP for states with debt levels below the 60-percent limit. The country-specific MTOs are recalculated every third year. If a Member State suffers a significant recession, it is exempted from the requirement to deliver a fiscal correction for as long as it lasts.

The Fiscal Compact has been criticised for introducing austerity policies. In fact, the treaty sets no limits on the level of public expenditure, only on financing such expenditure by excessive borrowing. However, many governments chose to reduce their deficits by cutting expenditure (austerity) rather than by raising taxes (or by more effectively tackling tax evasion). Those were national political choices. A more reasonable criticism of the Fiscal Compact is that it does not give sufficient leeway for higher deficits when spending is

used for investment that will ultimately produce a financial return for governments.

Research

A growing area of EU activity is research and development. Research programmes can be expensive. Pooling resources at European level can save money and increase effectiveness. Much medical research, especially on rare diseases, requires a scale that individual states cannot provide. Research on energy aims to develop renewable energy. This is a growing area of EU activity, though not usually a politically controversial one. It is a good example of where pooling resources and budgets at EU level provides benefits to all. Nearly €100bn has been allocated to this in the current seven-year financial framework for EU budgets.

Trade

The EU acts as a single unit in trade negotiations. In trade terms, it is a superpower, with a higher share of world trade than the USA. Besides being a party to the WTO, and representing the Member States at that level, the EU has agreed bilateral trade deals with countries across the world. Negotiating as a bloc, with the leverage of the world's largest market behind it, enables the EU to get better deals than individual members would be able to. But they are not without controversy.

As trade agreements across the world have over time reduced tariffs and quantitative restrictions, the focus in modern trade agreements is on non-tariff barriers to trade – meaning regulatory divergence. But overcoming this by agreeing common standards raises issues as to what those standards should be. Given that the EU has among the highest standards of protection for consumers, workers, the environment, and fair competition, there are risks and opportunities in such negotiations: the risk is that those standards will be lowered, and the opportunity is to raise such standards across the world. Which is greater depends on the power relationship between the negotiators – usually favourable to the EU – and on the clarity of the mandate given

to them – at risk of being undermined by those within the EU who do not have an interest in high standards. That is why EU trade policy has become such a battle ground over the last decade.

The centre-left successfully fought off TTIP (Transatlantic Trade and Investment Partnership) – a proposed deal with the USA which risked giving access to the EU market to products with lower standards. The EP also rejected the ACTA agreement (Anti-Counterfeiting Trade Agreement), an attempt to establish international rules for the enforcement of intellectual property rights which many felt would have infringed fundamental rights including freedom of expression and privacy, and even endangered access to medicines.

The centre-left has also made progress in challenging investor-state dispute settlement (ISDS) provisions in trade agreements, which give investors (i.e. mostly large corporations) legal recourse if they believe the conditions under which they made their initial investments change in a way that reduces their profits. These are traditionally settled by secretive arbitration panels composed of specialist trade lawyers, who normally make a living working for such companies. Although ISDS has existed in thousands of trade agreements since the 1950s, these special privileged courts to protect investors – but not to hear cases of, for example, failure to respect ILO labour standards – reinforced the view that they only benefit large corporations and not the average citizen. Multinational companies even used them to challenge governments' action on public health where this caused a reduction in their expected profits, such as when the Australian government was sued by tobacco companies for loss of profit when Australia introduced plain package cigarettes.

The centre-left made it clear that including such provisions in trade deals was no longer acceptable. No such deal would be approved by the EP. The European Commission came up with a proposal to replace the traditional ISDS system with a proper court with full-time judges who are not part-time corporate lawyers. It would restrict the grounds on which investors could take action to clear cases of discrimination. It would not allow cases to be brought against legitimate health, environment or public policy legislation, nor because government action harms a company's profits. The right

of governments to regulate would be explicitly guaranteed. There would be more transparency, ending secret arbitration: hearings and documents would be made public. This is clear progress, but getting that into new trade deals and replacing ISDS in old deals, needs the agreement of the other partner. It happened for the CETA agreement with Canada but is an ongoing struggle.

The EU is currently considering an extra border levy on imported goods with a high carbon footprint where the country of production does not match EU environmental standards. This more protectionist and strategic trade policy – oriented towards advancing the EU's interests and values – marks a notable change for an EU that traditionally pioneered the global free trade agenda.

Besides regulatory and investment issues, trade agreements raise fundamental political questions. The current debate about an investment pact with China is a good example. While less ambitious than other trade deals, it raises questions about where the EU positions itself in the growing competition between the US and China and on China's human rights record, in particular the treatment of the Uighur minority in Xinjiang.

The EU's trade instruments are potentially a powerful political tool, not just an economic one.

Foreign and Security policy

The EEC was confronted with foreign policy issues as soon as it started to negotiate as a bloc in international trade negotiations in the early 1960s. A process for coordination in foreign policy began in 1970 with the establishment of European Political Cooperation – an informal intergovernmental consultation process between Member States, later formalised in the treaties through the 1987 Single European Act, and expanded in ambition with the provisions on a Common Foreign and Security Policy (CFSP) by the Maastricht Treaty. Since the entry into force of the Lisbon Treaty in 2009, the EU has an External Action Service with a worldwide diplomatic network, headed by a High Representative who is a vice president of the Commission and who chairs the Council when it discusses foreign policy.

Interestingly, every High Representative has been a member of the Party of European Socialists: Javier Solana (in its weaker non-Commission pre-Lisbon format), Cathy Ashton, Federica Mogherini and Josep Borrell (as vice presidents of the Commission).

However, CFSP decisions follow specific procedures. Decisions do not have to be based on Commission proposals. External representation at summit meetings is by the President of the European Council instead of, as in other fields, the President of the Commission (which often means that the EU is represented by two presidents at the same meeting). Above all, unanimity is required in the Council, which has often led to failure to adopt positions, even on matters such as the elections in Belarus, when a single Council member vetoes a decision. The contrast with trade policy, where qualified majority voting applies, could not be starker. Issuing a simple statement to condemn a human rights violation is more difficult for the EU than adopting trade and financial sanctions against the country concerned.

It also contrasts with the enormous *soft power* influence that the EU has across the world in terms of its legislation: its market is so huge that every decision it makes to regulate it (or not) has international effects – the so-called *Brussels effect*. For example, when the EU legislates for the safety of chemicals on its market – including how they are tested, classified, packaged and labelled – producers across the world have to adapt to it if they want to sell in the world's largest market. That in turn often incentivises other countries to adopt the same rules for their own market. This effect has been noted in fields such as data privacy, consumer health and safety, environmental protection, antitrust, and even online hate speech. But when it comes to traditional foreign policy, the EU is often ignored. All the more so in security and defence.

Unlike NATO, the EU did not originate as a military alliance. All except six EU members are members of NATO and military matters were generally left to it. However, following the Kosovo War in 1999, the European Council agreed that "the Union must have the capacity for autonomous action, backed by credible military forces, the means to decide to use them, and the readiness to do so, in order

to respond to international crises without prejudice to actions by NATO". The most concrete result was the EU Battlegroups initiative, each one able to deploy quickly about 1500 personnel.

EU forces have been deployed on peacekeeping missions from middle and northern Africa to the western Balkans and western Asia. A European Union Naval Force was put in place to protect shipping from piracy off the Somali coast. EU military operations are supported by a number of bodies, including the European Defence Agency, European Union Satellite Centre and the European Union Military Staff. The Western European Union, a military alliance with a mutual defence clause, was disbanded in 2010 and its role transferred to the EU.

The Lisbon treaty (Article 42(6) TEU and Protocol 10) made provision for **Permanent Structured Cooperation** (**PESCO**) – deeper cooperation on defence involving only those Member States willing and able to do so. It was activated in 2017. All Member States bar Denmark and Malta participate. It gives the EU the capacity to supply targeted combat units for military missions, in particular in response to requests from the United Nations. Structured at a tactical level as a battle group, with support elements including transport (airlift, sealift) and logistics, these units can be operative within a period of five to 30 days, sustained for an initial period of 30 days and extended up to at least 120 days. Such missions can carry out joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peacekeeping tasks, tasks of combat forces in crisis management, including 'peacemaking' (which can be widely defined) and post-conflict stabilisation. PESCO also pools resources in defence equipment acquisition. The President of the Commission, in her 2021 State of the Union speech, called for the EU to go further and spoke about an ambition to forge a Defence Union.

Clearly, these are significant new developments. How these tools might be used, in what will almost by definition be difficult political environments, merits careful thought, in particular on the centre-left. While the EU as such is unlikely to get carried away with nationalist hyperbole or jingoism, any use of military force has to be a carefully considered last resort.

International aid and development

The EU is the largest provider of international development aid in the world. It is also the main importer of products from developing countries and adopted a policy of allowing tariff free and quota free exports (apart from armaments) from the least developed countries onto its market.

The EU and its Member States spend around €50bn annually on overseas development aid – half of the world's total. Aid and access to the EU's huge market are frequently combined, along with other policy instruments. Market access and/or aid can also be part of wider political cooperation agreements designed to promote democracy or human rights. The EU's relations with its most important neighbours – such as Turkey and Ukraine, are usually conducted through complex package deals combining trade, aid, and political dialogue.

The EU is also the world's largest donor of humanitarian aid through the European Community Humanitarian Office (ECHO) unit in the Commission, which provides assistance to communities and populations affected by natural disasters or man-made crises. Using the EU Civil Protection Mechanism, it has provided global assistance in fighting the covid-19 pandemic, not least as the biggest contributors to the global Covax vaccine initiative with a total contribution of €2.2bn.

Over time, the EU had developed various financial instruments to assist and cooperate with partner countries in its neighbourhood and beyond, the largest and oldest of which was the European Development Fund, for many years financed intergovernmentally outside the EU budget. In 2020, Member States agreed on a complete overhaul and simplification of the various instruments, bringing them together in a new €80bn Neighbourhood, Development and International Cooperation Instrument (NDICI), inside the EU budget.

But this too is an area requiring tough political choices. How development aid is used, which governments are appropriate recipients, whether trade or political concessions should be linked with aid, whether funds are being used effectively, and other issues will continue to fuel political debate.

Citizenship

Citizens of EU Member States are recognised by the treaty as citizens of the EU. No other supranational or international organisation in the world confers such status on people. It is not just symbolic – it confers specific rights on nearly 450 million people, namely the right to move and reside freely within the territory of the Member States; to vote and to stand as candidates in local elections and European Parliament elections (but not national elections) in their Member State of residence under the same conditions as nationals of that State; to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State; and rights to petition the European Parliament, to apply to the European Ombudsman, and to address the institutions and advisory bodies of the Union in any of the Treaty languages and to obtain a reply in the same language. These rights are enforceable in the courts.

These and other rights conferred under the treaty on individual citizens, mean that the EU is, uniquely, a union of states *and* citizens. Citizens can participate directly in the processes of the EU, not just via their country's government. Indeed, they can take their own government to court if it fails to abide by its obligations under EU law. And, of course, citizens directly elect their own representatives at EU level in the EP elections.

Periodically, suggestions are made to strengthen those rights, for instance to grant the right to vote in national elections too, but such changes require unanimity in the EU Council.

Border free travel within the EU (Schengen)

Border controls between EU Member States became increasingly unnecessary for goods, and a practical burden for persons, especially for over a million people commuting to work across an internal European border each day (in some regions constituting up to a third of the workforce). Abolition of internal border checks (and a strength-

ening of external borders) also came to be seen as a powerful symbol of unity.

The original Schengen Agreement was signed in 1985 by five Member States in the town of Schengen, Luxembourg, which is the meeting point of France, Germany and Benelux (the latter already operated a common travel area). It abolished all passport and all other types of border control at their mutual borders. It was supplemented in 1990 by the Schengen Convention, which added a common visa policy, making the area effectively a single jurisdiction for international travel purposes.

Over the following years, more EU Member States signed the Schengen Agreement, and consensus was reached on absorbing it into the EU framework, which is now responsible for the legislation concerned. This was done via the 1997 Amsterdam Treaty, while allowing some Member States not to participate (now only Romania, Bulgaria, and two island states of Ireland and Cyprus). Non-EU Norway, Switzerland and Iceland are associated with the Schengen arrangements, making them de facto part of the Schengen area.

A Schengen Member State is permitted to reinstate border controls with another Schengen Member State for a short period where there is a serious threat to internal security or other exceptional circumstances. The state in question must notify the European Commission in advance and consult with other Schengen states. This has been done a number of times in response to terrorist actions or threats and recently by most members during the peak of the covid pandemic.

Justice and police

Since the entry into force of the Maastricht Treaty in 1993, the EU has had competences in cross-border aspects of justice and home affairs, initially via intergovernmental cooperation and subsequently with full integration into the standard EU procedures. EU legislation has been adopted on matters such as criminal justice, extradition (the European Arrest Warrant), cross-border family law and civil matters (as well as on asylum and migration, see below).

It has set up agencies, notably Europol for cooperation of police forces fighting cross-border crime, gangs, traffickers and terrorism, and Eurojust for cooperation between prosecutors. Through the EU's Schengen Information System, national authorities such as border agencies, police and car registration agencies can access and share valuable information, such as missing persons or objects in relation to crime, and the legal status of vehicles and third-country nationals who are seeking to enter or remain in the Schengen area. This cooperation was initially developed in the context of the Schengen Agreement on open borders (see above). Such "repressive" measures must be carried out while respecting the Charter of Rights and the ECHR – an essential condition for the centre-left.

The almost automatic extradition under the European Arrest Warrant has certainly facilitated the fight against crime and the return of those fleeing justice across frontiers. But in certain cases, it raises problems: where the safeguards for defendants or due judicial procedures are in doubt in the country of return, or when the crime or alleged crime is political in nature.

The EU has also legislated to protect rights. Action against discrimination on grounds of nationality or gender was possible under the original EEC treaty. In more recent years, this has been supplemented by powers to legislate against discrimination based on race, religion, disability, age, and sexual orientation. The EU has also run programmes to help NGOs active in combatting violence against women.

These are areas of political conflict. The far-right and parts of the centre-right in the EP and some Member State governments in the Council were not favourable to EU-wide laws against discrimination in these fields. There is now a problem of enforcement in certain countries, and even a refusal of certain governments to provide data on gender-based violence.

Immigration and asylum

The development of immigration and asylum policies at European level was a slow, controversial and incomplete process. The 1985

Schengen Convention abolishing internal border controls and creating a common external border among signing parties required cooperation on short-term visa policy, as well as on external border management. After the collapse of the iron curtain in 1989, growing pressures on the EU's external borders led Member States to agreed that cooperation on migration and asylum was necessary. The 1992 Maastricht Treaty created an intergovernmental framework ("pillar") to cooperate on Justice and Home Affairs. The 1999 Treaty of Amsterdam moved the competence for immigration and asylum from this framework to the field of European law and also integrated the Schengen Agreement into the EU Treaties. However, decisions remained in the hands of the Council, normally by unanimity. Denmark, Ireland and the UK were given the right to opt in to or out of specific proposals.

The 2010 Treaty of Lisbon transformed decision-making on immigration and asylum by introducing qualified majority voting in the Council and applying the ordinary EU legislative procedure, which gives the EP equal power with the Council. However, this is within the complex legal base of Article 79 TFEU. This provides, on the one hand, for the EU to "develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings". The EP and the Council are empowered to legislate on "the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits", on "the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States", on "illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation" and on "combating trafficking in persons, in particular women and children". On the other hand, it also says that "this Article shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third

countries to their territory in order to seek work, whether employed or self-employed".

Applying this article has, not surprisingly, been problematic, especially when the number of migrants seeking to enter the EU rose significantly in the middle of the 2010s. More than 1.2 million applied for asylum in 2015 alone, with Greece, Italy, Malta and Spain on the front line of receiving migrants, many of whom were refugees seeking asylum, and pleaded for burden sharing. Germany took in over a million refugees, and Sweden took an even greater share if measured as a proportion of its population. But the far-right Hungarian Prime Minister Viktor Orbán resorted to inflammatory anti-immigrant rhetoric and, along with some other Central and Eastern European leaders, opposed burden sharing and refused to allow refugees into Hungary, building a fence along its southern border. When the EU adopted burden sharing arrangements, Hungary, Czechia, Slovakia and Romania voted against the proposed measure when it was adopted by qualified majority voting (QMV) in the Council. Its inadequate implementation in those countries has given rise to acrimony (with many pointing out that 25 years earlier, thousands of refugees from those countries sought asylum in the West during the Cold War). Court cases have abounded.

This was not the only controversial issue. The EU negotiated an agreement with Turkey in 2016 in which Turkey committed to act against illegal migration and to accept the return of migrants who did not seek or get asylum after crossing from Turkey into Greece. In exchange, the EU offered up to €6bn for refugee facilities in Turkey and also agreed to accelerate the lifting of visa requirements for Turkish citizens. Although this reduced the flow of arrivals in Greece, the agreement was contentious, not least given the deteriorating human rights situation in Turkey. Ongoing disputes between Turkey and Greece regarding their sea border did not help and in 2019 Turkey's government sought to pressure Greece and the EU when it stopped preventing – and indeed encouraged – migrants to cross the land and sea borders with Greece. The situation remains tense and unstable.

Meanwhile, many migrants and some refugees sought to cross the Mediterranean from Libya to Italy or Malta. This route has been

characterised by gangs of traffickers taking migrants out on small boats and then abandoning them to be rescued by European ships. But there is no guarantee that a ship will come by, and thousands have lost their lives. Sending more rescue ships is a humanitarian necessity but encourages more to try their luck, risking their lives. A feeling that governments are not deploying enough ships has triggered NGOs to sponsor rescue ships, followed by a refusal, in some cases, to let them discharge their passengers in Italian and Maltese ports. The absence of a stable government in Libya means that any cooperation against the traffickers is difficult.

The one issue on which the Member States did agree was the need to strengthen the EU's external border, not least through a significant expansion of the capacity of Frontex, the EU agency that manages the cooperation between national border guards securing the EU's external borders. It aims to detect and stop illegal border crossings, whether that be smuggling, immigration, human trafficking or terrorist infiltration, whilst – in principle – still permitting asylum. Its staff was quadrupled between 2016 and 2020. But questions have arisen as to its methods, and in particular as to whether it has illegally pushed back refugees or failed in its duty to rescue those at risk of losing their lives.

When it comes to migrants who are genuine refugees seeking asylum, it is illegal for EU countries to deny entry or send them back ("refoulement") before properly examining their individual case. Article 78 TFEU provides for the EU to develop a common policy on asylum "with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties."

The EU's "Dublin Regulation" (so called because it was originally an intergovernmental convention signed in Dublin in 1990, upgraded into a regulation under EU law in 2003) gives responsibility for handling individual asylum claims to the first Member State in which a refugee arrives. Its decision then applies across the EU as a whole.

It also means that asylum seekers can be returned from other Member States to the first Member State they entered. The aim was to avoid successive claims in one Member State after another (known as "asylum shopping"). The difficulty is that the administrative capabilities, judicial capacities and attitudes of Member States vary considerably, casting doubts on the fairness of this system.

A Common European Asylum System (CEAS) was an attempt to diminish this problem. Dating from 1999, and subsequently updated, it sets out common standards aiming to ensure that asylum seekers are treated equally, whichever Member State they apply in. It comprises five legislative instruments: an Asylum Procedures Directive setting out the conditions for fair and quick decisions, while giving asylum seekers the necessary support to explain their claim; a Reception Conditions Directive setting common standards for reception conditions (such as housing, food and clothing and access to health care, education or employment under certain conditions); a Qualification Directive which clarifies the grounds for granting asylum and provides access to rights and integration measures; a Regulation on the protection of asylum seekers during the process of establishing the State responsible for examining the application; and the EURODAC Regulation which allows law enforcement authorities access to the EU database of the fingerprints of asylum seekers under strictly limited circumstances in order to prevent, detect or investigate serious crimes, such as murder and terrorism. A European Asylum Support Office was set up to support the implementation of the Common European Asylum System by Member States, through training, capacity building, emergency assistance, information and analysis.

Clearly, it is not always easy to assess whether an individual is truly eligible for refugee status, or whether, for example, they are an economic migrant. Asylum should be granted if the individual faces persecution or harm if returned to their country of origin. If Member States do not find this to be the case, they are mandated under the CEAS to return the individual to his or her country of origin. However, due to the lack of paperwork or documentation, it is often difficult in practice to actually do so.

This whole issue has, of course, been seized on by the far-right across Europe, with inflammatory statements characterising migration from Africa and Asia as a planned "invasion", or alleging that terrorists pose as refugees to gain access to Europe. Fake stories about migration levels played a role in the UK Brexit referendum campaign. Orbán, Kaczyński and others claim they are defending Europe's Christian heritage. Combatting such a narrative is an essential task for the centre-left.

Education

In the field of education, where competence remains essentially national, the EU contribution is largely about less controversial (though important) matters such as mutual recognition of diplomas and qualifications or the hugely popular *Erasmus* exchange programme, which began in 1987. Nearly 10 million university and college students have participated in Erasmus, which has become a symbol of European student life. The programme Erasmus Plus extends well beyond university students to include trainees in vocational education and training, adult learners and teachers. These programmes are designed to encourage a wider knowledge of other countries and to spread good practices in the education and training fields across the EU. They extend beyond the EU, though the UK Conservative government refused to continue British participation after Brexit.

Separate from the EU framework, (indeed older than it), but closely associated with it, is the College of Europe, with campuses in Bruges and Natolin, a post-graduate institute of European studies. There is also the European University Institute in Florence.

Health

The EU has no major competences in the field of healthcare but Article 168 TFEU affirms that a "high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities" and the European Commission seeks to align

national laws on the protection of people's health and on the safety of food and other products.

All EU (and some other) countries offer their citizens a free European Health Insurance Card (EHIC) which, on a reciprocal basis, provides insurance for emergency medical treatment insurance when visiting other European countries. A directive on cross-border healthcare aims at promoting cooperation on healthcare between Member States and facilitating access to cross-border healthcare for European patients.

The covid-19 pandemic ignited a debate about what the EU could do in such circumstances. The initial responses to rising infection rates – healthcare provision and 'lockdown' legislation – were national, not EU, policy responsibilities. However, as the pandemic spread, the potential benefits of EU level action persuaded Member States to agree to the joint procurement of personal protective equipment (PPE) and of vaccines, on the ground that better deals could be secured by negotiating as a bloc.

In doing so, the EU was trying to learn from past experience: during the 2009 swine flu pandemic, pharmaceutical companies played EU countries off one another to charge more money for vaccines. This time, EU countries agreed to let the Commission handle the negotiations. This worked well for the joint procurement of masks, gloves and ventilators. When it came to vaccines, the deals signed by the Commission with pharmaceutical companies initially left the EU lower in the queue than certain other countries, sparking much dissatisfaction in early 2021.

However, a competitive scramble of individual Member States would have left smaller and poorer states behind. By mid-2021, the EU had overtaken the USA in the number of people vaccinated and was at the same time the biggest exporter and donor of vaccines to other countries. But by the end of 2021, rising infection levels again led to divergent national measures to contain the spread of the disease.

Telecommunications and space

Launching satellites and satellite systems is expensive. Doing so jointly saves money and can be more effective. The Galileo satellite system, built by the EU and launched by the European Space Agency (ESA) aimed at reducing the EU's dependence on the US-operated Global Positioning System, but also to give more complete global coverage and allow for greater accuracy, given the aged nature of the GPS system. Other EU satellites are meteorological, telecom or research oriented.

Technical Agencies

A wide range of specialist technical subjects are dealt with at EU level through technical **agencies**, over 40 of which have been set up by the EU to carry out tasks where there would otherwise be costly duplication of effort by Member States doing the same work separately. For example, the **European Medicines Agency** evaluates applications for, and authorises the sale of, new medicines in the EU. The **European Chemicals Agency** does likewise for chemicals, laying down not just prohibitions and authorisations, but also conditions regarding their use, packaging and labelling. The **Aviation Safety Agency** checks out aircraft and airlines.

Some deal with security matters, notably **Europol** and **Eurojust** (see above), others with prudential supervision of the financial system (such as the **European Banking Authority**, the **European Securities and Markets Authority** and the **European Insurance and Occupational Pensions Authority**), and some focus on sharing data and experiences among Member States (such as the Centre for the Development of Vocational Training, the **European Environment Agency**, the European Agency for Safety and Health at Work and others).

Typically, they have a governing body appointed by the EU institutions and Member States, and perform technical functions on a pooled basis, avoiding the costs of duplicated efforts by Member States, pooling resources, or coordinating national efforts.

4   How it does it

The EU is not like traditional international organisations. Traditional methods of international cooperation are slow, cumbersome, opaque and not always very democratic. They involve long negotiations among officials, leading eventually to government ministers' signatures. In most cases, nothing can be agreed without consensus – thus creating a bias towards weak, lowest-common-denominator agreements, if agreement *is* reached at all. And when an agreement is reached, it is submitted to national parliaments on a take-it-or-leave-it basis – if it is ever submitted to parliaments at all. Doubts about whether every signatory will ratify plague the implementation of such agreements. And even if all do ratify, there are constant questions about whether countries are applying them in good faith. Many international structures theoretically create binding agreements, but the procedures for verifying whether everyone is playing fair, and for settling any differences, are weak, if they exist at all. Such are the working methods of most international organisations and of the G7, G20 and countless other structures.

But the European Union is – for most matters it deals with – different:

– First, the EU is not always constrained by lowest-common-denominator politics. Many, though by no means all, decisions are taken by a qualified majority vote among the Member States. The ability for the majority to outvote a small minority is not always used, but it does put pressure on reluctant states to negotiate compromises rather than be outvoted – and crucially, they cannot block.
– Second, EU decisions have legally binding force within the legal systems of all member countries, which means they can be relied on directly by citizens, businesses and consumers. There is a common court to settle any different interpretations of what has been agreed – which avoids unilateral interpretations. Member States

can be taken to the court if they fail to fulfill their legal obligations and the court even has the power to fine them if they don't respect its judgments. (Equally, any EU decisions that fail to respect fundamental rights or the proper procedures can be overturned by the court.)

– Third, intergovernmental ministerial meetings are not the only things that matter. There is an elected European Parliament, directly representing citizens and bringing into the decision-taking process a pluralistic representation of both governing and opposition parties in each country. Its approval is normally necessary for legislation, the budget, and international agreements entered into by the EU.

– Fourth, the EU's central administration comes under the authority of Commissioners, who are nominated by elected governments, but act independently of them, not as national delegates, and are accountable to the elected Parliament.

– Fifth, its procedures are generally public, and widely commented at every stage, with decisions on legislation taken in public, not in secret.

All this makes the EU more effective, more accountable, and more democratic than any other international organisation in the world.

However, this relatively positive assessment does *not* apply to all areas of EU activity. Some matters still require unanimity of all 27 Member States, including foreign and security policy, citizenship (granting any new rights to EU citizens), anything to do with taxation, EU finances (budgetary resources, the multiannual financial framework), many provisions in the field of justice and home affairs (operational police cooperation, the European prosecutor, family law, etc), and the accession of new Member States. Some fields are exempt from appeals to the European Court of Justice (most aspects of foreign and security policy).

In other words, the EU acts in some fields as a federal system (with a bicameral legislature voting to adopt legislation that is binding on citizens and on Member States and enforced through a legal system with, at its apex, a common court) and in other fields as an intergov-

ernmental structure (negotiating agreements among the 27 Member States). This goes some way to explaining the wide variation of views about the nature of the EU.

How the EU works in each field is set out in the TEU and TFEU treaties, agreed and ratified by every Member State. Those treaties lay down its field of competence, the powers of its institutions, how to elect or appoint people to those institutions, and the details of its various decision-making procedures. They amount to a *de facto* constitution of the EU. The EU can act only within the limits of that constitution, and no changes can be made to it (for instance, to enlarge its remit) without the agreement of every country.

Even with significant federal characteristics in its *structure*, it is some way from being a classic federation in terms of its *capacities*. Its budget amounts to less than two percent of GDP (in most federal states it is between 30 and 50 percent). EU legislation accounts for only about 15 percent of total legislation. The central executive (the Commission) has fewer employees than many individual cities in Europe. There is no European army. Claims that the EU is a centralised super-state, or can become one without the agreement of Member States, are wide off the mark (see Box 4).

The EU's authority depends on the rule of law, not on force. The EU can adopt two main types of legislation:

– **Regulations**, which are directly binding on citizens across the EU;
– **Directives**, which require Member States to adapt their national legislation or administrative practices to conform with the objectives of the directive.

Another way of describing these two types would be "laws" and "framework laws" (terms that were used in the abandoned Constitutional Treaty).

The EU can also adopt **decisions**, which are binding on those to whom they are addressed (such as companies) and **recommendations** or **opinions** (which are not binding).

The EU's other means of action are by negotiating, signing and ratifying international agreements or t**reaties with third countries**, and **spending** (with an annual budget of around €1,200bn).

Box 4: Is the EU centralised?

The basic rulebook of the EU, the treaties, is agreed unanimously and ratified by its Member States. There can be no increase in the powers of the EU unless every country agrees. The treaties also lay down that:

- The EU can only exercise those responsibilities conferred upon it by agreement among the Member States. Even then, it may only act insofar as the objectives "cannot be sufficiently achieved by the Member States".
- When EU-level actions or laws *are* adopted, it is the governments of member countries who jointly decide on them in the EU Council along with the elected EP. The European Commission only has the right to propose.
- The European Commission itself, as the EU's administration, has a smaller staff than many cities.
- The EU budget amounts to less than two percent of public spending and has a ceiling which cannot be exceeded without the unanimous agreement of every Member State.
- There is no European army, nor could there be one without national agreement.
- Most of the key issues affecting people's lives are decided at national level: education, tax rates, health provision, housing, pensions, social security, local government, and so on are scarcely affected by what is done at European level.

Far from being over-centralised, the EU's competences and powers are limited and difficult to increase.

5   Who decides?

It is the EU institutions, and the interactions among them, that produce EU policies and legislation. There are seven institutions (see Box 5) with a range of powers shared among them.

Box 5: The seven institutions of the EU

- The **European Council** brings together the 27 heads of state or government of the Member States and the president of the Commission. It sets the strategic agenda for the EU but does not formally adopt legislation. It meets at least four times a year.
- The **European Commission** is the executive and central administration of the EU. It is composed of one commissioner from each Member State as agreed between its president and the government of the country concerned, subject to collective European Parliament approval.
- The **Council** is composed of one minister from each of the 27 Member States (which minister depends on the subject of specialist Council meetings). It decides on EU legislation and budgets jointly with the European Parliament and it sets EU foreign and security policy.
- The **European Parliament** is directly elected by citizens of the EU every five years. It decides on EU legislation and budgets jointly with the Council, elects the President of the Commission and approves (and can dismiss) the Commission as a whole.
- The **Court of Justice** of the EU (CJEU) settles legal disputes, upholds the rule of law and protects the rights of EU citizens.

- The **European Central Bank** (ECB) is the central bank for the 19 EU Member States that have adopted the euro as their currency.
- The **Court of Auditors**, with one auditor nominated by each Member State, audits the accounts of the EU.

Besides the institutions, there are two advisory bodies: the **European Economic and Social Committee** (representing employers, trade unions and various civil society organisations) and the **Committee of Regions** (an assembly of local and regional representatives), each composed of 329 members appointed by Member States based on nominations received by appropriate organisations in their country. The **European Investment Bank** (**EIB**) is the world's biggest, public, long-term lending institution. The EU has also set up a number of specialist technical **Agencies**.

We shall now look in detail at how the institutions operate and take decisions.

The European Council

For the wider public, it is often the European Council that is the most visible institution, when national media come to Brussels to cover what they call "summit" meetings. It began in the early 1970s as occasional and informal chats among heads of government (or, in the case of Member States with executive presidents, such as France, heads of state). It became a regular gathering in the mid-1970s. The Lisbon Treaty made it a formal institution, charged with defining "the general political directions and priorities" of the Union (Article 15 TEU).

The European Council must meet at least four times a year, although six (or sometimes more) has become the norm in recent years. The European Council is not a legislating body. It adopts "conclusions" at its meetings, which are intended to guide the work of the other institutions. In the words of Herman Van Rompuy, European

Council president between 2009-14, "the European Council works by keeping out of day-to-day business which the other institutions do much better" (in the well-tested framework of the Community method), "yet springing into action to deal with the special cases – changing the treaty, letting new members in the club, dealing with a crisis."

There have been plenty of crises in recent years – the financial crisis, the sovereign debt crisis, Brexit, covid – which have thrust the European Council to the fore. Its ability to find a way through such crises, occasionally by creating new instruments and even treaties at EU level, has sometimes been surprising, though they all emerge after lengthy and tense negotiations. This, and the fact that new treaties are also always finalised at the level of the European Council, make it the forum where key steps in the EU's history are taken.

As to day-to-day business, in practice, it *does* step in, notably when there is deadlock in the ordinary Council of ministers requiring deals at the highest political level. The difficulty is that the European Council acts on policy by consensus. Lengthy meetings, stretching late into the nights, are not infrequent. It is also involved in appointments, where it exceptionally acts by qualified majority voting (QMV, see Box 8), nominating the president of the European Commission and the High Representative, and appointing the governor and board members of the ECB.

The presidency of the European Council used to rotate among its members every six months, in tandem with the presidency of the Council, meaning that prime ministers or presidents of national governments took on the task in turn. That frequently led to having presidents with little time or inclination to devote to the task or who lacked the confidence of the other members. As the president's main task is to secure consensus among its members, with successive rounds of consultation ahead of meetings and astute chairmanship during them, this became a problem, and the time needed to devote to this task became more onerous as the number of members grew with successive EU enlargements. It also meant that, when the president was representing the EU externally, there was often confusion if he was at the same time representing his country (for example at

G7 and G20 meetings where both the EU and Member States are represented).

It was eventually agreed that the European Council would choose a full-time president (no longer leading a national government), serving for a longer, two-and-a-half-year term (renewable once). The first such president, Herman Van Rompuy was chosen in 2009, leaving his post of Belgian prime minister. Donald Tusk succeeded him in 2014, leaving the post of prime minister of Poland. In 2019, another Belgian prime minister, Charles Michel, was chosen. (Belgian PMs have particular experience of having to find consensus among disparate coalition partners using more than one language.)

The European Commission

While the European Council meets periodically to set the strategic agenda, in day-to-day policymaking, the **Commission** is the starting point: it makes proposals for EU legislation and budgets to send to the Council and the Parliament, who jointly decide on them. It administers policies once they are adopted and executes the budget. It verifies the correct application of EU legislation by Member States, if necessary taking them to the Court. Based on Council mandates, it negotiates international trade and cooperation agreements with third countries, which then need Council and EP approval to enter into force. It adopts implementing measures to apply the legislation adopted by the Council and Parliament and it can adopt delegated legislation when they confer such powers upon it (which they can repeal). It is the competition authority for the single market. It carries out studies, it consults, it speaks out and it represents the EU in numerous fora at home and abroad.

The Commission is thus the day-to-day executive or "government" of the EU, but its capacity to act autonomously is more circumscribed than that of a national government and its scope is limited: for example, it lacks powers that national governments have over armed forces, police, the nomination of judges, or foreign policy.

The Commission President is elected by the EP straight after each EP election, on a proposal of the European Council, which is obliged

to make that nomination in light of the election results and propose someone who is capable of securing a parliamentary majority, in much the same way that a national head of state has to do when nominating a prime minister. Ahead of the 2014 EP elections, several European political parties interpreted this requirement to mean that the European Council should choose as Commission President the nominee of the political party with the most seats in the EP, or at least the one able to assemble a majority coalition. They each nominated their prospective candidates ahead of the election (the German term *Spitzenkandidaten* was used in the media), much as parties do in national elections for Prime Minister. The European Council followed this process when it nominated the EPP's Jean-Claude Juncker, duly approved by the EP once he negotiated an agreement with the S&D on his priorities. However, after the 2019 elections, there was deadlock and the European Council proposed a compromise candidate, Ursula von der Leyen, who had not been a nominee of her party (EPP). She was approved by a narrow majority in the EP after she agreed that she would take up in the Commission's work plan a number of proposals from the main political Groups in the EP (a subject that we will return to below).

Once elected by the EP, the Commission president must agree with each head of government on the nominee from each country for the remaining members of the "College" of Commissioners. It is up to the Commission president to distribute policy responsibilities ("portfolios") to individual commissioners (for transport, agriculture, and so on). The one exception is the High Representative for foreign affairs and security policy, who is a vice president of the Commission, where the European Council agrees a nominee with the president-elect of the Commission.

The prospective Commission must then present itself to the Parliament for a vote of confidence. This vote is on the college as a whole – again, much like a vote of confidence in a government in a national context. However, prior to this vote, the EP holds public hearings for each individual candidate Commissioner with the parliamentary committee corresponding to their portfolio, where they

are questioned and cross-examined (something that does not happen to ministers in most European countries!).

Box 6: Hearings

The Treaty gives the EP a vote of confidence in the Commission as a whole before it takes office, but no right to vote on individual commissioners. Yet, starting in 2004, it insisted that it would not hold its vote until every candidate commissioner had appeared individually before the parliamentary committee corresponding to their prospective portfolio, for a three-hour public hearing in which MEPs could question the candidate commissioners.

At those first hearings, concerns were raised about Italian commissioner-designate Rocco Buttiglione, who had made statements that homosexuality was "a sin" and that women "belonged in the home". These comments caused widespread consternation, especially as his portfolio was to include civil liberties. As it became clear that Parliament might vote to reject the entire Commission if he were included in it, President-elect Barroso formally withdrew the team on the eve of the vote and came back a few weeks later with a new team from which Buttiglione had been dropped. At *every subsequent* set of confirmation hearings (2009, 2014 and 2019) one or more of the candidate commissioners has been withdrawn and replaced as a result of concerns expressed by the EP.

The EP has also insisted on receiving declarations of interest and financial disclosures from candidate commissioners before the hearings are held, which are examined by its Legal affairs committee.

Individual commissioners can to a degree shape policy in their portfolio, but this is limited by the principle of collegiality: the entire College agrees all policy proposals (again, similar to ministers in a national government). Key legislative and policy decisions then need

approval by the Council and/or the Parliament. Commissioners are not there to represent their country – that is the task of the ministers in the Council. Indeed, commissioners take an oath of independence when they are appointed, underlining that they are not beholden to instructions from any national government.

The permanent civil servants (*fonctionnaires*) of the Commission are recruited normally through competitive examination and work under its authority, mostly within Directorates General (DGs) under a specific commissioner. Commissioners also each have their own private office (*cabinet*) of around eight or nine advisers (although the president's *cabinet* is larger). Cabinet officials are chosen by individual commissioners and may be drawn from inside or outside the Commission.

The DGs, the equivalent of national ministries, cover the EU's main policy areas such as competition, the environment, or agriculture. They are each headed by a director general, who reports directly to the relevant commissioner. The Commission's administration comprises 33 DGs (or Executive Agencies with equivalent status), and 16 Service Departments. In total, the Commission has approximately 33,000 officials, although about one tenth of them are involved simply in translating or interpreting into the 24 official languages of the EU. It is thus smaller than is often portrayed in the popular press, about the size of the administration of some large cities.

With successive EU enlargements, the growing size of the College of Commissioners has risked turning it from a compact executive into a miniature assembly of 27. The 2009 Lisbon Treaty had provisions for a smaller Commission but also allowed the European Council to vary its size, leading to a decision to stick with one commissioner per Member State.

The Council

The Council (of ministers) consists of a representative of each Member State at ministerial level, who, in the words of Article 16 TEU "may commit the government of the Member State in question and cast its vote" and which "shall, jointly with the EP, exercise legis-

lative and budgetary functions" and "carry out policy-making and coordinating functions".

The Council is thus both a legislative chamber (as half of the Union's bicameral legislative authority, together with the EP) and the forum in which the governments of the Member States come together to debate issues of foreign policy as well as coordinate domestic policies that are primarily a national responsibility. It is in the Council that national interests, as seen by the government of the day in each Member State, are represented.

The treaties refer to a single Council, but it meets in different configurations depending on what policy area is being discussed (eg when agriculture is discussed, agriculture ministers meet; when the subject is the environment, it is environment ministers, and so on). There are ten different configurations of the Council, with the "General Affairs" Council (European affairs ministers) responsible for coordination and for horizontal subjects such as the budget and institutional matters. The agricultural, foreign, and economic ministers meet at least once a month, others from one to six times a year. A secretariat of around 3,000 officials play an important role in crafting compromises among Member States.

Council meetings are chaired by a minister from the Member State holding the rotating "Presidency of the Council" (except for meetings of foreign affairs ministers, which are chaired by the High Representative) for six months. Often hyped up in the media as the "EU president", Council presidencies are, in fact, simply chairing one of the Union's institutions for a short period and without any additional powers. Their task is to build consensus (or a qualified majority) across EU Member States within the Council, and to represent the Council in negotiations with the EP. In timetabling meetings and setting the Council's agenda, they have some leeway for giving priority to particular issues, but holding the presidency also has disadvantages: much ministerial (and civil servant) time and effort is required.

In most areas, the treaties provide that a qualified majority in Council can *approve* a Commission proposal, whereas unanimity is required to *amend* it. This is a crucial distinction, and also a key feature of the "Community method" (see Box 7).

Box 7: The Community method

The EU's founders were faced with a challenge. If the Member States wanted to pursue common policies in certain fields, should they hand over responsibilities to a common institution, and leave it to get on with it, which could pose major questions of democratic accountability? Or should all matters be settled by meetings among national governments, thus risking endless, detailed negotiations and lowest common denominator outcomes?

In the end, they opted for a compromise: a common institution – the European Commission– was charged with drafting policy proposals. However, a separate institution– the Council– consisting of ministers representing national governments, would make (most) policy decisions on the basis of those proposals, able to approve them by a qualified majority (but change them without the Commission's agreement only by unanimity).

This interplay of an institution charged with representing the general interest (Commission) and that composed of representatives of national governments (Council) was the essence of what became known as the **Community method**. It was later expanded to fully involve the institution directly representing citizens (the Parliament).

Very little can become EU legislation unless the Commission proposes it (although the Council and the Parliament can both request the Commission to draft proposals).

The Community method is contrasted with the intergovernmental method used notably for the CFSP.

Some policy areas, however, require unanimity to approve any measure. Unanimity applies to sensitive matters including taxation, anti-discrimination legislation, foreign and security policy, and constitutional questions such as the accession of new Member States. A simple majority, i.e. one vote per Member State, is used for pro-

cedural questions. The chair of the Council decides whether, and when, to call a vote, and must do so if a simple majority requests it.

A qualified majority is a weighted majority system, with a threshold of support needed to adopt a decision (see Box 8).

Box 8: Qualified majority voting (QMV)

In most areas, the Council takes decisions by QMV. A Commission proposal must secure the support of at least at least 15 out of the 27 Member States provided they represent at least 65 percent of the EU's population. This is often referred to as a double majority. However, a blocking *minority* on the population criteria (35 percent) must include at least four Council members – three Member States, whatever their population, are not enough to block.

A qualified majority is sufficient to approve a Commission proposal, but unanimity is required to amend it. Given that the Commission may itself change its proposal at any time, this gives rise to an interplay where the Commission adjusts its proposal to secure the necessary majority.

In cases where the Council is not acting on a proposal of the Commission (or of the High Rep), a qualified majority requires the support of 72 percent of the Member States (20 of the 27), still comprising at least 65 percent of the population of the EU. In practice, debates in the Council often proceed on the understanding that consensus will be sought, but equally that obstructionism or unreasonable opposition could be countered by a vote.

However, in a number of cases, the treaty still requires unanimity for a decision: all 27 ministers need to agree (though abstention does not block a decision). This applies to CFSP decisions, treaty changes, accession of new Member States, anything that touched on fiscal matters, the long-term EU budget, budgetary resources, social security rules, and much else.

Prior to the Lisbon Treaty, the Council legislated behind closed doors, which meant it was the only legislative body in the democratic world that enacted legislation without the public being able to see how members voted. Since then, legislative deliberations take place in public (meaning web-streamed, as there is no physical public gallery) and the results of all votes are published. Since the 2004 enlargement, the Council has found it increasingly time consuming and difficult to reach decisions in areas that require unanimity.

Council decisions are prepared by extensive negotiation. Each Member State has a "Permanent Representative" with ambassadorial status, heading an office of national civil servants who sit on a variety of some 140 preparatory working groups within the Council system. The working groups report to the Committee of Permanent Representatives (Coreper) on which the ambassadors sit, which tries to reach consensus or suitable majorities, ahead of Council meetings. Items agreed by Coreper are placed on the Council's agenda as "A points" for formal approval if no minister objects, whereas "B points" are for ministerial discussion (in about a 70–30 ratio). Internally, Coreper is split into Coreper I, which is led by deputy ambassadors, who deal with general issues and Coreper II, where the ambassadors deal with strategic political, institutional and budgetary issues.

The European Parliament

The EP is the only directly elected multi-national parliament with significant legislative powers in the world. It exercises its legislative powers forcefully. The Commission cannot rely on a compliant parliamentary majority to automatically back its proposals in the way that national governments usually can in most European countries, where parliaments rarely amend or reject government proposals. It is exceptional for any proposal to get through the EP unamended. Majorities vary in size and permutation from one item to the next, and must be built anew each time, through explanation, persuasion, and negotiation.

Each successive treaty has also strengthened the role of the Parliament. The Parliament is now a legal and political equal to the Council in deciding almost all legislation, as well as the EU budget, and the ratification of international treaties. The EP also elects the President of the Commission and confirms (and can later dismiss) the Commission as a whole. Its members (MEPs) are able to network across the EU's institutions and with national governments, interest groups, and non-governmental organisations.

The Treaty caps the EP at 751 members (currently 705 following Brexit) with a minimum of six and a maximum of 96 seats per Member State, degressively proportional to population (slightly over-representing smaller states). MEPs come from opposition parties as well as governing parties in every Member State and the EP therefore has a considerably higher degree of pluralism than the Council. Most dividing lines are political rather than national. Indeed, MEPs sit in political groups, rather than in national blocs. Although there are over 150 national parties, almost all MEPs coalesce into (currently seven) Political Groups, most of which correspond to familiar European political families: Socialists, Christian Democrats, Greens, and so on. These groups are linked to the wider European political parties (and sometimes confused with them – for instance, it is the parties, not their parliamentary groups, who choose candidates for President of the Commission and adopt manifestos for the European elections).

The Group dynamic reflects the reality of political divisions in Europe: they are ideological far more than national. While the Council and the European Council give the impression that all controversies are between Member States, in the EP it is rare to see all members from one country voting one way and all members from another country voting the other way: cleavages are political, with supporters and opponents of every proposal to be found within every country. That should not be surprising, as the choices at stake are political.

The EP's agenda is set by the "Conference of Presidents", comprising the leaders of each political group and the EP president. But, the detailed and most important work of the EP is carried out in some 20 standing committees, mostly organised by policy area (such as

Transport, Agriculture or Environment), occasionally supplemented by temporary committees or committees of inquiry. The committee system allows detailed scrutiny of proposals by members who are, or become, specialists. Committees must be composed to reflect the same balance among political groups as the plenary. Informally, the Groups also tend to share out committee chairs and other key positions proportionally, but formally they are elected by the committee. Each Group has a coordinator on each committee to lead it there, act as principal spokesman for the Group on the subject matter of the committee, and negotiate deals with other Groups. On any given proposal, the committee will appoint a rapporteur who makes the initial draft of the committee's response, may negotiate compromises with "shadow rapporteurs" appointed by other Groups, and will present the committee's views to the Parliament once it is adopted. He or she will also lead the EP team in any negotiations between the EP and the Council on the proposal.

The EP's powers come under four main headings: legislative, budgetary, scrutiny, and appointments. Its legislative powers were at first weak, having only the right to give an opinion on proposed legislation. But after successive treaty changes, nearly all EU legislation is now decided in a bicameral legislature consisting of the Council and the Parliament. Both must approve a text in identical terms for it become law. When it comes to budgetary matters, there is also a form of co-decision. International treaties or agreements are subject to the consent procedure: the Parliament has the right – in a yes or no vote – to approve or reject the agreement. (We shall return to this in the next section.)

The EP also exercises scrutiny or oversight via its right to question (through written questions or orally), to examine and debate statements or reports, and to hear, question and cross-examine commissioners, ministers, and civil servants in its committees.

When it comes to appointments, we saw above how the EP elects the President of the Commission and approves the Commission as a whole. It can also dismiss the Commission through a vote of no confidence. As in most national parliaments, which do not make frequent use of their right to dismiss the government, the mere

existence of this power is sufficient to show that the Commission is accountable to Parliament and to make the Commission responsive to EP requests. This power was fully exercised only once, in 1999, resulting in the fall of the Commission under the presidency of Jacques Santer. Even then, the Commission resigned prior to the actual vote, once it was clear that the necessary majority would be obtained. One consequence of this episode was a treaty change permitting the President of the Commission to dismiss individual members of the Commission. Thus, if the behaviour of a particular commissioner gives rise to serious parliamentary misgivings (as was the case in the Santer Commission), the President of the Commission can act to retain the EP's confidence.

Besides the Commission, the Parliament also elects the European Ombudsman and is consulted on appointments to many other EU posts, such as the President and Board members of the ECB and the heads of EU Agencies. It holds public hearings with the nominees.

The EP does have problems in how it is perceived by the public. National governments imposed a legal requirement on the EP to divide its activities between Brussels (three weeks out of four) and Strasbourg, which is seen as wasteful. The multiplicity of languages means that its debates sometimes lack the cut-and-thrust found in many national parliaments. The reputation, dating from the time that it had no legislative powers, that it is merely a "talking shop" still sometimes lingers. Turnout in EP elections is lower than in most national (but not local) elections in Europe, though the 2019 election saw turnout increase to its highest level since 1994, at 51 percent, a figure comparable to US Congress elections.

MEPs come with a wide variety of experience. Some have previously held important national political positions (including presidents and prime ministers). Some are young ambitious politicians at the start of their political career. Others were previously academics, businessmen, trade unionists, lawyers, NGO activists or even (once) an astronaut. Over 40 percent are women – a higher proportion than in almost all national parliaments in Europe.

Box 9: The European Parliament's political groups

Group	Ideology	Seats (705 total)
Group of the European People's Party (EPP)	*Centre-right, Christian-democrat, pro-European.* Includes: German Christian Democrats, Fine Gael (Ireland), Forza Italia (Italy), Les Républicains (France), People's Party (Spain).	179
Progressive Alliance of Socialists and Democrats (S&D)	The political group of the Party of European Socialists (PES). *Centre-left, pro-European.* Includes: all Democratic Socialist/ Social democratic and Labour parties in EU.	146
Renew Europe	The group of the Alliance of Liberals and Democrats for Europe (ALDE) and the European Democratic Party (EDP). *Centrist, liberal, pro-European.* Includes: En Marche! (France), FDP (Germany), Fianna Fáil (Ireland), Italia Viva (Italy), Ciudadanos (Spain).	98
Group of the Greens/ European Free Alliance (Greens/ EFA)	The political group of the European Green Party and the European Free Alliance (of regionalist parties). *Green, pro-European, pro-devolution/ regionalism.* Includes: Green and ecologist parties and regional/national autonomy parties.	73

Identity and Democracy Group (ID)	*Far-right, populist, nationalist, hard eurosceptic.* Includes: Austrian Freedom Party, Danish People's Party, Finns Party, French National Rally, Alternative for Germany, Lega (Italy), Dutch Party for Freedom.	70
European Conservatives and Reformists Group (ECR)	The political group of the European Conservatives and Reformists Party and the European Christian Political Movement. *Conservative, centre-right and right wing parties, Combines soft and hard eurosceptics.* Includes: Law and Justice (Poland), Brothers of Italy, Vox (Spain), Civic Democratic Party (Czech Republic).	63
The Left group in the European Parliament (GUE/NGL)	The political group of the Party of the European Left, the Nordic Green Left Alliance. *Left to far-left, (soft) eurosceptic.* Includes: Syriza (Greece), Die Linke/ The Left (Germany), La France In- soumise, Podemos (Spain).	39

Some saw the creation of a directly elected parliament as a means towards a more federal system in which the Union would (also) derive legitimacy directly from citizens instead of exclusively via national governments. Others simply saw the need to compensate the loss of national level parliamentary power, which is inherent in pooling competences at European level, with a supranational parliamentary oversight. It is also a venue where, in the worlds of David Marquand, *"L'Europe des patries"* is replaced by *"L'Europe des parties"*: the dividing lines are political, taking the edge off national divisions in the Council and revealing the real – political – choices that have to be made at European level.

Indeed, the development of the European political parties is a significant factor that has been stimulated by the EP Political Groups and has been recognised in the treaties (Article 10 TEU) since the Maastricht Treaty. European Parties were granted legal personality and, crucially, access to funding provided certain conditions are met, such as being represented in a sufficient number of Member States (at least one quarter) and respecting the principles of the EU (such as democracy, human rights, and so on – they do not have to support the existence of the EU itself). Parties also must publish their accounts and have them independently audited, as well as publish the names of any donors contributing more than € 1,500. Parties may not accept donations of more than €18,000 from any single donor, nor accept anonymous donations. Money provided from the EU budget for European parties may also not be passed on to national parties. The main parties are increasingly active and bring national parties into their corresponding European "family" and network. They organise regular congresses, composed of delegates from national parties. Their leaders hold 'summits' with leaders of their national parties (often prior to European Council meetings). They adopt common manifestos for European elections. They choose candidates for European positions, not least President of the Commission.

Box 10: Party of European Socialists (PES)

The PES is the European political party that brings together all the main democratic socialist parties in the EU. Created initially as the Liaison Bureau of the Socialist Parties of the European Community in 1957 and then transformed into a Confederation of Socialist Parties in 1973, it voted in 1992 to become the Party of European Socialists. It comprises all the mainstream Socialist/Socialdemocratic/Labour parties of the EU plus the Norwegian and UK Labour parties.

The party Congress is held twice in every five-year cycle to decide on political orientation, such as adopting mani festoes ahead of European elections. In years that the Congress does not meet, the Council (a smaller version of the Congress) shapes PES policy. The Congress also elects the party's President, Vice Presidents, and a bureau called the *Presidency*.

A Leader's Conference brings together prime ministers and party leaders from PES affiliated parties three to four times a year, usually the day before European Council meetings, to agree positions.

Parliamentary Groups of PES members exist in the European Parliament (S&D Group) and the Committee of Regions. The S&D leader is a member of the PES *Presidency*.

PES members of the European Commission often meet together to coordinate, as do PES ministers in the Council of the EU.

Ever since the Lisbon treaty provided for the EP to elect the President of the Commission, the PES adopts, ahead of European elections, a candidate for President of the Commission. In 2014 Martin Schulz and in 2019 Frans Timmermans were the candidates, but the results of the elections and the subsequent negotiations did not result in them becoming President.

The FEPS think tank is associated with the PES and S&D Group in the EP.

Court of Justice of the EU (CJEU)

The CJEU comprises the European Court of Justice (ECJ) and the General Court (previously known as the Court of First Instance), both located in Luxembourg. The ECJ is at the apex of the EU legal order and is composed of 27 judges (one from each Member State) and 11 Advocates-General (who present opinions to the judges on cases assigned to them). It operates in chambers of three to five judges, except when the issues raised are of exceptional importance, when in can sit as a Grand Chamber of 15 judges or as a full court of all 27. The General Court has 54 Judges (two from each Member State) and sits in panels of three or four judges. It hears various categories of cases, including actions taken against EU institutions by individuals and Member States, and its rulings can be appealed on points of law to the ECJ.

All CJEU members are "chosen from persons whose independence is beyond doubt" (Article 253 TFEU) who take an oath to "perform their duties impartially and conscientiously". To enhance their independence, the Court deliberates and takes its decisions behind closed doors, so individual judges cannot be pressurised about judgements. They are appointed by the governments of the Member States, after consulting a panel chosen from among former members of the CJEU or of national supreme courts, six chosen by the Council and one by the EP.

Article 19 TEU assigns to the CJEU the task of ensuring that "in the interpretation and application of the treaties, the law is observed". It is the final arbiter of legal disputes on EU law, such as between EU institutions, or between them and Member States, between EU citizens and EU institutions, or between the Member States themselves. It ensures that the EU institutions do not stray beyond the powers given to them and, conversely, that Member States comply with their obligations under the treaties and the legislation that flows from them. It has the right to fine Member States that breach EU law. Over 40,000 judgments and orders have been given since 1952. Until last year, Member States always complied with its rulings, albeit sometimes slowly.

EU law, unlike international law, allows individuals to seek remedy for breaches through their own domestic courts, which, if necessary, refer points of European law to the CJEU, asking it for a preliminary ruling on the European facet of a case before them. The national courts, in judging cases, then use such preliminary rulings. This method has settled issues as diverse as the right to advertise abortion services across borders, roaming charges for mobile phones, and equal pay for equal work. Integrating national courts into a cooperative system to ensure that EU law is applied is an important component of the EU's legal system.

CJEU judgments have confirmed that the EU is not so much a classic international organisation, but an entity with federal features. In the 1963 *van Gend & Loos* case, the Court established "direct effect" of European law, giving citizens legal recourse if their governments failed to adhere to their European obligations, saying that the treaties created "a new legal order, the subjects of which consist of not only the Member States but also their nationals". In 1964 (*Costa v Enel*), the Court established the "supremacy" (or precedence) of EU law: if a domestic law contradicts an EU obligation, European law prevails. Indeed, there would be no point agreeing common laws if individual Member States could then ignore them or override them. In the 1979 *Cassis de Dijon* case, the Court established the principle of "mutual recognition": a product made or sold legally in one Member State – in this case a French blackcurrant liqueur – cannot be barred in another Member State if there is no threat to public health, public policy, or public safety. This principle proved fundamental to the single market because it established that national variations in standards did not all need to be harmonised to allow the single market to function.

Box 11: The European Court of Justice – a supreme court?

The ECJ is the ultimate arbiter of legal disputes in the field covered by EU law – the treaties, legislation and decisions adopted pursuant to the treaties, and the Charter of Rights. It is therefore sometimes described as a supreme court, although it has no jurisdiction over decisions of Member States that are outside the field of EU law.

Another difference with most supreme courts relates to how its judges are appointed. US Supreme Court judges are appointed by the federal institutions (President and Senate), whereas the ECJ judges are appointed by the Member State governments. The US judges are appointed for life, the EU ones for a six-year term, renewable only if they are proposed again by the government of their country.

National appointment means that, on the face of it, the ECJ is unlikely to be biased in favour of an integrative agenda, but that has not stopped some people accusing it of being so. Controversy about its role featured for example in the 2016 EU referendum in Britain, although this frequently confused it with the separate (non-EU) European Court of Human Rights. The German Constitutional Court and especially the Polish Supreme Court have questioned the supremacy of ECJ judgements where their effect is to overrule national constitutional provisions.

Accusations of the ECJ having a centralising agenda date from landmark rulings in the 1960s which clarified that the treaties implied that EU law has direct effect (not dependent on further national decisions to implement it) and has primacy over conflicting national law. These were the *van Gend & Loos* and the *Costa v Enel* cases. These judgments were essential to the functioning of the EU: there would not be much point in agreeing common legislation if Member States were free to override it.

European Central Bank (ECB)

The ECB is charged with issuing and managing the euro currency and formulating monetary policy for the Eurozone, notably by setting interest rates. The ECB's main decision-making body is the Governing Council, made up of the governors of the national central banks of the (currently) 19 states in the Eurozone and the six members of the Executive Board. The Board, which is responsible for the day-to-day running of the ECB, is made up of the ECB's president and vice president and four other members, all of whom are appointed at staggered intervals for non-renewable eight-year terms by the European Council acting by qualified majority (in practice, it is the 19 Eurozone states, not all 27 EU Member States, who make the appointments). The ECB president has become a powerful figure.

The ECB is located in Frankfurt. Like most central banks, it was given operational independence in the belief that monetary policy should be managed by expert economists rather than politicians who lack expertise and are often driven by short-term electoral calculations. That being said, it is a publicly owned bank whose Board is appointed by politicians for a time-limited period, meaning renewal and changes of direction can happen, albeit gradually. The appointments of Mario Draghi and Christine Lagarde as the latest two Presidents of the ECB were both interpreted as seeking a change in emphasis of the Bank's policy.

In its first decade of operation the ECB tended to make decisions by consensus. However, the sovereign debt crisis, and the contentious policy decisions it required, increased the number of votes taken. During that crisis, the ECB embarked on a series of interventions in the markets for the sovereign debt of Eurozone states and provided liquidity to struggling banks. More controversially, it also joined with the Commission and the International Monetary Fund – forming 'the Troika' – to monitor Member States that were bailed out by loans from the IMF and from other Eurozone countries. Its insistence on deficit reduction in mid-crisis was controversial.

A criticism of the design of the Economic and Monetary Union is that it is 'asymmetric': monetary policy is centralised while fiscal

policy was left to Member States. To mitigate this asymmetry, the "Eurogroup" was established at the same time as the ECB as an informal meeting of the finance ministers of Eurozone states – joined by the ECB president and relevant commissioners – to coordinate economic and fiscal policy. Its members elect a president from within their ranks to serve for a two-and-a-half-year term, renewable once. The leaders of Eurozone states sometimes meet on the margins of a European Council meeting, chaired by the president of the latter, in a format called 'Euro Summits'.

The ECB has also been given the task of supervising banks and financial institutions in the Eurozone and in non-Eurozone Member States that choose to opt in. The ECB supervises the largest banks directly and works closely with national bank supervisors to monitor the entire financial sector.

Court of Auditors (ECA)

The ECA audits the accounts of all EU institutions and bodies to verify that the budget has been implemented correctly and that EU funds have been spent legally and with sound management. It reports any problems and presents an annual report to the EP which is used as the basis for the Parliament to make its decision on whether or not to sign off ("discharge") the European Commission's handling of the budget for that year. The EP notably refused to do this in 1984 and 1999, the latter case forcing the resignation of the Santer Commission. The ECA, if satisfied, also sends assurances to the Council and Parliament that the taxpayers' money is being properly used. Meanwhile, critics wonder why the ECA itself is so top-heavy, with 27 members of its political board (one per Member State) – money that could be better spent on actual auditing staff.

Box 12: President

There is no President of the EU. Each EU institution has its own president, which sometimes confuses the press and the public. It might have been better to call them by different names: *Speaker* of the Parliament, *Governor* of the Central Bank, *Chair* of the Council of ministers, *President* of the European Council and *Prime Commissioner*.

The Parliament, the European Council and the Court of Justice elect their own presidents. The Council of ministers' presidency rotates among Member States every six months. The Commission President is elected by the Parliament on a proposal of the European Council. The President of the Central Bank is appointed by the European Council after consulting the EP.

It is sometimes suggested (and the treaties permit) to appoint the same person as President of the European Council and President of the Commission, unifying the two positions.

The procedures:
how decisions are taken and by whom

Three institutions are involved in the EU's legislative procedure: the Commission, the EP and the Council.

The basics of the **Ordinary Legislative Procedure** (OLP) are relatively simple:

The Commission sends a proposal to the EP and the Council.

The EP and the Council discuss the draft separately in successive readings, in which they may approve, amend or reject the text (amendment being by far the most common outcome).

Only if Parliament and Council reach agreement on the same text, is it adopted as a legislative act. The two institutions hold informal talks between readings to seek possible compromises, with the Commission present as an honest broker. These talks are known as "trilogues".

If after two readings, agreement has still not been reached between the Council and EP, a joint conciliation committee is convened comprising representatives of both institutions to try to find a compromise, which must then be endorsed by both sides in a third reading.

If no agreement is reached, the proposal is not adopted.

The initial Commission proposals are also sent to the 27 national parliaments and, where required, to the Committee of the Regions and the Economic and Social Committee. National parliaments have a period of eight weeks from the date of receipt of the proposal to formally indicate whether they think the principle of subsidiarity has been respected: if one third of them consider that not to be the case, the Commission must reconsider its proposal. This has only ever happened three times. Instead, national parliaments use this period to shape the position that their minister will take in the Council. Some do this systematically, others rarely.

First readings have no set time limit for the EP and the Council to complete their work, though the Council must await the EP's position to take it into account when determining its own position. Second readings in both are subject to time limits of three months, extendable by agreement to four. Failure by the EP to amend or reject the Council's position by the deadline means the proposed legislation is accepted. Failure by the Council to act by the deadline means it goes to conciliation, where a new three- or four-month deadline applies.

If agreement is reached in the negotiations between Parliament and Council, the final adoption on the Council's side is at the next ministerial meeting, normally without discussion. On the Parliament's side, the final adoption comes after a debate, by a recorded vote. It takes an average of 20 months to complete a legislative procedure under the OLP. It can be speeded up in urgent cases, but generally it is felt appropriate to take the necessary time to get the right outcome for legislation that will apply to 27 diverse countries.

The conciliation procedure is comparable to what happens in other bicameral legislatures to reconcile differences between the two legislative chambers (for example, the *Conference* between the US House and Senate, or the *Vermittlungsausschuss* between the Bunde-

stag and Bundesrat in Germany). However, it became increasingly unwieldy as the EU enlarged, as it is composed of one representative per Member State on the Council's side and an equal number of MEPs – 54 negotiators! As a result, the smaller and more informal trilogues (which are not mentioned in the treaties) are where these negotiations take place.

Over time, the practice of holding trilogues at first reading stage has become the norm. Formal provision for their conduct has been laid down in the EP's rules of procedure, requiring a mandate to be granted by the EP to its representatives, for those representatives to report back on developments, and for the EP delegation in a trilogue to be led by the parliamentary committee's rapporteur, but accompanied by representatives of all the political groups. On the Council's side it is the rotating presidency who conducts the negotiations.

Like the US and German examples mentioned above, trilogue meetings are not held in public. The positions of each institution going into the meeting is public, as is the outcome which is debated and voted in public, but the deals made in the trilogues are opaque.

Although most EU legislation is adopted by via the Ordinary Legislative Procedure, there are also two special legislative procedures: the Consent Procedure and the Consultation Procedure. Like the OLP, both procedures typically begin with a Commission proposal.

Under the **Consent Procedure** the Council can adopt a proposal only after obtaining the consent of the EP. The EP does not have the power to amend a proposal, only to accept or reject it. The procedure is mostly used to ratify – or not – international agreements negotiated by the EU and occasionally for some specific types of legislation, for example legislation to combat discrimination. It is also used to approve the accession of new EU Member States, to approve the arrangements for a Member State's withdrawal from the EU, and to approve the multiannual financial framework (MFF) for the budget. In a few cases, for example on the EP's composition and electoral system, it is the Council which must give its consent to an EP decision.

Under the **Consultation Procedure** the Council adopts a legislative proposal after the EP has submitted an opinion on the proposal. The EP may approve, reject, or propose amendments to a legisla-

tive proposal but the Council is *not* legally obliged to take the EP's opinion into account. The procedure gives the EP a limited power of delay, as it can withhold its opinion to try to secure concessions, but if it withheld its opinion indefinitely it would risk losing in the CJEU. The Consultation Procedure was once the normal legislative procedure, but following successive treaty amendments, it is now used only in a few areas of legislative activity, for example internal market exemptions and cross-border police operations.

A variation on all the above procedures is where **Enhanced Co-operation** is used. This is a procedure allowing a group of at least nine Member States to set up advanced cooperation or pursue deeper integration in a particular policy area in which not all Member States are willing to proceed. It is used to get around deadlock where a minority in Council is opposed to the idea (or at least does not wish to participate). It has been used in divorce law (17 participating Member States), patents (25 states), and to establish a European Public Prosecutor's Office (22 participating states). In 2013, 11 Member States envisaged using this procedure to create a financial transaction tax, but could not reach agreement among themselves on the detail – an ongoing discussion of particular interest to the centre-left. When the EP votes on such measures, all MEPs are entitled to vote, not just those from the Member States participating in the enhanced cooperation (see Box 13).

Besides legislation, the European Commission can adopt **non-legislative acts**, which, despite the name, are still legally binding. Normally, this is done on the basis of a delegation of power granted in the text of a legislative act, in the form of either delegated or implementing acts:

Delegated acts, which cannot alter the essential elements of the EU law in question, which itself must specify the objectives, content, scope and duration of the delegation of power. The EP and the Council can each revoke the delegated power at any moment, or object to specific delegated acts, causing them to fall.

Implementing acts which are used where uniform implementation of the detail of a legislative act is necessary. Before doing so, the Commission must consult a committee on which each EU Member

Box 13: Enhanced Cooperation

Article 20 TEU provides that Member States which wish to establish deeper cooperation among themselves can do so within the framework of the EU. Enhanced cooperation must be consistent with the objectives of the Union and be open to all Member States to join at any time. It is intended "as a last resort, when [the Council] has established that the objectives of such cooperation cannot be attained within a reasonable period by the Union as a whole, and provided that at least nine Member States participate in it."

Any decision authorising enhanced cooperation is adopted by the Council by QMV with the consent of the European Parliament. In an enhanced cooperation, all members of the Council may participate in deliberations, but only members of the Council representing the Member States participating in it may take part in any votes. On the EP side, all MEPs continue to vote. Acts adopted in the framework of enhanced cooperation bind only participating Member States.

Inside an enhanced cooperation, the Member States concerned may agree to transfer any matters requiring unanimity to the field of QMV and to apply the ordinary legislative procedure if it does not already apply to the subject concerned.

State is represented – a process called comitology – where such committees may object to the act (but the EP cannot).

The difference between these two types of act, and the delimitation between the two, is not always apparent.

The EU's annual **budgetary procedure** is comparable, but different to, the Ordinary Legislative Procedure. The Commission presents a draft budget. The Council adopts a position on the draft and sends it to the EP with an account of its reasoning. The EP then has 42-days to respond, during which it can approve the Council's position (or decline to take a position) in which case the budget is considered adopted, or it can propose amendments (which, in practice,

it always does), in which case the Conciliation Committee is convened (functioning in the same way as for the OLP). It has 21 days to agree a joint text, failing which the procedure must start again. This is a mammoth negotiation. If no budget is agreed by the beginning of the new year, spending is restricted to one-twelfth of the previous year's budget each month for each item (i.e. frozen) until a new budget is adopted.

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│  1. The first reading of the ordinary    │
│          legislative procedure           │
└─────────────────────────────────────────┘
                      ↓
┌─────────────────────────────────────────┐
│  2. EP committee examines proposal and   │
│      (usually) proposes amendments        │
└─────────────────────────────────────────┘
          ↓                       ↓
┌───────────────────┐   ┌───────────────────┐
│ 3a. If EP plenary │   │ 3b. If EP plenary  │
│ agrees,           │   │ does not agree, EP │
│ committee mandated│   │ proceeds to a full │
│ to open trilogue  │   │ first reading and  │
│ negotiations with │   │ then mandates its  │
│ Council and       │   │ committee          │
│ Commission        │   │                    │
└───────────────────┘   └───────────────────┘
                      ↓
┌─────────────────────────────────────────┐
│  4. EP and Council, assisted by the      │
│  Commission, meet in trilogue to         │
│  negotiate a compromise text             │
└─────────────────────────────────────────┘
          ↓                       ↓
┌───────────────────┐   ┌───────────────────┐
│ 5a. If a          │   │ 5b. If compromise  │
│ compromise agreed │   │ is not agreed, or  │
│ and both EP and   │   │ if it is and is not│
│ Council then      │   │ subsequently       │
│ approve it        │   │ approved by either │
│                   │   │ EP or Council      │
└───────────────────┘   └───────────────────┘
┌───────────────────┐   ┌───────────────────┐
│     Adopted       │   │  Process proceeds  │
│                   │   │  to next reading   │
└───────────────────┘   └───────────────────┘
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Box 14: How are policies initiated?

Formally, the right to initiate proposals for policy or legislation belongs to the Commission. In practice, most legislative initiatives emanating from the Commission are a response to ideas, suggestions, or pressures arising not just from within its own corridors, but from other EU institutions and Member States. Indeed, both the EP and the Council have the right to request the Commission to draft proposals. Others are in response to international obligations or new trade agreements. A growing proportion of proposals are simply about updating or amending previous EU legislation, rather than legislating in new fields. A particular effort in recent years has been to simplify, consolidate, or repeal old legislation (the 'REFIT' programme).

In its 2020 programme, the Commission announced 43 policy objectives that would entail some 23 legislative proposals, along with 2 proposals to repeal (and 44 to simplify) existing legislation. At the same time, the Commission withdrew 32 proposals made by the previous Commission that had not been adopted by the EP and the Council.

Another potential source is the **European Citizens' Initiative**, whereby one million EU citizens can invite the Commission to bring forward a legislative proposal. Only six such initiatives (out of over 70 launched) have reached the one million threshold.

Of course, the power to initiate is a power to propose, not to decide. EU legislation proposed by the Commission under the EU's ordinary legislative procedure then goes to the European Parliament and the Council. It is they who decide.

Some have argued that the EP should have a stronger right of initiative beyond its existing right to request the Commission to draft a proposal.

The **CFSP** is not legislative and follows its own procedures. A Member State or the Commission or the High Representative individually, can submit initiatives or proposals to the Council. Almost all decisions in the Council are taken by unanimity (except where there have been prior unanimous decisions to allow qualified majority voting for a particular subject), although Member States can "constructively abstain", which allows them to opt-out of applying CFSP decisions without vetoing them. The EP must be consulted on the main aspects and the basic choices of the CFSP, but its main formal role (as with national parliaments in foreign affairs) is to scrutinise, question and debate. Informally, MEPs network extensively, and the EP has inter-parliamentary delegations with parliaments across the world which meet regularly and act as a useful conduit of contacts with politicians in those countries.

External influences

None of these procedures take place in a vacuum. The EU is part of the wider world and there are many seeking to influence its decisions. Among them are companies, trade associations, trade unions, NGOs, law firms, think tanks, academic institutions, local authorities and foreign governments. Many are based in Brussels or employ a specialist who is. On most issues, there is lobbying from a variety of viewpoints, sometimes diametrically opposed to each other, which forms part of the pluralism of debate and can draw attention to the unintended consequences of proposals. Many public interest NGOs offer expertise. But interest representatives (or "lobbyists") have also attracted considerable controversy. Some prepare amendments and persuade MEPs to table them. Others target national ministers and officials to try to influence the position they will take in the Council. Occasionally, they have used underhand methods or sheer overwhelming numbers, as in the tobacco industry lobbying mentioned earlier.

   As a result, and thanks to pressure from the centre-left, the Commission and the EP set up a common Transparency Register in 2011 (and the Council signed up to it last year, although leaving it as op-

tional for Member State's permanent representations in Brussels). As of April 2021, this register listed over 12,000 organisations, with the equivalent of nearly 25,000 people working full time. Although signing the register is voluntary, the fact that commissioners, most MEPs, and senior officials in the EU's institutions will not normally meet lobbyists who are not on the register, means that in practice there is a strong incentive to register. Registering involves undertaking to comply with a code of conduct requiring them to: declare what interests they are representing; provide information on their staff, finance, clients and any affiliation they have; not engage in any covert activities; and accept that they may be subject to investigations. The EP, Commission and Council set up a joint secretariat to monitor compliance. Failure to comply means removal from the register. Senior EU officials will not meet with those not on the register (and log any meeting with those that are). In the EP, participation as a speaker at events organised by committees or intergroups is conditional on being on the register. The EP rules of procedure lay down that rapporteurs, shadow rapporteurs and committee chairs shall, for each report, publish online all scheduled meetings they had on the matter with interest representatives.

Apart from lobbyists, the institutions and their members engage in formal consultations with duly constituted representative bodies. The Committee of Regions and the Economic and Social Committee offer advice. There is a Conference of the European Affairs Committees of the national parliaments which meets twice a year with commissioners, MEPs and Council presidencies at the meetings. There are joint (European and national) parliamentary committee meetings and parliamentary gatherings on specific subjects. The Commission has formal procedures to consult with those who may be affected by proposed EU legislation, who may make formal submissions to it. There is a social summit twice a year with the social partners. The EP committees hold public hearings with experts and representatives. Ambassadors and diplomats make their case. Party political networks flag up issues.

Is it democratic?

Right wing opponents of the EU have argued that democracy can only work when there is a "demos" – a common feeling of belonging to the same community by speaking the same language, having a shared past and similar expectations about behaviour and values. At its extreme, such a view of democracy implies that it can only work inside homogenous ethnic groups. It is at odds with the modern world. And, if speaking a common language is a requirement, then Switzerland, India, Canada, South Africa, and many others cannot be categorised as democratic. The centre-left has rightly opposed that view.

In any case, given that some decisions *are* taken at European level, it should be done in as transparent, accountable, and democratic a way as possible. Arguments about how far democratic accountability should flow through democratically chosen governments in each county or, alternatively, through the directly elected European Parliament were settled by agreeing it should be through *both*, with a dual democratic legitimacy, via the Council representing the governments of the Member States, whose democratic legitimacy is conferred on the national level, and the European Parliament (EP), directly elected by citizens, together constituting a bicameral legislature. Given the EU's scale, it needs all the legitimacy it can get. It is not a question of whether national governments *or* the EP best represent EU citizens: both are needed to give the democratic legitimacy.

We shall examine later in the next section how democracy can be improved in the EU.

6   What should change

Reform to *EU policies* is actually happening non-stop. Most EU legislation nowadays is not legislating in new fields, it is about amending, adjusting, reforming, updating or even repealing existing EU legislation. New policies and legislation within the current field of EU competence also come about, but are often constrained by the EU's procedures: even a qualified majority is a high threshold to obtain, but unanimity (where it is required) is very difficult to achieve with 27 Member States, especially with the political complexion of current governments in certain countries.

To change the *EU structures and functioning*, however, is always difficult. Most (but not all) changes require amendment to the treaties. Five major overhauls of the EU treaties in just over 20 years between 1986 and 2007 show that this is not impossible, but the need for unanimous agreement and national ratification by all Member States is an increasingly difficult hurdle, especially after the enlargement of 2004.

Public polling about the future of the EU tends to focus on policies and political priorities for EU action. What do citizens think should be done together at EU level (and what not)? What should be the EU's priorities? Where should its policies be strengthened: – climate change and the environment? – health? – economic fairness? – protecting rights and the rule of law? – security? – migration? – foreign policy? – defence?

Indeed, the economic, environmental, and social interdependence of this group of neighbouring countries, who already share a highly integrated single market, a customs union and much else – and who proclaim common values on human rights, democracy and the rule of law – means that common action is essential for achieving results in many fields. There is a strong case for stronger EU action in several areas. Climate change and most environmental questions cannot be solved at national level. Healthcare was previously thought of as

a national responsibility, but the covid-19 pandemic dramatically illustrated that there are cross-border issues where EU-level action is potentially helpful or even necessary. An integrated single market needs stronger common rules to protect consumers, workers and the environment, and to ensure social justice. Tax fairness requires common action to ensure that multinational companies and rich oligarchs cannot avoid tax by playing one country off against another. Stronger and more *solidaire* economic management tools are especially needed among those Member States sharing a common currency. The protection of rights and fundamental values is a growing priority, especially when these are seen as being under threat. Large-scale migration to Europe has revealed a plethora of problems that can only be made worse if Member States act unilaterally and try to pass on difficulties onto their neighbours. And external political, economic, security and environmental challenges in an increasingly volatile world, including political instability and military threats at our doorstep, also plead in favour of stronger common external action by the EU.

Capacity to act

But any honest assessment of the EU's performance, or of its potential, in these fields must rapidly lead to a discussion about its capacity to deliver. Better policy outcomes depend on changes to the competences, resources, powers, and procedures of the EU:

To guarantee the **rule of law** and **respect for human rights and for minorities** in every Member State, the EU is currently handicapped by a rule that requires unanimity (of every other national government) to suspend a Member State in serious and persistent breach of its obligations. We have seen that two states in the same situation will back each other and prevent any action, rendering the EU incapable of suspending a Member State that becomes a dictatorship, or an "illiberal democracy" crushing the rights of ethnic, linguistic and sexual minorities or suppressing press freedoms or judicial independence. That is simply not acceptable in a Europe that is supposed to be based on shared values, enshrined in a treaty that all

have ratified. The EU looks closely and thoroughly at those states it admits into the Union, but its tools for dealing with those who have joined, are weak. Ideally, Article 7 TEU should be amended to replace the unanimity requirement. In the meantime, there are two tools:

– Judicial: where Member States act in a way that is contrary to EU law, they can be taken to the ECJ. If a Member State fails to respect an ECJ judgment, it can be fined.
– Financial: the legislative measures requiring conditionality for receiving EU funding have recently been introduced and should be used.

The Commission and the Council have been slow to use these tools. For a long time, the EPP protected Viktor Orbán, whose Fidesz party was still affiliated to them and tolerated until as recently as 2021. The centre-left must keep up its pressure on this.

For the EU to do more on **climate change**, it of course needs commitment to an ambitious programme, as is indeed currently being fought over. But action is currently handicapped by the requirement for unanimity within the Council to adopt common environmental measures when they concern land use, water resources, energy supplies or fiscal incentives. This creates a bias towards the lowest common denominator. The least ambitious Member State can dictate policy to the majority. Ideally, a change to the treaty is needed. Otherwise, use of the enhanced cooperation procedure whereby a group of Member States can proceed without the others, should be envisaged.

At a time when governments need greater resources to finance public services and investment, it is necessary to tackle the enormous problem of **tax evasion and tax avoidance** by multinational companies and by rich oligarchs, and also tackle tax havens. Dodging tax, whether illegally or via legal loopholes, is not only immoral, but also damages the economy. The total government revenue lost across Europe through tax evasion and avoidance is greater than all the budget deficits of all EU countries. Plugging that hole would be transformative. We currently have a system that effectively incentivises every country to be its neighbour's tax haven, and that

makes it easy for multinational companies to avoid tax by shifting profits from one country to another. EU action is needed to tackle this and lessen the ability of multinational companies to avoid tax by transferring profits to the jurisdiction with the lowest tax rates (or with the feeblest enforcement). The free movement of capital within the EU makes it difficult for countries to take individual action on these matters, but collective EU-level action, whether that is setting common rules and standards, minimum rates of corporate taxation, or making companies pay tax where they make their profits (country-by-country reporting), are currently frustrated by the need for unanimity in the Council on tax matters. Again, a treaty change would be the best outcome, but using enhanced cooperation is an alternative. The EU Commission has started to use its competition powers to limit the damage caused by "tax competition" whereby countries offer tax breaks to multinationals in return for an investment, triggering a "race to the bottom" in taxation of multinational companies, but it is constantly challenged in the courts over this, and the legal basis for such action should be strengthened and made clearer.

To ensure fairness and **economic justice** in the EU's highly integrated single market, a strengthening of social corrections to the market is needed. Most correction mechanisms are at national level (notably the provision of welfare, social services, education, health care, fiscal redistribution) and some are at EU level (rules on workers' rights, consumer protection, the environment). But to be effective, and not undercut by competitive pressures triggering a "race to the bottom", some EU-wide standards for the national measures are needed. That requires the capacity to set EU minimum standards for national minimum wages (at, perhaps, 50 percent of the national average salary), for child benefits for employees, for safe working conditions, for training standards, for gender equality and the other issues headlined in the European Pillar of Social Rights, agreed in principle at the 2017 Gothenburg summit, and reaffirmed at the Social Summit in Porto in May 2021. This affirms 20 principles and rights, structured around three priorities: equal opportunities for education, training and access to the labour market; fair working con-

ditions; and access to social protection for all. The issues addressed range from the right to minimum wages in all EU countries to the right to health care, and from the principles of equal opportunities and work-life balance to the right to social protection. Some of these rights or principles were already established at the EU level but need strengthening. Others still need to be established. Therefore, the Pillar of Social Rights forms the backdrop for new initiatives in employment and social affairs. It provides a compass on how to tackle new social challenges related to the future of work. It now requires vigorous implementation.

To better address the issue of **migration** into Europe – a cross-border issue by any definition – a combination of measures is needed, giving a stronger capacity to take common action at EU level, both in terms of helping those in need and in terms of fighting the gangs of traffickers who ruthlessly exploit both refugees and those tempted for economic reasons to come to Europe.

If the EU is to have any credibility in **world affairs**, it cannot afford to have a situation where even issuing a joint statement is vulnerable to the veto of a single member of the Council. In a world where the USA, Russia, China and India will have far greater clout than any individual European country, the EU can only have influence if it acts jointly in defence of its values and interests. Currently, its limited ability to take common positions and undertake joint actions will leave Europe irrelevant on the side-lines. Much of the infrastructure is there: the External Action Service under a Vice President of the Commission (High Representative), one of the widest diplomatic networks across the world, the ability to adopt sanctions and to deploy a degree of military capacity. But if all that is subject to lowest common denominator decision taking, vulnerable to the most reticent Member State (or even to a Member State under the influence of an external power), it will be of little use. The need for unanimity in the Council must go. If a treaty change cannot be secured, or if the European Council cannot find the unanimity needed to authorise QMV in the Council, then alternatives (through PESCO or enhanced cooperation or even a complementary treaty among the willing) should be explored.

The EU will have difficulty to **finance** the policies that Member States ask of it, within its current budgetary constraints. Both the ceiling on its "own resources", and the ceilings on specific categories of expenditure laid down in the Multiannual Financial Framework, require unanimity to raise or change them. So does the creation of new "own resources", which have the potential to lessen the perception that the EU is financed by contributions from national budgets. The argument needs to be made that spending jointly at EU level can (and often does!) save money at national level, through economies of scale or by avoiding duplications. It is therefore in the interests of Member States to raise the ceilings and create new resources for the Union. And even a limited increase in flexibility (QMV could be introduced for the MFF without needing to change the treaty, if the European Council so decides) would avoid the deadlocks over relatively small amounts that are currently a time-consuming frequent feature of EU "crisis summits".

For the EU to address cross-border aspects of **health**, not least during pandemics, it needs a stronger executive capacity. The EU has traditionally focused on legislation and setting rules. The covid-19 crisis revealed a lack of capacity in marshalling resources, organising procurement, distributing protective equipment, ventilators and vaccines. Strengthening the executive capacity (budget, staff, authority to act) of the Commission and the European Medicines Agency is necessary.

Democratic accountability

A greater capacity for EU-level action and decision-taking requires looking again at the question of its democratic accountability.

As we have seen, the EU has come a long way over the last three decades in this respect. The adoption of (almost) any EU legislation (as well as the budget and international agreements), now needs the approval of both the elected European Parliament and the Council whose members are accountable to national parliaments. Commission proposals for legislation are first sent directly to national parliaments, enabling them to shape the position taken by their minis-

ter in the Council. The Commission can take office only with a vote of confidence from the European Parliament (which first conducts public hearings with all nominees and which also has the right to dismiss it). The President of the Commission is elected by the EP following the European parliamentary elections, and most European parties have developed the practice of announcing, ahead of the elections, who their candidate is for this post (the *Spitzenkandidaten*).

But there are nonetheless gaps and shortcomings. Some national parliaments pay little attention to draft European legislation. There are still some fields where the European Parliament has only a consultative role on legislation. It takes a two-thirds majority in the EP to dismiss the Commission mid-term. When powers to implement legislation are conferred upon the Commission, the procedures used are complex and opaque and lack democratic safeguards. And while parties put up their candidates for President of the Commission ahead of the elections, it is easy for a minority within the European Council to prevent the nomination of any such candidate even if he or she has, or could secure, a parliamentary majority.

The whole system can also appear distant and complex. Distance is unavoidable: EU institutions are inevitably further away than local and national institutions. That is why we have the principle of subsidiarity: only act at European level where necessary or where there is a major advantage in doing so. A degree of complexity perhaps is also unavoidable, in a diverse Union of nearly 30 Member States. But it could be simplified in ways that would make it more readily understandable for citizens. And citizens need to know that there is accountability, that their views are heard, and that the choices they make in elections matter.

We saw above how the biggest single factor preventing the EU from taking effective action is **the veto** given to each single member of the Council in areas that require unanimity. That is not just a question of capacity to act, it is also a question of democracy, when the will of an overwhelming majority is thwarted by a tiny minority. Any true reform of the EU must address this central issue, either by amending the treaties, or by using the "passarelle" clauses (see Box 15) which allow a decision by the European Council to transfer

a matter from the field of unanimity to the field of qualified majority voting. The fallback solution of "enhanced cooperation", whereby a large group of states may decide to proceed among themselves, is not satisfactory but is better than deadlock.

Box 15: Passarelle clauses

Article 48(7) TEU empowers the European Council to replace unanimous voting in the Council with QMV on a particular subject, and to move a subject dealt with by a special legislative procedure to the ordinary legislative procedure. The decision requires the consent of the EP and notification to national parliaments, each of which may object within a 6-month period, causing the proposal to fall.

There are a further six specific clauses. These apply to specific policy areas and may be easier to adopt than the general clauses as they require fewer preconditions. In all but the first two listed below, it is the Council (of ministers) rather than the European Council which makes the decision. The EP's consent is not required, and a national parliamentary veto is only retained in the last one of them:

- Article 31 TEU to add to the list of foreign policy matters on which the Council may vote by QMV.
- Article 312 TFEU to allow the Council to vote by QMV on the multiannual financial framework.
- Article 333 TFEU where Member States participating in an enhanced cooperation may agree to move to QMV, or move from a special legislative procedure to the ordinary legislative procedure, within that enhanced cooperation.
- Article 153 TFEU to change decision-making in certain areas affecting the right of workers from a special (unanimity with EP consultation) to the ordinary legislative procedure.
- Article 192 TFEU to change decision-making in certain areas affecting the environmental matters from a special

> (unanimity with EP consultation) to the ordinary legislative procedure.
>
> • Article 81 TFEU to determine aspects of family law with cross-border implications which may be the subject of acts adopted by the ordinary legislative procedure (in this case with national parliamentary veto).

Full European and national **parliamentary scrutiny** of legislation is still lacking in certain areas. The anomalies in the treaties where the Council may adopt legislation without EP approval is a clear democratic deficit. Here too, the passarelle clauses or treaty change should be used to rectify the situation.

Parliamentary powers are also unsatisfactory when it comes to *implementing powers* conferred on the Commission. Whereas delegated acts are subject to examination and possible rejection by Parliament or Council, implementing acts (*and try to explain the difference to the public!*) are not. Instead, committees of national officials advise the Commission and can sometimes block it without any role at all for the Parliament other than to be informed, and to object if it goes beyond the remit of the Commission. All this is laid down in EU Regulation 182/2011 which can be changed through the ordinary legislative procedure. Why not provide for the democratic safeguard of allowing Parliament, by a majority of its members, to trigger at least a retrospective review of such decisions?

Another way to enhance parliamentary powers without treaty change, concerns how *national parliaments* make use of the three-month period they have to examine legislative proposals before the Council takes a position on them. Ostensibly, this is to conduct a "subsidiarity check" – to verify that the proposal does not violate the principle of subsidiarity: if a third of national chambers raise an objection, the proposal must be re-examined by the Commission and withdrawn, modified, or justified. In practice, subsidiarity is hardly ever a problem (in over a decade, only three such "yellow cards" have been triggered) and the period is used instead by some national parliaments to examine the substance of a proposal and to advise their minister as to the position he or she should take in the Council.

This was pioneered by the Danish and other Nordic parliaments but is not universal: some national parliaments pay little attention to EU legislation (until they sometimes find reason to complain after its adoption). They should be encouraged to do so. It does not need treaty change.

Among the political rights conferred directly on EU citizens by the EU treaties is the "**European Citizens' Initiative**" (ECI) whereby a million citizens from a quarter of the Member States can submit a proposal for a legislative act to the European Commission to consider. In practice, this has been a big disappointment. The organisational hurdles involved mean that only half a dozen have ever reached the threshold, and the fact that anything that gathers over a million signatures is an idea likely to already be in the public domain and already considered, means that it is not an effective way to put new ideas on the table. And if a citizen has a good idea that is genuinely new, why should he or she have to find a million other signatures to be able to put it to the Commission? Why not scrap this requirement and replace it with a simple undertaking from the European Commission to consider *any* petition that appears (without needing to double check thousands of individual signatures) to have significant support? It would not be too onerous for the Commission to do that – certainly far less onerous than the complex hurdles (which have often triggered legal challenges) involved in the current procedure!

Democracy is not just about legislative procedures. It is also about how people are **elected or appointed** to positions of responsibility. Of course, the European Parliament is elected directly by citizens (of which more below) and the Council and European Council are elected indirectly (in that their membership is a consequence of the results of national elections). But the composition of the European Commission was until 2009 not connected at all to the outcome of the European elections.

Since 2009, the Treaty says that the EP elects the President of the Commission, on a proposal of the European Council which has to take into account the results of the European elections in making its nomination. Since then, ahead of each election, European political

parties have announced their candidates for President of the Commission (the *Spitzenkandidaten*) with the presumption that the candidate of the largest party – or the one able to assemble a coalition that secures a majority in the European Parliament – should normally become President.

This is, after all, something that the public is familiar with in national elections in most Member States. Ahead of national parliamentary elections, parties normally make clear who they would put forward to be head of government if they win the election or be best placed to lead a coalition, often (but not always) the party leader. The head of state, when choosing a potential Prime Minister after the election, has to look at who can secure a parliamentary majority.

That is frequently, but not always, one of these party candidates. Take, for example, Italy. Every party has a candidate for Prime Minister ahead of national parliamentary elections, which sometimes results in one of them being proposed to parliament by the head of state and securing a majority, but can equally lead to a new name being found (such as in 2018, when Giuseppe Conte was chosen as Prime Minister, plucked from academia without even having been a candidate in the elections at all) because none of the party candidates could build a majority, and a compromise had to be found.

This "normally but not always" situation would appear to apply at EU level:

After the 2014 elections, the European Council (acting, by analogy, like a of collective head of state) proposed the candidate from the largest party, the EPP, to become the President of the Commission and Jean-Claude Juncker (after some negotiations on his programme and priorities), secured the necessary parliamentary majority.

After the 2019 elections, the EPP again won the most seats, but its candidate, Manfred Weber, was unable to secure support from other parties. The PES candidate, Frans Timmermans, seemed more likely to do so. The most senior EPP head of government, Angela Merkel, at first accepted that it should be Timmermans, but a number of other EPP leaders didn't follow her. Timmermans was also opposed by a number of governments from central Europe, unhappy about his stand against their policies on migration and failures to respect

the rule of law. After negotiations within the European Council on a party-to-party basis (the Croatian and Latvian prime ministers led the negotiations for the EPP, the Spanish and Portuguese prime ministers for the Socialists, and the Belgian and Dutch prime ministers for the Liberals), agreement was reached on a compromise candidate for Commission President, the German defence minister Ursula von der Leyen (EPP). The PES was compensated by Timmermans becoming First Vice President of the Commission able to choose his own portfolio and Josep Borrell becoming High Representative for Foreign Affairs, and the Liberals by Charles Michel becoming President of the European Council.

In 2024, parties will again put forward candidates for President of the Commission. If they don't, then some in the public and media will accuse them of wanting to keep it secret until after the election, to be settled behind closed doors. But will the European Council subsequently propose one of them? This is not something that can be legislated for. National constitutions do not explicitly *require* the head of state to propose as Prime Minister the candidate of the largest party or the one capable of assembling a majority coalition – a flexibility that can be important. But there is, in most countries, an *expectation* that the starting point is with such candidates, especially as they will have featured prominently in the election campaign.

This should be the normal expectation at European level too. It still needs to be made clear that the European Council should first put forward the *Spitzenkandidat* who seems most likely to obtain a parliamentary majority. Most European Council members are involved in the choice of their own party's candidate (being made by the party structure, not by the EP Groups) and can hardly disavow the whole process afterwards. But a minority in the European Council is all it takes to block this QMV decision. The EP can, of course, counter that by refusing to endorse a candidate not emerging from the *Spitzenkandidaten* process. In 2019, von der Leyen squeaked through by a mere nine votes. It is quite likely that another attempt to find a compromise candidate, without first giving a chance to the *Spitzenkandidat* most likely to secure a majority, would fail.

Box 16: How are heads of the executive branch chosen?

- *Commission President*: elected by the EP by an absolute majority on a proposal of the European Council, which must take account of the results of European parliamentary elections.
- *German Chancellor*: elected by the *Bundestag* by an absolute majority on a proposal of the Federal president.
- *French Prime Minister*: chosen by the directly elected president, without requiring a vote by parliament. However, the lower chamber (*Assemblée*) may dismiss the government by an absolute majority.
- *Swedish Prime Minister*: nominated by the Speaker of the Parliament and serves unless opposed by an absolute majority of (single chamber) parliament.
- *Italian Prime Minister*: nominated by the president. His government then needs approval by both chambers of the parliament (simple majority).
- *UK Prime Minister*: appointed by the Queen in light of advice as to who can secure a parliamentary majority in the lower chamber (House of Commons), but with no formal vote in parliament.
- *US President*: chosen by an electoral college, whose members are elected in each state, normally in function of which presidential candidate they support.
- *Swiss government*: college of seven (with annual rotation of the president among them), elected by the two chambers of the parliament (and comprising members of all major parties).

The idea of **transnational lists** – electing a number (perhaps 30–50) MEPs in a single EU-wide constituency in which the European-level political parties would put up candidates in a proportional "list"

election – has been suggested. Voters would have two votes: one in their national or regional constituency (as now) and a second one for the European level contest. It is argued that this would highlight the European dimension of European elections and reinforce the European public sphere. It might at the same time give a higher profile to the party candidates for President of the Commission (the *Spitzenkandidaten*), whom parties could place at the top of their European level list of candidates.

However, most federal systems do not have federal level constituencies or party lists: in Germany, India, Switzerland, Canada, and others, all members are elected to parliament in their constituency or region, not directly at federal level. Also, the idea has little consensus in political circles. Even the EP position is not exactly one of overwhelming support for the idea. Nor is it popular among Member States: the smaller ones worry that parties will mostly choose candidates from the more populous Member States for obvious electoral reasons (there are ways around that, and Parliament's rapporteur on the electoral law, Domenec Ruiz Devesa, has proposed a clever way to do that, but they risk being seen as contrived and complicated).

Other specific things can also be done regarding European electoral law. The European character of the election would be enhanced if the names and logos of the European political parties appeared on the ballot, as was agreed in principle but not yet ratified in Member States.

Perceptions in some parts of public opinion that the EU is a distant bloated bureaucracy are exaggerated, if not entirely an example of fake news. But why not cut the **size of the institutions** where a large size is not necessary?

Why 27 commissioners, when in reality there are about a dozen genuine portfolios and the treaty actually provides for a lower number? Why 27 members of the Court of Auditors at political level, each with their own private office ("*cabinet*")? What it might need is more actual professional auditors on its staff, but not top-heavy political management. In both those cases, national balance can be achieved in other ways than every country having one member each: balance

can be achieved overall across institutions (not within each one) and/or over time (rotation) or both.

More importantly, while Brussels insiders (mostly) understand the nuances of the different roles of the President of the Commission and the President of the European Council, the wider public does not. Why two presidents? With one chairing the body which has a right of initiative, and the other chairing the body defining the EU's priorities, the difference between the two presidents is not always clear to average Europeans. Nor indeed for third countries: both presidents represent the Union externally, confusing interlocutors (as illustrated in the "sofagate" affair) and annoying partners (as at G7 summits, where the EU alone has two representatives at the table in addition to the three from its Member States, making five EU representatives and four others).

The Treaty left open the possibility of appointing the same person to both positions. And why not? The role of the President of the European Council at its meetings is to persuade, cajole and find compromises that take the EU forward – exactly what the President of the Commission is doing at such meetings. The exact division of tasks between them when representing the EU externally is hard to delimit. Above all, having a single face would be easier for public understanding.

Another idea floated from time to time is to introduce direct democracy, rather than representative democracy, by having **referenda** on EU matters. This has been done at national level, with questionable results, but would not be easy to do at EU level (see Box 17).

There are many ways in which the EU could be reformed, not all of them examined here. The debate will go on. Some *policy* reforms will certainly be achieved, within limits. But when it comes to reforms to the functioning of the EU, it will be more difficult.

Box 17: Referenda

Some Member States have organised national referenda on EU questions. Most countries considering joining the EU did so, with only Norway deciding not to join. Some have had referenda on treaty changes: two frequently (Ireland and Denmark, because of national constitutional requirements) and four (France, Luxembourg, the Netherlands, and Spain) occasionally. In 2016, the UK Conservative government held an advisory referendum on UK membership of the EU. A narrow majority of 51.9 percent of voters (37 percent of the electorate) voted to leave the EU, which eventually led to Brexit four years later.

Four Member States held a referendum in 2005 on a proposed EU Constitution, two approving it (Spain and Luxembourg) and two rejecting it (France and Netherlands). Although the grand total of the votes in the four countries showed a majority in favour – and every country that held a parliamentary vote approved it – the need for every single Member State to ratify individually caused the Constitutional Treaty to fall.

Three times, referenda have been repeated after an initial rejection:

- Denmark initially rejected the Maastricht Treaty by 50.7 percent to 49.3 percent (on a turnout of 83.1 percent) in 1992, before approving it by 56.7 percent to 43.3 percent (on a turnout of 86.5 percent) in 1993.
- Ireland initially rejected the Nice Treaty by 53.9 percent to 46.1 percent (on a turnout of 34.8 percent) in 2001, before approving it by 62.9 percent to 37.1 percent (on a turnout of 49.5 percent) in 2002.
- Ireland initially rejected the Lisbon Treaty by 53.4 percent to 46.6 percent (on a 53.1 percent turnout) in 2008, before approving it by 67.1 percent to 32.9 percent (on a turnout of 59 percent) in 2009.

It is notable that in all of these cases, the second referenda had a higher voter turnout and produced larger majorities in favour than the narrow majorities of the initial rejections.

In the UK, no second referendum was held on Brexit, despite opinion polls (and, ultimately, every opposition party) demanding one, and opinion polls showing that a majority would have voted to remain in the EU.

There is no provision under the treaties for EU-wide referenda, even on 'constitutional' changes to the EU system. Occasional proposals to introduce them come up against the opposition of countries that do not have referenda as part of their national traditions. In any case, the question remains: by what majority should decisions be taken? Just a simple majority of those voting, or also a majority (or more) of states as well?

History tells us that the EU moves by incremental reform and often in response to a crisis, or as a result of a process (such as the Spaak committee, the convention, and maybe the current Conference on the Future of Europe). Such incremental reforms have become more difficult over time, especially with the growing number of Member States. A combination of necessity and compromise has achieved at least partial results in the past, but that may not be possible now.

The alternative – if desperately needed reforms are completely blocked by a small minority (or maybe just one Member State) – is to proceed without them. This is, after all, what happened historically, in a variety of ways. When a deepening of the Council of Europe was blocked in 1950, six Member States created a new framework by themselves. When the UK blocked a revision of the treaty on fiscal governance in 2012, the others signed a separate Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG) among themselves (while still conferring powers on the EU institutions). The EU treaty itself now allows for various forms of enhanced cooperation and this has indeed been used. Often, the laggard countries ultimately choose to join in.

The ultimate outlier is the possibility to set up a new Union with identical treaties except on the points to be reformed, with those countries that want to, joining it and leaving the old Union by invoking Article 50. This is a far-fetched scenario at present, but not inconceivable if a situation were to arise where one or two Member States not only block any reform but also refuse to follow existing EU rules and continue to backslide on the rule of law and democracy.

Whatever happens, change is on the agenda. How far-reaching it is will depend on the commitment, the clarity of purpose and the pressures that are brought to bear. The centre-left, the PES, the S&D Group and FEPS all have their part to play in this.

Annex I: Personalities

The EPP is assiduous in celebrating Christian Democrats who played a role in the founding and the development of the European Union, such as Schuman, De Gasperi and Adenauer. Socialists have failed to do the same. Here are some of the centre-left figures who contributed to the foundation and development of what became the European Union.

Altiero Spinelli

During his long spell in Mussolini's prisons, in 1941 – well before the outcome of the Second World War could be safely predicted – Spinelli co-authored the "Ventotene Manifesto", which stated that the first task for all progressive forces after the overthrow of fascism was to build some binding form of cooperation among the states of Europe. The alternative – a return to totally sovereign nations in shifting alliances – would eventually lead to another war. Spinelli devoted the rest of his life to promoting European federalism. He had broken with the Communist Party in the 1930s over Stalin's purges, but remained a man of the left, able to build bridges across parties.

The Ventotene Manifesto was widely circulated in Europe's anti-fascist resistance movements, and a conference of resistance leaders was held at the end of the war in Geneva, at which they proclaimed their support for a European Federation. Spinelli founded the *Movimento Federalista Europea* which became the Italian section of the *Union Européenne des Fédéralistes*. These organisations spread the European idea well before national governments became interested and began to make modest proposals themselves in the late 1940s.

Spinelli was disappointed with the early governmental stumblings towards a largely intergovernmental form of European integration, nor did he believe that economic integration would automatically spill over to political integration. He constantly argued for explicit constitutional steps, to be drawn up by an elected European Parliament.

Spinelli was appointed to the European Commission in 1970, accepting the need for a "long march through the institutions". He was the main influence behind the Commission's 1975 report on European Union – which helped create pressure for holding elections to the EP as of 1979. Spinelli became an MEP and the rapporteur of the special committee set up, at his instigation, that drafted a proposal for a new treaty replacing the European Community with a European Union. It was this proposal that triggered the negotiations that led to the Single European Act and the Treaty of Maastricht.

Paul-Henri Spaak

Spaak entered politics in 1932 for the Belgian Workers' Party (later the Belgian Socialist Party). He became Belgian prime minister in 1938 and held the position of foreign minister in the Belgian government in exile in London. There he negotiated the foundation of the Benelux Customs Union with the governments of the Netherlands and Luxembourg, which was later a model for the EEC customs union. After the war, Spaak was again prime minister (1947–9), and foreign minister several times between 1939 and 1966. He was president of the European Movement from 1950 to 1955.

A strong supporter of international cooperation as well as European integration, Spaak was chosen to chair the first session of the General Assembly of the new United Nations in 1945. In Europe, he served as the first president of the Parliamentary Assembly of the Council of Europe (1949–50), hoping to help the latter develop into a more significant organisation. However, after the Assembly voted in December 1951 to reject a proposal to set up a European "political authority" due to Britain and the Scandinavian opposition, it became clear that the organisation was not able to move towards the united Europe that he dreamed of. Spaak dramatically resigned, and supported the Schuman plan to move ahead just with those countries that wanted to, which led to the creation of the European Coal and Steel Community (ECSC) with just six Member States.

Paul-Henri Spaak was elected as the first president of the ECSC Common Assembly (precursor to today's European Parliament) in a vote notably decided along political rather than national lines: the

support of the German SPD members helped him defeat German Christian Democrat Heinrich von Brentano. This voting behaviour paved the way for the creation of political groups in the Assembly, the forerunners of the Groups that exist today. In this position Spaak served from 1952–54.

In 1955, he acted as chair and namesake of the *Spaak Committee*, set up by the six ECSC governments to examine the possibility of a common market and customs union among them. The *Spaak Report* was the basis for negotiations at Val Duchesse in 1956 which led to the signature, on 25 March 1957, of the Treaties of Rome, establishing the European Economic Community (EEC) and the European Atomic Energy Community (Euratom). Spaak signed the treaty for Belgium. From 1957–61, he was secretary-general of NATO.

Jacques Delors

Delors was an MEP from 1979 to 1981 (chairing the EP's economic and monetary affairs committee), minister of finance under Francois Mitterrand in France from 1981–4, and president of the European Commission from 1985–95.

As president of the Commission, he secured agreement in 1985 on a timetable for completing the creation of a single market by the end of 1992 (with his Commission then proposing the necessary legislative programme to achieve it).

In 1988, the European Council, meeting in Hanover, charged him with chairing a committee (which, by analogy with the Spaak Committee became known as the *Delors Committee*), comprising the governors of the central banks of the Member States, which drew up a proposed timetable for creating an economic and monetary union in three stages. It was approved by the European Council and incorporated into the Maastricht Treaty in 1992.

Delors also gave priority to the parallel development of a social Europe. At his initiative, in 1989, the European Council adopted a **Charter of the Fundamental Social Rights of Workers** as a principles-based charter of human rights that apply specifically to the workforce in the European Union. Although declaratory in nature, it legitimised a programme of subsequent EU legislation in this field.

It is also used as an interpretative aid by the Court of Justice of the European Union in construing the meaning of legislation and developing case law, and served as the basis for the social provisions in the EU Charter of Fundamental Rights made legally binding by the Lisbon Treaty.

When he retired as Commission president, members of the French Socialist Party attempted to persuade Delors to run for president of France. Polls showed that he would have beaten either of the main conservative contenders – Prime Minister Édouard Balladur and Mayor of Paris Jacques Chirac. However, Delors declined to run and the eventual Socialist nominee, Lionel Jospin, was defeated.

Willy Brandt

Brandt was leader of the Social Democratic Party of Germany (SPD) from 1964–87 and served as Chancellor of West Germany from 1969–74. He was awarded the Nobel Peace Prize in 1971 for his efforts to strengthen the European Community and to achieve reconciliation between West Germany and the countries of Eastern Europe.

Fleeing to Norway and then Sweden during the Nazi regime and working as a left-wing journalist, he took the name Willy Brandt as a pseudonym to avoid detection by Nazi agents, and then formally adopted the name in 1948. He first became well known as governing mayor of West Berlin during the crisis of the erection of the Berlin Wall.

As the first Social Democrat chancellor since 1930, he achieved many domestic reforms, but is best remembered outside Germany for his foreign policy of simultaneously deepening integration in western Europe, while launching a new *Ostpolitik* reaching out to eastern Europe to reduce tensions at the height of the Cold War. Brandt signed the Treaty of Warsaw, which acknowledged the Oder-Neisse line as the final German border with Poland, despite this causing controversy within Germany. The same day, he famously fell to his knees when laying a wreath at the monument commemorating the uprising of the Warsaw ghetto. West Germany also recognised the existence of East Germany and agreements facilitating cross-border contacts and family reunifications were reached. His

actions paved the way to the Conference on Security and Cooperation in Europe and the signing of the 1975 Helsinki Accords settling post-war borders and recognition issues across the whole of Europe and fostering détente in the Cold War.

After he ceased to be chancellor, he was elected to the European Parliament in the first European elections in 1979 and served there until 1983, giving support to Spinelli's proposal for a new treaty. For sixteen years, Brandt was president of the Socialist International (1976-92), during which period the number of its member parties grew to over 100 socialist, social democratic, and labour parties around the world.

In 1977, Brandt chaired the Independent Commission for International Developmental Issues. This produced a report in 1980, which called for drastic changes in the global attitude towards development in the Third World. The Brandt Report became a recognised measure for describing the general North-South divide in world economics between an affluent North and a poor South.

François Mitterrand

Mitterrand was president of France from 1981–95, the longest serving president in the country's history, and was the first left-wing politician to assume the presidency under the Fifth Republic.

In 1948, Mitterrand participated in the Congress of The Hague (together with Konrad Adenauer, Winston Churchill, Harold Macmillan, Paul-Henri Spaak and Altiero Spinelli), which founded the European Movement.

As president, he overcame political misgivings in France to the enlargement of the Community to include Spain and Portugal (which then both joined in January 1986). He reversed the years of antipathy to deeper European integration that had been French policy since de Gaulle became president in 1958. In a dramatic address to the European Parliament in 1984, in which he said *le nationalisme, c'est la guerre* ("nationalism is war"), he announced that France would support the spirit and the method behind the Parliament's "Spinelli proposal" for a new treaty and deeper integration. This eventually led to the 1986 Single European Act and the 1992 Maastricht Treaty.

After the fall of the Berlin wall, Mitterrand agreed to German re-unification (France was one of the four Allies who had to agree to the Two Plus Four Treaty), on condition that Germany maintained its support for establishing monetary union in the EU, which ultimately led to Germany abandoning the D-Mark for a shared currency, the euro.

Pauline Green

Pauline Green was the first female leader of the Socialist Group in the EP in the elected era, leading the Group from 1994–9.

Born in Malta (then a British colony) in 1948, but growing up in London, she was a serving police officer before becoming an active member of the Cooperative movement. She was elected to the European Parliament in 1989.

As Group leader, Green played a central role in the fall of the Commission led by Jacques Santer, initially supporting the Commission but then turning against it following Santer's inability to deal with commissioners accused of corruption and incompetence. Her announcement that the Socialist Group would vote in favour of a vote of no-confidence in the Commission (censure motion) made it clear that there would be the necessary majority for the motion, and the Commission resigned before the formal vote.

This episode did much to underline that the Commission is accountable to the EP and can be dismissed by it.

After failing to secure a second term as Group leader after the 1999 European elections, Green stood down from the Parliament to take up a position as the first female chief executive of Co-operatives UK, a position that she held until 2009 when she was elected as president of the International Co-operative Alliance (ICA), again the first female president in the organisation's history.

Gyula Horn

Gyula Horn, later prime minister of democratic Hungary, was in the late 1980s a reform minded member of the Hungarian Communist government supporting a move to western-style democracy and a market economy.

As foreign minister in 1989, he decided to open the western border (the "Iron Curtain"). He and his Austrian counterpart Alois Mock posed for cameras on 27 June 1989 to cut through a barbed wire frontier fence. Within weeks, tens of thousands of East Germans, who travelled to Hungary with "tourist" visas, headed straight for the unfortified border and walked into the West, making their way to West Germany. He therefore played a key part in German unification. He rightly guessed that unlike in 1956, the Soviet Union under Gorbachev would not intervene. On the contrary, he was able to negotiate the Hungarian-Soviet troop withdrawal agreement in March 1990.

His actions were among the most crucial in bringing about not just the fall of the Berlin Wall, but the rapid crumbling of the whole edifice of communist regimes in central and eastern Europe. Horn also helped lead the transformation of the communist MSZMP into the Hungarian Socialist Party. He was the first prominent politician in Hungary to suggest membership of the European Union (and NATO). One of the European Parliament's meeting rooms has been named after him.

Cathy Ashton

Baroness Ashton was a British Labour politician who served as the High Representative of the Union for Foreign Affairs and Security Policy and First Vice President of the European Commission in the Barroso Commission from 2009–14.

She had previously been a minister in Tony Blair's and Gordon Brown's Labour governments and was instrumental in steering the EU's Treaty of Lisbon through the UK Parliament's upper chamber. In 2008, she was appointed as the Commissioner for Trade in the European Commission.

In December 2009, she became the first High Representative under Treaty of Lisbon provisions and had to create the European External Action Service from scratch, bringing together civil servants and diplomats from the Commission, the Council and the Member States. Despite her limited previous experience of international diplomacy, she won praise for bringing Serbia and Kosovo to an agreement in 2013 that normalised their ties, and for her crucial role in

the P5+1 talks with Iran which led to the 2013 Geneva agreement on the Iranian nuclear programme.

Margot Wallström

After a career in Swedish politics Wallström became European Commissioner for the Environment from 1999 to 2004 and subsequently First Vice President of the Commission from 2004–9. As Environment Commissioner she was responsible for the historic "REACH" regulation requiring manufacturers of industrial chemicals to test and register their products with the European Chemicals Agency before they can be used in Europe. The legislation was adopted in the teeth of opposition from parts of the chemical industry.

As Vice President, Wallström became the first member of the Commission to operate a blog. The comments section of her site quickly became a hotspot for arguments concerning the policies of the European Union. After the rejection of the Constitutional Treaty, Wallström pushed forward her "plan D" (for democracy, dialogue and debate) to reconnect Citizens with the Union. Her work on such platforms led to her being dubbed "the Citizens Commissioner".

Between 2006 and 2007, Wallström served as member of the Amato Group of high-level European politicians unofficially working on rewriting the Treaty establishing a Constitution for Europe into what became known as the Treaty of Lisbon following the rejection of the former by France and the Netherlands, salvaging many of the reforms contained in it.

In December 2006, Wallström was voted the most popular woman in Sweden, beating royals and athletes in a survey carried out by *ICA-kuriren*.

Javier Solana

Javier Solana was the EU's first High Representative for Foreign and Security Policy (albeit prior to the merger of that post with the Vice Presidency of the Commission), representing the EU on the world stage on political issues – a task that had previously been conducted in turn by the national foreign minister of the Member State holding the rotating Council presidency. He established that position

through his energetic and highly visible exercise of that task, drawing on his experience and contacts as a former Secretary General of NATO. He held the High Rep post for ten years from 1999–2009.

Born in 1942, a second cousin of celebrated Spanish diplomat, writer, and pacifist Salvador de Madariaga, Solana suffered sanctions imposed by the Franco dictatorship on him for having organised an opposition forum while a student in 1963. In 1964 he clandestinely joined the Spanish Socialist Workers' Party (PSOE), still illegal under Franco. His initial career was in exile, as a researcher and lecturer in physics. He returned to Spain in 1971 and represented PSOE in the Democratic Coordination opposing the Franco dictatorship. After the democratic transition, he was elected to the *Cortes* in 1997 and became a minister when PSOE won the 1982 elections, rising to become foreign minister from 1992–5 when he left it to become the first Spanish secretary-general of NATO.

Sicco Mansholt

Sicco Mansholt was a Dutch Socialist politician who was Minister for Agriculture for much of the period between 1945 and 1956 and European Commissioner for Agriculture from 1958 to 1972, when he became President of the Commission, overseeing the establishment of the European Monetary System and the accession to the EU of the UK, Ireland and Denmark.

He is remembered as a founding father of the European Common Agricultural Policy (CAP). He was himself a farmer who was active in the Dutch Resistance and was influenced by the terrible shortages of food in many parts of Europe at the end of the War. His aims in setting up the CAP were to ensure adequate food supplies and a decent standard of living for farmers, in an effective common market for agricultural products. Later, as production increased to such an extent that stockpiling of surplus production and increased budgetary expenditure, he became an advocate of CAP reform.

Jo Cox

Jo was a staunchly pro-European British Labour MP, who had previously worked at the European Parliament and was assassinated a few days before the referendum on Brexit, in which she was campaigning for Britain to remain in the EU. She is especially remembered for her words "We are far more united and have far more in common with each other than things that divide us." She has a square named after her in Brussels.

And here are some of the current Socialist leaders in the EU framework:

PES party leader *Sergei Stanishev*

President of the Party of European Socialists since November 2011, he is its longest serving president. He was previously prime minister of Bulgaria from 2005–9, leader of the Bulgarian Socialist Party from 2001–14 and member of the Bulgarian National Assembly from 1997–2014. He has been an MEP since 2014.

Leader of S&D Group in the EP *Iratxe Garcia*

Born in the Basque country, Garcia has been an MEP since 2014, having previously been a member of the Spanish parliament from 2000 to 2004. She chaired the Committee on Womens' Rights and Gender Equality in the EP before being elected leader of the S&D Group in 2019. She is the third woman to lead the Group. She is also the first Vice President of the PES, since 2018.

First Vice President of the Commission *Frans Timmermans*

Coming from the coal mining area of Limburg, Timmermans was elected to the Dutch Parliament in 1998 and was Dutch undersecretary for European affairs from 2007–10 (during the negotiation and ratification of the Lisbon Treaty) and foreign minister from 2012–4 when he joined the European Commission as first vice president.

In the May 2019 European elections, Timmermans was the PES candidate to become President of the Commission, approved unanimously by the PES Congress in Madrid in February 2019. After the elections, negotiations among the European parties to agree on a

candidate produced deadlock, after an initial move within the EPP to accept Timmermans was blocked by EPP prime ministers of eastern European countries. Ursula von der Leyen was proposed as a compromise candidate, with an understanding that Timmermans would as First Vice President be able to choose his own portfolio. He chose to be responsible for a European Green Deal and a European Climate Law.

EU High Rep for Foreign Affairs and Security (HR/VP) *Josep Borrell*

From Catalonia, Borrell is a former leader of the Spanish Socialists (PSOE), former member of the Spanish parliament, former foreign minister, and former MEP (during which time he was president of the EP from 2004–7). In 2009 he was nominated by the European Council to be High Rep, leading the EU's external relations.

President of PES Women *Zita Gurmai*

Former MEP (vice president of the Parliament's Women's Rights and Gender Equality Committee) and member of the Hungarian Parliament, Zita has led PES women since 2004. She is also vice president of Socialist International Women. She has been a member of the Hungarian delegation to the Parliamentary Assembly of the Council of Europe since 2018.

President of the Young European Socialists *Alicia Homs Ginel*

A Spanish young socialist, elected President of YES in 2019, she was then elected the same year to the European Parliament as one of its youngest members.

President of the PES Group in the European Committee of the Regions *Christophe Rouillon*

Rouillon is Mayor of Coulaines, Normandy, France, and Vice President of the Association of French Mayors. He has been a member of the CoR since 2005 and leader of the Socialist Group in the CoR since 2019.

General Secretary of the European Trade Union Confederation
Luca Visentini

From the Friuli Venezia Giulia region, Visentini worked in the trade union movement for 26 years at regional, national and EU level, and has extensive experience of sectoral, national and Europe-wide collective bargaining. He was elected General Secretary of ETUC in 2015.

President of the Foundation for European Progressive Studies
Maria João Rodrigues

Professor Rodriguez is a former Portuguese minister, prime ministerial advisor and MEP (where she was a vice president of S&D Group). She has been President of FEPS since 2017. She played a key role in the EU growth and jobs strategy, and the negotiation of the Lisbon Treaty.

Annex II: EU Glossary

Accredited Parliamentary Assistants (**APAs**) are the personal staff of MEPs, paid by the European Parliament but chosen by the MEP. Not to be confused with Local Assistants in a MEP's electoral district.

Acquis Communautaire is a term used to denote the body of existing EU policies, laws, rights and obligations.

Advocates General are members of the CJEU who are not judges but give preliminary advice to the judges by writing independent opinions on cases.

Agencies: Some 40 technical agencies handle issues as diverse as air safety, authorisation of medicines and chemicals on the European market, food safety, police cooperation (Europol), or the supervision of financial markets, including banks. They typically have a governing body appointed by the EU institutions and Member States, and perform technical functions on a pooled basis, avoiding the costs of duplicated efforts by Member States, pooling resources, or coordinating national efforts.

Baltic Assembly was established in 1991 by Lithuania, Latvia and Estonia, and is composed of 20 representatives per Member State. It organises cooperation in many areas, including foreign affairs, security, economic matters, education, etc.

Battle groups combine national military resources when the EU agrees to send military forces somewhere. The EU decided in 2004 to create 20 Battle Groups, deployable at short notice.

Benchmarking: The use of comparison with other states or organisations with the aim of improving performance by learning from the experience of others.

Benelux: Belgium Netherlands and Luxembourg. They pioneered a number of aspects of post-war European integration, establishing a customs union at the end of World War II and later adding other forms of cooperation: border free travel, police cooperation, trans-

port, mutual recognition of diplomas etc – all subsequently taken up at EU level.

Brexit was the process of **Br**itish **exit** from the European Union, the only time in EU history that a Member State has left.

Cabinet: The group of staff and advisers that make up the private offices of ministers (in many countries) and of senior EU figures, such as commissioners and presidents of other EU institutions.

Charter of the Fundamental Social Rights of Workers: Proclaimed by the European Council in 1989, it is not legislation, but is used as an interpretative aid by the CJEU in construing the meaning of legislation and developing case law. Initially, the UK under Thatcher did not adopt it, but Tony Blair reversed that position in 1998.

Charter of Fundamental Rights of the European Union: the EU has its own Charter of Rights that binds the EU institutions, and with which EU law must comply. It was given treaty status by the Treaty of Lisbon. It obliges EU institutions to respect the rights laid down in the Charter and those contained in the ECHR.

Civil society refers to the broad collection of associations and groups (including private firms, trades unions, community groups, and non-governmental organisations) active between the level of the individual and the state. These groups generally operate independently of direct governmental control.

Cohesion Fund: an EU fund for Member States whose standard of living (GNI per capita) is below 90 percent of the EU27 average, funding projects aiming to reduce socio-economic disparities.

Committee of Regions: composed of representatives of regional and local governments (powerful regional ministers from Germany and Belgium sit alongside representatives from Irish local councils). It must be consulted on proposals affecting regional interests and can issue its own opinions and reports on any subject. It is a channel of communication across several layers of governance.

Common European Asylum System (**CEAS**): a package of measures aiming to ensure that asylum seekers are treated equally, in whichever EU country they apply.

Common Foreign and Security Policy (**CFSP**): through specific procedures, different from normal EU decision-taking, Member States attempt to forge common positions and take joint action in areas of foreign and security policy. Decision-making is by the Council, normally by unanimity.

The **Common Security and Defence Policy** (**CSDP**) was created in 1999 to engage in the so-called 'Petersberg tasks' (named after a German castle where a ministerial meeting on defence was held): humanitarian and rescue missions, peacekeeping, crisis management, and 'peacemaking'.

Competence refers to the attribution (by the treaties) of a responsibility to the EU. Competences may be *exclusive* (only the EU and not Member States may act on the subject in question), *shared* (both may act, in which case the EU may act only where necessary under the principle of subsidiarity, but if it does so, its legislation overrides any contradictory national legislation), or *supporting* (EU action supports but does not override national measures), as specified in the relevant treaty article.

Community method is a concept describing the standard EU decision taking procedures whereby proposals are drafted by the Commission and adopted by the Council, normally by QMV, and the EP.

Conditionality clauses are used where the EU makes financial aid dependent on certain results being attained or standards upheld. This has become a major political issue in recent times, with the conditionality clause in the NGEU financial package linking payments to the respect for the rule of law.

Conference on Security and Co-operation in Europe (**CSCE**): led to the signing of the 1975 Helsinki Accords settling post-war borders across the whole of Europe and fostering détente in the Cold War.

A **Convention** is part of the normal procedure for future revisions of the treaties (brought in by the Lisbon Treaty). Proposals for treaty change should be considered by a Convention composed of members of the national Parliaments, of the heads of state or government of the Member States, of the European Parliament and of the Commission (see Article 48 TEU) before an Intergovernmental Confer-

ence (IGC) finalises and adopts them. The first such convention, prior to the procedure being put in the treaties, was the Convention on the Future of Europe held in 2002–3 which proposed to replace the treaties with a new Constitution for the EU (which, after rejection by the Netherlands and France, was replaced by the Treaty of Lisbon amending the existing treaties).

The **Conference on the Future of Europe** was set up by the three institutions (Commission, Parliament and Council) in 2021–2 to consult the public on the future of the EU and deliberate on their proposals. It involves public debates and seminars across Europe, a multi-lingual digital platform on which any citizen can post ideas and endorse others, Citizens' Panels of randomly chosen citizens (in Member States and four at EU level) – all feeding recommendations to a conference plenary composed of Citizens' Panel members, civil society organisations, social partners, parliamentarians from the European, national and regional parliaments, and two ministers from each national government.

Copenhagen Criteria: the political and economic criteria agreed by the European Council (at a meeting in Copenhagen in 1993) to assess whether a country is eligible to join the EU. They require that a candidate country "has achieved stability of institutions guaranteeing democracy, the rule of law, human rights, respect for and protection of minorities, the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union".

COREPER (**Committee of Permanent Representatives**): the most important preparatory committee of the Council. It is composed of heads of the Permanent Representatives (ambassadors) of EU Member States in Brussels.

COSAC is the Conference of the European Affairs Committees of the national parliaments which meets twice a year with Commissioners, MEPs and Council presidencies.

Cotonou Agreement: the successor to the Lomé Convention – a trade and aid agreement between the EU and 78 African, Caribbe-

an and Pacific countries. Lomé was notable for being asymmetric in granting tariff-free access to the EU market without in all cases giving the EU tariff-free access in return, as a deliberate policy to help developing countries.

Court of Justice of the EU (**CJEU**: composed of the **European Court of Justice** (**ECJ**) and the lower General Court. Together, they are responsible for ensuring that the law is applied in EU matters.

Council of Europe: the first post-war attempt to bring European countries together, but in a loose intergovernmental framework. Set up by ten west European countries in 1949, it still exists with some 47 Member States. Its legal and cultural work is important, and it created the ECHR (see below).

Decisions are one of three types of EU legislative act – the others being *directives* and *regulations* (see below). Decisions are directly applicable and binding on those to whom they are addressed, such as a Member State or a company.

Democratic deficit was a term used to describe the loss of democratic accountability inherent in national parliaments transferring their right to legislate to ministers meeting in the Council without giving the EP the right to approve or reject such legislation. Now that the EP has such powers (in most policy areas), the term has taken on a less precise meaning, often linked to the distance between EU institutions and voters.

Differentiated integration is where integration does not involve all EU Member States, but proceeds in certain fields only with a group of Member States (and sometimes possibly non-Member States). The concept (or similar ones) is also referred to as two-speed Europe, multi-speed Europe, variable geometry and concentric circles.

Direct effect: Established in the *van Gend & Loos* case (1963) at the ECJ, the doctrine has become a distinguishing principle of EU law. Under direct effect, EU law applies directly to individuals (not just states) and national courts must enforce it.

Directives are EU legislative acts that set goals that EU Member States must achieve. The Member States must adapt their own laws and/or regulations to meet the goals set in the directive – a process called transposition (see below).

Dublin regulation is the system to determine which EU Member State is responsible for examining asylum applications.

Enhanced cooperation is a procedure where, within the EU framework, a minimum of nine Member States may establish more advanced cooperation or integration in an area without the other Members States being involved. It has been used, for instance, for divorce law, patents, property regimes of international couples, and the establishment of the European Public Prosecutor.

Erasmus+ is an EU programme that funds learning opportunities abroad for individuals (mainly within the EU but also beyond). It is open not only to students, but also teachers, academics, apprentices, young workers, and people working in grassroots sport.

Eurojust is an EU agency that coordinates cross-border investigations and criminal prosecutions.

Euratom is the European Atomic Energy Community set up in 1985 to establish cooperation on developing nuclear energy. Its scope has been increased to cover a large variety of areas associated with nuclear energy, such as radiation protection and research.

Eurobarometer is a regular series of opinion polls conducted on behalf of the Commission and other EU institutions across all Member States, carried out via opinion polling companies on a wide variety of topical EU issues. Its database, dating from 1973, is one of the largest in the world.

European Central Bank (**ECB**) issues the euro, sets interest rates, and formulates the EU's monetary policy. Based in Frankfurt, its 6-member executive board, including its president, are chosen by the European Council after consulting the European Parliament (which holds public hearings before its votes on them). The Bank is formally independent, and its board members cannot be dismissed during their 8-year terms of office. The president must report to the EP several times a year. Its remit was expanded in 2014 to include supervision of banks.

European Citizens' Initiative (**ECI**) is a procedure laid down in Article 11(4) TEU whereby a million citizens from a quarter of the Member States can submit a proposal for a legislative act to the European Commission to consider.

The European Commission is the executive branch and administration of the EU. It is headed by a college of Commissioners who, like ministers in a national government, each take responsibility for a particular policy portfolio, with the relevant administration (Directorates General) under their authority. The Commission President is elected by the EP on a proposal of the European Council, which must take account of the election results when making the nomination. The other 26 Commissioners are nominated jointly by the President of the Commission and each Member State government (typically from the ranks of ministers or MEPs) but are subject to public hearings by the EP prior to its vote of confidence in the Commission.

European Community Organisation of Socialist Youth (**ECOSY**): see Young European Socialists

European Convention on Human Rights (**ECHR**) is an international treaty drafted in 1950 by the then newly formed **Council of Europe**. Any person who feels his or her rights, as defined in the Charter, have been violated by a state can appeal the final national judgment to the **European Court of Human Rights**. These are *not* EU bodies but are often confused with the EU, a confusion enhanced by holding most European Parliament sittings in Strasbourg.

European Council: the EU institution composed of the prime ministers or presidents of the Member States and the president of the Commission. It is often confused with the Council (of ordinary ministers) of the EU or with the non-EU Council of Europe. For the media, it is often called a European "summit meeting".

European Court of Auditors (**ECA**): with 27 members, is charged with scrutinizing the EU's spending and financial accounts. Its annual and specialised reports consist mainly of dry financial management assessment.

European Court of Justice (**ECJ**): the 'Supreme Court' of the EU, which sits at the apex of the **CJEU**. It is the ultimate arbiter of legal disputes in the field covered by EU law – the treaties, legislation and decisions adopted pursuant to the treaties, and the Charter of Rights.

European Defence Agency (**EDA**): created in 2004 "to support the Member States and the Council in their effort to improve Eu-

ropean defense capabilities [particularly] in the field of crisis management and to sustain" the CSDP. It aims to move the EU towards more cooperation in arms production and procurement.

European Economic Area (**EEA**): an arrangement that extends the EU's internal/single market to Norway, Iceland, and Liechtenstein. In exchange for having to apply EU single market legislation and safeguards, their goods gain full access to the single market.

The **European Economic and Social Committee** (**EESC**) is an advisory body representing employers, trades unions, and other social or public interests (such as those of farmers or consumers) in EU policy-making. Appointed by the national governments, its members serve in a part-time function advising the Commission and other institutions on relevant proposals.

European External Action Service (**EEAS**): formally separate from the Commission, it works under the authority of a Vice President of the Commission, the High Representative for Foreign and Security Policy. Its task is to assist the High Representative in implementing the CFSP. It is composed of officials from the Commission, the Council and seconded national officials. The EU's representations and diplomats around the world are part of the EEAS.

European integration is the process whereby sovereign states pool national sovereignty to maximise their collective power and interests.

The **European Investment Bank** (**EIB**) is a not-for-profit bank that is the world's biggest public long-term lending institution. Its shareholders are the EU Member States and their collective collateral enables it to borrow on capital markets at favourable rates, then using that money to support infrastructure and economic development projects with low-interest loans reaching nearly €100bn a year. In 2007, it became the first institution to issue green bonds. In 2019 it committed to stop funding fossil fuel projects by the end of 2021. The EIB plans to invest €1 trillion in climate-related projects by 2030.

European Neighbourhood Policy is a policy launched in 2003, aimed at creating stable, close and mutually beneficial relationships in the immediate vicinity of the EU, with countries not likely to be joining it in the near future or ever. It focusses on two groups of

countries: those to the east (Ukraine, Moldova, Georgia, Armenia and Azerbaijan) and those to the south (north Africa and the MiddleEast), but not Russia (subject to a separate "strategic partnership", now faltering) nor Turkey or the western Balkans which are applicant or potential applicant countries.

European Parliament is the directly elected institution of the EU, comprising 705 MEPs from the 27 Member States, distributed among them on the principle of digressive proportionality. It exercises legislative and budgetary power as part of the EU's bicameral legislature, the other chamber being the Council of the EU. It also elects the Commission President, confirms the Commission as a whole, and may dismiss it in a vote of no-confidence.

European Regional Development Fund (**ERDF**): This is one of the main items in the EU budget, aiming to assist the less prosperous regions of the EU.

European Social Fund (**ESF**): This is the EU's main instrument for improving job prospects for EU citizens by improving access to employment via vocational training and helping people from disadvantaged groups.

Europol: The European Police Office designed to improve the effectiveness with which police forces across the EU could cooperate across national borders.

The **European Public Prosecutor** investigates and prosecutes fraud against the EU budget as well as major cross-border VAT fraud cases. Previously only state authorities could investigate and prosecute these crimes and could not act beyond their borders. The Chief Prosecutor's office is in Luxembourg, with Delegated Prosecutors located in each Member State participating in the system (only 22 out of the 27, as it was established under the enhanced cooperation procedure, with Poland, Hungary, Ireland, Denmark and Sweden not participating). It started work in June 2021.

The **European Trade Union Confederation** (**ETUC**) brings together all the main trade unions of EU Member States and beyond.

Ever Closer Union is a term used in the treaties to indicate an aspiration to a closer union "among the peoples" (note the plural – not

about creating a single "people"), not the states, in accordance with the principle of subsidiarity.

Federalism: Principle of sharing power and sovereignty between levels of governance, usually between central or federal level, and substate (state, provincial, Länder) level

Fiscal Compact: see *Treaty on Stability, Coordination and Governance in the Economic and Monetary Union*.

Fit for 55 is the EU's package of measures aiming to reduce greenhouse gas emissions by 55 percent by 2030 (compared to 1990) as a crucial step to climate neutrality by 2050.

Fonctionnaires, or EU officials, are civil servants who have successfully passed an entrance exam known as the *concours* and are involved in administration in the EU's institutions and preparing policy-making.

Foundation for European Progressive Studies (**FEPS**) is the think tank associated with, but independent from, the Party of European Socialists. Created in 2008, it produces in-depth studies and reports and holds seminars, symposiums, and debates. It collaborates with national think tanks such as the Friedrich Ebert Stiftung, the Fabian Society and the Fondation Jean Jaures.

Frontex is the EU agency for the management of its external borders. It was created in 2005 to coordinate Member States' operational cooperation in external border controls, provide training to national border guards, carry out risk analyses, organise joint control operations, and assist Member States in migrant return operations.

Hearings: under the treaty, the EU Parliament has only a collective vote of confidence in the Commission before it takes office and no right to vote on individual commissioners. Yet, starting in 2004, it insisted that it would not hold its vote until every candidate commissioner had appeared before the parliamentary committee corresponding to their prospective portfolio, for a three-hour public hearing. At that and at every subsequent set of confirmation hearings (2009, 2014, 2019) one or more of the candidate Commissioners has been withdrawn and replaced as a result of concerns expressed by the EP.

The **High Representative for Foreign Affairs and Security Policy** (**HR/VP**) represents the EU externally at foreign minister level. He or she is Vice President of the Commission, chairs the Council when it meets to discuss foreign affairs or security, and heads the European Defence Agency.

HORIZON Europe is the EU's research and development funding programme.

Infringement procedures under Article 258 TFEU are cases brought before the Court of Justice of the EU to determine whether a Member State has failed to fulfill its obligations under EU law. Cases are normally brought by the Commission, but can be brought by another Member State. The commencement of proceedings before the Court is preceded by a preliminary procedure conducted by the Commission, which gives the Member State the opportunity to reply to the complaints against it, or rectify the situation. If the Court finds that an obligation has not been fulfilled, the Member State concerned must terminate the breach without delay. If it doesn't, the Court may impose a fixed or a periodic financial penalty (Article 260 TFEU).

Intergovernmental Conferences (**IGCs**) bring together representatives of Member States to consider and agree amendments to the treaties.

Intergovernmentalism is where decisions are reached by agreement among governments. It is usually contrasted with *supranationalism*.

Intergroups are unofficial groupings of MEPs who are interested in a particular topic.

The **legal basis** of an EU law is the Treaty article or articles (cited in the legislation) which give(s) the EU authority to act in that area and lay(s) down the decision-making rules that apply.

Legislative acts of the EU are regulations, directives or decisions adopted under the Ordinary Legislative Procedure or a special legislative procedure. These acts are published in the *Official Journal of the European Union.*

Lobbying is an attempt to influence decision takers to adopt a course of action advantageous, or not detrimental, to a particu-

lar group or interest. A lobbyist (or "interest representative") is a person employed by a group, firm, organisation, region, or country to carry out lobbying. Interest representatives must sign the EU's Transparency register (and publish information on their clients) if they are to be given access to the buildings, members or senior staff of the institutions.

Lomé Convention: see *Cotonou Agreement*.

Multiannual Financial Framework is the 7-year framework for EU budgets, adopted unanimously by the Council with the consent of the EP. It lays down the annual ceilings on for each main category of expenditure of the Union's sectors of activity.

Multi-level governance is a system in which power is distributed over a number of levels of governance, for example the supranational, national, regional and local levels, normally with significant interaction and coordination across those levels.

Multi-speed Europe: see *Differentiated integration* and *Enhanced Cooperation*.

Next Generation EU (**NGEU**) is a €750bn response package to the economic downturn caused by the covid pandemic, launched in 2021. It constitutes the largest stimulus package ever in Europe, and is financed by the issuance of common debt, through EU sovereign bonds.

Nordic Council is an inter-parliamentary cooperation established in 1952, with 87 representatives from Denmark, Norway, Sweden, Iceland, Finland, the Faeroe Islands, Greenland, and the Åland islands. The Secretariat General is based in Copenhagen. A corresponding Council of ministers meets every spring.

The EU **Ombudsman** is empowered to receive and investigate complaints from any EU citizen or resident in a Member State concerning instances of maladministration in the Union institutions or bodies (other than the Court in its judicial capacity). The EP chooses the Ombudsman after each parliamentary election for a five-year term of office.

Opinions are non-binding statements issued by the EU institutions, stating a position on a particular issue, but without creating any legal obligations.

Ordinary Legislative Procedure (**OLP**) is the EU's normal legislative procedure, where the EP and the Council share the powers to amend and adopt (or not) legislative proposals from the Commission.

The Organisation for Security and Cooperation in Europe (**OSCE**), set up at the end of the Cold War, brings together 57 states from across Europe and beyond in what is the world's largest regional security organisation. It works on the basis of unanimity and its decisions are politically, not legally, binding.

The **Parliamentary Assembly of the Council of Europe** (**PACE**) is an assembly composed of members of national parliaments of the 47 Member States of the Council of Europe.

The **Party of European Socialists** (**PES**) is the European political party that brings together the main democratic socialist parties in the EU (plus the Norwegian and UK Labour parties). In the European Parliament, its MEPs sit in the S&D Group.

Passarelle clauses are the treaty provisions that allow the European Council, with the consent of the EP, to replace unanimous voting in the Council with QMV and move a subject governed by a special legislative procedure to the ordinary legislative procedure.

Permanent Structured Cooperation (**PESCO**) is the equivalent, in the security and defence field, to enhanced cooperation, allowing those Member States which want to and are able to, to establish and participate in military cooperation. All Member States except Denmark and Malta currently take part.

Petersberg tasks see *Common Security and Defence Policy*

Political Groups in the European Parliament bring together like-minded members. Since the first elections in 1979, the two largest Groups have been the Socialists and the EPP (Christian Democrats). Several smaller Groups on the left and centre have been a constant presence, albeit sometimes changing their names: the Liberals (now called Renew), the Left (formerly Communist) Group and the Greens. To the right of the EPP, a variety of constantly permutating groups have appeared and disappeared, across the nationalist, conservative and far-right spectrum. Currently this comprises

the Conservative and Reformist Group and the Identity and Democracy Group.

The **principle of conferral** is laid down in Art 5 TEU which specifies that the European Union "shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States".

The **principle of subsidiarity** is laid down in Art 5 TEU which specifies that "in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level".

Qualified majority voting (**QMV**) applies to most areas of Council decision-making. A qualified majority normally requires that a proposal secures the support of at least 15 out of 27 Member States, *and* that they must represent, collectively, at least 65 percent of the EU's population. However, a blocking minority on the population criteria (35 percent) must include at least four Council members – three Member States, whatever their population, are not enough to block.

A **Rapporteur** is an MEP who has been given responsibility for drafting a report for consideration by one of the Parliament's committees and subsequently presenting the version adopted by the committee to the Parliament plenary.

Recommendations are issued by the EU institutions, typically to suggest a particular course of action. They are not binding and do not create legal obligations.

Regulations are binding legislative acts that apply directly across the EU.

The **S&D parliamentary group** in the European Parliament brings together MEPs from PES member parties (and others if admitted by special decision). There are similar Groups in the Committee of Regions and the Parliamentary Assembly of the Council of Europe.

Social Charter refers both to the 1961 European Social Charter of the Council of Europe and the Charter on the Fundamental Social Rights of Workers, a declaration adopted by the European Council in 1989 which paved the way for a Social Action Programme of 47 legislative proposals from the Commission and also served as the basis for the social rights incorporated in the EU Charter of Rights made legally binding by the Lisbon Treaty.

The **Schengen Agreement** was signed in 1985 by a small, pioneer group of founding Member States albeit outside of the EU framework. Belgium, France, Germany, Luxembourg and the Netherlands chose to create a territory without internal border checks by signing this agreement in the small town of Schengen in Luxembourg. The 'Schengen area' became a reality in 1995 after the creation of a single external border and the abolition of checks at the borders between the participating countries.

Sovereignty refers to the ultimate authority over people and territory. It is sometimes broken down into internal (law-making authority within a territory) and external (international recognition) sovereignty. National sovereignty is said to be 'shared' or 'pooled' in the EU.

Subsidiarity see *Principle of subsidiarity*

Supranationalism means governance above states or nations. Processes or institutions that operate with a degree of autonomy, but whose decisions can bind national governments or Member States, are called supranational. The term is sometimes a euphemism for federalism, but for most analysts falls short of a full federation.

Trans-**European Networks** are cross-border transport, telecommunications and energy infrastructures developed with financial support from the EU.

Transposition is the process through which Member States incorporate EU directives into national law, regulations or administrative practices. Transposition has to be completed by the deadline specified in the directive.

Treaty on European Union (**TEU**): the main treaty succinctly setting out the values, aims, competences, institutions, powers and structures of the European Union. (Curiously, it also sets out

detailed provisions on the Union's external action and specific provisions on the Common Foreign and Security Policy which would more logically have been in the TFEU).

Treaty on the Functioning of the European Union (**TFEU**): the longer and more detailed treaty setting out the specifics of how the EU operates in different fields and how its institutions function.

The **Treaty on Stability, Coordination and Governance in the Economic and Monetary Union** (**TSCG**) contains a "Fiscal Compact" which places strict restrictions on national deficits and requires Member States to have automatic correction mechanisms if excessive deficits arise. It sets no limits on the level of public expenditure, only on financing such expenditure by excessive borrowing

Transparency refers to the process of making EU documents and decision-making processes more open and accessible to the public.

Trilogues are three-way meetings between representatives of the Commission, the Council and the European Parliament, to negotiate compromises in budgetary and legislative decision-making.

Variable geometry: see *Differentiated integration*.

Young European Socialists (until 2013 European Community Organisation of Socialist Youth (ECOSY)): the youth section of the PES. The youth sections of PES national parties are affiliated to it.

Visegrad group (**V4**) was set up in 1991, when the leaders of Hungary, Poland, Czechia and Slovakia (after the disintegration of Czechoslovakia) sought to increase their cooperation and to defend their interests in the EU.

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Reviews

Enrique Barón, Former President of the European Parliament, President of FEPS Scientific Council

This handbook is a precious guide for anybody that wants to know how the EU, "this new political animal" works and has brought peace and prosperity. It is the brainchild of Richard Corbett, a dedicated British European federalist who worked with me in the challenging period of transforming the EC into the EU from the end of the Cold War till the Lisbon Treaty. We share the honour of working as architects and bricklayers. He is an authority in the Rules committee of the European Parliament, and rules are essential for democracy (his handbook on the EP has 9 editions). Now, this publication sums up Richard Corbett's rich experience, producing a useful instrument for all members of the progressive family and increasing the potential of the center-left to strengthen our common endeavour.

Gabriele Bischoff, Member of the European Parliament, S&D Group

In times like these, after increasing uncertainties and decreasing enthusiasm for the European project culminated with a Member State leaving the Union for the first time, the first volume of the FEPS Primer series written by Richard Corbett takes you on a promising journey unfolding all you ever wanted to know about the European Union. The progressive potential of the EU is developed twofold: with a historic view on where we come from, the quest for peace, progress and prosperity for all after World War II, and with a forward-looking view on our progressive potential to shape the EU and to improve it. A great read that answers any question you might have on the European Union and our responsibility as progressives.

András Bíró-Nagy, political scientist, Director of Policy Solutions, Hungary

The most important responsibility facing any think-tank is to make academic-quality content accessible to the wider public, as concisely and intelligibly as possible. Richard Corbett's book is an outstanding example of this special genre. Corbett presents even complex and intricate phenomena, such as the EU's institutional structure and its operations, as well as the major underlying policy trends, in a manner that makes them readily accessible to any reader. His book reflects the author's several decades of practical experience coupled with his deep grasp of the relevant theories, which gives his assessments enormous weight. At the same time, his empirical observations are grounded in a clear set of values, and this outlook makes Corbett's book required reading for all those who are interested in a centre-left perspective on where the European Union could be headed in the future.

Robert Ladrech, Emeritus Professor of European Politics, Keele University, UK

Progressive aspects of the EU have been the result of centre-left activity across EU institutions with support from national parties and governments. In this primer, Corbett succinctly but with great insight presents an overview of this activity and proposes steps for better democratic governance. A key role for a think tank is to facilitate policy development across institutions and political actors, and this primer will serve as an important means of extending this crucial service of FEPS to a wider audience.

The Author

Richard Corbett was a Member of the European Parliament from 1996–2009 and 2014–20. During that period, he was for ten years the Coordinator for the S&D Group on constitutional questions. He was the European Parliament's co-rapporteur on the Constitutional Treaty and on the Lisbon Treaty. He was the UK Labour Party's leader in the European Parliament and in that capacity was a member of the Labour Party National Executive Committee and Shadow Cabinet. From 2010–14 he was senior advisor on constitutional questions to the President of the European Council, Herman Van Rompuy. Prior to becoming an MEP, he worked with Altiero Spinelli on Parliament's proposal for a Treaty on European Union. He later drafted proposals incorporated in the Maastricht and Amsterdam treaties, not least the first draft of what is now the EU's Ordinary Legislative Procedure (co-decision procedure) which gives the European Parliament an equal say with the Council on legislation. He has several times been the rapporteur on rewriting the Parliament's Rules of Procedure. He has written extensively on European affairs, including several academic textbooks, and was a visiting professor at the College of Europe in Bruges.

The FEPS Primer Series

Following a decade of polycrisis that followed the great recession of 2009, progressive political thinking and practice in Europe needs a reconstruction. This FEPS Primer book series was launched to serve the creation of this new synthesis, connecting long established values of the European socialist and social democratic traditions with the lessons and innovations of the current experience.

Primers are booklets written with an educational purpose, to help new (typically young) audiences enter specific thematic fields, which can be diverse (in this case social science, politics, and policy). Accessible language is important, together with illustrations that highlight key elements of the content. The main text is always accompanied by a glossary as well as a section of recommended further reading.

The FEPS Primers are parts of a broader effort: the Foundation endeavours to raise progressive political education in Europe to a new level. Our volumes aim to provide useful analysis, instruction, and orientation for several years after publication. Some of them may well be considered 'must reads' for all those aspiring to play an active role in European politics at any level.

Our authors are not only recognised experts, but also active participants in political and policy debates, representing a diversity of European nations and career paths. However, they are connected by sharing the values and objectives of the progressive political family and concerns for the future of European societies, as well as sustainability and social cohesion as common goals.

The FEPS Primer series is edited by an Editorial Board. We keep in view the key current issues of the European Union, with a focus on critical discussion points that will influence the work of social movements as well as governance at various levels in the coming decade. We hope the selection of topics and the contributions of our distinguished authors will spark the interest of those participating in progressive political education, and also appeal to a wider readership.

Dr László Andor
FEPS Secretary General

"This publication sums up Richard Corbett's rich experience, producing a useful instrument for all members of the progressive family and increasing the potential of the center-left to strengthen our common endeavor."

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