

1. Constitutionalizing the European Public Good

(1) Crisis of Trust as Crisis of Deepening Integration

Surprisingly, the fall of the Berlin Wall on November 9, 1989, turned out to be the biggest challenge to Europe since the fall of Hitler's Third Reich in the same city on May 8, 1945. Instead of rejoicing about the end of Europe's division in happy anticipation of European unification under the banner of freedom, democracy and market economy, skeptical concern, fear and immobility soon filled the air. With German unification imminent as the immediate consequence of the fall of the Berlin Wall, even the very rationale of European integration seemed to have become questionable. Germany might not need European integration any longer, some argued. Other notorious skeptics perceived united Germany as the dominating European power, while some analysts were questioning whether or not Germany would maintain its interest in pursuing European integration at all. Soon, a first set of reassuring answers was given: The government of united Germany under Chancellor Helmut Kohl was reelected twice after the unification of the two German states on October 3, 1990, before he lost his Chancellorship in the 1998 election. At all times during this decade, Kohl's government remained unwavering in its commitment to European integration. German unification and European unity were considered as two intrinsically linked sides of the same coin.¹ Rapid German unification had come about only after formal consent of the four allied powers, who had won World War II against the German Reich. German unification accelerated the path toward the European Monetary Union. It also opened up the possibility of further enlargements to include Central and Eastern European countries: After all, the accession of the German Democratic Republic to the Federal Republic of Germany – based on its traditional internal federal structures with five “new Länder” joining the eleven “old Länder” of the Federal Republic – was the first accession of a post-communist transformation society to the European Community, albeit under different conditions. Joy could have been the overall European attitude.

This, however, did not happen because a second set of answers to the questions raised with the end of the artificial division of Europe was much more difficult to obtain. In fact, it even took EU leaders a couple of years to define the right content of questions following the fall of the Berlin Wall and the end of the Cold War. The fall of the Berlin Wall in 1989 found a first formal answer in the EU membership of ten post-communist countries in 2004, followed by another two in 2007. Further applicant

1 See Szabo, Stephen, *The Diplomacy of German Unification*, New York: St. Martin's Press, 1992; Zelikow, Philip, and Condoleezza Rice, *Germany United and Europe Transformed: A Study in Statecraft*, Cambridge, Mass.: Harvard University Press, 1995.

countries from Southeast Europe reminded the EU that even the enlargement marathon had remained unfinished business. The enlargement of the European Union to include former communist countries had been the only possible and morally right answer to overcome the division of Europe originating in the Cold War. Before joining the EU, the new member states had to go through a tough period of internal transformation in the course of which they had to adopt the EU's *acquis communautaire*. Through this daunting process, they became formally more Europeanized than most of the "old" EU member states.² None of them would have wished to go through the ordeal of a comprehensive review of the EU compatibility of its legal system.

No matter how important the enlargement process was, the other long-term question for the future of the European Union was not raised with the same clarity as the enlargement issue: How to deepen European integration and with which objectives? Eventually, during the 1990's and into the first years of the twenty-first century the idea of what European integration was meant became blurred across most of the EU. Instead of finding joint answers to the question of what European countries and societies could do together, the leadership of many EU member states became obviously more absorbed in preventing the European Union from advancing. They were trying to delineate the limits of European integration. Instead of pro-actively defining and advancing a common European good, they emphasized national interests. The European Union was stumbling from one crisis into the next and from one symbolic exit of a crisis into the next stage of self-doubts. The main question remained unanswered: How could united Europe define common interests and common public goods in order to prevent a permanent stalemate over vested national interests, mutual suspicions and an overall sense of stagnation and loss in the age of globalization? Paradoxically, the potentially positive process of constitution-building that culminated with the signing of the first ever European Constitution was more an expression of reciprocal suspicion than of convincing leadership. At its beginning stood the Treaty of Nice, the embodiment of a politics of veto instead of a politics of enabling open doors. Lack of leadership inspired lack of differentiation among Union citizens: The rejection of the European Constitution in referenda in two founding states of the EU was primarily a rejection of the incumbent leadership in France and in the Netherlands. The majority of EU citizens were ready for more integration, and also for a European Constitution. But their leaders failed them in

2 See Zielonka, Jan (ed.), *Europe Unbound: Enlarging and Reshaping the Boundaries of the European Union*, Abingdon: Routledge, 2002; Dimitrova, Antoaneta C. (ed.), *Driven to Change: The European Union's Enlargement Viewed from the East*, Manchester: Manchester University Press, 2004; Cameron, Fraser, *The Future of Europe: Integration and Enlargement*, London: Routledge, 2005; Schimmelfennig, Frank, and Ulrich Sedelmeier (eds.), *The Politics of European Enlargement: Theoretical Approaches*, London: Routledge, 2005; Schimmelfennig, Frank, and Ulrich Sedelmeier (eds.), *The Europeanization of Central and Eastern Europe*, Ithaca: Cornell University Press, 2005; Brimmer, Esther, and Stefan Fröhlich (eds.), *The Strategic Implications of European Union Enlargement*, Washington D. C.: Center for Transatlantic Relations, 2005; Grabbe, Heather, *The EU's Transformative Power: Europeanization through Conditionality in Central and Eastern Europe*, Houndmills: Palgrave Macmillan, 2006.

convincingly explaining what their actions were meant to initiate. The same disaster happened, not surprisingly, in June 2008 when the Irish people were asked to ratify the Treaty of Lisbon in a referendum: 53.4 percent of the Irish voters said “no” and triggered a new crisis for EU politicians. Eventually, this was not an Irish problem but a problem of political authority and leadership across the European Union.

The absence of solid achievements of deeper integration in parallel to the unprecedented enlargement of the EU turned into a crisis of trust in Europe’s political leaders. This crisis generated a reflection period which turned, interestingly, into the first reasonable constitutional debate in Europe. The constitution of the European Union, of European identity and of EU policy-making was discussed more than ever before in five decades of EU integration history. In itself, this was a good and reassuring reaction to the crisis in constitution-building. Hopefully, it could mean the beginning of a new contract between Union citizens and EU leadership, the initiation of a new consent about the future of Europe and hence a Second Founding of European integration. It surely meant the breakthrough of the Europeanization of politics in Europe. At last, this combination of crisis, self-doubt, fancy Euroskepticism and even more frustrating disappointment with the short-sightedness (and limited success) of national efforts to go it alone turned European integration eventually into a matter of domestic politics across the EU: 66 percent of EU citizens consider issues related to the European Union to be an element of domestic politics (and not of foreign politics) in their respective countries.³

During five decades of European integration, institutional Europe has been established. But, still, Europeans are rare. The end of communist totalitarianism and the divisions of the Cold War opened enormous prospects and opportunities for many societies in Europe. But, surprisingly, the idea of value added through a united Europe became increasingly obscure. While for the first ten years after the fall of the Berlin Wall, the enlargement agenda had occupied the political elites across the EU, the second decade was meant to end with achievements in deeper integration. After the political establishment in the EU had already failed the ratification of the European Constitution of 2004, they also failed the ratification of its replacement, the Reform Treaty of 2007, in the same manner by not convincingly explaining its usefulness and purpose to the only citizens that were able to decide about the treaty in a referendum: As a consequence, the majority of Irish voters rejected the Treaty of Lisbon in June 2008. Whether or not a working solution to this new crisis in integration can be found instantly: It is wrong to simply put the blame on the Irish should European integration advance as an operation of mutual solidarity. One experience stood above all others during these years of trial for European integration: Europe needs to be a Europe of

3 See *Frankfurter Allgemeine Zeitung*, No. 187, August 14, 2007: 19. With 79 percent, the Portuguese were leading the assumption of this opinion poll, with 46 percent the Belgians were, astonishingly, the people with the lowest support for the thesis of EU affairs being a matter of domestic politics.

results if its institutions want to regain legitimacy. “A Europe that works,” as political leaders began to formulate this insight, would remain the ultimate bench-mark for judging the readiness of the European Union to take its desired place in the world on the basis of a new internal consent among EU citizens and EU leadership. In spite of its grave adaptation crisis, the European Union would have been ill advised not to look beyond and put the first decade of the new century into a larger context. European integration went through a process of redefining its rationale under the conditions of a new world order. It did so by simultaneously trying to establish a new relationship between the involvement of its citizens and the accountability of its political elites. Together, these fundamental structural trends signified nothing less than the Second Founding of European integration. It was not surprisingly that this went hand in hand with a massive adaptation crisis.

The enlargement challenge arising from the secular change encapsulated in the fall of the Berlin Wall and the end to communist totalitarianism was handled reasonably rationally and successfully. With German unification in October 1990, the first EU enlargement to include a post-communist society took place. It should have been obvious that somehow the intra-German adaptations would have to be dealt with on a much larger scale in the face of an EU enlargement with a host of post-communist countries. On a much larger scale, socio-economic, political, constitutional and cultural matters needed to be addressed. The psychological and physical consequences of communist rule, and the implications of deep structural transformations, were unavoidable for the EU as a whole once other countries followed the German Democratic Republic (GDR) in joining the European Union. This was not an all too pleasant and comfortable thought for many political leaders in Western Europe. Politicians therefore tried to downplay its implications and continued to celebrate the unification of Europe in the name of freedom and democracy as a symbolic victory. Eventually, together with Malta and Cyprus ten post-communist countries joined the European Union during the first decade of the twenty-first century. In 2004, when the first eight of them entered the EU with a total of nearly 73 million inhabitants, they had a combined GDP of 458.4 billion euros. This combined GDP was not larger than that of the Netherlands with 465.3 billion euros and little more than 16 million citizens.

During the 1990's, the realization of economic differences, fundamental regional asymmetries and daunting long-term questions with respect to the necessary degree of solidarity in Europe began to deeply infect the political joy of renewed freedom in Europe. Across the European Union, imminent challenges connected with its eastward enlargement had been portrayed as being larger than life, while often the opportunities of enlargement were played down – or missed. Polish agriculture with 8.5 million farmers in a population of 35 million alone would have increased the EU budget by 20 percent if currently recognized Common Agricultural Policy provisions would have been granted to them. But instead of reforming the Common Agricultural Policy before

Poland was to join the EU, the EU put emphasize on transitory periods to prevent Poland from joining the controversial benefits of the agricultural policy after becoming a full EU member. Double standards of membership were preferred to renewal and deeper integration for the benefit for all. The same phenomenon took place with regard to the issue of labor mobility: While some EU member states welcomed new workers from Central and Eastern Europe, others emphasized transitory solutions in order to protect their domestic labor markets as long as possible. The sense of solidarity disappeared among European societies.

In institutional terms, this myopic attitude was to have immense consequences for the balance of power among the institutions. The net-contributors to the EU budget were afraid to be outvoted by coalitions of the have-nots as they might inevitably gain a majority in EU institutions. Yet the morally fortunate perspective to unify Europe after decades of Cold War, dictatorship and separation could not remain a vision without a commitment. Eastward enlargement had to happen, and for many good reasons, while at the same time the derailing of EU decision-making capacities had to be avoided. The Treaty of Nice in 2000 was the peak of a policy that defined European integration from the perspective of its limits and not from the perspective of its opportunities. It opened the door for a unique constitution-building process in the European Union. Many national political leaders followed this process only half-heartedly. Not surprisingly, their citizens were not properly engaged in any reasonable public communication strategy. In the end, the result of the Constitutional Convention came more as a challenge to many national leaders than as a promise to Union citizens. The national leaders came under pressure to strike a deal and find a compromise. On October 29, 2004, all of them signed the Treaty Establishing a Constitution for Europe. Some of them did it with skepticism and inner reservations. Together, they did not reflect about the ratification hurdles ahead. Although the majority of EU member states representing a majority of Union citizens ratified the European Constitution, two negative referenda in France and in the Netherlands put the project in a coma. The idea to revitalize and reinspire European integration by providing a common constitutional framework around the enlarged EU stalemated. It was an idea ahead of its time, or at least ahead of its political leaders.

(2) The Need for Redefining Common European Interests

Obviously, the European Union needed the dual crisis of deeper enlargement and of trust between citizens and political actors. It initiated two unprecedented processes: the political establishment of the European Union declared a period of reflection, which basically developed into a period of restraint among politicians normally full of grand rhetoric. It also led to unprecedented discourses across the European Union about European identity and other pre-conditions for solidified constitutionalism. Would the

European Constitution have passed its ratification marathon without a detour, the debate about European identity and the question in which constitution Europe was finding itself at the beginning of a new century may never have been so broad: The reflection about a European Constitution became a reflection about the condition in which Europe actually was.

The state in which Europe found itself during the first years of the twenty-first century was deplorable. So was the result of the constitution-building process in the formal sense of the word. Paradoxically, in the end, both processes would advance more than ever: The public debate about the condition of Europe and the constitution-building intensified through a politicization of the European Union had never been that broad and interesting. In the course of the first decade of the twenty-first century, the constitution-building and its crisis advanced European constitutionalism without resulting in a proper constitution. The public interest in the future of Europe was never stronger than during these years of trial.

Table 2: Member States of the European Union

EU Member State	Population (in million, 2005) ⁴	GDP (in billion euros, 2005) ⁵	GDP per capita (2005, EU average: 100) ⁶	Seats in the European Parliament (as of 2009) ⁷	Votes in the Council (as of 2009) ⁸
Austria	8.2	245	122.7	17 (2.32 %)	10 (2.0 %)
Belgium	10.4	298	117.7	22 (3.01 %)	12 (3.48 %)
Bulgaria	7.8	21	32.1	17 (2.32 %)	10 (2.90 %)
Cyprus	0.7	13	83.5	6 (0.82 %)	4 (1.16 %)
Czech Republic	10.2	98	73.0	22 (3.01%)	12 (3.48 %)
Denmark	5.4	208	124.2	13 (1.78 %)	7 (2.03 %)
Estonia	1.3	11	57.4	6 (0.82 %)	4 (1.16 %)
Finland	5.2	155	112.1	13 (1.78%)	7 (2.03%)
France	60.6 ⁹	1710	109.0	72 (9.84 %)	29 (8.41 %)

4 European Union, European Commission, *Europe In Figures. Eurostat Yearbook 2006-07*, Luxembourg: Office for Official Publications of the European Communities 2007, http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-CD-06-001/DE/KS-CD-06-001-DE.PDF.

5 Ibid.

6 Ibid.

7 European Union, European Commission, *Treaty of Nice: A Comprehensive Guide*, http://europa.eu/scadplus/nice_treaty/bodies_en.htm#PARLIAMENT.

8 European Union, European Commission, *Treaty of Nice: A Comprehensive Guide*, http://europa.eu/scadplus/nice_treaty/council_en.htm#VOTES.

Germany	82.5	2258	109.8	99 (13.52 %)	29 (8.41 %)
Greece	11.1	181	82.2	22 (3.01%)	12 (3.48 %)
Hungary	10.1	88	60.9	22 (3.01 %)	12 (3.48%)
Ireland	4.1	160	137.1	12 (1.64 %)	7 (2.03%)
Italy	58.5	1417	102.8	72 (9.84 %)	29 (8.41%)
Latvia	2.3	13	47.1	8 (1.09 %)	4 (1.16 %)
Lithuania	3.4	21	52.1	12 (1.64 %)	7 (2.03 %)
Luxembourg	0.5	29	247.8	6 (0.82 %)	4(1.16%)
Malta	0.4	4	69.3	5 (0.68 %)	3 (0.87 %)
Netherlands	16.3	502	123.5	25 (3.42 %)	13 (3.77 %)
Poland	38.2	243	49.9	50 (6.83 %)	27 (7.83 %)
Portugal	10.5	147	71.4	22 (3.01 %)	12 (3.48 %)
Romania	21.7	79	34.8	33 (4.51 %)	14 (4.06 %)
Slovakia	5.4	38	55.1	13 (1.78 %)	7 (2.03 %)
Slovenia	2.0	27	80.0	7 (0.96 %)	4 (1.16 %)
Spain	43.0	904	98.7	50 (6.83 %)	27 (7.83 %)
Sweden	9.0	288	114.7	18 (2.46 %)	10 (2.90 %)
United Kingdom	60.0	1791	116.8	72 (9.84 %)	29 (8.41 %)

The European Union has become a household name. Its system of multilevel governance has finally reached the sphere of European society. People have begun to take interest in EU affairs. Obviously, many have been critical with this or that EU policy. Across the EU, they have begun to take an interest in what the EU does because they have realized that it affected their lives. In spite of rejecting reform propositions offered by the political establishment end, the majority of EU citizens also in France, the Netherlands and Ireland claimed to be more pro-European than their bickering political leaders, often involved in tactical games with more than one eye on the domestic perception of their European handling. In the summer of 2007, 66 percent of EU citizens were in favour of a European Constitution.¹⁰ While their leaders abandoned the initial project of the Treaty Establishing a Constitution for Europe and failed to make a convincing case for the subsequent Reform Treaty in the only referendum held on the matter, many EU citizens have realized that the European Union has become an unavoidable part of their daily life and an unavoidable element of their political destiny. The constitution-building process that has taken place during the first decade of the

⁹ The figure for France refers to metropolitan France only, it does not include the overseas departments and territories.

¹⁰ European Union, European Commission, *Eurobarometer 67: Public Opinion in the European Union*, June 2007, http://ec.europa.eu/public_opinion/archives/eb/eb67/eb_67_first_en.pdf.

twenty-first century politicized the European Union more than anything before since the signing of the Treaties of Rome. Along with the broad emotional debate across the EU about the United States and its role in the Broader Middle East, the crisis of adaptation broadened the public sphere of the European body politic.

Europe was in need of new roots. It was in need of redefining the rationale for integration and of refocusing its objectives. This agenda looked taller than ever. Yet, achieving it could not work without common Europe-wide perspectives on what to do together and without a European-wide recognition of what to gain or to lose: Europe could only win together or lose together. Amidst the crisis of trust and confidence during the first decade of the twenty-first century, this insight was gradually returning to the EU. Its citizens seemed to be more open to this insight yet were reluctant to embrace its consequences. Their leaders were having difficulty in conveying the consequences convincingly and worsened the situation by playing down the initial insight of unavoidable Europeanization as the only way forward for Europe.

The underlying principles of European integration had to be advanced and adopted by all applicant countries in Central and Eastern Europe in order to make the community institutions work after its biggest ever enlargement. The degree of adaptational requirements and the possible number of new member states were at the center of EU developments throughout the 1990's and during the first decade of the twenty-first century. These developments overlapped with self-doubts among EU elites about the institutional structures and their efficiency. Their debates, largely technical and self-centered, were coupled with new power struggles and surprising excesses of pride and jealousy among the old EU member states. Often, so it seemed, the EU had become an immobile club of affluent and self-complacent countries trying to safeguard their achievements against unprepared, if not outright "dangerous" beggars from the East. However, the adaptational transformation of the institutional structures of the Union generated a constitutional overhaul, including and most promising a broad reflection about Europe's identity and the state of its integration process that was eventually to have an integrating effect on the political culture across the European Union. It paved the ground for a thorough Europeanization of European politics. The nature of European integration would never be free from controversy. Clashing interests are a natural element of democratic politics. But these controversies were more than ever linked to the European level of governance and hence to the EU as a governance system.

When the Irish voters rejected the Treaty of Lisbon on June 12, 2008, it was an immediate and cheap reaction to criticize them for not being grateful to the EU. Ireland had become one of the wealthiest countries in the EU in the course of one generation. But it was totally misleading to assume that a majority of Irish voters rejected the Treaty of Lisbon because of a lack of gratitude for the support they had received from the EU in past decades. It is difficult to identify one single common denominator of the Irish

“no” vote. While the rationale for the “yes” vote was simple and straightforward (“yes” to the Treaty of Lisbon), the “no” vote combined several, sometimes contradictory motives and arguments. In the end, what mattered most was the lack of authority of political leaders across all political camps and across the EU to make a convincing argument in favour of the Treaty of Lisbon. While in the French referendum in 2005 French political parties were divided on the European Constitutional Treaty, the Irish parties in a rare moment of bi-partisanship were united in supporting the ratification of the Treaty of Lisbon. Their failure was therefore also the failure of all other political leaders across the EU.

Political leaders across the EU should have avoided to simply criticize the Irish for the refusal of the Treaty of Lisbon or put the blame on Irish politicians. In most other countries of the EU, the Treaty of Lisbon would have encountered the same fate if proposed in a referendum. Across the EU, the gap between the institutions of the EU and the expectations of EU citizens has become bigger than ever. While most European citizens would identify with Europe, they are skeptical of the operations of EU institutions. They perceive these institutions as detached from their lives and as responsible more for awkward errors than for smashing success. Often, this is a misperception triggered by the self-interest of national politicians, interest groups and media. But the effect of this propaganda is strong. As long as European governance is a half-way success between European solutions and national autonomy, it will remain easy to blame the EU for deficits of one’s own national political system. This paradoxon was to be alleviated with several of the propositions of the Treaty of Lisbon. Without the ratification in all 27 EU member states, the Treaty of Lisbon could not come into effect.

A new solution has to be found that must include Ireland. It would be unwise and an additional blow to the fragile European sense of solidarity to refuse the democratic vote in Ireland because Ireland is a small EU member state. The Irish vote deserves the same respect as the French vote three years earlier. The only solution to the second ratification crisis over EU institutional reforms has to be pragmatic: The European Union institutions are called upon to find ways and means for implementing as many of the fair institutional reforms proposed by the Treaty of Lisbon through secondary law that is to say without outright treaty revisions. At the same time, the European institutions are in need to replace a Europe obsessed with institutional arrangements by a Europe of achievement and success visible for as many of its citizens as possible. A year ahead of the next election to the European Parliament, more than ever European Union citizens want to see political choices presented by political actors as conceptual alternatives in order to engage in European institutional politics. The voter turnout in European Parliament elections will be low as long as voters won’t be presented solid political choices by competing European political parties. The direct election of the President of the European Council across the EU would probably do more good for

enhancing attraction and authority of EU institutions than all noble yet myopic efforts of fine-tuning European treaties hardly any ordinary citizen is interested in.

(3) The Lisbon Strategy as Failed Modernization from Above

Currency union and eastward enlargement were enormous projects. They attracted attention all over the world. Yet they were only instruments in further deepening and widening the integration process. The glue to make both work, and to keep their effects manageable, was provided by a sequence of treaty revisions, advancing the constitution-building process of European integration. This process opened up new avenues for pursuing the two most obvious challenges that will accompany the European Union beyond the third phase of its integration experience: That challenge will be to stabilize public support for the EU, in light of increasing implications of European integration on the political and social realities in all member states, and to solidify a common foreign and security policy with robust actions and a sustainable and coherent global presence of the EU.

The constitution-building crisis went hand in hand with a deep recession and structural deficits in the modernization of the European Union. The upbeat spirit that accompanied the project of a Single European Market since the early 1980's was absent when the European Union announced its Lisbon Strategy in 2000. In a way, the Lisbon Strategy looked like the logical continuation of the Single European Market agenda.¹¹ But instead of introducing self-binding commitments to change – as was the case during the Delors years – the Lisbon European Council on March 23 and 24, 2000, had only promulgated preposterously that by 2010 the EU would become the leading economic and technological player in the world, surpassing the dynamic zones in the US and in Asia. Safer jobs across the EU, broad efforts in deregulation, increased spending on big infrastructure projects, such as trans-European highways, and a more productive EU by enhancing the welfare state; these were the noble goals. In reality, in the early twenty-first century the EU was confronted with sluggish economic growth, high unemployment, and lack of economic dynamism. Leading experts and civil servants had warned the EU immediately that the realization of the Lisbon Strategy was about to fail. From 1980 to 2001, the EU growth rate did not climb above 2.2 percent (compared with 7 to 8 percent growth rates in China, 12 percent in Singapore and Hong Kong, 5 percent in Korea and 3 to 4 percent in the US). In 2002, the EU's growth rate even fell to 0.7 percent, compared with 2.4 percent in the US. To reach the Lisbon goals, economic growth should have been around 3 percent. Work productivity per hour had also slowed down in the EU: While in 1995 European workers had produced 87 percent per hour of the outcome of their American colleagues, the ratio had gone down to 82 percent by the end of 2004.

11 See Grin, Gilles, *The Battle for the Single European Market: Achievements and Economic Thought, 1945-2000*, New York: Columbia University Press, 2003.

Between 1970 and 1983, unemployment had been lower in Western Europe than in the US. Since then, the parameters had changed. While Western Europe had constant unemployment rates around 10 percent – after enlargement this figure became a reality as an average for all 27 EU member states – the US has had an average unemployment of only 5 percent since the 1990's.¹² Should the EU be able to achieve the goals of the “Lisbon Agenda,” it would have had to generate 21 million new jobs by 2010 and increase the employment quota from 64 percent in 2004 to 70 percent in 2010. By early 2005, the new EU Commission under its President José Manuel Durão Barroso reduced the expectations and goals connected with the Lisbon Strategy. Instead of pursuing overly ambitious goals, the EU became more realistic and began to promote pragmatic measures supporting economic growth and employment in rather general terms. It was evident that without enormous investment in future-oriented technologies, such as telecommunications, and in its sluggish education system, the EU would lose the race for competitiveness with the US and the leading Asian countries.

According to the original Lisbon Strategy – but in principle also according to its reduced version of 2005 – EU member states needed much more intensive and focused reforms to stimulate growth and employment, educational and scientific modernization and increased productivity. They were supposed to reform their welfare and tax systems, enhance the integration of older employees, raise the equality among sexes, and substantially improve the quality of education, from kindergarten to the university. Finally, the Single Market was also to be completed in the field of services, the administrative burden had to be reduced across the EU, and competitive innovation needed improvement through increased spending for research and development. All in all, the subsidy-based European intervention and welfare state had to be replaced by a lean state providing the legal framework for socio-economic dynamics. The state quota in Europe would have to be drastically reduced in order to generate sustainable growth and employment. As these achievements seemed highly unlikely, the European economy continued to lose global competitiveness in spite of a strong euro. The American economy was continuously booming through high growth rates, increased productivity and higher employment rates, no matter the US high twin budget and trade deficit. As for the EU, the International Herald Tribune judged in late 2004: “Europe gets failing grade on competitiveness.”¹³

Across the EU, it was necessary to reduce the state quota of the GDP, to reduce taxes, to produce incentives for payable work and to integrate the financial markets, which would effect Germany in particular as its banking structure was overly split. To comply with self-declared EU goals would mean to give up traditional socio-economic structures and, most importantly, to cut down the size of the welfare state. This tall

12 See Ferguson, Niall, *Colossus: The Price of America's Empire*, New York: Penguin Press 2004: 240.

13 Bowley, Graham, “EU Gets Failing Grade on Competitiveness,” *International Herald Tribune*, November 5, 2004; on the broader context of the issue see Hall, Ronald, et al. (eds.), *Competitiveness and Cohesion in EU Policies*, Oxford: Oxford University Press, 2001.

agenda defined the overriding conflict for European integration in the years ahead: A conflict of aims between the preservation of a specific European variant of the welfare state – hardly payable any more under conditions of aging populations, slackened productivity and growing generational gaps with not enough children to maintain balanced reproduction rates – and the global pressure on the EU to not only take a stronger political role, but to also serve as a reliable locomotive for sustainable global growth and to absorb higher rates of migration. This conflict of aims was accelerated by the accession of the post-communist transformation economies and their quest for social solidarity by the EU. The necessary completion of the enlargement process in Southeast Europe would sharpen this conflict further. For the interim, the creation of a Central European Free Trade Agreement in late 2006 (between the countries of the Western Balkan, Romania, Bulgaria and Moldova) was a transitory step forward. The comprehensive reconciliation among the people and countries in the region and with Europe as a whole could eventually only happen through full EU membership.¹⁴

The European Union did not do too well while it was struggling with the implementation of the Lisbon Strategy. Only four member states were able to achieve the employment objectives of the Lisbon Strategy by 2010 (Denmark, Netherlands, Sweden, Great Britain). The competitiveness of the tax system remained a bone of contention in the European Union. Some member states, most prominently Slovakia, made positive experiences with the introduction of a flat tax. Since a flat tax rate of 19 percent was introduced in Slovakia in 2004, unemployment went down from 18.6 percent to 11.1 percent in 2006. The number of enterprises increased by 154 percent, the country's GDP growth rate climbed above 54 percent annually and the state earnings reached record highs.¹⁵ The EU as a whole rejected the idea of standardizing tax systems while making efforts to at least create a common EU-wide corporate tax base. Most of the "old" EU member states continued to struggle with state subsidies for uncompetitive sectors of their economies. Since 2007, the EU Commission was beginning to report in public about the volume and direction of state subsidies across the EU. They amounted to 0.6 percent of the EU's GDP and remained difficult to curtail. After the rejection of the Treaty Establishing a Constitution for Europe in France and in the Netherlands, the EU even introduced a "globalization fund" aimed at helping victims of globalization across Europe. Up to 500 million euros per year were offered to workers who had lost their job as a consequence of globalization. The European Union wanted to be a global player but at the same time protect itself against global trends. Too many vested interests were opposing the socio-economic

14 See Biermann, Rafael, "Robert Schuman's Perspective of Peace and Stability through Reconciliation: A Legacy of Continuing Actuality Also for the Balkans?," *Ankara Review of European Studies*, 1 (Autumn 2001):45-60.

15 See Schwarz, Karl-Peter, "Mehr Unternehmen, weniger Arbeitslose, gleiche Staatseinnahmen," *Frankfurter Allgemeine Zeitung*, August 26, 2005: 13; Miklos, Ivan, "Das beste Steuersystem der EU," *Frankfurter Allgemeine Zeitung*, September 3, 2005: 13.

modernization, which they perceived as turning them into victims. Deregulation remained an EU-wide objective, which was clashing with old and new forms of reticence. While in some countries, such as Germany, EU-induced deregulation seemed to be the only source of reforms, other countries, such as Great Britain, perceived EU legislation as a new form of re-regulation they opposed. The quest to introduce an EU equivalent to the US Regulatory Oversight Office remained unanswered.

It would be unfair to deny achievement. At the end of 2007, the Schengen Area was enlarged to most new EU member states in Central Europe. Eight Central European countries (all new member states except Romania and Bulgaria) and Malta introduced control-free border crossing, the most prominent symbol of shared freedom of citizens across Europe. On January 1, 2008, the Single European Payments Area (SEPA) was inaugurated, providing for cost-free cashless financial transactions across the European Union. Estimates assume that customers will gain 35-70 billion euros annually. Simultaneously, Malta and Cyprus introduced the euro as their legal tender, bringing the member states of the eurozone to fifteen, covering 319 million EU citizens. The European Union was beginning to gain positive marks for its economic performance while the US economy was encountering more difficulties than it had for a long time. The euro had gained 13 percent against the US dollar within one year and its share of world currency reserves had reached 30 percent. Unlike five years prior, Europeans were increasingly concerned about the strength of their currency. Simultaneously, unemployment across the EU was falling.

European leaders talked a lot about a fictitious European Social Model while the full realization of the objectives of the Single Market and the requirements of technology-based modernization remained a continuous challenge in the EU. At the beginning of the twenty-first century, only 17 percent of all high-tech companies worldwide came from Europe. US companies spend more than 40 percent more than their European counterparts on research and development. In the meantime, even China had already reached almost 50 percent of European research and development spending.¹⁶ The European satellite project “Galileo” was meant to become a symbol of European pride and prestige. After endless debates between the European Union and private enterprises, the idea of public-private partnership for the satellite navigation system failed in May 2007. “Galileo” became the risk of European taxpayers when the EU decided to build the navigation system purely with public resources (3 billion euros estimated cost). The idea of a European Institute of Technology – much favored by EU Commission President Barroso – was also laid to rest over national objections. In fear of losing some of their best researchers to a genuine European institution, nations were clinging to their national institutions and hence accepting an increasing brain drain of young academics to the United States. Europe took consolation in the roaming agreement between the EU

16 See *Frankfurter Allgemeine Zeitung*, “Der Hochtechnologiestandort Europa ist bedroht,” November 17, 2005: 13.

member states and the European Parliament, making cell phone telephoning beyond national borders cheaper. There was no longer any alternative for the people and states of Europe: The European Union was to remain part of the solution and could not be blamed as the source of its problems.

2. Causes and Effects of Consolidated Constitutionalism

The need to deepen European integration during the 1990's and the first decade of the twenty-first century was a response to a threefold challenge posed to Europe: The European Union had to consolidate its economic structures in order to maintain stability for its emerging currency. It had to prepare the EU for dealing with the consequences of enlargement toward post-communist Europe and, in a related matter, for a recalibration of transatlantic relations, neighborhood relations in Southern and Eastern directions, and Europe's role in future global management. Finally, it had to find satisfying responses to the ever-increasing claims that the EC was suffering a "democratic deficit" and was lacking legitimacy, while its Byzantine institutional structures, not transparent and full of inconsistencies, impeded the efficient outcome of EU operations.

The decade after the fall of the Berlin Wall began with the ambitious effort to simultaneously realize the European Monetary Union and a European Political Union. During the European Council meeting in Strasbourg on December 8 and 9, 1989 – under the deep impression of the historical developments in Central and Eastern Europe¹⁷ – the establishment of an intergovernmental conference on European Monetary Union was decided upon. In light of possible resentment in Germany about the loss of the Deutschmark to a common European currency – and certainly in East Germany, where the Deutschmark had only recently been introduced in replacement of the weak Eastern Mark – German Chancellor Kohl pleaded for tactical postponement of the announcement of the date of the Intergovernmental Conference; he had to win the first national elections in a united Germany on December 2, 1990. Finally, the European Council in Dublin on June 25 and 26, 1990, decided to begin the work of an Intergovernmental Conference in mid-December 1990 under the Italian Presidency. The same European Council also agreed on a joint initiative by French President Mitterrand and German Chancellor Kohl to launch a second Intergovernmental Conference on political union, likewise starting its work before the end of the year.

Both intergovernmental conferences conducted their work throughout 1991, finishing complex and sometimes highly controversial negotiations at the European

17 See Helmut Kohl's account of the frosty atmosphere at this meeting, where he was not only welcomed with joy about the fall of the Berlin Wall, but also with concern about the future prospects of a stronger Germany: Kohl, Helmut, *Ich wollte Deutschlands Einheit*, Berlin: Propyläen Verlag, 1996: 194-201.

Council in Maastricht on December 9 and 10, 1991.¹⁸ At this meeting, the main parameters of the Treaty of Maastricht were agreed upon. Its most important decision was the finalization of the beginning of the third stage for European Monetary Union on January 1, 1999. But other aspects of the Treaty of Maastricht regarding the future structure of the European integration process were not less important, including its rather incomplete decisions on political union. The Treaty of Maastricht was the most thorough treaty revision since 1957. It was also the beginning of a series of further revisions that were to continue during the 1990's. The institutional (and, more importantly, conceptual) deadlock reached with the Treaty of Nice in 2000 made EU leaders realize that it was no longer possible to continue with incremental and Byzantine institutional changes. The European Union urgently needed a constitutional overhaul and in fact its refoundation. The Treaty of Maastricht had established the “three pillar” structure of European integration (another sort of Luxembourg Compromise reminiscent of 1966) to cover diverging interests and positions in order to find a new balance between federalists and intergovernmentalists in Europe. The Treaty of Maastricht declared the Common Market – including European Monetary Union – initially introduced by the Treaties of Rome as Pillar One. Foreign Policy matters were dealt with under Pillar Two and Justice and Home Affairs – an important achievement of future union policy – under Pillar Three. Pillar One covered the European Community and its Treaties and legislation, Pillar Two and Three were considered to be the nucleus of an emerging European Union, the overarching name now given to the whole construction. The Treaty of Maastricht was highly incoherent, consisting of 300 articles, 17 protocols and 33 declarations. Yet, it constituted a common framework for the European Union and another step in its economic and political development, though parallel progress had not yet been achieved.

The Treaty of Maastricht strengthened all organs of the EU but left fundamental questions of an institutional balance unresolved. In matters of the Single Market, the Treaty of Maastricht granted the European Parliament the right to co-decision on all matters which the Council was to decide on the basis of qualified majority voting. Throughout the first 25 years of integration, the European Parliament was not allowed to participate in around 70 percent of Community legislation. With the Treaty of Maastricht, this figure came down to around 35 percent.¹⁹ This enormous upgrading of the power of the European Parliament was often underestimated by skeptical academics and national politicians alike. They also underestimated the informal nature of many pre-legislative contacts and negotiations and the psychological importance of an

18 See Dyson, Kenneth, and Kevin Featherstone, *The Road to Maastricht: Negotiating Economic and Monetary Union*, Oxford: Oxford University Press, 1999; Mazzucelli, Colette, *France and Germany at Maastricht: Politics and Negotiations to Create the European Union*, New York: Garland, 1997.

19 See Knipping, Franz, *Rom, 25. März 1957: Die Einigung Europas*, Munich: Deutscher Taschenbuch Verlag, 2004: 217; on the general evolution of EU legislation see Iral, Hubert, *Between Forces of Inertia and Progress: Co-Decision in EU Legislation*, ZEI Discussion Paper C 114, Bonn: Center for European Integration Studies, 2003.

enhanced role of the European Parliament. Decision-making processes among the organs of the EU remained uneven. Most confusing was the structure of the Council, simultaneously serving as legislative organ on matters of the European Union and as executive organ on matters of political cooperation in foreign affairs. The Council of Ministers was identified as the most undemocratic of all EU institutions, convening behind close doors and not even making its protocols accessible to the public in order to understand how individual countries had voted. The Committee of Permanent Representatives (COREPER), which is also a community institution, deals with all matters of the EU; so does the Secretariat of the Council. It seemed as if the European Commission was relegated to the role of a secretariat, “only” preparing legislation on matters dealing with the traditional European Community, but not so in the emerging sphere of foreign policy and justice and home affairs.²⁰ In reality, however, the European needed to resort increasingly to the expertise of the Commission, albeit often in informal ways, just across the Rue de la Loi in Brussels, where both institutions are located.

The Treaty of Maastricht became somewhat notorious for its introduction of the subsidiarity principle that hardly anybody in the EU understood. Subsidiarity is a principle of ordering social affairs, residing in Roman Catholic social doctrine and introduced in the papal encyclical “*Quadragesimo anno*,” written by Pope Pius XI in 1931 with support of the German Jesuit Oswald von Nell-Breuning: “Just as it is gravely wrong to withdraw from the individual and commit to a group what private enterprise and industry can accomplish, so too it is an injustice, a grave evil and a disturbance of right order, for a larger and higher association to arrogate to itself functions which can be performed efficiently by smaller and lower societies.” This is a fundamental principle of social philosophy, the encyclical concluded, “unshaken and unchangeable.”²¹ In the Treaty of Maastricht, the subsidiarity principle reads as follows: “In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.” (Treaty of Maastricht, Article 5). Thus began a long dispute about establishing competences in the European Union, barely settled with the 2007 Reform Treaty.

With the Treaty of Maastricht, European Political Cooperation (EPC) was upgraded to a Common Foreign and Security Policy. This was as limited as any reform could be –

20 The European Commission – besides the college of the commissioners – consists of around 25,000 civil servants, of which only 15,000 are administrators, the rest being employed either in scientific research or as interpreters; the Council secretariat – in charge of both the European Council and the Council in its various formations – consists of around 2,300 staff, a tenth of whom are senior civil servants; the Secretariat of the European Parliament – unlike the other services not located in Brussels, but in Luxembourg – consists of approximately 3,500 administrative and clerical staff.

21 Pius XI, *Encyclical Letter Quadragesimo Anno*, London: Catholic Truth Society, 1946: 31.

Dinan called it “portentous”²² – under the impression of an obvious revitalization of old habits and national interests across Europe. The failure to organize a common EC position in the Yugoslavian crisis was indicative of the lack of potential for “systematic cooperation”, as the Treaty of Maastricht promised. The rhetoric compromises enshrined in the Treaty of Maastricht were ridiculed by the weak and uncooperative policies pursued by various EC partners while the Yugoslavian dissolution escalated. The effect of self-imposed pressure to change a wrong course as consequence of massive internal failures became even more evident a decade later after the agreement on the Treaty of Nice, one of the weakest ever performances of the European Council. French President Jacques Chirac found himself in a dilemma: He was host to the European Council in Nice and thus obliged to chair, coordinate and search for compromises, yet he wanted to gain essential results in favor of France. Most important for him was to maintain parity with a united Germany as far as the number of seats in the European Parliament and the weighed votes in the Council were concerned. The Nice Summit of the EU of December 7 to 11, 2000, ended as the longest ever in the history of integration. It should not be forgotten that it was also the summit that politically agreed to the Charter of Fundamental Rights of the European Union. This Charter had been drafted by a Convention under the chairmanship of former German President Roman Herzog that served as model for the Constitutional Convention of 2002/2003. But on matters of institutional reform, the Treaty of Nice produced the opposite of clarity and sustainable results. It codified the limits of European integration instead of approaching integration from the vantage point of its opportunities. It institutionalized veto capacities that were to burden the EU for the decade to come. The highly complex mechanism found in Nice for the weighing of votes as of January 1, 2005, in the enlarged European Union was the climactic expression of a rather dangerous, if not absurd trend. In past decades, the issue of the weighing of votes had never been of any interest even to most experts on European integration. Suddenly it seemed to be the central “life or death”-question for Europe.

The EU was eventually able to live with the arrangement found in the Treaty of Nice. Yet, the public perception of the whole matter was ridiculously disproportional. Not the weighing of votes, but the absence of political will across the EU and a lack of creativity in defining common objectives were the main problems of the EU. Deeper integration would not come through any formalistic voting in the European Council. On the contrary, any sophisticated system of weighed votes would not prevent Europe from advancing if political will was to be organized elsewhere. In Nice, the share of votes of France, Germany, Great Britain and Italy, but especially the share of Spain, was increased in proportion to the growing number of smaller and medium-size countries. A qualified majority was introduced consisting of three dimensions: 73.4 percent of

22 Dinan, Desmond, *Europe Recast: A History of European Union*, Boulder: Lynn Rieffer Publishing, 2004: 257.

weighed votes had to be reached for a decision, the majority of member states must agree and this majority must represent at least 62 percent of the combined European Union population. This was an increase of seats in the European Parliament from 626 to 732 as of 2004 in favor of a stronger German share compared with France,²³ and there was a reduction in the number of commissioners as of 2004 – only one commissioner per country while the number of commissioners would go below the number of member states after the EU will have grown to twenty-seven member states. These issues were also decided during the long and frustrating days and nights of Nice.

In spite of all its flaws and failures, it was remarkable that the Treaty of Nice extended qualified majority voting to asylum policies (as of January 2004)²⁴ and to decisions on structural funds (as of 2007). Spain accepted this only on the condition that the structural funds it was receiving would remain untouched until 2013 (the end of the fiscal frame lasting from 2007 to 2013), anticipating that the co-decision power of the European Parliament – the automatic implication whenever Council decisions are taken with qualified majority – will favor a gradual reallocation of resources to other policy areas or regions in need.

More than ever, European integration was defined by its limits and no longer by its opportunities. Yet, the path toward further constitutionalization was unavoidable. This insight, however, constantly clashed with the simultaneous politicization of European Union affairs. Instead of guiding the European public through the waters of Europeanization, national political leaders stimulated Euroskepticism by raising warning signs of “too much Europe,” yet knowing that exactly “more Europe” would eventually be inevitable and, in fact, even in the national interest of their respective countries.

3. Emerging European Interests as Manifestations of Political Disputes

The third period of European integration started with the Treaty of Maastricht and the effect of the breakdown of communist regimes in Central and Eastern Europe. It was ending with the implementation of the institutional reforms of the Treaty of Lisbon and the breakthrough of the politicization and Europeanization of politics in the European Union. During this third period of European integration, the EU was able to broaden the basis of consent concerning European interests, which, by now, would include the following components:

23 Germany 99, France, Great Britain and Italy 78, Spain and Poland 54, Netherlands 27, Greece, Belgium, Portugal, the Czech Republic and Hungary 24, Sweden 19, Austria 18, Denmark, Finland and Slovakia 14, Ireland and Lithuania 13, Latvia 9, Slovenia 7, Estonia, Cyprus and Luxembourg 6, Malta 5 members; on the European Parliament see also Corbett, Richard, *European Parliament's Role in Closer EU Integration*, Basingstoke: Palgrave, 2001.

24 On EU asylum policies see Rahimi, Ashkaan, *The Evolution of EU Asylum Policy*, ZEI Discussion Paper C 142. Bonn: Center for European Integration Studies, 2005.

- a) The primacy of community law was consolidated in spite of strong irritations, at times, about the meaning and substance of a “European spirit,” leadership deficits and structural problems in upholding and deepening the treaty-based *acquis communautaire*.²⁵
- b) Budgetary matters have become an intrinsic element of a community of destiny, bound by the will to maintain the strength of the common currency in a common market; however, no sustainable solution has yet been found to install solid economic governance and fiscal federalism.
- c) The impact of European integration on domestic structures in all member states has given a new and larger meaning to the notion of Europeanization; the process of politicizing European integration has increased the need to adapt national traditions, legislature, governance processes and economic structures, which did not remain without critical reactions from the side of EU member states.
- d) The right to speak “in the name of Europe” is not the privilege of any institution or member state, and certainly not the privilege of the bigger member states alone, France and Germany in particular; in order to achieve a Single Foreign, Security and Defense Policy it will be necessary for the European Union not to define herself as counter-power to the United States.

(1) Lack of European Solidarity and a Slow Return to the Principle

The worst deficit in European integration during its third period has been the continuous provocation by several member state governments to question European solidarity in the name of national prerogatives. In any solemn speech on Europe, a European spirit is invoked in high tone. In reality, European Union operations and the European spirit were less and less in harmony with each other. It is difficult to identify one single event or one single political leader for being responsible for this trend. The de-solidarization among EU member states has been a creeping trend, which escalated in the course of the failure to implement the European Constitution. It has only recently begun to be revised. It may take as long to overcome the attitude of European integration as a zero-sum game as it has taken to turn this attitude from an exception rather than a rule in EU matters.

Without being too unfair, it may not be exaggerated to argue that the idea of European Union membership as dominantly driven by material self-interests started when then British Prime Minister Margaret Thatcher demanded “I want my money back” at the EU Summit in Fontainebleau in 1984. Here, one government challenged the European spirit, while in 2000 fourteen EU governments except for Austria

25 See Craig, Paul, and Gráinne de Búrca (eds.), *The Evolution of EU Law*, Oxford/NewYork: Oxford University Press, 1999.

challenged the European spirit when they imposed sanctions outside the clearly defined EU rules against Austria, done because of an unwelcome result of the Austrian elections. As for the effects of de-solidarizing on the EU constitution-building the downward spiral escalated at the cradle of the Treaty of Nice when the main obsession of France's political leadership was the fortification of vetoing positions prior to the unloved enlargement to include the Central and South Eastern post-communist countries. This European non-spirit was immediately copied by some of them once they had joined the European Union. Unlike France, the Polish leadership did not get away with tacit respect of their European peers. Poland was publicly put on a rhetorical European trial. As far as respect for the *acquis communautaire* is concerned, Germany's leadership during the late 1990's (supported by France) in the early years of the twenty-first century made a mockery of legally binding EU provisions by disregarding the implications of the Stability and Growth Pact. All EU governments raised a legitimacy matter of grave concern when they signed the Treaty Establishing a Constitution for Europe in 2004 without being able or willing to fully implement their international commitment. When the ratification process was stymied, the EU governments simply declared the positive ratification by eighteen out of twenty-seven EU member states null and void. The implication of this political act on the legal consciousness of European Union citizens as far as international commitments of their respective national governments are concerned, was never properly discussed anywhere in the EU arena. Instead, Europe's political leaders tried to get away with the self-induced fiasco by preparing the 2007 Treaty of Lisbon. When handed over to citizens of Europe for ratification, the Irish voters rejected the Treaty of Lisbon while simultaneously claiming to be pro-European. The best one can say about the relaunching of EU reforms in 2007 was the creeping recognition that the skeptical attitude toward deeper integration and the subsequent path of de-solidarization taken during the past two decades of European integration was wrong. It needed to be gradually reversed by all EU member states in the name, indeed, of a better European spirit than practiced theretofore.

Whether it was Spanish rigidity on budgetary matters, the French position on voting rights in the Council or – together with Germany – resistance to full implementation of the Single Market for services, the French and German attitude toward the Iraq policy of the US or its overly long resistance to implement the agreements on a common asylum policy, Italian resistance against a European Arrest Warrant, the British exploitation of the work of its partners to implement the euro while calmly staying aside, or Polish pathologies in its relationship to history and its German neighbor – all these experiences during the 1990's and the first decade of the twenty-first century were expressions of a lack of European spirit unworthy of an “ever closer Union.” By the end of the first decade of the twenty-first century, time had come indeed to interpret Europe again from the perspective of its opportunities.

One significant event on the negative road that thoroughly deconstructed solidarity among EU partner states for all too long had occurred in 2000, when fourteen governments declared sanctions against Austria. In doing so, they were circumventing formal EU procedures and overly exaggerating domestic political developments in Austria for the sake of demonstrating a sense of leadership that ended exactly opposite from what was intended – to the detriment of the vociferous claim that the EU considers itself a community of values.²⁶ When a new Austrian coalition was formed by the Austrian Christian Democrats and the Free Democrats on February 4, 2000, at the initiative of French President Jacques Chirac sanctions were imposed by a decision of the other fourteen EU governments outside the EU decision-making system. Leading Austrian representatives were not allowed to participate in EU meetings. Even on the popular level, the frenzy was spreading. In the Netherlands, a boycott was organized against music tapes with Austrian children songs. Article 6 of the EU Treaty declared that a member state will provoke grave consequences if its policy is not in line with EU norms and values. Article 7 described the procedure that will be invoked in such a case, including a hearing with the accused member state. None of these procedures were activated by the “EU Group of 14,” while they used the EU Commission to advance their policy. Although Article 6 was not legally invoked and hence the sanctions against Austria never constituted EU law, the very idea of the EU as a community of values and strictly relying on its legal norms was brought into question. The Austrian government had not done anything wrong. In fact, it had not even been established that it had when the campaign against Austria started. At the end, the “EU Group of 14” had to renounce their sanctions, hiding behind the findings of a commission of Wise Men in September 2000 (Martti Ahtisaari, Jochen Frowein, Marcelino Oreja) according to which Austria and its government were fully in line with EU values, norms and regulations.

More delicate was the de-solidarizing behavior of France and Germany regarding the implementation of the European Pact for Stability and Growth. The German government under Chancellor Helmut Kohl had insisted on this Pact at the Amsterdam European Council meeting in June 1997. According to the pact, the participating members of the European Monetary Union were obliged to maintain rigid austerity and budget measures in order to ensure the stability and viability of the euro. The annual national budget deficit was not to grow above 3 percent of the GDP. Except for extraordinary reasons, the EU would penalize any member state of the European Monetary Union no longer in compliance with this criterion. France had insisted that the subsequent measures of punishment, including the possible payment of fees to the EU,

26 See Gehler, Michael, “Präventivschlag als Fehlschlag. Intentionen und Konsequenzen der EU 14-Sanktionsmassnahmen gegen Österreich im Jahre 2000;” in: Loth, Wilfried (ed.), *Das europäische Projekt zu Beginn des 21. Jahrhunderts*, Leverkusen: Leske & Budrich, 2001: 352-382; Kühnhardt, Ludger, “Europa als Wertegemeinschaft – Verlierer der Österreich-Krise 2000?,” *Wiener Zeitschrift zur Geschichte der Neuzeit*, 1 (2001):73-80; Bischof, Günter, et. al. (eds.), *Austria in the European Union*, New York: Transaction Publishers, 2002.

would require a political consideration of the matter and a subsequent decision in the Council.

This provision rescued France and Germany, but also Portugal, Belgium and Greece to be penalized for their overly excessive budget deficits since 2001. The fact that Germany had transgressed the strict criteria of budgetary discipline it had evoked in fear of other countries more lax attitudes produced “undisguised delight of its EU partners”.²⁷ More shocking was the threat of the German government under Chancellor Schröder simply not to accept an early warning letter of the Commission in February 2002, let alone possible penalties. The Stability and Growth Pact and the role of the European Commission as guardian of EU norms came under severe legitimacy pressure. At the end of 2003, the Council of Finance Ministers (ECOFIN) in the European Monetary Union formally declared the Stability and Growth Pact obsolete by suspending deficit proceedings against Germany and France. In 2005, the EU redefined the Stability and Growth Pact, recognizing contingent national circumstances as temporary excuse to deviate from the rigid norms of the pact. While this was a victory for Germany – for the fourth time in row the slowest growing European economy and breaking the public debt criteria of the Stability and Growth Pact, critics considered it a big defeat for the EU. Many economists had supported the political move to reform the stability pact. They considered the criteria of the stability pact as being too rigid while Germany and other EU member states were suffering recession.²⁸ But even a reformed stability pact would have to confront the fact that economic growth cannot be planned, no matter the goals of the EU’s Lisbon Strategy. The psychological effect of the whole episode was, however, detrimental to enhancing a true and solid European spirit: Representatives of bigger countries seemed to respect community law only if it was in their favor. It did not really help to eliminate this impression when the European Commission dropped its charges against the German government in May 2007 after the country had returned to respecting the Maastricht criteria for public deficit spending.²⁹

In spite of these challenges, by and large, the primacy of community law was maintained and thus stabilized during this difficult period of European integration. The role of the European Court of Justice (ECJ) was not only formally strengthened through statutes. Increasingly, the European Court of Justice demonstrated its commitment to full implementation of Union law, which after all was always the result of voluntary political decisions based on rules and regulations of the EC and EU Treaties. In spite of the absence of a European Constitution, the European Court of Justice has become the Constitutional Court of Europe. Whenever the European Commission brings up charges

27 Dinan, Desmond, *Europe Recast: A History of European Union*, op.cit.: 303.

28 See Bofinger, Peter, and Eric Mayer, *The Stability and Growth Pact. Time to rebuild!*, Würzburg: University of Würzburg, 2004; Heipertz, Martin, and Amy Verdun, “The Dog that Would Never Bite,” *Journal of European Public Policy*, 11(2004): 765-780.

29 On the European Commission and its overall development during recent years see Dimitrakopoulos, Dionyssis G., *The Changing European Commission*, Manchester: Manchester University Press, 2004.

against member states or individual companies by insisting on competition law provisions, this role of the European Court of Justice is, of course, not welcome by the accused partner country or company. But the clear European vocation of the European Court of Justice has continuously guaranteed the proper implementation of the fundamental regulatory measures of the EU in the context of the Single Market.³⁰

The judges of the European Court of Justice have become notorious for being radical proponents of the strict implementation of Union law. Their role as final arbiters of the legal base of the EU has not been challenged on principle by national governments and only partially by national constitutional courts.³¹ In fact, their record has grown over time as far as almost revolutionary decisions and subsequently emerging doctrines in favor of extended supranational integration are concerned. Following the early doctrinal decision of “Van Gend en Loos” in 1963 and “Costa versus ENEL” in 1964, the court rulings in the cases “Factortame” (1990) and “Francovich versus Italy” (1991) underlined the primacy of Community law over national law. Another track record – beginning with the ruling in the “Isoglucose” case (1980) and leading to the comitology case “Parliament versus Council” (1990) and the Chernobyl case “European Parliament versus Council” (1991) supported the emergence of a legally strengthened role of the European Parliament, considered to be “the biggest beneficiary of the EJC’s distinctive approach to institutional relations.”³² The strong role and consistently pro-integrative track record of the European Court of Justice was all the more amazing as none of the judges of the EJC (one per country) would have been appointed – for six years with the possibility of a renewable term – without consent of the national governments. Even the British Law Lords have continuously recognized the primacy of European law.³³

30 Among eight rulings of the European Court of Justice in 2004 on matters of direct taxation in the EU, two decisions against France and Finland would have lasting effects across the EU: The French taxation of migrants leaving France was considered illegal under EU law. Finland lost the right to double-tax profits made in companies elsewhere in the EU; when they have been taxed in the country of origin, these taxes can be deducted from the overall taxable income in the country of residence. Tax experts identified also 44 German tax rules as colliding with EU law. It could not come as a surprise that the European Court of Justice came increasingly under criticism of those who wanted to maintain the primacy of national autonomy over Europeanized solutions and legal standards.

31 For instance in the case of the German Constitutional Court, which declared in 1993 the Treaty of Maastricht compatible with the German constitution but limited further deepening of the European Union if it would not happen in accordance with decisions of the German parliament that alone was representing the German people; a European people did not exist which the European Court of Justice could invoke to legitimize its claims of a superior European law, the German Constitutional Court stated.

32 George, Stephen, and Ian Bache (eds.), *Politics in the European Union*, Oxford: Oxford University Press, 2001: 275.

33 Ibid.: 281-283 with the example of the court ruling in the “Factortame” (1990) case on a dispute of a Spanish fisherman with the British Merchant Shipping Act of 1988 that was considered a breach of EC law although it was an explicit Act of Parliament, the most revered tradition of British democracy.

The rejection of the European Constitution in referenda in France and in the Netherlands in 2005 and the rejection of the Reform Treaty in a referendum in Ireland in 2008 sent shock waves through the political leadership in Europe. While EU citizens remained rather unemotional about the matter, the political elites developed strong opinions. They rightly felt direct responsibility for the fiasco and realized the need to correct their own failure. There was no single definition of this failure and no consensus on how to correct it. But all in all, the idea to promote “a Europe of results” or “a Europe that works” indicated the desire to return to European pragmatism, including solidarity wherever needed and being useful. The solidarity clause that was introduced in the European Constitution in reaction to the terror attacks in Madrid on March 11, 2004, was a first indicator of a European Union that is willing to apply solidarity whenever any of its constituent parts needs it. The inclusion of the concept of energy solidarity in the 2007 Reform Treaty was a reaction to the realization that the EU as a whole – and not only Poland – were dependent upon a steady flow of energy resources from Russia, North Africa and the Middle East.

In turn, the Polish government was reminded that solidarity is not a one-way street. Poland’s national-conservative government was also asked to practice solidarity with their EU partners by accepting necessary compromises on matters relevant to relaunching institutional reforms after the Constitution had failed. Obviously, it was unfair to put all the blame on Poland, no matter how difficult a partner its government was at times during the path toward the 2007 Reform Treaty. The European Union as a whole had to be reminded that solidarity is a European principle only if accepted by all in reality and not only on paper.

When Ireland rejected the Reform Treaty in June 2008, the rest of the EU had to be reminded that it would not be in the European spirit of solidarity to put the blame on the Irish alone and recommend the country to leave the EU.

Only returning to the principle of European solidarity will give new impulses to the advancement of a genuine European spirit. European solidarity will have to be a guiding principle in the next long-term period of European integration if this integration is to be sustained. The next period of European integration will have to deal with matters of fundamental relevance to the principle of solidarity, be it in the context of Europeanizing elements of the welfare state, or be it in the context of European peace keeping and other international obligations.

(2) The Frustratingly Slow Revision of Wrong Priorities

The intricacies of budgetary matters are often only of interest to technical experts. Yet budgetary matters are essentially political. The debates on necessary revisions of EU policies, on new reform goals and priorities increasingly reflect this fact. Throughout the first decades of European integration, by and large only the notorious

budget for the Common Agricultural Policy attracted public attention. The MacSharry reforms of 1992 finally brought a substantial reform. Named after the Irish Commissioner in charge of the agricultural dossier, this was the first serious effort to curb agricultural expenditures in decades. Under the pressure of the Uruguay Round of the General Agreement on Tariffs and Trade, the MacSharry reforms decoupled agricultural subsidies from production. Instead of paying for overproduction through guaranteed prices, the EU organized agricultural subsidies as direct payments to stabilize and increase the income of farmers. Initially, the reformed Common Agricultural Policy – which also recognized the importance of farmers in preserving the natural landscape of Europe – was more expensive than the earlier structure. This was due to overly generous compensation schemes offered to huge numbers of farmers. In 2003, the initial MacSharry reforms were almost neutralized when France and Germany refused to cut farm spending while agreeing to limit its growth to 1 percent per year after 2006. When the European Union moved toward eastward enlargement in June 2004, almost 50 percent of its budget was still bound by expenditures under the schemes of the Common Agricultural Policy. For the period 2000 to 2006, all in all 307 billion euros were provided for these subsidies, reaching barely 4 percent of the EU's population. For the financial period 2007-2013, 370 billion euros out of a total budget of 862 billion euros (47 percent) were reserved for the agricultural sector. This wrong prioritizing did more harm to the global image of the EU than anything else.³⁴

It would have been impossible to extend the commitments and expenditures of the Common Agricultural Policy to the new member states. The proportion of the population living off farming differed in the acceding countries. In Poland 19.6 percent of the workforce were employed in agriculture, in Romania an astounding 37.7 percent, in Hungary only 6.0 percent, in Slovakia 6.6 percent, in Estonia 6.5 percent, and in the Czech Republic 4.9 percent.³⁵ In spite of protest from Polish and other farmers and their representatives, the EU negotiated transitory schemes for the new member states. During the first seven years of their EU membership, their farmers would receive only 25 percent of the direct agricultural subsidies granted to farmers in the “old” fifteen EU member states. Subsequently, this proportion will rise by 5 percent a year, reaching the full 100 percent by 2013. This “phasing-in” could hardly enhance the hope for a comprehensive “phasing-out” of the entire agricultural subsidy mechanism after 2013.

The EU's structural and cohesion policies is aimed at reducing socio-economic disparities in the enlarged European Union, accelerating economic reforms in response to globalization, and responding to the development of a knowledge-based economy

34 Knipping, Franz, *Rom, 25. März 1957: Die Einigung Europas*, op.cit.:285.

35 The figures of the agricultural workforce for the other newcomers were: Cyprus 5.3 percent, Latvia 15.3 percent, Lithuania 18.6 percent, Malta 2.2 percent, Slovenia 9.7 percent, Bulgaria 10.7 percent. On expectations and implications of EU's eastward enlargement see Barrass, Robert, and Bernard Steunenberg (eds.), *Widening the European Union: The Politics of Institutional Change and Reform*, London: Routledge, 2002; Brusi, Martin, and Janis A. Emmanouilidis (eds.), *Thinking Enlarged: The Accession Countries and the Future of the European Union*, Bonn: Europa Union Verlag, 2002.

while Europe was facing an aging population with its special welfare needs. Prior to the eastward enlargement, the EU had defined those regions lagging most strongly behind the overall economic development with a per capita GDP in the range of 60 to 75 percent. The per capita GDP of most regions in the new member states stood at 30 to 40 percent of the 2004 EU's average. During the 1990's, some EU regions had made significant progress as a consequence of EU support. Ireland's per capita GDP increased from 64 percent of the EU average in 1988 to 119 percent in 1999 and 133 in 2004. The five German "new Länder," the former German Democratic Republic, increased their per capita GDP from 38 percent of the EU average in 1991 to 68 percent in 1995, largely due to West German resource transfers of more than one annual West German GDP. It was estimated that structural funds of the EU helped to boost the per capita GDP in Portugal by 4.7 percent and in Northern Ireland by 1.27 percent, and supported the creation of around 800,000 new jobs and the training of 8.15 million people in those regions eligible for EU structural and cohesion funds. Regions such as Lisbon, Northern Ireland, Burgenland in Austria, and Flevoland in the Netherlands surpassed the threshold of an average per capita GDP of 75 percent before 2004, making them no longer eligible for EU support. Yet, the negotiations about phasing-out periods were as rough as they could have been. The gap between the rich and the poor regions in the EU was certainly not to be closed through the mechanism of structural and cohesion funds, no matter their size. The percentage of EU citizens living in regions eligible for EU subsidies increased with the eastward enlargement from 18 to 22 percent, that is to say from 68 to 116 million people. Inner London, the most affluent EU region with 66.744 euros per capita income, achieves 315 percent of the EU average. The Eastern Polish region of Lubelskie, identified as the poorest region with an average per capita income of 6762 euros, achieves 32 percent of the EU average, or roughly one tenth of the income in Inner London. No EU redistribution scheme would ever be able to close this gap. The effects on the service and knowledge-based society on the dividing lines between rich and poor in the enlarged EU remained a matter of controversial interpretation.³⁶

Yet, the politicization of European Union politics did not begin with the issue of social justice. It began with budgetary issues as was the case in the classical evolution of parliamentary democracy of the European and North American nation state. For the first time in 1988, the European Community agreed on a longer-term fiscal plan (Delors I Package). The Fiscal Perspective for the period 1988-1992 was followed by the Fiscal Perspective for the period 1993-2000 (Delors II Package). For the first time in integration history, the EU's budget received broad public attention across the EU when the EU's Fiscal Perspective for the period 2000-2006 was negotiated under German EU

36 See Liddle, Roger, and Frédéric Lerais, *Europe's Social Reality: A Consultation Paper from the Bureau of European Policy Advisers* (2007), http://ec.europa.eu/citizens_agenda/social_reality_stocktaking/docs/background_document_en.pdf.

Presidency in 1999 (Agenda 2000).³⁷ Increasing awareness about the importance of budgetary matters had grown, but in the end it was not proportional to the results of the Agenda 2000. With the first wave of eastward enlargement of the European Union on May 1, 2004, the EU found itself in a paradoxical situation. The new member states from Central and Eastern Europe were not only receiving 40.8 billion euros between 2004 and 2006 to help them modernize their economies and adjust to the Single Market, they were also contributing to the EU budget, the total amounting to some 15 billion euros for the period 2004 to 2006. The distribution of costs and benefits in the enlarged EU left considerable room for controversy. According to the European Commission, in 2004 Poland was receiving 67 euros per capita annually, Hungary 49 euros, the Czech Republic 29 euros, Greece, however, 437 euros, Ireland 418 euros, Spain 216 euros and Portugal 211 euros.³⁸

Before their accession to the EU, some of the new members from Central Europe had explicitly criticized the Common Agricultural Policy as an expression of central planning, bitterly known to them under communism.³⁹ All of them had to scrap their own agricultural subsidies during the 1990's as part of their transition to a market economy. Having joined the EU, their attitudes began to change: They started to appreciate the subsidies from Brussels and were hardly ready to give them up again soon.

The negotiations over the Fiscal Perspective for the period 2007-2013 were initiated with a general positioning of the main net contributors Germany, France, Great Britain, Austria, the Netherlands and Sweden. In a letter dated December 15, 2003, to the then President of the European Commission, Romano Prodi, they declared their will to limit the EU budget for the period 2007 to 2013 to one percent of the Gross Domestic Product of the EU. Until then, the ceiling had been 1.24 percent without ever being reached. The negotiations were long, tough and uncomfortable. They were an expression of the overall crisis of confidence in European integration and the shabby bickering over national interests without keeping a common European good in mind. The European Commission had demanded an increase of the EU budget from 133.5 billion euros in 2007 to 158.4 billion euros in 2013, a total increase of 22.8 percent over the period 2007-2013. Otherwise, the European Commission argued, the growing tasks and expectations for the EU could not be met. The European Parliament supported this position and demanded a total budget (2007-2013) of 975 billion euros. Several rounds

37 See Wittschorek, Peter (ed.), *AGENDA 2000: Herausforderungen an die Europäische Union und an Deutschland*, Nomos: Baden-Baden, 1999.

38 See Fuller, Thomas, "EU Get's a 'Bargain' in Expanding East," *International Herald Tribune*, December 17, 2002.

39 Hungary, for instance, had even joined the "Cairns Group" of countries that favors complete liberalization of agricultural trade. It had to leave the group prior to joining the EU. For an interesting EU-US comparison on agricultural reforms see Moyer, Wayne, and Timothy Edward Josling, *Agricultural Policy Reform: Politics and Process in the EU and in US 1990s*, Aldershot: Ashgate, 2002.

of negotiations in the European Council failed. And when finally a deal was done in December 2005, the European Parliament demonstrated that no longer could its role be underestimated: It refused the result of the European Council. Only after EU member states increased the budget compromise of December 2005 by 4 billion euros, did the European Parliament accept the new inter-institutional agreement on the Fiscal Perspective for the period 2007-2013 on May 17, 2006.

After two and half years of negotiations, the Fiscal Perspective for the period 2007-2013 included the following elements: The overall budget of the European Union would amount to 862.4 billion euros, equivalent to 1.045 percent of the EU's combined GDP. 72 billion euros were meant for competition policies, 308.1 billion euros for structural funds, 370.8 billion euros for agriculture, 10.3 billion euros for justice and home affairs, 50.0 billion euros for foreign, security and development policies, and 50.3 billion euros for administrative expenditures. In 2008/2009 a mid-term revision of the budget structure was to happen. It was no secret that this would lead to another round of hard negotiations. The path to a serious and comprehensive EU Fiscal Constitution was still long and daunting. Should the EU wish to achieve a status in which claims and performance could match each other reasonably well, it would have to enormously increase its budget. Without the introduction of a genuine EU Tax, reasonable fiscal autonomy was not achievable.

(3) Losing Popular Support over a Visionless Europeanization

Since the Treaty of Maastricht, European integration has become a two-way process. On the one hand, establishing European institutions in Brussels continued. They needed cohesion, were to be made more transparent, democratic and accountable, and they had to better focus on topical challenges rather than intra-institutional bickering. On the other hand, European integration had an ever increasing impact on the EU member states, their societies and public policies. The European Union began the process of real Europeanization in the context of properly implementing the objectives and legislation of the Single Market.⁴⁰ This process was prepared and managed by competent and committed leadership. The secular process of European unification and the parallel deepening of European integration that was required during the second half of the 1990's and the first years of the twenty-first century required at least the same degree of leadership, vision and commitment. However, during these crucial years, the European Union experienced a decade of weak leadership and a lack of orientation. It was particularly painful that France and Germany, the traditional engines of European integration, were absorbed by domestic crises that turned them inward, helpless and frustrated about Europe. Instead of leading the way beyond the introduction of a

40 See Featherstone, Kevin, and Claudio M. Radaelli (eds.), *The Politics of Europeanization*, Oxford: Oxford University Press, 2003.

common currency in 2002 and the accomplishment of EU enlargement in 2004, they were clinging to parochial domestic debates with a strongly euroskeptical overtone.

The unusual introspection in France and in Germany during a difficult decade spread across the EU. Particularly noteworthy was the resistance to the full implementation of a Single Market for services, not only in Germany and France, but also elsewhere in the EU. Heated controversies over takeovers of public banks in Italy became as much a matter of national protectionism inside the EU as the requirements of full liberalization of the labor market in French and German service industries. While in reality, more financial integration in the EU was necessary, and the full liberalization of service industries to cheaper labor from Central and Eastern Europe inevitable, governments and EU institutions – confronted with high unemployment and slackening productivity – did not succeed in resolving these bottlenecks to a more dynamic Europe. As the *International Herald Tribune* put it in spring 2005, the political leadership in the European Union spend too much energy “on trying to decide just how the power will be divided in Europe.”⁴¹ Their main concern was not with “a Europe that works.”

Germany was a particular focus of concern during the second half of the 1990’s and into the first decade of the twenty-first century. The admission of East Germany dismantled and integrated into the Federal Republic of Germany in October 1990 had facilitated the illusion – both in East and in West Germany – that the five “new Länder” were exempted from the dire transformation stress and EU-imposed accession preparation all other post-communist countries had to go through. In reality, the whole of Germany indirectly became a country with the post-communist transformation agenda. On top of this challenge, the effects of German unification camouflaged the general slowing down of reforms in West Germany at the time. It is fair to say that German unification absorbed enormous human energy and financial resources of West Germany. But in focusing on East Germany’s development, West Germany lost track of some of the modernization trends its West European partners and the US were undergoing. It could not come as a surprise that around the turn of the century, the country ended in crisis: In its Western part, reforms had been delayed that would have allowed it to catch up with globalization and innovative reforms of deregulation, liberalization and modernization and other reforms in order to muster the Single Market, which had been adopted by various EU partner states. In East Germany, in spite of an enormous transfer of financial resources from West German tax payers, no overall sustainable economic progress had happened. Since 1996, Germany’s economic growth was only around 1.0 percent on annual average, half the percentage of the other eurozone countries.⁴² The German tax rates were no longer competitive in order to encourage necessary new investments in Germany. A radical and coherent tax reform remained however absent from the radar screen of German politics while the country’s

41 Norris, Floyd, “Tough EU Rules?,” *International Herald Tribune*, March 22, 2005.

42 See Ferguson, Niall, *Colossus: The Price of America’s Empire*, op. cit.:241.

elites were largely complaining about the complaints of their compatriots. A decade after unification, Germany had lost much of its strategic importance of the Cold War era, as far as the economic dynamic, its foreign and security policy posture, and its drive for European integration were concerned.⁴³ While the Netherlands, Austria and Ireland had unemployment rates of around four percent, Germany continuously had an unemployment rate above ten percent.

Based on purchasing power parities, Germany still had a per capita GDP of 27,000 dollars, compared with Norway, the US and Ireland, Canada, Denmark and Switzerland of around 38,000 dollars. But while, for instance, Ireland had sky-rocketed into the leading group of industrial nations – not in the least due to EC/EU membership effects – Germany had fallen from the leading group of industrialized nations into a backward middle position. Productivity was too low and the potential for economic growth had gone down to 1.6 percent maximum, while the real growth rate was around or below 1 percent. In 2005, for the fourth time in a row, Germany failed to reach the public deficit criteria of the Treaty of Maastricht with 3.7 instead of 3.0 percent of public debt in relation to the country's overall GDP, which was allowed by the Treaty of Maastricht (more than 80 billion euros for 2004 with a total public debt of 1.400 billion euros). Coupled with demographic trends – increased longevity with costs for the social systems on the one hand, an enormous decrease in population reproduction and the weakest desire for children across the EU – and hesitance to embrace the opportunities of more immigration, on the other hand, Germany was trapped by her success and her geographical position. From having been the strategic dynamo for European integration, Germany became “the sick man of Europe.”

The change of government in 2005 was not a real liberalization from this burden. The Grand Coalition under Chancellor Angela Merkel simply redefined the starting point for reforms in the country. The government accommodated fear of too speedy reforms with an overall disconnect of the political process from the majority of citizens. The de-politicization of the German public sphere overshadowed the lack of conceptual approaches for the social and political development in Germany. The Grand Coalition, of course, declared itself successful but in reality, many of the structural deficits of the sociological reality of Germany were not addressed at all. Some of the reforms were

43 One of the senior members of the European Parliament and member of the German Christian Democrats analyzed that German net contribution to the EU had continuously gone down from 33 percent in 1994 to 22 percent in 2002 reflecting the economic crisis of Germany. And yet, Europe was criticized in Germany for costing too much. In real term, Germany's contribution had been reduced from 21.3 billion euros to 17.5 billion euros. Fiscal support reallocated by the EU to Germany – mostly for agriculture, structural policies and research policies – amounted to a reduction in net contribution to the EU from 10.4 billion euros in 1994 to 5.1 billion euros in 2002, equaling two percent of Germany's national budget. During the period 1992 to 2002, German export into EU partner countries rose sharply from 161 to 355 billion euros, amounting to 54 percent of all German exports. The trade surplus rose from 12 billion to 84 billion euros during this period, although this enormous benefit from integration was rarely mentioned in German debates: Brok, Elmar, “Der Nutzen wird verschwiegen,” *Frankfurter Allgemeine Zeitung*, March 1, 2004.

acknowledged as being positive, although it was debatable whether the reduction in unemployment was the result of certain policies or rather the effects of dire reforms in the private sector, helped by a booming global economy. Some critics considered the reform agenda of the Grand Coalition cosmetic while others became even more radical in their critique: Some labeled the Federal Republic of Germany “GDR light.”

In terms of EU policies, one must add, it goes to the credit of Chancellor Merkel that Germany returned to the pro-active European policy the other EU partners had experienced under the Kohl government. For the rest of Europe, the internal stagnation of structural modernization in Germany was not really felt. Therefore, the focus of most German partner countries was different and the relief was obvious about the new, more constructive style of Chancellor Merkel in European affairs. Compared with the Schröder government, she emphasized better relations with smaller EU partner countries and impressed her colleagues with her determination to broker a deal on the Fiscal Perspective for the period 2007-2013 in December 2005. This was followed by an overall successful EU-Presidency of Germany in the first half of 2007. Chancellor Merkel succeeded in de-icing the frozen institutional reform process. She declared the European Constitution dead and relaunched its political substance through the negotiation of the 2007 Reform Treaty.⁴⁴ At the same time, Germany’s public deficit returned to being in line with the Maastricht criteria. France was also exempted from further EU Commission charges for having failed the Maastricht criteria. The election of President Nicolas Sarkozy in May 2007 gave immediate hope to a new, dynamic France on the European scene. The Franco-German tandem began to pick up speed again, this time in a more constructive way than for most of the past decade. The overall atmosphere improved and provided room for a fresh start of Franco-German cooperation on EU matters. This was certainly not enough to renew both countries internally. But it helped the EU leadership to overcome a frustrating decade of paralysis and self-destructive myopia. For the EU citizens this new beginning was not convincing enough: When the Irish were asked to ratify the Treaty of Lisbon in June 2008 in a referendum, the majority of voters rejected the leadership proposition which, after all, was a moderate and watered-down version of the original European Constitution.

(4) Hesitant Recognition of Europe’s Global Presence

During its first decades, European integration had been, by and large, an inward-looking operation. The absence of a stronger political role, let alone a visible global role, was considered European normalcy. Europe preferred to be perceived as a soft

44 On the German EU Presidency 2007 see Marchetti, Andreas, and Martin Zimmek (eds.), *Annäherungen an Europa: Beiträge zur deutschen EU-Ratspräsidentschaft 2007*, ZEI Discussion Paper C 175, Bonn: Center for European Integration Studies 2007.

economic power. With the end of the Cold War, the world returned to Europe and with it hard politics. In the past, failed efforts to develop a common European foreign policy remained largely abstract matters. West European security was guaranteed by the nuclear umbrella of the US and a continuous presence of American ground troops in strategically important partner countries. Efforts to develop a solid European base for foreign and security actions were always perceived as not more than a psychological act of emancipation from the US. It did not really matter. The threat of the Cold War was real and yet abstract. With the end of the Cold War, Europe turned again from an object to a subject of world politics. The initial introduction of Europe as a political factor was coupled with disaster and tragedy: The outbreak of the Wars of Yugoslavian Succession in 1991 brought bloodshed back to Europe. The media coverage was enormous. Millions of Yugoslavian guest workers had been living among West Europeans for decades. Millions of West Europeans had spent holidays on the Adriatic coast. Images of the shelling of Dubrovnik hit their soul. Europe's citizens – whom the Treaty of Maastricht had granted Union citizenship to after all – were demanding action from their politicians in an unprecedented way. Yet the decade of the 1990's was lost for European foreign policy credibility. Legally and politically, the European Union was not ready. The hesitant introduction of a chapter on political union into the Treaty of Maastricht was the only possible expression of commonality. Beyond legalistic rhetoric, time was not ripe for common perceptions of the Balkans, let alone for common policies or actions. Only American military actions could finally force Yugoslavian dictator Milošević to stop the ethnic cleansing after four dirty Wars of Yugoslavian Succession. The European Union was forced to speed up its internal cohesion-building. It had to recognize international responsibility beyond its own borders. The European Council in Cologne on June 3 and 4, 1999, presented the agreement with Milošević to the world, which had been concluded by its emissary, former Finish President Martti Ahtisaari. But without the US bombing of strategic targets in Serbia, this would not have happened.

It goes to the credit of the European Union that its belated process of sharpening the claim to a common foreign and security policy began to take speed unheard of before in this field normally belonging to national prerogatives. The EU learned to accept that it had to project its own stability beyond the borders of the European Union if its citizens and states were to benefit from the fruits of stability, peace and affluence in the long run. A comprehensive structure for crisis management and peace enforcing began to emerge.⁴⁵ By 2008, the most sensitive issue following the break-up of Yugoslavia was to be resolved: the final status of Kosovo.⁴⁶ This time, the European Union was playing a major role in stabilizing and subsequently Europeanizing an independent Kosovo. In

45 See Quinlan, Michael, *European Defense Cooperation: Asset or Threat to NATO*, Washington D.C.: Woodrow Wilson Center Press, 2001.

46 See Eiff, Hansjörg, *Zum Problem des Kosovo-Status*, ZEI Discussion Paper C 144. Bonn: Center for European Integration Studies, 2005.

1999, such a development was unthinkable and a taboo among EU policy makers. In the meantime, the European Union had taken over policing and military operations in Macedonia, Bosnia-Herzegovina and in Kosovo itself. More importantly, the EU had opened up the prospect of membership to all people and countries in the region at the Thessaloniki European Council in 2003. Slovenia had already joined the European Union along with other post-communist countries in 2004. Croatia and Macedonia had been granted membership status. Membership negotiations with Croatia began on October 3, 2005. After the negative Irish votum on the Treaty of Lisbon, membership for Croatia was not expected before 2009 or 2010. Enlargement had become unpopular among most EU member states. Without knowing how to do it convincingly, now it was time for deepening European integration and regaining popular confidence. In this situation the first ever non-European mini-enlargement to the very West of the world passed unnoticed in Europe: After a constitutional change in the Netherlands, the Caribbean islands of Bonaire, St. Eustatius and Saba will become regular Dutch municipalities on December 15, 2008 and thus regular parts of the European Union.

The evolution of a Common Foreign and Security Policy and finally of a Common Security and Defense Policy confirmed the old experience: Cooperation and eventual integration work out much faster under the pressure of an inescapable challenge the EU was facing than at any other time. The Southeast European experience confirmed this rule as did the realization of a European Arrest Warrant in response to the international wave of terrorism during the first years of the twenty-first century. Since the introduction of the first vague provisions on justice and home affairs into the Treaty of Maastricht, the EU was continuously striving for a more solidified European Space of Freedom, Security and Justice. The European police unit Europol was created, based in Amsterdam and sometimes compared with the FBI.⁴⁷ Yet, the EU was not really making progress throughout the 1990's on two matters that are at the core of any common justice and home affairs policy: the introduction of an European Arrest Warrant as key to strengthen the common judicial system and enable court rulings on the basis of commonly agreed standards, and the introduction of an European Asylum and Migration policy, a burning issue across the EU but with different intensity and implication in its member states. The Treaty of Amsterdam, signed on October 2, 1997, as the first follow-up treaty to the Treaty of Maastricht, did not extend co-decision between the European Council and the European Parliament to matters of asylum and migration policies, primarily because of a last minute turn-around by German Chancellor Kohl at the time. Only complicated transition periods for the further evolution of a common asylum and migration policy were agreed upon in the Treaty of Amsterdam. Only weeks before the big eastward enlargement to include the Central European post-communist countries on May 1, 2004, the Council of Home Affairs

47 See Occhipinti, John D., *The Politics of EU Police Cooperation: Toward a European FBI?*, Boulder: Lynne Rieffer Publishing, 2003.

Ministers of the “old EU” was able to agree on the principles of a common migration policy. The ministers did so under a cloud of fear that decisions could be to their disadvantage once the newcomers joined the table.

The external pressure to decide on a common European Arrest Warrant was of an even more spectacular nature: “9/11.” The terrorist attacks on New York and Washington accelerated the decision for a European Arrest Warrant and a common definition of terrorism in an unprecedented way. Only weeks after the horrible events in the US, the European Council passed the decision on a European Arrest Warrant on December 11, 2001. The details were designed during the first half of 2002, parallel to the establishment of EUROJUST, the nucleus of a European Attorney General. While the development of a common asylum and migration policy was initially blocked by Germany, a common Arrest Warrant was at first rejected by Italy. It remains a strange example of reactive integration that the EU reacted only to the shocking terrorist attacks in the US with legalistic and policing methods in order to protect the EU from similar crimes. But in doing so, the EU also laid the groundwork for pragmatic and technical transatlantic normalcy that prevailed even during the fierce political rows over Iraq in 2002/2003.

Nevertheless, the self-binding effect of political events on the political leaders in Europe had become a continuous safeguard for an eventual return to rationality in transatlantic relations and subsequently for new progress in European integration. The fact that EU leaders had to be driven more often by external events than by internal consensus-building and anticipatory decision-making might be the nature of politics. It guarantees the continuous evolution of the EU even in times of weak leadership. Nobody can claim the monopoly to speak “in the name of Europe,” including France with or without Germany at its side. Europe’s voice can only be heard if all EU member states can identify with what it says. To preserve this anti-hegemonic and inclusive understanding of the meaning and scope of European integration was more than ever an emerging common European interest, should the enlarged European Union be capable of deepening the impact of its policies in the course of the decades to come.

4. Effects of “Enlargement Fear:” New Perspectives for Deepening

During the 1990’s, the joy over the end of communist rule in Central and Eastern Europe gave way to realism, concern and also resentment in Western Europe. While the post-communist countries were seriously and adamantly struggling to incorporate the EU’s *acquis communautaire* into their domestic agenda of transformation, the 15 old EU member states were trying to prevent the transformation also impacting their ways. Speculation about the costs of integrating and reforming Central and Eastern European countries reached by the wildest projections concerning possible flows of migration. A

certain increase of illegal migration and organized crime related to the new openness of borders were undeniable, but it seemed as if this was the inevitable prize of freedom. At the same time, the larger markets in Central and Eastern Europe were a golden opportunity for many businesses and companies across Western Europe. More trade with the new participants of the European market substituted for exhausted consumerism and recession in Western Europe. Fear of uncontrolled migration was another dubious prejudice that all of a sudden obsessed Western Europe. A more sober and differentiated analysis about migratory patterns into the EU had to consider two kinds of labor movements originating in the post-communist societies: complementary movement and competitive movement.⁴⁸ While the first type was needed in several sectors of the Western European economy that are in need of seasonal manual workers or of cheap temporary workers (i.e. harvesting, construction business), the second one simply required stronger efforts by the economies of “old Europe” to proceed with the evolution of new levels of a modernized division of labor. Some countries of Western Europe were faster than others in recognizing the need for enhanced reforms of their labor markets and welfare systems, their education structures and curricula from kindergarten to university. Others were resorting to protectionist instincts as if new walls would have ever helped anybody in Europe.

Five million people had migrated to Germany alone between 1989 and 1996. Most of them did not come from the EU applicant countries, but from the former Soviet Union. Across the EU, the total number of 850,000 residents originating from another EU member state constituted only 0.2 percent of the population in the old EU. This number was in reverse proportion to the degree of polemic against migration from Europe’s center and east. It also has to be mentioned that 600,000 Poles returned home once the communist regime had disappeared in their homeland. As contradictory as the concerns and fears related to migration from Central and Eastern Europe were across the EU, the 1990’s saw an increasing debate in the old EU about the need to balance eastward enlargement with new initiatives toward the Southern littoral of the Mediterranean. Should the European Union’s stability be projected and exported in order to impact its neighboring regions, the orientation toward the Southern Mediterranean region was compulsory. The mix of arguments, however, for building up a coherent European approach was not consistent at all. Simultaneously, fear and hope were invoked, development intentions and strategies for increased economic interdependencies were presented, security concerns and visions of a cultural dialogue were expressed, ideas of how to deter migrants and how to better involve the economies of North Africa into the Single Market process were aired. The net result was not clear and the strategy resulting from this first initiative of the European Union to look to its immediate South was accordingly incoherent. Yet, the inevitable eastward enlargement

48 See Kühnhardt, Ludger, *Die Europäische Union – Fragen zur Erweiterung*, Berlin: Auswärtiges Amt/Europäische Kommission, 2003 (3rd ed.): 35-37.

also enlarged and widened the perspective of the whole European Union toward its Southern neighbors.

The Euro-Mediterranean Dialogue of the European Union was initiated during the early 1990's. As far as the intention of the EU Commission – and especially of Spain and France – was concerned, it was a response to the eastward orientation that dominated after the end of communist rule in Central and Eastern Europe. France and other Southern EU member states anticipated that the eastward orientation of the EU would largely be to the economic advantage of Germany and other countries in Northern Europe. Along with Germany Great Britain, Denmark, the Netherlands, Finland and Sweden expressed special interest in bringing their post-communist neighbors as soon as possible into the status of full EU membership. Italy found itself in an ambivalent situation. As much as Austria, Italy benefited economically from the newly emerging markets in Central Europe, but was at the same time hesitant to enlarge the EU to the east if it meant a loss of its own influence. Understandably so, the Southern members of the EU wanted to balance the prospect of a new and broader Europe to the East with a strengthened emphasis on partnership with the Southern littoral countries around the Mediterranean. This policy became known as the Barcelona Process, bringing together all EU member states and most Southern Mediterranean countries for the first time on November 27 and 28, 1995, in Barcelona. The simultaneous presence of Israel and the Palestinian National Authority was spectacular. The absence of Libya was noticeable, at that time still scorned as a terrorist state. By the end of 2004, the European Union had not only engaged Libya in the Barcelona Process, it had even lifted its ban on arms sales to Tripoli.

The Euro-Mediterranean Dialogue was suffering a series of flaws in the management of this largely asymmetric partnership.⁴⁹ Yet it did not remain limited to the original intention of serving as a counter-balancing program to eastward enlargement of the EU. In fact, both processes were reinforcing each other and engaged all EU member states, including their civil societies.⁵⁰ The prospect of partnership and co-operation with the Southern Mediterranean and presumably with further Arab and African countries also affected policy makers in Scandinavia, in Poland and the Baltic

49 See Calleya, Stephen, *Is the Barcelona-Process Working?*, ZEI Discussion Paper C 75. Bonn: Center for European Integration Studies, 2000; Maier, Felix (ed.), *Managing Asymmetric Interdependencies within the Euro-Mediterranean Partnership*, ZEI Discussion Paper C 101. Bonn: Center for European Integration Studies, 2002; Jacobs, Andreas, (ed.), *Euro-Mediterranean Cooperation: Enlarging and Widening the Perspective*, ZEI Discussion Paper C 131. Bonn: Center for European Integration Studies, 2004; Calleya, Stephen, *Evaluating Euro-Mediterranean Relations*, Routledge: London, 2005; Marchetti, Andreas (ed.), *Ten Years Euro-Mediterranean Partnership: Defining European Interests for the Next Decade*, ZEI Discussion Paper C 154, Bonn: Center for European Integration Studies, 2005.

50 The Euro-Mediterranean Study Commission (EuroMesCo) was established as network of think-tanks, research institutes and scholars from both sides of the Mediterranean, comprising subsequently also of members from the new EU member states from Central and Eastern Europe as much as their representatives participated in all political activities of EU institutions in the context of the “Barcelona Process,” see: www.euromesco.net.

States, and if only as far as competition over foreign investments was concerned. Portuguese or Maltese policy makers were in turn increasingly involved in the implications of eastward enlargement, including migration and the effects of cheap labor.⁵¹ The Southern orientation of the European Union never gained the degree of emotional reaction as the prospect of eastward enlargement did. It was clear that Egypt, no matter what, would never become a European Union member state. Poland was about to join the EU in 2004. The only Southern country provoking a strong degree of emotions inside the “old” and also inside the enlarged European Union was Turkey. Amidst controversial disputes of Turkey’s European character and vocation, the EU eventually opened full membership negotiations on October 3, 2005. The subsequent process was to become more twisted than all previous experiences with Central and South Eastern Europe.

The enlargement process of the European Union that took place during the 1990’s finally buried all ideas to design Europe as a free trade zone only. If EFTA had not already been actually dead with the accession of Great Britain to the EC in 1973, the accession of Sweden, Austria and Finland in 1995 limited even the potential of its heir, the European Economic Space. The EU had negotiated this European Economic Space in 1992. It guaranteed that the remaining members of former EFTA accepted the legal provisions of the Common Market without becoming a member of it. For any prospective new member state from Central and Eastern Europe, the EU developed a highly complex pattern of assistance, association and pre-accession schemes involving more experts in EU institutions and a higher degree of civil society participation than in any other enlargement (and in fact in any other policy process) before. On March 31, 1998, the European Commission began formal negotiations with a first group of six candidate countries, followed by the opening of negotiations with the remainder six countries on February 15, 2000. These negotiations were defined by the membership criteria of the EU, known as Copenhagen Criteria: stability of institutions guaranteeing democracy, rule of law, human rights and respect for and protection of minorities; existence of a functioning market economy and the capacity to cope with competitive pressures and market forces in the EU; and the ability to implement all obligations stemming from EU membership, including adherence to the aims of political, economic and monetary union.

These criteria, decided by the Copenhagen European Council on June 21 and 22, 1993, were the basis for a series of progress reports by the EU, reflecting the enormous legal, political, socio-economic and psychological transformation in all candidate countries during the 1990’s. The top five candidates for EU accession grew at an average of 3.4 percent over the period 1995-1999 compared with the EU’s average growth rate of 2.4 percent. During the 1990’s, the total sum of foreign direct investment

51 See Grabbe, Heather, *The Constellations of Europe: How Enlargement Will Transform the EU*, London: Centre for European Reform, 2004.

in Poland had overtaken the sum of foreign investment in Portugal and Finland. The necessary costs to meet EU standards were increasingly becoming a source for attractive economic activities: Poland alone has to spend 6.6 billion dollars to meet EU directives on regulatory and administrative structures. Improving the environment in Central Europe will require enormous investments for decades.

In spite of many efforts across all transformation countries since 1989, stark differences remained obvious when the “big bang” enlargement took place on June 1, 2004. While the US unemployment rate in 2004 stood at 5.7 percent and the unemployment rate in the old EU of fifteen member states at 8.0 percent, it increased in the enlarged EU to 9.0 percent. The difference between 19.1 percent unemployment in Poland, 8.0 percent in the Czech Republic, 5.9 percent in Hungary and 4.7 percent in Cyprus was telling. Most depressing was the high unemployment rate among people under 25 years of age: In Slovakia this rate was 30.5 percent, in Estonia 21.0 percent and in Poland even 40.7 percent, compared with 12.0 percent in the US and 15.4 percent in the EU-15. The Copenhagen European Council had decided to go ahead with a “big bang” enlargement. The European Parliament approved the enlargement on April 9, 2003. After they joined the European Union in 2004, the new member states turned out to be the main engines of the economic growth in the European Union: For 2004 and 2005, their aggregate GDP grew by 4.5 percent, while the aggregate GDP of the 15 old member states grew by only 2.5 percent. Romania and Bulgaria were accepted as EU member states in 2007, however, accompanied by much concern about corruption and the overall readiness of both countries to fully adopt the *acquis communautaire*. Turkey, the most controversial of all applicant countries, was recognized by the EU as candidate country at the Helsinki European Council on December 10 and 11, 1999. The European Council on December 16 and 17, 2004, finally decided to start full membership negotiations with Turkey in October 2005, although somewhat conditional.

Immediately, the Turkish membership issue was twisted by the condition of the European Union and the issue of deepened integration. While in the case of other candidate countries, a shared European identity was rather a matter of encouragement, in the case of Turkey the issue of European identity became the centerpiece of controversy and resentment. The prospect of a Muslim country joining the EU raised questions of religious and cultural difference in secularized Europe more than any other question had done in the past. It seemed that the truly religious parts of European society were more relaxed about the prospect of joining the European house with a Muslim country than many secularized and laicistic Europeans. The overly successful visit of Pope Benedict XVI to Turkey in late 2006 has done more for inter-religious dialogue and understanding than all anti-Turkish claims of modernizers in European politics and intellectual life. It was anticipated that Turkish accession would not come about before 2020, and even then subject to some highly controversial and volatile referenda across the EU. Turkey, one should not forget, participated in the

Constitutional Convention and its Prime Minister signed the Treaty Establishing a Constitution for Europe in October 2004.

After Poland, Hungary, the Czech Republic, Slovakia, Slovenia, Estonia, Latvia, Lithuania, Malta and Cyprus – still remaining divided after the Greek-Cypriot population had refused the UN-Plan (Annan Plan) in a referendum on April 24, 2004, which would have opened the way to a confederal unification of the divided island, a concept which the Turkish-Cypriot minority embraced in the same referendum with a very strong majority – had joined the EU on May 1, 2004, only Norway, Liechtenstein and Iceland were left as members of the European Economic Space, a vanishing species. In a strategic assessment of Europe's emerging neighborhood policy, the European Commission was contemplating whether or not the European Economic Space could be a viable concept to engage with the remaining Eastern European countries, namely Ukraine, Belarus, Moldova and Russia, possibly also Georgia, Armenia and Azerbaijan, but also the Southern littoral countries of the Mediterranean. Eventually they might enter a new relationship with the European Union by joining an overhauled European Economic Space.

For the time being, the failure to bring about a solution to the Cyprus problem, pending since 1974, was the biggest deficit of the European Union in dealing with its peripheries. In fact, it looked as if the Greek-Cypriots had blackmailed the EU as they had continuously declared that EU membership of the island would help resolve the partition. In the end, it was their vote against the Annan Plan that said “no” to the unification of the island.

The European Bank for Reconstruction and Development forecasts annual growth rates in the new EU member states of around 4 to 7 percent over a consistent period of time. This would certainly require steady growth in the eurozone member states of the EU, high levels of investments and rapid productivity growth. To “catch up” with the economic standards of Western Europe will take quite a long time anyway. Since the “old EU” will also continue to grow and international investments have already begun to react critically to wage increases in Central Europe, World Bank estimates show that for the most advanced countries of the group, it would take 20 years for Slovenia, and for Poland, Hungary and the Czech Republic 40 years to only reach the EU average incomes of the year 2004. For Romania, the estimate is 80 years.⁵²

The real challenge was yet to come, the evolution of a common image of Europe, of a commonly shared vision for Europe. It was easy to invoke Europe as incarnation of freedom and unity. To make use of Europe as the framework for reciprocal forms of solidarity became much more difficult. Nobody was really to blame. After decades of living under communist totalitarianism, the new EU member states from Central and South Eastern Europe went through substantial transformations of their political culture. This was a matter of ideas, but also a matter of generations. It took time to get used to

52 See Grabbe, Heather, *The Constellations of Europe*, op.cit.: 6-13.

the mechanisms, the symbolism and the emotions of European integration. This new reality in the public life of Europe was also a growing challenge in the traditional EU member states of Western Europe. They experienced the effects of European integration and were going through a genuine period of leadership crisis. Citizens across the EU were skeptical about the ability and seriousness of their political leaders. It was time for a new contract between the citizens of Europe and their political leaders. How to reach it, was not clear.

Political loyalties and party structures changed faster and more often than in decades. The overall sense of dissolution, transformation and realignment had reached the EU as a whole. When the constitution-building process took shape in the early twenty-first century, the political landscape of Europe had become grey and vague. In Central and South Eastern Europe, hardly any political party was still present in the circles of power that had overturned communist totalitarianism in 1989. In Western Europe, the dissolution of traditional sociological and hence political loyalties had spread all over. Uncertainty and political skepticism were dominating. The initial idea of a European Constitution that could serve as a political safety belt around the two parts of Europe that were growing together failed. It was overly optimistic, maybe even romantic. Europe was growing together, from bottom to top, and it had to grow together in reality, through a change of generations and through the realities of daily life, before a new European contract and one between Europeans and their European leaders could follow. In light of this frustrating reality, the 2007 Reform Treaty will be judged much more generously.

The roots of this necessary yet difficult realignment of ideas are to be found in the transformation processes of post-communist and post-Cold War societies both in East and West Europe. The consequences were felt in the European Parliament after new representatives from Central and Eastern Europe joined. They were also felt in the deliberations of the European Council, most notably after the constitution-building process was started again in 2007. It was all too simple to blame just one or the other country for the daunting process that was lying behind the EU. For decades, two different parts of Europe had grown into two separate directions. To bring them formally together after the end of communist dominance was a technical process, including EU enlargement. To reach the hearts and souls of Europeans and to bring them into the stream of a common search for joint and mutually reinforcing perspectives for the continent as a whole was to take much longer. Only to those who had never thought about the parallelism of the unparallel did this experience come as a total surprise. The others had to accept the consequences. It would take several more years to define common European objectives. The controversies about the primacy of national interests would prevail. The idea that “European spirit” simply meant to define what could better be done together had to take roots before its fruits could be harvested. Yet, eventually there was no alternative to the return of a “European spirit.” In political

terms it meant that there was no alternative to deeper integration aiming at the full realization of a political Union. The true enlargement fear was the fear to fail the challenge of deeper integration.

5. Dysfunctional Governance Structures and Growing Politicization

The third phase of European integration europeanized politics in all EU member states and politicized the institutions of the European Union beyond the formal level of Political Union. This third phase of European integration has been defined by the quest of constitutionalizing and politicizing European economic integration in an enlarging and ever more political Europe. Its implications led inevitably to a growing dichotomy in European politics. The distinction between national and European levels of decision-making was not simple and clear any more. European politics has become a web of multilevel governance mechanisms. The European Union has bred its genuine system of governing and rule. As a consequence, the debate between those who preferred the primacy of national autonomy in decision-making and those who favored the evolution of a European public sphere has become pertinent.

EU enlargements were always matters of a particular fascination and broader public attention. They have a dimension of geographical and cultural curiosity. They prove a sense of identity that immediately vanishes when the debate shifts to matters of political cooperation and integration. The fascination of EU enlargement is the fascination with the cultural unity and diverse history of Europe. The breakdown of communist rule over Central and Eastern Europe was of secular significance. It meant the end of the Cold War and the artificial partition of the European continent. Eastward enlargement of the European Union was highly complex due to the scope of the task and due to the fundamental structural and mental, socio-economic and political differences that had become cemented in those countries for decades and generations. Most impressive was the fact that finally the Central and Eastern European countries had liberated themselves. The charisma of Lech Wałęsa, the electrician from Gdansk, and Pope John Paul II, the priest from Cracow, are legend. These two exceptional Polish personalities are symbolic icons of one of the most impressive European narratives of modern times. Their unforgettable contribution to the European journey of freedom, the rule of law and human rights has been of exceptional importance. Yet, following the end of the division of Europe, a consistent “deepening” of the integration process has become essential and existential for the future of the united continent.

The French Member of the European Parliament, Alain Lamassoure, has been the first to suggest that eastward enlargement should take place simultaneously with the election to the European Parliament on June 13, 2004. The direct election to the supranational representation of all Union citizens from Lisbon to Tallinn and from

Tromsö to Nicosia, he argued, would symbolize the new European identity more than anything else. The whole European Parliament subscribed to his idea and it was subsequently approved by the European Commission and by the European Council. This detail shows that the political approach to integration as represented by the European Parliament is not only dependent upon formal constellations of co-decision. It also challenges the widespread prejudice that France was *per se* overly hesitant about EU enlargement to include Central and Eastern Europe. Alain Lamassoure is a Frenchman after all – and France’s former Minister for European Affairs. The informal interaction among the actors in the different institutions of the European Union will increase further. It will also have an integrating effect upon the new participants in the process from Central and Eastern Europe. The recognition of this experience is needed more than ever to revitalize the “European spirit” in the decades ahead. It would be regrettable if Europe could find its spirit only by defining its integration as directed against “the other,” against others.

The election of 732 members to the European Parliament in June 2004 brought about the following structure in its factions: European People’s Party/European Democrats 268 seats (36.61 percent), Social Democratic Party of Europe 200 seats (27.32 percent), Alliance of Liberals and Democrats for Europe 88 seats (12.02 percent), Greens/European Free Alliance 42 seats (5.74 percent), European United Left/Nordic Green Left 41 seats (5.6 percent), Independence/Democracy 37 seats (5.05 percent), Union of Europe of the Nation States 27 seats (3.69 percent), 29 members did not belong to any faction (3.96 percent). The representatives of 183 national parties came together under the roof of the seven parliamentary groups. The historic 2004 election of the European Parliament⁵³ was followed by an impressive power struggle between the institutions as part of the overall evolution of a balanced separation of power among them. In 1999, the dethronement of the Santer Commission originated in pressure from the European Parliament, but in 2004 the parliamentary claim for an equal share of power with the European Council received much broader public attention. It was a constitutional conflict that ended in favor of shared power and an enhanced interlocking of the main institutions of the European Union.

53 Not surprisingly, the result was belittled by media commentators who pointed to the relatively low voter’s turn out: 44.9 percent in 2004, compared with 49.8 percent in 1999, 56.8 percent in 1994, 58.5 percent in 1989, 61 percent in 1984 and 63 percent in 1979. Compared with American mid-term and even presidential elections, the result was not that bad: 2004: 60.0 percent; 2002: 40.1 percent, 2000: 51.3 percent, 1998: 36.4 percent, 1996: 49.1 percent, 1994: 38.8 percent, 1992: 55.1 percent, 1990: 36.5 percent, 1988: 50.1 percent, 1986: 36.4 percent, 1982: 39.8 percent, 1980: 52.6 percent, 1978: 37.2 percent. The European average voter turnout was 55.6 percent, the US average voter turnout 44.4 percent. On the 2004 elections see Lodge, Juliet (ed.), *The 2004 Elections to the European Parliament*, Basingstoke: Palgrave Macmillan, 2005.

Table 3: Elections to the European Parliament⁵⁴

1979 : 410 members from 9 countries

Socialists	112 seats
European People's Party (Christian Democrats)	108 seats
European Democrats	63 seats
Communists	44 seats
Liberals	40 seats
European Progressive Democrats	22 seats
Independents	11 seats
Non-attached	10 seats

1984: 434 members from 10 countries

Socialists	130 seats
European People's Party (Christian Democrats)	110 seats
European Democrats	50 seats
Communists	41 seats
Liberals	31 seats
Movement of European Democrats	29 seats
European Alternatives (Green-Alternatives)	20 seats
European Right	16 seats
Non-attached	7 seats

1989: 518 members from 12 countries

Social Democratic Party of Europe	180 seats
European People's Party (Christian Democrats)	121 seats
Liberal, Democratic and Reform Group	49 seats
European Democrats	34 seats
Greens	30 seats
United Gaullists	28 seats
Movement of European Democrats	20 seats
European Right	17 seats
Coalition of the Left	14 seats
Rainbow Group	13 seats
Non-attached	12 seats

⁵⁴ See European Parliament. Directorate-General for Information and Public Relations, *Column on Elections 2004: Historical Data*, Brussels: European Parliament, 2004.

1994: 567 members from 12 countries

Social Democratic Party of Europe	198 seats
European People's Party (Christian Democrats)	156 seats
European Liberal, Democratic and Reform Group	44 seats
Group of European United Left	28 seats
Forza Europa	27 seat
Movement of European Democrats	26 seats
Greens	23 seats
Rainbow Group	19 seats
Europe of Nations	19 seats
Non-attached	27 seats

1999: 626 members from 15 countries

European People's Party (Christian Democrats) - European Democrats	233 seats
Social Democratic Party of Europe	180 seats
European Liberal Democrat and Reform Party	50 seats
Greens	48 seats
European United Left/Nordic Green Left	42seats
Union for Europe of Nations	30 seats
Mixed Independent Group	18 seats
Group of European Democracies and Diversities	16 seats
Non-attached	9 seats

2004: 732 members from 25 countries

European People's Party (Christian Democrats) - European Democrats	268 seats
Social Democratic Party of Europe	200 seats
Alliance of Liberals and Democrats for Europe	88 seats
Greens/European Free alliance	42 seats
European United Left/Nordic Green Left	41 seats
Independence/Democracy	37 seats
Union for Europe of the Nations	27 seats
Non-attached	29 seats

It advanced the politicization and the constitutionalization of the European Union. Although the European Constitution was never ratified, several of its provisions were implemented even during the crisis of ratification. Among them was the election of the

President of the European Commission based on the result of the election to the European Parliament. In disregard of the vote to the European Parliament in June 2004, French President Chirac and German Chancellor Schröder proposed the liberal Belgian Prime Minister Guy Verhofstadt as new President of the European Commission. Their colleagues belonging to the “political family” of the European People’s Party disagreed with this proposal. They supported the claim of the parliamentary faction of the EPP that the next Commission President should come from its group, being the biggest one in the European Parliament. After much party political bickering among crosscutting institutional and party-political structures in the European Union, Verhofstadt had to withdraw his candidacy and the conservative Portuguese Prime Minister José Manuel Durão Barroso was nominated by the European Council. He was able to take over his new office after he received the vote of confidence of the majority of the European Parliament. In a remarkable sign of leadership and his claim for a strong Commission, he designated the portfolios of the newly arriving 25 Commissioners without waiting for the national governments to impose their will upon him. Then he convinced some governments to replace their candidates, as he would have failed to win the necessary support in the European Parliament for his team. On November 18, 2004, the Barroso Commission was confirmed by the European Parliament and immediately began working.

In anticipation of the treaty reform, further innovations and reforms were installed. These included the beginning of a European External Action Service and the establishment of the European Defense Agency. Measures of enforced cooperation were taken in anticipation of the future treaty provisions. This included EU military and policing operations and the progress made in the field of justice and home affairs. These experiences could have served as a good indicator for the EU how to institutionally advance without a new treaty, let alone a constitution, in place. Interinstitutional arrangements between the European Parliament, the European Council and the European Commission made it possible to introduce several of the key provisions of the European Constitution and the Treaty of Lisbon. It would even be possible to introduce the right to initiate EU legislature through a popular initiative. For the European Council, the principle of qualified majority voting could be extended as had happened in 2005 in the sphere of border protection, asylum and migration policy and judicial cooperation in matters of civil law. All in all, the decade of constitution-building did not leave the EU decapitated. The scope of action was bigger than some of those knew who described the rejection of two treaty revisions by selected European constituencies as a major catastrophe. Eventually, the crisis of ratifying a new EU treaty was a crisis in integration. It was not a crisis of integration only to be remedied by a third effort to install a new EU treaty.

During the third period of European integration, the European Parliament became increasingly visible as one of the key actors in European Union politics. Its formal and

its informal influence on EU legislation increased noticeably.⁵⁵ With the accession of Bulgaria and Romania in 2007, the number of deputies increased from 732 to 785 until 2009. With the help of some of the newcomers from Bulgaria and Romania, a new but short-lived euroskeptical faction “Identity, Tradition and Sovereignty” was formed. The dispute between those who define European integration from the perspective of its limits and those who define European integration by the scope of its ability to achieve a common value added had reached the floor of the European Parliament. After the next election in 2009, the number of deputies was cut again to 750. The controversies over the future of Europe were not to disappear.

The European Parliament, as its President Hans-Gert Pöttering vowed in his program speech in February 2007, “cannot allow itself to be outdone by anybody when it comes to completing the task of unifying our continent.”⁵⁶ Pöttering emphasized the dignity of man as the basic value of European integration. He pleaded for a dialogue of cultures and underlined that European integration was based on the idea of achieving a

Table 4: Presidents of the European Commission

1958 – 1967	Walter Hallstein
1967-1970	Jean Rey
1970 – 1972	Franco-Maria Malfatti
1972 – 1973	Sicco Mansholt
1973 – 1977	Francois-Xavier Ortoli
1977 – 1981	Roy Jenkins
1981 – 1985	Gaston Thorn
1985 – 1995	Jacques Delors
1995 – 1999	Jacques Santer
1999 – 2004	Romano Prodi
2004 – 2009	José Manuel Durão Barroso

Table 5: Presidents of the European Parliament

1979 – 1982	Simone Veil
1982 – 1984	Piet Dankert
1984 – 1987	Pierre Pflimlin
1987 – 1989	Lord Plumb

55 See Kreppel, Amie, “Moving Beyond Procedure: An Empirical Analysis of European Parliament Legislative Influence,” *Comparative Political Studies*, 35.7 (2002): pp. 784-813.

56 Pöttering, Hans-Gert, *Defining Europe's Values – For a Citizen's Europe*, Programme Speech to the European Parliament, Strasbourg, February 13, 2007, <http://www.europarl.europa.eu/president/defaulten.htm?home>; see also Pöttering, Hans-Gert, *Von der Vision zur Wirklichkeit: Auf dem Weg zur Einigung Europas*, Bonn: Bouvier, 2004.

1989 – 1992	Enrique Barón Crespo
1992 – 1994	Egon Klepsch
1994 – 1997	Klaus Hänsch
1997 – 1999	José María Gil-Robles
1999 – 2002	Nicole Fontaine
2002 – 2004	Pat Cox
2004 – 2007	Josep Borrell
2007 – 2009	Hans-Gert Pöttering

community of values. Indeed, if the European Economic Community was the basis for European integration, only the notion of being united in a community of values would provide the sustainable framework for the future of the European Union.

Some claimed that Europe was lacking political leaders. It might well be argued that Europe had too many of them. The overlapping and interlocking mechanisms of politics in Europe – between the regional, the national and the European level, but also among political parties and “party families” – often produced inter-blocking situations. This could be confusing and frustrating for actors and observers alike, yet it was the price to pay for a unique experiment in European history: Never ever had the European continent experienced such a highly sophisticated and complex system of a mutually binding political order. It could not come as a surprise that resistance to certain aspects of this system clashed with demands for more and deeper integration.

The ultimate challenge ahead of the political leadership on all levels of the European Union was to prevent the victory of myopic parochialism. This had internal and external dimensions. More than ever the leaders of the European Union are under public scrutiny as far as the quality and effect of their work are concerned. Not apathy with European integration, but rather apathy with the performance of the dominant political elite has become a recurrent theme of popular criticism in the European body politic. The key for the political class in the European Union to maintain or to regain credibility was to fully understand the link between the structures they – or their predecessors – had set up and their factual performance (and all too often under-performance) in delivering European public goods. While politicians were trying to bring balance and perfection into the web of European institutions and procedures, Union citizens were more interested whether or not the many political debates, decisions or postponements of decisions were having a positive effect on their lives. For better or worse, European integration had become part of the reality of ordinary life across the European Union.

The Global Setting

