

WHAT POLITICAL AND INSTITUTIONAL EVOLUTIONS FOR THE EU AND THE EMU?

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This Synthesis summarises the debates of the 6th edition of the European Forum of Think Tanks, organised by Notre Europe - Jacques Delors Institute and the Centro Studi sul Federalismo in Turin on 18-19 September 2014. The discussion gathered 38 participants (*see list enclosed*) and focussed on three main issues: competences, institutional reforms and democracy.

As the debate followed Chatham House rules, contributions are not attributed individually.

Introduction

The 2104 edition of the European Forum of Think Tanks, organised by Notre Europe - Jacques Delors Institute and the Centro Studi sul Federalismo (CSF) in Turin, assessed the political and institutional evolutions of the European Union in the context of the economic crisis and current institutional changes (notably European Parliament's elections, and the European Council designation of the Commission president candidate from the party with a relative majority in the European Parliament). The debate focused on three main issues: competences, institutional reforms and democracy.

Should we reform the European Union (EU) current institutional system? If so, how should we reform it and on what points? What evolutions are necessary for a more legitimate and more efficient EU and Economic and Monetary Union (EMU)? Do we need new practices, new tools, a new treaty (ies)?



1. How to deepen the euro area while consolidating the EU?

The consolidation of the euro and the deeper integration in the EU complement each other. There is evidence that consolidating the EMU means consolidating the EU, for three main reasons.

The first reason is, of course, economic: saving the euro means saving one of the basic and fundamental elements for additional economic integration (for instance in the fiscal area).

Secondly there is an institutional reason: the success of this experiment could be a test for the future of the EU itself; it would show that it is possible to work between reinforced areas of unification in a larger area of integration. Moreover a successful euro area will open the way to other types of reinforced integration.

The third reason is political: a stronger euro area would allow the EU to maintain its role as a credible actor on the international scene, reinforcing the role of the EU at the global level. Indeed it is necessary to answer the question: what role does the EU want to play in a world facing so many challenges, and undergoing such rapid transformation? Do we want to stay in the centre of the world or at the periphery? The way the EU responds to this question is crucial if it wishes to remain a central actor in the world, both economically and politically. *"The world is not waiting for us"*.

It is therefore extremely important to specify the distribution of competences and powers of the EU and member states in order to build a stronger euro area within a stronger European Union.

1.1. The need to identify a narrative

Many of Forum participants recognize a general need to go further in the euro area, for many different reasons. The contentious point concerns *how* to deepen the euro area while strengthening the EU in practice. Before trying to answer this question, the essential search for a new and effective narrative for the EU must be analysed.

Of course, there are many different views about how the EU shall cope with the uncomfortable moment it is living nowadays. Controversial views exist; some have observed that for a significant amount of time member states had not fully understood the nature of the drama. This has produced a shock that has been felt resoundingly: it is an internal shock, and it is the problem the EU, and especially the EMU, was confronted with: it was unbelievable – and national leaders were unprepared, to find themselves in such a situation; this generated the need to find out *what* went wrong, *why*, and of course *how to* fix it. The choice of a strategy to resolve the euro crisis is a very political one, and there are many different opinions. At the very last, this systemic shock engendered a very sincere moment of awareness within the member states: the moment to answer these existential questions (what, why, and how) has finally come. In order to find out *how* to strengthen the euro area while consolidating the EU, it is then fundamental to answer the question: *why*?

1.1.1. National narrative

No particular consensus has been expressed concerning the question of the EU narrative, except for the need for an effective one.

In a rational perspective, it is because member states are facing severe economic challenges that there is need to go further with EU reforms, and that's why one option would be to bring back member states' needs to the centre of the narrative.

The need for growth is a primary objective. In this sense it has been said that the ongoing European centralization is essentially by default: it is provoked by the lack of growth at the national level. It is indeed

hard to build a strong EU with weak member states; a strong EU must be based on strong member states.

Institutions at the EU and national level need then to work collectively, in the respect of the subsidiarity principle; this principle means that each actor (including member states) shall be given the responsibilities to carry things out by respecting the other actors' competences.

It has been said that the first thing to do for member states is to rebuild their confidence in themselves; this would represent an illustration of the circumstance that *'you cannot fall in love with someone else if you don't love yourself before'*. The main challenge being that the political power of the EU will depend on the economic and political powers of its constituent countries.

Henceforth it has been underlined that EU has moved from the instability of its financial system to the instability in political terms, which has indeed strong economic consequences. If we don't solve the political crisis the economic one as well will not disappear. The political and economic situations are strictly related and connected.

1.1.2. The need for a positive narrative

It has been said that it might be pointless (even impossible) to find *THE* narrative of the EU, because there is not just one. The EU is many things, not merely the euro area, although the latter is indeed an essential and constitutional part of the former.

It is not possible to have a common project without a common narrative, and this narrative cannot be always the same through the years and the decades, because it is something dynamic by its very nature.

The existence of a shared vision of narrative seems to be the fundamental basis of any type of reform, *une raison d'être*.

It has been suggested that it is fundamental obligation to ask ourselves: what are the priorities we seek to transmit through the narrative? It has been pointed out that in this perspective we have to face that the EU is no longer the centre of the world. We are living in a multipolar world, where the *"unite or perish"* alternative for Europe seems striking.

The currency union still seems to benefit to the majority of European citizens, but the evidence that euro area membership is actually something good for the Europeans, has to be constantly justified. In this sense, it has been said there should be a sort of a narrative showing the Europeans that they actually benefit from being part of the euro. It has been also affirmed that European people today expect a narrative on solidarity.

Today we have competing narratives and none of them appears to be really working. Maintaining the *status quo* can be dangerous because the EU has proven to be unable to handle the euro crisis. That's why the need to identify that a positive narrative is emerging. Today we face a paradox; although with Maastricht the decision was taken not to have an economic government at EU level, today there is evidence that this is not the case.

The new legislature must deal not only with the issue of introducing fiscal reforms into the treaties, but also the essential task of shaping the relations between the euro area and the EU. The gap between the euro area and the rest of the EU is a delicate aspect that needs to be addressed, especially in the context of EU-UK relations.

It has been emphasized that a philosophical dilemma is ingrained in the history of monetary union. A monetary union is an essentially federal concept. Paradoxically, we have not moved to a closer federation since creating the monetary union. Even if more steps have been taken together since the crisis, it has been observed that probably this was not motivated by a positive desire of deeper integration, but rather by fear.

1.2. Deepening through centralisation

It is a widely shared opinion that if the euro fails, there will be serious consequences for the EU as a whole; the effects will not be limited only to the euro area. This is the essential reason why there is need of more control at the EU level.

More solidarity among member states and EU control can be considered as imperatives. The need to strengthen the euro area and to further centralize it is related to the failures which characterized its construction.

However, this centralization cannot neglect the constitutional principle of subsidiarity, nor it can ignore public opinion, which is really divided on this issue.

1.2.1. The construction failure of the EMU

The EMU is characterized by a construction failure. The Maastricht approach, based on mere coordination among member states, has inevitably failed.

There is evidence that the method of mere coordination is too weak in order to build a strong European Union, and within it a strong EMU. Even after the reforms enacted since the beginning of the crisis, the current form of economic and monetary union has been described like '*not very stable*'.

The need today of a government with a fiscal capacity to overcome this crisis has been strongly emphasized, as well as the need of a clearer division of competences and a consolidation of finances at the national level.

The EU needs more fiscal control and its institutions need more rights to interfere with national budgetary policies but also, as a sort of equivalent, on the other side more solidarity mechanisms.

The euro area needs today greater fiscal union, or the power to adopt macroeconomic decisions at the EU level: in brief, greater economic and political centralization. Politically and economically, the only way euro can be saved is through a more federalized euro area.

Another EMU mistake has been ignoring the banking union. Opening the market to free movement of capital without establishing common institutions or common rules was not the right thing to do; this can be observed *ex post*. In this sector the introduction of a common deposit insurance scheme has been suggested.

The big mistake is that coordinating national economic policies was too *weak*. Moreover, the open method of coordination has yielded few resounding successes so far.

For many years, the predominant theoretical framework of the EU integration has been represented by theories of functionalism and neo-functionalism, and the idea of spillover effect. However, participants of

the Forum agree that EMU shows the failure of this approach. The lack of trust clearly shows that there was no spillover effect as desired.

1.2.2. The subsidiarity principle

More solidarity among member states and more control by the EU have been described as imperatives in many interventions during the Forum. Of course, member states have to play a crucial role in implementing the EU and in taking action where they are the best placed actors.

Although it has been said that the application of subsidiarity principle has often failed so far, taking account of and respecting this principle should be taken as a new starting point.

The idea that member states' competences must be respected shall not leave aside the idea that at the same time the EU must be able to interfere when member states don't respect their obligations.

Of course we must remember that this principle plays a role only if competences are shared, and this is why it is crucial in the debate concerning the EMU. In fact, the big difference between the monetary and the fiscal unions is that when it comes to currency, it is not possible to be divided among two powers: either it is up to Europe, or it is up to member states. The monetary competence is exclusive while the fiscal competence is shared. Therefore the fiscal union involves more concerns related to subsidiarity.

José Manuel Barroso was famously quoted as saying: *"The EU should be big on the big things and small on the small things"*. However, this is easier to assume *in abstracto* than *in concreto*, because when it comes to practice it is not always easy to identify the dividing lines between these two categories.

The concept of "small things" should not be misleading: the Internal Market - the quintessential so-called 'big thing' - is indeed composed by a hundred of small things put together. That's why it has been emphasized that in practice this dividing line is not always that clear as it might appear.

Moreover, when talking about subsidiarity there is a sort of contradiction, between EU citizens' unease concerning EU activities on one hand, and on the

other hand the idea that most of them are in favour of the EU taking (more) action.



1.2.3. Perturbations in public opinion

Of course, if actions need to be taken at the EU level, and if reforms must be made, they also must be explained to European citizens. Is public opinion ready for certain changes? This aspect should be taken into account when talking about EU. However, citizens' opinions today vis-à-vis the EU are controversial.

For many years, Eurobarometer polls showed that EU citizens were strongly in favour of European integration. But support for the EU is low - and in parallel, there is indeed little support at the national level (in the recent period, only 3 out of 28 member states' governments have been reelected).

At the same time it has been observed that today, according to recent Eurobarometer surveys, European citizens in 17 member states out of 28 are still more likely to trust EU than their own authorities.

Although the euro arguably still benefits a majority of European citizens, public opinion is split; this point has been emphasized by the participants in the Forum.

While many polls show that European citizens are still in favour of the EMU despite the crisis, a number of participants to the Forum downplayed the importance of these polls.

European surveys concerning the euro can be characterized by dissonance. On one hand it seems that when it is asked to the European citizens if they like the euro they reply no, but paradoxically when asked

if they want their country to abandon the euro area... they say no again. It seems that there is no 'love it or leave it' dilemma with the euro.

Therefore it can be concluded that European citizens show a sort of political will recognising a stronger European intervention. This political will can be more or less intense, and while its nuances can be contestable, its *de facto* existence is not.

It has been added that, seen from the outside world, the Europeans already exist, united around the same model of development combining the search for economic efficiency, social cohesion, environmental protection, in a democratic framework. Now it is time to construct (and deepen) the EU. Paraphrasing a famous dictum of the Italian Risorgimento stated by Massimo D'Azeglio talking about Italy, it is possible to say today that "Europeans have been made; now we must make Europe".

1.3. Deepening through differentiation

The integration via differentiation was one of the most intensely discussed issues by the participants.

Both the advantages, and the potential risks that a misuse of differentiation might involve were stressed.

1.3.1. Advantages of differentiation

For a long time, differentiation has been a sort of a 'sleeping giant'; there were provisions concerning it but only recent initiatives have actually relied on these provisions.

Enhanced cooperation was introduced by Amsterdam treaty, at which point in time the Commission exhibited a sort of mental reluctance towards it, while today it appears commonly accepted and better regulated by the Lisbon treaty.

The rationale behind this instrument is, of course, to guarantee flexibility, and such mechanism exists in most federal systems all over the world.

Enhanced cooperation has been regarded as a very useful instrument because it allows dynamic institutional evolutions, without reforming the treaties. Expanding the use of such instruments could avoid maintaining the *status quo* while not modifying the treaties; this seems to be, at least over the

short-term, an efficient way to obtain results and substantial progress towards related to common policies (notably Mario Draghi insists on this point when he asks member states to reduce their sovereignty). This scheme is coherent with the declaration of the 4 presidents 'Towards a genuine Economic and Monetary Union' adopted on 5 December 2012.

During the Forum the introduction of a European carbon tax through enhanced cooperation was encouraged, as proposed by both the European Parliament and Commission so as to allow obtaining more revenue at EU level and more protection for the environment.

Differentiation has been in a way also judged as a means to democratize the EU; it is a means of European integration far removed from intergovernmental conferences.

Differentiation has long been described as the means of reconciling different aspirations, objectives, goals and points of view among member states. But now it is time to finally understand the cleavages we are facing: how do we assess the real risk differential between euro area countries and those not in the euro area? Does this cleavage involve risks? These are open-ended questions.

1.3.2. Limits of differentiation

It is undeniable that a generalized use of enhanced cooperation could involve some risks: if enhanced cooperation becomes the rule, the main danger is that it will be used whenever possible, and in practice this doesn't appear entirely coherent with the nature of the European integration project.

The transition from the use of enhanced cooperation to its potential abuse was the main concern that was expressed at the Forum, whose participants concluded that it should be used in a responsible way.

In this sense, the rationale underpinning the use of differentiation might be seen to embody the impossibility of all member states proceeding together. Differentiation should be therefore used in a responsible way, which is to say when the hope of bringing everybody on board is lost. In this sense it should represent an extreme solution rather than a systematic one.

Moreover, we should not forget that when differentiation is used it must always respect the untouchable core of the treaties. Concerns have been expressed regarding Art.10 of the Fiscal Compact, because it recalls only one of the relevant provisions of the treaties. In fact, it only mentions the internal market, while a larger number of limitations actually exists (expressly listed in Art.326 of the Treaty on the functioning of the EU (TFEU), among which is economic, social and territorial cohesion for instance).

Enhanced cooperation and treaty reforms can thus be seen as alternative instruments.

The use of enhanced cooperation should therefore produce a sustainable asymmetry. Only when considered in this perspective can differentiation be actually an added value, and not just an authorization to circumvent the fundament of the treaties.

Differentiation risks moving the EU towards more intergovernmentalism, which has so far proven to be inefficient and does not provide for democratic accountability. To avoid such shortcomings the concomitant use of enhanced cooperation with the Art.333 can be exploited, ensuring the use of qualified majority voting and the involvement of European institutions.



2. Is a reform of the European institutions necessary?

In a functional perspective, the fundamental questions to answer are: what does EU need to do, and why and how should it pursue these objectives?

A call for institutional reforms was outlined during the Forum. At the same time, there were dissenting opinions concerning *how* to reform.

Sustainable growth, the fight against unemployment and security are considered the fundamental issues,

and accounting for these aspects in the EU discourse is unavoidable.

Acting within the framework of current treaties and reforming the treaties have often been described as two complementary steps rather than as alternatives.

It is important to be aware of the considerable lack of political will to change the treaties in the short term. Treaty changes do not appear to be a priority in the political agenda of member states – although one could argue that this could effectively represent the best solution.

While changing the treaties under the current political circumstances is impossible, attempts can be made to exploit those instruments which are available in the framework of Lisbon treaty to the greatest possible degree, notably through differentiation.

Treaties can be stretched, but some observed that they have already been stretched too much.

2.1. Setting goals: the object of institutional reforms – what?

The final goals of the EU are open-ended. The ambiguity of the expression *“towards an ever closer union”*, appearing in the treaties since 1957, is one of the key elements of the debate concerning the EU.

The philosopher Seneca was quoted : *“If you don't know to which port you want to go no wind is good for you”* : the horizon must be clear even if it is not for today or tomorrow. Concrete goals are necessary in order to pursue further reforms.

Identifying the goals is a fundamental condition that must be fulfilled before thinking about reforms. Effective decision-making, growth and democracy have been described as the essential goals the EU should try to achieve, and which are at the basis of the call for changes.

The aim of reforms should be to enable the EU to deliver much more than it has done until now.

The need for deeper political integration has been underlined. This shall have as ultimate goal a *new kind* of federation, taking into account the complex historical evolutions, features and national specificities of member states.

This kind of transition requires time, and a long political process; there is no possibility of a *big-bang* solution, because these are not steps that can be accomplished overnight. Reaching such a model is a complex operation, both from an institutional and political perspective. What is sure is that future negotiations towards new EU reforms shall be undertaken with an attempt at having an *à l'esprit* consciousness and awareness of the goals and the model that we desire, and keeping in mind what the priorities are.

When considering reforms it is also important to seek a more rational and optimized use of resources: the Defence sector was therefore mentioned as a striking example. If we compare expenditures in terms of Defence capacity in the EU and in the US, we see that EU is exactly a half in term of inputs, but in terms of outputs the capacity of the EU is at 10%. This output gap is an interesting illustration for the need of some institutional and political changes, including the use of the permanent structured cooperation mechanism.

Any institutional reform makes sense only if it is linked to a clear vision of the existing objectives, instruments and resources.

2.2. The rationale for institutional reforms – why?

Many different reasons indicate that institutional reforms are needed.

For instance, it has been affirmed that reforms must be undertaken in order to avoid the intergovernmental tendencies which have recently been strengthened in the EU decision-making process.

It has been observed that such tendencies have clearly failed to provide the EU with an effective direction and to stir it out of the crisis, therefore they must be corrected.

In the context of the economic crisis, the dramatic failure of the federalist view was made clear. In spite of federalist ambitions, it seems clear today that intergovernmentalism is gaining more and more importance as a theoretical explanation of the European construction.

Today also represents a fragile moment regarding the institutional environment: the constant combination in the decision-making process between excessive

intergovernmental interventions and excessive technocracy raises several issues concerning democracy. The European Council's monopoly on decision-making in the euro area crisis has unbalanced the long-standing delicate and complex equilibrium among EU institutions.

This reduces the process of decision-making almost exclusively to the considerations of national interests; this increases the lack of transparency and inevitably raises concerns related to accountability.

The problem is that there is an alienation of EU citizens; the movement towards intergovernmentalism during crisis has also isolated the European Parliament. At the most critical moments the European Parliament virtually no longer has a say.

The discussion on reforms must not take place with the risk of a social and political vacuum, as might be the case in the context of the present crisis. This is what is characterizing the social environment, where issues as unemployment, immigration generated a generalized feeling of deep dissatisfaction among European citizens seems undeniable.

The classic debate between '*more Europe*' and '*less Europe*' seems therefore already been solved: what is needed now is a '*different Europe*'; hence the need for reforms.

Stating that there is need for more Europe is no longer sufficient: there is need for a *different kind* of Europe.

2.2.1. The momentum of reforms

A context of crisis might have positive effects on institutional evolutions serving as a useful catalyst for decisions.

Dramatically, crises represent the starting point to take action and to reform towards stronger unity. The history of European integration so far has shown that many historical decisions have been made after relevant shocks.

Today the EU is facing big shocks, which are often highly interconnected, both at the internal and external level: the EU and particularly the EMU, were confronted with the shock of the economic crisis. In such a context, the multiple shocks related to the external dimension (such

as the Ukrainian crisis), have intervened in a particular moment of vulnerability for the EU.

Fear has been therefore described as the best *momentum* for reforms. However the risk exists that when fear goes away, desire for reforms will disappear as well.

In parallel, it has been observed that since 2008 and the beginning of the crisis, the EU started to appear on the front pages of newspapers, and it's also because of the crisis that the politicisation of the European debate has begun to be shaped - politicisation is something not completely achieved, but *in fieri*; the crisis reinforced the perception that EU's importance.

This context can indeed represent the right moment to strengthen the political dimension at the European level.



2.3. The instruments to realize reforms – how?

It has been pointed out that there is an enormous gap between long-term goals and what can be done or should be done in the short term concerning the very specific problems that the EU is facing today. These are different questions, and problems related to these kinds of questions don't ask necessarily for the same kind of reforms: different goals can be achieved through different kind of reforms.

2.3.1. Constitutional reforms

The constitutional reforms are the results of long-term negotiations. It has been observed that in order to move towards a more effective decision-making process, the EU will have in the future to overcome the legal principle of the veto power (though it is far from being a generalized principle today, it still exists in some cases). Modifying this feature of the current institutional procedure is considered to be

an essential reform in order to achieve the goal of effectiveness.

Among the future reforms, a revision of Art.48 of the treaty on European Union (TEU) has been proposed. This article provides the unanimity principle in the intergovernmental conferences concerning treaty reforms and ratification by member states. It has been said for instance that if the United States had strictly applied the unanimity rule, they wouldn't have become the United States of America. As an alternative, this crucial problem could be solved through the logic of the majority principle: a ratification of a minimum number of member states should be established.

An alternative solution which has been discussed in this sense is to determine, at the moment of ratification, a minimal number of member states.

Participants discussed the idea that a deeper generalization of the majority rule in the decision-making process of the EU should be encouraged.

Substantial progress has already been accomplished concerning the introduction of majority principle through the years. But still, in 75 areas unanimity is applied: these are the areas related to semi-constitutional issues. It has been said that fiscal policy should be moved to qualified majority voting, because it is considered to be the only remaining major policy domain in which qualified majority does not apply.

It has been also said that the European Parliament's lack of fiscal powers should be corrected, in order to reinforce the democratic principle: it has been emphasized that the principle of '*no taxation without representation*' is sacrosanct. However, at the same time, the contrary is also true: no representation without taxation power. This requires treaty reforms in the future, the European Parliament should have the right to establish EU taxes (which is already possible in some cases), but also to control the use of money at the EU-level like it already does with the EU budget. This power of the European Parliament should be more generalized.

2.3.2. Constituent legislature and structural reforms

A call for deeper integration, especially concerning the euro area, was expressed during the Forum.

But this will inevitably face the difficulties in reforming the treaties. The deeper federalization of the euro area appears as one of the essential goals that the new European legislature shall undertake through its mandate.

This legislature will have to deal with the process, neither easy nor quick, of strengthening EU democratization based on differentiated integration. However, there is lack of political will of member states to adopt such reforms. In order to stimulate economic growth, the need of common policies is perceived as particularly urgent in the following areas: recovery of economic growth and employment, energy and common European defence.

The dilemma is that the economic logic needs deepening in the direction of a federation, but the political situation does not allow it. Still, there is no example in human history of a monetary union without a political union.

The expression 'constituent' has been employed in order to describe the 2014-2019 legislature.

It has been said that the next legislature will be a constituent legislature in the sense that treaty reforms on fiscal issues will have imperatively to be adopted: at least concerning fiscal issues, treaty changes can be considered as inevitable.

However not all participants share the same view on the necessity to reform the treaties in order to bring the substance of the Fiscal Compact within them. There was no agreement concerning the impact of the *rendez-vous* clause of revision of the treaties in the fiscal area.

Without a doubt, this legislature will face a number of issues, which shall be dealt through different types of actions. Today nobody knows if this will be the case of imminent treaty reforms. It is not clear *if* or *when* this will be the case.

The need of the EU for growth, investment, and debts reduction can be satisfied through modernization and structural reforms. Do these kinds of reforms necessarily involve treaty changes? It is an open question: contradictory positions have been shared concerning treaty changes.

It has been said that the question of institutional reforms can also be analysed from the angle of what

the EU can do in order to help the member states, and not only focusing on what member states can do in order to reform the EU. This change in perspective could be useful in the analysis of possible reforms.

2.4. Tension between the need of reforms and the difficulty of short-term treaty changes

Participants of the Forum shared different positions concerning the need of treaty reforms.

If it is undeniable that on one hand reforms were encouraged, on the other hand it has been said that proposing a new treaty could be seen as a sort of provocation by European citizens in some member states. Some dangerous consequences of treaty revisions have been described: in substance, it has been observed that negotiations for new reforms should not take place until it is sure that they will succeed, and that trying to reform in such a delicate and complex context would be dangerous.

However, it seems clear that treaty reforms shall not be considered as *deus ex machina* solutions, because they do not simultaneously solve all the problems the EU is facing.

It is important to determine how far we can go in the framework of the current treaties in order to then identify which treaty changes are really needed. But it has also been observed that what has been done over the past few years has in a certain way exhausted what can be done without treaty changes: the treaties have been stretched too much. Therefore it would not be easy to move further within this framework.

Paradoxically, it has been affirmed that even if treaty changes might not seem like a desirable option today, they are inevitable in the medium to long term.

It has been stressed that if we want to realize substantial and important reforms, such as providing the EU with a fiscal capacity, or creating a EU unemployment scheme, treaty changes must play a role. In brief there is no way to avoid them.

Long-term project of treaty changes have been judged necessary in the years to come. At some point treaty reforms will be needed, even if today there is no political appetite for them.

Changes in the treaties require as a fundamental precondition the creation of the political will. Creation of positive political conditions requires the best use of existing tools and, in parallel, opening the discussions on new treaty reforms. Future negotiations shall be done having à l'esprit the desired model and the priorities.

However, Forum participants recognized that reforms, both concerning the EMU and the EU as a whole, do not necessarily require institutional or legal modification, they have to be *substantial*. Reform is not about constitutional engineering.

Sometimes the main revolutions in institutions are in fact made before becoming openly written law. The legal-juridical formulation should come after the outcome of a political battle. The Lisbon treaty provides a potential, which finds its empirical implementation in the appointment of the *Spitzenkandidat*.

The appointment of the *Spitzenkandidat* as president the Commission has been therefore regarded as an interesting illustration of how constitutional changes might take place in the EU without modifying the treaties. This was the result of the successful political struggle of the European Parliament.

It is hard to imagine that the European Parliament would now accept to step back. It has been therefore said that *de facto* constitutional reforms have been made.

2.4.1. Creative flexibility

Can Europe do something more with the existing institutions and instruments? The idea has been developed that it is possible for the EU to do more, by functioning in a different way.

Achieving reforms through creative flexibility, within the existing treaties has been regarded as a very interesting possibility. Flexibility refers to the instruments that we already have in the framework of existing treaties, and can be therefore used with no need of formal institutional reforms. Creative flexibility gives the chance to use a variety of methods from the European tool box of methods. The starting point is to note that there are different speeds of integration in the EU; this is a matter of fact.

The most urgent challenges related to the EMU can be easily connected to the means of creative flexibility: from the Fiscal Compact to the Six Pack, the context of the crisis shows that many decisions can be adopted (and indeed have been adopted) without changing the treaties. The European Stability Mechanism (ESM) and the banking union, which includes a common supervisory structure, resolution authority and resolution fund, are other examples of creative flexibility.

The ESM and Fiscal Compact thus offer an important precedent in the EU institutional architecture. They were signed by 25 member states out of 27 (then), and provided for ratification without unanimity. Their entry into force was linked to the ratification by 12 member states of the euro area, which was a 2/3 of the majority in the euro area, and a minority of the overall signatories.

Also the European Parliament draft treaty of 1984 included a clause providing for its own ratification by a specific qualified majority vote. A new EU treaty could include a similar transitory and final norm on its own ratification.

The new Commission can be considered an illustration of this model as well. The vice-presidents scheme is an example of creative flexibility: the idea is to create a segmentation of subsets which divides the European policy area into different clusters, in order to approach the subsets of challenges in a more appropriate way. This happened without any subsequent institutional change, merely through a simple re-organization.

All legal instruments available should be used to improve the EU capacity to act in the economic, political and military fields.

In fact, military cooperation can be launched based on the Permanent Structured Cooperation in Defence. The treaties already provides the possibility for different types of cooperation concerning the political sphere of foreign and defence policies. Synergies among member states through joint actions can take place either on CFSP or in the framework of CSDP, through the European Defence Agency (EDA). This agency works *à la carte*, from a minimum of two to all member states (except Denmark) plus three non-member states which are part of administrative agreements with the EDA: Norway, Serbia and

Switzerland. Depending on their strategic priorities, their operational requirements, or their interest in a specific project, member states decide on the extent to which they participate in the work of the agency.

The Petersberg Tasks is another example, which also provides a framework of coordination and many different types of coordination according to different issues (such as, for instance, cyber security, peace-keeping tasks, humanitarian aid).



3. How to further democratize the European institutional system?

First of all it has been pointed out that this focus on how to involve citizens in the EU should be at the core of European think tanks' studies.

Participants agreed that the need to restore confidence in the EU shall start from a stronger democratization of its institutions and decision-making processes.

It has been recognized that, generally speaking, considerable steps have been made through the years concerning democracy in the EU.

An important part of the discussion has been conferred to the recent European elections and the *Spitzenkandidat* appointment as president of the new Commission. The main question concerns whether or not these recent events could really be considered as revolutionary for the EU democracy.

The role of citizens' initiative in EU democratization has been analysed as well.

Finally, some propositions and constructive remarks have been made in order to strengthen European citizens' trust vis-à-vis the EU. In particular the role of national parliaments and 'cross legitimacy' issues have been then considered, as well as the delicate

relationship between democratic principles and differentiation.

3.1. The 2014 elections of the European Parliament: among critics and turning points

The recent European Parliament elections were deeply analysed during the Forum. These elections provoked controversial feelings: on one hand they have been described as a turning point in the history of EU democracy, on the other the importance of 2014 polls has sometimes been downplayed.

3.1.1. Controversial signals emerging from the European Parliament elections

It has been said that participation in EU elections was not as high as expected. It has been observed that a very high percentage of eligible voters – 58% – did not bother to vote, and among those who voted a high percentage – 20% – chose Euro-sceptic parties. This has been described as a profound vote of no-confidence in the European project. Indeed, much remains to be done in order to strengthen the European Parliament's role and to encourage citizens' participations.

However, in spite of the results being often described as a victory for Euro-scepticism, it has been observed that Euro-sceptics didn't actually win the European elections, although they did rank first in a few countries (notably in France and the UK), they counted overall for less than 1/3 of European voters.

3.1.2. An important step

These elections have been described as the most European elections ever since 1979.

In fact, for the first time, public debate has been more strongly focused on European issues, rather than national ones.

For the first time the debate focused on what has to happen at the European level.

It has been pointed out that European citizens realized, more than they ever did before, that the discussion within the EU institutions is political; it is not just a matter of technicalities. It has to do with what people are concerned with: their lives and their social situation.

3.2. Is the Spitzenkandidat a real revolution?

Participants expressed diverging opinions concerning the *Spitzenkandidat* procedure. Both the limits and the strengths of its role have been pointed out.

3.2.1. A number of positive implications

On one hand the *Spitzenkandidat* procedure, which sprang from an initiative of the S&D group, has been celebrated as being able to finally give the perception to European citizens that European elections do matter. This can represent the first step of the Commission towards the transformation in a sort of embryonic European government.

It has been emphasized that it will have long-term impact on the institutional balance, as the European Council will no longer be able to appoint on its own the president of the Commission anymore.

Also, political parties will need to set up precise, clear and democratic rules concerning how they pick up their candidates. Because this was the first European elections featuring a *Spitzenkandidat*, different parties followed different procedures.

Moreover, and most strikingly, public debate could focus even more on the candidates. Because there was doubt over whether one of the candidates in 2014 elections would have really become the president of the Commission, the media attention was greater than in the past, but still it could be even greater in the next European elections. The media-coverage of the elections could become more and more intense. Next time expectations will be higher because it will be sure that one of the candidates will effectively become the president of the Commission.

This procedure will then reinforce the European debate.

The idea of the *Spitzenkandidat* is connected to the idea of a union of citizens, and it helps to further this concept.

The *Spitzenkandidat* procedure is something that can help to build up the European *demos*, which is something that comes about in part through common elections and common results that people are enabled to change later on.

President Juncker's mission letter to his first vice-president Frans Timmermans has been quoted, as a clear sign of the change of the institutional and political role of the Commission. He emphasizes that he received "a political mandate" and that he received it from the European Parliament. As in Juncker's words, the Commission's relationship with the European Parliament is considered the source of the Commission's democratic legitimacy: "I expect all the Commissioners to invest themselves in this democratic relationship".

It has been also said that because of this appointment *de facto* for the first time that the European Parliament is able to look at itself as a real political majority. In this sense it means that there is a consociation form of government, like we can find in other states, such as Switzerland. Many federal states are consociations at the federal level.

It has been noticed that in order to be satisfactory, the *Spitzenkandidat* procedure has to be accompanied by *Koalitionsverhandlungen* (= Coalition negotiations). This practice of formal negotiations on the programme and on the allocation of the positions already exists in Germany. If it were formally adopted at the EU level, it would represent an added value to the current procedure.

Moreover, it has been observed that the Lisbon treaty contains a declaration establishing that the president of the European Council is required to negotiate with the new European Parliament before asking the European Council to negotiate the candidates (although Van Rompuy didn't do it). This is not binding, but in view of 2019, the European Parliament as an identified interest to negotiate an inter-institutional agreement concerning the application of this declaration.

3.2.2. Critics to the democratic impact of the Spitzenkandidat

On the other hand it has been said that the effects of the *Spitzenkandidat* procedure should not be over evaluated. It has been stressed that it is not yet clear whether a really 'legally binding precedent' was born, and if this rule will be applied for the next European elections. We cannot yet take it for granted in the future, which is a key element in understanding why the procedure has been defined as not completely successful.

Some other issues have been raised concerning the *Spitzenkandidat* because behind it there is the European Parliament, which is indeed becoming a powerful institution, but is seen as failing to connect people to institutions. People see it as distant as the Council or the Commission. The European Parliament is not part of the living experience of democracy yet... for many reasons.

The first reason is that there are not yet pure European elections, but rather 28 parallel national elections, controlled by national parties, that are often really more interested on who will be in the national governments and so for them it represents a very low priority. They put less money and less effort in the campaign and often select lower level candidates.

The second reason is that there is no real majority - opposition narrative, but rather grand coalitions asking for more power for the institution itself: in other words, a greater budget...

The third reason is the institutional dialogue: the procedures are obscure, intransparent, and not easy to understand for non-insiders.

The idea was that *Spitzenkandidat* would change this panorama, helping to build a stronger European debate. This should have mobilized and galvanized the vote, attracting the European electorate. But still, many polls have shown that a number of voters were not even aware of this aspect.

It has been also said that low participation in the latest European Parliament elections does not allow looking at the *Spitzenkandidat* as a positive democratic signal.

Participation was not high enough, or at least not as high as expected, and this would prevent from considering the *Spitzenkandidat* as a successful step.

Moreover, citizens do not generally feel concerned by the *Spitzenkandidat* because they are not really concerned in general by the questions related to the EU institutional setup. What they do care about are indeed problems related to everyday life: it is more about unemployment, lack of economic growth, and the labour market.

However, the fact that most people did not expect this process to produce results suggests that it might be too early to reach conclusions on this new practice.

3.2.3. European citizens' initiative

The European citizens' initiative (established by Art.11 TEU) has been regarded as the typical instrument that can be better exploited to reinforce democracy at the European level.

The initiative "New Deal 4 Europe" has been described as the only active initiative involving European citizens at the moment. It proposes an extraordinary investment plan by the EU, financed through the financial transaction tax and a carbon tax using as a backstop for European bond issuing. It is an example of a proposal concerning very substantial issue, which at the same time propose the instruments necessary to realize it. It doesn't come only from pro-European organizations, but from trade unions. It shows the link between economic growth, institutional reforms and democracy.

The problem is that often citizens are not informed about the existence of such instruments which could make their voice heard at the EU level. A parallel can be made with the online consultations: they have existed for many years at the EU level, even before their existence at national level (some national governments, for instance in Italy, have started to use these consultations only very recently).

On the other hand, while citizens are not always well informed, other actors such as organized corporations are aware of these instruments at their disposal, and are often the ones who actually use them. The paradox is that instruments created with the aim of involving citizens *de facto* do not benefit them but rather other categories of actors.

It has been emphasized that so far only two initiatives reached 1 million signatures, the first - the Right to water - because trade unions were behind it, the second - One of us - because churches were involved.

The need to review the rules and the procedure concerning European initiative of Art.11 especially §4, has been underlined. Today the European Parliament is obliged to organize a hearing only if the initiative reaches 1 million signatures. It has been observed that a possible reform could oblige the European

Parliament to discuss about the subject of the initiative as soon as the initiative is launched, rather than when it is over. This would reinforce the link between participatory and representative democracy.

Another important element to take into account is the fact that EU competences are limited, so this makes such instruments less attractive.

If the competences of the EU were the real competences of a federal state, of course citizens would have more interest in these instruments.



3.3. Democratization as a matter of trust

In order to strengthen European citizens' trust towards the EU, the role of national parliaments has also been mentioned. The complex transition from 'Union of states' to 'Union of citizens' has been defined as a fundamental step in this perspective.

3.3.1. The role of national parliaments and cross legitimacy issues

Different opinions have been expressed concerning the role of national parliaments.

On one hand, their role has been emphasized: it has been said that national level is the best place to enforce trust in the EU: in this sense, in order to overcome the mistrust that Europeans feel towards the EU, member states have a fundamental role to play.

This requires strong leadership, from national politicians rather than EU functionaries: they have to rebuild trust among themselves, to communicate differently about the European Union to their citizens.

On the other hand, it has also been said that the main function of national parliaments is exerted at the national level: essentially it is about controlling national governments. This function of control is exerted also on EU issues of course (for instance when it comes to transposition of EU measures). But no confusion should occur between the two levels.

It has been affirmed that it is indeed an obligation for national parliaments not only to control their national governments, but also to scrutinise the EU, as through the subsidiarity check. It is an obligation for them to use all the tools and take advantage of all that they have at their disposal in order to improve their capacity to scrutinise the EU and to control their national governments. Excuses of insufficient information and insufficient instruments, invoked in the past, are no longer applicable.

Finally, the implications of a dialogue between national parliaments and European parliament have been explored.

It has been observed that in some cases the best place to take decisive decisions (for instance concerning transfer of budget) could be nowhere else than common agreement between European Parliament and national parliaments.

In the Convention on the future of Europe, it has been proposed (notably by V. Giscard d'Estaing) to create a permanent body, the Congress - meetings of national parliaments and European Parliament; but the project was ultimately rejected.

However, the idea of having meetings among parliaments has been rescued through Art.13 of Fiscal Compact, that provides meeting of national parliaments and European Parliament under the form of an inter-parliamentary conference.

Indeed, it was affirmed that while a third permanent chamber in the EU would make decision-making even more cumbersome, a joint decision between national parliaments and the European Parliament on the multi-annual financial framework would be more democratic than the current procedure. It would also be more coherent with the principle '*no taxation without representation*'.

3.3.2. Cross legitimacy issues and united of citizens

It has been observed that in the debate concerning democracy, more than ever language is important and is able to play a crucial role. New words can do new things and can prepare new thinking: the most effective way to build trust is to change perspectives, shifting the focus of the discussion from a 'Union of states' to a 'Union of citizens'. The EU is both things, and both parts should always be taken into account when speaking about the EU. These are the two fundamental pillars of European legitimacy, contained in Art.9 to 12 of TEU.

In this sense, as long as we leave the authority of integration up to the states in seeking the United States of Europe, we have already lost, because the states are not delivering. The focus of the debate should therefore be switched from the states to the citizens.

The need to build strong cross legitimacy, by bringing together national parliaments and European Parliament has then been stressed, in order to strengthen accountability and liability at the European level.

It has been said that consolidated cross legitimacy would be able to move the EU out of the current trilogy Commission - Council - European Parliament, which is indeed technocratic and characterized by an unclear division of powers. The repartition of powers is unclear because the Council is both legislative and executive; the Commission is both executive and has the monopoly of the legislative initiative, while the European Parliament has no right of initiative. This is one of the core problems of the European Union's democracy deficit.

It has been said that the principle of sovereignty is essentially individual: which is why we have to go back to citizens. European citizenship (established by Art.9 of Maastricht treaty) indeed plays a role. Going back to the citizens represents the only way to really construct a European *Res Publica* in order to unify people. There is no need for another 'Convention' in the years to come then, but rather for a 'Constituante'.

3.3.3. Democracy and enhanced cooperation

Differentiation was one of the most discussed issues during the Forum. Its relation with democracy in Europe was analysed as well.

How to deal with democratic principle in the framework of enhanced cooperation? How should democracy be respected when an initiative is adopted not by all 28 member states, but by a smaller number of states?

Two possible ways have been described:

The first one involves national Parliaments again, as already mentioned; split Forum participants expressed split opinions about whether this is the correct solution or not.

The second possible solution that has been proposed is the following: in the framework of enhanced cooperation, where only some countries are involved, discussions in the European Parliament shall be open to everybody, but when it comes to vote only the representatives elected in the member states involved in that enhanced cooperation should vote. This has been described as a possible democratic geometry.

Conclusion

Today the European Union is facing a number of challenges related both to its internal and its external dimension. In this context, it is crucial for the European Union to prove its capacity to be the key to the solutions, rather than the source of self-generated problems.

Many questions need to be addressed, and the EU presently needs to answer to a number of questions relating to economic growth, solidarity among member states, democracy, implications of differentiated integration.

The economic crisis raised many constitutional concerns, particularly regarding the gap between the euro area and EU. In this perspective, the use of differentiated integration seems inevitable; however this instrument should be employed responsibly.

On one hand, there was a convergence among opinions expressed on the idea that many elements in the EU as we know it today must change. On the other hand, divergence among the participants of the Forum could be felt, as they found no consensus concerning the instruments necessary to realize institutional reforms. The feasibility of reforms through treaty changes represents a big question mark. However, they shall not be seen as instruments able to solve all at once the difficulties that the EU is facing today. Moreover, they cannot take place in the

short-term. The use of creative flexibility within the existing treaties has been described during the Forum as a very useful solution. There is evidence of the advantages of creative flexibility in a number of sectors, EMU, CFSP. It allows the use of a variety of methods from the European tool box of methods without any subsequent institutional change.

However, there is evidence that reforms, before occurring at the institutional and legal levels, must be substantial (for instance, in policies).

Concerning democracy, even if considerable steps have been made through the years, there is still a clear need to enforce the politicisation of the European Union. Even if positive features of the *Spitzenkandidat* can be identified, it does not appear sufficient *per se* to strengthen democracy in the EU. In order to strengthen the democratic implications

of the procedure, it was suggested for instance to introduce formal coalition negotiations after the candidate's appointment (also with the European Parliament).

Even if a process of more political attractiveness in the EU has started, there is still need to further politicise.

The maintenance of the *status quo* has been regarded as a danger for European integration. It seems that the formula "more Europe" is not a satisfactory solution, what is needed, and what citizens expect and institutions shall promote now is rather a "different Europe".

The new legislature 2014-2019 will have to face all these political and institutional issues, and its capacity to deal with them will be crucial for the next EU evolutions.

6th European Forum of Think Tanks

What political and institutional evolutions for the European Union and the EMU?

Turin

– National Museum of the Italian *Risorgimento* –

18-19 September 2014

The European Forum of Think Tanks, organised by Notre Europe – Jacques Delors Institute, brings together every two years, not only Europe's most dynamic think tanks, but also high-level European and national politicians, as well as leaders from the economic sector. Such diversity is the forum's "trademark", with the overall goal being to promote group-level reflection and debate on key issues in EU affairs.

The 2014 edition of the European Forum of Think Tanks was organised by Notre Europe – Jacques Delors Institute and the Centro Studi sul Federalismo (CSF) in Turin, on 18-19 September.

Thirty-eight participants from more than 15 countries were able to take part in the discussion.

List of participants

Yves Bertoncini	Director, Notre Europe – Jacques Delors Institute
Gianni Bonvicini	Executive vice president, Istituto Affari Internazionali
Mercedes Bresso	Member of the European Parliament
Flavio Brugnoli	Director, Centro Studi sul Federalismo
Piotr Buras	Director, European Council on Foreign Relations Warsaw
Vasco Cal	Economic adviser, European Parliament
Roberto Castaldi	Vice-editor and editorial coordinator, Centro Studi sul Federalismo
Giancarlo Chevallard	Member of the board of directors, Centro Studi sul Federalismo
Poul Skytte Christoffersen	Ambassador, Ministry of Foreign Affairs of Denmark
Piervirgilio Dastoli	President, Consiglio Italiano del Movimento Europeo
Anna Diamantopoulou	Former EU commissioner, President, TO DIKTIO
Brendan Donnelly	Director, Federal Trust
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Nicole Koenig	Research fellow, Jacques Delors Institut – Berlin
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Stefan Lehne	Visiting scholar, Carnegie Europe
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Pier Domenico Tortola	Research fellow, Centro Studi sul Federalismo
Stijn Verhelst	Senior research fellow, Egmont Institute

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