



The European Union in Crisis – Where to Go From Here?

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I. Introduction: The European Union and its Member States

The European Integration Process – a Brief Overview

- First (unsuccessful) attempts at European unification during the 1920s
- **European Coal and Steel Community** (1951) with six members
- **Treaties of Rome** (1957): EEC and EURATOM
- Rounds of **enlargement** 1973, 1981, 1986 and 1995: from 6 to 15 Member States
- First treaty reform after three decades: the **Single European Act** (1985)
- The creation of the European Union: the **Maastricht Treaty** (1992)
- The Treaties of **Amsterdam** (1997) and **Nice** (2001): partial solutions and open questions
- The **Constitutional Treaty** (2004): a questionable breakthrough
- **Eastern Enlargement** (2004) and beyond: in search of territorial finalité
- 50th Anniversary of the Treaties of Rome; **Berlin declaration**

The European Union Between Integration and Enlargement

Integration (“deepening”)	Enlargement (“widening”)
<ul style="list-style-type: none"> • 1951: European Coal and Steel Community • 1957: Treaties of Rome • 1985: Single European Act • 1992: Treaty of Maastricht • 1997: Treaty of Amsterdam • 2001: Treaty of Nice • 2004: Constitutional Treaty 	<ul style="list-style-type: none"> • 1951: France, Germany, Italy, Benelux • 1973: United Kingdom, Ireland, Denmark • 1981: Greece • 1986: Spain and Portugal • 1995: Finland, Sweden, Austria • 2004: Ten Central and Eastern European countries • 2005: Start of negotiations with Croatia and Turkey • 2007: Accession of Bulgaria and Romania

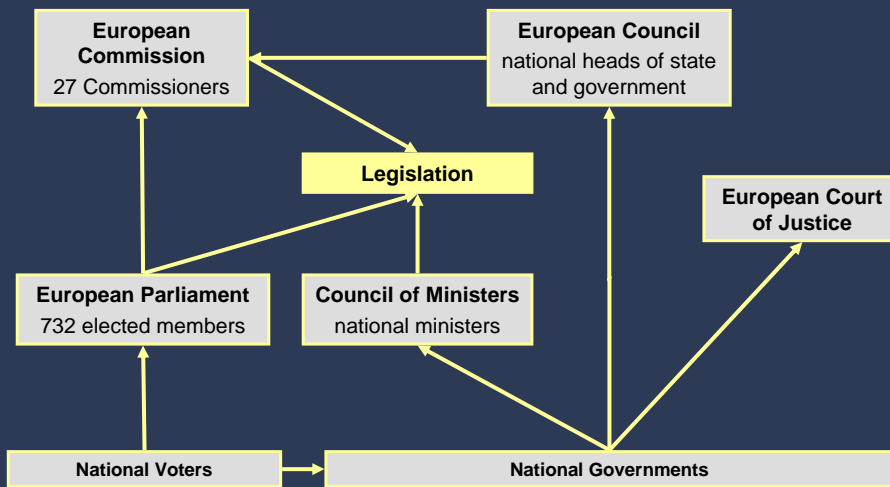
The Legal Bases

- **EU and EC treaties**, agreed upon and ratified by the Member States (**Primary Law**)
- Three “**pillars**”: EC, Common Foreign and Security Policy, and Police and Judicial Cooperation in Criminal matters with specific legal frameworks
- Legislative acts of the European Institutions: **regulations, directives, decisions (Secondary Law)**
- **European Court of Justice (ECJ) jurisdiction**: direct effect and supremacy of European Law
- National Constitutions and European Law: the difficult way to “**cooperative constitutionalism**”
- The **Constitutional Treaty**: to overcome the “patchwork” of treaties; politically decided upon but rejected in two referenda

The Institutional Setting

- The **European Council**: the national Heads of State or Government as providers of the “necessary impetus” and decision-makers of last resort
- The **Commission**: motor of integration and supranational executive?
- The **Council of Ministers**: the core of European decision-making
- The **European Parliament**: a real representation of the “peoples of Europe”?
- The **European Court of Justice**: arbitral authority with supranational bias
- **Central Bank** and **Court of Auditors**: independent financial institutions
- **Committee of the Regions** and **Economic and Social Committee**: advisory bodies with questionable impact
- **A still imperfect system of “checks and balances”**

The Main Organs of the European Union



The Vertical Division of Competencies

- **EC-Treaty**: functional definition of policy objectives without a clear delimitation of the levels of government
- Exclusive, shared, and complementary **competencies**
- The **principle of conferral** vs. the **flexibility clause**: protection of national core competencies?
- The principle of **subsidiarity**: really an effective block against a “European superstate”?
- The **role of subnational entities**: losers of the integration process?
- The execution of European policies: national administrations and “**comitology**”

The Categories of Competence

	Category of Union Competency		
	Exclusive	Shared	Complementary
European Level	Unlimited capacity for legislation	Legislation in line with Primary Law and the Principles of Subsidiarity and Proportionality	Co-ordinating or supplementary action
National Level	No legislative competency	<ul style="list-style-type: none"> • Transposition of European Law • Legislation in areas without existing secondary European law 	Unlimited capacity for legislation
Examples	Monetary policy, external trade	Single Market, agriculture, fishery, visa, asylum, transports	Employment, education, culture

Key Policy Areas

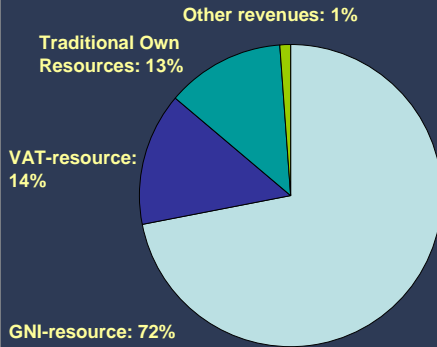
- The **Single Market**: the driving force towards integration – or on its way to a “neoliberal Europe”?
- **Common Agricultural Policy and Structural and Regional Funds**: planned economies and budgetary bias?
- “Spill over-effects” of the Single Market: growing **environmental awareness, consumer protection, and social policies**
- **Justice and home affairs**: towards an “Area of Freedom, Security, and Justice”
- **Common Foreign and Security Policy**: how to become a global power?
- **Flexible policy instruments**: Enhanced Cooperation, Open Method of Coordination (OMC), and regional cross-border cooperation
- **Administrative policy** or public management?

The Distribution of Resources: the EU Budget

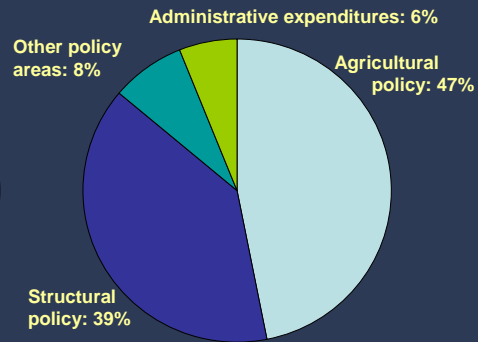
- The **Multiannual Financial Framework**: a still indispensable delimitation of expenditures
- The **annual budget**: full veto rights for the Parliament?
- The system of “**own resources**”: a sustainable structure or to be complemented by an “EU tax”?
- The **UK rebate**: unjustified privilege or reasonable compensation?
- The distribution of **expenditures**: how to overcome the **bias** of agricultural and structural policies?
- **Rich and poor Member States**: equalising structural imbalances vs. net payers’ claims
- **Fiscal equalisation** schemes: but how?

Revenues and Expenditures of the European Union (2006 Budget):

The distribution of revenues:



The distribution of expenditures:



II. The European Union in a Threefold Crisis

The Constitutional Crisis (I): Genesis of the “Constitution”-making

- The **Nice summit** (2000): failed attempt at making the Union “fit for Eastern Enlargement”
- The **Laeken declaration** (2001): in pursuit of more “transparency, efficiency, and democracy”
- The “**European Convention**” (2002/03): composition, mandate, proceeding
- The Convention’s **result**: the “**Draft Treaty on a Constitution for Europe**”
- The **Intergovernmental Conference (IGC) under Italian Presidency** (2003): **veto by Spain and Poland**
- The **IGC under Irish Presidency** (2004): **agreement** on a (modified) “Treaty on a Constitution for Europe” (TCE), **to be ratified by the Member States**

The Constitutional Crisis (II): the TCE as a New Framework?

- A **treaty working as constitution**: adequate creation or false labelling?
- **Structure**: general and institutional provisions (Part I), fundamental rights (Part II), policies (Part III), final provisions (Part IV), protocols and declarations
- The dissolution of the “pillar structure”: a **single legal framework**
- Moderate **adjustments** in the composition **of the Union’s organs**
- More **power for the Parliament**, less national veto rights
- Creation of new offices: a **President of the European Council** and a **Foreign Minister**
- **Clearer division of competencies** without substantial changes, **simpler** and more operative nomenclature of the Union’s **legal acts**
- Only few and **minor changes** to the Union’s **policies**

The Constitutional Crisis (III): Failed Ratification and Beyond

- **Ratification** of the TCE according to national constitutional provisions: parliamentary vote, consultative referendum, or binding referendum
- **First successes:** ratification by the Parliaments of eight Member States and approval by referendum in Spain until May 2005
- Clear **rejection** in referenda in **France** (29 May 2005) and **the Netherlands** (1 June 2005) with high turnout rates
- **Explanations:** domestic constellations, disagreement with specific provisions of the TCE, discontent with the EU in general
- **Reactions at EU level:** no “**plan B**”, declaration of a “period of reflection, explanation, and discussion”
- **Member States:** **divergent reactions** from successful referenda (Luxemburg) to postponement of the ratification process (UK, Sweden, Poland et al.)
- Today: still **no agreement on how to further proceed**

The Budgetary Crisis: no Ways out of the Mutual Blockade?

- **Structural bias:** dominance of agricultural and regional policies (86 % share of total expenditures)
- **New challenges:** the financial consequences of Eastern Enlargement
- The negotiations on the next **Multiannual Financial Framework** (2007–2013): fundamental disagreements on agricultural expenditures, UK rebate, and net payers’ burdens
- Several **unsuccessful summits** under the Dutch and the British Presidencies in 2005
- **Agreement** of the Heads of State and Government in **December 2005**, however: **no substantial changes**
- **Initial veto by the European Parliament** in January 2006, final agreement on a slightly **modified framework** in April 2006
- **No consolidated revenue basis, asymmetric expenditures**

The Structural Crisis: Divergent Expectations and Options

- **Growing heterogeneity** in a Union of 25 (and soon more) Member States
- **Disagreement on formal and territorial finalité**: free trade area vs. federation, Turkey-question, Ukraine and the Balkans
- An **unadapted** (“premodern”) **institutional setting and regulatory framework**
- **Scepticism against further integration** (within the new Member States, Britain and due to the failed referenda)
- **Demands for policy change** within the EU and its Member States: unemployment, social security systems, budgetary reform, energy policy
- **Unrealistic expectations** raised by the Union itself, e.g. Lisbon agenda; accomplishment/implementation improbable: lack of structural capacities by the Union, dominance of national interests
- Problems of **acceptance and legitimacy**

**III. Where to Go From Here?
Upcoming Tasks and Political (Policy) Options**

The Constitutional Crisis: Options to Move Ahead

- **Ignoring the referenda and proceeding with ratification:** lack of necessary political will within several Member States, normative problems with regard to a possible repetition of the French and Dutch referenda
- **Remaining at the *status quo* level** (Treaty of Nice): not to be ruled out as an option, but implies unsolved institutional problems
- **Implementing TCE provisions without modifying the present Treaties:** limited effect, normative problem of “by-passing” the popular vote
- **Consolidating and stabilising the “core” of the Constitutional Treaty:**
 - Implementation of (possibly slightly modified) Parts I, II, and IV of the TCE as a new “fundamental treaty”
 - Part III to be disregarded, retention of TEU and TEC instead
 - New ratification procedure, referenda (where necessary or desirable) to be held on the same day across the Union

The Budgetary Crisis: Still an Unresolved Issue

- **Revenues:** retaining the system of “own resources” or creating an EU-tax?
- **UK rebate and net payers’ position:** further reforms only in combination with structural changes on the expenditure side
- **The Common Agricultural Policy:** liberalisation and attempts at re-nationalisation under way
- **Structural Funds** (regional policy): enhanced target orientation; in case of severe disparities move towards real financial compensations instead of inappropriate incentives
- Needed: a thorough **stock-taking/evaluation of key policy areas** (input-output ratios, performance/productivity levels, intended and unintended effects)
- **Expenditures** to be decided upon their **contribution to strengthening the common market and to overcome remaining disparities**
- Enhanced **outcome-orientation**

The Structural Crisis: Professionalising Europe as an answer?

- Instead of “learning by doing” **learning from** national and supranational **experiences**
- **Adapting divergent expectations** and capacities
- **Overcoming** the *sui generis*-concept
- **Pragmatic steps towards institutional reform** by marrying normative with functional demands
- **Flexibilisation** of the regulatory environment
- Instrumental **simplification**
- **Against the arrogance of the European élite**: to take the “Peoples of Europe” serious
- **Against popular indifference of the “Peoples of Europe”**: to realise the EU's importance as an historically unprecedented chance and challenge

Analytical challenges

- **Multi-level analyses**: growing importance
- European **governance**: more than a catchword?
- **Institutional approaches**: from historic institutionalism to intergovernmental arrangements
- Political/administrative **coordination**: horizontal as well as vertical
- **Policy change**: preconditions, costs and benefits
- **Instruments**: hard law, soft law, voluntary agreements, cooperation
- Creating/securing **acceptance and legitimacy**: nuts and bolts
- **Public-private sector relationships**: towards shared responsibilities?
- Large-scale **regional cooperation/integration**: the EU as a model?