Discussion Paper
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Nothing is lasting without institutions:

Setting the scene for the Liberal White Book Europe 2030

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European integration relies on well-functioning institutions. This ELF Discussion Paper is based on the contributions by Simon Hix and Renaud Dehousse to ELF's Expert Forum on the Future Institutional Framework which took place on 3 July 2020 as the launch event of the process towards the Liberal White Book Europe 2030. The two distinguished authors offer their perspectives on "Rethinking the institutional framework" and on "Institutional change in the post-Lisbon period".

Contents

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Preface

"Nothing is possible without men,
but nothing is lasting without institutions"
Jean Monnet, Mémoires[1]

This Discussion Paper derives from the first Expert Forum in the "Liberal White Book Europe 2030" project of the European Liberal Forum in July 2020. More than 40 scholars and thinkers joined a virtual meeting on the "Future Institutional Framework" for a day-long discussion of the big institutional issues facing the European Union in the years ahead.

The EU institutions have – finally – started the preparations for the Conference on the Future of Europe. This puts the future of the institutional framework firmly on the political agenda. With the next European Parliament elections only due in 2024, the time has come to think about the Future Institutional Framework and to develop ideas for its reform with a view to the year 2030.

Amongst many other issues, three major institutional reforms have been listed in the political guidelines of the European Commission for 2019 to 2024:

Firstly, the question of how the President of the Commission will be proposed and elected in the future.

Secondly, the "special relationship" between the Commission and the Parliament that Ursula von der Leyen has announced. It is expected to include an indirect right of initiative for the European Parliament and would make the voice of MEPs more audible.

And, thirdly, the introduction of transnational lists for the next European Parliament elections on which the Commission President has spoken out in favour.

We hope that the analyses in this Discussion Paper will inspire and inform not just the debates surrounding the Conference on the Future of Europe, but also the discussions that will certainly continue thereafter.

Professor Simon Hix, the author of the first contribution in this Discussion Paper, delivered the keynote speech at the Expert Forum. He identifies three types of institutional challenges for the EU and argues that a new institutional

1 Jean Monnet (1976) *Mémoires*, éd. Fayard, p. 412.

design for the EU should try to address all three of them. He examines how a new grand bargain could look like and sees an opportunity in the post-COVID world to "build democracy back better".

> The time has come to think about the Future Institutional Framework

Professor Renaud Dehousse, the author of the second contribution, gave the final talk that concluded the Expert Forum. He provides an overview of the evolution of the EU institutional system. The post-Lisbon decade was characterised by opposite trends: more transfers of powers to the EU and more intergovernmentalism, more politicization combined with attempts at shielding key decisions from political interference. He then draws some lessons on the dynamics of institutional change in the European Union.

Each of the two authors also provides a brief comment on the other's text.

We are very grateful that Renaud Dehousse and Simon Hix agreed to having their speeches published in the written form of this ELF Discussion Paper. By publishing this Discussion Paper, the European Liberal Forum hopes to stimulate further discussion about the future of European integration.

The "Liberal White Book Europe 2030" project continues with eight other Expert Forums. It will conclude with the publication of the White Book that will be presented at the ALDE Congress in Spring 2021.

Dr. Valentin Kreilinger
Policy and Research Coordinator,
European Liberal Forum

Chapter 1

Rethinking the Institutional Framework[2]

Simon Hix
Harold Laski Professor of Political Science, London School of Economics

The EU is facing (at least) three types of institutional challenges: a lack of policy responsiveness, a democratic deficit, and differentiated integration. A new institutional design for the EU should try to address all three of these challenges. A major problem, though, is growing heterogeneity of policy preferences between member states and citizens. One possible solution is a new "grand bargain", where in return for more majoritarian decision-making at the EU level there would be radical decentralisation of power in some areas and more flexibility in others. The EU also has an opportunity in the post-COVID world to "build democracy back better" – to use our new experiences of interacting online to foster greater engagement of citizens with the EU, more interactions between MEPs and national parliaments, and to introduce online voting in the 2024 European Parliament election.

Introduction

I am speaking here today as a European, not as a Brit. So, if you can, suspend belief for the moment and imagine that I am not a British citizen, but a citizen of the EU. I care passionately about the European project, I have been involved in the institutional design of the EU starting with the Intergovernmental Conference that lead to the Amsterdam Treaty in 1999, when I was an advisor to the British government at that time. And I have been involved in each of the various treaty reforms since then. I have always been a little disappointed with the outcomes of these reforms; but, such is the life of a political scientist of constitutional design!

2 This chapter is based on the keynote speech by Simon Hix delivered at the ELF Expert Forum on the Future Institutional Framework which took place on 3 July 2020.

So, what I thought I would do today is give an overview of some of the main issues in the institutional design of the EU, to try and stimulate some of our discussion today. I am going to talk about what I think are three different types of what I call "institutional challenges". There are, of course, many different types of challenges the EU faces relating to the institutional design – today I will focus on three of them.

I will then explain why I think there is actually an interesting window of opportunity for Europe, and also for liberals in Europe, when thinking about what I call "building democracy back better". We have had a lot of discussion about "building the economy back better", to create a new normal in a post-COVID world that is different from and better than the old normal. I think we should also be thinking about how we can try to build democracy back better. Some of the things we have learned during the COVID crisis, as well as some new practices that have been put in place as a result of what's happened over the last few weeks and months, I think we can reinforce. I will also make the case that there is a significant opportunity to build democracy back better at European level in the coming months and years.

1. Three Types of Institutional Challenge

1.1. Institutional challenge 1: Policy responsiveness

The first set of institutional challenges the EU faces relates to what I call "policy responsiveness". Here, one of the frustrations of citizens in Europe is the apparent lack of responsiveness or lack of ability of the European institutions to take decisive action to address key challenges – for example with the Eurozone crisis, the migration crisis, the response to the rise of China globally, the battle between China and the US in global institutions, and most recently, of course, with the COVID crisis. There is also a lack of policy responsiveness on a more mundane day-to-day level, with the inability of the EU to generate growth in the Single Market, or to think radically about how to transform the Single Market framework to work for all citizens in Europe.

The basic architecture of the Single Market has been built very effectively. In fact, creating a single market on a continental scale, with the free movement of goods, services, capital and labour across our continent of half a billion people is (if you think in broad, historical and geographic terms) a remarkable achievement. Nevertheless, there is a sense that, over the last 10 to 15 years, the Single Market has not generated the growth that is needed to be able to secure jobs, opportunities, and prosperity for our citizens. Why is that? I think this is partly due to the inability of the EU to think creatively about how to change that regulatory architecture of the Single Market, which would unleash new incentives for new opportunities. And why has the EU lacked such policy creativity? The fault lies at the heart of the way the EU governance system works.

The EU operates through a mix of supranational and intergovernmental decision-making. Governance via supranational mechanisms is similar to a quasi-federal structure where the Commission has the right of legislative initiative, and laws are then

agreed via the Council and the Parliament, with increasing input from national parliaments. This mode of decision-making involves lots of checks and balances – which, on the one hand, is a great thing – but the trade-off of having lots of checks and balances is, of course, policy gridlock. Moreover, governance via intergovernmentalism implies unanimous agreements between all the member states. By definition, this mode of decision-making means moving forward at the speed of the slowest member state.

And, add to the institutional constraints the increased number of member states – from 12 to 28, and now back to 27 – and the increased heterogeneity of the policy preferences of the member states. In addition, there is growing heterogeneity of preferences along several different policy dimensions. There are increasing divisions over how the market should be regulated and the design and operation of economic and monetary union, for example over whether there should be a fiscal union of some kind, whether this fiscal union should be based on loans or based on some sort of redistributional structure. On these issues, the split is largely a North-South divide. There is also growing preference heterogeneity on a social dimension: on social policy, migration policy, attitudes towards sexual minorities, and now increasingly the arguments about democracy and human rights, vis-à-vis Hungary and Poland. On this dimension, the divide is often East versus West. Together these two dimensions create a deep heterogeneous structure, and if you add on top of that heterogeneous structure the EU's governance architecture, with lots of checks and balances and decision-making largely by unanimity, the result is policy gridlock.

Hence, as a result of the combination of institutions and preferences it has become very difficult for the EU to respond to the policy challenges it faces. So, we need to think creatively about how to overcome this gridlock.

One thing I have been pondering for some time is: what would a new "grand bargain" look like? When faced with gridlock in the past, the EU has overcome these challenges via a grand bargain across a range of policy issues: in particular in the Treaty of Rome, and the Single European Act. One could go further back and see that the design of the US Constitution was also a grand bargain between larger and smaller US states, that allowed for policy to move forward in return for a particular institutional design, which guaranteed the interests of the smaller states. In the EU context, the Single European Act involved moving to majority voting (a more federal model of decision-making) in return for market integration, environment policies, social policies, and redistribution from richer to poorer states, via a doubling of the structural funds. Hence, the Single European Act was the grand bargain between richer and poorer states as well between centre-left and centre-right parties.

> When faced with gridlock in the past, the EU has overcome these challenges via a grand bargain across a range of policy issues

So, what could be the grand bargain now? What can be given to member states and politicians who oppose more EU integration in return for allowing more decisive decision-making at the EU level – such as majoritarian decision-making over fiscal policies, genuine burden-sharing of refugees, or more radical reform of the Single Market (e.g. in digital services)? Given the heterogeneity of preferences, I believe that what needs to be offered in return is radical decentralization where that is possible, for example, with

much more flexibility in the design of rules in the Single Market, such as by bilateral or multilateral policy innovation.

One example of this could be in the area of mutual recognition of services. Policy gridlock and heterogeneous preferences prevented the passage of the Services Directive, which would have radically deregulated the services sector across the EU, which could have fostered innovation and job growth, but threatened some vested interests. Instead of a one-size-fits all model, could the EU move towards the US model of bilateral or multilateral mutual recognition of service providers between states? For example, the EU could enable Germany to recognize Austrian service providers, the Benelux recognizing each other's providers, the Scandinavians to recognize each other's provider, Spain and Portugal, Central and Eastern Europe, and so on. Why not allow for much more flexibility, designing some basic regulatory architecture, but then allowing more flexibility and innovation within that regulatory structure? This would involve the Commission taking on a different role: not just as the regulator of the Single Market as a whole, but also as a facilitator of this kind of bilateral or multilateral policy innovation.

1.2 Institutional Challenge 2: Still a democratic deficit (and the Spitzenkandidaten problem)

The second set of challenges, of course, is the old chestnut of the "democratic deficit". Here, there are lots of different levels to consider. One, of course, is European Parliament elections, which still do not really work the way we all, perhaps, would like them to work. Voter turnout has moderately improved, up to just over 50%, but there remains enormous variation in turnout between the member states, and turnout is still remarkably low in several member states, particularly in Central and Eastern Europe. The average turnout in Czech Republic, Croatia, Slovakia and Slovenia in the 2019 elections was only 28%. Citizens are just not engaged with European elections in many member states. Turnout is also significantly lower amongst younger people. The gap between people under the age of 25 and over the age of 55 has declined, but still only 42% of people under 25 voted in the 2019 elections. In addition, European Parliament elections remain dominated by national parties and national leaders, as they have been since 1979.

I had hoped that the *Spitzenkandidaten* would create some dynamism in the elections. There is some evidence in 2014 and 2019 that the *Spitzenkandidaten* process had a positive impact in the countries that engaged with it, in the countries that had candidates, and in the countries the candidate visited in their campaigns. But, the real problem, of course, is that the *Spitzenkandidaten* process was abandoned by the EU heads of government in 2019. While an increasing number of citizens had engaged with the process, it was then cast aside. I think part of the problem for the heads of government is that the process as it currently operates does not encourage the very top politicians in Europe to put their names forward. Why would a sitting head of government risk standing in a Eu-

> The Spitzenkandidaten process was abandoned by the EU heads of government in 2019

ropean Commission election, except from the smallest member state (Luxembourg)? Also, the heads of government will only back a Commission president who has broad support across many member states and many political families, and they were not convinced that the winning candidate in 2019 (Manfred Weber) could command that support. In other words, the incentive structure for the key politicians in the process is misaligned. I don't know yet how to fix that, but I am sure that creative solutions could be found to make the process work.

One idea that the late Julian Priestley had was to move the whole process of candidate selection earlier, to encourage a broader debate and higher public profile, through a primary-like process within the European political families. I actually think the solution is the opposite: to choose candidates at the last minute. This would enable sitting heads of government and party leaders to consider putting themselves forward. For example, I think the Socialists and the EPP both chose their candidates in 2019 too early. And, of course, the Liberals couldn't even come up with a single candidate. Ironically, had the Liberals come up with a single candidate, they may well have found themselves as the kingmakers after the process, given the balance of power in the European Parliament, and the role of the Renew group in the middle of the Parliament.

Another element of the democratic deficit is the role of national parliaments. Again, I think we should try to be far more creative in thinking about how to involve national parliaments and national MPs in EU policy-making. In the midst of the COVID crisis, we are seeing a renewed focus in the public mind on national democratic institutions. This is not new, though. National parliaments have been fighting back for some time. For example, in the UK, the push for Brexit was as much about Conservative MPs in the House of Commons wanting to 'Take back control' from Brussels as it was about citizens wanting powers back. I will return to this issue later in the talk.

> The Socialists and the EPP both chose their candidates in 2019 too early

The other final aspect of the democratic deficit is public opinion. We like to talk these days about the fact that public support for the EU has risen in recent years, particularly since the Brexit vote. For example Eurobarometer data show that support for the EU has risen consistently since 2014/2015, and is now back to where it was before the financial crisis in 2008-10.

However, I think support for European integration in most member states is remarkably soft. Here, I am very much persuaded by the work of scholars like Catherine de Vries.[3] Catherine identifies two underlying dimensions of public attitudes towards the EU. The first dimension she calls a "policy dimension", which relates to how far citizens want policy to be made at the European level because they prefer policy outcomes from Europe to the average policy outcomes they get domestically. The second dimension relates to trust: do citizens trust the institutions in Brussels more than they trust their national institutions? Of course, these two dimensions are related, and member states that score highly on the first dimension tend to score highly on the second dimension too. Nevertheless, several member states are outliers: for example those who prefer EU policy outcomes to domestic policy outcomes but trust national institutions more (as in Germany and France, for example), or trust national institutions less but dislike EU policy outcomes (as in some states in Central and Eastern Europe). The UK is at the bottom on both dimensions: preferring national policy outcomes to EU policy

3 Catherine de Vries (2018) Euroscepticism and the Future of European Integration, Oxford: Oxford University Press.

outcomes, and trusting national institutions more than EU institutions. The real worry for the EU going forward, though, is that several member states, and particularly Sweden, are not too far from the UK in their profile across these two dimensions.

The problem for the EU is that although Brexit is extremely difficult and painful for the UK, in the medium-term the UK will be a pole of attraction. After Brexit there will be an alternative model of a relationship with the EU. In addition to the Swiss model and the Norwegian model, there will now be a British model. This could lead to some political factions in some member states claiming that if Britain can leave and seems to be okay, then they could do so too; and jump through that first stage of Brexit, through the painful exit negotiations, and take off the UK model off the shelf. Also, that British model may well be an attractive alternative for some member states who increasingly feel marginalised in EU policy outcomes and trust their national institutions more than EU institutions. In particular, the country that I would keep an eye on here is Sweden, which after Brexit is the largest economy in the EU outside the Eurozone, has close economic and cultural ties to both Norway and the UK, and whose public tends to trust Swedish democratic institutions far more than the institutions in Brussels.

1.3 Institutional Challenge 3: Dealing with differentiated integration

The issue of Brexit relates to a third institutional challenge, of how to deal with differentiated integration. And, here, the internal and the external elements of differentiated integration are increasingly connected in some way. Within the EU, there is the *de jure* differentiation of the Eurozone and defence policies, but there is also the growing *de facto* differentiation in terms of different application of market standards, different applications of human rights, attitudes towards migration policies, whether people are going to opt in or opt out of different burden sharing regimes, and so on. The EU is increasingly becoming differentiated in its application internally within the EU and, of course, externally, as I just mentioned, once Brexit is finished, there will be a new EU-third country model which will potentially be challenging.

> Institutional designers need to think about what the governance architecture should look like not just for the EU, but for our continent as a whole

The EU now has a huge variety of models. Although Michel Barnier likes to say that there are only two models of a relationship with the EU – a trade agreement model or the EEA model – in practice, every third country relationship with the EU is bespoke. Every model is sui generis, and increasingly these external models are in conflict with the structure internally, because of the policy spillovers of external arrangements and agreements on internal EU decision-making.

In the medium-term, institutional designers need to think about what the governance architecture should look like for our corner of the planet more broadly, in terms of what should be the architecture, not just for the EU, but for our continent as a whole.

Here, I suspect we will head towards a two-tier model: with a federal core, where there is deeper economic and political integration, for example with common fiscal policies, common migration policies, common defence policies, a much more integrated politics; and an outer tier of countries who participate in the European Single Market on a continental scale.

In this regard, I think the Bruegel "continental partnership" idea is quite interesting.[4] Pisani-Ferry et al. came up with the idea of a continental-partnership in the summer of 2016 after the EU referendum in the UK – with the EU as a more integrated federal core, and a Continental Council for governing a broader Single Market with several non-EU countries (the UK, Norway, Switzerland, Turkey etc.) participating in that governance framework. This idea was probably a little too early in the debate; and it was quickly slapped down in Paris and Berlin for understandable reasons at that time. But, the general idea of thinking about how to create a European, continental-scale intergovernmental framework, perhaps with national parliamentary involvement, could be a good starting point for thinking about how to balance both internal differentiation and external differentiation.

2. Building (Democracy) Back Better

Finally, I wanted to raise some other issues, as I see an opportunity for Europe. I consider these issues under the umbrella of "building democracy back better". A British political philosopher once said that "If a citizen from the 1700s travelled through time and stood in Parliament Square [in London], he would be astonished how much has changed; but if he then set foot in the chamber of the House of Commons, he would be astonished how little has changed". The point, here, is that we have a structure of representative democracy, whether at the national or European level, that remains largely based on an 18th century model. We need to think about how to update that model to meet the challenges of today.

Yes, democracy has worked, but our "old" model of representative democracy is under strain. It is under strain from the challenge from populism. It is also under strain

> We have a structure of representative democracy, whether at the national or European level, that remains largely based on an 18th century model.

from technology and the fact that citizens can gather their own information and often become experts on politics far more than elected politicians can. For the first time, in almost every single policy issue you can think about, large proportions of the citizenship, of the public, are far more expert on the policy questions than the minsters, par-

4 Jean Pisani-Ferry, Norbert Röttgen, André Sapir, Paul Tucker, and Guntram B. Wolff (2016) Europe after Brexit: A proposal for a continental partnership, Brussels: Bruegel.

liamentarians or civil servants are trying to make policy on those issues. This is a huge challenge to the standard structure of representative democracy, where we delegate responsibility to policy-makers and politicians, to govern in our interest, and increasingly we have an educated, sceptical citizenship.

In parallel, we have seen some aspects of democracy move online over the last few weeks and months, as we have locked down in the face of COVID-19. We have seen virtual parliamentary debates in the European Parliament, including virtual roll-call votes. Through VoteWatch we have been tracking what has been going on in the European Parliament, and the number of roll-call votes in the European Parliament has gone up dramatically over the past few months, which is quite interesting.

We have also seen increasing virtual interactions, within politics, between politicians and their voters. For example, David Farrell, a professor at UCD who is running several citizens' assemblies, has been telling me that some of these assemblies have seamlessly moved online. In fact, in some respects, citizens' assemblies are easier to organize online than they are in person, as they do not require people to travel away from their homes, and instead just need people to dial in for half an hour, or an hour, to participate and debate, and then go back to their normal daily lives. This significantly lowers the burden of participation, which makes it much easier for people to participate in these new forms of democratic deliberation. So, we should think about how can we use that experience, and use the technology that we have, and use the new practices that people have become used to, to build democracy back better.

3. An Opportunity for the EU

This is particularly relevant for the EU because "democracy beyond the state" should actually be easier now, with virtual participation, than it has ever been before. The biggest constraint on democracy beyond the state has been geographical distance. Once we move things online, a lot of that constraint is removed. I think we should be thinking creatively about new ways for citizens to participate in European Parliament plenary sessions and committees, new ways for MEPs to meet with their constituents. Being an MEP is emotionally and physically very draining with all the travelling, and having to shuttle backwards and forwards, not just between Brussels and Strasburg, but also between Brussels, Strasburg and their home. It would be much less stressful for MEPs if they could organize virtual surgeries with their constituents, online and in a much more regular slot, each week, for example. There are also interesting possibilities for MEPs to get involved in national parliamentary debates. Some parliaments have allowed MEPs to participate in committee hearings. This could be systematized through modern technology, with MEPs giving evidence regularly to committees, via videocon-

> Why not think about an EP2024 phone app that allows people to vote in the next European Parliament elections online or on their phones?

ferences. More frequent interactions of this sort would bring national parliaments and the European Parliament much closer together.

The final point I would like to make relates to electronic voting. When I teach "voting" to my students at LSE – to about 350 18 to 19 year old students from all over the world in my first-year introduction to political science course – invariably one kid puts up a hand and asks: "Why isn't there an app on my phone for me to be able to vote?". That's actually a really good question, and I don't have a good answer! I bet some of you out there who are a bit older than that will say: "Oh, no! You couldn't have that, you have to have the classic process of going to the ballot box". For many young people, this seems ridiculous. Why can't they vote online? I understand the significant security concerns of online voting. But, if we can figure out the security for transferring money between bank accounts online, then we should be able to figure out the security for how to be able to vote. I think we need to grasp the mettle of that. And, in fact, the EU has an opportunity to be ahead of the game on this: why not think about an EP2024 phone app that allows people to vote in the next European Parliament elections online or on their phones? In the Estonian national parliament election in 2019, 44% of people voted online. Just think how many more young people across Europe would vote in a European Parliament election if they could do so on their phones or online.

To summarize, the EU is facing a combination of existential crises. We all know the shopping list. I like to tell my students: "Never underestimate the ability of the EU to find a way to muddle through. Don't bet against the EU". I am less convinced of that mantra, I'm afraid. I am worried about the future of the EU. In response, we need to think about how to design an EU that is more decentralized, more flexible, and more differentiated. We should also be optimistic, though, and build on the new online experiences we have had in the current crisis as citizens, policy-makers, and politicians. Ask ourselves: how can we use the experience of moving life online to move democracy online? Can we use these new experiences to engage more people and particularly to engage more younger people in the democratic politics of the EU?

Thank you very much.

Comment on Chapter 1

Comment by Renaud Dehousse

Simon's perceptive remarks rightly emphasize a radical change in the context in which European issues are discussed. There was a time where European things were of interest to only a small share of the public. At each European election one of the main challenges was to convince people to go to the polls. Although there is today a much greater awareness of the relevance of Europe in an interdependent world, this has not translated into unqualified support for the EU, far from it. On the contrary, populist movements of various types have emerged in all member countries. Issues linked to Europe often play a central role in national elections but even more often they are used to mobilize support against 'Brussels' or the governments that come to terms with the EU. This is one of the great paradoxes of our times: The need for some cooperation amongst European countries to tackle joint challenges is perhaps clearer than it has ever been, but opposition to Europe has reached unprecedented levels.

Discussions about institutional reforms have always been difficult, in part for structural reasons (discussed below) but also because there is no real blueprint for what the European Union seeks to achieve: a political union of some sort in which old nation-states find ways to develop cooperation while at the same time preserving their distinctiveness. In the current context, however, the difficulty is bigger than ever: how can one improve the institutional machinery to enable it to respond to a series of challenges, old and new, without at the same time providing an easy target to parties and leaders who have built their political fortunes on opposition to Europe? Simon's talk has offered us a number of avenues that could be used to take up the challenge. One can only hope that the Conference on the Future of Europe will provide us with a real opportunity for those issues to be addressed effectively.

"The need for some cooperation amongst European countries to tackle joint challenges is perhaps clearer than it has ever been, but opposition to Europe has reached unprecedented levels.

Chapter 2

Institutional Change in the Post-Lisbon Period[5]

Renaud Dehousse
President, European University Institute

This contribution provides an overview of the evolution of the EU institutional system in response to a series of crises that have marked the post-Lisbon decade. It highlights the ambiguity of the period, characterised by opposite trends: more transfers of powers to the EU *and* more intergovernmentalism, more politicization combined with attempts at shielding key decisions from political interference. It then draws some lessons on the dynamics of institutional change in the European Union.

Introduction

It is quite a challenge to return to so many issues when they have been addressed by so many stimulating speakers, but let me try to offer not a conclusion, but a series of remarks which hopefully can be of help with making sense of the challenges that lie ahead of us – us Europeans, not merely us, observers of the European scene. I would like to organize this short talk as follows. First, I will briefly return not on 60 years of integration, but on the most recent phase (the post-Lisbon phase) because I think it is telling us a number of things which we should think about in trying to organize our reflections about the Conference on the Future of Europe. Then, on that basis, I will offer some broader remarks on the dynamics of institutional change, which is largely what we've been talking about throughout the day.

Why start at Lisbon? One might say that it is a convenient start because it still is a recent change. But there's another point which I find interesting in that treaty, which is the fact that – like the draft Constitutional Treaty, which basically informed the writing of the Lisbon Treaty – that agreement was thought of by a number of people as providing a framework which was meant to last for a number of decades. How many wasn't

5 This chapter is based on the final talk by Renaud Dehousse delivered at the ELF Expert Forum on the Future Institutional Framework which took place on 3 July 2020.

clear, but some went as far as saying that it should provide the architecture of Europe for the following 50 years.

What has happened since? This has been central in today's discussion. A lot of changes. And what is interesting for us is to try and understand why this paradox came to the fore. Why is it that a framework that was meant to be stable was immediately followed by a series of very substantial changes? The answer, of course, lies in the fact even before the Lisbon Treaty came into force it was followed by a series of crises. They can be labelled in different manners – we had a financial crisis, an economic crisis, a sovereign debt crisis, we came very close to a banking crisis and a major migration crisis. All this against a background in which one could witness a gradual erosion of support for European integration and the emergence in all member countries of ever-stronger populist, anti-European parties.

> Even before the Lisbon Treaty came into force it was followed by a series of crises

This background largely accounts, actually, for a number of the changes which I hinted at. Why did we have changes? Because they were needed. We had innovations that filled in a lacuna in the setup of the treaties. There was a monetary union, but a rather loose economic union, and no backstop system in case of trouble. So, one had to create a backstop scheme – which was done with the creation of the European Stability Mechanism. In exchange for this, of course, the so-called 'creditor countries' demanded a number of things. They demanded a tightening of macroeconomic policy, and that's why we had the 'Six Pack', the 'Two Pack', the 'Fiscal Compact', and so on. And in the field of banking regulation (which is of course of crucial importance in Europe because, unlike what you have in the US, the economy is largely financed by banks), the rescue packages that were put together were sort of compensated by the fact that the supervision of banks was removed from the hands of national regulators and transferred to a very strong European regulator, namely, the European Central Bank. As it was often the case in the history of European integration, this period was characterized by tensions between opposing forces: a tension between a demand for more intergovernmental control and functional pressures in favour of greater centralization in some areas, on the one hand, and a tension between the classical view of European governance as apolitical and the growing politicization of European public policy, on the other.

1. Intergovernmentalism or Supranationalism?

If you think about the innovations of the post-Lisbon period, you can't help but be struck by their ambiguity. I just want to focus here on two points which have come to the fore in this morning's discussion. Has the system become more intergovernmental or more supranational? Well, you could argue both ways.

In terms of process, the dynamic of change is extremely intergovernmental in the sense that big deals were struck in numerous meetings of the European Council (I think a record was in 2011 when there were no less than 11 meetings of the Europe-

an Council) and, in a number of cases, they even gave birth to agreements concluded outside the framework of the treaty. Think of the 'Fiscal Compact', think of the Single Resolution Mechanism. For different reasons, it was decided to move out of the framework of the EU treaty. Moreover, if you look at the political dynamics of the time, very often you can see that the Commission appeared side-lined, with a key role played by the European Council President. No wonder then that you find in the literature a number of interesting references suggesting we witnessed a shift to so-called 'new intergovernmentalism'.

But look at the impact of those changes. Who gained power, and who lost? Well, who gained power most spectacularly in that period was arguably the most federal institution in the EU, namely the European Central Bank. As is widely known, the ECB became extremely entrepreneurial under Mario Draghi, and actually acquired *de facto* power very similar to the power of lender of last resort, which people thought it had been denied by the Maastricht Treaty. It also acquired a huge role in European macroeconomic policy, to such an extent that both the current President and her predecessor at the helm of the ECB, have called for a stronger political arm in the conduct of European macroeconomic policy, as on its own a central bank cannot address all the problems of the Eurozone. Similarly, if you turn to fiscal policy in the post-Lisbon period, what you see is a clear strengthening of the Commission's surveillance and enforcement powers. It is written in full letters in all the instruments I have mentioned. And those powers were not left dormant; they were used by the Juncker Commission in a way that did not please all member states.

> Look at the impact of those changes. Who gained power, and who lost?

So, there is ambiguity as regards the sense of direction: are we moving towards more supranationalism or towards more intergovernmentalism? You might argue that we have moved in both directions – a schizophrenia to which I will return in a moment.

2. More or less politics?

What about politics, then? Another element which has been discussed at some length this morning. Have we moved toward more or less politics at the European level? Again, there is a fair deal of ambiguity. It is clear that the changes in the realm of economic policy I just referred to were motivated by an attempt to de-politicize decisions in the field of European macroeconomic policy by transferring very important regulatory or control powers to independent institutions, such as the European Central Bank or the European Commission.

But the same period also witnessed a fairly significant change in the electoral dynamics with the invention of the Spitzenkandidaten system. In this morning's discussion, I noticed that it was frequently regarded as dead. But is it so clear? What we know for a fact is that it has delivered a number of changes in the relationship between the European institutions. It has first delivered, with Jean-Claude Juncker, the first example of an indirect election of the Commission President, which really was not something on

which I would have bet, for instance. It also had a strong impact over the organization of the College of Commissioners, both in the Juncker and in the von der Leyen Commission. Likewise concerning the relationship between the Commission and the European Parliament. For instance, in the first part of the Juncker mandate, there was not a 'grand coalition' with a proper agreement that spells out in detail what the executive will do in every area, as you have in some countries, but at least a systematic attempt at organizing convergence between the main members of the coalition. There was also a clear willingness on the part of the Commission to cultivate the relationship with the European Parliament, which had been of vital importance in the election of the new

> A fairly significant change in the electoral dynamics with the invention of the Spitzenkandidaten system

Commission President. Even though the current Commission President was not one of the candidates who ran for that position, she has given ample evidence of her intent to respond to the concerns expressed by voters in the 2019 election – hence for instance the importance given to a European Green Deal in the Commission's agenda.

So, again, we have a contrast between two trends, a contrast that of course, on some occasions, created its own lot of political conflicts... It is clear that the reasons that militated for the Commission's powers to be reinforced with the Fiscal Compact, for instance, had much to do with the vision of the Commission as an independent / apolitical body. And when Juncker said "I'm the politically elected president of a political Commission, and therefore, everything we do is to be informed by this political mandate," it ran against the dominant vision of those who had wanted the strengthening of the Commission's monitoring and enforcement powers in that area. Hence the many clashes between, for instance, Germany and the Juncker Commission regarding economic policy and also the proposals that were regularly leaked or voiced informally – by, for instance, Wolfgang Schäuble – suggesting that one should take away from the Commission's hands a number of prerogatives which clearly are incompatible with the idea of a political Commission, such as control of member states' fiscal policies, its monitoring of competition policy, and so on and so forth.

So, to conclude on this very sketchy review of the last decade, I would say that there's been a lot of movement but also a lot of ambiguity in the sense of direction. This is something that we should reflect about when we try to anticipate what is the potential of the future Conference on the Future of Europe.

3. The dynamics of institutional change

There are essentially three points that I wish to make in this part. The first is to try to make sense of the evolution I have described (and I would argue, the same remark applies to the entire European integration process). What you see is a very strong resilience of the core model of supranational integration. True, this model has been challenged from all sorts of corners and that It is been made more complex by enlargement, notably by the greater heterogeneity of member states' preferences, as was said this morning by Simon Hix. At the same time, however, despite the great creativeness of successive treaty drafters, you see a remarkable stability on the whole system. The EU has not become the centralized super-state that some in the UK thought it would become. Nor has it done away, on the other side, with the atypical powers enjoyed by its supranational institutions. Think of the Commission's right of initiative: It has been repeatedly challenged, but it is still there. There have been for quite some time proposals to grant a role to the European Parliament at this level, but this hasn't led to systematic attempts at doing away with the Commission's right of initiative yet. On the whole, the EU system which has been very much criticized has also proved that somehow it was able to resist pressures in various directions.

Change there was, and this is my second point, but it has always been of an incremental nature. I know that we've had (with the so-called Constitutional Treaty) an attempt at creating a kind of constitutional momentum, with a lot of constitutional rhetoric. But I don't think that that treaty really signalled a clear-cut rupture with the past. if you look at the substance of the proposed changes, it is fair to say that it was mainly trying to capitalize on a number of innovations that had been initiated or introduced in earlier treaty reforms. In other words, despite the constitutional rhetoric, I see more continuity than change.

Why has incrementalism been so pervasive? Is there, somewhere, someone who is a real advocate of incrementalism? I don't think so. This has to do with structural features of the institutional reform process, namely the fact that national governments retain the central role in this process and, to make things more complex, they must agree unanimously to all formal changes. That explains why, for instance, the big changes that we witnessed in the history of European integration were largely driven by functional needs. I'm not saying this as an apology of neo-functionalism – that would require another discussion – but it seems clear to me that one of the main lessons that can be drawn from 60 years of European Union integration is that institutional changes largely respond to functional needs. That, in my view, is unlikely to change in the foreseeable future.

> One of the main lessons that can be drawn from 60 years of European Union integration is that institutional changes largely respond to functional needs

If unanimous agreement is necessary, then reforms will by necessity need to appeal both to different camps. And, as we heard this morning, there are many more camps today than there used to be in the past: We don't have simply supporters of more integration versus supporters of states' rights; we have different visions of fundamental values, both in the realm of economic and social policy and in the realm of fundamental rights, and that really makes it much more difficult to find elements of a 'grand compromise'. And for such an agreement to see the light of the day, we need people or institutions to orchestrate the convergence, given that it will not take place mechanically.

> We need people or institutions to orchestrate the convergence, given that it will not take place mechanically.

To sum up, if I were to make a prediction about the future, I would argue that it is likely to look like the past in more than one respect. I would be very surprised if the Conference on the Future of Europe, no matter how it will be organized, were to lead to a large-scale reform where one would revisit the entire European house from the foundations to the roof. If it leads to anything, it will be because there is agreement amongst a sufficient number of countries on the existence of a number of common challenges calling for joint action at the EU level. Of course, there will be room for some logrolling: It has been the case in the past and it is likely to be so in the future because it is indispensable in a system where unanimity is required. But, short of a 'big bang', which I cannot predict, I really would not anticipate more.

This is not a pessimistic forecast. Europe has ahead of itself such a large number of important challenges it would be wrong to derive from what I said the conclusion that only modest change will be achieved. The changes we noticed in the last decade were not modest. They are far from complete; they have created all sorts of imbalances. If only those problems are addressed, you can expect very substantial change in the future.

Thank you for your attention.

Comment on Chapter 2

Comment by Simon Hix

I very much share Renaud's perspective on the development of EU politics and policy-making over the past 15-20 years, in particular his claim that there has been a rise of intergovernmentalism, where the European Council has emerged as the dominant arena for agenda-setting, deal-making and conflict resolution; and his observation about the tension between the politicization of the Commission and the its role as the "guardian of the treaties", a neutral regulatory, and an impartial overseer of member states' fiscal policies.

The second issue, here, has interested me for some time, as previous treaty reforms have not explicitly recognised this tension. The "election" of the Commission President by a (qualified) majority in the European Council and an absolute majority in the European Parliament inevitably politicizes the choice of one half of EU's dual executive, and the Spitzenkandidaten process is a logical consequence of this. But, following the debacle of 2019, the EU now faces a choice: either accept the politicization of the choice of the Commission President (as a means to address one aspect of the democratic deficit), but then isolate some powers from the political role of the Commission (for example by delegating competition policy and regulatory oversight to independent agencies); or depoliticize the choice, by abandoning the Spitzenkandidaten process, and attempt to maintain the charade that the Commission is an "unelected civil service".

I would go even further, in that I believe the broader choice for Europe's leaders and citizens in the current post-consensus world is whether or not to politicize the EU-level political system more broadly. Are there any EU-level policy issues where politicized majoritarian contested politics can be tolerated by publics and national political leaders? If the answer to this question is "none", then the EU will not be able to evolve beyond the current sub-optimal and gridlocked system of intergovernmentalism – which in the past I have described as a "supersized Switzerland" model of the EU.[6]

> The broader choice for Europe's leaders and citizens in the current post-consensus world is whether or not to politicize the EU-level political system more broadly

6 Simon Hix (2011) 'Where is the EU going? Collapse, fiscal union, a supersized Switzerland or a new democratic politics', Public Policy Research 18(2) pp. 81-87.

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Programme of the Expert Forum

Future Institutional Framework

Expert Forum – Liberal White Book Europe 2030
Zoom Meeting
03 July 2020, 09h30 – 15h30 (CEST)

09h30 **Welcome & Presentation of the Liberal White Book Europe 2030 project**
Daniel Kaddik, Executive Director, European Liberal Forum

09h40 **Introduction to this Expert Forum**
Valentin Kreilinger, Policy and Research Coordinator, European Liberal Forum

09h45 **Rethinking the Institutional Framework**
Simon Hix, Pro-Director for Research and Professor of Political Science, London School of Economics

10h30 **Break**

10h35 **A more democratic European Union**

Moderator: **Diane Fromage**, Assistant Professor of European Law, Maastricht University

Heather Grabbe, Director, Open Society European Policy Institute, Brussels
Göran von Sydow, Director, Swedish Institute of European Policy Studies, Stockholm
Wolfgang Wessels, Jean Monnet Chair for European Politics and Director of the Centre for Turkey and European Union Studies, University of Cologne followed by a discussion among all participants.

11h35 **Break**

11h40 **Governing differentiation in a multi-speed EU**

Moderator: **Diane Fromage,** Assistant Professor of European Law, Maastricht University

John Erik Fossum, Professor of Political Science, ARENA Centre for European Studies, University of Oslo
Frank Schimmelfennig, Professor of European Politics, ETH Zurich
Marlene Wind, Professor in European Politics and Law, University of Copenhagen

12h40 **Break**

12h45 **National parliaments and subsidiarity control**

Moderator: **Eva-Maria Poptcheva**, Advisor in the Cabinet of the Secretary-General of the European Parliament

Katrin Auel, Head of Research Group, European Governance and Public Finance, Institute for Advanced Studies, Vienna
Nicola Lupo, Professor of Public Law at the Faculty of Political Science, LUISS Guido Carli University, Rome
Thomas Winzen, Lecturer in Government, Department of Government, University of Essex

13:45 **Break**

13h50 **Are the 2020s another treaty change decade?**

Moderator: **Eva-Maria Poptcheva,** Advisor in the Cabinet of the Secretary-General of the European Parliament

Ben Crum, Professor of Political Science, Vrije Universiteit Amsterdam
Adrienne Héritier, Emeritus Professor, European University Institute
Andreas Maurer, Professor of Political Science and European Integration Studies, University of Innsbruck

14h50 **Final talk & Conclusions**
Renaud Dehousse, President, European University Institute

15h30 **End of Expert Forum**

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