

NAKED POWER

*The need for checks
on power*

Contents

Powerful Europe, impotent democracy	3
Countervailing power on the retreat	7
Parliamentary instruments	15
The Europe of the superstates	27
Too much interference from Brussels or too little?	43
Enlargement	57
The T-word	63
European democracy: a new balance	69
European Demos	77
Epilogue	81

Powerful Europe, impotent democracy

Joint European purchase of life-saving Corona vaccines, and European purchase of weapons for Ukraine. The sale of Euro-bonds on the financial markets, and joint European gas purchases on the energy markets. European intervention in energy prices, and reining in *Big Tech*. Billions in European investments in an uncertain energy transition and the absorption of millions of Ukrainian refugees. All of the above would have been unthinkable five years ago. Anyone who predicted that these things would be reality by the year 2023 would have been declared delusional.

Taboos died under pressure of global developments, and unprecedented steps were taken. The rapid, drastic changes in the world demanded forceful European responses. In search of those responses, the European Union is undergoing a spectacular transformation. The result: Europe today is enormously more powerful than it was seventy, fifty, or even ten years ago. With more powers and greater stakes than ever before.

A powerful European Union needs an equally powerful democracy, with a healthy balance between the institutions, of powers and countervailing powers, and with all the democratic basics in place: a clear separation of powers, transparency, and accountability. A more democratic Union is not just moral goal, but also necessary for the governability of the Union, which in turn enables us as Europeans to secure a strong position in the new world order, which is coming into being at an unstoppably rapid pace. A democratic Europe is within reach, but still encounters stiff resistance, most prominently from the national governments of the EU-member states. They prefer weak parliaments, whether national

or European, rather than close scrutiny and democratic oversight by assertive democratic watchdogs.

Political Union

The European Union takes significant political decisions. It is therefore also a political union, with politicians at the helm. Politicians, who make political choices and take political decisions. Politicians, such as the ministers and government leaders, who do politics in the *Council of the EU* and the *European Council*. However, to the public they keep up the appearance that European policy is just a matter of dry method. For generations, national governments have made the public believe their work in “Brussels” is mere technocratic, a-political business, best left to civil servants, nothing for citizens or their elected representatives to worry about. As long as the citizens buy this, and they remain unaware of the actual politics being done in Brussels, the interest level remains low. With this myth of technocratic Europe, national governments keep democratic control at bay.

The reality behind the myth is that Europe was about politics from day one. There was a need for a democratic Europe from day one, as well. A parliamentary assembly was established at the very first European Treaty. Since 1979, there is a directly elected *European Parliament*. The need for an open political arena has only grown more acute with Europe’s increasing power. Power has to be kept in check by countervailing powers. That is the essence of democracy. If powers increases, the countervailing powers too have to be strengthened. Without countervailing power, power will mutate into absolute power. Like a plant that overgrows the entire garden if it is not trimmed regularly. Organising countervailing power has been the big mainspring of every democracy movement in the course of the centuries, including the movement that insisted on grafting a democratic branch onto the intergovernmental trunk, from the beginning of European integration. Supranational

decision-making largely escapes national parliamentary scrutiny, while there was no matching supranational democratic control either. Efforts were made to fix this democratic deficit by enhancing the powers of the European Parliament. Much to the chagrin of the European Council of government leaders, who rather enjoy the democratic deficit and make every effort to widen it again.

The early commitment to parliamentary democracy was not only just, but also effective. In the course of decades, in parallel to advancing European integration, the European Parliament developed into a fully-fledged legislator. A legislator that brought more balance to the power-relationships between the EU institutions, as well as more democratic dynamics. Next to the traditional intergovernmental decision-making, a political arena emerged in the European Parliament, where political discussion is public, contrary to the opaque dealings of especially the European Council. A strong parliament counterbalances the interests of the citizens against those of the governments. Often, Parliament, backed by the ballots of the citizens, gave the decisive vote to move things ahead. Again, a stark contrast with the usually sclerotic decision-making in the Council. In Europe, democratic lubricant makes the machinery run better. A democratic Europe is a well-functioning Europe.

A new direction

The EU is in short already a political union, and it must also become a democratic union. The growth of EU power demands a strengthening of democratic countervailing power. But as always, the powers that be are resisting furiously. The member states' governments have watched with growing irritation how the European Parliament has become more assertive over the years. Ever more frequently, they seek confrontation with that Parliament. Behind the shiny façades of Brussel' European quarter, a power struggle is brewing between intergovernmental Europe

and parliamentary Europe. The parliamentary Europe must win this power struggle in the interest of democracy, but that will not happen automatically. Democracy never happens automatically. Just like all parliaments, the European Parliament had to overcome substantial resistance, in order to get where it is today and to exercise real powers. European politics is no different from other political systems, in that in essence it revolves not just around ideas, but also and very much around power, naked power. The European Parliament must be a player in the political game, and it will have to get more assertive at doing so. It has to become a fully-grown democratic watchdog, with sharp teeth and a healthy *Wille zur Macht* in order to keep the EU a robust democracy, as well as a well-functioning geopolitical player. It is not enough to just be a diligent legislator. Parliament must also act as a countervailing democratic force to be reckoned with.

For the next step towards a true EU democracy, the taboo on major reforms of the EU's constitutional order now needs to be broken. For a democratic Europe, with power and countervailing power in balance, major changes to our European governance structures are indispensable. Radical democratic renewal must top the political agenda once again. Democratic renewal is more than a boring theoretical discussion. Many citizens are supremely interested in who holds power and why, and having this discussion at the EU-level is an absolute necessity for the functioning of the European Union. In June 2024, European citizens will go to the ballot box. In the weeks and months following the elections, the power balance between the institutions will be set. It is high time that all political parties, in the run-up to the elections, put a clear vision for the future of Europe on the table so voters will know what is at stake when they go to the ballot station.

Countervailing power on the retreat

Although the European Union is developing at breakneck speed, the European Parliament as a countervailing power has been lagging for some years. A democratic watchdog that forgets to bark, let alone bite. The parliamentary dimension of the EU has been steadily strengthened since the beginning of European integration, but in 2019 there was a sharp downward turn. A diagnosis of this situation cannot omit the changes that have taken place behind the front door of the House of European democracy.

First and foremost, the moment in July 2019, when a new cohort of European parliamentarians took its place in the blue seats of the hemicycle in Strasbourg. Among them, many newly elected members. As many as 60% were elected to the European Parliament for the first time. It is a legislature that is an encouraging representation of European voters, with a significant number of young faces, with more diversity and with more women than ever before. But also a legislature with significantly less institutional memory than its predecessors. Renewal is a healthy, intrinsic part of parliamentary elections. The share of new members in the European Parliament of 2019 was however quite large. The brand-new *Renew Europe Group*, mainly consisting of the liberal faction (previously ALDE) and the new party of President Emmanuel Macron, started the parliamentary term with at least three-quarters new members, compared to some 40% in the EPP group. This Renew Europe Group occupied a key position in the middle. Renewal brought, admittedly, a fresh dynamic, but it would also turn out to be an Achilles heel in the upcoming political showdown with the European Commission and the European Council.

The fact that the European Council, with a lot of institutional memory in its ranks, could outmaneuver a relatively inexperienced parliament is just part of the story. The other part is that the trend of *intergovernmentalisation* of the EU has penetrated the Parliament. Member states' governments have their people on the inside. National politics was always present in the parliamentary hemicycle, but in the current 9th session of the European Parliament, there is noticeably more direct influencing from the national capitals. Members of the European Council, who are powerful actors within their own member states and political parties, use their influence to pursue their national interests through their European parliamentarians. Since the two largest groups of socialists and Christian Democrats did not have a combined majority for the first time in history, the Renew Europe-Group as the third-largest group was suddenly the key to a majority. That key, however, appeared to mainly lie in the hands of Dutch Prime Minister Rutte and the French President Macron, who had each placed their lieutenants at the head of this new group.

This dynamics was clearly visible, when the European Council put its stamp on an enormous package of top EU positions. Negotiations about top jobs are customary, but in July 2019 it was taken to extreme levels and Parliament played no significant role in the talks. The package was agreed between government leaders. It is significant that both the Commission President von der Leyen, as well as European Council President Michel, were Macron's suggestions, as was the group chair of Renew Europe. Thus, France amassed a great deal of influence in the three largest EU-institutions. Embarrassingly enough for the European Parliament, even its own presidency was negotiated by the European Council. The MEPs just had to sign on the dotted line and most of them did so, without any complaint. If you envision the European Parliament to serve as a countervailing power to the member states' interests, then a worse start is hardly imaginable.

The Brexit-factor

Another important factor that contributed to the weakening of the European Parliament was Brexit. The political culture of the EU institutions is a mix of national traditions. With the departure of the Brits, the strong British parliamentary tradition of tough democratic control and accountability vanished from the European Parliament. France on the other hand, has a much weaker parliamentary tradition, as it is a heavily centralised presidential democracy. The president receives a direct mandate of the voters and can simply sideline the *Assemblée* by issuing decrees. When Brexit eventually happened, the French tradition thus gained relative weight in the mix. Many French European parliamentarians view with horror any tough scrutiny of the Executive, and nowhere was the Brexit-shift more clearly felt, than within the Renew Group. After the departure of the seventeen British MEPs, the French delegation with twenty-three members made up a quarter of the whole group. It gave French president Macron huge influence over the group. Within the Renew family, Macron and Dutch prime minister Rutte built an alliance based on their shared intergovernmental views, which clearly outweighed their ideological differences. Together they greatly influence the group, and through it the entire Parliament.

Parliamentary democracy locked down

The Covid-19 pandemic locked down most of society, and the European Parliament could not escape the influence of the lockdown measures. Lockdown and other restrictive Covid measures massively curtailed the activity of parliaments around the world, including of the European Parliament. It greatly contributed to its already diminished power and influence. The process of getting to know each other and jointly building up an *esprit de corps* is important for an institution that needs to carve out an independent position in the political landscape of the EU. Even more so for members of the European Parliament,

many of whom meet for the first time only after the elections. For the European Parliament, this process came to a jarring halt when it locked down. The essential phase of rubbing shoulders with your new colleagues was cut short for the first-time MEPs, only months after the real work with a newly instated European Commission started. Due to two years of working from home, building up a collective sense of identity hardly got off the ground and the political focus became heavily national. The national focus was expressed in the many secondary functions MEPs held in national politics. European parliamentarians have held had secondary functions before, which is not per se a bad thing. A Member of European Parliament can be a party leader in their member state, for example. Such national positions may however clash with certain leadership positions within the European Parliament, which require full and independent dedication to a supranational, cross-party body, such as a political group or parliamentary committee. Increasingly, MEPs go as far as systematically giving priority to national activities when they are supposed to be fulfilling their basic parliamentary duties in Brussels or Strasbourg, like voting or participating in the debates. A nearly empty plenary hall for a debate with a dignitary is not a good thing for democracy but it happens, lamentably. There is no excuse for it. There is a reason why European parliamentarians have been full-time politicians since 1979, and no longer national parliament members who 'do Europe on the side'. Today's erosion of parliamentary democracy is not unique to the EP. In times of crisis, such as the pandemic or the war in Ukraine, parliamentary democracy often has a rough time. The executive, the government, obtains exceptional powers and gets to bypass parliamentary scrutiny. For the duration of the crisis, criticism is less welcome. The recent period of subsequent crises has been no different in this respect. It has accelerated an ongoing worldwide strengthening of executive powers, a trend we witness in Europe as well, at the expense of parliamentary democracy.

Digital revolution

There is one more factor that has greatly strengthened the executive power: the digital revolution. Yes, digitalisation has created fantastic new possibilities for the citizens for sharing and disseminating knowledge and viewpoints, for organising, mobilising, and campaigning. Not least, when there is a need to bypass the official structures in place, namely in undemocratic countries. Overall, the digital revolution has placed a potent means of exerting democratic power in the hands of citizens.

At the same time, digitalisation has given authorities infinitely more power than it has citizens. With that, the imbalance of power between the individual and the government has actually grown. Any given government has more ways to intervene in our lives than it had before. Remarkably enough, it was often parliaments that enthusiastically created new digital powers for the government. Instead of guarding the balance of power, parliaments often strengthened the executive power this way, without at the same time strengthening democratic oversight. In many cases, these new powers are created for national authorities through European law. Almost always at the request of the national authorities themselves.

The list with supposed reasons for more digital surveillance has become very long: fighting terrorism and criminality, combatting social benefits fraud and smuggling illegal fireworks, the fight against child abuse, money laundering, illegal immigration, tracking Chinese espionage. Under the guise of all these things and more, we have given the government unhindered control over our private lives. Using shiny new gadgets, governments led us to believe that we would become safer, healthier, and happier. It will happen again. The use of artificial intelligence will not just detect crime, illness, asocial behaviour or educational problems, but also predict these issues and solve them before they emerge. Parliaments

meanwhile, failed to insist on meaningful safeguards and accepted for themselves to be effectively sidelined from democratic oversight.

We were all able to see how such processes can go off the rail, in the now infamous child benefits scandal in the Netherlands, whereby the Dutch tax authorities used ethnic profiling to seek out fraud, unjustly accusing people who fit the profile. Tens of thousands of people were saddled with towering debts, fell into poverty, became homeless and in a few thousand cases their children were forcibly taken from them by child protective services. The scandal was ultimately acknowledged by the government, which subsequently resigned. To this day, the people harmed are still waiting for compensation and the return of their children. Another example of new digital powers for governments gone awry is the EU's sweeping spyware scandal. Multiple national authorities of EU member states used spyware to spy on political opponents and critics. The mobile devices of opposition leaders, journalists, NGO's, lawyers, prosecutors and anti-corruption officials were infected with spyware, after which a number of these people became the target of blackmail, slander campaigns and pestering and intimidation. Out of hundreds of cases, not one has yet been brought successfully before the courts. Not least, because the governments in questions hide behind the 'national security' argument and refuse to give information to the persons targeted, thus rendering the right to legal remedy void and meaningless. When civil rights and public access to government information are no longer respected, then governments effectively have unlimited power.

It is an illusion to think that the cases are isolated incidents, outliers. It is instead a characteristic of the general new power dynamic between citizens and their governments. With the creation of new government powers, we have forgotten something important:

to strengthen the citizen's control over the government. Yes, citizens have, on paper, both rights and legal protections, but in the digital age, the government has become so supremely powerful that it is virtually impossible to assert these rights. Transparency, the right to information and accountability simply have not grown along with the new powers put in the hands of governments. There are countless other examples in all countries, where individuals find themselves powerless against discrimination, mistakes and abuse of the digital tools used by the authorities. Safeguards and oversight mechanisms are weak, ineffective and heavily biased towards the side of the government.

The trend of ever more prominent executive power (i.e.: governments) was highly visible in the global *Summit for Democracy*, organized by the American President Biden. The Summit's program turned out to be a vast parade of government leaders, while only a small fringe meeting was dedicated to the topic of parliamentary democracy in a select number of non-democratic countries. Within the executive, the status of government leader is growing, from 'primus inter pares' to a more presidential status. In his foreign affairs podcast *BNR De Wereld*, veteran Dutch journalist Bernard Hammelburg¹ spoke with former Secretary-General of NATO, Jaap de Hoop Scheffer. Whereas his two successors had both been a prime minister, de Hoop Scheffer had previously been a 'mere' minister. Asked whether the successor of Stoltenberg can still be drawn from the ranks of Ministers of Defence or Foreign Affairs, instead of the ranks of former prime ministers, de Hoop Scheffer remarks: *"I see a trend, also in world politics, that first ministers, Prime Ministers and heads of state, constantly award themselves more competencies and powers. You*

1 BNR De Wereld, De Hoop-Scheffer: "Poetin heeft de NAVO weer samengebracht", 29 December 2022

can see that very strongly in the European Union, too, of course. In NATO, top-level conferences are more frequent now than they were in the past. “.

Parliamentary instruments

The European Parliament has a well-filled toolbox for carrying out its duties. Although many national parliaments have more and more extensive powers, the European Parliament has very substantial means to exercise its power. It took great effort to secure these powers over the course of decades; they certainly were not handed to the parliament on a silver platter. It is important that these powers continue to be used cleverly. Whenever the possibility of exercising power remains unused, it loses significance. The principle with political power is: *use it or you lose it*.

Appointments

One of the main competences from which the European Parliament derives power, is the authority to appoint high positions in the EU-institutions, including the most important one: President of the European Commission. The hybrid procedure in the current Treaty is a typical example of EU fudge, a compromise that is acceptable to everyone, but satisfying to no one, and ultimately impracticable. The European Council nominates, while the European Parliament votes on the candidate. The EU Treaty stipulates that the European Council, when making the nomination, has to take into account the result of the European elections. Up to now, this has been read to mean: as long as the candidate comes from the largest party family (i.e.: the Christian Democratic EPP), the European Council has a free hand. Up to 2014, the European Parliament did not intervene in the choice of the Commission President, and the ‘election’ by the Parliament of the proposed candidate was mainly a formality, rubberstamping the choice of the European Council. The Parliament used the moment mainly as a lever to extract all kinds of commitments about the policy programme of the Commission or over specific portfolios of commissioners.

This changed, when in 2014, the Parliament made its power to select the Commission President an important trump card. A majority assembled behind an own candidate, the *Spitzenkandidat* (German for ‘lead candidate’) of the largest group. In 2014, that candidate was the EPP-member Jean-Claude Juncker. The government leaders had to grudgingly concede and duly nominated the candidate desired by the Parliament. With this, Parliament had drastically strengthened its position. In 2019 however, the parliamentary political groups were unable to unite once again behind that year’s *Spitzenkandidat* of the largest group, EPP-leader Manfred Weber. Furthermore, there was no alternative majority for the social democrat Frans Timmermans, nor for the liberal Margrethe Vestager. With that, the government leaders received a free hand to fill the most powerful EU-post in the customary procedure behind closed doors, by means of an underhanded deal. They came up with Ursula von der Leyen, Minister of Defence under Chancellor Merkel, and completely unknown outside of Germany. Ursula von der Leyen was the candidate of the government leaders. Without too much fuss, the new Parliament let go of its own candidate and voted for the nomination of the European Council.

There was considerable aversion to von der Leyen. With 383 votes, nine votes clear of the required 374, she was elected by the skin of her teeth. In total, 327 parliamentarians voted against her candidacy and 22 abstained from voting. Some argued that the European Parliament would have gained more influence by voting against von der Leyen’s candidacy. That is a misunderstanding. The matter was settled the very moment that the European Parliament proved unable to form a majority behind its own candidate. The result was (and is) an enormous voluntary transfer of power, from the Parliament to the European Council. That power would not have come back, had the Parliament voted down then-candidate von der Leyen. Power, once given, stays given. The European Council

would have just presented another candidate of its own, which the Parliament would have then had to accept.

Whatever you think of von der Leyen, there is little doubt that she was adequately suited for the job. The problem lies not really with Ursula von der Leyen's competence, or for that matter with that of the other candidates. The main issue lies with the balance of power between the EU institutions. Is it the government leaders who call the shots, or the elected representatives of the people? Does the new Commission President look first to the government leaders for political initiatives? Or is her initial orientation towards the people's representatives? A Commission President, who owes her appointment to the European Council alone, will align herself with that European Council. Even though the Commission is formally accountable only to the Parliament, and not to the government leaders. The fact that the President of the Commission is also a member of the European Council further strengthens this tendency.

For the sake of European democracy, it is vital that the European Parliament does not let itself be sidelined again in 2024. Standing by its own candidate will be an absolute precondition for restoring the balance of power between the institutions.

Dismissals

The hearings with the remaining candidates for European Commissioner in the European Parliament have, over time, grown into a truly political event where the candidates have to run the gauntlet. If a candidate appears to be weak, then that candidate risks a run-off or even disqualification. There are always a few, who do not pass the test and drop out. Even though the candidates for Commissioner face the panels individually, they can – once appointed – only be sent home collectively by the Parliament. With that, the threshold for a motion of no confidence is very high. Too high.

The Parliament, however, has informal power too, and should use it much more assertively. The Commission President can ask individual EU Commissioners to resign. If the European Parliament should explicitly withdraw confidence from a Commissioner, it is unthinkable that the President would ignore that. An inter-institutional agreement between the Parliament and the Commission has in fact established that the Commission President should request the resignation of a commissioner, if the Parliament withdraws its confidence.

At the moment, however, the Parliament appears to be going along meekly with the view that European Commissioners are bound to their national governments. As stated, intergovernmentalism has put down roots. In 2020, Irish European Commissioner Phil Hogan resigned at von der Leyen's request. Hogan had violated Ireland's Covid-19 rules by attending a party. It was, however, not the European Parliament, but the Irish government that pressured von der Leyen, to have her force Hogan's resignation. This episode was not just a flagrant violation of the EU Treaties, but also strengthened the misapprehension that the European Commissioners are national ambassadors of sorts. The European Parliament, which had appointed Hogan, kept quiet. No questions were put to von der Leyen; no debate; no accountability. A great contrast with earlier cases of forced resignations, whereby the European Parliament assertively demanded accountability from the President of the Commission.

In the case of the Hungarian Commissioner, the European Commission has also been conspicuously passive. After the Parliament had rejected the first Hungarian candidate Trocsanyi in 2019, the subsequent candidate Olivér Várhelyi did not get through the appointment procedure without struggle either. There was deep mistrust against any candidate put forward by Orbán. The fear was that a Hungarian European Commissioner would

propagate the line from Budapest, which was significantly more pro-Putin. Especially for his portfolio, EU Enlargement, that line would be seen as problematic. This played out long before the 2022 Russian invasion Ukraine. The fear appears to be justified, because in practice, Várhelyi seems keener on propagating the Hungarian stance than that of the EU. Especially when it concerns his relations with Serbian leaders who are far from being pro-EU. This raises some irritation within the European Parliament, but it has not led to any great consternation. The only measure was an amendment in a resolution that asked for an investigation into whether his activities are in line with the Commission's Code of Conduct. That was all; certainly not a big debate over the Commissioner's political role.

Vote of no confidence

A vote of no confidence against the whole Commission is viewed as the nuclear option. A terribly high threshold that has been crossed only once. Only one time did the Commission actually resign: in 1999, only a few months before the European elections. The Santer Commission resigned the night before the Parliament was going to withdraw its confidence in the Commission.

Such a heavy weapon cannot be used casually. Nevertheless, just the threat of such a motion – the finger on the red button – can have an effect, and even a motion that is rejected, can damage political leaders and lead to resignations. In June of 2022, with my colleagues Guy Verhofstadt and Luis Garicano, I appealed to all Members of the European Parliament for support in submitting a vote of no confidence. The occasion was that von der Leyen, to the great annoyance of the Parliament, had approved Poland's 'National Recovery Plan'. The approval was the precondition for beginning the payout of billions in EU subsidies. The European Parliament demanded Poland first meet all conditions with respect to the rule of law, before even one eurocent could be transferred. Five European Commissioners, including Frans Timmermans, declared publicly

that they did not agree with von der Leyen. This was unprecedented. There was clearly broad-based anger over von der Leyen's action. However, she did not find it necessary to come to the Parliament in Strasbourg to be held accountable, invoking other obligations. An affront to the Parliament. It was against this backdrop that we took the initiative. At least 70 signatures were needed to submit a motion of censure. The call for signatures itself, a simple email, turned out to be quite explosive. It generated enormous consternation and panic. My own group leader was seething, while others accused us of "attacking" the Commission in a moment of great crisis. Ultimately, the motion never made it to the floor of the plenary, but who did show up was President von der Leyen. A first tangible result of our initiative. Rumour has it that ever since, von der Leyen has been apprehensive about the actions of the Parliament. The Commission has yet to pay out any EU-subsidies to Poland, knowing that the European Parliament is watching with a critical eye. Thus, a bit of balance between the Commission and Parliament was restored.

Accountability and control

Holding the finger on the red button is a way of showing that you are serious. However, it will only have an impact if you are willing to use it, if needed. The option for the Parliament to vote out the Commission has been deliberately created in the Treaties. If the Parliament telegraphs it is not willing to use the option under any circumstance, the instrument might as well be scrapped from the Treaties. Although the bar for voting out the Commission as a whole is very high, it should not be categorically ruled out. In a democracy, it is healthy if there are political consequences for failure or wrongdoing.

Far too often, the European Parliament is scared of its own shadow and avoids asserting robust democratic control over the Commission. Last year, it became known that von der Leyen had

direct contact with the CEO of Pfizer via text messages, during the negotiations over the purchase of Covid vaccines. Von der Leyen asserted that such short messages did not constitute official 'documents' under EU-law, and are therefore not governed by EU-laws for transparency in administration. The EU Ombudsman, who concluded that this was a case of "maladministration, has already shot this interpretation to pieces. The European Court of Auditors is also looking into the matter. In the meantime, a journalist has brought a legal challenge, and so has the New York Times, the newspaper that uncovered the case. The European Parliament however stayed quiet and failed in its duty to hold the Commission to account. After much pressure from some parliamentarians and after a lot of publicity surrounding the case, the parliamentary group presidents and the President of the Parliament decided to question von der Leyen about the matter. However, it was behind closed doors and thus contrary to the very notion of public accountability. Indicative of the complete lack of insight of the political leadership into the role of the European Parliament within the European democratic framework. This way, the Parliament becomes an extension of executive power, rather than a necessary thorn in its side. The political leaders of the European Parliament like to rub shoulders with the Commission and the European Council; a lack of distance that prevents the Parliament from shaping an effective countervailing force.

Another illustration of this is the resistance against the introduction of a regular question time with the Commission President. In many parliaments, such question hours are the most normal thing in the world. A moment to give the government a good grilling with, moreover, many people watching. The European democracy would get a considerable boost if the Commission President is subjected to tough questioning in Parliament every month. Unfortunately, the 'Question Hour' in the European Parliament is a totally bloodless affair, mainly with other EU

Commissioners than von der Leyen herself. Apparently, the President of the Commission had made it known that she does not feel like doing it, and Parliament should drop the whole thing. Ursula von der Leyen is a very dynamic Commission President. She is someone who takes many new initiatives, which is laudible, but she has very little regard for democratic scrutiny and accountability. The Parliament lets her get away with it much too often.

In 2023, President von der Leyen and her husband spent a few days of private summer holidays with the Greek Prime Minister and his wife, in the Cretan villa of Mr Mitsotakis. Of course, personal friendships are not a crime. It does raise the question, however, of von der Leyen's neutrality and objectivity when the European Commission has to take decisions concerning Greece. That is not a hypothetical question, as there are huge concerns over pushbacks and the role of the Greek coast guard in a recent deadly shipwreck at Pylos, and the possible misuse of EU funding, such as funding for rail safety, which is currently under investigation by the EU's public prosecutor's office (EPPO). The private holiday with Mitsotakis risks compromising von der Leyen's neutrality when assessing issues relating to the Greek government. On top of that, it may also be contrary to the code of conduct for EU Commissioners.

Especially now, the need for democratic control is greater than ever before. The EU purchased Covid vaccines for tens of billions. With it, countless lives have been saved, serious illnesses were prevented, and the pandemic was driven back. But there appears to be a question mark still hanging over the price negotiations, as long as von der Leyen refuses to allow access to her text messages with the Pfizer CEO.

The Parliament itself did not seem to understand its own role and the notion of the separation of powers, when it sat on the "Covid Contact Group", where it discussed the purchase of Covid

vaccines with the European Commission, and when it asked to be involved in the decision-making process concerning the purchase of vaccines. If a Parliament becomes involved in executive decisions, it loses the right to scrutinise those same decisions. A clear sign of political immaturity.

Since the start of the war in Ukraine, the EU has taken its first ever actions in the area of arms deliveries. The member states are delivering military material, but they can claim the expenses with the “European Peace Facility” upon presentation of the cash receipt. The administration of the facility is a Byzantine structure built by the officials of the Commission and the Council; whereby a committee appointed by the member states carries out financial control. Investigative journalists (such as Dutch outlet *Follow the Money*) have already found a number of issues, which demand clarification. Such as the suspicion that the member states are sending old material, some of it in poor condition, to Ukraine, only to then claim the (higher) original purchasing price with the Peace Facility. The supervision of expenditures out of the enormous Covid recovery fund, for its part, is largely organised according to the marking-your-own-homework method. A vulnerable construction, as the European Court of Auditor already signalled. The member states kept the recovery fund out of the EU budget, so that the European Parliament has no control or influence, even though the interest charges are funded out of the European budget.

In July 2023, von der Leyen travelled to Tunisia together with Dutch Prime Minister Rutte and Italian Prime Minister Meloni, in order to sign an “agreement” with the Tunisian President Saied. They promised Tunisia a financial injection of a casual billion euros, in return for which he would make sure that no more immigrants set off in leaky boats headed toward Europe. The European trio presented itself as “Team Europe”. What legal basis there is for the agreement, the disbursement of the billion euros,

and the activity of ‘*Team Europe*’, is all up for speculation. Once again, the conventional democratic procedures were bypassed and with it democratic control. President von der Leyen finds this not in the least problematic and, in spite of the enraged reactions from the European Parliament, social organisations and the European Council; she declared a few days later, without any shame, that the Tunisia ‘deal’ should be a blueprint for immigration deals with other countries.

A bright spot is that since 2021, we have something called the European Prosecutor’s Office. EPPO is led by Laura Kövesi, formerly a Romanian public prosecutor, who made a name for herself with her tenacious and effective battle against corruption. In the two years that Kövesi led the EPPO, she also initiated a hard pursuit of fraud and corruption at the EU-level, and was able to seize billions of euros for the European treasury. Kövesi allows neither the threats of criminals, nor pressure from the member states to knock her off balance. She does not care about national political sensitivities in the least. When a massive train accident in Greece in February cost 57 young people their lives, she immediately began an investigation into the allocation of the 700 million in EU-subsidies for improving the safety of Greek railways. Now, the allocation of EU-monies from the Restoration Fund have gotten onto the radar of the EPPO as well. The manner in which Kövesi is implementing the powers of the EPPO for the benefit of the general European interest, should serve as an example to all EU institutions.

The same applies for the European Ombudsman, Emily O’Reilly, who denounces the independent and indefatigable fight for integrity and transparency, and improper management. In July 2023, she announced an investigation into the maritime disaster at Greek Pylos, which cost around 600 immigrants their lives. There were strong suspicions of a fatal role played by the Greek coast guard, and

there is concern that the official judicial investigation by the Greek authorities instead might turn out to be a cover-up. The European Commission was fully aware of the situation but chose to keep quiet and stay friends with the Greek government, making itself complicit in any possible cover up. The ombudsman meanwhile used her powers to contribute to the complete investigation and making sure that justice was done.

The Europe of the Superstates

Some fear the ascendancy of the EU as a 'superstate'. That risk is far beyond the horizon. The reverse is actually happening: the ascendancy of a Europe made up of Superstates. In the European Union of today, power lies mainly with the European Council. The national governments are supremely powerful, a situation which we are familiar with from the early beginning of the European unification. Strong involvement of the member states is a good thing in principle. The European Union is built on the member states, as well as on the totality of its citizens. The national governments in principle represent the interests of the citizens of their countries and contribute to building European consensus in a crucial way, by striving for compromises. The growing concentration of power in the hands of these governments, or rather of the government leaders, in the European Council is not a good thing though. What worked for six member states crafting a common coal-and-steel policy, works very poorly for a political union of twenty-seven countries that oversees just about all policy areas. The inertia and paralysis of the European Council has become an Achilles heel for the EU, which hampers the governability of our Union in and prevents effective (geo) political action. Every major decision comes down to a choice between standstill or the law of the jungle; a choice between two evils. At least just as troubling is that the European Council has proven to be extremely corrosive to the European legal order. Through regularly exceeding its competences, through hindering the enforcement of EU-laws, and because it counts among its members some who are downright corrupt, antidemocratic or both.

Odd one out of the Trias Politica

The European Council fundamentally does not fit into the democratic template of the separation of powers. It is not an executive power, nor a legislature. It is simply not clear at all

what kind of creature it really is. In a 'normal' democracy, the government is accountable to a parliament: a relationship between power and countervailing power. The European Council, by contrast, is not accountable to anyone. This is a great democratic deficit, especially when you consider that the European Council behaves as a sort of EU-government, constantly hijacking decision-making, including legislative decisions and budget decisions. *"Don't the government leaders have political legitimacy, as they are elected at the national level?"*, I hear you say. Even though the European Council members can be individually questioned or sent packing in their own member state, in practice there is no mechanism for accountability for the acts of entire European Council. Inversely, the European Council as an institution does take decisions that impact all EU-citizens. The options for controlling the European Council and holding it to account are effectively none existent.

The European Council never faces the music

The President of the European Council comes to the European Parliament to report after every Council Summit. A rather superficial and non-committal affair that does not amount to accountability. Every now and then a government leader addresses a plenary sitting of the European Parliament, but as interesting as the debates sometimes are (by no means every time), even that is just a voluntary exchange of ideas.

National government ministers with specific portfolios, such as ministers from the country that holds the rotating EU Presidency, visit the Parliamentary Commissions with some regularity. However interesting and sometimes substantial these exchanges may be, they remain non-binding and incidental. In these instances, it is not the European Council but the Council of the EU that is involved. The Council is the Parliament's co-legislator with whom matters do not always run smoothly, albeit in different ways. A recent example of this occurred when the Parliamentary

Commission for among other things, immigration, requested the presence of the responsible Belgian and Dutch Secretaries of State for a discussion on the dramatic conditions in the asylum receiving centres in, respectively, Brussels and Ter Apel. The Belgian Secretary of State De Moor came, but Dutch Secretary of State Van den Burg categorically refused to appear before the European Parliament.

Pride Rock

Why did the EU-member states need another EU institution of their own, in addition to the Council of the European Union? For an answer to this question, we have to look at the development that the EU had gone through leading up to the Lisbon Treaty. Powerful supranational institutions were necessary in order to manage the expanding competences and to provide a solid institutional framework for the growing powers of the EU. The Lisbon Treaty ushered in reforms to strengthen the EU in that area. For one, the powers of the European Parliament expanded substantially, and the Council of the EU was somewhat democratised, through introducing qualified majority voting and decision-making in public. The highly undemocratic national veto was almost completely done away with. The Parliament became one of two *co-legislators*, on an equal footing with the Council of the European Union. The EU member states, in turn, wanted compensation for the relative strengthening of supranational parliamentary power. In the European tradition of half-baked compromises, the *euro-fudge*, the informal circle of government leaders consequently received the status of EU-institution. In other words, a strengthening of intergovernmental Europe.

Once upon a time, European Councils were incidental meetings of the prime ministers and presidents of the EU-member states, where they set out the major lines and guided the direction of European integration. From the Lisbon Treaty onwards, the

European Council became an organisation that began to amass power for itself. The vague job description, as stipulated in Article 15 of the Treaty on European Union, and scarcely defined duties are conducive to their stealthy power grab. *“The European Council shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof. It shall not exercise legislative functions.”*

With a crumbling countervailing power, the European Council quickly grew into an almighty EU-institution. So powerful that it regularly exceeds its formal powers with impunity. The government leaders are explicitly not legislators, but the European Council nevertheless interferes with legislative files. The European Council meets significantly more often than the quarterly summits provided for in the Treaty, and ever more frequently presents itself as an executive body and crisis manager, while nothing in its job description suggests it can. The Commission and the Parliament are standing by and let it happen. We are witnessing an ominously abrupt shift of power from the elected European people’s representation to the unaccountable and opaque European Council. A half-century of modest democratisation is being reversed in only a few years.

Colouring outside the lines

Ever more often, the EU faces challenges for which its current governance structures are not equipped. The EU-member states are not just probing the limit of what is possible within the Treaties, but they completely bypass or overrule them. An early example is the *Prüm Convention* from 2005, about the sharing of DNA-data, license plates, and fingerprints. All for the purpose of fighting crime. The Prüm Convention was concluded between a number of member states, outside the remit of the EU Treaties. In a later stage, ‘Prüm’ was ultimately included in the Treaty framework by a decision by the Council.

The so-called “Statement of Cooperation” between Turkey and the EU member states from March 2016, also had, legally speaking, the approximate status of a beer coaster. Nevertheless, it served as a basis for millions of refugees to be received by Turkey, in exchange for - among other things - more rapid EU visa-approval and financial support of a whopping six billion Euros. The ‘Turkey deal’ was concluded by the European Council, directly with the Turkish President Erdogan. Even the EU Court of Justice concluded that it is not an official agreement and has no legal status. It is a highly controversial measure, without there having been even one democratic vote on the matter. The European Council itself knew full well that it was legally on thin ice. When the agreement was concluded, it was announced with a lot of fanfare that there was a “deal”, but in the course of the subsequent (nightly) hours, during which the jurists tidied up the text and the formal press releases were drafted, the term “agreement” was quietly replaced with the term “statement”. A statement that has no legal status. In case this sounds familiar, we saw the same thing happen with the aforementioned immigration deal with Tunisia and ‘Team Europe’.

Immigration is often the area where government leaders ignore the Treaties and make their own laws. For example, under the 2022 French presidency of the EU, they worked on their own voluntary “solidarity mechanism” for the distribution of asylum seekers. Completely outside of the Treaties and wholly ignoring the fact that they were dealing with an exclusive competency of the Union. Something that ought to go through a transparent and democratic procedure. The same goes for the ‘decision’ of the European Council at the beginning of 2023 to fund the construction of anti-immigration fences on the EU’s external border (euphemistically called “border infrastructure”, so that even those opposed to ‘walls’ could act as if nothing was wrong) out of the EU-budget. With that statement, the European Council was treading on the area of exclusive competences of the budget authorities, i.e. the Parliament

and the Council. Nevertheless, von der Leyen announced that she would look for the necessary funds.

During the financial crisis, the Covid crisis and the war in Ukraine, there was considerable improvisation under pressure of the circumstances. Sometimes that may be necessary, if the urgency of the situations demands it. Even then, any new structures or measures must be integrated into the conventional institutional frameworks without any unnecessary delay. Something that just does not happen.

All of these ‘pragmatic’ solutions are not subject to democratic or judicial control. The fundamental principles of EU policy on, for example, financial management, basic rights, or sustainability, do not apply in the grey area that arises. This is actually a form of lawlessness, which seriously taints our European democracy. Government leaders say they want no change to the EU Treaty, but through their actions, they de facto change the constitutional arrangement of our Union with great regularity.

Make no mistake; such increased power for the European Council does not at all mean that those powers are becoming national again. Rather, power is concentrated within the European Council, instead of being ‘returned’ to the national governments and parliaments. The intergovernmental ‘Europe of nation states’ does not give power to the citizens, but mainly to the government leaders. Through the European Council, government leaders become more powerful vis-à-vis their fellow ministers in the national government and the national parliaments. The European Council elevates them to a new, more ‘presidential’ position.

Tell me who your friends are...

Speaking of the government leaders: a number of them are corrupt and even downright dangerous to democracy and the rule of law. The most obvious example is Viktor Orbán. The

Prime Minister of Hungary is a Putin ally and he has turned obstructionism, sabotage and provocation into an art-form. Orbán is a known quantity for many Europeans, even outside Hungary, but he is by no means the only destructive agent anymore. Just consider the project of the Polish government, which aims to tear down the rule of law and women's rights, and is by now enjoying some notoriety of its own. The Greek Prime Minister Mitsotakis is heading a government that is involved in a series of scandals on illegal wiretapping, corruption, undermining legal authority, the murder of a Greek anti-mafia journalist, illegal pushbacks of refugees, and a dramatic maritime disaster with 600 deaths. In Italy, the extremist *Fratelli d'Italia* are in power, seeking to curb LGBT-rights, and using their own immigration-failures as a pretext in order to declare a state of emergency. After six years, Malta still has not dealt with the culture of corruption and lawlessness, brought to light by the murdered journalist Daphne Caruana Galizia. In Slovakia, where journalist Jan Kuciák was murdered with his fiancé, due to his investigation into corruption in government circles, the pro-Russian, anti-vax, former Prime Minister, who was in office when the corruption took place, is once again poised to take power in the elections in September. Sweden has a minority government with support from the extreme right, and in Finland, the extreme right actually sits in the government. The Austrian government is not able to shake off a host of corruption scandals, and is deemed a 'veritable aircraft carrier' of covert Russian activity by European intelligence officials². This (limited) lineup of some of its problematic members does not put the European Council in a favourable light. It gets worse. The problem is not just corruption and autocratic tendencies, but also political instability. Its own Prime Minister Rutte blew up the

2 Sam Jones and John Paul Rathbone, 'Tip of the iceberg': rise in Russian spying activity alarms European capitals, *The Financial Times*, 27 March 2022

Dutch Cabinet in July of 2023. Belgian politics is breaking all of its own records for chaos and stagnation, while the Fifth French Republic is collapsing. Spain is in flirting with political deadlock as a government with Franco-adherents was (probably) narrowly avoided. At the other extreme, the German government is so stable that it is actually standing still.

According to the EU-government leaders, the harmful, undermining tricks of Victor Orbán and those who follow his example are no reason to intervene. The European Council turns a blind eye to the corruption and criminality of national government leaders in its midst. National vetos make sure of that. It leads to '*omertà*', an unwritten code of silence, among government leaders, who prefer to cover for each other's bad behaviour, than to surrender even an inch of power. The fact that the European Council has grown more powerful is actually good news for the biggest of the villains. Whatever Orbán does, when push comes to shove, he is still a colleague in the eyes of the other leaders. Someone whose support they will still need for the next vote. Personal power, not the public interest, is the overarching concern in all of this.

From Primus inter Pares to President

Just as the European Council grows more powerful, the personal power of the individual members also grows. The more European policy becomes an *executive matter*, the more influential a government leader becomes in his own country. Government leaders are outgrowing their customary status as first among equals, as we are moving toward a kind of *presidentialisation* of their offices. They are freeing themselves from accountability and control at the national level. But the weakening of accountability towards the national parliaments is not being compensated for by accountability to the European Parliament. Accountability simply disappears.

This presidentialisation becomes visible every time the national leaders arrive in Brussels for a European summit in their black limousines. Then, with solemn faces, they briefly meet the press, before the doors behind them close and they start their meeting. They control all of the information about what happens behind those doors. The glamour shots with the limousines and the parade of flags almost automatically inspire awe, but remember what is concealed behind the glitter and glamour. As soon as someone like Orbán walks through the door, corruption and authoritarianism creep into our shared political space via the European Council. Something comparable applies to the government leaders who have political unrest, poor government, and instability at home. They bring all of the turmoil from their national politics with them to these summits. On what basis are we convinced that weak, extremist or even corrupt leaders of any national government suddenly transform into reasonable, stable political leaders when they become members of the European Council? It's rather the opposite: the European Council is built on the unstable pillars of national politics.

Divided Rule?

With power seeping away from the supranational community institutions to the intergovernmental European Council, with vetoes and all its inbuilt weaknesses, we see the governability of the EU being irrevocably diminished. Today, European power lies with an institution that cannot do anything except react to events. The resulting inertia of the European Council is infamous and creates low expectations. Whenever these low expectations are accidentally exceeded, the proponents of the intergovernmental method crow victory. That pattern is beginning to wear thin. Much of the spectacular recent developments, which the EU has admittedly gone through, and which are mentioned in the introduction, appear only to have been realised with great delay and under extreme pressure. Rather in spite of the European

Council, than because of it. The fact that the European Council is almost by definition one step too late, puts recent major European breakthroughs into perspective. The stack of files that have *not* been realised, continues to grow steadily.

The conventional negative interpretation of a ‘divided’ EU is quite odd, when you think of it. In a healthy democracy, there is always a plurality of opinions and interests. In national parliaments, we speak of minorities and majorities, rather than “divisions”. Differing opinions and interests only become problematic when there is unanimity voting. The unanimity requirement leads to horse-trading, which is a pretty bad method for achieving ambitions. The European Council is governed by events, not by any political vision and strategy. Europe remains a rudderless dinghy on the ocean waves, rather than a great geopolitical power. Today’s EU is facing a digital world with a political system suited to the age of Bakelite dial telephones. While the European Central Bank, the European Parliament and the European Commission all have a woman at the top, Europe is still running on mechanisms that were thought up by men in grey suits in a time when women couldn’t even open bank accounts without the permission of a man.

In her engaging book *Beter wordt het niet* (“*This is as good as it gets*”), Caroline de Gruyter described the glacially slow intergovernmental method as “*Fortwursteln*”, a German word meaning “to keep muddling along”. In the sense of: ‘a bit jumbled’, ‘ad hoc’, and ‘just keeping the whole thing together’. In the relative calm of the 1990s, under the wings of America, Europe could safely *wurstel* fort to the heart’s content. For a long time, a certain ‘resilience’ was ascribed as a desirable side effect to the inertia of the EU. Like an oil tanker that does not turn easily, but does not sink easily, either. That time has passed. China and America are stuck in top gear, hurtling towards a zero sum world, in which one party’s

loss is the other's gain. The waves are higher and there are more cliffs for the oil tanker to smash to pieces on. On these rough seas, there is a hefty price tag for changing course too late.

Which ships have already sailed for the EU, which ones will it miss if it remains dependent on the intergovernmental method? Only recently, the European Council extended lifespan of the internal combustion engine with a few more years. Germany wants to continue supporting this technology for a while longer, while China is already host to the three largest electric car builders in world. How many waves of technology do we have to sit out, because the EU member states are still insufficiently economically integrated? Why do we still break into a cold sweat every time a bank gets into trouble, more than ten years after the banking crisis? Can we build up a lasting relationship with our neighbours on the vast African continent, while various EU-member states are each pursuing their own interests there and thus hindering any joint strategy? China and even Russia have already thwarted any EU ambition in multiple African countries. The great proponents of the intergovernmental method now also have to recognise that the touted inertia has palpable negative consequences.

Between word and deed

Sanctions

When Russia invaded Ukraine, it led to unprecedented unanimity and solidarity in the EU. Even the European Council promptly declared solidarity, and promised support. They shifted gear quickly. Sanctions packages for Russia, and for Ukraine: delivery of military equipment, financial support, and EU candidate status. The import of gas and oil was throttled rapidly, and member states helped each other to make up for the shortages. They acted with unprecedented speed and decisiveness. But the limits soon became apparent.

A good year after the invasion we have a better overview of the situation. It is apparent that in every decision – from weapons deliveries, measures for the energy market, sanctions against Russia – national interests always weighed heavily, very heavily. It resulted in a series of exceptions for EU member states. Add to that the fact that some member states are lax in the execution of the agreements, whenever it suits their national interest. All to ensure that their own businesses are not impacted all too severely. All kinds of vital products have been traded to Russia in spite of the sanctions, through clever workarounds. EU-governments turned a blind eye to tankers with gas or oil that continued to travel. Central and Eastern member states are the strongest supporters of Ukraine but they block the import of Ukrainian grain, as it is competing with their own farmers. Spouses and children of the Russian elites in Putin's circle - often with a 'golden EU-passport' - were spotted while shopping in Paris, holidaying on the Mediterranean, or sending their kids to exclusive schools in Europe. The consequences for Europe's inertia on the battlefield in Ukraine could hardly be more dramatic. While EU-governments argue over who was supposed to deliver which weapons when, and whether or not to provide fighter jets, Ukrainian soldiers struggle with shortages of material and Ukrainian cities are left defenceless against Russian air strikes. 'Muddling along' costs human lives. Literally. The absolute nadir is certainly the exception to the agreements for weaning off of Russian gas, which Orbán managed to obtain. The result being that his Minister travelled to Moscow in April 2023 for a celebratory signing of an energy convention with Russia. A bigger middle finger to Europe and Ukraine is hardly imaginable. A middle finger that is nestled deep in the European pie, mind you.

Covid

The reaction to the Russian invasion of Ukraine is not unique. It is a pattern. Consider the Covid pandemic, when national reflexes converted the European Union into a crazy patchwork of Covid

measures in no time, while the EU's internal borders were closed for the first time in decades. Member states were beating each other to bits in the fight for vaccines and facemasks. The great step forward – the joint purchase of vaccines – came at the initiative of the Commission, not the member states. Some individual countries, including the Netherlands, concluded a pact for joint vaccine purchase, bypassing other EU member states, but had to hastily reverse course.

Banking crisis

Going further back in time, during the financial crisis in the years following 2008, there were dozens of 'crisis summits', with little impact. ECB President Mario Draghi cleaned up after the government leaders with a broom and dustpan. It was not the determination of the member states, but the "*Whatever it takes*" from Draghi, that restored calm and created space for solutions. It was a true pan-European crisis, but the political consensus with respect to taking measures already ebbed away years ago. A robust banking Union was supposed to be set up, so that Europe would never again be as vulnerable to turbulence in the banking world. Fifteen years on, the banking Union is still incomplete, and people are starting to look nervous after a recent wave of bank collapses.

Immigration

The politically sensitive topic of immigration has been in deadlock at the Council for seven years now – with the European Council yanking at the steering wheel from the back seat. The member states insisted on deciding with unanimity, even though the EU Treaty clearly provides for majority decision-making on this topic in the Council. At the initiative of the Parliament, a roadmap was accepted in the spring of 2022, whereby both co-legislators committed to a time schedule for concluding the whole legislative package. That seems to have brought some movement in the matter since the end of 2022 but at the time of writing,

the Council was already a few months behind the agreed-upon schedule, and there was still no certainty at all whether it will actually be possible to finish the package before the elections of 2024.

Inertia and indecisiveness are in-built, because the European Council decides with unanimity, which inevitably results in horse-trading. There, national interests always take precedence. National governments only seem willing to take further steps towards European integration, when forced by circumstances, and only as last resort. Even then, they are trying to do the absolute minimum. This set-up is by definition unsuitable for agreeing on a joint vision of the future, for pro-actively devising a common strategy. Supra-national challenges demand supra-national answers. The sum total of national interests does not cut it as a common response. Furthermore, it is reckless to assume that national governments will always choose the European interests. In the words of Wolfgang Münchau³: *‘With the right combination of leaders, and the right type of symmetric shock, a political union project is indeed possible. But so is the other possibility: that with each crisis, we become a little bit more national. Banks are more national today than they were before the financial crisis. The rules of European competition policy have been largely suspended in response to the pandemic and the US inflation reduction act. The EU will not disintegrate in a loud bang. But it might become quietly less effective’.*

Its very composition prevents the European Council from being able to offer political leadership. This must change. The European ship of state is heading for the intergovernmental sandbars and is about to strand. Europe needs to once again change course from the intergovernmental, towards the parliamentary and supranational.

3 Wolfgang Münchau, Draghi's Fiscal Union, Euro Intelligence, 24 July 2023

This rudder will not move by itself; it requires all of us to push and pull at the helm.

Wake up!

Münchau is pessimistic: *“Our sense is that advocacy of real political integration in Europe has turned into a retirement project”*. Indeed, a wake-up call is necessary. Our democratic instinct with respect to the EU appears to be in snooze mode. Europeans seriously worry about the erosion of the democratic rule of law in the U.S., Brazil or Israel, or about certain member states of the EU. We praise the Ukrainians for their fight for freedom, and we give massive *likes* on social media for the Iranian youth who take to the streets for democracy, but we do not even see how the democracy of the EU is itself disintegrating right under our noses. The remedy begins with the realisation that we actually have a European democracy. Not just democracy within the EU-member states, or a European democracy as a mere derivative of national democracies, but an overarching supranational democracy in which we participate, and that we have ownership of. That realisation has been kept under wraps for too long, by means of the ‘technocratic myth’ described in an earlier chapter. The powers that be count on you, the citizen, to not recognise European democracy as such. Apart from voting once every five years. The myth, no, the lie, that democracy is just national, robs citizens of their influence, their co-determination.

While the EU is geopolitical, democracy has gotten stuck in national silos. Pan-European parties as citizens’ movements hardly get off the ground. They remain mere umbrella organisations, composed mainly of national party officials. Only the pan-European political start-up Volt has success at forming a community, and explicitly puts a radical administrative reform of the EU on the agenda. But it is still too small to be a real factor. Except for Volt, there is a great lack of urgency assigned

by the national political parties to European politics, let alone to institutional reform. In less than a year, there will be European elections. What will be the story then?

European Elections are often framed as a fight between Europhiles and Eurosceptics, but in the upcoming European elections, it cannot just be a matter of 'more' or 'less' Europe. The more relevant question is: who holds the levers of power? Who has the ability to call power to account? How will the institutional tools be wielded to that effect? These questions do not amount to an academic exercise, but rather to an absolute necessity to keep the EU governable in a manner that is in line with our democratic values. We do not know what the future holds for us. We cannot predict everything and prevent all problems, but we certainly must prepare the EU for the challenges of today and tomorrow. The choice is clear: either European democracy braces itself for a serious fight for naked power in Europe, or it retreats. Votes cast must strengthen the countervailing power, rather than just confirming the power of the executive. Only then does a political system distinguish itself as a democracy. Only if the voter can bring about a change of power with his ballot, can you call a system a democracy.

Too much interference from Brussels or too little?

Member states are full co-legislators, via the Council of the EU. But as soon as a law is adopted, they forget their own role, and denounce every attempt to enforce the law as improper ‘interference’ in national matters. This does not keep them from loudly demanding that the EU laws be strictly enforced in other countries. Double standards are a speciality of nearly all national governments.

The Netherlands is often right out in front, lecturing other countries and demanding that the EU-rules be strictly enforced, such as the budget rules in Greece or Italy. That same Netherlands however reacts as if stung by a bee when the European Commission admonishes the Netherlands to comply strictly with EU laws. Brussels is depicted as the big bogeyman when for example *pulse fishing* was banned in 2021; while the Netherlands itself, quite deliberately, had lied for years about its *pulse-fishing* capacity, in order to obtain as many permits as possible. The Dutch Parliament was not concerned at all with respect for the (EU) law, only with the interests of the Dutch fishing industry. There was also grumbling in 2022 about the decision by the European Commission to terminate the leniency that the Dutch farmers had enjoyed since 2006, with regards to the distribution of manure on their land. Rules which the Netherlands had helped draft.

France too consistently has a low tolerance for any interference from Brussels. The country only rarely complied with the Eurozone criteria in the last two decades, but interference by the Commission in *La République* is completely unthinkable. French Secretary of State Boone met recent remarks by European Commissioner Reynders calling, for justice after incidents of excessive police force,

with a furious reaction. In another example, the French Conseil d'État, largely agreed with the argument of the French government in a matter concerning mass surveillance, that in certain cases France is not bound to the rulings of the EU Court of Justice. That is in flagrant contradiction with the principle of the primacy of EU law over national law.

The Polish Constitutional Court, which has been turned into a tool of government, has gone even further and fundamentally rejects the primacy of EU law over national law. Ironically, the Polish government does not hesitate to appeal to that very same EU Court of Justice to challenge the withholding of EU funds from Poland, when it does not meet the conditions.

The Hungarian Prime Minister Orbán uses crass language when he complains about Brussels' interference with Hungarian matters. He characterises attempts by the European Commission to enforce EU law in Hungary as "colonialism". What a contrast with the Hungary that was the first country to ratify the Treaty of Lisbon and committed consciously to that Treaty, including the paragraphs about the European values.

In response to a question from the European Commission about the abuse of spyware by the Greek government, the Greek Permanent Representative to the EU responded: "*whether the questions raised in your letter fall within the scope of competence of the Union would be highly debatable*". That was more or less the line followed by all national governments in the question of spyware. They were of the opinion that all activities, which fall under 'national security', fall outside of the authority of the EU. But since the member states define 'national security' themselves, they effectively grant themselves the exclusive and unilateral right to determine when something falls within EU competence. This is a slippery slope for the EU.

Even the rules for state aid, which were sacrosanct for decades, are now under pressure. During the Covid pandemic and the energy crisis in 2022-23, the rules were put on ice quietly, with general consent and with the subsidy faucet wide open. Some governments that were traditionally lukewarm about of the strict budget rules, saw an opportunity to drastically ease them. In addition, the British proponents of the free market are gone. National governments may formally be calling for a return to fiscal discipline as the crises seem to be under control, but it is clear that the rulebook has been completely re-written and the wings of the European Commission, for decades the supreme arbiter of the internal market, have been clipped.

State aid rules, procurement rules, environmental rules or privacy rules are among the traditional bones of contention. Any efforts to enforce them are routinely met with great commotion in the capital cities, enraged with the perfidious and meddlesome Brussels. It is not per se a bad thing if national governments defend their national interest, and a certain degree of jurisdictional competition can be a healthy component of our democracy. Ultimately though, it is in everybody's interest that the rules and agreements apply equally to everyone. That is possible only if the European Commission is able to act independently and neutrally as the guardian of the Treaties and if the authority of the EU laws and institutions is fully and unreservedly recognised by the national governments. If member state governments can put the Commission under pressure, can haggle about the enforcement of the law, or can manipulate European Commissioners, the foundation of the European Union as a legal community collapses.

From enforcing to tolerance

That is why it is worrisome that the European Commission has become ever more intergovernmental in the last twenty years, and buys more and more into the logic that it must be subservient to the

member states, and that national politics is asserting primacy over EU law. The Commission emphatically aligns itself with the wishes and instructions of the national governments. It has even made it its own absolute prerogative - to present or repeal legislative proposals - subject to prior approval of the national governments. Something, which is a violation of the Treaty requirement of independence of the Commission. Two academics from the American Rutgers University, R. Daniel Kelemen and Tomasso Pavone⁴, show how the enforcement of EU laws is being seriously undermined by this development. Until 2004, the Commission was strict and neutral in enforcing the rules. It regularly initiated infringement proceedings against any member state that violated the law. The decision to launch an infringement proceeding was a legal one. Commission President Barroso broke with the tradition in 2004, and replaced the relatively transparent infringement procedures with a policy of 'forbearance' and shady political negotiations. Barroso found it more important as the Commission President to remain friends with the government leaders, than to rub them the wrong way with infringement procedures. The amassing of power by the national governments and the decline of enforcement do not coincide by accident. The most excessive violations of European values and norms even emanate from this.

Over time, this problem has become more pressing, as the corpus of EU laws is growing. The Commission hides behind the argument that the national authorities are responsible for the correct and complete application of EU laws. Technically speaking that is true, but when the national authorities fail to do so, the Commission has a duty to intervene. But the Commission is dodging its responsibility. There are countless minor offences that

4 R. Daniel Kelemen & Tomasso Pavone, *Where Have the Guardians Gone?*, Social Science Research Network, 27 December 2021

are tolerated, but the number of examples of significant scandals is now piling up, too.

Dieselgate

The Dieselgate-scandal is one of the most notorious affairs. Europe imposed strict norms for fine particles in diesel exhaust fumes. Control of compliance was given over to the national oversight bodies. But the interests of the national car-industry in some member states, not least in Germany, weighed heavily. When the tampering with the norms was eventually discovered years later - it was by the American authorities, not the German ones. Even years after the revelations and after a thorough inquiry by the European Parliament, the tampering continues, right under the nose of a passive European Commission.

Privacy

National supervisory bodies protecting personal data enforce the privacy flagship of the EU, the General Data Protection Regulation (GDPR). Thus, the Irish national supervisory body for personal data acts as the gatekeeper for all of Europe, since many giant technology firms like Microsoft, Facebook and Apple have their headquarters in Ireland. There, they create many jobs. The Irish supervisory body would make itself very unpopular with tough enforcement of the law against such major employers. The lax enforcement put the Irish supervisory body into conflict with the other national supervisory bodies over the soft approach to privacy violations by, among others, Facebook.

Schengen

Even one the most popular achievements of the European Union is jeopardized by poor enforcement. The passport-free Schengen Zone is no longer immune to member states violating the law. Member states wishing to temporarily reintroduce border controls have to request approval from the Commission. In all the

decades of its existence, though, the Commission has yet to deny an approval, not even when denial would have been evidently justified. ‘Temporary’ border controls, imposed by some member states, have now been in place for up to eight years. The Commission however keeps mum, because it does not want to offend the member states in this sensitive point. Even after the European Court of Justice ruled that a number of border controls were in breach of EU law, the Commission refused to act.

Budget discipline

With the stability and growth pact, the EU has transparent and strict rules for financial discipline, very popular with the so-called “Frugal Four”, the Netherlands, Austria, Denmark and Sweden. The rules are of a rare clarity and precision. The practice however appears to be less straightforward. Only few countries comply fully and constantly with the criteria. The Commission is supposed to enforce strictly, but this too has degenerated into political horse-trading. As illustrated by Jean Claude Juncker, the former Commission President, who famously responded to the question of why France is not being held to the strict budget rules: “*parce que c’est la France*” [“Because it’s France.”]. There is no better illustration of how arbitrarily the rules are applied in intergovernmental Europe. Through the Corona Crisis and the war in Ukraine that followed it, budget discipline was put on ice. Now the member states are negotiating over new, more flexible rules in return for stricter enforcement. We will see. Suggestions are being made for setting up a new EU-body, charged with enforcing the budget rules. That shifts the problem but does not really solve anything. The problem is not the lack of an authority – we have the European Commission for that already – but the pressure from the national capitals, undermining the independence of the Commission. Suggestions to sideline the Commission are in themselves undermining its authority. Governments must realise that they cannot simultaneously keep

the Commission on a leash and expect it to enforce the rules forcefully.

Pushbacks

There are countless other examples of non-enforcement of the rules. In the area of immigration, the Commission simply ignores the now systematic “pushbacks” of refugees, although it is a flagrant violation of the law and despite the mountain of evidence and image material. The dramatic scenes of the reception of asylum seekers in places like Ter Apel, Klein Kasteeltje in Brussel, the jungle of Calais, the hell of Moria or the forests on the border of Poland and Belorussia are fundamentally in violation of the norms that the EU itself imposed in the Reception Directive. But the Commission looks the other way and remains silent.

Export rules

During the work of the European Parliament inquiry committee into the abuse of spyware, the media revealed that spyware had been shipped from Europe to Sudan, with an export licence from Greece. Exporting surveillance technologies to Sudan (where a civil war erupted not much later) was clearly a violation of the EU Dual Use Regulation that bans exports of such technologies to countries where there is a risk they will be used to violate human rights. However the Commissioner in charge, Dombrovskis, claimed he has absolutely no powers to intervene as it is the sole responsibility of national authorities to ensure proper application of EU law. If there was a violation, someone should bring a complaint to court, in his view. This attitude would render all EU law meaningless, as it would make the perpetrators the sole arbiters.

Rule of Law

The Commission wants to make even the most essential European values and the rule of law subject horse-trading with the national governments. Only under immense pressure from public

opinion, the European Parliament, and the European Court of Justice, persuaded the Commission withhold EU-funds from Poland and Hungary as long as they continue to demolish the rule of law. But the pressure on the Commission from all national capitals, not just from the ‘sinners’, to give in and just pay out the subsidies as usual, is huge. National governments hope to buy off the constant obstruction by those governments, in particular the Hungarian one. Of course, this always boomerangs, since it just rewards the sabotage, and on top of that the EU then loses any leverage it might have held. The European Commissioner in charge is Austrian EPP Commissioner Johannes Hahn, ideologically not too far removed from Orbán and possibly willing to negotiate a deal with him. It is rather cynical that the United States sometimes acts more decisively against rule of law violations in Europe than the Europeans themselves do. The Americans imposed the so-called Magnitsky-sanctions on corrupt Bulgarian politicians, they hit some corrupt Hungarian politicians with an entry ban, and sent the FBI to Europe to investigate the abuse of spyware by European governments, and blacklisted the European spyware manufacturer Intellexa. It was the American authorities that brought the Greek Novartis corruption scandal before the courts, not the European.

The citizens left out in the cold

The Commission is the “Guardian of the Treaties” and has to make sure that European laws are enforced. In addition to this ‘public’ enforcement, there is also ‘private enforcement’, when citizens force compliance through litigation in court. There are countless legal cases that have been brought by individual citizens or civil society organisations, which have created jurisprudence of great strategic importance, with a legal case before the European Court of Justice or the European Court of Human Rights. For example, regarding LGBT-rights of couples and their children, the right of access to documents, the right to asylum, and equal pension rights for women, the right to privacy, and much more. This jurisprudence is binding for all member

states, and it is supposed to force them to adapt their practices. But if the member states simply refuse to implement the decisions of the European courts, it is up to the European Commission to ensure compliance. However, even in this area, the Commission is ducking its duties, since many of these cases concern sensitive political issues, where the Commission has no appetite for a confrontation with the national governments. The Commission then usually passes the hot potato back to the citizens who brought the action in the first place. This is the case of the Romanian Adrian Coman, who got married in Belgium to his American spouse. When they moved to Romania, the Romanian government refused to recognise their marriage and the associated rights. Coman first went to the national courts, lost, appealed to the European Court, where he won his case, after some five years of litigation. However, the Romanian government flatly refuses to implement the ruling. The Commission, instead of addressing the Romanian government, considers that Coman has to go to court again. The Commission always states in such cases that its enforcement duty does not apply to “individual cases”. The EU Treaties do not state anywhere that the enforcement duties of the Commission do not apply to individual cases. The Commission is deliberately interpreting its responsibility as narrowly as possible, so as to avoid clashes with national governments. It puts the burden of enforcement on the shoulders of the citizens.

These examples illustrate how the institutional set up of the European Union is decisive not just for the adoption of new policies, but for their implementation in practice. An independent, supranational European Commission will be much stricter than an intergovernmental Commission. The European Commission has complete discretion to decide whether or not to launch an infringement proceeding if a member state violates the law, how long the procedure can last (sometimes many years), and whether to take a member state before the European Court of Justice or not. Precisely because the Commission has unrestricted power

to enforce the law against the member states, it is crucial that the Commission be fully independent of these same member states. The Commission cannot simultaneously act as servant and enforcer. These two roles are mutually exclusive.

Sleepwalkers

There is a stubborn refusal among European leaders to look reality right in the eyes and adjust the European Union and equip it for the new world. In the words of Mario Draghi: “The strategies that had ensured our prosperity and security in the past - reliance on the USA for security, on China for exports and on Russia for energy - are either insufficient, uncertain or unacceptable”⁵. We seem to view each new crisis or turbulence as something temporary, after which everything will return to the old normal. We all breathed a sigh of relief when Biden replaced Trump in the White House. We all laid back again comfortably in the pillow of the trans-Atlantic relation. It pleased us all too well that Biden was at the rudder when the war in Ukraine broke out. Without the support of the US, Ukraine would already have been incorporated into Russia, notwithstanding the loudly professed European solidarity with the many likes on social media, visits from European top politicians and blue-yellow flags. There is war on our continent, but nearly eighty years after the Second World War, and after seventy years of European integration, we are still dependent on the United States for our own security. Organising a European defence with twenty-seven vetoes does not work. The argument of national sovereignty sounds hollow since no single member state alone would be able to guarantee the security of its own citizens.

We lull ourselves to sleep with the thought that the Trump Era is past and that it was just a nightmare. Whoever looks at the polls

5 Mario Draghi, 15th Annual Martin Feldstein Lecture, July 11th, 2023.

in the U.S. must conclude that there is a real chance that Trump will return. Even if he is not elected, he will have a very strong influence on American politics and the international positioning of the U.S. Europe will also have to deal with that, inescapably. If Europe does not chose its own path, we place our fate in the hands of the American voters.

China

China too will still cause us headaches. In spite of all the big words about strategic autonomy and reduction of dependence – *de-risking* – the reality is that Europe highly dependent on China, and will remain so for the time being, unless we are ready to change our pattern of consumption, turning the clock back roughly a half-century. The clear message of von der Leyen during her visit to China was welcome, but the credibility of the EU is being torpedoed when the leaders of two major member states subsequently set off for China with a wholly different message.

Africa

While Europe ignores Africa or looks down on it as a problematic neighbour, Russia and China have already been expanding their influence on the continent for decades, with an avid eye on the valuable raw materials. Europe needs a good relationship with Africa in a great number of areas: energy, climate, migration, trade, raw materials, food supplies, and so forth. On behalf of the Commission, von der Leyen gave a welcome new orientation on Africa, but many member states with old bilateral – often colonial– relationships thwarted the strategy without blinking. The European Council does not seem to be very interested in Africa. The relationships between Europe and African countries are sometimes tense when it comes to climate efforts and who will bear the costs for that. To the irritation of Europe, African countries are not taking sides in the war with Ukraine. Thos countries may have been suddenly cut off from grain imports and prices went

skyhigh. Putin eagerly jumped into the gap that the Europeans left open and bought the support of African countries with promises of grain donations. On the other side, Europe wants African countries to help reduce migration flows. In the process, Europe keeps its eyes tightly shut for human rights violations and corruption and makes itself fully dependent on, and subject to blackmail by, autocratic rulers. So much for European autonomy.

Out of our league?

Beautiful and certainly worthy words have been spoken about strategic autonomy and European sovereignty. But in reality, there is a standstill. Baby steps, at most, are being taken in the direction of more joint European action. Not even the urgency of the expected offensive in the War in Ukraine in summer 2023 was enough to keep the member states from their usual squabbling and national egotism. The call from High Representative Borrell to the member states to send warships for patrols in the Strait of Taiwan, sounded plain ludicrous in light of European intergovernmental impotence.

The world is in transition. But in the European Council we do not see the slightest sign of vision for the future. While it is very busy meddling with all kinds of matters outside of its authority, the European Council shirks its prime task: laying out general political directions. Thus, intergovernmental Europe is sleepwalking into an uncertain future.

The French President considers that the EU needs to become a third pole in a multipolar world. A ‘strategically autonomous’ geopolitical player with its own independent course, on the same level as China and the US. Of course, few leading figures in the EU will disagree and say they do not want any form of independence for the EU on the world stage. But no matter how strongly felt is the need for European autonomy, there is a blind spot for the

impossibility of getting there without drastically reforming the EU. Both its size, and its institutional structure. I.e.: enlargement and Treaty change. Two matters that are strongly connected and not coincidentally both fail to happen. For each new round of accessions, Europe needed an institutional upgrade, and with each Treaty change the EU became better able to act. However, the very thought of enlargement, for decades our strongest geopolitical instrument, causes the government leaders to break out into cold sweat. Mention the T-word - Treaty change - and they will faint. In both cases, all the geopolitical talk suddenly vanishes like snow in the sun.

The declarations of national government leaders that they want a geopolitical European Union are at odds with how intergovernmental Europe has become under the surface. The desire to keep the European Commission on a short leash is greater than the desire for strategic autonomy. During a French presidential visit to China, the President of the European Commission travelled along, but she was put on a side path without giving it too much thought. While Macron concluded business deals for French companies with Xi, von der Leyen had to make due with a modest supporting role during the visit. Visibly undermining the authority of the European Commission President is doing the ideal of a geopolitically autonomous EU a service.

Macron is not unique when it comes to this kind of behaviour. A few months before the episode in Beijing, the Dutch Prime Minister Rutte concluded a deal with the U.S. and Japan in Washington D.C. on trade in machines, which are crucial for computer chip production. The European Commission was kept out of this; tiny the Netherlands went alone into negotiations with the American Moloch and mighty Japan. A core sub-component of the EU-plans for strategic autonomy, computer chips, was suddenly no longer a European interest but once again a national interest.

The geopolitical maneuvering space of our common European Commission was not increased but curtailed.

This generation of European leaders really wants to play with the big boys, but they are consistently neglecting to make themselves into a tighter, bigger, and stronger collective. The same Macron who argues for a strong Europe in the world, is only a lukewarm fan of the enlargement and reforms that are needed to manage a larger EU. France remains the strongest proponent of an intergovernmental Europe. The dream that Macron has of a strategically autonomous Europe does not begin with the construction of European computer chip factories, but with him and his fellow leaders. As long as they cling to old systems and baked-in prejudices, European autonomy will never come into being, and only paralysis remains.

Enlargement

Prejudices hamper the EU. Starting with its self-image. In the minds of many political leaders in Europe, the EU is mainly a Northwest-European Union with some bench players in the South and in the East. The rapid eastward shift, certainly since the invasion of Ukraine, frightens them, rather than spurring them on to think about the EU's future. To think about, for example, how both the current and aspiring member states from Southern and Eastern Europe strengthen the collective.

The ten member states from Central and Eastern Europe that joined in 2004 were still referred to as “new” member states after a decade and a half of membership. This kind of differentiation was much less marked in earlier rounds of enlargement, such as with Spain and Portugal in 1986 or with Sweden, Finland and Austria in 1995. A remark like the one made by the former French President Jacques Chirac, who sneered in 2003 that the East-European countries had better keep their mouths shut, would not be heard anymore today. Nevertheless, the attitude of the “old” member states has remained condescending and its orientation quite exclusively Northwest European. The opening sentence of the “European Security Strategy” from December 2003, right before the big round of enlargement, read: *“Europe has never been so prosperous, so secure nor so free. The violence of the first half of the 20th Century has given way to a period of peace and stability unprecedented in European history”*. I shall never forget the bitter reaction of my Polish colleague: *“Well, we had a rather different experience of the second half of the 20th century”*. The Berlin Wall may have fallen in 1989, but the scars of the division of Europe by the Iron Curtain remain palpable. Consider the fact that there are mutual collaborative groups of West-European member states, such as the ‘Franco-German Axis’, Benelux or the Nordic Council. On

the other side you have groups of Central and Eastern European member states, such as the V4 (Visegrád Four) or the Baltic cooperation. What is missing is an East-West group. The Baltic States for example have a much better understanding of Russia and geopolitics, than their Benelux counterparts. The knowledge and experience that is necessary to set out a geopolitical strategy is, in some areas, more present in Tallinn and Warsaw than in The Hague.

B-countries

Eastern member states are also kept out of the European ‘top jobs’. Even twenty years after the expansion of 2004-2007, most of the European top jobs are still in the hands of the “old” countries. In 2019, a third (!) ‘*Executive Vice President*’ from Latvia was hastily appointed to the European Commission, after the President and the first two Executive Vice Presidents turned out to be from Western Europe. Much more serious is that Bulgaria and Romania are still kept out of the Schengen Zone, in spite of the fact that they meet all the preconditions. Unacceptable discrimination that is deliberately maintained, by political leaders in Western Europe, who fan skepticism and prejudices for purely electoral motives. Member states from Central and Eastern Europe are, in short, often still treated like freshmen who have to prove themselves.

Even though the entrants of 2004 adopted a shy wait-and-see attitude in the first years of their membership, with the notable exception of people like Orbán, the differences between ‘new’ and ‘old’ are wearing down in the daily political work. With that, the EU’s center of gravity is shifting eastward. The war in Ukraine has strengthened the position of the Central and Eastern European member states. The Estonian Prime Minister Kallas for example, has successfully stepped up as a political leader in the new situation, and Poland is by now one of the most important players in this area.

The old fault lines sometimes fade away in unexpected ways. In the first years after the 2004 expansion, the new member states quickly gained a reputation for a homophobia that deeply rooted, and supposedly ineradicable. In 2022 however, by decision of the Constitutional Court, Slovenia became the first country in Central Europe where marriage was opened for same-sex couples. Recently, the Estonian Parliament voted to enable marriage for same-sex couples. While the physical stones had already been torn from the Berlin Wall years ago, Slovenia and Estonia are tearing the last non-tangible stones from the invisible wall. Let us hope that the prejudices about Eastern Europe disappear in the same way.

It seems as if the EU's eastward enlargement has landed in the consciousness of many citizens of the EU only now, twenty years after the fact. The delay can be largely attributed to the national leaders, who neglected to take their citizens along on the path of a radically changing EU. Still today, they do not make the slightest effort to gather public support for the reforms that are vitally important for the EU, to be a more capable actor in a fast changing world, let alone for the eventuality of future enlargement of the EU. Very few of them dare to say aloud that enlargement is a fundamentally political decision, rather than a technocratic one.

Enlargement, now!

The double standard generates problems. Further enlargement of the EU will come faster than people think. In 2022, candidate status was awarded to Ukraine with unprecedented speed. Even leaders who were not exactly big fans of enlargement, such as the Dutch Prime Minister Rutte, supported it. The government leaders probably thought to themselves that the admission process would in practice take decades, so they would simply kick the can down the road to a time when they will be long retired. Anyone who sees the images of war coming out of Ukraine though, understands that we cannot really expect from the Ukrainians to sit in the waiting

room for another generation. Nor that they subject themselves to the arbitrary process of approval by the member states. Yes, there are technical criteria on paper, but the assessment, like all other subjects, is driven by the internal political considerations of the EU-member states.

The so-called “Copenhagen Criteria” for admission date back to 1994, when the EU, and really the whole world, looked completely different. The body of legislation with which the joining member states must comply, is immeasurably greater than it was in 1994. You can always find a bullet-point with which a candidate is not in compliance. There is always a reason to be found for one of the 27 member states to block admission, depending on how the mood of the day is in one member state or another. The objective of the criteria however, is facilitating the admission of a country, not blocking it. The process of getting there should be arranged so that admission is achieved as quickly and as well as possible. Ukraine has indicated that it wants to be a member of the EU within two years. That may be a bit on the optimistic side, but on the other hand, it is just as unrealistic to think that we can postpone it for another twenty years. In the year 2024, the procedure from 1994 no longer suffices. Accession has to be concluded faster. Not by lowering the bar or weakening the criteria, but through a new procedure. For example, a step-by-step, phased accession. To achieve this, the process needs to be radically modernized. The fiction that expansion is a strictly technocratic process with lists of boxes to check, must be done away with fast. The expansion of the European Union has always been a political and strategic choice. Moscow and Beijing understand this very well, but in The Hague and Paris, internal politics simply outweighs geopolitics. If you think small, you stay small.

Enlargement of the Union is a crucial component of its geopolitical ambitions. The EU member states postpone deadlines for accession literally by decades, while the strategic necessity of

enlargement has a deadline of today. Rapid expansion is in our own interest. Right now, Russia is attempting to annex Ukraine by force, and on the other hand it is attempting to appease countries like Serbia in order to deepen its sphere of influence. By now, countries in the western Balkans have been sitting in the waiting room for so long that they are easy prey for the charms of Putin or Xi. Enlargement has quietly morphed from a transformative instrument into an Achilles heel – thanks to the built-in inability of the European Council to reach agreement.

Which brings us to the final point. The European Union itself must also be ready for further enlargement. In late August 2023, European Council President Charles Michel announced in a speech that “the EU should be ready for enlargement by 2030”, possibly with as many as eight countries. That was a welcome message, undoubtedly agreed beforehand with at least France and Germany, although the Commission immediately distanced itself from it. The snag is in the word “ready”. It could be read as “willing”, but also as “prepared and reformed”. Since 2004, the latter interpretation has been a pretext for delaying enlargement discussions. The argument being that the current institutional set-up of the EU is not suitable for an even larger number of member states. But this conclusion by the government leaders was never followed by any initiatives to fundamentally reform the Union and adjust it to enlargement. Quite the opposite: they made the EU more intergovernmental and less governable. Opponents of enlargement deliberately resisted governance reforms as a way to escape enlargement. Another classic of the genre is the suggestion of a ‘multispeed’ Europe, as a way to facilitate enlargement. In reality it means creating a second rate membership, withholding the new member some of the benefits of full membership, such as EU funding for agriculture. Such proposals, although dressed up like genuine support for swift enlargement, are in reality meant to protect national interests. Selfishness rather than grand strategy.

Europe is stuck in a highly cynical deadlock that must be broken. The fact that Europe cannot expand is a symptom of the deeper problems. The intergovernmental method no longer works for an EU27, let alone for a future EU35. Imagine Ukraine's accession actually becomes reality. In this scenario Volodymyr Zelensky, a real war hero, arrives in Brussels and takes his seat in the European Council. A dynamic figure who leads the fight against Putinism, joins the sclerotic circle of European leaders, among them a few who take their cues from the Putin model. A pessimistic view of this scenario is that he will ask himself whether this is really the club he wants to join. An optimistic scenario is that the center of gravity within the EU will shift even further, and so substantially that the ball will finally start rolling. Let us hope for the latter.

The T-word

National governments are fiercely resisting treaty change. They pretend it is an unnecessary distraction from more important matters. A plaything for pushy Europhiles, who refuse to understand that there are really more urgent matters. If you take the governments' refusal of Treaty change at face value, you would think that the national governments are very satisfied with the current Treaty. Were it not for the fact that in practice they ever more frequently ignore or violate the Treaties without hesitation, or simply bypass the Treaties altogether. They call this a "pragmatic" approach, but they stay silent about the fact that they are acting outside of the rules. As if the EU Treaties are nothing more than non-binding recommendations, instead of a binding constitutional framework for the EU's democratic institutions.

Bending the rules

The conclusion must be that the current Treaties do not offer an adequate basis for fulfilling the wishes of the national governments after all. Moreover, they really detest bothersome transparency, and the nuisance of democratic oversight that come with the regular legislative procedures. By circumventing the Treaties, they escape the oversight of Parliament, the Court of Auditors, the Court of Justice, the European Public Prosecutor, the Ombudsman, and various other supervisory bodies for data protection, state aid or environmental regulations. Even when the government leaders act within the rules of the Treaties, they prefer to opt for the procedure that excludes the European Parliament.

If the Treaties then no longer suffice for the world of today, and if European policy apparently can no longer be made within the framework of the Treaties, then it should be expected that the government leaders would want to change it. But apparently

it serves them better to maintain the status quo. At the national level, something like that would lead to fierce protests, but at the European level, government leaders get away with it. Why? Because most of the citizens – including politicians - have so little knowledge of the European Treaties that no one will notice if the member states operate on their own loose interpretation of the rules.

Even the European Parliament is timid. In December 2020, after years of negotiation, a Regulation was adopted that made respect for the rule of law a precondition for receiving EU-subsidies. The European Parliament had fought long and hard for this Regulation, but the national governments had little appetite for it. The version that was ultimately adopted was weaker than the Parliament had hoped for, but still represented a great leap forward for the protection of the rule of law. However, in a simultaneous decision, the government leaders accepted a declaration at their European Council Summit, in which the European Commission got instructions on how to apply the regulation. With that, the European Council completely overstepped its powers. The European Parliament should have dragged the European Council to court for this flagrant violation of the Treaty, but it hesitated and dithered, until the deadline for submitting the complaint to court had passed. Instead, the Parliament submitted a complaint against the European Commission to the European Court of Justice, on the much weaker ground of ‘failure to act’, a dereliction of duty in other words. As so often, the political leadership of the European Parliament did not want a confrontation with the European Council and Commission. The Conference of Group Presidents quietly withdrew the legal action against the Commission, without informing the Members of the European Parliament. The Parliament was equally timid and fearful, when it refused to join a legal action, initiated by four European associations of judges, who challenged the approval of the Polish Recovery Plan (the basis for receiving billions in European subsidies) before the European Court of Justice.

A Treaty for the past

The loose interpretation of the Treaties suits some just fine, but it does show that Treaties are out of step with reality. The Lisbon Treaty, which has been in effect since 2009, was adopted in 2007, after a re-negotiation following the rejection of the earlier version in referenda in 2005. That still seems relatively recent, but consider the fact that work on the draft-Treaty had already begun in December 2001. At that time, the EU consisted of fifteen member states, one of which has since left the EU. Thirteen of the current member states were still in the waiting room. People were still paying with Marks, Guilders, and Drachma, because the Euro coins and bills had yet to be introduced. The attack on the Twin Towers had happened three months earlier, but Lehman Brothers and the banking crisis, Russian attacks on Georgia and Ukraine, Brexit and the Covid pandemic all still had to happen. Europe was still safely nestled under the arm of the United States, with the election of Trump far away in the future. The internet had only been available to the wider public for a few years, and the iPhone would only appear in 2007. It is not hard to argue that a Treaty, which was elaborated in that era, urgently needs an upgrade in the year 2023.

The outcome of the Conference on the Future of Europe, in which citizens discussed and worked out proposals, also makes it clear that there is a need for renewal. It is more than regrettable that the member states and the Commission let the proposals from that Conference disappear into a drawer. It was the European Council itself, which had thought of asking the citizens what they actually wanted from Europe, but apparently, they did not like the answers.

It is worrisome that the reforming the governance of Europe is now exclusively in the hands of persons who have a vested interest in the status quo. Those already in power have no interest in a stronger countervailing power. Government leaders tell the citizens

that the latter have the most influence in an intergovernmental Europe - a Europe of the nation states. Nothing could be farther from the truth. More indirect democracy does not hand back more power to citizens. Instead, it gives more power to the intermediaries: the national government leaders. It is high time for the citizens themselves to take matters into their own hands. Contrary to what some may say, this kind of constitutional reform is not boring, but essential for the 'contract' between the citizens and the European authorities. We have to engage in discussions on the constitutional foundations of our Union. It is not without reason that the Kremlin and the Trump Tower prefer to leave this issue to their nationalist lapdogs.

In July of 2023, the former President of the ECB and Prime Minister of Italy Mario Draghi delivered an impassioned plea for Treaty Change, and for deepening the integration, centralisation and democratisation of the EU. *"And so, one possibility is to proceed – as we have up to now – with technocratic, "functionalist" integration, making apparently technical changes and hoping that political ones will follow. This approach succeeded eventually with the euro, and it has ultimately made the EU stronger. But the costs have been high, and progress has been slow. The other possibility is to proceed with a genuine political process, where the ultimate goal is explicit from the outset and endorsed by voters in the form of an EU Treaty change. This route failed in the mid-2000s, and policymakers have shied from it since, but I believe that now there is more hope of movement.*

As the EU enlarges further to include the Balkans and Ukraine, it will be essential to reopen the Treaties to ensure that we do not repeat the mistakes of the past by expanding our periphery without strengthening the centre. And this should produce a natural alignment between our shared goals, collective decision making and fiscal rules.

The starting point of any future Treaty change must be the acknowledgement of the increasing number of shared goals and the need to finance them together, which in turn necessitates a different form of representation and centralised decision-making. Then, a move towards more automatic rules would become more realistic.

I believe that Europeans are more ready than twenty years ago to take this route, because today they only really have three options: paralysis, exit or integration.”

His plea was brave, because most political leaders avoid the topic assiduously. The final sentence of this citation makes it crystal clear that doing nothing does not lead to maintaining the status quo, but instead leads only to losing it. The European Parliament rightly called for a Convention. The government leaders for their part, should no longer put their own interest above that of the European citizens, and make that Convention happen.

European democracy: a new balance

When institutional reforms are discussed, new powers for the European Parliament quickly come up, most of all the right of legislative initiative. It is certainly necessary that the European Parliament obtains more powers, but it is not sufficient to only strengthen the Parliament as legislator. Primarily, it is the role of the European Parliament as a countervailing power, as a democratic watchdog, that needs strengthening.

Bringing balance

It is not a question of the powers of the European Parliament per se, but of the balance of power between the institutions. Some argue that the traditional model of separation of powers cannot be applied to the EU. The EU is not a state, the argument goes, but a 'sui generis' entity, a political unit in a category all by itself. That may be the case, but the elementary principles of a democracy remain entirely valid. Reforms must lead to these principles being expressed in the institutional structure of the EU. Some reforms require a modification of the Treaty, but even without Treaty change, a lot can be done to restore the balance between the institutions. The European Parliament can force some changes by using the powers it already has as a lever. Especially at the beginning of the new parliamentary term of office, when Parliament's vote of confidence is required for the installation of the Commission President and the rest of the Commission college.

A revision of the relationship between the Parliament and the European Commission must a priority. The European Commission as college is accountable to the European Parliament, according Article 17 of the current Treaty. In practice though, it appears to be

difficult for the Parliament to form a true countervailing power and call the Commission to account.

Spitzenkandidate

The first and decisive factor in the restoration of the balance of power is the *Spitzenkandidat*. In 2024, the European Parliament must not let itself be sidelined by the European Council. Instead, it must stick to the lead candidate of its choice, like it did in 2014. In principle, this means the candidate of the party that gains the most votes in the European election, but it could also be a candidate who is able to form an alternative majority. In any case, the Parliament must demand that the President of the European Commission be a candidate who was on the ballot for the European Parliament elections, and who ran a visible campaign, so that the European public knows him or her. It will be up to the newly elected Parliament in 2024 to grow a spine and accept no candidate that does not fulfil this requirement. For the long-term, it must be laid down in the EU Treaty that only the result of the elections will determine who becomes Commission President; not some opaque European Council procedure that is even less transparent than the appointment of the Pope.

There are proponents of a directly elected Commission President. That would turn the European Union into a presidential system, and further muddle the balance between power and countervailing power, as well as the question of democratic accountability. It appears to me a very undesirable scenario. It is better to firm up the democratic accountability of the European Commission. Under the current EU Treaty, the Commission is accountable to the European Parliament, but the Commission President is at the same time a member of the European Council. From a democratic viewpoint that is an aberration which must be done away with, at the earliest modification to the T.

The bond between the Commission and Parliament can be further strengthened by not just by voting on the Commission, not just at the beginning of the session, but again halfway through the session. This keeps the Commission on its toes, and aware of the fact that it does not get a blank cheque for five years, but that it must earn the Parliament's trust again after two and a half years. Such a mid-term re-confirmation vote does not need Treaty-change.

Downsizing the European Commission

Another crucial reform is actually already in the current Treaty: a smaller European Commission. The Lisbon Treaty, hammered out and adopted by the member states themselves, states that the number European Commissioners shall no longer be equal to the number of member states, but two thirds of that. For an EU27 that would mean only eighteen European Commissioners. In the fine print of the Treaty, however, there is also a backdoor: the member states could revoke the clause requiring a smaller European Commission by unanimous vote. They did not waste any time and made use of the backdoor before the ink on the Lisbon Treaty was dry. Most national governments view a European Commissioner as a sort of ambassador for their national interests. Some commissioners indeed act as if this were the case, although the commitment to the European Union and strict independence are legal requirements, established by the Treaties. A smaller Commission will be more independent from the behind-the-scenes pressure coming from the member states, whereas accountability to the European Parliament will be enhanced. In any case, this system of a one European Commissioner for every member state is not tenable, if the Union further expands to 35 member states or more. In practice, a hierarchy between senior and junior commissioners arises, which is not provided for in the Treaties. In the current College of Commissioners, this has already nurtured a 'presidentialisation'

of the office of the Commission President. Instead of such improvised and non-transparent solutions, outside of the Treaties, the government leaders must decide to finally implement the Lisbon Treaty and downsize the Commission.

A third measure, which will dramatically change the relationship between the Commission and Parliament, is the option of making individual European Commissioners resign. This must be arranged in the next Treaty change. Until that moment, the Parliament must make much more assertive use of its informal power, and of the agreement with the Commission about dismissing a commissioner if the Parliament calls for it. This should be a precondition for the vote of confidence by the Parliament for the new President of the European Commission in 2024.

Accountability

The vote of confidence on the next Commission President in 2024 should be made conditional on a number of other commitments that shall be laid down in writing. Among these is that the Commission President must come before the Parliament at least once a month for question time, during which the parliamentarians can table any question they want, without the usual strict protocol.

The Parliament should also demand that the Commission acts on every request from the European Parliament for legislative action, by putting forward draft legislation. Ursula von der Leyen promised this during her candidacy, when she needed Parliament's vote, but she quietly added some footnotes with reservations to it. The result has been that, in practice, the Commission routinely pushes the Parliament's requests for legislative initiatives aside. This time it must be set forth in black and white, as a rock-hard precondition for a vote of confidence.

Any Treaty change must grant the European Parliament the formal right to legislative initiative, as is the case for many parliaments. Equally important is the right of inquiry, under which witnesses can be heard under oath, and under which a parliament has the right to view confidential documents. Even without these powers, parliamentary inquiries by the European Parliament have so far been successful, but they required a lot of brinkmanship and improvisation. The inquiry into the abuse of spyware, the tampering with the measurements of the diesel emissions from cars, or the inquiry into the purchasing of Covid vaccines have yielded a lot of information, but they will have infinitely greater impact if Parliament has complete investigative authority.

Conversely, Parliament should not fall into the trap of taking part in all kinds of joint task forces with the other institutions. As soon as Parliament gets involved in executive and implementing tasks, such as the contact group for the purchase of vaccines, the separation of powers evaporates, and Parliament compromises its scrutiny role. The Parliament must once again become aware of its role and maintain a greater distance from executive tasks.

A 'real' budget

The manner in which European finances are organised needs to be overhauled completely. The European Parliament must be granted complete co-determination over all revenue and expenses. No more earmarked pots of money for different purposes that fall outside of the Parliament's democratic control. The seven-year itch-cycle of seven-year budgets must be abolished. The current set-up is fundamentally undemocratic, given the fact that elections have no influence on it whatsoever. The budget must become a 'normal' annual budget, which is discussed by the European Parliament in a public debate, amended, and adopted on the basis of political priorities.

Real European electoral lists

Concerning Parliament itself: the introduction of transnational lists for a 'pan-European constituency' must be arranged before the 2024 elections. Technically, it is possible, albeit a very tight squeeze. It is the member states who have no interest in it. It is hard to understand why. National parliaments will lose nothing, while the voters will gain.

European Sheriffs

Some lesser-known EU-organs need to be strengthened and reformed in order to strengthen the democracy of the EU. The European Public Prosecutor's Office (EPPO) and Europol should have supranational operational powers in the whole EU, and no longer be dependent on the approval of national governments. Every time national authorities themselves become part of illegal and criminal activity, Europol in particular runs into a brick wall. Europol is unable to initiate investigations into crime involving national authorities or officials. Corruption and crime, happening within government circles, for example in Malta, Slovakia, Poland, or Greece were not adequately taken on by the national police or justice departments. But Europol was also consequently kept out, which benefits the bad guys but has little benefit for citizens. This loophole needs to be closed. Europol must become a kind of European 'FBI', able to act against cross-border crime. EPPO has slightly more autonomy than Europol, but also a more restricted working field. Its mandate and capacity must be drastically expanded to encompass all relevant types of crime including, among others, environmental crimes, terrorism, cross-border serious crime, or the evasion of sanctions.

The citizen is the boss

There must be radical transparency. The European Council must meet and decide in public. All documents from in camera 'trilogue' negotiations, between the Council and European

Parliament, must become public (as the European Court of Justice had already ordered, by the way). All documents from the EU-institutions must in principle be made available online pro-actively. Every EU-institution must appoint a 'Transparency and Information' Officer within the political leadership. The European Parliament must also take measures to clean its own house, not least of all in the wake of the *Qatargate*-bribery scandal.

Radical transparency must also apply to the implementation of European laws that touch on the basic rights of citizens, most of all to the unbridled use of personal data. With artificial intelligence on the rise, this requirement becomes all the more urgent. As outlined, the control of authorities over citizens has increased spectacularly. Now, citizen's control over the government must grow in equally spectacular fashion, so that the balance is restored. The government must once again become the servant of its citizens, instead of its boss. The European Charter of Human Rights must become generally applicable, so that national authorities can no longer hide behind 'subsidiarity' to restrict the rights of citizens.

Et ceteram censeo abolendum esse Europeum Consilium.
The European Council must return to its old role of an informal gathering of government leaders, where they discuss long-term strategic matters. If not, then the European Council must at least be subjected to a clearly defined institutional framework and to the same transparency and accountability as all other democratic institutions.

European demos

A crucial ingredient of a democracy is of course the *demos*, the people. The first argument of Eurosceptics is that the EU does not have a *demos*. They claim that Europe is constructed of twenty-seven culturally, linguistically, and historically homogeneous member states, and that a European *demos*, with a shared identity and public opinion, is impossible. The assumption that the member states are cultural monoliths with a uniform national identity since the beginning of time is a fiction. Most member states are internally very diverse, in different ways. Even more important is the fact that most of these states were until recently, in some cases very recently, not even independent states. Many states were established through war, conquest, partition, or annexation. Not exactly a bottom-up expression of the will of the people. Those new states got their identities imposed on them from above as political constructs, by means of national institutions - an army, a national education system, a national legal and judicial system, social security, symbols, heroes, and myths, and not least by imposing a dominant or unified language. The map of European languages does not correspond to the map of European states. The whole concept of the nation-state does not apply to all those cases in which states and nations do not coincide. Not to mention religion, which also does not necessarily conform to national borders. It is ironic that nationalist EU-haters reproach the Union for imposing uniformity and suppressing diversity, since it is precisely nation states that have a history of enforcing national identity with violence.

The European Union has no heroes, myths, institutions, or language of its own. Quite the opposite: The motto of the EU is "Unity in Diversity". The EU Treaties have actually served to defend the rights of a great many cultural and national minorities.

Cultural homogeneity is absolutely not a precondition for the formation of a political community and a political identity. Especially in the digital era, it appears quite possible to forge a sense of community across national borders, even across continental borders.

Think of Greta Thunberg, the undisputed leader of a worldwide movement of youth who are worried about the climate. Or of international, even universal movements such as *#MeToo*, *Black Lives Matter* and *#SheDecides*. Even during the Covid pandemic, demonstrations against restrictive measures were not national phenomena, and the blockades of ‘antivaxx’ truckers were clearly organised internationally.

But there are earlier examples, such as the marches against the Iraq invasion, which were held simultaneously world-wide. The protests against the excesses of capitalism by *Occupy Wall Street* and the Indignados, which were associated with the online actions of *Anonymous* with the Guy Fawkes masks. Or the ‘Je suis Charlie’ demonstrations in response to the murderous terrorist attack on the editorial staff of the French satirical magazine *Charlie Hebdo*.

Ever more often, as European parliamentarians, we are bombarded with petitions for or against the most varying subjects, from the abolition of bullfighting to diesel-emission norms, from saving the bees to protests against (or for) crypto-currencies.

More than anything, the major issues touching people directly in recent years– Covid-19, war, energy, inflation, healthcare, climate –are entirely cross-border in nature. These were the very topics discussed in the largest exercise in pan-European direct democracy to date: The Conference for the Future of Europe.

Remarkably, it is the most anti-European parties who have organised themselves on a pan-European level. This applies also for

the ultra-reactionary parties and organisations, which have a political agenda that is driven by very strongly shared values that usually amount to restoring patriarchy. The aforementioned linguistic and cultural barriers clearly present no obstacle to their cooperation.

Essential for a political community and European public space are shared media. In recent years, pan-European and international consortia of investigative journalists have been growing very strongly. They form a very powerful democratic check on power, by digging deep and exposing abuses and denouncing them. Such as for example financial malfeasance and tax evasion in the Panama Papers, Paradise Papers or LuxLeaks, the spyware scandal in the Pegasus Project, or systematic pushbacks of refugees in the Lighthouse Project. Ever more frequently, major national media work together in projects and publish their findings simultaneously. More and more often, journalists are cooperating on reports, ad hoc or in a structured manner.

The media are also reporting more and more on the political situation in other EU-member states, even the smaller ones. The reporting is still very modest and does not compare to the round-the-clock reporting by European media on American politics, but it is still an important development, as changes in national politics, automatically change the composition of the Council and European Council.

Political parties across Europe are organised into political families, which are often a sort of federation of national parties. Most of the European parties are actually hardly known and even the fact that a national party belongs to a European political family is also mostly unknown. The only pan-European political party that was started as such is Volt. Volt has the same formal structure as the other European parties, but because it was not built on existing national parties, it has had a common manifesto, logo, and identity from the beginning.

For EPP, S&D and the European Greens, the groups in the European Parliament and their respective European parties largely overlap, and they will each have their own Spitzenkandidat. It is more complicated for the liberal centrist Renew Europe Group, which is made up of different pillars, including the liberal democrat ALDE party and Macron's French Renaissance Party. It has been agreed to run a joint campaign for the 2024 elections, but whether a joint Spitzenkandidat will be selected remains to be seen, as the French pillar in particular is not keen on it.

Ultimately there is a very robust basis for a European political identity and community and therefore for European democracy. At the very time where Europe has to take a great leap forward.

Epilogue

Looking back on more than seventy years of European integration the European Union is and remains an impressive success story. Large parts of Europe belong to the richest regions in the world. Welfare and well-being go hand in hand in a manner, which inspires the whole world. Peace is maintained and in spite of its evident shortcomings, the EU is a democratic bulwark in the world. Generations who went through the other extreme, the darkest days of our continent, are still among us. Totalitarian repression is for many EU-citizens a much more recent memory. The current Czech European Commissioner used to be a political prisoner. The French woman leading the European Central Bank, was born in a year when women in France could not open a bank account of their own independently. For the Prime Minister of Luxembourg, equal marriage with his partner became possible only two years after he took office as a government leader.

The European Union, in short, has a lot to be proud of. As worried as I may be about a number of very serious shortcomings and even threats, I will not lose sight of that. Quite the opposite. Precisely because of these achievements, Europe is worth fighting for. As a democrat with every fibre of my body, each shortcoming is mainly a chance to make the EU more democratic. The objective of this book is to make fellow democrats aware of the opportunities. The time for a fundamental debate about the governance of our Union is now. In the same way that it is a topic in national politics. The anti-democratic forces understand the strategic importance of dominating the debate on institutional reforms, just look at Poland, Hungary, or Israel. It is high time the democratic, progressive, pro-European forces stop shying away from the topic of institutional reform.

The EU is much more present in our daily lives than we think. We cannot afford to ignore and neglect our European democracy. Yes, it requires focus and energy. The European Union is often a mishmash of abbreviations and institutions. The European Council, the European Commission, the European Parliament; the names are similar, and they are all located in 'Brussels'. Simplistic newspaper headlines that refer to 'Brussels' as a kind of blob, doing things - usually something bad - drive me berserk. I once even saw "Brussels" being used to refer to the European Court of Justice in, well, in Luxembourg. It does not help that National politicians and the media usually reduce the EU to a flat, one-dimensional topic. Citizens are entitled to proper information.

Under all the confusing abbreviations and gigantic glass and steel office buildings in Brussels, a struggle for power is taking place. A fight for the balance between power and countervailing power, with democracy at stake. You, as an EU-citizen, are the prize. Less than a year from now, it will be your turn to make your voice heard. The good news is: if you are interested in these elections, you will have more fellow-democrats than in the previous elections in 2014 and 2019. A growing number of Europeans are supportive of and interested in the EU. Now it is time to get mobilised and active. Passiveness is no option, certainly not since the powers that be are active and on the alert, resisting any limits to their power. There is a lot to fight for. A countervailing power must be built, it does not just happen by itself.

The European Union is a *work in progress*, just like many other democracies. The fact that there is still a lot of room for improvement, demands active participation from citizens and political parties. Only those who are active, determine what will happen. If we let only government leaders call the shots, the power balance will get skewed to the disadvantage of citizens. We cannot let that happen. The EU will keep going forward, because the EU

is our best answer to the developments in the world. The question is whether we, as democratic citizens, are in the drivers seat or not. The answer to the question must be “yes”.

Brussels, 28th of August, 2023

