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The United States of Europe

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The reality behind the narratives

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The United States of Europe: the reality behind the narratives

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After careful consideration, I believe that the expression "United States of Europe" lends itself best ... to aptly describing the end state to which the EU must accede.

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We decide on something, leave it lying around and wait and see what happens. If no one kicks up a fuss, because most people don't understand what has been decided, we continue step by step until there is no turning back.

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We need Europe more than ever, let's be clear. To defend our interests against China or the United States, we need more Europe. To make a success of the climate transition, we need to do so at the European level. We need more Europe if we are to feed ourselves successfully, if we are to cope with the major changes in migration, digitalisation and technology.

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Eighty years on, it may be time for a new Ventotene Manifesto. One that focuses not just on the critique of nation-states as the source of wars and international anarchy, but that highlights their limitations to address the big transnational challenges of our time, such as pandemics, climate change, migration and digital transition.

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2 Executive summary

- The goal of the EU elite is to create a United States of Europe (USE), which would end the sovereignty of the member states. They would grab all substantial competences from the member states and centralise power in Brussels.

- In order to avoid the resistance of European countries and their citizens, usually, the tactic of the EU elite is to remain evasive on the question and hide their real intentions.

- One of the most common euphemisms consists in asking for 'more Europe' without admitting the real impact this would have in legal and political terms on the sovereignty of European countries. When confronted with criticism, the EU elite often escapes into denials.

- They only speak about their goals more openly when they feel in a position of power. For example, when the political context provides a good pretext for greater centralisation (Covid-19, war in Ukraine), or when they think that European integration has arrived at a point from which there is no turning back.

- Though the last treaty change occurred in 2009, in practice, the EU has undergone stealth transformation in the direction of a USE ever since then.

- The European Commission has arbitrarily decided to become a 'political Commission' instead of remaining a technical body. It wants to take the place of the European Council and define the general political direction of the EU.

- The Commission intervenes more and more harshly into the internal affairs of member states. It exerts political pressure on them in matters which traditionally and legally are their sole competence. The Juncker Commission started this tendency by applying ever wider rule of law tools. The Von der Leyen Commission has taken political pressure to an even higher level by also using financial pressure to impose its political will.

- The European Parliament has lost one of its main characteristics: the diplomatic dimension. Instead, it has become the ruthless adversary of the national idea and the member states. Debating the internal situation of the member states became commonplace in the EP, although such issues are supposed to be beyond the competences of the EU.

- The EP has become especially hostile to national governments which do not subscribe to the mainstream progressive ideology and stand up for national sovereignty instead of giving in to the claims of a USE.

- The European Court of Justice (ECJ) has become an activist court. It is playing an increasingly direct and open role to back the builders of a USE at the expense of member states.

- A case study focusing on the ECJ's case law on the rule of law shows that, at the end of 2010s, the ECJ changed its approach regarding highly political matters. It gave up its original prudent approach, and became a key actor in the political struggle between EU institutions and member states.

- The EU is facing a new turning point. Lately, EU reform plans have been on the increase, by which the elites try to give new impetus to the construction of the USE and translate it into treaty change.

- The reform plans would extend supranational decision-making as well as end unanimous votes even in the most sensitive policy areas. They would also extend the EU's competences in a wide range of policy areas. They would further politicise the European Commission and make it much easier for EU institutions to discipline member states under reformed rule of law procedures.

- Builders of the USE tried to provide a false democratic appearance and legitimacy for their top-down project by means of the Conference on the Future of Europe. They are also trying to use the new momentum for EU enlargement to achieve a transformation of the EU.

3 Introduction

What is the United States of Europe (USE)?

A real political project? A utopia that European elites dream about? A slogan used by nationalist political forces to scare citizens away from European integration?

This study aims to show that the idea of the USE is not a simple fantasy, but a political reality. In fact, the USE has been under construction for a long time, even if this process was not always easy to see.

The advocates of the project decided to talk about it more or less openly, depending on the political context. They paved the road to a USE not only with explicit declarations, but also with rowbacks, euphemisms and nebulous formulations.

In the meantime, the EU has undergone a de facto transformation, in which its supranational characteristics have been strengthened.

The latest EU reform proposals on the table show that the idea of a USE has recently returned to the European political scene with renewed vigour.

4 The evolution of a narrative

4.1 The unspeakable goal

At the time of the Convention on the Future of Europe in the early 2000s, the competition between those who believed in a Europe of Nations and the advocates of a Federal Europe was tangible. One can read interesting studies on this period, which describe the composition and the reasoning of the inter-governmentalist and federalist camps.[1] Back then, the debate between these opposing forces led to compromise concepts describing the European Union as 'intergovernmental federalism' or as a 'Federation of Nation States', an idea introduced by the former European Commission president, Jacques Delors.[2]

The outcome of the Convention was the draft Treaty establishing a Constitution for Europe, adopted on 13 June and 10 July 2003 by the European Convention. The draft Treaty would have reinforced the supranational character of the European Union, but the notion of federalism was not in the text explicitly. A French MEP and member of the Convention, Alain Lamassoure, celebrated the draft Treaty in 2003, saying: 'In reality, we have built a federal Europe. Provided we don't use the word, we have brought together the representatives of all the political parties – in the sense of the parties that are in government today or tomorrow – of all the parliaments of all the countries concerned by the construction of Europe.'[3]

However, the draft Treaty could never enter into force, because French and Dutch citizens voted against its ratification at national referendums in 2005. Top-down construction of a European constitutionalism failed the test

of popular will. This episode prompted the European elites to retreat, and contributed in large part to explicit claims for the USE being taken off the political agenda.

The words of Viviane Reding – a former member of the European Parliament and of the European Commission, and a promoter of the USE – show that proponents of the USE had become much more cautious. In a speech in 2012, she talked about politicians getting embarrassed when it comes to talking openly about the federalist goal:

> *When citizens today ask us what will become of Europe or where the train of European unification is heading, we politicians normally remain evasive. 'We don't want a superstate', is usually the first sentence, for fear of being misunderstood by neoliberals, supporters of state sovereignty or the Federal Constitutional Court in Germany. Then we usually go on to say: 'You know, the European Union is a unique construction. We don't want a European federal state, but rather a confederation or federation-type structure' or a 'union of nation states'. My long experience has taught me to show understanding for such linguistic contortions, even if it means that public-law specialists tear their hair out. I must confess that I myself have often sought salvation in formulas of this kind in recent years.*[4]

Such sentiments echo the words of Antoinette Spaak, a former Liberal Party MEP in 1999: 'For a long time, the supporters of federalism decided by mutual agreement to stop using the term in Parliament, because it was such a red rag to its opponents.' [5]

Reding also highlights another important element of the political context, which explains why some leading political forces in Europe preferred avoiding open references to the USE:

> *At around the same time as the negotiations on the Maastricht Treaty, talks began on admitting Forza Italia, the right-wing conservatives in Italy, and the British Tories to the EPP [European People's Party]. This enlargement would make the EPP the most powerful political group in the European Parliament for a long time to come. However, the price of this political objective was high: in return, the EPP had to accept that the objective of a federal Europe with a Christian imprint and the vision of a United States of Europe would be removed from its statutes.*

One could also add, that later on, the accession of parties from future Eastern and Central European member states would also have a similar impact on the federalist narrative. Since most of these countries had just been liberated from the oppression of the Soviet Union, a strong federalist model, which would have reduced the sovereignty of the member states, would not have been so popular among them.

That is why, if we look back in the short or medium term, we cannot see an explicit mainstream project of a USE. It is not by chance that public opinion was not aware of the realities of the political objective of the European super state: advocates of the USE deliberately hid their intentions from public opinion, which led to negations, euphemisms and rowbacks regarding the federalist narrative.

4.2 'More Europe': euphemisms and denials

A common euphemism consists in talking about 'more Europe' rather than a 'federal Europe', a 'United States of Europe' or a 'European super state'. Through this phrase, it is possible to formulate more cautiously, more softly, the demands for more competences to be transferred to the European Union, without having to talk about the real political consequences of this transfer of

power between the EU and the member states. The slogan of more Europe has the potential to be more accepted in the eyes of citizens.

Certainly, looking at it from the outside, more Europe can have a positive connotation, because intuitively it suggests more cooperation in Europe between different people and different member states. And obviously, it would be hard to find anyone who could be against more brotherhood between European people.

Another positive understanding of more Europe can be that the European Union should deliver more in some policy fields crucial for citizens. This phenomenon was very visible during the Conference on the Future of Europe held between 2021 and 2022.[6] Reading the conclusions of the conference, one can observe that when they asked citizens if the EU should do more on developing healthcare, living standards, social policies, climate protection, etc, people were, of course, in favour.[7]

Naturally, citizens did not look at these issues from the point of view of the division of power between the national and supranational level, but simply welcomed the possibility of concentrating more investment in these areas. Certainly, they would have also answered positively if they were asked if the state of their own country should do more in the above-mentioned fields. From the perspective of citizens, the emphasis is necessarily on the outcome of a policy, like improved healthcare and social services, and not on the question of who should act or dispose competences in order to achieve improved policy results.

For the above reasons, the slogan of more Europe has become recurrent. We can find many illustrations of this. For example, an article from 2011 on the blog of the International Monetary Fund (IMF) argued that 'to put the crisis behind us, we need more Europe, not less. And we need it now.'[8]

Herman van Rompuy, a former president of the European Council, argued in a lecture at Sciences Po Paris in 2014 that 'we need more Europe, not for ideological reasons, but when we have chosen a common currency ... it is a necessity'.[9] More recently, during the Covid-19 crisis in 2020, the Committee of Regions adopted a press release titled 'Regions and cities need more Europe to face the crises and challenges'.[10]

In her opening statements after her election in 2019, the current president of the European Commission, Ursula von der Leyen, portrayed more Europe as a demand from the outside world: 'As a defence minister, I have been many times in this war-torn neighbourhood. I will never forget the words of former President of Iraq Masoum, who said: "We want to see more Europe here. The world is calling for more Europe. The world needs more Europe."' From this, she deduced that the EU should stop seeking consensus between member states in foreign-policy matters: 'I believe Europe should have a stronger and more united voice in the world – and it needs to act fast. That is why we must have the courage to take foreign-policy decisions by qualified majority. And to stand united behind them.'[11]

Similarly in 2015, Manfred Weber, chairman of the EPP group in the European Parliament, addressed a call to German Chancellor Angela Merkel and French President François Hollande asking for more Europe, saying 'the world is not going to wait for us to sort out our internal debates. We require your courage to create more Europe and more Union.'[12] The response was favourable. According to a report by *Le Monde*, Merkel and Hollande jointly called for more Europe to tackle the migration crisis at the same plenary session of the European Parliament in Strasbourg.[13]

French President Emmanuel Macron has also continued the tradition of asking for more Europe. He even made it one of the main elements of

his political agenda. For example, on 31 January 2020, on the occasion of Brexit, he said:

> *We need Europe more than ever, let's be clear. To defend our interests against China or the United States, we need more Europe. To make a success of the climate transition, we need to do so at European level. We need more Europe if we are to feed ourselves successfully, if we are to cope with the major changes in migration, digitalisation and technology. And so I would be lying to you this evening if I told you that the future of our country could be built on less Europe or on withdrawal.*[14]

Another euphemistic way to talk about the United States of Europe consists in speculating over the notion of sovereignty. Sovereignty is a crucial part of the classical, public-law definition of the state. A state no longer exists if it does not dispose of the main power over its territory and population. That is why we can see attempts to dilute the notion of sovereignty and transfer it to the European level.

For example, in his speech on the future of Europe on 17 April 2018, Macron declared: 'We can and must build a new European sovereignty by the means of which we will provide a clear and firm response to our fellow citizens that, yes, we can protect them and provide a response to this global disorder.'[15] He advised MEPs to rethink the whole concept of sovereignty, and construct the notion of 'European sovereignty', a new type of sovereignty, which should be linked to liberal democracy, a fight for fundamental rights and the fight against nationalism.

At another point in his speech, he modified the base concept of sovereignty by adding adjectives to the original notion, speaking about 'specific sovereignties', such as 'economic and trade sovereignty', 'climate and energy sovereignty', 'digital sovereignty' and even 'food sovereignty'. Even though the details of this new concept of sovereignty are not entirely

clear, its meaning is certainly very far from the original legal and political sense of the word.

In addition to euphemisms, sometimes it happens that promoters of the USE row back and claim they are not promoting this project or, at least, are not promoting it anymore. Some people tend to banalise the topic by negating the importance of the divide between the vision of the USE and the vision of the Europe of Nations.

For example, Frans Timmermans, at the time the minister of foreign affairs in the Netherlands, published an article in the *Financial Times*, in which he advocated for more power for the European member states:

> *The [European] parliament has been fully empowered by the Treaty of Lisbon. It has an important role to play, but at every turn it demands more resources for more Europe while it attracts ever lower electoral turnouts. The member states must restore the political balance in the EU, help it regain its focus and make the EU work for Europeans again.*
>
> *That is why, first, the Netherlands proposes to negotiate a European Governance Manifesto for the next five years with the member states, the incoming commission and parliament. It should lay down what Europe needs to focus on, and also what Europe needs to leave to the states. This will mean more Europe in some areas, and less in others.*[16]

Timmermans' words, by which he suggested setting limits against the power aspirations of supranational institutions, are interesting because, after he became first vice-president of the European Commission in 2014, his actions showed that he was in fact one of the most committed builders of the USE. It was under his leadership that the Commission launched a series of investigations into the rule of law in member states. As I will explain later

in detail, EU rule of law procedures are subjecting member states to ever-widening scrutiny and are clearly challenging their political sovereignty.

We can also see curious moves on the part of Ursula von der Leyen. At the moment when she became the nominee for European Commission president, *Politico* reported a rowback regarding her position on the USE. In fact, Von der Leyen told *Der Spiegel* in an interview in 2011 that her 'aim is the United States of Europe – modelled on federal states like Switzerland, Germany or the US'.[17] It was not the only occasion she talked about this project. In an interview with *Die Zeit* in 2016, she said: 'I imagine the Europe of my children or grandchildren not as a loose union of states trapped by national interests.'[18]

However, later on, in another interview for *Politico*, von der Leyen said her dream of a federalised EU had become 'more mature and more realistic', and that 'in the European Union, there is unity in diversity'. She added, 'that's different from federalism. I think that's the right way.'[19] Had she really changed her mind, or was this change of tone simply a way to obtain the support of Central and Eastern European member states for her ambitions to taking the presidency of the Commission?

Philippe Juvin, the former French MEP of the European People's Party, is another figure who has downplayed the divide between the promoters and the opponents of the USE. In an article in *l'Opinion* with the title 'Europe of nations vs. federalism: a false, manipulative and dangerous debate', he explained that it does not make any sense anymore to talk about this type of divide because the European Union has both supranational and intergovernmental characteristics, arguing that 'this opposition is a false debate that does not credit those who maintain it. The current European Union is both a Europe of nations and a federal Europe.'[20] According to Juvin, those who

highlight the project of the USE play an electoral game, which consists in making the electors afraid of European integration.

Perhaps Juvin was influenced by the fact that during the EP election campaigns in France, the debate between the United States of Europe and the Europe of Nations was not substantial enough. However, it is not clear why, even if the EU had both supranational and intergovernmental features, there should not be a debate on which one should be strengthened in the future.

In fact, the USE is a crucial topic, which must be discussed in order to make possible a democratic choice on the future of Europe. The opacity and the variability of the narrative around the USE does not mean that this is an unlikely project. On the contrary, this vagueness is often a basic precondition for a 'political consensus' that can help in building up a policy.[21]

This is also a tactic. Promoters of the USE talk about their political project more or less openly, depending on the context. This makes it possible to avoid criticism instead of addressing it. This evades controversy instead of entering into substantial debates that the promoters of the USE might lose.

In European policy-making, cautious, step-by-step, unvoiced progress is often the way to reach the political objective. Jean-Claude Juncker, a former president of the European Commission and former prime minister of Luxembourg, once described the European integration process with the following words:

> *We decide on something, leave it lying around and wait and see what happens. If no one kicks up a fuss, because most people don't understand what has been decided, we continue step by step until there is no turning back.*[22]

Juncker's words can be found in an article of *Der Spiegel*, which quoted him specifically in the context of building a European federal state.

According to the article, this method was applied in the case of different federalist policies, including the introduction of the euro, 'when in fact hardly anyone wanted to realise the significance of the first decisions in 1991 on economic and monetary union'.[23]

4.3 The cards on the table again

Despite all of these euphemisms and evasion tactics, the project for a United States of Europe is real. Politicians sometimes speak about it openly and this tendency has been strengthening in recent years.

Angela Merkel once made it clear that 'more Europe means that we must give up more powers to Europe'.[24] In 2012, in the context of the Eurozone crisis, she concluded that 'the lesson of this crisis is more Europe, not less Europe'.

We have also constant promoters of the United States of Europe. Guy Verhofstadt, a former prime minister of Belgium and one of the most influential MEPs of the liberal group in the European Parliament, has often advocated for a United States of Europe. In 2013, when he received the Doctor Honoris Causa award from the National University of Political Studies and Public Administration in Bucharest, he said:

> *There is only one way to tackle our problems. That is to recognize we need more Europe in our globalised world of today. And that it is only a more integrated Europe that can defend our model. Our principles. Our values. And that in order to regain our sovereignty. Not to lose it as many would have you believe. No ladies and gentlemen. I repeat. In order to regain sovereignty. To regain the capacity to take care of our own destiny. To control our own future... [W]hat would be a disaster for Europe – would be less Europe. And what would be a disaster for member states, would be less Europe. So, we need a political union with*

a real European government. With a European treasury. We need to go forwards to the United States of Europe.[25]

Even if Verhofstadt nuanced his message by specifying that the USE should not be a 'uniformed centralised place', and that in the USE, the decisions would be taken democratically and at the level where they can be implemented, he is clearly one of the loudest opponents of those who defend national sovereignty.[26]

Viviane Reding, who I have already quoted above regarding the question of how much the federalist should speak out loud of their real intentions, also concluded in 2012: 'After careful consideration, I believe that the expression "United States of Europe" lends itself best to being widely accepted and to aptly describing the end state to which the European Union must accede.'[27]

On 7 December 2017, the former president of the European Parliament, Martin Schulz, posted on social media: 'I want a new constitutional treaty to establish the United States of Europe. A Europe that is no threat to its member states, but a beneficial addition.'[28]

One can find promoters of federal Europe in different political groups of the European Parliament. A good example is the Spinelli Group, created in 2010, and 'composed of MEPs belonging to different political families who pursue the objective of the federal reform of the European Union'.[29]

The website of the Spinelli Group currently lists 76 incumbent MEPs as members.[30] This means that there are more MEPs in the Spinelli Group than in many official political groups in the European Parliament (EP). By comparison, at the constitutive session after the 2019 EP elections, there were only 41 MEPs in the left GUE/NGL group, 62 MEPs in the European Conservatives and Reformists (ECR) group, 73 MEPs in the Identity and Democracy (ID) group and 74 MEPs in the Greens/EFA, while 57 MEPs were non-attached.[31]

The fact that the Spinelli Group has board members from five out of the seven groups in the EP also reflects the influence of the federalists. Board members come from the four largest groups of the EP – namely the EPP, the Socialists and Democrats (S&D), Renew Europe and the Greens/EFA – as well as GUE/NGL. ECR and ID are the only EP groups that do not have representatives on the board of the Spinelli Group.

The Proposal of a Manifesto for a Federal Europe: Sovereign, Social and Ecological, launched by a delegation of the Spinelli Group members in the European Parliament and federalist activists on 2 March 2022, also shows how much the idea of the USE is present among the European elite.

The authors quote, for example, Spanish Prime Minister Pedro Sánchez, who said that 'to protect Europe is to advance in the social Europe, in the Europe of defence and the Economic and Monetary Union. In short, a federal Europe.'[32] They also quote Mario Draghi, the former president of the European Central Bank and former prime minister of Italy, according to whom 'we not only need pragmatic federalism; we need a federalism based on ideals. If this means embarking on a path that leads to a revision of the Treaties, then this must be embraced with courage and with confidence.'[33]

They also refer to statements by Josep Borrell Fontelles, the current High Representative of the Union for Foreign Affairs and Security Policy: 'Eighty years on, it may be time for a new Ventotene Manifesto. One that focuses not just on the critique of nation-states as the source of wars and international anarchy, but that highlights their limitations to address the big transnational challenges of our time, such as pandemics, climate change, migration and digital transition.'[34]

A very significant development at the end 2021 was that the idea of a federal European state made it into the German government's coalition

agreement. In the chapter dealing with the future of Europe, Germany's ruling parties declare that they are using the Conference on the Future of Europe for reforms and that they support the necessary treaty amendments. According to the document, 'the conference should result in a constitutional convention and lead to the further development of a federal European state, which is organised in a decentralised manner according to the principles of subsidiarity and proportionality and is based on the Charter of Fundamental Rights'.[35]

This political programme by 'the EU's largest member state and the world's fourth-largest economy' (a formulation employed by the coalition agreement to describe Germany), shows that the idea of a USE is not only gaining ground in the transnational institutions of the Union, but is also taking root among the member states' elite.

In the European Union, the Council has been the institution that has best counterbalanced the EU's transnational ambitions, both in principle and in practice. It was this institution, made up of the ministers of the member states, which was the most committed to the sovereignty of the member states and to the principle of intergovernmentalism. However, following the above explicit political declaration by Germany, one of the member states having the most political and economic weight in the Council, it is unlikely that this institution will be able to counteract European federalist tendencies in the same way as before.

4.4 The return of a favourable context

One can observe a clear tendency of claims for a USE becoming more and more explicit over the past few years. There may be several contextual reasons for this phenomenon.

First, the advocates of the USE may think that we have arrived at that phase, which Jean-Claude Juncker described previously as a moment of 'no more turn-back' on the way towards the European federal state.[36]

As we saw, the Treaty establishing a Constitution for Europe failed in 2005. However, the Lisbon Treaty adopted in December 2007, which entered into force in December 2009, took over a large part of the institutional reforms the constitutional treaty foresaw.[37] This treaty change strengthened the supranational institutions of the EU, such as the European Commission and the European Parliament.

Also, the transformation of the EU did not stop in 2009, but it has been ongoing ever since. Officially, only the member states together can decide on changing the power relations between themselves and the European Union, within the framework of a debate on the structural reform of the EU. The structural reform would need a treaty change with unanimous support of the member states. Article 48 of the Treaty of the European Union (TEU) regulates the different revision procedures of the Treaties. Both the ordinary and the simplified revision procedures have in common that, at some point in the procedure, there needs to be unanimity among the member states.

Until revision of the Treaties, from a legal point of view, the EU should function within the current treaty framework. According to Article 5 of the current Treaty on European Union, 'under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the member states in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the member states.'

However, from a political perspective, one can see that the EU went through important changes ever since the Lisbon Treaty entered into force.

As I will demonstrate later in detail, integration by stealth has been ongoing during the past decade and a half. Supranational EU institutions strengthened a lot during this period. Advocates of more Europe may feel that they are now strong enough to enact political transformation of the EU into a more federal structure.

Secondly, political power relations in the EU also provide for a favourable context for advancing towards the USE.

Federalists are in a position of strength in the European Parliament, where the political scene is unbalanced. As discussed earlier, the ECR and ID groups are the only ones who do not have representatives in the federalist Spinelli Group, but they do not have enough seats in the EP to counterbalance the current federalist tendencies.

Many EP resolutions illustrate the fact that the current majority is clearly in favour of supranational supervision of the member states. The EP's current political majority has been regularly looking into member states' internal political debates. They have often formulated claims towards national parliaments and governments with regard to topics pertaining to the field of national politics, such as family law, the fight against the pandemic or the organisation of the judiciary.

In addition, in its resolution of 19 May 2022, the EP went so far as to 'call on the Commission to closely monitor the rulings of national courts regarding the primacy of EU law over national legislation and in particular the incompatibility of certain articles of the Treaties with national constitutions'.[38] This call is reiterated in a resolution adopted on 21 November 2023 on the implementation of the principle of primacy of EU law, in which the EP also 'calls on the Commission to initiate infringement procedures under Article 258 TFEU in response to judgements of national constitutional or supreme courts that challenge the principle of primacy'.[39] This means that the EP

would put political pressure not only on national political institutions, but also on national courts to ensure their judgements do not challenge a federalist interpretation of the EU law, which argues for an absolute primacy of EU law over national laws.

Political power relations are also favourable to the advocates of more Europe in the Council. Since his election in 2017, President Macron has been pushing an agenda towards more Europe. As noted earlier, since 2021, a left-wing, socialist-green-liberal coalition has been leading Germany with explicit European federalist goals. This means that the Franco-German 'engine', which has been central to European decision-making, is committed to federalist goals.

Traditionally, the United Kingdom used to counterbalance supra-national tendencies within the European Union. However, the UK left the EU in 2020, following the referendum on Brexit in 2016. Already the day after the historical referendum, the UK's position inside the EU weakened. After the Brexit vote, it was clear that the UK had little legitimacy in shaping EU politics. Instead, the UK concentrated its efforts on organising and negotiating the exit, rather than on taking positions regarding the functioning of the EU.

Brexit had a double impact on European politics, both favourable for the federalist tendencies.

First, those who did not believe in federalism lost an important ally. The UK used to be the second largest economy[40] and the country with the third-largest population in the EU.[41] The UK also had 73 MEPs out of 751, the majority of which sat in EP groups sceptical about European federalist ideas.[42] Because of Brexit, the intergovernmentalist camp became politically much weaker inside the European institutions.

Second, the psychological impact of Brexit on European elites has also been unfavourable for supporters of national sovereignty. Brexit could have resulted in a scenario in which the European elites paused for a moment and wondered whether it was wise to keep demanding more Europe at all costs and whether they should rather reconsider this strategy.

Losing the United Kingdom has factually weakened the European Union in political, economic and military terms as well as in terms of the size and population of the EU. Therefore, a deep self-examination on behalf of European elites would have been logical. They could have concluded that, paradoxically, always advocating for an ever-deeper integration can result in the weakening of the European project.

However, the supporters of the USE did not draw this lesson. On the contrary, they concluded from Brexit that they must speed up integration. They understood Brexit as a sign of the necessity to take power away from the member states more vigorously, because European nations and states are the cradle of populist and Eurosceptic ideas.

The words of Guy Verhofstadt, who later became the EP's Brexit coordinator, illustrate well this way of thinking. The day after the vote on Brexit, in a radio interview on Europe 1, Verhofstadt said:

> *I think we should also see this result as an opportunity to reform the European Union, because in many other countries there are complaints about a Union that is not effective and is not capable of responding to the various crises ... We need to analyse this no vote carefully. It is a no to the European Union as it functions now ... It is a confederation of nation states based on unanimity that is inefficient and always decides too late, with measures that are too weak or take far too long. It's obvious that there are complaints against a European Union like this.*

> *We must seize this opportunity to open the debate on the future of the EU and try to create a real European Union that is transparent, efficient and less technocratic.*
>
> *The decision that has to be taken today is, with those who want it, another European Union, perhaps a smaller one, but one that will be much more efficient and much more democratic. If we don't do this, in many other countries there will be nationalists, eurosceptics, who will demand a consultation.*[43]

Verhofstadt's words show how European elites avoided the necessary self-reflection that the Brexit vote should have led to. They looked at Brexit not as a symptom of a deeper problem in the tendencies of the EU, but as a chance to achieve their goal of the USE. They chose to blame national sovereignty and concluded that they must be even tougher than ever on nationalism and representatives of national sovereignty. Apparently, the federalists felt that the time had come to give up the politics of compromises and to show their political strength.

These facts also explain why it was possible to launch the Conference on the Future of Europe in 2021. The title of the conference has been an explicit reference to the one that prepared the draft treaty establishing a Constitution for Europe in the early 2000s. Although the design and the structure of the conference was genuine, with a large dose of participatory democracy, it was clearly a sign that promoters of a USE wanted to pass to the next step in European integration.

The approach was original: federalists sought legitimacy for their top-down project from citizens, with the help of European Citizens' Panels and an online platform where they gathered opinions and ideas from citizens all over Europe.

Even though the idea of directly consulting citizens on major political issues has its merits, the methodology of the conference raised doubts. The conference had a very bureaucratic general framework. European Citizens' Panels were at the bottom of the structure, followed by several institutional levels, where politicians and representatives of EU institutions were able to intervene and fine-tune the outcome of the panels. Moreover, experts played a crucial role in framing the discussions in the citizens' panels from the beginning. Criticism arose because not all the inputs were given equal weight. It seems that several proposals emphasising the importance of national sovereignty were ignored.[44]

As a result, the outcomes of the Conference on the Future of Europe comforted the claims of federalists in regard to the main institutional questions. The claims were far-reaching: the end of unanimity voting in the Council;[45] the direct election of the president of the European Commission and the introduction of the Spitzenkandidat ('lead candidate') system; attribution of the right of legislative initiative to the European Parliament; and the right to decide on the EU budget as it is the right of parliaments at the national level.[46] As I will show in Chapter 3, these claims all figure in the various current reform projects of the EU.

Today, the Conference on the Future of Europe is the starting reference and the main source of legitimacy for plans to reform the EU. The conference – dreamed up, created and run by the European elite – is now portrayed as the popular will. According to this framing, from now on, leaders have a democratic duty to respond to citizens' demands on EU reforms. It is perhaps just a coincidence that the citizens are asking for the very reforms that the European elites have long been calling for.

Another factor has been the two major crises that have marked the early 2020s in Europe. The Covid-19 pandemic and the war in Ukraine were both

seen as opportunities for the EU to deepen the dependencies between European member states.

Promoters of the USE themselves openly pointed out this phenomenon. For example, in the Proposal of a Manifesto for a Federal Europe, we read that:

> *the 2020 pandemic outbreak and the 2022 Russian aggression against Ukraine have become turning points also for European integration, in clear contrast with the lacklustre, narrow-minded approach to the 2010 financial and Euro crises. A great opportunity has arisen with the launching of the Health Union, including the common acquisition of vaccines and the nascent financial and fiscal union that is embodied in the Recovery Plan for Europe (July 2020) ... If the pandemic has given Europe the Health Union and the beginning of a financial and fiscal union, the war in Ukraine must give Europe a union on migration based on solidarity and mandatory responsibility sharing (the exodus could reach up to five million refugees), an energy union (end of dependence from Russia), a defensive union and others.*[47]

In fact, the Covid-19 pandemic served as an excellent pretext for making joint indebtedness of European member states a reality. Arguing that European economy needed a huge amount of extra resources, the Commission persuaded member states to try a new common path, the path of joint borrowing.

The question of joint borrowing in the EU has been on the agenda for a while. France, backed by Southern European member states, supported the idea of issuing Eurobonds to tackle the Eurozone crisis. The idea was to mutualise the public debts of the countries in the Eurozone. However, back then, it was impossible to reach consensus on this question.

With Covid-19, the question of joint borrowing came back on the agenda. This time, it became a reality. The EU established the Recovery and Resiliency Facility (RRF), which is financed by joint borrowing of member states on the financial market. Under the RRF, member states are entitled to receive financial support. Part of this takes the form of non-refundable financial support, while the other part is designed as a loan for member states at an advantageous interest rate.

However, some indicators point to the fact that the recovery from the economic crisis caused by the pandemic has mostly served as a pretext for the introduction of a long-planned instrument to further boost European integration towards a USE. At the end of 2023, long after the pandemic had ended, five member states had still not received funding from the RRF.[48] In particular, Hungary and Poland[49] – the 'rebellious countries' – have not benefited from support under the RRF because of their general divergence from the political and ideological mainstream in Brussels.

It is also clear that the aim is to make the joint indebtedness of member states a normal, recurrent practice. Although the European Council conclusions on 21 July 2020 stated that joint borrowing by the EU to finance the RRF should only be a one-off, exceptional measure, 'limited in size, duration and scope', the Commission's ambition to normalise the practice is clearly visible.[50] The Commission recently called for new borrowing, this time to support Ukraine's economy. According to the Commission's press release on 20 June 2023, 'the loan support [to Ukraine] will be financed by borrowing on financial markets and backed by the headroom of the EU budget'.[51]

Generalising joint indebtedness is a key issue for the promoters of the USE. That is because the inherent logic of joint indebtedness leads to much more power for supranational institutions.

In the case of generalised joint borrowing, the EU is issuing bonds that are jointly guaranteed by the member states. This means that if one member state cannot pay its share of the interest on the bonds, the others have to pay it. For this system to be financially secure, each debtor must be certain that the others are solvent.

Yet, there is only one way for member states to be sure that the others will remain solvent: if everyone pursues sound and responsible fiscal policies. To do this requires the creation of an institution above the member states, with the power to control their budgets. Joint indebtedness goes hand in hand with supranational surveillance of national budgetary policies.

This logic is confirmed by Wolfgang Schäuble's statement on Eurobonds in the early 2010s. According to the former German finance minister, joint responsibility for the bonds can only be assumed if member states give up their independent budgetary policies.[52] In short, member states would lose control of their own national budgetary policies – a major loss of sovereignty and a big step towards federalism.[53]

Abandoning an independent national fiscal policy would raise serious democratic problems as well. The most important, historic right of national parliaments is to decide on the state budget. However, if the EU introduces supranational control over budgetary policy, the room for manoeuvre of national parliaments in this area would be considerably reduced.

For the time being, generalisation of joint borrowing has met legal obstacles. According to Article 125 of the Treaty on the Functioning of the European Union (TFEU), the joint financial guarantee can only be implemented on a limited basis for specific projects. The principle is clear: EU law is based on the principle of no bailout: 'A member state shall not be liable for or assume the commitments of central governments, regional,

local or other public authorities, other bodies governed by public law, or public undertakings of another member state'.

For this reason, the temporary scope of joint borrowing employed to finance Next Generation EU is still significant. The German Constitutional Court agreed to this practice only under strict conditions:

> *[The] 2020 EU Own Resources Decision only authorises borrowing on the part of the European Union itself; ensures that the borrowed funds be used exclusively for tasks for which the European Union has competence in accordance with the principle of conferral; subjects the borrowing to limits as to both the duration and the amount of the commitments assumed; and requires that the amount of 'other revenue' not exceed the total amount of own resources.*[54]

Yet the question whether joint borrowing in the framework of Next Generation EU did not go too far was a controversial one within the Constitutional Court itself. One of the judges formulated a dissenting opinion critical of the evaluation and the decision of the majority of the Court.[55]

In order to overcome these legal and theoretical difficulties and to make generalised joint borrowing a standard practice, the supporters of more Europe seemed to use the same old tactics.

First, they made sure that the question of joint borrowing remained on the agenda, which they managed to do successfully. Although the idea failed in the early 2010s, it was resuscitated under a different form during the Covid-19 crisis. Compared to the idea of Eurobonds, which would have financed public debts of the countries of the Eurozone, joint borrowing for the Next Generation EU is much more limited in scope. A softened form of joint borrowing in a particularly chaotic context of the pandemic led to a breakthrough: collective indebtedness has ceased to be an absolute taboo and the EU engaged in joint borrowing for the first time in its history.

The next step is to get the EU to borrow as often as possible to finance an ever-wider range of policy fields. I have already mentioned that the idea came back in the case of financial aid provided for Ukraine. It seems certain that there will be other attempts in the future justified by special circumstances. After a certain time, this could make joint borrowing an increasingly common practice in the EU.

Finally, after a certain experience with joint borrowing in several domains, the political thresholds will be lowered to the point that resistance to generalised joint borrowing will be much weaker, and potentially a minority position. Such a position could then be labelled eurosceptic and illegitimate, and ultimately marginalised during the decision-making on generalisation of public debts.

Another important contextual element in favour of the USE narrative is the Russian-Ukrainian war. Russia's invasion of Ukraine let the European elite identify Russia as a constant threat to Europe and call for greater internal unity in the name of the external threat. Historical examples also show how the existence and the naming of an external enemy can play an important role in the creation of a country or empire.[56] The external evil, the imminent threat, must override the divisions within the European Union. In times of war, there is no time or opportunity for member states to divide or to formulate dissenting opinions.

For the elites promoting the USE, the Russian-Ukrainian war thus provides an excellent opportunity to push through their already entrenched goals – see, for example, Ursula von der Leyen's 2019 inaugural speech, cited earlier – and abolish unanimous decision-making in the area of common foreign and security policy.

In the same way, the Russian military threat could help to promote the strengthening of a common European defence policy and the creation of

a common European army. This could represent another major step forward on the road to a USE, as it would radically reduce the room for manoeuvre of member states in foreign policy, which is also a key attribute of national sovereignty.

The Russian-Ukrainian war, and more precisely Europe's economic detachment from Russia as a consequence, has also led to an energy crisis. Previously, in the era of German Chancellor Angela Merkel, Europe's geostrategic goal consisted in the linking of cheap Russian energy resources with advanced Western European industry. The networks of gas and oil pipelines linking the EU and Russia illustrate the connectivity that characterised them in the past.

However, this geostrategic thinking took a 180-degree turn after the outbreak of the war. Europe decided to disengage from Russia, which it has done through wide-ranging economic sanctions. In doing so, however, it gave up access to Russian energy resources, leading to significant energy shortages and price hikes. However, now that the energy crisis has emerged, the solution can once again be sought in the form of an ever-closer union, this time the Energy Union.

Now that we have seen the evolution of the narrative regarding the United States of Europe, in the next chapters I will look at how this narrative is translated into practice.

First, I will demonstrate de facto transformations of the EU's institutional and power structure, which have occurred since 2009, despite the fact that there were no treaty changes. Then I will look at concrete proposals for reforming the EU, which influential actors in the European political and institutional arena published recently, and which would mean a considerable step towards the United States of Europe.

5 EU transformation by stealth

The last amendment of the EU Treaties entered into force in December 2009 with the Lisbon Treaty and established the current legal structure of the Union. From a legal perspective, it would be logical to believe that the EU we live in now takes the shape of what the contracting member states agreed upon in that treaty.

However, from a political sociological perspective, the EU has been changing continuously ever since 2009, even though there was no treaty change during this period. Many fundamental transformations have happened, promoting more Europe by stealth. Looking back over a decade and a half, there have been spectacular changes that have brought the European Union closer to a United States of Europe.

5.1 A political Commission

Let us first examine the politicisation of the European Commission.

It is clear that the Commission has a key role to play in the European institutional system, but for a long time, this role has been a technical one rather than a political one. Article 15 and 17 of the current version of the Treaty on European Union (TEU) make it evident that, unlike the European Council, the Commission has no political role to play in the EU.

According to Article 15 paragraph 1 of the TEU: 'The European Council shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof.' Compare this with Article 17 paragraph 1, which attributes to the Commission

'coordinating, executive and management functions'. According to this Article, the Commission shall 'ensure the application of the Treaties and union law and ensure the EU's external representation with the exception of the common foreign and security policy and other cases provided for in the Treaties'. It shall also 'promote the general interest of the EU'.

This means that the Commission is, by definition, a key institutional actor that has to play an objective and neutral role in order to be able to mediate between different member states and EU institutions, as well as to synthetise the general interest of the EU and oversee the execution of EU law. For this purpose, the Treaty grants remarkable power to the European Commission, with large competences and extended bureaucratic infrastructure. This is to ensure that there is a body of high institutional authority, with well-trained civil servants who can play the role of the honest broker within the EU institutional system.

At the same time, it is written nowhere that the Commission should play a political role. The Treaties do not allow for the Commission to put itself on the top of the EU institutional hierarchy, establish its own political agenda and to push it through the European institutional system.

In the past, the European Commission was proud of this technocratic identity. If it needed to get involved in political questions, it preferred to hide the potential political dimension of its actions.[57]

However, despite the fact that the Treaties remained unchanged, in practice, there has been a change in the understanding of the role of the Commission since the middle of the 2010s. A turning point is the famous speech by the then Commission president, Jean-Claude Juncker, in the European Parliament on 15 July 2015:

The European Council proposes the president of the Commission. That does not mean he is its secretariat. The Commission is not a

technical committee made up of civil servants who implement the instructions of another institution. The Commission is political. And I want it to be more political. Indeed, it will be highly political.[58]

President Juncker made clear that he broke with the traditional role of the European Commission. These were not mere words – they were followed by action.

For example, Juncker gave a high priority to the topic of the rule of law, which became an instrument to oversee and comment on member states' national politics. Taking a stance in national party-political debates in member states like Hungary and Poland helped the Commission to clarify its own political agenda on ideological issues.

Entering into political battles with some member states more and more openly and trying to exert ever more political pressure on them helped the Commission to show its political muscles. Although the Commission announced the creation of the rule of law framework at the very end of the mandate of President José Manuel Barroso,[59] the Juncker Commission was the first to seek explicitly to control member states in the name of the rule of law.

Poland became the target country of the rule of law framework.[60] After the right-wing conservative party PiS ('Law and Justice') won the elections in Poland in 2015, the Commission decided to back the opposition in debates regarding the composition of the Polish Constitutional Court and reforms concerning the judiciary. The Commission issued several rule of law opinions against Poland and eventually decided to launch Article 7 proceedings against the country in December 2017, the first application of this 'nuclear option' in the history of the EU.[61]

During the Juncker presidency, the Commission also initiated two other major rule of law instruments. One was the conditionality regulation, which aimed to complement other rule of law tools with a new instrument that allows for exerting financial pressure on member states in which the Commission identified risks of a breach of the rule of law. They presented the draft regulation in 2018, as part of the Multiannual Financial Frameworks' legislative package.[62] A second rule of law tool was the annual rule of law reporting system, launched in 2019, which led to the publication of a systemic annual overview of all 27 EU member states.[63]

One can easily detect the priority given to the rule of law topic and its close links with politics by looking at the structure of the Juncker Commission; the rule of law now appeared explicitly in the portfolio of the First Vice-President of the Commission, the most powerful of the Commissioners. Juncker gave this portfolio to Frans Timmermans, a political strongman of the European socialists. This led to a more political approach towards the rule of law than before. It was not by chance that right-wing governments were singled out.

One was able to notice this tendency throughout the Juncker Commission's mandate, and the phenomenon became blatant during the 2019 European Parliament election campaign, when the rule of law commissioner became the lead candidate of the European Socialist Party. Timmermans kept managing the rule of law portfolio and at the same time formulated harsh political criticism against his right-wing political opponents, often on rule of law grounds.[64]

European rule of law instruments give considerable political power to the European Commission, because inherently they serve to blur the lines between member states and EU competences. These instruments enact more Europe in policy matters that, according to the Treaties, belong to the

member states. The Commission itself admitted in its communication on the rule of law framework of 2014 that these instruments serve to deal with 'situations of concern which fall outside the scope of EU law and therefore cannot be considered as a breach of obligations under the Treaties'.[65]

This provides the Commission with an inexhaustible source of pretext for extra-treaty action against the member states. Since the legal systems of all EU countries are built on fundamental rights and the rule of law, all their political measures can be examined from a rule of law perspective. If someone in the EU does not agree with a political measure enacted by a member state's government, they only need to identify its rule of law aspect to make it challengeable at the European level, whether or not the question falls within the EU's competences.[66]

After the 2019 EP elections, there was a question whether Commission President Ursula von der Leyen would bring back the Commission to the role of an honest broker or she would continue the tendency towards politicisation. By the end of her mandate, we can see that the Commission has become more political than ever.

The annual rule of law reports became an established system. Moreover, the Commission is using its new power without hesitation to cut financial support to member states should they disagree with the Commission politically. By the end of 2023, neither Poland nor Hungary had received their part of the Recovery Fund, which was supposed to help all the member states to revitalise their economies hit by the Covid-19 crisis.

The Commission also applied the rule of law conditionality regulation against Hungary. The link between the decision of the Commission and national politics is quite evident, taking into account the fact that von der Leyen announced the application of the new regulation against Hungary

only two days after the ruling parties won the 2022 Hungarian parliamentary elections.[67]

The conditionality mechanism is an extraordinary tool for the Commission to exert political pressure on national governments via financial means. The president of the Commission does not hesitate to make it clear that it is not only Hungary and Poland that could be threatened with it. In the run-up to the Italian election campaign, she sent out a strong message, which many interpreted as overt political discipline and blackmail. When it was clear that there was a good chance of a strong right-wing coalition coming to power in Italy, von der Leyen said: 'If things go in a difficult direction, I've spoken about Hungary and Poland, we have tools.'[68] In doing so, she warned the future Italian leadership against veering too far from the EU's mainstream policies.

Statements such as the above show that the von der Leyen Commission, like the Juncker Commission, is also a political Commission. As mentioned earlier, von der Leyen was calling for a federal Europe even before her presidency, and during her mandate she made several proposals to strengthen the EU's supranational powers at the expense of the member states.

However, on one issue, the behaviour of the von der Leyen Commission is not yet entirely clear. The question is: to what extent does the Commission's action against 'rebellious member states' (an expression employed by federalist advocate Alberto Alemanno)[69] stem from its own leadership and to what extent does it depend on pressure from the European Parliament?

In the negotiations on EU funds due to Hungary, suspended or not paid out for political reasons, an interesting game of cat and mouse can be observed between the European Commission and the European Parliament, which blurs the Brussels picture. The Commission itself is proving to be a

tough negotiator on EU funds, but sometimes leaks to the Brussels media that the parties may soon reach at least a partial agreement.

When such news comes out, the European Parliament usually calls a five-party press conference, organises a debate at committee or plenary session, or adopts a resolution to express protest. In such cases, the press reports that the EP is putting political pressure on the Commission, which is forced to give in to this pressure.

In fact, Article 234 of the Treaty on the Functioning of the European Union allows the EP to vote a motion of censure by a two-thirds majority of the votes cast representing the majority of its component members. If they adopt such a motion of censure, the Commission must resign as a body, which is a considerable threat.

For a motion of censure to be successful, the Treaty requires an extraordinary majority, which is, however, not impossible to achieve. There was a precedent in 2018, when the EP managed to secure such a majority voting on the Sargentini resolution to launch the Article 7 procedure against Hungary. The majority is even easier to achieve following a relatively recent decision of the ECJ, according to which abstention votes should not be taken into account in the calculation of the majority.[70]

Based on such considerations, some people suggest that the Commission faces a difficult dilemma. It is torn between negotiating more pragmatically with the member state in question and reaching possible compromises on the one hand, and political pressure from the European Parliament on the other hand.

However, it is difficult to know whether the Commission and the Parliament are opponents on this issue or accomplices. In fact, in its negotiations with Hungary, the Commission takes advantage of being able to argue that the European Parliament is severely restricting its room for manoeuvre

on any agreement. In this way, it can shift the blame for the fact that, despite long-lasting, regular negotiations, as well as concessions and reforms from the Hungarian side, it continues to withhold Hungary's EU funds.

Who influences whom in the EU is unclear. But one thing is certain: in addition to the changes in the European Commission, the transformation of the behaviour of the European Parliament over the past decade and a half has played a significant role in the politicisation of the European Union and the building of the United States of Europe.

5.2 A loose Parliament

The Lisbon Treaty significantly expanded the legislative, budgetary and appointment competences of the European Parliament. However, instead of being satisfied with its new competences, the EP looked at the changes in the institutional framework of the EU, introduced by the Lisbon Treaty, as an opportunity to claim even more power for itself.

The introduction of the 'lead candidate' system is a good illustration of this. In the 2013 and 2014 sessions, there were heated debates in the EP about the extent to which the approaching EP elections would determine the identity of the next president of the Commission.

After the changes adopted by the Lisbon Treaty, Article 17(7) of the Treaty on European Union stated that the European Council, comprising the heads of state and government, 'taking into account the elections to the European Parliament... shall propose to the European Parliament a candidate for president of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members.'

The debate eventually boiled down to the exact interpretation of the meaning of the phrase, 'taking into account the elections to the European Parliament'. Traditionally, on a discretionary basis, the heads of state and

government of the EU member states collectively decided who to nominate as candidate for the post of president of the Commission, after which the European Parliament would vote on the nomination. After the Treaty of Lisbon, however, the question was whether its wording should be interpreted to mean that from then on the heads of state and government should automatically nominate the so-called Spitzenkandidat: the candidate heading the party list of the largest parliamentary grouping after the European elections.

The European Council finally yielded to the forces which sought to use this interpretation to nominate the lead candidate of the European People's Party, Jean-Claude Juncker, who also managed to gain support from the chancellor of Germany, Angela Merkel.

However, the Spitzenkandidat system did not become an established practice. In 2019, the European Council did not choose any of the lead candidates from the EP elections as president of the Commission. That is why the EP still fights for having a bigger influence on the election of the Commission president. As I will demonstrate later, this claim appears among the EU reform plans the EP is pushing for.

The EP also became a key political actor that since the beginning of the 2010s has been urging for more European intervention in the internal political matters of member states, notwithstanding the lack of EU competences in this regard.

Already, in a resolution in 2013, the EP had called on the European Commission 'to focus not only on specific infringements of EU law, to be remedied notably through Article 258 TFEU [that is, for cases in which infringement proceedings can be initiated], but to respond appropriately to a systemic change in the constitutional and legal system and practice of a member state'.[71]

Debating member states' internal situation became commonplace in the EP, although such issues are supposed to be beyond the competences of the EU.

In fact, the EP went through a significant transformation in terms of the intensity and nature of political debates. The turning point was, perhaps, a debate organised in January 2011 at the Strasbourg plenary session of the EP. As the leader of the country holding the rotating presidency of the Council of the European Union, Viktor Orbán attended the session to present Hungary's six-month programme for the European Union. However, in the debate that followed, little attention was paid to the programme itself. The event was derailed after MEPs from the European left aimed a series of political attacks against the Hungarian prime minister, turning the session into a heated debate on the internal political situation in Hungary.

The European Parliament's left-wing majority[72] then adopted a resolution on Hungarian media law on 10 March 2011, expressing its concerns over the situation of democracy and the rule of law in the country.[73] In the debate preceding the vote, Joseph Daul, the parliamentary group leader of the European People's Party (EPP) at the time, responded: 'The Group of the European People's Party [Christian Democrats] thinks that this Parliament would lose its credibility if it adopted texts that do not correspond to reality. Must we become a theatre for settling national political scores?'[74]

Daul summed up the point succinctly. Firstly, he highlighted the self-serving party-political calculations behind the EP debates on Hungary. Secondly, he stressed that it would be illegitimate to use the EP for such party-political purposes. Thirdly, he made it clear that if the Parliament were to deviate from its original, treaty-based path and start interfering in the domestic politics of member states, instead of debating European issues, it would risk losing its credibility.

Over the years, the picture that Daul portrayed in his rhetorical question has become reality. While in 2011 it was an exceptional case that an EU member state found itself in the political crossfire in the EP, it is commonplace today. Domestic policy issues in Hungary,[75] Poland,[76] Slovenia,[77] Romania[78] and the Czech Republic[79] have been recurring agenda items in plenary and committee meetings of the EP, and lately there have also been organised debates on the situation in Spain.[80]

The intensity and the follow-up of these debates very much depend on the political colour of the country under scrutiny. Criticism is much stronger when it comes to member states with right-wing conservative governments. Political measures by left-wing governments figure on the EP's agenda only in exceptional cases and they do not result in systematic scrutiny of the given government and member state.

Such interventions show that the EP has departed from its role as a means to strengthen the democratic character of EU decision-making. Instead, it has shown activism in overseeing member states' politics. The EP has become a kind of opposition chamber to those national governments that differ from the progressive values shared by the majority of the EP.

German MEP Daniel Freund, for example, became famous for commenting on a daily basis on Hungarian politics on social media. He pinned a post on his X (formerly Twitter) profile, which said:

> *When I started my mandate in the European Parliament 3.5 years ago, the undertaking was considered hopeless by many. Someone like Orban was unmanageable. The resistance in the Council was too big, Orban too powerful with his veto, and von der Leyen too unwilling to take action.*
>
> *But we did it! There are now 6.3 billion euros of EU money to the Orban government frozen - another 5.8 billion from the Corona Fund*

are also being withheld. The reason: massive violations of the rule of law in Hungary.[81]

This means that the greatest achievement of this MEP, who describes himself as someone who 'fights for a European Federal Republic',[82] is that a member state can no longer benefit from a part of the EU funds.

The EP's political majority has been playing a huge role in diminishing borders between national and European politics. By doing so, they contribute to an essential transformation of the nature of the European Parliament.

The EP has lost one of its main characteristics: the diplomatic dimension. In the past, MEPs took into account that the EP was not a classic parliament, where different party-political formations confronted each other, but also an international institution, where different nations reach out to each other in a spirit of peace and respectful dialogue. Formerly, this mentality helped a great deal to contribute to better understanding between different nations, to make debates from which positive projects emerged with common benefits for all.

Nowadays, in the eyes of the EP's majority, nations do not deserve any special respect. On the contrary, 'nationalism' became one of the worst enemies that the EP wants to fight. The EP's current majority often makes shortcuts between the national idea, patriotism and extremist nationalism.

For example, in a recent resolution on 14 September 2023 on Parliamentarism, European citizenship and democracy, nationalism figures among the main dangers the EU must face. According to the very first point of the resolution:

the EU and its Parliaments are confronted with common, unprecedented and complex challenges brought about on the one hand by external factors – such as Russia's war of aggression against Ukraine, the Covid-19 pandemic, the climate and energy crises, disinformation, foreign interference and digitalisation – and on the other hand by

> *internal factors such as the rise of extremes and political actors who put polarisation, populism, nationalism, blaming and confrontation before the search for common solutions.*[83]

This means that, for the EP's mainstream, nationalism can only have a negative connotation and represents an equal danger to Europe as Russia's tragic war against Ukraine or the devastating pandemic.

The above example, as well as the statements of many MEPs, show that for a part of the European elite, national identity has lost its meaning. The nation no longer plays a significant role in defining identity. On the contrary, they emphasise the potential negative excesses of nationalism in order to portray the national idea itself as a threat.[84]

In fact, European elite tries to build identity on other ideas rather than the nation. One such example is the idea of cosmopolitanism, which presents world citizenship as a morally superior, progressive idea as opposed to the 'archaic', 'prehistoric' idea of nationalism.

As Frank Füredi has observed, 'cosmopolitanism emerged as a central element of the European federalist self-consciousness'.[85] Füredi analysed different political essays on cosmopolitanism, and concluded:

> *[C]osmopolitan theory emphasised the inferiority of the national to the transnational consciousness. It also celebrated cultural diversity as a fundamental value that represented an enlightened alternative to an outdated and allegedly monolithic national identity. In effect, diversity became 'celebrated constantly as a core European value'.*[86]
>
> *Initially, the concept of diversity was used by the EU elites to refer to the 'diversity of national cultures'. However, by the turn of the twenty-first century, it was employed not to defend national cultures but to devalue them.*[87]

This mindset is inherent in the construction of a supranational United States of Europe. Lacking any attachment to the national idea, many EU decision-makers have no difficulty in imagining that the European Union will one day exist without the very nations that created it.

Condemning 'national egoism' is a slogan often used by advocates of more Europe to support their fight against the idea of a Europe based on strong nations, which cooperate while also keeping their sovereignty. However, they never really explain why only national identity could result in egoism. They do not explain why European identity would not have the same potential to become exclusive – for example, when it comes to differentiation with other civilisations from other parts of the world.

In the first two sections, I have demonstrated that over the past decade and a half, the European Commission and the European Parliament have taken a significant turn towards political activism, which has gone hand in hand with the push for more Europe. In the next section, I will look in more detail at the recent evolution of the European Court of Justice to see how it finds its place in an increasingly politicised supranational EU.

5.3 An activist Court of Justice

The Court of Justice of the European Union (ECJ) also carries the doctrine of more Europe. Academic literature analysing European law and politics generally agrees that the ECJ is not just an ordinary judicial forum, but also a spearhead in the promotion of European integration.[88] The legal system of the European Union has taken its present form on the basis of the Court's case law, which interprets the Treaties broadly.

Examples from the past six decades show that the ECJ has been playing a key role in promoting more Europe. For instance, and just to focus on the foundational jurisprudence, the ECJ established the principle of direct effect

with the Van Gend en Loos ruling in 1963, which allows private individuals to invoke their rights under EU law directly before national courts and authorities. The Court held in Costa v. E.N.E.L. (1964) that EU law takes precedence over the national law of the member states and that, consequently, national legislation contrary to EU law cannot be enforced, regardless of formal annulment. In the 1970 Internationale Handelsgesellschaft case, it held that EU law takes precedence over the constitutions of the member states. In the Simmenthal case of 1978, it clarified that national courts cannot apply national law that is contrary to EU law.

However, one can see that the ECJ also tended to act in a cautious and prudent manner when it came to highly political matters, and it kept away from everyday political battles. This was also the initial attitude of the Court in the early 2010s, when sharp political disputes developed between certain member states and EU institutions over the topic of the rule of law.[89]

Although political actors in the EU have sought to involve the ECJ in those disputes between Hungary and EU institutions, the Court, at the beginning, took a rather cautious attitude.

In the early 2010s, resolutions by the European Parliament, which criticised the state of the rule of law in Hungary, included, for example, two specific cases. One was about the lowering of the retirement age for Hungarian judges,[90] while the other was about the status of the Hungarian data-protection commissioner.[91]

The European Commission investigated these matters and launched infringement procedures against Hungary. The Commission and the Hungarian authorities did not find common ground in these cases and the Commission decided to refer the case to the ECJ.

In both cases, the Court backed the Commission's position and rejected the arguments of the Hungarian government.[92] However, in its judgements,

the Court did not make any reference to the rule of law. Instead, it preferred to base its reasoning on specific European legislation. It is all the more interesting that previously, in other judgements, the Court has already used the term 'rule of law', although in non-politicised contexts.[93]

The fact that the Court visibly avoided mentioning the rule of law in cases which were, in the European political arena, referred to as 'rule of law cases', demonstrates that the Court did not want to take part in European political debates on the rule of law. In fact, in this political battle, the Court initially left the main role to the political institutions of the Union.[94]

This attitude of the ECJ has changed dramatically since the closing years of the 2010 decade, as the debate on the independence of the Polish judiciary intensified. The Court decided to side with Polish judges who challenged the decisions of the Polish Parliament claiming that they undermined their guarantees of independence.

The Associação Sindical dos Juízes Portugueses (ASJP) judgement of 27 February 2018, which did not concern Poland, was a first turning point from this perspective.[95] Compared to previous judgements, it is striking that the ECJ discussed the meaning of judicial independence and the criteria for its realisation in much more detail. It is also striking that the Court explicitly derived its argumentation from the concept of the rule of law.

The facts of the case did not require the Court to go into the question of judicial independence in such detail. Nor did they make it necessary to refer to the concept of the rule of law with such frequency as the Court did in its judgement.

Such a thorough discussion of the rule of law and judicial independence appears to be linked to the ongoing disputes between Poland and the EU institutions. In fact, Polish and European authorities have been debating the

state of the rule of law in Poland since 2016, especially in relation to the independence of the Polish judiciary.

One could understand that the Court of Justice most certainly wanted to send out a message. Namely, that it would pay particular attention to the independence of national courts in the future and would enter more directly the political debate on the rule of law.

Soon after, in the so called 'LM' judgement on 25 July 2018, the Court had the opportunity to express its views on the importance of judicial independence in a case concerning the execution of a Polish arrest warrant.[96] The Court partly repeated the findings of the ASJP judgement, now in a case specifically concerning Poland.

The Court's message was unambiguous. In its judgement, the Court of Justice has clearly attached importance to the initiation of the Article 7 procedure and has described the Commission's reasoned proposal, which had initiated the Article 7 procedure, as 'particularly relevant factors' for assessing the situation of the rule of law in Poland. Moreover, the judgement gave a detailed lesson on what judicial independence means. The criteria that the Court listed were a clear reflection of the political criticisms that have been levelled against Poland in general in the rule of law debate.

Finally, the Court also took a strong position against the Polish executive and legislative power in two cases directly related to the organisation of the Polish judiciary.

In its judgement C-619/18 of 24 June 2019, the Court was able to voice directly its views on the restructuring of the Polish judiciary system.[97] In this case, the European Commission asked the ECJ to declare that the Republic of Poland had infringed the principle of judicial independence by reducing the retirement age of judges of the Supreme Court and by granting the

president of the republic discretionary powers to extend the retirement age beyond the newly established retirement age.

Although judicial independence is a very important issue, the case raises questions regarding the division of competences between the European Union and the member states. Following the principle of conferral (Article 5 TEU), the organisation of the judicial system is a matter for the member states, so it is not obvious why the ECJ should have a say on this.

However, the Court has discovered new competences for itself in this field, invoking Article 47 of the Charter of Fundamental Rights (hereinafter: the Charter) and Article 19 (1) TEU.

Article 47 of the Charter refers to the right to an effective remedy and to a fair trial, and indeed states the right to an independent tribunal. However, the Charter applies in principle only to the institutions of the European Union.

In other analyses, I have explained in detail that the EU's fundamental-rights dilemma was originally how to ensure that EU institutions respect fundamental rights in the same way as national authorities do under national constitutional provisions.[98] The Charter was also designed and adopted to address this issue. Article 51 of the Charter, delimiting its field of application, makes this point clear:

1 *The provisions of this Charter are addressed to the institutions, bodies, offices and agencies of the Union with due regard for the principle of subsidiarity and to the member states only when they are implementing Union law. They shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers and respecting the limits of the powers of the Union as conferred on it in the Treaties.*

2 *The Charter does not extend the field of application of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify powers and tasks as defined in the Treaties.*

The Charter could therefore not formally serve to extend the field of application of Union law beyond the powers of the Union. The provisions of the Charter could only be invoked against member states in the exceptional case of their implementation of Union law.

Following the same logic, the very concise wording of Article 19 (1) TEU states: 'Member states shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.' Again, the letter of the Treaty is clear: the provision is limited to the fields covered by EU law.

However, the Court decided to interpret these restrictions rather broadly. The Court's new caselaw provides that it may examine the independence of Polish courts not only in cases where they are implementing EU law. On the contrary, the Court considers that, since, in general, the Polish Supreme Court may deal with cases involving EU law, the ECJ may also examine whether the Polish Supreme Court fulfils the criteria of independence in general.

On 19 November 2019, in its judgement on joint cases C-585/18, C-624/18 and C-625/18, concerning the Disciplinary Board of the Polish Supreme Court, the ECJ went even further.[99]

In this case, the ECJ examined whether the Polish judicial forum, which can rule on law disputes concerning the lowering of the retirement age for judges in Poland, can be considered independent.

In Poland, in the past, the Labour and Social Insurance Chamber of the Supreme Court was entitled to hear such cases. However, the new Polish law on the Supreme Court has transferred labour, social security and retirement cases involving Supreme Court judges to a newly created judicial chamber

within the Supreme Court, the Disciplinary Chamber. Legal dispute arose when the previously competent Labour and Social Insurance Chamber refused to transfer the cases to the new Disciplinary Chamber, arguing that the Disciplinary Chamber did not meet the criteria of judicial independence.

The ECJ had to answer whether the new Disciplinary Chamber could be considered independent and, if not, whether the former Labour and Social Insurance Chamber could continue to deal with the cases in question, without regard to Polish law.

The ECJ has confirmed the right of the Labour and Social Insurance Chamber to examine the independence of the new Disciplinary Chamber set up within the same court. It also specified which factors in the specific case were relevant to call into question the independence of the new chamber. Overall, it has essentially allowed the Labour and Social Insurance Chamber of the Supreme Court to ignore the existence and the powers of the new chamber that the Polish legislature created.

These cases are significant because, by them, the ECJ has created the possibility for national courts to overrule decisions of the national legislature on the organisation of the judiciary.

On the basis of the new caselaw of the ECJ, one can conclude that from now on, the Court can decide, in relation to practically any court in any member state, that the national legislation governing its organisation, operation and procedures does not provide sufficient guarantees of independence. Consequently, it can force the national legislature to change the laws governing its judiciary system by declaring them to be contrary to EU law.

Whichever way you look at it, this gives the ECJ considerable additional powers. It gives the ECJ considerable influence over matters that were originally the responsibility of the member states and are closely linked to their sovereignty.

The above brief case study of the Court's judgements on the rule of law, which could be supplemented by further judgements, illustrates that the Court has once again stepped up its political activism.

Some experts who comment on the above caselaw of the Court say it has 'returned to the role that it played in the first decades of Community integration: that of a court boldly interpreting the provisions of European Union law to give them full effect, thereby seeking to compensate for the inaction of the member states or other institutions of the Union'.[100]

However, I have demonstrated that the other EU institutions have been far from inactive in using "rule of law" arguments against member states or politicising the Union and in strengthening its supranational character. Therefore, another interpretation of this evolution could be that since the end of the 2010s, the ECJ has joined the growing trend in other EU institutions pushing forward more Europe.

The ECJ is playing an increasingly direct and open role in the struggle between the member states, which are fighting for their sovereignty, and the power groups which are seeking a federal Europe. Thanks to its broad interpretation of treaty provisions that would otherwise limit the Union's competences, the ECJ has become a key actor in pursuing a Europe with increased supranational powers.

6 EU reform back on the agenda

In the first two chapters, this study has highlighted the transformative trends taking place in the EU. In this final chapter, I want to show that it is not only narratives and EU institutions' takeover by stealth of member-state competences that are bringing us closer to the United States of Europe. Nowadays, there are also concrete reform proposals on the table that would further this goal.

The Conference on the Future of Europe in 2021 and 2022 has served as a precursor. Building on the conference's outcome, the European Parliament adopted a resolution on 9 June 2022 with proposals for reforming the Union.[101] On 22 November 2023, the EP adopted a resolution formally initiating the treaty-revision procedure.[102] Furthermore, the French and German governments designated a group of 12 prominent experts to draw up proposals for the transformation of the EU, who came out with their report on 18 September 2023.[103]

In addition to years of attempts to put structural reforms back on the political agenda of the EU, the new momentum in the EU's enlargement policy also provides a special pretext for thinking about reform. In the context of the Russia-Ukraine war, the EU granted candidate status to Ukraine and opened accession negotiations with the country. For this move by the EU to be seen as a serious and realistic prospect, rather than a diplomatic flourish, the EU needs to seriously re-engage with the accession process of those Western Balkan countries that have been waiting for EU membership for

much longer and should therefore be at a much more advanced stage than Ukraine.

In this context, we can observe that EU leaders are bidding against each other on target dates for EU enlargement. In August 2023, Charles Michel, president of the European Council, set 2030 as the target date for the next enlargement of the EU at the Bled Strategic Forum.[104] Manfred Weber, chairman of the EPP group in the European Parliament, spoke of 2028 as the target date at an event at the Martens Centre in October 2023.[105]

However, European elites have made reform of the EU a precondition of enlargement. On the same day that Charles Michel announced the 2030 enlargement target date in Bled, French President Emmanuel Macron told ambassadors publicly at a meeting in Paris that enlargement must be preceded by deep EU structural reforms.[106]

The enlargement perspective of the EU was also one of the main arguments for treaty reforms in the early 2000s, so making enlargement conditional on reform would not be a new phenomenon in EU politics.

The group of experts invited by the French and the German governments formulated its reform proposals in this special context as well. In their paper, they closely relate enlargement and treaty reforms and jointly deal with the two questions.

The reform proposals of the European Parliament and the Franco-German expert group provides a tangible indication of the direction in which the EU is to be transformed. The content of these documents should be taken all the more seriously as they have many points in common. Both seek to increase the power of the EU at the expense of the sovereignty of the member states in similar ways. Although the expression 'United States of Europe' does not appear in the documents explicitly, the proposed structural changes

would bring us closer to an EU of this kind. In order to illustrate this, I will highlight some of the most notable proposals.

6.1 Extending supranational institutional power

Several provisions figure among the proposed reforms which would considerably strengthen the power of EU institutions at the expense of the member states.

The EP proposes for example, 'reforming decision-making in the Union to more accurately reflect a bicameral system by further empowering the European Parliament'.[107] The EP also 'demands the strengthening of the Union's capacity to act by considerably increasing the number of areas where actions are decided by qualified majority voting (QMV) and through the ordinary legislative procedure (OLP)'.[108]

In the same way, the EP 'calls for Parliament to gain the right of initiative for legislation, in particular the right to introduce, amend or repeal Union law, and to become a co-legislator for the adoption of the multiannual financial framework'.[109] Later, it 'reiterates its call for decisions on sanctions, interim steps in the enlargement process and other foreign-policy decisions to be taken by QMV'.[110]

In a rather similar way, the Franco-German paper 'highlights the need to reform the decision-making processes within the Council'. According to the paper, 'before the next enlargement, all remaining policy decisions should be transferred from unanimity to QMV. Additionally, except for in foreign, security and defence policy, this should be accompanied by full co-decision with the EP (through the OLP) to ensure appropriate democratic legitimacy.'[111]

These quotes highlight two major proposals regarding institutional changes in the EU's decision-making process.

First, currently there are fields in the EU's decision-making where, in order to adopt a decision, the unanimous support of the member states is required. This is a guarantee that in areas which touch on the sovereignty and core interests of the member states, national executives and legislatures do not lose their power.

This is the case, for example, in the case of common foreign and security policy, where decisions shall be taken by the European Council and the Council acting unanimously.[112] This is also the case for the enlargement of the EU,[113] the adoption of the Multiannual Financial Framework,[114] or for determining a breach under Article 7 (2) TEU procedure.

Second, as I highlighted earlier, under the Lisbon Treaty, the EP becomes – as a general rule – a co-legislator on equal footing with the Council in the framework of the ordinary legislative procedure (OLP). However, Article 289(2) of the Treaty on the Functioning of the European Union (TFEU) provides that, for certain cases defined in specific treaty articles, the Council is the only legislator and the EP is limited to either consenting to the Commission's proposal or being consulted on it.[115]

The consent procedure is used, for example, when new legislation on combating discrimination is proposed. It is also used for the adoption of certain international agreements negotiated by the EU, the accession of new EU member states, determining a serious breach of fundamental rights (Article 7 of the Treaty on European Union (TEU)) or for a country wishing to withdraw from the EU (Article 50 TEU).[116]

Parliament is only consulted in the case of a non-legislative procedure where international agreements have been negotiated under the EU's common foreign and security policy. This is also the case regarding legislation in certain specific areas like competition policy (Article 103 TFEU) and harmonisation of indirect taxation (Article 113 TFEU).[117]

The above-mentioned two reform proposals would decrease the power of member states for two reasons.

On the one hand, the influence of member states on EU decision-making in some sensitive areas would be lower because the institution by which they are represented in the EU institutional system would weaken. The Council, composed of ministers of the member states, would lose discretionary power to the benefit of the EP in the sense of making a wider use of ordinary legislative procedure, where the Council cannot decide alone anymore, but needs to negotiate each line of legislation with the EP.

On the other hand, because of the abolition or the further limitation of unanimous decision-making in the Council, individual member states could no longer be sure that an EU decision in the most sensitive policy areas will conform to their interest. Currently, unanimous votes provide each member state with a veto. If this power is reduced, it would be much easier to circumvent some member states, which is especially problematic for the states that have a smaller population, as well as smaller economic and political weight in Europe. Under the current Treaties, qualified majority voting requires that 55 per cent of member states (15 out of 27) vote in favour, representing at least 65 per cent of the total EU population.[118]

The authors of the Franco-German paper seem to be more sensitive about the fact that this reform could be uncomfortable for many countries. That is why they make some suggestions 'to make QMV more acceptable'. They envision 'the creation of a "sovereignty safety net" allowing member states to voice their vital national interests in QMV decisions; a rebalance of voting shares, to address the concerns of small- to medium-sized member states; and an opt-out mechanism'.[119]

However, the efficiency of such softer safety nets would be questionable. Under the status quo, member states already struggle to get their position

taken into account even in areas where officially unanimity is needed. The 'veto' is not an absolute one. On the contrary, it can be circumvented or undermined by package deals, political pressuring or, more recently, financial pressuring through the rule of law conditionality mechanism. If unanimity officially disappears from the Treaties or becomes limited to fewer areas, alternative 'safety nets' may well have little impact on decision-making in reality.

These reform plans, which refer to the need to increase the efficiency of the Union, would de facto weaken the sovereignty of the member states and further strengthen the supranational character of the EU.

6.2 Further politicisation of the Commission

Reform proposals also indicate an increasing politicisation of the role of the European Commission. For example, the EP 'calls for the reversal of the roles of Council and Parliament in the nomination and confirmation of the president of the Commission to more accurately reflect the results of European elections'.[120] Furthermore, it also proposes 'to enable the Commission president to choose its members based on political preferences, whilst ensuring geographic and demographic balance'.[121] It also calls for 'the renaming of the European Commission as the European Executive'.[122] The EP also proposes to rename the president of the European Commission as 'president of the European Union'.[123]

To compare, the Franco-German paper 'does not recommend the legal institutionalisation of the so-called lead-candidate system, as requested by the EP'.[124] However, the authors argue that the Council and the EP 'need to find an agreement before the next EP elections on how to appoint the Commission's president to avoid institutional conflict'.[125] They suggest that

this agreement take 'the form of a binding interinstitutional agreement (IIA) by the end of 2023'.[126]

Nevertheless, the three options for agreement that the authors of the Franco-German paper see possible would give a major role to the EP. In two out of the three scenarios described, the Council could only choose from candidates presented by the EP. Only the third scenario would give more leeway to the Council to determine who to nominate, but this scenario would be reserved for a situation when the position of the newly elected EP would be 'very unclear'.[127]

Even if the Franco-German paper does not lobby for a treaty change to enact the Spitzenkandidat system, their proposal would in practice reverse the roles of the European Council and the EP, to the advantage of the EP. This change would once again reduce the power of the member states, which currently have the power to choose freely who to nominate for the Commission presidency.

Both the EP and the Franco-German paper advocated change to the size and the organisation of the European Commission. In that regard, they suggest two options. Option 1 would be 'reducing the size of the College'.[128] Option 2 would be to differentiate 'between "Lead Commissioners" and "Commissioners", with potentially only the Lead Commissioners voting in the College'.[129]

It is true that the current Article 17 (5) of the TEU states already that 'the Commission shall consist of a number of members ... corresponding to two thirds of the number of member states'. However, the status quo is still different, because member states have made use of the possibility also offered by the same article in the Treaty to keep the number of commissioners higher by unanimous decision in the European Council. That is why, currently, the

number of commissioners is set to 27, and the rule of one commissioner per member state is preserved.

The above proposals of the EP and the Franco-German paper are along similar lines and would lead to a further strengthening of the EU's supranational features.

On the one hand, the EP could play the main role in the election procedure of the Commission president instead of the European Council, and member states would lose their say on who should head the Commission. Background deals between European political parties and members of the European elite, with little transparency, would determine in advance, prior to the elections, the person or the few people who can become Commission president.

This would be a marked departure from the current nomination process, whereby heads of state and government of member states listen to each other's positions and try to find a candidate that suits everyone. That is why member states would lose considerable power by setting in stone a system of Spitzenkandidat.

In addition, making the Commission presidency at this level independent of the will of the member states would encourage further political autonomy for the Commission. A Commission president elected independently of the will of the member states would feel even less obliged to take account of the member states' positions when formulating the policy of the Commission.

A reduction in the number of commissioners and the legalisation of a hierarchical system between commissioners would also reduce the political power of the member states. Some member states would not be able to delegate a European commissioner for years, creating for them an even greater distance with the Commission and, more generally, the EU's policy-making centre.

6.3 Widening of the EU's competences

Both the EP and the Franco-German paper deal with the question of widening the competences of the EU. The EP is more radical in its wording, but the Franco-German paper also makes several noteworthy proposals.

The EP proposes, for example, 'to establish exclusive Union competence for the environment and biodiversity as well as negotiations on climate change'.[130]

It also 'proposes to establish shared competences on public-health matters and the protection and improvement of human health, especially cross-border health threats, civil protection, industry and education, especially when transnational issues such as mutual recognition of degrees, grades, competences and qualifications are concerned'.[131]

The EP also wants 'to further develop [for the] Union shared competences in the areas of energy, foreign affairs, external security and defence, external border policy in the area of freedom, security and justice, and cross-border-infrastructure'.[132]

The EP continues by suggesting 'the establishment of a defence union, including military units, a permanent rapid-deployment capacity, under the operational command of the Union'.[133]

In return, the EP would also make certain concessions to the member states, in particular in the area of subsidiarity control. It proposes, for example, 'that the subsidiarity review by the Court of Justice of the European Union be strengthened'[134] and calls for 'the opinion of regional parliaments with legislative powers to be taken into account in the reasoned opinions on legislative drafts of national parliaments'.[135] Currently, if one third of national parliaments object to a proposal on subsidiarity grounds, the European Commission must reconsider it – the so-called 'yellow card' procedure.[136] The EP proposes to 'extend the deadline for "yellow card" procedures to

12 weeks'[137] and that a '"green-card mechanism" for legislative proposals by national or regional parliaments with legislative powers be introduced in order to make Union law more responsive to local needs'.[138]

The Franco-German paper takes a different approach and, at a first glance, seems to be somehow more moderate. However, at the end, it also comes to the conclusion that the widening of the EU's competences should be possible.

It is also interesting to note that, according to the Franco-German paper, there is no problem with the current division of competences between the EU and its member states in practice. According to the authors, despite criticisms, the EU is in reality not stretching its competences at all, and subsidiarity mechanisms inside the EU work well.

The paper may be seen as somehow more nuanced because the authors state that they 'do not rule out the repatriation of competencies from the EU to the national level as a matter of principle if they can be better handled on the national or subnational level with positive effects for legitimacy, efficiency or the quality of decisions made'.[139] However, they continue by stating that they are 'equally open to extending EU competences for the same reasons'.[140]

They do not deal in detail with the question of how the division of competences should evolve in the future. A footnote explains that 'it is beyond this report's mandate to suggest areas in which the EU should or should not be active in the future'.[141]

However, the report authors do eventually suggest that, in several fields, it would be interesting to extend the competences of the EU:

> *While we think that it is useful to clarify certain provisions related to powers and competencies, this alone does not justify a major formal*

treaty revision. However, if the EU does decide to change the treaty for other reasons, lessons taken from the various crises should be expressed in the wording of competence provisions. This ranges from a clearer legal basis for the ECB in the context of the banking union, to more health competences for the EU, or the integration of crisis response instruments that – for reasons of timing and political considerations – were created outside the formal treaty framework (such as the European Stability Mechanism (ESM)).

Secondly, the EU should strengthen provisions on how to deal with unforeseen developments, competency-wise, and including the EP. Policy areas that are particularly likely to be hit by a crisis with transnational effects (eg, finance, health, security, climate, the environment) should be reviewed to determine whether the treaty base for emergency measures is sufficient.[142]

It is also noteworthy that the Franco-German paper recommends 'increasing the EU budget in size and relation to GDP and to make it more flexible. This includes creating new own resources, moving towards QMV for spending, and enabling common EU debt-issuance in the future'.[143]

Previously, in the first chapter , I highlighted the role that common debt-issuing could play in widening supranational control over member states' budgetary policy. Such an evolution would reduce considerably the sovereignty of member states.

Overall, it is possible to conclude that reform proposals both by the EP the and Franco-German paper would widen the EU's competence at the expense of the member states. The considerations regarding the subsidiarity question seem to be rather superficial and would not counterbalance, in practice, the evolution towards a more supranational Union.

6.4 Strengthening supranational rule of law control

I have previously demonstrated that the topic of the rule of law provides an opportunity for supranational institutions to establish a general political control over member states. Supranational institutions argued that whether the EU has competence in a policy field or not, they can put member states under scrutiny in the name of the rule of law. Since the middle of the 2010s, EU institutions have developed several rule of law instruments which serve this goal. In that way, rule of law control became a trump card in the hand of EU institutions to overrule limits to their power set by the Treaties.

It is therefore not a surprise that the rule of law control over the member states is also a key element in federalist EU reform proposals. Both the EP's resolution and the Franco-German paper foresees amendments to Article 7 TEU in order to make it easier to condemn member states via rule of law procedures. Interestingly, this time, the Franco-German paper goes even further then the EP regarding the volume and significance of the proposed amendments.

The EP 'proposes to strengthen and reform the procedure in Article 7 TEU with regard to the protection of the rule of law by ending unanimity, introducing a clear timeframe, and by making the Court of Justice the arbiter of violations'.[144]

In a similar way, the Franco-German paper states that 'Article 7(2) TEU should be modified to replace unanimity-minus-one by a majority of four-fifths at the European Council'.[145]

However, then the paper goes further than the EP, saying:

the principle of an automatic response in the event of a serious and persistent breach or risk of breach of EU values by a member state should be reinforced. Article 7(1) and (2) TEU could be amended

to include time limits of six months to force the Council and the European Council to take a position.

Moreover, Article 7 TEU should include automatic sanctions five years after a proposal to trigger the procedure, in the event of inaction by the Council and where breaches of Article 2 values continue to exist. Sanctions would be automatically increased after 10 years under the same conditions. In the case of a dispute over the persistence of the breaches, the CJEU would be the final arbiter.'[146]

Changes to the voting thresholds (reducing the required majority) would mean that supranational institutions could pressure a member state more easily. It would be sufficient to convince fewer member states to vote against and sanction another member state. The individual member states targeted would then be more exposed to the will of the European political mainstream.

The Franco-German paper would make rather far-reaching changes to the Article 7 procedure. They do not stop at the point of reducing voting margins. They go further and propose to make possible the sanctioning of a member state even without any vote in the Council through the use of automatic sanctions after a certain period of time.

Let's imagine a situation that a rule of law procedure against a country is ongoing. The Council is divided and cannot agree on whether to declare a serious breach of EU values in the case of a member state. Then, after a certain time, this indecision would automatically lead to the condemnation and sanctioning of the member state in question. In practice, it would be much easier to sanction than to exempt a member state. This methodology, which gives much more chance to the accusers than to the defence, ironically leaves something to be desired precisely in terms of the rule of law.

This proposal is much more than a political fantasy. The Commission has already suggested that such a system should apply in its original legislative

proposal on the conditionality mechanism in order to facilitate the adoption of measures against a member state.[147] Back then, however, the Council refused to enact such a solution in the final version of the conditionality regulation.[148]

The EP and the Franco-German paper also mention that they would like to see a greater role for the European Court of Justice in the procedure. However, this in itself does not imply greater protection of national sovereignty. As I have shown in the previous chapter, in highly political rule of law cases, the ECJ has visibly tended to side with supranational institutions.

The Franco-German paper also states that 'at a certain level of persistency and gravity of violations, countries can no longer remain an EU member state'.[149] It notes as well 'the absence of a member-state exclusion clause in the Treaties'.[150] It foresees, however, the option to remain attached to the EU by a 'lesser-integrated form of association'.[151] This shows that the Franco-German paper is quite radical when it comes to strengthening the rule of law procedures in the EU.

Unlike the EP, the Franco-German paper also deals with the question of the rule of law conditionality. It recommends making the rule of law conditionality regulation 'an instrument to sanction breaches of the rule of law and, more generally, systematic breaches of the European values enshrined in Article 2 TEU (such as democracy, free and fair elections, freedom of the media, or the systematic abuse of fundamental rights, as expressed in the Charter of Fundamental Rights)'.[152]

It is worth stopping for a moment at this point, because this refers to a foundational dilemma regarding the conditionality mechanism. The original goal of the Commission was to introduce a conditionality regulation which would allow for financial sanctioning of alleged rule of law shortcomings in a member state. However, this goal did not have a legal basis in the Treaties.

That is why, during legislative negotiations with the Council, the rule of law conditionality regulation took the façade of a budget-protection mechanism. It means that currently, the rule of law conditionality mechanism cannot serve officially the purpose of putting a member state under financial pressure because of general rule of law criticisms. Even if in practice, the use of the mechanism is rather political, in theory, the regulation can only be used if the Union's budget would be in danger.

This dilemma is all the more important because it refers back to a judgement of the ECJ. In 2021, Hungary and Poland asked the Court to annul the rule of law conditionality regulation.[153] In short, they argued that the regulation did not have an appropriate legal basis, because the Treaties do not allow for the establishment of rule of law procedures other than the ones included in Article 7 TEU. They argued that the conditionality regulation was in fact a new rule of law mechanism equipped with tools for financial pressuring of member states.

The Court rejected the claims of Hungary and Poland, arguing that their arguments were unfounded, since the objective of the conditionality mechanism was the protection of the budget of the Union and not the financial sanctioning of breaches of the rule of law. The judgement of the Court was astonishing, because outside the courthouse, everyone knew that the real aim of the conditionality mechanism was to sanction some member states. In parallel with the court proceedings, politicians openly celebrated that the EU had finally acquired a tool to put financial pressure on the rebellious member states. However, the Court ignored this reality in order to keep the regulation valid.

The considerations included in the Franco-German paper also attest to the real political goal of the conditionality mechanism, which is to sanction financially member states in the name of the rule of law. They lament that the

conditionality regulation is 'limited by the need to prove a sufficiently direct link between the violation of the rule of law and the EU budget'.[154]

To make things clear, they would also once and for all get rid of the confusing constraints in the current Treaties. They recommend 'to amend Article 7 TEU to add a new Article 7(6) that authorises the Council and the EP, acting in accordance with the Ordinary Legislative Procedure (OLP), to adopt regulations aimed at protecting the EU's founding values'. Alternatively, they would recommend continuing this façade regulation 'by extending the scope of budgetary conditionality to other behaviours that are detrimental to the sound financial management of the European budget'.[155]

7 Conclusion: a“little”problem of democracy

The United States of Europe is under construction, and the division of power within Europe is changing. Step by step, the EU elite is grabbing power from European countries by stealth, with the ultimate goal of centralising decision-making on all major issues in Brussels.

This phenomenon is a clear threat to the sovereignty of European countries. If this trend continues, the Europe we know – a diverse collection of peacefully cooperating countries – will disappear.

The question is not whether the future of the European Union will be a Europe of Nations or a Federal Europe. The question is whether the Europe that we know will become a Europe without Nations.

For this reason, the question of the future shape of the European Union is not an abstract issue, but something which deserves special public attention. Indeed, it touches on some of the most fundamental social and political questions: Who decides how we live our lives? Who decides what our children learn at school and what values they will be brought up with? Who decides how much we should pay in taxes and what they are spent on? Who decides on foreign and defence policy, on war and peace? Who decides how we organise our societies. Who decides with whom and how we live?

Europeans have to take a stand on the fundamental issue of sovereignty. Should we organise our political life on the basis of the national community,

with its own democratic processes, or do we cede the right to decide to a new, distant centre of power?

The stakes are high. Yet the people of Europe are little aware of ongoing power centralisation within the European Union. The process of transforming the EU is taking place gradually, behind the backs of the people, yet it is hard to notice the institutional transformations taking place daily if we are not specialists in EU politics.

But over a period of time the trend is clear. Suddenly, it is as if we woke up with a very different status quo – and one about which no-one was consulted. If, as seems to be the case in many different European countries, people are unhappy with this vast centralisation of power, we are told that it is too late, that there is no chance of turning back.

The builders of the USE consciously use this tactic. Their policy-making is evasive – deliberately and consciously so as several statements quoted in this paper make clear. And this raises a serious democratic problem.

The people of Europe need to know what it is happening. This has been the aim of this paper – to reveal the reality behind the narratives of the EU elite. It has shed light on the concrete institutional transformations in the European Union, and explained how these transformations have little, if any, basis in the treaties which are supposed to regulate the foundations of the European Union.

This paper puts into sharp relief the most recent proposals for Treaty changes – yet another step towards the United States of Europe which few have asked for and the overwhelming majority would reject. The EU elite presents these changes as if there is no alternative, as if this is a matter of simple progress. They tell us these changes are the inevitable direction of history, and therefore undebatable. We reply that there is always an

alternative, and that nothing, especially not the shape of some of the world's most powerful institutions, is beyond debate.

Hopefully, this paper will allow the citizens of European countries to see what is taking place behind their backs – and therefore to kick-start a debate about the major political question of our future as Europeans.

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He is a proud Hungarian from Szeged, open to Europe and the international world. Thanks to his previous experiences he understands both the Central and Eastern European as well as the Western European ways of thinking. He likes identifying common points which relates people from different countries. And when it comes to divergences, he believes in free and respectful debate. He is worried about the fact that the EU is losing its diplomatic component and is becoming a hard political battlefield instead. He wants people to see the EU as it is in reality, that is why he wrote his book on *European Policy on the Rule of Law – a Glimpse behind the Scenes*.

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What is the United States of Europe (USE)? A real political project? A utopia that European elites dream about? A slogan used by nationalist political forces to scare citizens away from European integration?

This study aims to show that the idea of the USE is not a simple fantasy, but a political reality. In fact, the USE has been under construction for a long time, even if this process was not always easy to see.

The advocates of the project decided to talk about it more or less openly, depending on the political context. They paved the road to a USE not only with explicit declarations, but also with rowbacks, euphemisms and nebulous formulations.

In the meantime, the EU has undergone a de facto transformation, in which its supranational characteristics have been strengthened.

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