

Keeping the Promise: Reform of governance in the enlarged European Union

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Executive summary

Provoked by Putin, the EU is having to rapidly revise its strategy for the future of Europe. Enlargement, long dormant, is now a top geopolitical priority. Defence has become a principal driver of European integration. This Discussion Paper examines how the two themes of widening and deepening the Union are interconnected. Ursula von der Leyen's second Commission is preparing pre-enlargement reforms of EU common policies and decision-making processes. Despite disagreements among member states and nationalist political parties,

the presumption of enlargement and the necessity of self-defence leaves the EU little choice but to continue on its federative path. No institution will escape the imperative of reform. Negotiations to expand the size and compass of the EU budget will be particularly difficult. Treaty change is inevitable — and should be well prepared by an expert reflection group. Faced with accelerating European unity, the UK will sooner than expected have to confront the issue of EU membership.

Introduction

What do recent political developments mean for the future of the European Union (EU)? This Paper looks at the state of the EU's preparedness for enlargement towards which it seems perforce committed. Clearly, there is no consensus among EU member states that a great leap forward should now be taken towards a federal state. Equally, however, there is no majority for disintegration and a return to nationalism. So, is the Union about to suffer another of its fairly frequent identity crises? Or will ineluctable federalist forces play out despite the disorientation of the political class?

Only a few years ago, we were more certain about the direction of travel:

“Europe has never been so prosperous, so secure nor so free. The violence of the first half of the 20th Century has given way to a period of peace and stability unprecedented in European history.

“The creation of the European Union has been central to this development. It has transformed the relations between our states, and the lives of our citizens. European countries are committed to dealing peacefully with disputes and to cooperating through common institutions. Over this period, the progressive spread of the rule of law and democracy has seen authoritarian regimes change into secure, stable and dynamic democracies. Successive enlargements are making a reality of the vision of a united and peaceful continent.”¹

That was how the European Council in 2003 introduced its first official security strategy. At that stage, the Union was in the process of expanding its membership from 15 to 25 states. It had drafted a new constitutional treaty and a Charter of Fundamental Rights. A single currency, the euro, had been born. New policy areas were being opened up for cooperation, notably in the field of justice and interior affairs. The Cold War was receding into history. The Balkans, at least for the moment, were pacified. In 2012, the EU even won the Nobel Peace Prize.

The strategic document cited above went on to look at the challenges the EU faced. Terrorism, religious extremism, weapons of mass destruction, regional

conflicts (Kashmir, Central Africa), state failure (Somalia, Afghanistan) and organised crime (drugs) were identified as key threats to Europe's continued security and well-being. Yet Javier Solana, the document's principal author, was confident that the EU would thrive in the rules-based international order if it could itself become more active, capable and coherent. New dangers would offer a more united Europe new opportunities.

Solana was no snowflake. A former foreign minister for Spain and NATO Secretary General (1995-99), Solana was Secretary General of the EU Council and High Representative for Common Foreign and Security Policy for a decade after 1999. He was wise, tough, articulate – and optimistic.

Fast forward twenty years and another former Spanish foreign minister helped draft a new version of the strategic agenda for the European Council. Josep Borrell has been the EU's High Representative for CFSP and Vice-President of the European Commission since 2019. Before that, he had a spell as President of the European Parliament. In its 2024 declaration, the European Council reassures us that the Union's “original promise” of peace, solidarity and prosperity “still guides us and serves as the basis for our priorities for a strong and sovereign Europe”. But “the global political landscape is being reshaped by strategic competition, growing global instability, and attempts to undermine the rules-based international order”.² Russia has turned back from putative partner to relentless adversary.

In such circumstances, the leaders want the EU to be more resilient and assertive in its role as a strategic global player. Priority will be given to building the EU's security and defence capacity, meaning increased spending and closer military integration. More attention will be paid to promoting European values and safeguarding the rule of law. “The new geopolitical reality underscores the importance of enlargement as a geostrategic investment in peace, security, stability and prosperity”. The EU will undertake necessary internal reforms in parallel with enlargement “to ensure that our policies are fit for the future and financed in a sustainable manner and that the EU institutions continue to function and act effectively”.

Progress report

Historians may conclude from these contrasting official statements, twenty years apart, that although the EU at least survived the period as a viable entity, its earlier optimism was badly misplaced. It failed fully to anticipate the climate crisis into which the world was already

headed. The euro was bruised and battered by the banking and sovereign debt crises of 2008-12. The EU was thrown into disunity when faced with the influx of millions of refugees and assorted immigrants from Asia and Africa.

The EU has struggled to spread prosperity, security and liberal democracy eastwards and southwards. Few of the new member states have had an untroubled accession, and some, like Bulgaria, remain deeply corrupt and unstable. Right-wing governments across central and eastern Europe have begun openly to contest the validity of that “original promise” of the Union.³ Backsliding from membership commitments has been common, led by Hungary.

Nor did the magic of European integration work out well to the west. The United Kingdom, which never managed to enjoy the full potential of its lengthy EU membership, voted petulantly to leave altogether – in the process making itself and its former partners poorer. The secession of the British was an undoubted blow to the EU’s internal morale and international credibility. Paradoxically, however, although Brexit raised the pulse of nationalists everywhere, the hash the UK then made of it seems to have dissuaded other eurosceptic states from taking the exit route. The EU seems stuck, at least for a while, with its 27 current member states, like it or not.

In terms of political and institutional reform, the Union tends to do too little too late, and then retreats from implementation.

With 27 members, the Commission is oversized and its independence from national governments is compromised. Enhanced cooperation between groups of the more integrationist minded states has not

proved popular. Decision-making in the Council is too often stymied by the threat of national vetoes. The EU budget does not reflect the scale of Union competences nor fit its financial commitments. Member states that persistently breach the rules are tolerated for too long. Projects are begun but not seen through to conclusion: notably, the capital market and banking union proposals are mired in the shifting sand dunes of the Council. Agreed asylum and immigration policy remains much contested. Even the Green Deal aiming at climate neutrality by 2030 is jeopardised.

In terms of political and institutional reform, the Union tends to do too little too late, and then retreats from implementation. The fruits of the work of the constitutional Convention in 2002-03 did not enter into force, in the form of the Treaty of Lisbon, until late 2009. Many of the possibilities encountered in that treaty to promote more efficient democratic governance at the federal level remain dead letters.

Further treaty change has stalled: the European Council is already in breach of its treaty obligations under Article 48(2) TEU for failing to react to proposals for amending the treaty delivered to it by the European Parliament in June 2022.⁴ Parliament delivered another package of proposed reforms in November 2023.⁵ This second resolution was more substantial, if less coherent than the first, but the central proposal was the same: to alter the decision-making procedure for the general *passerelle* clause from unanimity to qualified majority vote (QMV). Article 48(7) TEU is a bridging clause permitting the European Council to suppress the national veto in Council law-making or to change a special law of the Council into ordinary legislation (involving codecision with Parliament). The catch is, however, that the European Council must act unanimously to make the shift. Accordingly, the *passerelle* has never been used.

Von der Leyen II

Ursula von der Leyen, whom the European Council renominated for the Commission presidency in June 2024, has never over-indulged in constitutional matters. Apart from an inconsequential, interinstitutional Conference on the Future of Europe involving some citizens, her first term showed no statutory progress in the inevitably long march to the “ever closer union” of which Article 1 TEU tantalisingly speaks. Before her re-election by the European Parliament, where she needed to retain the support of federalist MEPs, she told the House:

“Our Union and our democracy are constant work in progress. And there is more that we can do. We need an ambitious reform agenda to ensure the functioning of a larger Union and to increase democratic legitimacy. While reforms were necessary before, with enlargement they become indispensable. We must use

this as a catalyst for change in terms of our capacity to act, our policies and our budget. We will of course focus on what we can already do, of which there is a lot. But we should be more ambitious. I believe we need Treaty change where it can improve our Union. And I want to work on that with this House. And this will be part of a closer partnership between the Commission and the Parliament. I have listened to your demands and concerns.”⁶

Von der Leyen’s only detailed intervention concerned the utility of Article 225 TFEU, which allows the Parliament to invite the Commission to initiate a new law. MEPs have been agitating to have the legal right to initiate legislation all by themselves, thereby bypassing the Commission’s cherished right of initiative under Article 17(2) TEU, which is at the heart of the classical ‘Community method’.

The Commission could be forgiven for pointing out that Article 225 works fairly smoothly as it is. MEPs have in any case failed to identify a draft law within the confines of EU competences that they intend to impose on a reluctant Commission. It is also plain that were Parliament to seize the right of legislative initiative, that same right would also be seized by the Council, stretching its own powers. Under Article 241 TFEU, in almost all cases, the Council has to invite the Commission to table legislation (and where that is not the case, as in family law, the strike rate has been negative).⁷

Going federal gradually

In the EU context, of course, the problem is to identify precisely where the government lies. The EU is run according to a well-trying and logical method. It is, and has always been from the outset, a federative polity in which new supranational institutions have been invented to engage alongside the traditional intergovernmental diplomacy of the member states.

The Commission's job is to propose a law in the general interest, aiming at a political consensus in a highly diverse Union. A legislative compromise is then required in the Council, representing the member states, in codecision with the Parliament, representing the citizens. The 'Community method' has avoided both the democratic weakness of the Weimar Republic as well as the over-centralising tendencies of a superstate. The method has evolved over time, but on such a foundation is the federal republic of Europe being steadily built.

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The profile of federal government at the EU level, therefore, was bound to be modest and unobtrusive. That is why the principles of subsidiarity and proportionality have been written into EU primary law, under Article 5 TEU. Subsidiarity means that decisions should be taken at the lowest most appropriate level of government. In the context of the EU, the application of subsidiarity qualifies that the objectives of the proposed action, by reason of their scale or effects, are better achieved at the EU level rather than at the national level. Proportionality means that the EU should not take a sledgehammer to crack a nut. There are protocols and procedures to monitor how these principles are applied.⁸

Ministers and MEPs should show more respect for the interinstitutional balance between the Parliament, Council and Commission. If Article 225 is ever amended, Parliament's powers to launch its own laws will need to be circumscribed so as not to overturn the formal budgetary process. While some national parliaments allow a limited right of legislative initiative to individual deputies, the European norm is to empower governments to propose laws while parliaments dispose them.

In fact, common sense is the most helpful guide as to what should and should not be done at the EU level.

The accretion of executive authority by the Commission has been gradual and not always written down. The Commission has needed to prove that it can act autonomously and more effectively than leaving things to the muddle of member state governments. The assumption of powers at the EU level was more often the result of timely and pragmatic necessity than by way of the formal revision of the treaties conferring new competences. Reaction to the COVID-19 pandemic is a good example of this, where the Commission stepped in to act despite its formally limited powers in the field of public health. Other assertions of power are more subtle: note how the Commission now monitors the state of the rule of law in each member state, and publishes the results annually, just as it monitors the fiscal policy and economic performance of the member states. The Commission also manages the growing number of networks set up to coordinate national administrative bodies, like the European Research Council.

There is now an EU executive agency or regulatory authority dedicated to the supervision of almost every sector of European public life. EU agencies designed specifically for both internal and external security purposes are proliferating and evolving rapidly: Europol, Eurojust, the European Public Prosecutor, the Fundamental Rights Agency, Frontex, the anti-fraud squad (OLAF), and the EU Agency for Asylum. At the apex of this vast nexus of public administration is the European Commission. The degree to which member states have come to rely on their EU superstructure was vividly illustrated by Brexit which left the UK scrambling to reinvent a domestic regulatory framework when deprived of the regulatory arm of Brussels.

Pre-enlargement jitters

Beyond the question of Parliament's right of initiative, von der Leyen's second Commission will find, constitutionally speaking, that there is much more at stake. In September 2023, the President announced a series of "pre-enlargement policy reviews to see how each area may need to be adapted to a larger Union".

"We will need to think about how our institutions would work, how the Parliament and the Commission would look. We need to discuss the future of our budget in terms of what it finances, how it finances it, and how it is financed. And we need to understand how to ensure credible security commitments in a world where deterrence matters more than ever."⁹

In spring 2024, a Commission paper speculated more deeply about its pre-enlargement reforms and policy reviews.¹⁰ Although "enlargement is in the Union's own strategic interest", it will increase heterogeneity, add to complexity and be an extra call on resources. Enlargement can be "a catalyst for progress" as well as having "unintended consequences". The Commission evinced a more open approach to the gradual integration of acceding states into the common policies of the Union, all the while denouncing an *à la carte* approach to integration. Strategic partnerships, it said, should be sought with other European states in industrial ecosystems of mutual interest, such as raw materials, tourism, and battery production. Ukraine's Association Agreement of 2014 is understood to be a good model. Trans-European networks in energy, digital services and transport, including those of use to the military, should be encouraged.

As far as common policies are concerned, the Commission deems original objectives to remain valid, although reflection is needed on the future of cohesion funding, the social aspects of freedom of movement, Schengen and the CAP (where a level playing field has to be ensured between old and new member states). The question posed, but not answered, is how to enforce the application of EU rules on those countries which are not yet full members. The early participation of acceding states in the work of EU agencies, including in public health and integrated border management, would certainly help.

On the accession process itself, the Commission suggests unanimity should be reserved for the final decision only, allowing individual chapters to be opened and closed by QMV. It floats the idea of supplementing any use of the *passerelles* by allowing a hostile member state to make a last resort appeal — a 'sovereignty reserve' — to the European Council, which body would then have to decide what to do by unanimity.¹¹ The same circular argument has taken place without resolution at the level of the General Affairs Council under the recent Belgian presidency.¹²

On the budget, the Commission so far has nothing new to say, other than to point out that the EEA states and Switzerland can expect to pay more for the price of EU enlargement. Negotiations on the new Multiannual Financial Framework (MFF) from 2028, which will begin next year, will be complicated by the looming enlargement.

The Union gets ready to defend itself

The European External Action Service insists that full alignment with the common foreign and security policy (CFSP) is a *sine qua non* of enlargement. The larger Union will have more clout on the global stage, but only "if it is able to act in a united, fast and decisive manner". The importance of QMV in CFSP is emphasised, as is the desirability of obliging those ministers in an obvious minority to abstain constructively rather than blocking decisions. Serbia, notably, will have to adjust its stance towards Russia if it wishes to continue with its EU candidacy. By contrast, Ukraine is already treated like a member state, not least because of its engagement with the EU's new defence industrial strategy.¹³

Participation of acceding states in the European Defence Agency should be encouraged, implying full alignment with all relevant EU security systems and protocols.

Driving defence integration is the avant-garde group of politically willing and militarily capable member states committed to permanent structured cooperation (PESCO) under Article 42(6) TEU.

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Vladimir Putin's full frontal invasion of Ukraine in February 2022 not only electrified the debate about EU enlargement but also unlocked EU defence policy.¹⁴ European and US armaments and money were dispatched in increasing quantities to help Kyiv defend itself. Collaboration between the EU and NATO, which had previously been low level, was cranked up.¹⁵ Finland and Sweden joined NATO, and Ukraine's future membership was affirmed. The two Brussels-based organisations have formed a strategic partnership with many functional elements that look set to outlast any passing blip in transatlantic relations. It may even be possible to set up a joint EU-NATO command centre.¹⁶ The new European Commission and a benign US presidency would be well placed to join forces in 2025. The immediate priority is to end duplication and even competition in arms procurement. Longer term goals involve strategic foresight and defence planning, aiming to revitalise Europe's forward defence forces after many years of decline.

The assumption of defence as a central driver of European integration overturns inhibitions that have impaired the development of the EU as a federal polity since the failure of a European Defence Community project in the 1950s. Coincidentally Brexit removed the UK veto on the EU's efforts to define a credible security

identity. Two things follow from this: the need to strengthen the executive authority of the Commission, including the appointment by von der Leyen of a Commissioner responsible for a defence portfolio, and the rise of unavoidable costs that will fall, at least in part, on the EU budget. But all the EU institutions, including the European Parliament, will have to raise their game to cope with the new dimension.

Treaty prohibitions on the judicial authority of the European Court of Justice in the field of the external activities of the Union need to be removed at the earliest opportunity.¹⁷ Article 346 TFEU should be modified to incentivise the integration of the EU's arms industries by applying normal internal market rules. And the European Investment Bank should liberalise its policy on military matters.

Symbiosis between NATO and the EU raises the status of those EU member states that subscribe fully to PESCO while lowering the standing of those that do not or cannot meet the higher criteria demanded. Norway and Iceland should not be excluded from this emerging federal core group. Nor will Ukraine be. The obvious dilemma for secessionist Britain grows more acute, to which we return below.

Who pays?

All the candidate countries for EU membership are poor in terms of GDP per capita: Albania, Bosnia & Herzegovina, Kosovo, Moldova, Montenegro, North Macedonia, Serbia, and Ukraine.¹⁸ Enlargement to these countries will be a substantial net cost to the EU budget, and more work has to be done as part of the pre-enlargement review to quantify that cost.¹⁹

The current MFF of 2021-27 entails total expenditure falling to the EU budget of only €1.1 billion. In addition, the Commission launched a pandemic recovery and resilience instrument (RRF) on behalf of the member states, whose repayment will also fall on the EU budget. Overall EU spending remains at 1 percent of EU GDP which is very small in relative terms to that usual in classical federations. Although inadequate, the EU budget has proved resistant to radical reform. The bulk of its revenue comes from direct GNI contributions by member state finance ministries, inevitably preoccupied by getting as much as possible out of the EU while putting as little as possible in.

The Commission has been trying for years to create new forms of direct revenue — 'real' own resources — that would enable it to act autonomously as an EU federal treasury, issuing genuine eurobonds on behalf of the Union. Federal spending would be concentrated on commonly agreed European public goods, such as R&D, cross-border infrastructure, and now defence, leaving other EU programmes, notably the CAP, that are spent within member states to be financed by the GNI key. Aid

for Ukraine, especially if support flags in some national capitals, would be a legitimate call on the EU federal level.

Developing an overtly federal level of government with an explicitly federal tier of the budget would actually save national treasury money. An EU sovereign wealth fund could steadily accrue, attracting premium investors.²⁰ Budgetary reform would be good for EU democracy too, enhancing the efficacy of EU spending and boosting solidarity.²¹ New and relatively poorer member states would benefit most. The Commission should set itself a target to grow the EU budget to 2.5 percent of the total EU GDP. The incorporation of the European Stability Mechanism and Single Resolution Fund into the EU treasury would be an important step towards reaching that goal, to say nothing of the European Development Fund for overseas aid which is at present outside the MFF. Needless to add, to facilitate these reforms, treaty revision is needed to install the use of QMV plus full codecision with the Parliament to both sides of the budget, that is Articles 311 and 312 TFEU.²²

Budgetary reform would be good for EU democracy too, enhancing the efficacy of EU spending and boosting solidarity.

In September 2024, Mario Draghi will publish his report on how to bolster the competitiveness of the European economy in a hostile geopolitical environment. He is expected to propose a radical uplift of the Union's

capacity to act federally in trade, finance, research, regulation, and industrial investment. How to implement the Draghi Report will be one of the major tasks of Von der Leyen II.

Imperial stretch

Anticipated enlargement to embrace the former territory of the whole Habsburg empire, as well as significant chunks of Ottoman and Romanov lands, prompts questions about the imperial stretch of a federal European Union. Familiar themes surface from Europe's history before the rise of its nation-states. As the EU moves eastwards, there is trouble on the frontier. At home, there are separatist pressures, fuelled by nationalist disrupters such as Viktor Orbán, Jaroslaw Kaczynski, Marine Le Pen, and Nigel Farage. Electoral politics in almost every member state is roiled by support for sovereigntist parties campaigning against 'Brussels'.

In constitutional terms, the EU is up against well-known imperial dilemmas. How much autonomy for the member states is compatible with cohesion and loyalty to the centre? The uniform application of the rule of law across such a large and diverse Union relies on the collaboration of impartial national courts and robust public trust in the administration of EU justice. Consolidation of the rule of law is a work in progress. Modification of Article 7 TEU may be needed to insure against future breaches by errant member states of the cardinal values of the Union.

How should the EU cater for the needs of its unstable periphery? The recent invention by President Emmanuel Macron of the wider pan-European conference of the European Political Community may be welcomed in this respect. Does this presage the emergence of

partial or affiliate membership of the Union, short of full accession? The EU institutions should be open to all such possibilities. Formal affiliation as a staging post towards full membership would impose a set of obligations on those countries in return for guaranteed rights, such as the right to vote (without a veto) on applicable single market legislation. Affiliate membership may attract Norway and Iceland as they look to upgrade their association agreement. As suggested above, third-country participation in EU defence policy under Article 42(6) would define and entrench a privileged partnership.

Such engagement with the neighbours will only be plausible if the Commission, at the centre, has a stronger hand to play as guarantor of the treaties. Here the jurisprudence of the European Court of Justice makes a vital contribution in enforcing the value-riven constitutional order of the Union. The essential principles of EU law need upholding: primacy, direct effect, mutual trust and the protection of the rights of both states and citizens. But these principles should be articulated and reiterated continually, and especially repetitive as the size of EU grows. The Court itself takes on more of the appurtenances of a federal supreme court. It should also have the self-confidence to agree to the accession of the EU as an entity to the European Convention on Human Rights, as Article 6(2) TEU indeed ordains.

Treaty change

I have referred in this paper to articles of the EU Treaties that, in my view, require modification. I have written more about treaty revision elsewhere.²³ It is encouraging that others are now beginning to do so.²⁴ There is much common ground in these submissions, notably a presumption that the European Council's commitment to renewed enlargement must be taken at face value. What follows is the need for a powerful executive based in the Commission, the extension of QMV in the Council, and democratic reform through the European Parliament.²⁵ Expansion of the membership of the Union to 30+ makes action imperative.

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As the Treaty of Lisbon already provides, the size of the Commission should be cut by a third.²⁶ This would give the President a stronger hand in selecting her own college. The wasteful and distracting rotating presidency of the Council should be scrapped.

In its place, the General Affairs Council should be put under the direct control of the President of the European Council. Each other formation of the Council of ministers should elect their own chair, as do the committees of the European Parliament.²⁷

Parliament has survived its recent elections somewhat strengthened. Although the far right picked up votes and seats, the centrist parties retained their overall control of the House. The re-election of Ursula von der Leyen is a testament to the health of the *Spitzenkandidat* process through which Parliament has become co-equal to the European Council in the matter of the Commission presidency.²⁸ MEPs have another chance to show their acumen over the next few weeks as they conduct the auditions of the individual Commissioners-elect.²⁹ They should also reinforce their determination to amend the treaties via a Convention and not hesitate to take the European Council to the Court of Justice if the heads of government continue to breach Article 48(2).³⁰

Two items of internal reform demand Parliament's urgent attention. The first is to settle a formula for the fair apportionment of seats among the member states.³¹ The second is to press their proposal to introduce for the next elections in 2029 a pan-European constituency for which a portion of MEPs will be elected from transnational party lists. The purpose of that electoral reform is to force into being proper federal parties, building that democratic link between the citizen and the EU institutions that is so lacking at the moment.

There is scepticism, even in the federalist camp, about the present possibilities of building the consensus necessary to revise the treaties. Without careful further preparation, these doubts are justified. Some call for integrationist member states to do more outside the formal EU structure, and the formation of a coherent vanguard group should surely be explored.³² But a sustained collective endeavour must be made by all member states and institutions to address the shortcomings of the Union's present governance arrangements, to discuss them openly, and to seek better solutions. Accession countries should be recruited in the effort to reform the EU: they have little to gain, after all, in joining up to a dysfunctional Union that underdelivers. Outside Russia and Belarus, very few would welcome the EU's collapse. Even homegrown eurosceptics can see that bad institutions make bad decisions, and for the EU now to wallow in an identity crisis would only benefit its enemies.

The charm of the Convention method, stipulated in Article 48(3) TEU, is to bring together all the relevant

stakeholders, including those from national parliaments, to deliberate in the same place at the same time. In the open forum of a Convention, good arguments tend to carry the day as bad ones sink. Alternative options are weighed up and compromises are made. Certainly, a Convention needs itself to be well prepared. A group of people who know what they are talking about could be charged, outside the conventional interinstitutional format, with preparing options for treaty change. President von der Leyen might invite Mario Draghi to lead such an expert group. There is useful precedent for such a move when the EU has had to overcome a bout of eurosclerosis.³³

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Ursula von der Leyen laid her political guidelines before the Parliament in July 2024. She promised:

“In the first 100 days [of the new Commission], we will present our pre-enlargement policy reviews focusing on individual sectors such as the rule of law, the Single Market, food security, defence and security, climate and energy and migration, as well as social, economic and territorial convergence more broadly. We will put forward proposals to enhance Europe's capacity to act, looking at new formats and decision-making processes, including for a larger Union.”³⁴

She added a warning that: “In doing so, we will focus on what can already be done now and those areas where a broad consensus is emerging”. Notwithstanding her personal preference for minimal reform, she may well have sparked a more basic review of the *acquis communautaire* than she bargains for. In these circumstances, it would be perfectly legitimate to have recourse to a no-taboo reflection group of wise men and women plotting the way towards a more robust, democratic constitutional framework for the larger Union. Once the group has reported, von der Leyen's political leadership plus the emollient skills of the new President of the European Council, Antonio Costa, will be much called upon to avoid the otherwise inevitable constitutional crisis.

Britain

Few countries will be more affected by the federalisation of an enlarged European Union than its erstwhile member, the United Kingdom. The election of Keir Starmer's government in July 2024 brings to an end

one of the most nationalistic phases of modern British history. What follows, however, is less than obvious. Labour ministers promise a reset of relations with Europe, while Starmer himself continues to insist

that the UK will not rejoin the customs union or the single market during, at least, his first term in office. Notwithstanding the clear overlap of foreign policy interests, the UK could be about to indulge in a long period of aimable standoffishness towards the EU that recalls the strategy of both Labour and Conservative governments in the immediate post-War years. It was this that led Jean Monnet to invent the concept of UK association status with the European Community.³⁵

The Labour government will tinker at the edges of the Trade and Cooperation Agreement (2020) in an effort to mitigate the worst consequences of Boris Johnson's Brexit. That process promises to be costly and hard work. Von der Leyen's Commission is not prepared to make concessions to the British on the need for a level playing field. The EU will insist on maintaining a balance of rights and obligations and will continue to reject Britain's cherry-picking approach against which it fought hard at the Article 50 secession negotiations. What is, in my view, most likely is that a frustrated Starmer, having tried unsuccessfully to converge

discreetly on EU norms, will unexpectedly decide, as Harold Macmillan did in 1961, to apply for full membership.³⁶ If he does so he may find a large majority of British public opinion with him, keen to reinvest in Europe's original promise.

How quickly and effectively the EU fashions its new approach to its other neighbours, including the possibility of an official affiliate membership, will determine the timing of the British initiative. Until then, the UK will find that in its efforts to reset its relationship with Europe, Ukraine will always be at least one step ahead.

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- ² *Strategic Agenda 2024-2029*, European Council, 27 June 2024.
- ³ *Rule of Law Report 2024*, EU Commission, 24 July 2024 (including Albania, Montenegro, North Macedonia & Serbia). https://ec.europa.eu/commission/presscorner/detail/en/ip_24_3864
- ⁴ OJ C 493, 27-12-2022. *Raising the stakes on constitutional reform: The European Parliament triggers treaty change*, European Policy Centre Discussion Paper, 6 March 2023.
- ⁵ OJ C 4216, 24-07-2024. *Towards common accord? The European Union contemplates treaty change*, European Policy Centre Discussion Paper, 31 October 2023
- ⁶ Speech to the European Parliament, 18 July 2024.
- ⁷ Article 76 TFEU.
- ⁸ Protocols Nos 1 and 2 of the Treaty of Lisbon.
- ⁹ State of the Union speech to the European Parliament, 13 September 2023.
- ¹⁰ Commission communication on pre-enlargement reforms and policy reviews, COM(2024) 146 final, 20 March 2024.
- ¹¹ See Nicolai von Ondarza & Isabella Stürzer, *The State of Consensus in the EU*, SWP Comment 16, April 2024.
- ¹² Belgian Presidency Progress Report on the Future of Europe, Council of the EU, 10411/24, 10 June 2024.
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NOTES

NOTES

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