

On the Continent Alone

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The (still) United Kingdom has voted against remaining in the EU. The divide between London City and the countryside, between young and old, between Scotland and Wales – all of this will keep this nation occupied for a long time, if it does not tear the nation apart. At the very least it will be a nation under significant tension. But what about the Continent? Recently a truculent suggestion has been making the rounds in Brussels, Paris and Berlin. In principle it would be a good thing if the English leave. This would clear the way for “more Europe.” Maybe, with a divorce, Europe will at last be free to take step toward a federal state. Some, a bit more tactfully, wonder if Brexit should not have consequences for the EU as well. Should the EU become more “social” with decidedly more transfers? Or, should competences now be returned to the Member States? Others, to the contrary, have floated the idea of a new subsidiary balance: they want to transfer additional sovereign authority and reduce the veto-opportunities for the Member States.

The German Federal Government (*Bundesregierung*), in its first reaction, warned against rash conclusions that might further divide Europe. This was the correct response. After all, it seems that the populist-movement has reached a fervor in nearly all the Member States that has not been seen for decades. The anti-European sentiment runs the range from a not-totally-irrelevant marginal phenomenon as in Germany, to a hidden veto-power in France, to a movement that is already on the way to a majority in Italy. The doubts regarding the democratic system of governance continue to grow. Emotionally actionable moments of disruption, campaign posturing, blind and stubborn moralizing or resentment – all too often and altogether unmitigated, all of this has seeped into the regular script of our political theater. The opaque control of the centrist parties no longer prevails as had been the case for the last decades. There is a growing danger of a rapid loss of order and surprising, radical changes. The European project is no longer that which the elites would make of it.

Every government must reckon with sharp, hard-to-assess protests if anything institutional is to be undertaken within the power structures of the EU. Right-wing populists cannot exactly say—and certainly not with border-transcending unity—what kind of re-nationalization it wants. Billions in expenditures for economic support, with a healthy dose of price protectionism and social regulation could take some of the wind out of the sails of

left-wing populism. But these ambitions, depending on the respective interest groups and national sensibilities, are severely in conflict with one another. Should trade pacts, such as the TTIP, now be negotiated through discrete national channels without the involvement of the European Commission? Should immigration and asylum policy be returned to the States, even while Brussels retains authority to enforce free-movement in the common market? What is to be done with the anxiety that surfaces—not only palpable in England, but perhaps decisive in the English referendum—when some States open their borders and thereby pave the way for unjustified migrants to seek legal status and national residency permission, which then leave open the door to all of Europe? Or perhaps the reverse approach would be the solution: to completely Europeanize immigration issues. But which populist movement will have to be confronted if Brussels holds open the external borders and those arriving are authoritatively allocated or distributed?

Migration is one confounding problem. The economic conditions in the Eurozone represent other problems. Growth is weak on the old continent and the ability to compete internationally varies significantly. Explicit fiscal specifications and the imminent pressure to improve competitiveness in the Monetary Union combine to form a kind of tightly-laced corset that both makes it hard to take a political breath but is also held responsible for maintaining an attractive figure. But it is the Member States that must do the hard work to keep in fiscal shape. The State and regional democracies are responsible for what really matters: value-enhancing innovation, quality education and training, cultural grit, the openness of younger generations to the world, academic and technical infrastructure, a trim and efficient state administration, and an economic framework that mobilizes capabilities. An incentives-based system in a fair framework of competition—this can and must be European. But it is the States that must lay the foundations and deliver the results. The core of the economic-relevant decisions cannot be communitarized. No one should underestimate how important regional and national socio-cultural conditions are. Solutions are bound up with decentralized consensus- and conflict-faculties. In this sense there is an enormous difference between, on the one hand, labor law, tariff policies or social welfare systems, and on the other hand, technical standards for USB-communications protocols or vehicle emissions.

The European impulse and orientation for shared economic and labor-market policies are surely realistic and necessary. But the treaties only anticipate closely-coordinated economic policy occurring within a framework that is preordained in treaties. But this can only work when a consensus regarding that framework exists. The treaties have insisted on this ideal foundation for the common market since the founding-era of the European Communities. It is not clear, however, whether the fundamental principle of an “open market economy with free competition” (which is fixed in two places in the European Economic Constitution, including Art. 119(1) and Art. 120(2) TFEU) still reflects a political

consensus. Or is that commitment just another legal aim that can be swept-aside or overtaken by political developments?

The United Kingdom's domestic politics have always been headstrong and have always featured an evident desire to maintain some distance from the Continent. Yet, it may be that the fatal stimulus fuelling the "leave" campaign's victory was not only a product of domestic political tensions. It might also have been a consequence of the contradictions of European integration. The forces that led to the referendum were not just "made in England" and they do not only implicate the United Kingdom. Those who now favor rushing into an accelerated withdrawal process (without carefully considering the terms of Art. 50), or those who advocate opening the path for Scotland's secession, would be well-served to first cast a critical glance on the current conditions of the EU. Europe is and was an idea of the elites. And it was a good idea, which had been developed by responsible and self-conscious elites. But it is not only the voters who have become more volatile and decidedly more emotional. Along the way the elites have declined in quality, which is evident from their inability to admit to their mistakes. They sense that the ground is starting to buckle and have built a temporary fort in an effort to weather the populist hordes from the right and the left. More public education is their answer. That and more centralization in Brussels. More power for the Commission. Now all Member States should be compelled to join the Monetary Union (even Denmark and Sweden?). At least that is what it is hoped a new round of treaties will achieve. At the same time many are urging an end to Europe's "*Sparpolitik*" (austerity policies). Should the persistent legal violations at last be addressed with an effort to return to the stability criteria, or should the dilemma be papered-over with the ECB again accepting Greek bonds as securities?

Any serious reflection on the EU will expose two planes: the mechanism of integration that usually goes unnoticed and the evidence of the EU's performance on behalf of its citizens. The process of integration is the product of a political and economic-constitutional framework that cannot be opened for consideration or debate without the risk of setting-off destructive forces. Yet, the political frame should allow negotiations and compromises among competing interests. The dream of those in Brussels who intend, instead, to manage through governance, is a chimera. The Commission is no government, at least not in the classical sense. And it cannot become such a government. The Commission is an important instrument of shared governance, but it lacks the essential profile necessary to pursue and achieve the rational resolution of divergent interests. The EU's service on behalf of its citizens is most clearly visible when the Union pursues practical projects, such as: the effective expansion of coordinated efforts to secure borders; taking-up responsibility for humanitarian and foreign affairs policy in the regional neighborhood; and serious signals that it will combat over-regulation. The "*Acquis communautaire*" is not the Holy Grail. Long-knotted intersecting competences should be unbundled and the Union should renounce its well-worn paternalism. In some cases responsibilities can be

simply restored to the Member States, without doing any harm to the European ideal. The identity of the States as responsible spheres must be more clearly accepted and inscribed in law. A formal catalogue or inventory of competences—also extending to the Union’s judicial power—is necessary. Only then can a svelte new Europe convincingly join the struggle against the populisms of the left and the right. It would truly do so, but as a practical project promoting peace and prosperity.

Neither the dilemma that has erupted in England nor the problems that have long been smoldering in the Union can be resolved with confrontation. Tolerance and ever-more imagination are called for. If we can manage to de-escalate the emerging constitutional crisis in the United Kingdom with a thoughtful, conscientious and respectful Art. 50 process—rather than pouring fuel on the fire—then something new, something constructive might result. As they say: “It’s not over until it’s over.”