

## Renewing the EU's Capacity to Govern its Future

How to ensure decision-making capacity and the defence of European values and sovereignty in the context of multiple challenges

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When it comes to fast and efficient decision-making, the European Union seems to be at something of an institutional disadvantage compared to other international actors, primarily the United States and China. Unlike these countries, the EU is not a state, but a conglomeration of Member States that retain their core sovereignty even at the European level. Thus, the EU currently has to deal with the diverse interests and positions of 27 distinct systems of government and 27 distinct populations, along with the consequent complexity of its decision-making process.

The current structure of the European Union was designed for “positive” times when European integration was regarded as an added value aimed at further increasing the prosperity of Member States. However, that period now seems like a distant memory and the Union has already had to confront unexpected crises of various kinds, attempting to respond with the tools offered at different times by the Treaties and contingent national political arrangements. The current situation and the prospect of substantial enlargement in the short/medium term require new, effective, and above all, structural solutions.

Reforming the composition of the Commission, improving the democratic representativeness of the European Parliament, streamlining the decision-making capacity of the EU Council and the European Council, defending European values and the rule of law, and preparing for an adequate mode of enlargement are all essential objectives for an EU that wants to maintain and enhance its capacity for decision-making and management in the European space.

The set of reform proposals presented in this contribution envisions an informal European geopolitical response mechanism to provide an agile decision-making process across sectors, “without modifying the Treaties”. This will however require a clear and unequivocal political will among European governments.

## Preamble

*Europe is facing a time of historical upheaval, a time of internal and external threats to peace and freedom, with great opportunities as well as risks from new technologies, and a time beset by the consequences of climate change and its impact on prosperity and justice. Today's Europe is the result of its eventful history, its experiences and the lessons it has learned from its scientific and cultural achievements, from its civilisational accomplishments, as well as from war, suffering and crisis. The legacy of the past has also given us a promise for the future: human dignity and freedom are inviolable. Today – in the face of major upheavals that will decide the fate and future of Europe – the question once again arises as to what solutions Europe can find to the troubles of the present and the challenges of the future. Can it preserve peace and freedom, defend its sovereignty and security, and increase prosperity and justice?*

*With this series of articles, the cep Network would like to draw attention to pressing issues and developments which go beyond day-to-day politics and regulation and will be of crucial importance for the EU in the run-up to a significant and game-changing European election. We aim to ask the key questions, shed light on their strategic context and provide some political answers.*

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## 1 EU objectives and the international framework: a competition between future-proof decision-making mechanisms

The EU has long faced competition from other international players, primarily the US and China. One major disadvantage which the EU faces, however, is the complexity of its decision-making process, something which the US and China do not have to contend with. This situation is inevitable since the latter are nation-states where different institutional levels operate within a unified state dimension, streamlining and simplifying the decision-making process. In the US, the federal form of government generally encourages compromise between the federal government and the states, while in China, the dominance of the central government minimizes the need for agreements and co-decisions with other bodies.

The EU, however, is not a state but a conglomeration of Member States, each retaining their core sovereignty within the European framework. Consequently, the EU suffers due to the diversity of interests and positions represented by its 27 distinct national governments and populations, which results in a cumbersome decision-making process. European and national institutions often have to engage in lengthy and complex negotiations to reach compromises and translate decisions into political strategies and regulatory measures at the European level. While this diversity is an asset for the EU, enabling it to gather a wide range of interests and opinions, it also extends deliberation time thereby reducing the EU's decision-making responsiveness and leading to legislation that is always a compromise and potentially therefore less effective.

However, an analysis of aggregate data from the Worldwide Governance Indicators reveals that both the United States and the European Union have seen declining trends in their quality of governance over the past decade, while China, despite negative results, has seen slight improvements. The downward trends in the US and the EU likely stem from a volatile international environment marked by multiple crises, which existing national and international political and regulatory models, based on liberal engagement, struggle to manage. Although European aggregate data reflects national performance averages rather than those of Brussels institutions directly, they include the effects of European policies and regulations implemented at national level.

In this context, the European Union records the best data in the area of Voice & Accountability, which measures citizens' ability to participate in political decisions and have their rights protected. This is no coincidence as the EU has always prioritized ensuring its citizens' fundamental rights and freedoms, sometimes at the expense of an easier environment for private investment and quicker decision-making. In contrast, the US, which shows better values in the areas of Government Effectiveness and Regulatory Quality—understood to mean the government's ability to implement policies that promote private sector development—performs worse in the area of citizens' rights and power. The EU, however, scores lower than the US on Rule of Law, likely because some Member States do not fully comply with European provisions in this area. As will be discussed below, the EU struggles to enforce adherence to these principles by some national governments, notably, but not exclusively, in Hungary.

In the case of China, although there has been an improvement in the quality of government and institutions over the last ten years, the data shows largely negative trends in all areas, including in Regulatory Quality, which has deteriorated slightly. This aligns with the Chinese decision-making model, which prioritizes the State and the Party above all else. While this model makes the decision-

making process faster and more competitive, it is less effective in addressing the diverse private and public demands of citizens and businesses within the country.

**Table 1: World Bank Governance Index (EU average)**

(EU average)	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
<b>Political Stability</b>	0,76	0,77	0,77	0,78	0,74	0,68	0,65	0,69	0,67	0,70	0,69	0,71	0,62
<b>Government Effectiveness</b>	1,15	1,14	1,14	1,14	1,12	1,10	1,07	1,03	1,03	1,02	0,98	0,99	0,98
<b>Regulatory Quality</b>	1,25	1,21	1,20	1,18	1,15	1,16	1,15	1,13	1,14	1,18	1,11	1,11	1,07
<b>Rule of law</b>	1,18	1,17	1,16	1,12	1,19	1,12	1,08	1,05	1,03	1,05	1,03	1,04	1,03
<b>Control of Corruption</b>	1,04	1,04	1,05	1,01	1,00	0,99	0,99	0,93	0,93	0,94	0,97	0,97	0,97
<b>Voice &amp; Accountability</b>	1,10	1,10	1,11	1,10	1,09	1,11	1,09	1,08	1,07	1,05	1,07	1,07	1,09

Source: World Bank

**Table 2: World Bank Governance Index (US)**

USA	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
<b>Political Stability</b>	0,44	0,59	0,63	0,64	0,58	0,66	0,39	0,26	0,39	0,12	-0,03	-0,01	-0,04
<b>Government Effectiveness</b>	1,55	1,51	1,52	1,52	1,46	1,43	1,44	1,52	1,54	1,45	1,28	1,30	1,26
<b>Regulatory Quality</b>	1,44	1,46	1,29	1,26	1,28	1,24	1,49	1,62	1,61	1,33	1,24	1,44	1,42
<b>Rule of law</b>	1,63	1,59	1,62	1,55	1,61	1,56	1,58	1,61	1,48	1,42	1,34	1,39	1,37
<b>Control of Corruption</b>	1,27	1,26	1,40	1,31	1,37	1,36	1,33	1,34	1,29	1,18	1,04	1,02	1,10

Source: World Bank

**Tab. 3: World Bank Governance Index (China)**

CHINA	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
<b>Political Stability</b>	-	-	-	-	-	-	-	-	-	-	-	-	-
	0,66	0,60	0,54	0,54	0,52	0,55	0,50	0,23	0,30	0,26	0,47	0,52	0,44
<b>Government Effectiveness</b>	0,09	0,08	0,02	0,00	0,36	0,42	0,36	0,42	0,50	0,54	0,64	0,81	0,50
<b>Regulatory Quality</b>	-	-	-	-	-	-	-	-	-	-	-	-	-
	0,32	0,26	0,28	0,33	0,33	0,35	0,31	0,18	0,23	0,30	0,20	0,33	0,42
<b>Rule of law</b>	-	-	-	-	-	-	-	-	-	-	-	0,01	-
	0,47	0,45	0,55	0,53	0,40	0,41	0,32	0,26	0,19	0,26	0,10		0,04
<b>Control of Corruption</b>	-	-	-	-	-	-	-	-	-	-	-	0,03	0,02
	0,57	0,51	0,44	0,36	0,34	0,30	0,27	0,29	0,29	0,31	0,07		
<b>Voice &amp; Accountability</b>	-	-	-	-	-	-	-	-	-	-	-	-	-
	1,68	1,64	1,64	1,63	1,62	1,66	1,56	1,50	1,46	1,63	1,66	1,64	1,61

Source: World Bank

## 2 Challenges that the EU needs to address to improve its overall governance

The ninth legislature of the European Parliament (EP) opened with a broad consensus on giving a concrete follow-up to the call, launched in March 2019 by French President Emmanuel Macron, for ‘a European renaissance’<sup>1</sup> that would also include the convening of a ‘Conference for Europe’ to propose all the necessary changes to the European political project, without taboos, including revision of the Treaties. In the wake of the EU’s internal difficulties in dealing with the Ukraine crisis, particularly the related sanctions and support regime, as well as the increasingly firm prospect of preparing for a major new EU enlargement, this demand is finding new validation and will return with renewed force as a fundamental objective of the next legislature.<sup>2</sup>

A general reflection on the future of Europe, was initiated by the EU institutions with the convocation, albeit delayed by the COVID-19 crisis, of a ‘Conference on the Future of Europe,’. With its innovative composition, it even allowed citizens to submit proposals on the future of Europe<sup>3</sup>. It was opened on the symbolically significant date of 9 May 2021 and ended with the approval of a report by consensus in May 2022.<sup>4</sup> This document includes many proposals for the development of current European policies and the introduction of new fields of competence for the EU, and emphasizes that the process must be accompanied by a reform of the nature and functioning of the European institutions, with several changes to the current Treaties.

This path, aimed at defining the type of institutional structure best suited to the EU of the future, was not subsequently taken up with the same intensity by the various EU institutions. The European Parliament has largely used it as a starting point for the presentation of its own eloquent resolution pursuant to Article 48 TEU, which calls for a revision of the Treaties.<sup>5</sup> The Commission, on the other hand, has only recently taken an initial, but not particularly in-depth, position.<sup>6</sup> And finally, the Council appears very divided on internal reforms and has not yet taken a position on the formal procedure initiated by the European Parliament, although it has committed to doing so before the summer of 2024.<sup>7</sup> Alongside these formal processes, several informal initiatives are also underway. The most influential appears to be the Franco-German working group promoted by their respective governments.<sup>8</sup> Another significant initiative is led by academics from the Nordic EU countries, coordinated by Vilnius University.<sup>9</sup>

<sup>1</sup> Macron, E. (2019, March 4). [For European renewal](#).

<sup>2</sup> European Commission. (2023, November 8). [Communication from the Commission on 2023 EU Enlargement Policy](#) and Council of the European Union. (2023, December 12). [Council conclusions on Enlargement](#).

<sup>3</sup> European Union. (2021, March 10). [Joint Declaration on the Conference on the Future of Europe: Engaging with Citizens for Democracy – Building a more resilient Europe](#). and cepAdhoc. (2021). [La conferenza sul futuro dell'Europa: un esperimento di maggiore democrazia \(Nr. 1/2021\)](#).

<sup>4</sup> European Union. (2023). [Conference on the Future of Europe](#).

<sup>5</sup> European Parliament. (2023, November 22). [European Parliament resolution on proposals for the amendment of the Treaties \(2022/2051\(INL\)\) P9\\_TA\(2023\)0427](#)

<sup>6</sup> European Commission. (2024, March 20). [Communication from the Commission on pre-enlargement reforms and policy reviews \(COM\(2024\) 146 final\)](#).

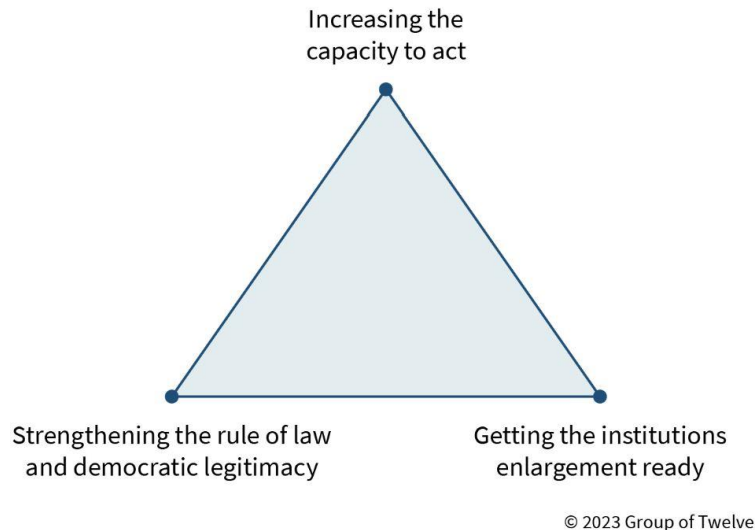
<sup>7</sup> European Council. (2024, March 21-22). [European Council meeting – Conclusions \(Point 29\)](#)..

<sup>8</sup> Franco-German Working Group on EU Institutional Reform. (2023, September 18). [Report of the Franco-German Working Group on EU Institutional Reform: "Sailing on High Seas: Reforming and Enlarging the EU for the 21st Century"](#) [Paris-Berlin].

<sup>9</sup> Vilnius University Institute of International Relations and Political Sciences. (2023). [Report: Enlargement: Creating an opportunity for a stronger EU](#).

A description of the challenges and a consideration of some of the reforms necessary to overcome the weaknesses in current European governance are set out below, with particular reference to the main initiatives mentioned above.

**Figure 1: The Triangle of Objectives for EU Institutional Reform**



Source: Report of the Franco-German working group on EU institutional reform 18 Sept. 2023

## 2.1 Choice and composition of the European Commission

The authoritativeness and efficiency of the European executive are key elements in ensuring effective and innovative European policies that can strengthen European competitiveness and resilience as a whole. This is particularly important since the current decision-making system, unlike that which is usually established in the institutional systems of the individual Member States, grants the European Commission a 'monopoly' on legislative initiatives.

Traditionally, two elements have been considered particularly important in the selection of individual Commissioners: their independence from their respective governments and a check on their competence by the European Parliament, especially concerning the specific issues assigned to their portfolio. With the increase in the number of Member States, the excessive number of Commissioners has become a more pressing issue. This is also related to the competences entrusted to the EU and the resulting bureaucratic structure, which includes an ever-increasing number of directorates general.

Moreover, public opinion often fails to recognize that the European Commission's overall nature is one of 'political-democratic' representation. Instead, it is seen as a 'super-bureaucracy,' partly due to the way in which individual members are appointed. This perception persists despite efforts to make at least the President democratically accountable by linking his/her appointment—albeit in a somewhat vague manner—to the outcome of the European elections.

It should also be noted that, as it stands, Article 17 (5) TEU of the Lisbon Treaty, allowing the number of Commissioners to be reduced to 2/3 of the number of Member States to better protect the Commission's independence, is inapplicable. This is due to a commitment made by the Council during the Irish ratification referendum in 2009 to maintain the principle of one Commissioner per country.



To address the problem of functionality linked to an overcrowded college of members all endowed with equal weight in political decision-making, pragmatic internal reorganization measures have been implemented. However, many still believe that an overly large and politically incohesive Commission cannot effectively drive the EU to face new global challenges because—though called upon to act in the general interest of the EU—it simply replicates within itself the situation whereby members simply represent their own countries thereby perpetuating the various conflicts of interest that this entails.

Both the European Parliament and the Franco-German working group are proposing reforms that will impact the composition and functioning of the Commission. It must be emphasized that the Commission can take decisions by a simple majority of its members. The Commission itself points out that reducing the number of Commissioners is already possible under the current treaties.

The most debated proposals range from strengthening the democratic mechanisms that lead to the appointment of the Commission President—particularly through instruments that increase Parliament's influence during the process—to a more decisive role for the President in choosing individual Commissioners. Other suggestions include reducing the number of Commissioners, possibly by creating a hierarchy among them, so that they would no longer all have the same political weight within the college. The option of a direct popular vote for the Commission President, inspired by the US model, also periodically reappears in various political appeals and programs, as well as among the proposals of the Conference on the Future of Europe.

All in all, it seems clear that the identification of solutions capable of improving the efficiency of the Commission's work, as well as its independence and political authority, in order to increase the trust and confidence of citizens, is an extremely complex undertaking which also faces considerable resistance from the governments of the Member States.

## **2.2 Representativeness and role of the European Parliament**

The European Parliament is the institution that best represents the gradual strengthening of the democratic component within the European decision-making process. Since the 1990s, every time the treaties have been amended, elements have been included that have strengthened the role of this institution in the decision-making process and also extended its sphere of competence with regard to sectoral policies.

The ordinary legislative process now provides for its involvement in 90% of cases, on an equal footing with the Council, although there are some competences and strategic policy areas where the EP's role is still decidedly subordinate to that of the Council. This applies in particular to the approval of the annual EU budget, in which, officially, the EP has a primary role but which, in practice, is strongly conditioned by the multiannual budget framework which is mainly the result of intergovernmental negotiations.

At present, the claim to which the European Parliament is giving particular emphasis concerns the introduction of mechanisms that recognize its full capacity to exercise legislative initiative in decision-making processes, a capacity that is formally recognized for the members of parliamentary assemblies in all the Member States. The debate on this issue dates back to the framing of the Draft Treaty establishing a Constitution for Europe<sup>10</sup> when the prevailing view was that the special nature of the EU

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<sup>10</sup> European Union. (2004). [Treaty establishing a Constitution for Europe](#).



made it preferable for this capacity to be exercised by the Commission alone. The conviction that has emerged, even among the proposals of the Conference on the Future of Europe, is that this right is one of the measures needed to strengthen the democratic representativeness of the EU, and in its Resolution on the modification of the Treaties, the EP introduced amendments to make this mechanism operational, along with its function as co-legislator regarding the adoption of the multiannual financial plan.

In the context of the overall strengthening of the European Parliament, the Franco-German think tank also highlights another factor contributing to the EP's original weakness. This arises from the fact that MEPs are elected under electoral systems that are inadequately harmonised, and on the basis of election campaigns in which debates on national political issues and dynamics regularly prevail over the examination of truly European political objectives. This occurs within a very diverse party landscape, where European political parties and groups often represent little more than clusters of convenience. To remedy this, emphasis should be placed on improving European electoral legislation.<sup>11</sup> There is already a formal legislative proposal that contains several innovative ideas, but it is still meeting strong resistance from several Member States.

The European Parliament's power to exercise political scrutiny over the Commission's work has so far also been weak. Despite several inter-institutional agreements that have introduced a number of extremely concrete mechanisms, only the instrument of no-confidence against the whole college (collective no-confidence<sup>12</sup>) is provided for in the Treaty and has never been formally applied. This is why the EP, in its resolution to reform the treaties, also envisages the instrument of individual no-confidence together with a lowering of the quorum required for the application of this procedure.

### 2.3 Decision-making capacity of the EU Council and the European Council

The institutions that are still dominant in European decision-making processes, namely the Council of the EU and the European Council, are the focus of much criticism regarding their performance, specifically timeliness and effectiveness of EU action. Most of the EU's decisions need to originate and gain impetus from, or at least receive the prior support of, these institutions.

This reliance is not always strictly linked to provisions in the Treaties but rather to a working method, if not an attitude, that involves a constant search for and building of the broadest possible consensus among Member States. Inevitably, this means that only those objectives are pursued that are not subject to any particular reservations from government actors. In practice, this results in a constant search for the 'lowest common denominator,' often at the expense of the real impact that such a decision might have in effectively solving the problem to be addressed.

The solution most often invoked today is to extend the areas in which qualified majority voting (QMV) is applied because it is precisely in decisions requiring unanimity that reaching a compromise appears most difficult. Individual states representing even very small fractions of the EU population can delay or even derail projects deemed important by a clear majority of countries. However, concrete observations show that, in areas where decisions are made through QMV, state actors are predisposed to have a more compromising attitude. In about 80% of cases, the results are still achieved by general

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<sup>11</sup> European Parliament. (2022, May 3). [Legislative resolution approved by the plenary \(P9\\_TA\(2022\)0129\)](#) and cep. (2023, May 9). [ceplnput, Empowering EU Voters](#) (n.6),

<sup>12</sup> [Treaty on the Functioning of the European Union](#) (TFEU). (n.d.). Article 234

consensus. In the EU, using QMV feels more like an emergency option than a true act of democratic verification that a majority consensus exists around a given political objective.

Another point worth noting is that, in practice, the European Council has now taken on a much more incisive role than that of providing general political impetus and orientation conferred on it by the Treaties. It often finds itself having to unblock dossiers, even legislative ones, and the Council of the Union, which is formally responsible for decision-making, frequently becomes a mere executor of the guidelines defined during the meetings of the Heads of State and Government. The frequency of European Council meetings thus becomes one of the factors that can greatly influence the timeliness of European decisions.

The European Commission is confident that it will be possible to achieve an extension of QMV within the framework of the existing Treaties, through the instrument of the so-called 'passerelle clauses'— which in turn, however, require unanimity.<sup>13</sup> These clauses are provided for in several articles of the Treaties, and the Commission identifies taxation, foreign policy, and some areas of social policy as priority areas for such action. The European Parliament, in its proposals to amend the Treaties, envisages the extension of QMV to a considerable number of areas.

When discussing the abolition of unanimity, the divergence is traditionally between the small and large states of the Union. The former constantly raise the issue of the risk of violation of their priority strategic interests in a system where the more populous states have an easier time achieving the required majorities.

## 2.4 Effective defence of the EU's economic interests, democratic values and the rule of law

The EU is founded on a precise set of values: respect for human dignity, freedom, democracy, equality, the rule of law, and respect for human rights, including those of persons belonging to minorities.<sup>14</sup> These values are fundamental to European integration itself, and respect for them was recently defined by the European Commission as a prerequisite for states aspiring to join the EU.<sup>15</sup> Among these values, the rule of law is assigned the role of 'core value,' by the Commission as its application guarantees the conditions for respecting democracy, equality, and the protection of fundamental rights.<sup>16</sup> The rule of law is also considered a 'vital part' of the so-called Copenhagen Criteria, which constitute the rules used to determine whether a country is eligible to join the European Union.<sup>17</sup> The Commission considers it a priority for the EU to ensure that the rule of law, along with all the other founding values, is respected by candidate states both before and after their accession. Proposition 25 of the Final Report of the Conference on the Future of Europe also calls for the EU to "systematically uphold the rule of law across all Member States," considering these values to be "non-negotiable,

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<sup>13</sup> The Treaties provide for two general 'passerelle clauses' within the meaning of Art. 48 (7) TEU, which allow unanimous decision-making by qualified majority in a given area or case. Then there are six specific passerelle clauses aimed at modifying the decision-making process in the following areas: CFSP (Art. 31 (3) TEU); family law with cross-border implications (Art. 81 (3) TFEU); social policy (Art. 153 (2) TFEU); environmental policy (Art. 192 (2) TFEU); MFF (Art. 312 (2) TFEU) and enhanced cooperation (Art. 333 TFEU)

<sup>14</sup> Treaty on European Union (TEU). (n.d.). Article 2

<sup>15</sup> European Commission. (2024, March 20). [Communication from the Commission to the European Parliament, the European Council and the Council on pre-enlargement reforms and policy](#) (COM(2024) 146 final, pp. 3-4).

<sup>16</sup> Id.

<sup>17</sup> Accession Criteria (Copenhagen Criteria). (n.d.). [The criteria require that a state has the institutions to preserve democratic governance and human rights, has a functioning market economy, and accepts the obligations and intentions of the European Union.](#)

irreversible, and sine qua non conditions for accession and entry to the EU", but evidently without distinguishing between the countries already in the EU and the new ones.<sup>18</sup>

The EU must therefore demand full respect for the rule of law, primarily from the states that are already members of the EU. It would hardly be credible for the EU to apply a double standard, demanding proof of full adherence to the rule of law from those waiting to join, without demanding the same rigor from states that are already members. This would seriously jeopardize the reputation of the EU not only vis à vis the Member States and the consideration that European citizens should have for EU ties, but also in relation to non-EU countries and at the international level in general.

## **2.5 EU Enlargement: Balancing geopolitical needs with budgetary issues, public goods, fiscal policies and internal European standards on policy effectiveness**

The issue of the EU's enlargement has gained new momentum since Russia's unjustified attack on Ukraine. Defending European borders, maintaining peace, and supporting democracy, not only within the EU but also in neighbouring countries, have become pressing priorities, reinvigorating a process that, for many years, has seen only slow progress.

In the case of the Western Balkans, apart from Slovenia, which joined the Union in 2004 and Croatia, which became a member in 2013, Serbia, Montenegro, Macedonia, Albania and Bosnia and Herzegovina are still quite a long way from being able to call themselves members of the Union<sup>19</sup>, not to mention Kosovo, whose independence is still not recognised by Spain, Romania, Greece, Slovakia and Cyprus. Meantime, in December 2023, the European Council decided to initiate accession negotiations with Ukraine and Moldova and grant candidate status to Georgia.<sup>20</sup> Despite broad consensus among Member States on the importance of enlargement for geopolitical and security reasons,<sup>21</sup> the EU's current approach differs from that of the enthusiastic years of 2004-2007.

The so-called Big Bang enlargement, which saw the entry of 10 countries in 2004, and Romania and Bulgaria in 2007, should actually be seen in the context of a completely different space-time continuum to the present one. The Soviet Union had long since collapsed, Russia was weak, the European economy was growing at up to 3%,<sup>22</sup> and most citizens were pro-European and had more confidence in common institutions than in national ones.<sup>23</sup>

Despite these promising circumstances, enthusiasm for enlargement among Europeans and their governments was soon dampened by the financial crisis of 2008, followed by a crisis in the competitiveness and productivity of Member States, the banking crisis, and the debt crisis<sup>24</sup>, not to mention the long-term challenge of fully integrating some new members into the institutional setup

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<sup>18</sup> Conference on the Future of Europe, (May 2022), [Report on the Final Outcome](#).

<sup>19</sup> European Commission, (2023), Communication from the Commission to the European Parliament, the Council, The European Economic and Social Committee and the Committee of the Regions, [COM\(2023\) 690 final](#).

<sup>20</sup> European Council, (2023) [European Council conclusions, 14 and 15 December 2023 - Consilium \(europa.eu\)](#) and European Commission (2023) [Commission adopts 2023 Enlargement package, recommends to open negotiations with Ukraine and Moldova, to grant candidate status to Georgia and to open accession negotiations with BiH, once the necessary degree of compliance is achieved](#).

<sup>21</sup> Lindner, J., Nguyen T., Hansum R.,(2024) [What does it cost? Financial implications of the next enlargement](#), Jacques Delors Institute.

<sup>22</sup> See Istat [data](#).

<sup>23</sup> See Eurobarometer [data](#).

<sup>24</sup> Poli,E. (2019), [European Economic Governance and Rising Sovereignism, Bettina De Souza Guilherme et al. \(eds\), Financial Crisis Management and Democracy. Lessons from Europe and Latin America](#) (pp. 241-250), Cham: Springer.

(with Hungary becoming the Achilles heel of the European rule of law). Brexit also played a role in this shift. The exit of the United Kingdom from the Union removed one of the biggest proponents of prioritizing eastward enlargement in an anti-Russian context over deepening EU institutions. In fact, the UK exit from the Union reinforced the position of those countries keen to deepen European institutions, even by treaty reforms, before proceeding with enlargement.<sup>25</sup> The key question, in a nutshell, is how, without reforming the European decision-making process, can democratic institutions in Brussels become capable of representing such a large number of countries, with all their different needs and interests, while ensuring effective and timely decision-making. Furthermore, protecting the rule of law presents another challenge. Since the standards of some EU countries already fail to meet those of the EU, the latter has placed great emphasis on legal and institutional reforms in countries wishing to become members. Serbia and Montenegro, for example, whose accession negotiations are the most advanced, face particular difficulties. But they are not alone: the rest of the Western Balkans is also struggling to adapt.

Finally, the financial implications of enlargement are more important than ever. According to an internal EU study intercepted by the Financial Times in November 2023, with the existing budget rules and nine new Member States, the current EU budget would increase by 21% to €1.47 trillion, about 1.4% of the gross national income of the 36 countries. This would lead to a possible significant increase in net contributions by the wealthier members, such as Germany, France, and the Netherlands. Additionally, the budget spent on agriculture would have to change, as Ukraine alone could be eligible to receive around € 95 billion, leading to subsidy cuts of 20% for other member countries.<sup>26</sup> France and Italy, supporters of enlargement, would be the countries paying the most. Moreover, as the nine candidate countries have a GDP per capita well below the EU average, they are likely to attract significant investment from EU funds, particularly the Cohesion Policy, which would have a significant impact especially in countries such as Czechia, Estonia, Lithuania, Slovenia, Cyprus, and Malta.<sup>27</sup>

These adjustments would add to an already complicated economic context, with Russia's war against Ukraine playing a central role by leading to higher gas prices and the European Union's need to source supplies from other markets, as well as facing increased defence spending. However, the reality may be less worrying than expected. First, the EU's Multiannual Financial Framework, the financial document governing its budget, is negotiated every seven years by Member States according to their own priorities and needs, and has internal adjustment mechanisms to mitigate possible changes in the amount of funds received by individual Member States. In this respect, in previous enlargement processes, new Member States did not immediately receive the full amount of funds under the EU's Common Agricultural Policy (CAP), but only 40%, to which 10% was added each year, as reported by the Jacques Delors Institute.<sup>28</sup> Transition periods are therefore planned to allow for better internal adaptation. According to Johannes Lindner et al., the increase in expenditure in the event of the accession of nine countries could be around € 19 billion per year, slightly more than 10% of the current budget, but still below the EU's current own resources ceiling of 1.40% of the Union's GDP.<sup>29</sup> It

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<sup>25</sup> Joint Statement of the Foreign Ministries on the Launch of the Group of Friends on Qualified Majority Voting in EU Common Foreign and Security Policy. and Scholz, O. (2022, August 29). [Speech by Federal Chancellor Olaf Scholz at the Charles University in Prague.](#) and Gehrke L., (2022, August). [Scholz pitches major EU enlargement — with reform.](#) Politico.eu.

<sup>26</sup> Foy H., (2023) [EU estimates Ukraine entitled to €186bn after accession.](#) Financial Times.

<sup>27</sup> Nunez Ferrer, J., Schreiber, M. T., & Moreno, G. (2024). [Furthering cohesion in an enlarged Europe: Impacts of enlargement on regional Cohesion Policy allocations, Cohesion Policy and EU Budget.](#)

<sup>28</sup> Johannes Lindner, Thu Nguyen, Romy Hansum, cit.

<sup>29</sup> Id.

therefore seems that the cost should be similar (0.13% of 2022 GDP) to that of the big bang enlargement, which from 2000 to 2010 allegedly cost 190 billion euros, about 0.15% of the average GDP of the time.<sup>30</sup>

Although the cost of enlargement is not expected to be alarming, it is nevertheless important to consider that, in addition to the possible issue of enlargement, the next EU budget for 2028-2034 will have to take into account the need to develop a European public good approach. This will require investment in strategic sectors, such as green energy and decarbonization, digital development, and defence, in a context where Member States may already be under financial stress. 2026, for example, will see the expiry of the Recovery and Resilience Fund (RRF), an instrument outside the MFF designed to provide support to European economies recovering from the Covid-19 pandemic<sup>31</sup>, and, from 2028, debt issued under the NextGenerationEU (NGEU) program will have to start being repaid. However, the external geopolitical challenges and the need for the EU to remain a relevant and competitive global player are precisely what make enlargement into countries that are geographically European, even if not yet EU members, more necessary than ever. The risk posed by infiltration from Russia, at least in the form of political propaganda, or China's aggressive economic policies, not only in the case of Ukraine, Moldova, or Georgia, but also that of the Western Balkans, must push the EU to realize that in order to maintain its status as a global power, it needs the courage to enlarge and include those countries that not only want to join its single market but also wish to uphold the fundamental freedoms and democracy on which the EU is built.

### 3 What reforms are needed to improve the EU's capacity and resilience?

#### 3.1 Proposals to improve the structure and functioning of the European institutions

When considering the priorities for a reform of European institutions, at least three considerations should be taken into account:

- the EU's decision-making process should be able to respond in a manner and within a timeframe appropriate to the various challenges it faces and, while respecting the principle of subsidiarity, should have all the strategic powers necessary to intervene on issues that cannot be addressed and resolved at national level;
- the European executive must continue to be sufficiently independent to act solely to promote the general interest of the Union;
- the European institutions as a whole must endeavour to strengthen their links with European public opinion in order to enhance their democratic representativeness and thus broaden the consensus for their actions.

Proposals for reform should therefore be assessed on the basis of their compliance with the three priorities mentioned above, and those that best meet the objectives as a whole should be selected, while respecting an institutional balance that is both formally and substantively in the interests of European citizens.

With regard to the Commission - which the citizens and the EP would prefer to rename the "European executive" - it seems urgent to establish a specific procedure that could at least link the appointment

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<sup>30</sup> Breuss, F. (2022). *Benefits and dangers of EU enlargement. Empirica*, 29, 250.

<sup>31</sup> Buti, M. (2023). When will the European Union finally get the budget it needs? The EU budget needs radical reform, but certain conditions must be in place for it to succeed. *Bruegel*.

of the President to the results of the European elections. Given Europe's parliamentary traditions, resorting to a solution based on a direct popular vote seems less appropriate than one in which the EP and the Council could operate in a bicameral system with equal rights to intervene by means of transparent and specific political mechanisms and arguments, using the mediation of a party system with an increasingly European outlook.

The principle that the number of Commissioners with voting rights must correspond to the number of Member States should be abandoned in favour of the principles of a pre-established method of rotation or, better still, of more sophisticated mechanisms enabling the President-designate to put together a "team" with special relationships of trust and specific competences which could guarantee a coherent and consistent approach.

With regard to the European Parliament, its need for a uniform electoral system appears to be particularly urgent, and the proposed introduction of a limited transnational electoral constituency could prove to be a considerable help in creating a Commission whose political choices are more in tune with those of citizens and thus more likely to be seen by them as an expression of their will. Given the diversity of interests that still exists at EU level, and the technical complexity of EU legislation, any legislative initiative entrusted to the Members of the European Parliament, needs to be well thought out and conditioned to avoid any abuse, which would only slow down parliamentary work.

However, the general application of qualified majority voting (QMV) is an objective to be pursued, bearing in mind that the current difficulties and slowness of decision-making in the Council also require substantial adjustments to intergovernmental negotiating practices. In order to facilitate the reform process in this respect, safeguarding mechanisms could be devised which states could activate if they consider that one of their fundamental national interests has been violated. With a view to further enlargement, if the necessary reforms are not implemented in advance, mechanisms should be devised and included in the accession treaties that would temporarily prevent the use of the veto by the new accession States.

In view of all the institutional issues to be resolved which have an impact on the European decision-making process, it is clear that it would be particularly difficult to achieve satisfactory results without the intervention of some form of Treaty amendment. At the same time, however, we recognise that recourse to the ordinary Treaty revision procedure under Art. 48 would present enormous difficulties. More sophisticated integration solutions, which would allow for new dynamics, increasingly look like an unavoidable necessity: these should not be based on a simple intergovernmental way of thinking but rather on a "constituent" approach, capable of giving all the institutions greater democratic legitimacy in addition to other mechanisms of participatory or even direct democracy such as the European referendum.



### 3.2 Proposals for defending European principles, values, interests and rights

Given the vital importance of the rule of law, there is a need for appropriate instruments to encourage all political and institutional actors in the Union to respect this and other European values. Whilst the current complex geopolitical conditions and the equally problematic future prospects argue for a rapid enlargement of the Union, it is equally true that the EU needs and currently lacks sufficiently binding instruments to implement the aforesaid values. The ideal solution would be the ability to expel from the Union a Member State responsible for serious and persistent breaches of the rule of law. This is not currently permitted by the Treaties,<sup>32</sup> although, as is well known, they do allow a Member State to leave the Union voluntarily.<sup>33</sup> The most serious sanction, provided for under Art. 7 TEU, is the possibility of suspending the EU membership rights, such as the right to vote in the Council of the European Union, of a Member State that seriously and persistently violates the principles on which the EU is founded, as set out in Art. 2 TEU. This would be without prejudice to any of the obligations binding upon the said state by virtue of its membership of the EU.<sup>34</sup>

The issue is also central to the European Parliament, which recently proposed an amendment to Art. 7 TEU aimed precisely at the need to achieve more flexible and effective protection of the rule of law. This stated a) the Council should be able to decide by qualified majority (and no longer by four-fifths of its members, as at present), with the consent of the European Parliament, and within six months of receipt of a proposal (whereas no time limit is currently specified), whether there is a clear risk of a serious breach by a Member State of the values referred to in Art. 2 TEU; (b) the Council, acting by a qualified majority (at present unanimity is required), within six months of receipt of a proposal by one third of the Member States, the European Parliament (which at present can only propose measures to the Council but cannot itself bring an action before the Court of Justice), acting by a majority of its members, or the Commission, should be able to bring an action before the Court of Justice of the European Union on the existence of a serious and persistent breach by a Member State of the values referred to in Art. 2 TEU; c) the Court of Justice would be given the power to rule on the appeal, after inviting the Member State concerned to submit its observations (a power currently vested in the Council); d) in the event of a finding of a serious and persistent breach of the values referred to in Art. 2 TEU, it would be for the Council, acting by qualified majority, to decide on the sanctions to be taken (currently not specified in the TEU), which would include the suspension of commitments and payments from the Union budget or the suspension of some of the rights deriving from the application

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<sup>32</sup> Schorkopf, F. (2000). Homogenität in der Europäischen Union - Ausgestaltung und Gewährleistung durch Art. 6 Abs. 1 und Art. 7 EUV. Duncker & Humboldt; and Herbst, J. (2005). Observations on the Right to Withdraw from the European Union: Who are the "Masters of the Treaties"? *German Law Journal*, 6(12), 1755-1760.

<sup>33</sup> Article 50 of the Treaty on European Union (TUE); Athanassiou, P. (2009). Withdrawal and Expulsion from the EU and the EMU: Some Reflections. *European Central Bank Legal Working Papers Series*, 10(2009).

<sup>34</sup> Under Art. 7 TEU, the Council, acting by a majority of four fifths of its members after receiving the assent of the European Parliament, may, on a proposal by one third of the Member States of the Union or by the European Parliament or by the European Commission, verify that there is a clear risk of a serious breach of fundamental principles by a Member State and address appropriate recommendations to that State. Art. 354 of the Treaty on the Functioning of the European Union sets out the voting modalities in the main European institutions when a Member State considers that Art. 7 TEU applies. In such cases, the country concerned does not take part in the vote and is not included in the calculation of the one-third of countries required for the proposal or the four-fifths required for a majority. A two-thirds majority is required for Parliament's assent.



of the Treaties to the Member State concerned, including the right to hold the Presidency of the Council.<sup>35</sup>

These proposals are most welcome, firstly because they broaden the range of institutions involved in determining whether a Member State has violated European values; secondly because they make the determination procedure more flexible, by lowering the majority required for its initiation; and more 'legal', by asking the Court of Justice (and no longer the Council) to rule on the complaint of an alleged violation of Art. 2 TEU; and finally because they provide for clarification in advance and increase the severity of the sanctions that may be imposed on a Member State found guilty of violating European values.

In order to make the requirement to respect European values even more effective, further measures should be considered, using "lighter" regulatory instruments that do not require the procedures and majorities needed to reform the EU Treaties. One possibility in this regard could be to extend the possibilities of recourse to Regulation 2022/2092 on budgetary conditionality: although it was conceived as an instrument to protect the EU budget, there has also been a sensible proposal to turn it into a useful instrument for sanctioning violations of the rule of law and, more generally, systematic violations of European values under Art. 2 TEU.<sup>36</sup> The Court of Justice of the European Union itself has expressly recognised that the Union's budget is one of the main instruments for implementing the fundamental principle of solidarity between Member States in the Union's policies and actions, and that the implementation of this principle through the budget is based on mutual trust between Member States in the responsible use of the common resources contained in the budget.<sup>37</sup> Moreover, the Court of Justice's rejection of the actions brought by Poland and Hungary against Regulation 2022/2092 was specifically justified on the grounds that the autonomy of national courts is also appropriate for the application of Community rules on the internal market.

For this to happen, however, a legal basis would have to be provided that would allow for an extended and targeted activation of budgetary conditionality: one possibility could be Art. 352 TFEU,<sup>38</sup> the use of which, however, requires unanimity in the Council. Alternatively, but with a similar intention, a sixth paragraph could be added to Art. 7 TEU, authorising the Council and the European Parliament to adopt regulations aimed at protecting the EU's founding values, thus linking budgetary conditionality to the respect for European values: a very effective solution, but one that - once again - requires an amendment of the Treaties. Should the majorities decide to use Art. 352 TFEU or Art. 7 TEU, the scope of budgetary conditionality could be extended even more systematically and automatically than is already the case for other behaviour of Member States detrimental to the sound financial management of the European budget. For example, if political figures were found guilty of corruption or money laundering, it would suffice to amend Regulation 2022/2092 to link these offences to

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<sup>35</sup> European Parliament, (2023, November 22). *Proposals of the European Parliament for the amendment of the Treaties, European Parliament resolution of 22 November 2023 on proposals of the European Parliament for the amendment of the Treaties (2022/2051(INL))*, P9\_TA(2023)0427, 10-11.

<sup>36</sup> Franco-German Working Group on EU Institutional Reform. (2023, September 18). *Report of the Franco-German Working Group on EU Institutional Reform. Sailing on High Seas: Reforming and Enlarging the EU for the 21st Century*, Paris-Berlin.

<sup>37</sup> EU Court of Justice. (2022, February 16). Case [C-156/21](#) & [C-157/21](#).

<sup>38</sup> Art. 352 (1) TFEU: "If action by the Union should prove necessary, within the framework of the policies defined in the Treaties, to attain one of the objectives set out in the Treaties, and the Treaties have not provided the necessary powers, the Council, acting unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures. Where the measures in question are adopted by the Council in accordance with a special legislative procedure, it shall also act unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament."

corresponding automatic restrictions on the disbursement of contributions from the European budget to the states concerned. Unlike treaty revisions, such an amendment would only require the majorities provided for in the ordinary legislative procedure, which is undoubtedly easier and more feasible in numerical and political terms.

### 3.3 Political, economic and fiscal measures to manage enlargement

If the European Union wants to remain relevant in a context of rapid geopolitical change, it must see enlargement as a means of revitalising the liberal model, which is currently in crisis at international level, by promoting socio-economic well-being, democracy, the rule of law and respect for fundamental rights. In this context, it is necessary to continue promoting the development of institutional arrangements in the candidate countries that are in line with those of the EU, while at the same time supporting economic development, which is the fundamental engine for revitalising the welfare of citizens in the candidate countries and of the EU itself. In the case of the Western Balkans, for example, the New Growth Plan<sup>39</sup> could be a means of reinforcing a credible prospect of enlargement, stimulating economic development and at the same time giving greater visibility to EU assistance in the region.

Although enlargement will have costs at a time when European economic trends are not positive, the integration of new countries will not be immediate. The EU should therefore focus first and foremost on economic recovery at home and in the candidate countries to reduce regional disparities while ensuring renewed economic prosperity. Moreover, even without enlargement costs, the need for more investment in areas such as energy and decarbonisation, digital and defence will weigh heavily on the next MFF 2028-2034. The expiry of the RRF in 2026, with a reduction in EU funding for Member States, and repayment of the Next Generation EU debt settlement by 2028 must also be taken into account. In the absence of a reformed fiscal policy leading to new own resources, such as from new European taxes or, for example, from the Emissions Trading Scheme 2 (ETS)<sup>40</sup> or the Border Carbon Mechanism (CBAM),<sup>41</sup> higher national contributions or a higher common European debt will be needed, within the legal constraints of the current Treaties, to compensate for the additional expenditure at EU level.

Since both options are undesirable, the solution could instead be, at least temporarily, to rationalise spending by adopting a public good approach and, in the context of a more volatile and less liberal international economic environment, allocate resources to long-term and sustainable growth objectives. This could be done by investing in strategic and innovative projects at European level, which could even be developed at national level, with the aim of adding strategic value to the European economy and overturning the idea of “paying” and “receiving” countries.

While promoting socio-economic development, the EU also needs to revive its intrinsic values, which underpin the liberal model on which the EU itself is based. In particular, the EU already faces significant challenges when it comes to upholding the rule of law in some of its Member States, such as Hungary, which is due to hold the next EU presidency in July 2024. So far, Art. 7 of the Treaty on European Union has not been very effective, and the EU has recently used budgetary conditionality to keep countries within the rule of law. Although this mechanism can only be used when violations of the rule of law

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<sup>39</sup> European Commission, [New Growth Plan for the Western Balkans](#).

<sup>40</sup> European Commission, [ETS2 : buildings, road transport and additional sectors](#).

<sup>41</sup> European Commission, [Carbon Border Adjustment Mechanism](#).

are likely to harm the Union's financial interests, the use of economic sanctions to increase respect for the rule of law has been stepped up in the wake of the pandemic. The Next Generation EU fund has, in fact, enabled the Commission to equip itself with economic instruments to press Member States to comply with specific recommendations, including those on the rule of law. But at a time of growing discontent, when only a third of Europeans believe that democracy is a European value worth defending, linking mechanisms for monitoring respect for the rule of law to economic demands and sanctions may be practical, but it is not strategic. To strengthen EU values from the bottom up, it is necessary to convince EU citizens that the EU is committed to defending these principles for the benefit of all. This can be done through public awareness campaigns to engage Europeans from Member States and candidate countries in open discussions about the rule of law, spreading a culture of justice and making national governments more accountable.

#### **4 Rebalancing the EU's decision-making structures to improve its ability to act**

The European Union's current configuration was designed for "good" times, when European integration was seen as an added value aimed at further increasing the prosperity of the Member States. Those times now seem like a distant memory. The Union has already been confronted with unexpected crises of various kinds, to which it has tried to respond with the instruments offered at different times by the Treaties and contingent national political arrangements. The current situation and the prospect of a major enlargement in the short to medium term calls for new, effective and, above all, structural solutions if the EU is to function effectively in the years ahead.

European governance must therefore be adapted accordingly, not only with regard to the future shape of the EU, but also with regard to its current state: effective management of the many current crises using a European *modus operandi* unchanged since 2009, a good 15 years ago, is unthinkable. Reforming the composition of the Commission, improving the democratic representativeness of the European Parliament, rationalising the decision-making capacity of the EU Council and the European Parliament, defending European values and the rule of law, taking a more a public good approach when defining its budget and adequately preparing for enlargement are all essential objectives for an informal European geopolitical response mechanism, which is vital in order for the EU to maintain and strengthen its capacity for decision-making and management, within its borders and in the global arena.

Of course, the implementation of the proposals contained within such a response mechanism, whether the more systemic ones or the more flexible ones that can be implemented without changing the Treaties, cannot be separated from a clear political will for their implementation, in Brussels and Strasbourg as well as in the European chancelleries. For this reason, the results of the European elections in June 2024 will be as decisive as ever: the composition of the European institutions that emerges from the ballot box will indeed show whether the conditions are in place to provide the EU with the tools it needs to operate, even in complex times such as those we are facing. If, on the other hand, a majority emerges from the European vote that wants to freeze, if not actually restrict, the EU's ability to act and the EU integration process itself, it will be the individual states themselves that will have to face the current and future global crises much more effectively than they do now. How effectively they will be able to do this is a question that every European citizen should ask himself/herself, preferably before 9 June 2024.



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