
**EU Reform:
Mapping out a state of flux**

Vivien Pertusot

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Acronyms

CCCTB	<i>Common Consolidated Corporate Tax Base</i>
COSAC	<i>Conference of Parliamentary Committees for Union Affairs</i>
EAC	<i>European Affairs Committee</i>
EBA	<i>European Banking Authority</i>
ECB	<i>European Central Bank</i>
ECJ	<i>European Court of Justice</i>
EDP	<i>Excessive Deficit Procedure</i>
EFSF	<i>European Financial Stability Facility</i>
EFSM	<i>European Financial Stability Mechanism</i>
EIOPA	<i>European Insurance and Occupational Pensions Authority</i>
EMU	<i>Economic and Monetary Union</i>
ESA	<i>European Supervisory Authorities</i>
ESFS	<i>European System of Financial Supervisors</i>
ESM	<i>European Stability Mechanism</i>
ESMA	<i>European Securities Markets Authority</i>
ESRB	<i>European Systemic Risk Board</i>
EU	<i>European Union</i>
OMT	<i>Outright Monetary Transactions</i>
REFIT	<i>Regulatory Fitness and Performance</i>
SGP	<i>Stability and Growth Pact</i>
SRF	<i>Single Supervisory Fund</i>
SRM	<i>Single Resolution Mechanism</i>
SSM	<i>Single Supervisory Mechanism</i>
TSCG	<i>Treaty on Stability, Coordination and Governance</i>

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Executive summary

This report analyses how the 28 member states of the European Union understand “EU reform” and provides an insight into how their views might play out in debates on the future of the EU as well as on day-to-day politics. Although at the centre of many discussions, this fuzzy concept remains poorly defined, which can lead to misinterpretations.

Three inter-linked areas are studied: the role of national parliaments in EU affairs, the appropriate EU regulatory framework and the question of integration. The three relate to the issue of subsidiarity and control over the future of the EU. Based on official documents and many interviews with national representatives, this report sheds some light on the positions of EU governments on those issues.

The findings show that subsidiarity is an important element of EU policy-making for all member states, but giving national parliaments a stronger role in EU affairs is not a priority for all. Some consider national parliaments to be the most legitimate and representative institutions. Consequently, they would like to see the EU increase national parliaments’ prerogatives to reflect this reality. Most member states are, however, satisfied with today’s rules and would prefer to wait a few more years before making any assessment on how the post-Lisbon instruments have fared. Finally, some are simply not keen to promote a stronger role for national parliamentarians.

Most EU governments are, in the end, unlikely to push for a greater role for national parliaments in the coming years. They will likely advocate for three things: a stronger interaction between the European Commission and national parliaments, more inter-parliamentary interaction and a longer time period for national parliaments to study EU draft legislative acts during their scrutiny process.

The EU regulatory framework has long been under discussion but was rarely a priority. Commission President Jean-Claude Juncker has put it front and centre with the creation of the First Vice-President in charge of better regulation. This decision builds on the work done within the Regulatory Fitness and Performance (REFIT) process to streamline existing legislation. The “better regulation” agenda also aims to affect future legislation. It is Frans Timmermans’ aim to guarantee that new legislation addresses a problem that can only be solved at the EU level.

The research shows that the vast majority of member states have rallied behind the Commission’s “better regulation” agenda. They have placed great expectations on the hope that debates on the right level of EU regulation will become a thing of the past. Only a few member

states are more or less publicly arguing that deregulation should be given greater consideration in the EU legislative process. This new momentum makes it all the more difficult to discern what member states really think about regulation and only time will tell whether their hopes have been fulfilled or frustrated.

The issue is indeed unlikely to wither away. Suspicions that “better regulation” is another word for deregulation could grow, especially if consumers’ or employees’ rights are affected. Moreover, it is too convenient to blame the Commission for burdensome regulation. The interest of member states to anchor national legislation at the EU level could also play a role, as was the case on the recent regulatory debate over the use of plastic bags.

On integration, the rules of the game have changed. The findings indicate that not all member states are implicitly in favour of further integration, at least not now. Some consider it unnecessary for the time being, whereas others foresee potential political backlash by starting this debate in the current political and economic circumstances, in which “sensitive integration”, the kind of integration that generates great political concerns and is perceived more directly by citizens, by default has been written off.

The most complicated question on further integration is associated with the Economic and Monetary Union (EMU). Policies and tools to bring about fiscal discipline have led many member states to approve often unpopular and painful austerity measures. It has impaired the image of the EU and fuelled eurosceptic discourses. Moreover, the focus on the EMU has created concerns in member states outside the Eurozone of a growing gap between themselves and the Euro area.

Most countries acknowledge that further integration may be required to build a stronger EMU, but they will postpone this debate to less troublesome times. However, simply expecting eurosceptic discourses to die down is an illusory posture.

The other challenge emerging from the economic crisis, the report finds, is that of trust. At the core of the debate, member states are not always confident that all of them will stick to the rules they all agreed to. It is critical to work on trust, because it will be the foundation of a stable and possibly strengthened EMU. Never before has it been so central in EU politics. Bail-outs approved in the last few years have ignited vivid debates on solidarity, because member states have loaned significant amount of taxpayers’ money.

Those findings provide a glimpse of the debates ahead by showing how all member states aim to promote their interests within the EU. This macro-level analysis also offers a guide regarding how the 28 want to play their cards on a day-to-day basis in Brussels both on high profile issues, as well as on less headline-grabbing ones. This is particularly important as the divide between “small” and “big”, and between “old” and “new” member states has become less decisive and all member states are now willing, and better equipped, to advance their interests.

Introduction

Discussing reform of the European Union (EU) has become a favourite game in Brussels and in many European capitals. However, the concept remains vague and open to various, even contradictory, interpretations. Talks of EU reform are not new and have been regular features of the Union's history, but they have gained potency in the past couple of years. Three main reasons can explain this rekindled interest.

First, the economic and financial crisis has propelled significant debates to the fore. These centre on strengthening the Economic and Monetary Union (EMU), making the EU more resilient to internal and external shocks, and making it more democratic and legitimate. At the peak of the crisis, the EU instigated a series of mechanisms, which had far-reaching consequences on the member states' financial trajectories. During these years several debates already took place to pave the way ahead, especially related to the future of the EMU, but short term crisis management and immediate steps dominated decision making. Now that the crisis is less acute, the timing is ripe to reflect on the decisions made so far and those tabled for the future.

Second, the crisis has generated a surge of defiance against the EU. Opinion polls have illustrated this trend. European citizens, broadly speaking, feel less confident that EU membership is positive for their country, and that it can offer solutions to the economic crisis. This trend is not new, but the crisis and its consequences (sluggish growth, rising unemployment, a focus on austerity measures etc.) have accentuated it. Moreover, this phenomenon is not confined to the EU and its institutions. The popularity of national authorities (governments and national parliaments) has also decreased in the past few years. This growing dissatisfaction with traditional politics has created favourable conditions for the rise of populist and eurosceptic parties, which have become mainstream political actors in many member states. Their ability to disseminate critical arguments and rhetoric against the EU has relatedly increased.

I would like to thank all the people who accepted to shed some light on how their country thinks about EU reform. I have respected their anonymity but this report would have been impossible without their help. I would also like to thank David Blohm and Perrine Cordero for valuable research assistance, Alex Godson for making this report a lot more readable, and Agata Gostyńska and Valentin Kreiling for their very valuable comments. All mistakes are entirely my own.

Third, the United Kingdom has been involved in an intense and wide-ranging debate about its membership in the EU.¹ Although domestic in nature, the arguments have been echoed across the EU. While the UK may be “an awkward partner”,² it remains a major member state and it would have been implausible to imagine the British debate leaving all member states indifferent. Some have deliberately shunned the issue, which does not mean that it has not impacted the national debate on the EU. Others have launched a more public discussion on the benefits of membership, such as in Denmark and Finland, although notions of exiting the EU are not part of their debate as is in the UK.

These discussions have raised questions about the EU and its way forward: is the EU improving national economies and the life of its citizens? Does the EU have adequate instruments and policies in place to foster growth and mitigate economic and financial shocks? How can the EU reconcile the seemingly different objectives that member states are pursuing within the Union? Is the EU democratic and representative of its citizens' wills? Such complex questions have prompted debates on how to reform the EU. There are no definitive answers, but one element is crucial, although often overlooked: EU reform can imply “more Europe” as well as “less Europe”.

The optimum balance may be dependent on a given political, economic and social context; and it may also vary from one member state to another. This balance – the acceptable compromise for all member states – has also become increasingly complex to find. It is by definition more difficult to agree on a policy when the membership of a group increases. Moreover, member states, which entered the EU in the 2000s, have finished their education. Their first years may have understandably been experienced as a learning period to really get to grips with how the EU decision making process works and how to get the most out of it. Now, they have ten years of day-to-day experience in EU bargaining, seven out of the ten countries which joined in 2004 have also held the rotating presidency of the Council of the EU – a necessary “fellowship” to grasp how the system works from the inside out – and six of them have adopted the euro. As a result they are more willing and more capable of defending their national interests. This plays on day-to-day politics in Brussels, but would also be central in any future treaty change, especially since these countries had little influence over the Lisbon Treaty.

This report aims to appreciate this overall landscape and explore how it affects the way EU reform is discussed. The objective is to map out how the 28 member states approach this concept by looking at three main strands: the role of national parliaments, the appropriate

1. For a full discussion, see for instance Vivien Pertusot, "In Europe, Not Ruled by Europe: Tough Love between Britain and the EU", *Note de l'Ifri*, March 2013, available at: <http://bit.ly/1wdMaGM>.

2. Stephen George, "Britain: Anatomy of a Eurosceptic State", *Journal of European Integration*, Vol. 22, No. 1, 2000, pp.15-33.

EU regulatory framework, and the appetite for further integration. Increasing the role of national parliaments in EU affairs may not be the absolute and only way to mend the EU's crisis of legitimacy, but it is an avenue put forward by several member states. The adequate level of regulation at the EU level has been an issue for many years, but slow growth, increasing competition from global players, and repeated criticism of the EU's apparent over-regulation have provided the issue a new momentum. Lastly, the desire for a deeper integration has lain at the core of the European project since the outset. While it has been relatively painless for governments to engage in more integration, the question is now eminently political and sensitive in member states.

This report does not pretend to offer definitive positions on the preferences of all member states. The EU is a consensus-seeking institution; interests can evolve and adjust depending on what is at stake. However, it hopes to offer a glimpse at the thinking across the EU on issues, which are already on the agenda or are likely to attract attention in the coming years. The role of member states – and sometimes of their national politics – has never been so cardinal in forecasting the future of the EU. Better understanding the dynamics at play across Europe is therefore fundamental to anticipating how major debates will develop.

This report will first sketch out the general context in which debates on EU reform are taking place before mapping out the thinking across the EU on the three strands (national parliaments, regulation, competences). The conclusion will offer some thoughts on how it can impact the debates in the coming years.

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Putting EU reform in context

People involved in the EU decision making process, both in Brussels and in member states, could argue that the EU is constantly being reformed. It would not be inadequate to say so. The European Commission, the European Parliament, the Council of the EU, as well as the thousands of people in the private sector, think tanks, and civil society all try assiduously to shape and re-shape the EU. A lot of these efforts may not always be transparent, comprehensible or even worth paying too much attention to. The changes often seem far too technical to catch the eye and the output far too ancillary to make the headlines. Yet these seemingly minor adaptations are the underpinnings of what many have called the “regulatory state”.⁴ However, the EU has also gone beyond its regulatory remit and more visibly entered national politics. This section briefly lays out the steps, which led to the current discussion on EU reform.

More integrated EU, more constraining environment

The impact of the EU on high politics has now become a defining parameter of national politics. The euro is the currency of 19 of the 28 member states. Belonging to the euro area has expansive consequences in terms of monetary policy, economic convergence and coordination, banking supervision etc. There are arguably few domains that could remain impervious to EU-level, or, at least euro area-level, discussions. The interdependence and possible spill overs, be they positive or negative, cannot be underestimated.

The EU in domestic politics for better or for worse

The growing role of the EU in domestic politics has unsurprisingly attracted its share of criticisms. Before the Maastricht Treaty, the EU maintained a high level of de facto support. There was an implicit consensus that the EU was a positive project. The Maastricht Treaty sounded the death knell to what many called the “permissive consensus” that prevailed among the member states. The raucous ratification processes in Denmark, France and the UK were early signals that the

4. Giandomenico Majone, "The Rise of the Regulatory State in Europe", *West European Politics*, Vol. 17, No. 3, July 1994, pp. 77-101.

future ahead would not be as unruffled as before. Likewise, the rise of critical opinions crystallised. Since then, the criticism against the EU has increased and the number of its detractors has swelled. The rhetoric may differ across the EU, but the arguments are broadly similar: The EU is not democratic enough, it lacks legitimacy, and it is an elite-led project divorced from the interests and concerns of its citizens. While the clout of such arguments was fairly limited in the 1990s and early 2000s, they were already significant in some member states, such as Austria, Denmark or Finland. For the most part, however, they remained the core arguments of relatively marginal radical left and radical right parties.

Despite this, as some have explained, the post-Maastricht period saw the progressive emergence of a “constraining dissensus” on the EU. In other words, the EU entered the national political arena and political parties and other political actors started to invest in it.⁵ Slowly, further integration as the response to a collective action problem became less automatic than it was before.

Paradoxically, Christopher Bickerton has shown how EU membership has changed the policy-making process in EU member states. He argues that the EU has transformed nation states into member states, whereby national governments consider it a central element to their wellbeing to belong to a wider group or community.⁶ Considering that the EU is a consensus-seeking organisation, in which compromise is a core tenet, it encourages member states to negotiate with their peers and to keep the organisation going. Giandomenico Majone calls this the “bicycle theory”.⁷ No matter what happens, there is an interest to move forward. Going backwards or standing still almost appears counter-intuitive. This shift toward member statehood bears consequences for the EU as well as for the EMU. Indeed, national governments evolve within a framework, which can form a certain shield against national opposition.⁸ In other words, if an approach is validated at the European level and conducted individually within member states, it cannot be genuinely resisted.

The contradiction that made it all tangle

This contradiction lies at the core of EU integration, especially since the Maastricht Treaty: the majority of EU national governments do not discount the virtues of integration, but are conversely cautious about giving up national sovereignty. This paradox characterises a number of EU policies. Chief among them is the EMU. The EMU architecture was defective from the offset. The emphasis was put on the monetary pillar

5. Liesbet Hooghe and Gary Marks, "A Post-Functionalist Theory of European Integration: From Permissive Consensus to Constraining Dissensus", *British Journal of Political Science*, Vol. 39, No. 1, 2009, pp. 1-23.

6. Christopher J. Bickerton, *European Integration: From Nation States to Member States*, Oxford, Oxford University Press, 2012, p. 12.

7. Giandomenico Majone, *Rethinking the Union of Europe Post-Crisis: Has Integration Gone Too Far?*, Cambridge, Cambridge University Press, 2014, p. 59.

8. Bickerton, *European Integration, op. cit.*, p. 148.

of the currency union at the expense of the economic pillar. The monetary policy was fully integrated at the EU level. Member states also agreed to leave the European Central Bank (ECB) largely in charge of setting interest rates. Instruments, such as the Stability and Growth Pact (SGP), were set to ensure that euro area members stick to specific debt and deficit targets and were seen as safeguards against spendthrift national economic programmes. Similarly, the ECB's mandate exemplifies that a Eurozone approach to the economy was not yet envisaged. Indeed, its mandate emphasised that its primary function was to ensure price stability in the euro area. Economic incentives would only be conceivable as long as they honour that primary objective.⁹ But there was little political will to embark on much more thorny issues, such as the coordination of national economic policies at the EU level or an EU fiscal policy for instance. The EMU illustrates a case of "divided sovereignty" where monetary policy is orchestrated at the EU level while member states want to maintain sufficient control to steer their own economy.¹⁰ As such, there was no built-in mechanism to absorb or even mitigate external or internal financial shocks.

This created a particularly critical challenge for the euro area. Binding themselves together with a single currency implied a great level of interdependency and a need to limit economic divergence or diversity among member states. As Ben Crum explains, this interdependency coupled with the willingness to cling to national prerogatives ended up putting pressure on democratic processes.¹¹ National governments and parliaments did not have as much leverage on broad economic choices as they would have appreciated had they retained their own currency. The mere fact of sharing the euro and abiding by fiscal rules meant that economic and political choices had to be made within a defined framework.

This new state of affairs should have generated a new approach to EU politics in member states. Yet many national politicians failed to register this needed change. Instead of acknowledging the new division of labour between the national and EU levels in many fields, especially in devising the national budget, many national authorities maintained an equivocal attitude with respect to their prerogatives. It would indeed seem odd for politicians to openly admit that their competences had been reduced. This ambiguity affected the

9. For a good summary, see Christophe Strassel, "La Crise de l'euro : une crise de la souveraineté européenne", *Hérodote*, No. 151, 2014/3, pp. 12-38.

10. Nicolas Jabko, "The Divided Sovereignty of the Eurozone", in *Beyond the Regulatory Polity?: The European Integration of Core State Powers*, by Philipp Genschel and Markus Jachtenfuchs (eds.), Oxford, Oxford University Press, 2013, pp. 124-141.

11. Ben Crum, "Saving the Euro at the Cost of Democracy?", *Journal of Common Market Studies*, Vol. 51, No. 4, 2013, pp. 614-630.

legitimacy of decisions made at the national and EU level as well as blurred the lines regarding who was accountable for which decision.¹²

Strikingly perhaps, Europeanisation has not stopped despite calls to safeguard sovereignty. Aside from the reshaping of nation states into member states, two factors explain why member states have agreed to keep on cooperating ever more closely at the EU level. First, they still see ways to reap benefits from membership. As long as member states regard the EU to be providing mutual gains, there is no need to overhaul the system. Second, and more fundamentally, member states have committed themselves to finding joint solutions that each faces at the regional level, albeit to varying degrees.¹³ Member states realise that their capacity to solve intricate problems is stronger together than individually. This is deeply rooted in the EU. The single market represents a very clear example of that collective approach, as well as the EMU. However, both cases also show how member states can embark on a common approach with different objectives. For instance, France, Germany and the UK may have been prime supporters of the internal market, but their objectives differed on what its creation meant in the life of the European project.¹⁴

A multifaceted crisis

An intensive policy-making period

The economic and financial crisis has affected the EU in many ways. It put in motion the fears that several analysts had voiced regarding the flaws of the EMU. It aggravated the gap between the EU, as an elite-led project, and its citizens. Moreover, it unsettled the conviction that the EU could protect national economies from severe hits. The growing dissatisfaction among European citizens facilitated the rise – and acceptance – of eurosceptic voices and political parties across the EU.

In light of these developments, the EU tried to address these issues. With hindsight, the outcome may not be entirely satisfactory. The proposed solutions may have actually pushed some pressure points and exacerbated divisions.

12. Vivien A. Schmidt, *Democracy in Europe: The EU and National Politics*, Oxford, Oxford University Press, 2006; Vivien A. Schmidt, "The Eurozone Crisis: A Crisis of Politics, Not Just Economics", *The International Spectator*, Vol. 48, No. 3, September 2013, pp. 1-6.

13. Jeremy Richardson, *Constructing a Policy-Making States?: Policy Dynamics in the EU*, Oxford, Oxford University Press, 2012.

14. Vivien Pertusot, "France, Allemagne, Royaume-Uni : plus de bas que de hauts", in *Repenser la géométrie franco-allemande : des triangles au service de l'intégration européenne*, by Claire Demesmay and Hans Stark (eds.), Paris, Les Etudes de l'Ifri, 2015, pp. 43-48, available at: <http://bit.ly/1fQIPfP>.

From 2008 onwards, the EU was in crisis management mode. At the macro level, it became urgent to fix the EMU's flawed design. Meanwhile, the EU had to deal with stark economic outlooks in some member states. The combination of crisis management at the micro and macro levels had two clear effects: the time-pressure was high to find solutions, and these would be immediately put to the test. In the past five years, abundant statements from politicians, opinion leaders, think tankers and scholars have argued that the EU could take advantage of the crisis.¹⁵ However, no previous crisis ever had the same ramifications. Designing solutions is one thing, but never before had those solutions been so much debated at the national level and never before had national financial resources been needed to directly help other member states. It fostered intense debates about the rigidity vs. flexibility of rules and principled vs. conditioned solidarity. These issues are at the core of the multifarious EU reform debates occurring across Europe.

The EU launched a number of mechanisms to resolve the problems highlighted by the crisis, both to stabilise a crisis already at play (crisis management), and to preclude any other crisis from breaking out (crisis prevention).

As mentioned above, the Maastricht architecture did not envisage a built-in mechanism to mitigate internal and external shocks. Despite sharing the same currency and having signed up to the SGP, euro area members still displayed large fiscal and macroeconomic imbalances. Risks of contagion were high, especially in the Eurozone. The EU had the legal option to assist a non-Eurozone member state to resolve balance of payments difficulties (article 143 of the Treaty on the Functioning of the EU), but it lacked a stabilisation mechanism for the Eurozone countries. As a result, it first created the European Financial Stability Facility (EFSF) and the European Financial Stability Mechanism (EFSM). This initial architecture was designed to be temporary, but faced with the dire situations in several member states, the EU created the permanent European Stability Mechanism (ESM).¹⁶ Established as part of an intergovernmental treaty in 2012, the purpose of the ESM is to provide financial support to euro area member states in crisis under strict conditionality. The establishment of the ESM, and any financial assistance, became the source of vivid debates, especially in Finland, Germany and the Netherlands. The European Court of Justice had to rule on the validity of the ESM with the so-called

15. See for instance Joschka Fischer, "Europe's Trial by Crisis", *Project Syndicate*, 28 September 2012, available at: <http://bit.ly/1VqSzOa>; Julian Nida-Rümelin et al., "We Need a Europe That Is Truly Social and Democratic: The Case for a Fundamental Reform of the European Union", *Social Europe Occasional Paper*, November 2011, available at: <http://bit.ly/1KndBeJ>; Dominique Strauss-Kahn, "After the Global Financial Crisis: The Road Ahead for Europe", Warsaw, 29 March 2010, available at: <http://bit.ly/1Uha7yZ>.

16. Despite the creation of the ESM, the finance ministers decided in May 2010 to keep the EFSM in place as long as necessary.

“no bail-out clause” (article 125 of the TFEU).¹⁷ Additionally, the incommensurable time spent on scrutinising the decisions made by the German constitutional court, perceived to be hesitant toward the principle of financial assistance, on agreements reached at the EU level was evidence that conditioned solidarity was the only way forward for some member states.

Decisions made by the European Central Bank during the crisis have also been very controversial. The ECB and its President Mario Draghi have become an essential institution in this period of crisis management. The ambition of its Presidents (first Jean-Claude Trichet and now Mario Draghi) and its lighter decision-making process have been key elements in the ECB’s role. Early on, it launched controversial programmes, such as the Securities Market Programme in 2010. The ECB quickly became perceived as the euro’s goalkeeper. The famous words of Mario Draghi in 2012 that “the ECB is ready to do whatever it takes to preserve the euro”,¹⁸ the subsequent creation of the Outright Monetary Transactions (OMT) programme, and the launching of a quantitative easing programme in January 2015 have been further evidence of the growing role of the institution in the Eurozone crisis, and equally a growing source of controversy. An action was brought to the ECJ to rule on whether the OMT was falling under the central bank’s mandate – the court ruled in June 2015 that it was.¹⁹

These crisis management tools have been complemented by crisis prevention mechanisms. The SGP had failed to provide incentives to correct fiscal imbalances and the EU decided to beef it up. It created the so-called “six pack” (a package of five regulations and one directive) to toughen up the fiscal rules member states had to adhere to, especially its corrective arms. It became, for instance, possible to open an excessive deficit procedure (EDP) against a member state whose debt was higher than 60 per cent of its GDP – the EDP was previously limited to an infringement of the deficit threshold of 3 per cent of the GDP of a member state. The so-called “two pack” (two regulations) came to reinforce the “six pack”. It was another step in the toughening of fiscal rules. For instance, euro area members under the preventive arm of the SGP or experiencing excessive macroeconomic imbalances could be subjected to financial sanctions.

Although such measures made the SGP regime immediately more stringent, member states felt the need to agree on a more institutionalised approach and signed the intergovernmental Treaty on

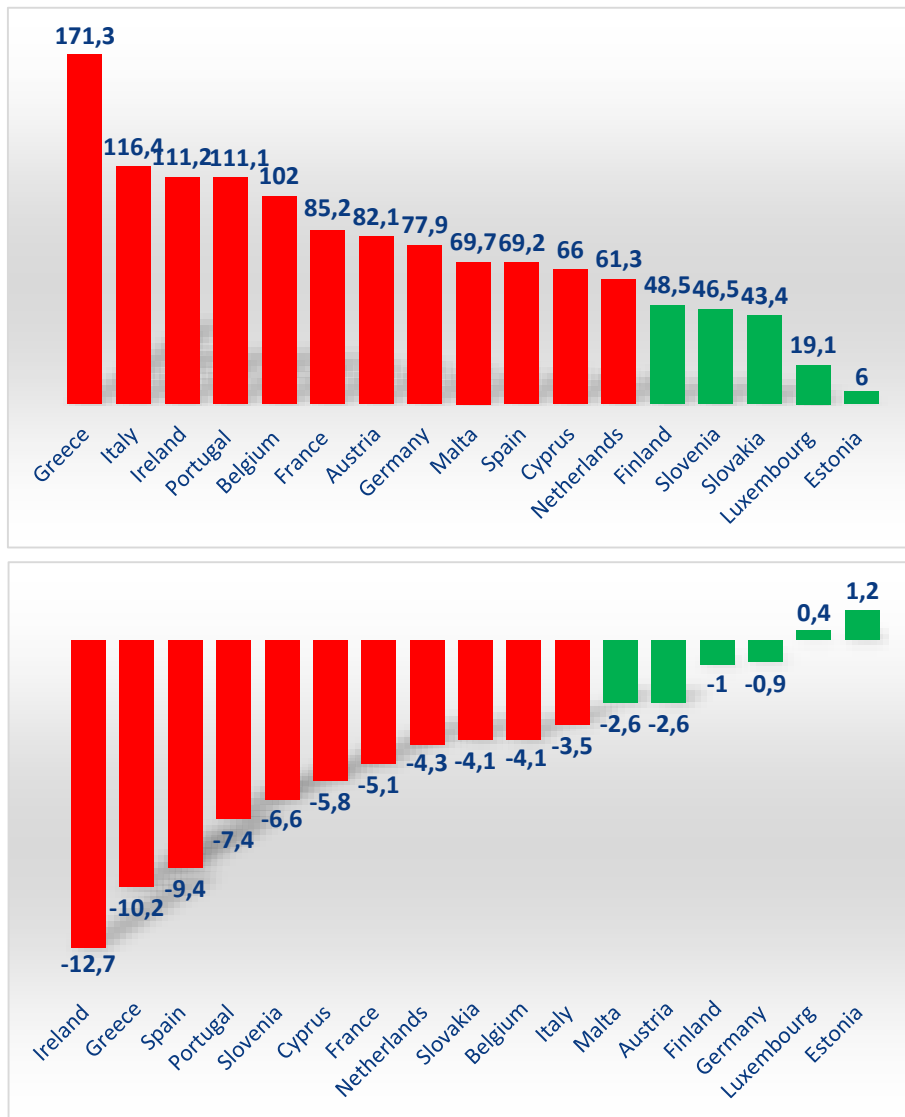
17. European Court of Justice, "The Court of Justice Approves the European Stability Mechanism (ESM)", Press Release, No. 154/12, 27 November 2012, available at: <http://bit.ly/1KxN1OG>.

18. Mario Draghi, "Speech at the Global Investment Conference", London, 26 July 2012, available at: <http://bit.ly/1BVIUtx>.

19. European Court of Justice, "The OMT Programme Announced by the ECB in September 2012 Is Compatible with EU Law", Press Release, No. 70/15, 16 June 2015, available at: <http://bit.ly/1FZalt5>.

Stability, Coordination and Governance (TSCG, also known as the “fiscal compact”), which entered into force on 1 January 2013.²⁰ As was the assumption with the “six pack” and the “two pack”, the underlying belief was that convergence of euro area economies would foster financial stability, and, ultimately, growth. The TSCG largely reintroduced elements from the SGP, but went a step further. Signatories had to inscribe a “golden rule” into their national primary law, preferably in the constitution, that the country would stick to or

Figure 1 General government gross debt, in Eurozone countries, in 2011 (above) and general government deficit (-) and surplus (+), in Eurozone countries, in 2011



Source: Eurostat.

20. European Council, "Treaty on Stability, Coordination and Governance in the Economic and Monetary Union", 2 March 2012, available at: <http://bit.ly/1FbkS9L>.

move toward the criteria of a deficit and debt inferior to (respectively) 3 and 60 per cent of the GDP. Member states also introduced ex ante coordination of major economic policy reforms.

These crisis prevention mechanisms were actually very much linked to the crisis management ones. It was inconceivable in some member states to agree to loans levied from taxpayers' money without guarantees that the receiving member states would be implementing corrective policies. According to these voices, the source of the Eurozone crisis was to be found in those countries whose economy went astray and they felt that they were paying for the mistakes of others. It meant that in many member states, national governments had to introduce structural reforms in the form of less public spending, a decrease of the welfare system, the rise of the retirement age, more flexibility in the labour market, or an increase in taxes. It is worth recalling that, at the end of 2011 (see Figure 1), only three members of the euro area were fulfilling the debt and deficit criteria (Estonia, Finland and Luxembourg). This provides a sufficient example to imagine how wide-spread the structural reforms' campaign has been across the EU, and yet this does not even account for the immense variation in starting points among the Eurozone countries.

These fiscal rules have been heavily debated and criticised for their over-emphasis on austerity measures. The crux of the debate was that this stress on clean finances – although recognised as necessary – came at the expense of possible financial stimuli and eventually forewent growth as well as public and private investment.²¹ Another element of the debate was related to solidarity. Financial support could only come through the form of programmes with strict conditionality. Trust among member states was by this point very low. Creditor countries imposed tough conditions, short of which they would vote down assistance programmes. This issue of solidarity was, and still is, very divisive in the EU. A good illustration of this divide relates to the potential creation of Eurobonds – bonds jointly issued and guaranteed by Eurozone countries. They were supposed to lower the funding costs for highly indebted countries. Although legal obstacles impeded its implementation, the fiercest opposition underscored the moral component of this mechanism. Creditor countries did not feel that debtor countries could be trusted and this would in effect start a “transfer union” – a step too far.²²

The second strand of the crisis prevention system focused on the financial sector. A clear lesson from the crisis is that the Eurozone was lacking a sufficient supervisory mechanism, although the financial system was highly integrated. Consequently, the EU decided to undergo a series of measures to beef up the EU-level supervisory

21. For a good and comprehensive overview, see Daniel Dăianu et al., *The Eurozone Crisis and the Future of Europe: The Political Economy of Further Integration and Governance*, London, Palgrave Macmillan, 2014.

22. Clément Lacombe and Frédéric Lemaître, "Jens Weidmann: 'Croire que les eurobonds résoudre la crise est une illusion'", *Le Monde*, 25 May 2012, available at: <http://bit.ly/1Q2Ug1j>.

mechanism. It created the European System of Financial Supervisors (ESFS) comprising the European Supervisory Authorities (ESA) – the European Banking Authority (EBA), the European Securities Markets Authority (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA) –, the European Systemic Risk Board (ESRB) and national supervisory authorities.

It also became evident that the link between bank debt and sovereign debt raised the risks of contagion, hence the need to strengthen the Eurozone-wide supervision of banks. 2012 was devoted to laying the groundwork for the banking union, consisting of a Single Supervisory Mechanism (SSM), now in place, a Single Resolution Mechanism (SRM), still under debate, a Single Supervisory Fund and a deposit guarantee scheme. While Eurozone countries agreed on the necessity of the banking union, it was still hotly debated. For instance, opposition from some countries, including Germany, led the SSM, set up at the ECB, to have direct supervision only over the major systemic banks (123 banks in total).²³ Other mechanisms were also set up to regulate the activities of banks with the Bank Recovery Resolution Directive and the directive on Bank Capital Requirements (CRD IV).

The vast body of reforms agreed to since 2010 is impressive. The mechanisms put in place may not satisfy all sides, but the mere fact that the EU could relatively quickly agree on so many far-reaching issues although the implementation is still on-going for many measures or yet to enter into force – shows the intensity of the period.

A growingly defiant public opinion

The crisis has profoundly affected the way the EU is perceived by its citizens. It has had two main consequences: trust in the EU has declined and eurosceptic discourses have found their way into mainstream politics.

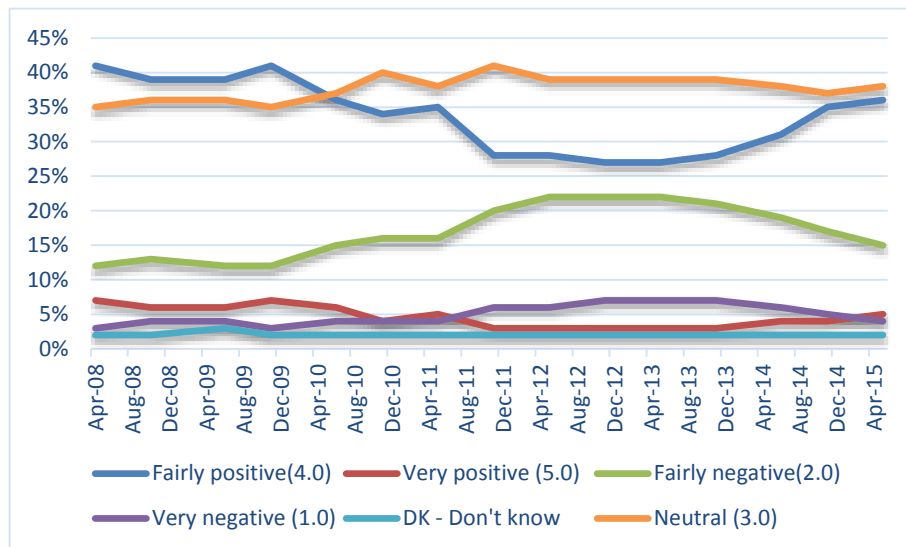
The Eurobarometer provides a picture of this change of heart in the EU. The positive image of the EU declined from 48 per cent in spring 2008 to 41 per cent in spring 2015 (see Figure 2). This 7 point decrease was actually worse at the peak of the crisis in 2012, when the EU's positive image barely scored higher than the negative image (30 against 29 per cent). Even today, a majority of respondents have a positive image of the EU in just six countries. Besides the positive/negative aspect, an ever more striking feature often goes unnoticed. Despite the seemingly more polarised debates on the EU, there is a large body of people who have a neutral image of the EU (35 per cent in spring 2008 and 38 per cent in spring 2015). From autumn 2011 to spring 2014, they were the largest group in the Eurobarometer. A neutral attitude does not necessarily hint at indifference but it is

23. To understand the rationale behind the German position, see for instance Stefan Kaiser, "Anzeigenaktion Gegen Die Bankenunion: Kampf Um Die Deutschen Spargroschen", *Spiegel Online*, 13 September 2012, available at: <http://bit.ly/1NRA57b>.

concerning to see such a large amount of people unresolved to answer such a straightforward question. It illustrates a distance between the EU and its citizens.

Another element provides an interesting insight into the difficulties facing the EU. In spring 2015, according to citizens, the three most important issues facing the EU were respectively immigration, the economic situation and unemployment. These also reflect the priorities that national governments are facing, but the EU is poorly equipped to adequately tackle these issues. Immigration remains a policy field where member states are guarded on the idea to Europeanise it further. The EU has only limited tools to stimulate the economy aside from those that already exist, such as the cohesion funds. These also include initiatives the EU can launch, such as the so-called “Juncker plan” (an investment package supposed to reach 315 billion euros to boost investment in EU countries), which relies upon buy-ins from member states and a convoluted scheme to involve private investors. Lastly, the tools at the disposal of the EU to fight unemployment are largely non-existent and member states are not ready to envisage Europeanising unemployment policies anytime soon. In essence, it means that there is a disconnect between what European citizens expect from the EU and what the EU can deliver.²⁴

Figure 2 Image of the EU, from spring 2008 to spring 2015



Source: Eurobarometer

24. This capability-expectation gap has been widely present in the literature on European foreign policy. See for instance Christopher Hill, "The Capability-Expectations Gap, or Conceptualizing Europe's International Role", *Journal of Common Market Studies*, Vol. 31, No. 3, September 1993, pp. 305-28. This capability-expectation gap has been much less studied in other fields.

This capability-expectation gap, however, illustrates another dimension to the crisis of legitimacy. The level of trust in the EU is closely tied to that of national governments.²⁵ The national context heavily influences the way citizens assess the EU's performance. In other words, if the government in a given country is poorly rated, the EU is very likely to suffer the same appraisal. At a time when growth is slow in the majority of member states, when unemployment remains high and when immigration dominates headlines, the fates of national governments and the EU are intertwined. As long as these three issues are central and expectations appear to be unfulfilled, the EU will suffer a blow in trust as will national governments.

This crisis of legitimacy does not suggest that European citizens have lost hope in the EU. The relative mitigation of the economic crisis has had visible effects in recent Eurobarometer polls. In spring 2015, 58 per cent of respondents were optimistic about the future of the EU. This is far from pre-crisis level (69 per cent in spring 2007), but it still shows that the EU is not perceived as an outdated project – rather one that needs to refocus.

The past few years of serious political defiance against the EU have nonetheless rooted euroscepticism in mainstream political discourses in many member states. Euroscepticism is not a new phenomenon. It has slowly seeped into the political landscape via political parties, interest groups and grassroots movements and has progressively become a more consolidated, coherent and structured trend.²⁶ However, this eurocriticism has evolved at a different pace across the EU. Radical right parties have been more capable of playing with the *désamour* among European citizens than radical left parties thanks to a discourse combining three elements: anti-establishment, anti-immigration and hard euroscepticism. That does not mean that all agree on the same solutions: they usually do not. Additionally, they do not all have the same proximity with power and therefore the same penetration within the society. Some like the *Freiheit Partei Österreichs* (FPÖ) in Austria have already been in government. Others have had a parliamentary group for quite some time, such as the True Finns in Finland, who now hold 38 out of the 200 seats. Some are slowly getting to grips with power, such as the *Front National* in France, which won their first seats in the National Assembly in 2012.

The most important sea change of the past few years is that radical right parties are now able to capitalise on their good showings in European Parliament elections. Previously, they could perform relatively well, but often failed to make headway in national elections. Radical right parties triumphed in ballots in Denmark, France and the UK in the EP elections in 2014 and those results have been similarly

25. Klaus Armingeon and Besir Ceka, "The Loss of Trust in the European Union During the Great Recession Since 2007: The Role of Heuristics From the National Political System", *European Union Politics*, Vol. 15, No. 1, 2013, pp. 82-107.

26. Simon Usherwood and Nick Startin, "Euroscepticism as a Persistent Phenomenon", *JCMS: Journal of Common Market Studies*, Vol. 51, No. 1, January 2013, pp. 1-16.

confirmed in recent national elections, such as in Denmark and Finland. Their presence in the media and participation at the European Parliament have grown as well as their capacity to sway policy dossiers. Immigration is a case in point. As mentioned above, with immigration being considered as one of the main challenges facing the EU, it is not surprising that their influence in mainstream politics has grown. But this situation is not without consequences for the EU and traditional pro-EU political parties. Traditional right-wing and left-wing parties seem at a loss to face this phenomenon. They either try to regain the upper hand on issues where radical right parties are gaining ground – but this can lead to policies, which are perceived as too radical, such as is sometimes the case regarding immigration – or they simply fail to challenge those parties' rhetoric on certain issues, such as the EU.

The European Union is at a critical juncture. It has paid a heavy toll following the economic and financial crisis, which has in turn diminished confidence and legitimacy in the project. It may be slowly recovering, but the crisis has also accelerated the rise of strongly eurosceptic parties, which have been gaining influence on the national scene and whose influence is unlikely to simply vanish. The slow descent of the "permissive consensus" has in fact reached its peak: further integration might be necessary, but promoting it is not politically neutral any longer. The distance between the EU and its citizens has grown as well as the polarisation of the debate. Europe has definitely entered national politics in ways that few had anticipated at the beginning of the crisis. Additionally, all member states now have a stake in the EU: they have interests to promote and positions to defend. It makes finding a compromise more difficult on some issues, especially when the decision can be consequential in the country. Finally, that further integration is not perceived as costless has also prompted many governments to be hesitant to explore this alley and to launch a call for reform of the EU.

EU reform: much ado about what?

Reform of the EU is a loosely defined concept and its scope often appears limitless. This section will look at three aspects: the role of national parliaments, the level of EU regulation and the attitude regarding integration. It will also try to discern some major trends. However, before exploring the thinking across the EU any further, it is important to define how this report interprets reform and to lay out the methodology.

Definition and methodology

There have been few attempts to define “reform” in the EU context. Maria Green Cowles and Michael Smith defined it as

“the attempt to shape and reshape the European project in pursuit of a number of aims: efficiency, effectiveness, and avoidance of the risks of non-reform. The perception of the need for reform and of its practicality will vary between groupings involved in the process of integration and across issue areas.”²⁷

This definition encapsulates a wide range of actions and is in fact too broad. The core issue is to limit the functional perimeter of EU reform: does it include the correction and improvement of flawed designs and policies as well as the “shaping” of the European project, in other words the creation of new policies? If so, one could argue that the EU is continuously being reformed under this definition.

While an on-going project is constantly shaped and reshaped, all decisions cannot fall under the “reform” category. Reform includes the reshaping of existing policies, such as changing the fisheries policy or reforming the Common Agricultural Policy. It does not extend to the shaping of an EU policy, for instance the project to launch a Capitals Market Union or a digital single market. However, the line can sometimes become blurred. Is the creation of a banking union shaping or reshaping the EU? While this policy is a new item on the EU agenda, it can also be interpreted as mending the EMU’s flawed design. Conversely, the above definition implies that EU reform is strictly concerned with further integration – whether member states are willing or not to deepen integration in the process of EU reform. In this

27. Maria Green Cowles and Michael Smith, *The State of the European Union: Risks, Reform, Resistance, and Revival*, Oxford, Oxford University Press, 2000, pp. 5-6.

instance the scope is too limited because EU reform can be about less integration and can also affect other aspects of the EU decision-making process, such as proportionality and subsidiarity. Another important element in EU reform debates is the role and place of national parliaments in the European decision-making process, which will be explored below.

Despite this, the definition does touch upon a crucial element: The interest in EU reform and its implementation will vary across the EU and depend on the issue at stake. It is complicated to anticipate the positions a member state might take in negotiations. Yet you can try to have some understanding of how the country acts in the EU context, its primary interests and focus points.

This report aims to analyse the still unclear positions regarding the role of national parliaments, regulation and integration. While a few official initiatives have kick-started thinking on these issues in the past few years, member states have displayed various degrees of involvement and interest. These three issues, however, broach on pressing issues facing the EU: legitimacy, competitiveness, and its institutional and political shape.

The three strands studied in this report have been chosen according to their relevance in EU debates. The role of national parliaments has been gaining saliency for the past few years, although the debate can be traced back to the Amsterdam Treaty. Prior to this, national parliaments had very few formal prerogatives in EU affairs. The Lisbon Treaty turned the tables by granting them a stronger role via the so-called “yellow” and “orange” cards (more below). The scrutiny procedure at the EU level has compelled national parliaments to adapt to this new mechanism and to create procedures at the national level to enforce this scrutiny. Additionally, debates over how to better legitimise the EU have led to requests, in some member states – such as Denmark, the Netherlands, and the UK – for a greater role for national parliaments, perceived as highly legitimate in the eyes of voters. The debate is not as lively in all member states, but the question is on the table nonetheless.

The weight of EU regulation is not a nascent topic either. The debates over the right mix of local, national and EU regulation, as well as the functional perimeter of EU regulation have been sources of concern for years. But it gained new momentum when the Commission launched its REFIT (Regulatory Fitness and Performance) process in December 2012. Repeated calls from the Netherlands and the UK to review, and sometimes reduce, legislation have added to the sense of urgency. It has also gained ground because European competitiveness is under pressure from the emergence of other competent actors across the world, whose regulatory framework is often lighter.

Finally, the status of integration is hardly a new debate. It even seems to be never-ending. As explained above, the level of integration and competences delegated to the EU is very high and deeper integration is deemed politically sensitive across Europe. Nonetheless,

it may be necessary, especially within the EMU, to stabilise and strengthen it to avert potential future crises. It begs the question of how to include those that are opposed to deeper integration as well as those that are fearing a widening gap between Eurozone members and “pre-in” countries. The underlying mid-term question may be whether a treaty change is required, but also how far member states are willing to go in principle. Integration is no longer a given.

The scope of this study is deliberately broad, because few member states have a clear and detailed view on each of the issues discussed. The report does not pretend to offer definitive answers, but rather insights on how member states could approach those different issues. This research is based on available official documents, but they rarely dwell on the three issues pertinent here. Background interviews have thus been conducted across the EU both in Brussels and in capitals with officials from national Permanent Representations to the EU, national Ministries of Foreign Affairs and Prime Minister’s Offices from May 2014 until May 2015. They are not directly quoted in the report and all interpretations are the author’s. A second caveat is important to mention. In some cases, interviews were conducted prior to a change in government following a national election, or soon after. The new government may not have overhauled the entire EU policy, but it may sway how policies are defended at the EU level.²⁸

This report intends to grasp how governments would handle the three issues discussed. For that reason, no interview was conducted with officials from national parliaments’ secretariats or members of Parliament. In some countries, the links between MPs and the government are so tight that the government shares the views of the MPs, but this is not necessarily the case for most countries.

National parliaments: in the heat of the decision-making process?

The principle of subsidiarity was formally adopted in the Maastricht treaty and has been clarified in subsequent EU treaties, first in the Amsterdam Treaty in 1997 and then in the Lisbon Treaty in 2009. National parliaments gained competences with the latter. They can now object to a draft legislative act if they believe it does not abide by the principle of subsidiarity. This restrictive role comes on top of the consultative but more positive mechanism established in 2006 by the Barroso Commission. “The political dialogue” allows national parliaments to provide comments on the substance of a draft legislative act.

The subsidiarity check enshrined in the Lisbon Treaty is legally binding. Each country has two votes (one per chamber in a bicameral

28. It is for instance the case with Czech Republic where the new government is making substantial changes in the Czech EU policy to overhaul the image of a country, which was perceived as guarded on European integration.

parliament, 56 votes in total). If a third of the national chambers send a “reasoned opinion” to the Commission within eight weeks of receiving the draft act, it must be reviewed. The Commission can maintain, amend or withdraw the proposal and must justify its choice. In the area of “freedom, security and justice”, the threshold is a quarter of national parliaments. This is often referred to as “the yellow card”.

Under the ordinary legislative procedure, if a simple majority of national parliaments challenge the draft legislative act, it is reviewed. If the Commission decides to maintain it, the legislator (the European Parliament and the Council) must then make a decision. After the first reading, if 55 per cent of the Council’s members or a majority of MEPs consider that the proposal does not comply with the principle of subsidiarity, the Commission must drop the proposal. This is often called “the orange card”.

There have only been two instances of “yellow cards” so far. In 2012,²⁹ 12 chambers opposed the so-called Monti II regulation on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services. The Commission withdrew the proposal but refuted that it had not respected the principle of subsidiarity. In 2013, the Commission proposed the establishment of the European Public Prosecutor’s Office. 14 chambers opposed the draft, without causing a stir in the Commission, which decided to pursue the legislative process. In both cases, many national parliaments and chancelleries expressed concern at the attitude the Commission adopted.

Although binding, such mechanisms have appeared inadequate to tackle the issue of EU legitimacy in some countries, especially in those where MPs are deemed the voice of the people. In the UK, the government is pleading for a “red card”. A moderate interpretation of the “red card” view is that a yellow card should necessarily lead the Commission to amend or withdraw its proposal. But some are proposing that individual national parliaments have a de facto veto power on Commission’s proposals. Some member states would also be inclined to explore the creation of a “green card”, such as the Netherlands.³⁰ Instead of a negative contribution (objecting to a draft), national parliaments could either collectively introduce a legislative draft or could encourage the Commission to initiate a proposal. While the former option is far-fetched, the latter is more appealing as it does not require any treaty change and does not question the Commission’s right of initiative.

Increasing the role of national parliaments in European affairs is perceived by some as a way to reduce the legitimacy issue the EU

29. There were 54 votes at that time since Croatia had not yet joined the EU.

30. For a full discussion, see Lord Boswell of Aynho, “Towards a ‘green card’”, Discussion Paper, 28 January 2015, available at: <http://bit.ly/1NcFGWz>.

is experiencing.³¹ The subsidiarity check is not the only tool at the disposal of national parliaments. A survey of national chambers actually shows that most of them consider their indirect instruments, such as holding the government into account or in some cases giving a mandate for negotiations, the most important tool they have.³² This is not surprising. The primary role of national parliaments is to scrutinise the actions of the executive. In some countries, the government's scope of action depends on what the parliament validates. Applying this principle to the EU therefore makes sense and reflects the political relationship between the parliament and the government. On the other hand, the subsidiarity check requires a lot more technical work and is politically less rewarding.

Since the introduction of the Lisbon Treaty on 1 December 2009, 510 draft legislative acts have been sent to national parliaments. This has resulted in only 301 reasoned opinions. It represents on average 20 reasoned opinions for 85 legislative acts sent.³³ Since the reasoned opinions can only be sent when the principle of subsidiarity is not respected, it leaves relatively little margin of manoeuvre to national parliaments. Moreover, reaching the threshold to start a "yellow card" procedure in the limited window of opportunity is also complicated, because it requires coordination across the EU. However, interviews also show that several national parliaments are too understaffed to scrutinise all drafts carefully.

Overall, most chancelleries are content with the mechanisms in place to involve national parliaments. As a recent exercise conducted by the Italian Presidency to the Council concluded, there is no need for additional tools. Progress could, however, be made on two fronts.³⁴

31. See for instance Jürgen Neyer, "Justified Multi-Level Parliamentarism: Situating National Parliaments in the European Polity", *The Journal of Legislative Studies*, Vol. 20, No. 1, January 2014, pp. 125-38; Charles Grant, "How to Reduce the EU's Democratic Deficit", *The Guardian*, 10 June 2013, available at: <http://bit.ly/1KndEHj>. Another interesting input regarding the role of national parliaments is that the early warning procedure does not alleviate the legitimacy or democratic deficit. What would however help is a strengthened communicative role between the MPs and the citizens on EU matters. See Pieter de Wilde, "Why the Early Warning Mechanism Does Not Alleviate the Democratic Deficit", *OPAL Online Paper Series*, 2012, available at: <http://bit.ly/1N3PeDb>.

32. Ellen Mastenbroek et al., "Engaging with Europe: Evaluating National Parliamentary Control of EU Decision Making After the Lisbon Treaty", Report of findings, December 2014, available at: <http://bit.ly/1Q1wyg>.

33. This figure needs additional explaining. First, it does not reveal the diversity in participation. The Swedish Parliament accounts in total for 49 reasoned opinions on its own and the French Senate 21, whereas the Slovenian two chambers have filed only one reasoned opinion each, as well as the Estonian Parliament and the French Assemblée Nationale. Second, some years have generated more reasoned opinions than others. In 2013, 29 per cent of the proposed legislative acts led to at least one reasoned opinion whereas it was the case for only 20 per cent of the case between June 2014 and June 2015 – possibly due to a more active concern for subsidiarity by the Commission.

34. Council of the European Union, "Improving the Functioning of the EU: Final Presidency Report from the Friends of Presidency Group", 16544/1/14 REV 1, 12 December 2014.

First, there should be greater contacts between Commissioners and national parliaments. Most interviewees for this report also stressed this aspect. Second, the Commission should provide “a more rigorous analysis” in the event of a “yellow card procedure”. This also registered quite clearly in the interviews.

Table 1 Perception of the role of national parliaments on EU affairs, by member state.

No change sought, mostly because the government is stronger than Parliament	No change sought, mostly because Parliament already holds a strong influence over the government's policies	Wait and see position; let's give the Lisbon Treaty rules a chance first	More powers sought, as the political legitimacy lies within the Parliament	A lot more powers sought
Belgium	Denmark	Croatia	Netherlands	United Kingdom
Bulgaria	Finland	Czech Republic		
Cyprus	Germany	Estonia		
France	Austria	Greece		
	Latvia	Hungary		
	Lithuania	Ireland		
	Slovenia	Italy		
		Luxembourg		
		Poland		
		Portugal		
		Romania		
		Slovakia		
		Spain		
		Sweden		
		Malta		

Source: own interpretation based on interviews.

Notwithstanding the necessity of a robust subsidiarity check, very few member states are eager to increase the role of national parliaments. EU countries can be divided into five camps (see Table 1):

1. Some Member states are not seeking to strengthen the role of national parliaments. They are satisfied with the

current status, and, in any case, the government is the main actor in EU affairs with a relatively limited role for national parliaments.

2. Others are not seeking any change, because the Parliament already has a very strong influence on the government's EU policies.

3. Others are giving the rules agreed in the Lisbon Treaty a chance before assessing the next steps.

4. A few member states would like the national parliaments to play a stronger role commensurate to the political legitimacy they embody.

5. A one-unit group wants vastly larger prerogatives for the Parliament, such as a "red card".

These categories are indicative and cannot hide the great contrast between national parliaments. While all parliaments have a European Affairs Committee (EAC), its scope varies from one country to another as well as its supervision of EU affairs. In many member states, the main political debates are held in sectorial committees rather than in the EAC. Moreover, the relationship between the government and the Parliament can also differ vastly. This is particularly evident with respect to the capacity of a Parliament to mandate ministers ahead of Council's meetings. In some countries, such as Bulgaria or France, this is non-existent whereas it is mandatory in Austria or Denmark. In other cases, such as the Netherlands, the Parliament can urge the government to take a specific position. As authoritative as these views are, the government is not bound to uphold them in Brussels.

This typology leads to three observations. First, there is now a consensus that national parliaments play an important role and that this contribution can be strengthened. The main point of disagreement is the means at their disposal. The role of the Conference of Parliamentary Committees for Union Affairs (COSAC) is representative of those divergences.³⁵ Although its actions reflect the scope laid out in the treaty, this body is widely perceived as under-performing and acting primarily as a networking platform. It has reflected for instance in the mixed attendance of national parliamentarians.³⁶ There may be options to reform COSAC, but few are optimistic about an impressive outcome. Strengthening it is often promoted by those member states that do not wish to increase parliamentary powers, such as France. In contrast, bolstering COSAC is perceived as merely cosmetic by member states willing to give national MPs a greater role, such as the

35. The COSAC was created in 1989 and was formally recognised by the Amsterdam Treaty. Article 10 of Protocol no. 1 of the Lisbon Treaty provides some guidelines on what COSAC does: it can send contributions to the European Parliament, the Commission and the Council; it shares best practices between parliamentarians; and it organises exchanges between national parliaments on EU-related issues.

36. Valentin Kreiling, "The new inter-parliamentary conference for economic and financial governance", *Notre Europe Policy Paper*, No. 100, p. 5, October 2013, available at: <http://bit.ly/1Ky0je3>.

Netherlands. Any other formal role for MPs is often regarded with caution. No country supports a “red card” system except the UK, and while the idea of a “green card” is appealing for many parliamentarians,³⁷ governments are often less keen to explore this avenue.

Second, member states with strong parliaments are not necessarily keen to support additional powers for national parliaments at the EU level. The capacity of a national parliament to influence EU policy does not only lie in the direct mechanisms available, such as the early warning procedure. Scrutinising the activities of the government is often more powerful and can produce greater outcomes than formulating a reasoned opinion, especially if the threshold to trigger a “yellow card” is not reached. Excluding the UK, which is a peculiar case, the Netherlands stands out as a strong parliamentary country calling for additional prerogatives for MPs. The main reason lies in the fallouts of the “no” vote in the 2005 referendum on the constitutional treaty. The Dutch political system considers that palliating the EU’s lack of legitimacy in the eyes of the Dutch public demands a forthright role for national parliamentarians.

Third, the tools in place since the Lisbon Treaty are still being tested. Many Parliaments had to adopt new internal procedures and are still adjusting to this new reality. They do not necessarily have the technical capacity to handle a new workload, nor the political interest to invest in it. Producing contributions or reasoned opinions may show how much some parliamentarians care, but there is no guarantee that such measures will wield any influence on the Commission’s thinking process. Consequently, most governments are giving the new rules a few more years before assessing them.

Regulation: (re)fit for now?

The appropriate mix of regulation at the European level may be one of the most contentious and long debated issues in the EU. It has generated myths and bad publicity – think of the regulations over the size and shape of cucumbers, or more recently of the work environment in hair salons. The issue is multifaceted: it deals with the legitimate grounds on which the Commission legislates at the EU level; the kinds of acts it produces (regulation or directive); and the quality of the legislation and its impact. Moreover, it involves a variety of stakeholders in the public and private sectors in the 28 member states. It makes regulation a hotbed issue.

The development of the single market has encouraged the Commission to be proactive and wide-ranging in its regulatory

37. At the COSAC plenary meeting in Riga in June 2015, the idea of a “green card” was discussed at length and the process to institutionalise it was launched. See Latvian Presidency of the Council of the European Union, “Contribution of the LIII COSAC”, Riga, 2 June 2015, available at: <http://bit.ly/1ly5O6l>.

approach. At the core of this development is a compromise between two potentially contradictory visions: for some, a more integrated European market would be good for business; while for others, more inter-dependent and Europeanised countries, through their markets, help foster more integration.³⁸

Whether European regulation has been serving its purpose or has gone too far is beyond the scope of this study. It is certainly true that the EU legislates quite extensively both on issues of primary and secondary importance. But what matters is that the burden of EU regulation has been a steady feature of debates in Brussels. The UK was already questioning the quality of regulation back in 1992. “Better regulation” was a central component of the Lisbon agenda, and in the second half of the 2000s the Commission sought more active ways to implement “better regulation”. Despite some efforts and a significant decrease in legislative acts, frustration was still rife at the Commission’s lack of action.

In 2012, it decided to set up the Regulatory Fitness and Performance (REFIT) process.³⁹ The aim was to address political concerns that EU legislation was too invasive and constraining for companies, especially small- and medium-sized enterprises (SME), in the light of the economic crisis and growing globalised competition. The REFIT process has received broad support from member states, but it has often seemed devoid of a clear political underpinning.

For that reason, the new President of the Commission, Jean-Claude Juncker, made two important decisions. Firstly, he decided that EU legislation would be based on the Commission work programme as well as on the strategic agenda set by the European Council in June 2014. Asserting that the EU legislative agenda was not based on the Commission work programme before would be exaggerated, but the new narrative was framed in a way so as to tie the political and legislative processes closely together. The second decision was to create the position of First Vice President in charge of better regulation – among other duties. The nomination of Frans Timmermans in this position was significant, given that he spearheaded the 2013 “subsidiarity review” in the Netherlands when he was Foreign Minister.⁴⁰ The former Dutch Minister consequently combines two qualities: he is a passionate pro-European and committed to the mantra “European when necessary, national when possible”. It therefore sent a strong message that better regulation was going to be a political priority for the Commission.

38. Nicolas Jabko, *L'Europe par le marché : histoire d'une stratégie improbable*, Paris, Presses de Sciences Po, 2009.

39. European Commission, "EU Regulatory Fitness", COM (2012) 746 final, 12 December 2012, available at: <http://bit.ly/1ieuHz1>.

40. Dutch Ministry of Foreign Affairs, "Testing European Legislation for Subsidiarity and Proportionality – Dutch List of Points for Action", 21 June 2013, available at: <http://bit.ly/1JvUR9g>.

Reforming the Commission's regulatory approach has therefore constituted one of Timmermans' primary tasks. The focus has been threefold: strengthening the quality of the *ex-ante* process (impact assessment, consultations etc.), improving the quality of legislation, and reviewing the existing body to amend or withdraw certain legislative acts. This resulted in a wide-ranging communication on 19 May 2015.⁴¹ The intention was to stress once again how important it was to deliver on the better regulation agenda and to introduce new mechanisms, such as the Regulatory Scrutiny Board and the REFIT platform. It is too early to undertake any assessment of those possibly profound changes or to enquire whether Frans Timmermans has managed to instil a new mind-set in the Commission. But to show that they are committed to the process, the Commission sent a clear signal when it submitted its 2015 work programme: it only contained 23 new initiatives.

One certainty is that the First Vice President's job has generated great expectations among the member states. Interviews conducted for this report were all held prior to the Commission's communication from last May, but even beforehand, the nomination of Frans Timmermans with his portfolio served to alleviate numerous concerns member states had regarding the Commission's regulatory approach. Interviews showed that there was an almost unanimous agreement that the approach needed some changes. Despite this, few countries seemed to have a clear idea of what should be fixed and how. However, with the REFIT process in place and the better regulation agenda high on the Commission's list of priorities, there is overwhelming support for the Commission to pursue its efforts in that direction (see table 2).

Regulation is felt differently across the EU. Several criteria affect the way it is perceived. First is the regulatory regime already in place. The oldest member states had a fairly well-established, or very well-established, regulatory framework. In such cases, where the EU regulation transforms national legislation (regardless of whether the outcome would be positive or not), national administrations tend to defend their positions more strongly. In many newer member states, the EU regulatory framework was welcome, because several were starting from scratch in most sectors. Most of the norms and standards had to be downloaded anyway as part of the accession process. Besides, it helps to set a more predictable and high-quality business environment for domestic and foreign investors. However, the situation has changed, and countries like Bulgaria or Lithuania, are now less hesitant to voice their concerns about too much interference from the EU.

A second criterion relates to the particularities of a given country. Regulations are usually not tailor made and hence may not take into consideration some specificities, such as the size of the territory, the geographic location, the climatic conditions, the level of

41. European Commission, "Better Regulation for Better Results - an EU Agenda", COM (2015) 215 final, 19 May 2015, available at: <http://bit.ly/1FmbPoC>.

infrastructure (or of investment required), a maritime access or lack thereof etc.

Table 2 Perception of Member states on regulation

Adequate level of regulation	REFIT is helpful to review legislation and better tailor future regulation	The EU regulates too much and should lighten its touch	Deregulation should be considered on top of a lighter touch in the future
Latvia	Austria Belgium Croatia Cyprus Czech Republic Denmark Estonia Finland France Germany Greece Hungary Ireland Luxembourg Poland Portugal Romania Slovakia Slovenia Spain Sweden	Bulgaria Lithuania Netherlands	United Kingdom

Source: own interpretation based on interviews

Those two criteria have led many member states to be more critical of the Commission’s approach in two main respects. Firstly, there is an almost universal agreement over the average quality of impact assessments. They are often seen as too vague or too weak. This may be changing with the new Commission, but it is difficult to assess these changes yet. Indeed, several promising ideas were offered in the “Improving the Functioning of the EU” series of meetings set up by the Italian presidency throughout the second half of 2014, such as *ex-post* evaluation of legislation or factoring in the cost of “non-Europe”.⁴² Secondly, many member states agree that directives should

42. Council of the European Union, "Improving the Functioning of the EU", *op. cit.*, p. 6.

be the norm rather than regulations, since it offers them more leeway to adapt the changes needed according to their own specificities. Additionally, there is a somewhat shared opinion that directives have become too detailed, sapping this leeway that member states are supposed to benefit from when they translate directives into national laws.

Yet, the most burning issue that came out of the interviews, as well as the “Improving the Functioning of the EU” report, is the use of delegated acts by the Commission. This new legislative act was established under the Lisbon treaty and provides that “a legislative act may delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act” (art. 290 of the TFEU). Although the Parliament and the Council have some control over delegated acts, many interviewees voiced criticism that the Commission was over-using these acts and that it ended up being a regular source of friction between the Commission and member states. Two additional concerns were often raised: member states feel that national experts are not present enough in the negotiations and elaboration of delegated acts, and, second, delegated acts, as well as implementing acts, are not subject to impact assessments, which can create concerns for legitimacy.

Overall though, member states are generally content with the REFIT process. Some are stronger advocates than others that any future EU legislative footprint should be lighter, such as the Netherlands and to some extent Denmark. France has also played a classic case of trying to upload its own model of “better regulation” with the “*choc de simplification*”. Although it is primarily aimed at the national level, there have been attempts to influence the debate at the EU level as well.

It is quite difficult to assess with certainty what position member states truly favour now that the REFIT process is in place and that Frans Timmermans is in charge of better regulation. The support for his initiatives and the hope that he can change the dynamics seem to have cast a shadow over any other options for the time being. It may take a few years before an assessment is possible and national preferences resurface more clearly. However, the UK is undoubtedly the most radical member state, and alone in promoting the possibility to repeal some of the *acquis* if deemed necessary. Other member states desire to review legislation and even withdraw some outdated directives for instance, so long as it will not affect any already granted consumers’ rights or employers’ and employees’ rights.

Overall, member states are waiting and seeing how the REFIT process performs and how much the new Commission can adapt to the member states’ demands and deliver on “better regulation”. They are supportive of the Commission in this field, but expectations are high and can be easily disappointed.

Integration: as good as it gets?

The third aspect this report discusses is integration. Defining the acceptable level of integration used to be easier: the main parameter, in most member states, was the relative acceptance at the elite level, which generally viewed integration as positive and beneficial. This state of affairs has, however, collided with a growingly defiant and euro-critical public opinion. Several warning shots can attest to this change of heart, the European elections in 2014 being the latest evidence.

It has led governments to be far more wary of engaging in talks about deeper integration. It generates a dilemma that will need to be resolved, especially within the Eurozone. On the one hand, as discussed above, the EMU lacks policies and instruments in order to be viable in the long term. Some, such as the banking union, are being fixed without considerable political costs in most member states; but more integrationist policies, dealing with, for instance, a growing convergence in tax policies and social policies, and perhaps even Eurobonds, are very divisive. On the other hand, public support for deeper integration seems to be eroded for the time being.

In the past few years, debates about “sensitive integration”, i.e. the kind of integration that generates great political concerns and is perceived more directly by citizens, have been set aside. Discussions focused instead on relatively new issues on the European agenda, such as youth unemployment and investment mechanisms at the EU level.

That is not to say that debates about further integration have not been taking place. However, they have remained confined to reports and under-the-radar discussions in Brussels. Relatively little attention was devoted to institutional-political discussions in member states. The only exception may be talks about Eurobonds, but they generated such opposition from countries such as Finland and Germany that the issue was put off indefinitely.

Nevertheless EU institutions have attempted to get the debate going. In December 2012, Herman Van Rompuy, then President of the European Council; José Manuel Barroso; Jean-Claude Juncker, then President of the Eurogroup; and Mario Draghi, published a report entitled “Towards a genuine economic and monetary union”. They sketched out the measures needed to ensure that the Eurozone had the required instruments to face future crises. Building upon the instruments in place or already on the table, such as the “six pack” or the TSCG, they first envisaged the creation of the banking union and went on to more sensitive areas, including “a well-defined and limited fiscal capacity [set up at the central level] to improve the absorption of country-specific economic shocks”.⁴³

43. Herman van Rompuy, “Towards a Genuine Economic and Monetary Union”, 5 December 2012, available at: <http://bit.ly/1JGIJVm>.

The report was complemented with a communication from the Commission, which laid out a blueprint of the steps and policies ahead. It described more clearly the necessary steps to achieve “a deeply integrated economic and monetary union”, by making, for instance, several references to the common issuance of public debt by Eurozone countries. It also envisaged a high level of integration in the banking, fiscal, economic and political domains:

Arriving at a full fiscal and economic union would be the final stage in EMU. As a final destination, it would involve a political union with adequate pooling of sovereignty with a central budget as its own fiscal capacity and a means of imposing budgetary and economic decisions on its members, under specific and well-defined circumstances.⁴⁴

This integrationist thinking did not trigger any passionately positive responses from member states. Any form of Eurobonds has been rebuffed and a fiscal capacity for the Eurozone is still a contested topic.

The second broad effort conducted by the EU institutions to launch a debate on the future of the EMU took place in spring 2015 and resulted in the “Completing Europe’s Economic and Monetary Union” report authored by Jean-Claude Juncker in cooperation with Donald Tusk, President of the European Council, Jeroen Dijsselbloem, President of the Eurogroup, Mario Draghi and Martin Schulz, President of the European Parliament.⁴⁵ The June 2015 report builds upon the 2012 report. While some commonalities stand out between the two, such as the centrality of the banking union, the level of ambitions displayed has decreased. The so-called “Five Presidents’ Report” is indeed more long-term than the previous exercise, but less specific. It announces the creation of some tools, including the European Fiscal Board, promotes new instruments, in particular the Capital Markets Union, and advocates for the strengthening of some existing policies to ensure financial and fiscal stability. But when it comes to longer term proposals, the report lacks specifics and merely foresees the need for more shared sovereignty in the future. This difference with the 2012 report finds its roots in the fact that the political climate has changed in Europe. The institutions are more cognisant that prudence and careful legwork are necessary before unwrapping grand projects.

Interviews conducted for this report indeed show a clear reluctance to embark on time-consuming and risky paths, such as treaty change (see table 3). The UK alone advocates for the reopening of the treaties, but for specific reasons. No member state is ideologically opposed to revising the treaties, but two reasons are often raised to explain that the time is not ripe. First, the political climate is

44. European Commission, “A Blueprint for a Deep and Genuine Economic and Monetary Union: Launching a European Debate”, COM (2012) 777 final/2, 30 November 2012, p. 31, available at: <http://bit.ly/1fQJKP>.

45. Jean-Claude Juncker, “Completing Europe’s Economic and Monetary Union”, 22 June 2015, available at: <http://bit.ly/1fsIYqk>.

too volatile. Euroscepticism has become a mainstream feature of national politics in many member states. Considering that treaty revisions would imply further “sensitive integration” for most member states, it could create a front for eurosceptic forces across the EU to mobilise. The ratification process would also be thorny, because several member states would need to hold referendums and the 2005 experience is still on everyone’s mind.

Table 3 Perception of member states on further integration

Reluctance	Cautionary approach	Relative support	Active support
United Kingdom	Austria Bulgaria Belgium Croatia Cyprus Czech Republic Denmark Estonia Finland Greece Hungary Ireland Latvia Lithuania Luxembourg Malta Netherlands Poland Romania Slovakia Slovenia Sweden	France Germany Spain	Italy Portugal

Source: own interpretation based on interviews

Second, starting negotiations over treaty change following ordinary revision procedure would steer attention away from critical issues, such as unemployment, growth, and investment. The uncertainty over the length and scope of the process cannot also be underestimated. The fear of opening the Pandora’s box has been raised by many interviewees. Moreover, the Lisbon Treaty offers considerable room for manoeuvre and alternative pathways, notably intergovernmental

treaties,⁴⁶ show that treaty revision is not the only option to make progress. Even countries, like Belgium, which are strongly in favour of the community method acknowledge the usefulness of the intergovernmental track. Interviews showed that although member states may be in favour of intergovernmental treaties to implement solutions, most acknowledge that this can only be temporary and that they will need to be included in EU treaties at some point.

A side-note is important though. Article 16 of the TSCG states that the provisions of the treaties should be incorporated into the legal framework of the European Union five years at most after its entry into force (1 January 2013).⁴⁷ The necessary steps shall be taken “on the basis of an assessment of the experience with its implementation”, but it is unlikely that member states will disavow “the fiscal compact”. As a result it is likely that, in 2017, a discussion will be started on how to incorporate the TSCG into the EU legal corpus. The European Parliament, which promoted this article in the negotiations at the time, may well lead the discussions. However, because of the delicate political climate, it is possible that member states will want to postpone the process until a later date.

It is important to bear in mind that most governments would agree that some form of treaty change may be required at some point in time in order to consolidate the EMU. It is, after all, not a question of “if” but of “when” and “how”. The latter aspect is crucial. Eurosceptic forces have become stronger while pro-EU forces often seem too dispersed and unconvincing to make that leap of faith. Moreover, there is no real effort among many member states to tackle eurosceptic forces. An ill-prepared treaty revision process in the near future could be disastrous.

For the time being, member states would prefer to focus on consolidating the mechanisms set up in the past five years and exit the economic crisis. Looking at the national contributions to the Five Presidents’ Report is further evidence of that mind-set.⁴⁸ With the exception of Italy, Portugal and to a lesser extent France and Spain, all other member states display a relatively low level of ambition and willingness to deepen integration for the time being⁴⁹. The Luxembourg contribution aptly summarises the views of many:

The common vision should be implemented in an incremental manner rather than by a big-bang approach. We suggest identifying as a first step the “low hanging

46. Since the beginning of the crisis, member states have already signed two intergovernmental treaties for the TSCG and the European Stability Mechanism and an intergovernmental agreement for the Single Resolution Fund.

47. European Council, “Treaty on Stability, Coordination and Governance in the Economic and Monetary Union”, *op. cit.*

48. They are available at: http://ec.europa.eu/priorities/economic-monetary-union/index_en.htm.

49. Even the first German contribution was very cautious, despite the general image of Germany as fundamentally pro-integration country. The joint contribution with France was, however, more ambitious.

fruits” which consist in improvements that can be realised in the short to medium term without treaty change.⁵⁰

However, some issues have the potential to crystallise tensions. One is the harmonisation of taxation. The Commission has reinvigorated the idea of a common consolidated corporate tax base (CCCTB). As such, a company would have to comply with just one EU system for computing its taxable income, rather than dealing with different rules in each member state in which it operates. This is doomed to set off resistance in several member states, including Bulgaria, Cyprus, Ireland, Lithuania and Malta. All of these countries have preferable tax regimes in order to attract foreign investors. They fear that a CCCTB might drive investors away from them to less peripheral states geographically.

Another issue relates to a Eurozone fiscal capacity. Official support is limited to a few countries, including France, Italy, Portugal, Slovenia and Spain, but it could gather the support of other member states, such as Belgium, Estonia, Greece and potentially Germany (although it would require some solid French bargaining skills). On the other side, Finland and Slovakia in particular are firmly opposed to that kind of mechanism for now. The crux of their opposition is that member states are too heterogeneous and are not all abiding by the rules – it comes down to an issue of trust.

A final issue, and perhaps the most divisive one, is the articulation between Eurozone and non-Eurozone members. Whatever their status, all non-Eurozone members are mindful that a stronger Euro area can create divisions within the EU28. They fear that it would create two political clubs and they would be refused a voice in one of them despite the likely fallouts of Eurozone decisions upon them. Moreover, a highly integrated EMU further down the road could possibly distort the integrity of the single market. While the UK is the most vocal member state on this issue, all other members outside the euro area support this view. It does not however mean that they would side with the UK if London were to promote the “double majority” system established at the European Banking Authority in other institutions or areas⁵¹ or institutionalise some form of safeguards in EU decision making processes.

More generally, member states outside the Eurozone feel that most of the political and institutional capital is devoted to strengthening the Euro area. For the member states unlikely to join the euro any time soon, this is slightly problematic because they could feel left out. For the pre-ins or even those that have not ruled out joining the euro

50. Luxembourg, "Luxembourg: Contributions from the Sherpas of the Member States to the Five Presidents' Report", 27 March 2015, available at: <http://bit.ly/1PGruT7>.

51. For a definition of the double majority, see Regulation (EU) No. 1022/2013 of the European Parliament and of the Council amending Regulation (EU) No. 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation (EU) No 1024/2013, 22 October 2013, available at: <http://bit.ly/1Ungbke>.

altogether, they worry that if they not are involved in the discussions and even in the policies, the cost of entering the euro area could become very high. It explains, for instance, why pre-in member states ratified the TSCG or joined the banking union – to avoid the formation of a durable gap between member states.

Any appetite for grand reforms is overall absent among member states. They may support ambitious and complex projects, such as the Capital Markets Union or the Energy Union, but those are EU28 initiatives to address specific collective action problems. They do not imply further “sensitive integration” or treaty change. The economic crisis and the rise of eurosceptic forces across the EU have dampened any momentum for deeper integration in the next few years. Few member states are adamantly opposed to treaty change nor to contemplating deeper integration – but just not in the near future.

In other words, most member states are pragmatic on the issue: should a majority of them favour starting negotiations on a treaty revision, few would actively block the process, but this group of countries is unlikely to emerge very soon. It does however pose a particular challenge. This reluctance to think long term does not encourage member states to cope with the rise of ever stronger and more structured eurosceptic forces. A more promising economic outlook could undermine part of the eurosceptic argument and support, but not to the extent that they would suddenly become irrelevant. Any form of deepened integration will need to be properly explained, justified and defended. No country would be immune from this debate, with the exception perhaps of the UK, which would object to further integration.

A more profound issue will, however, need to be addressed: trust. Further integration within the EMU would likely lead to a level of interdependence and shared sovereignty that few envisaged or would have condoned when they joined. Aside from the important question of the willingness to go deeper, it comes down to the age-old debate about what trumps the other: rules or politics. In the past five years, all new instruments put in place have reasserted the prevalence of rules to guarantee a stable Eurozone. Member states preferring the rules-based approach are unlikely to switch side and the system is more amenable to their stand. Recent inclinations in the debates show that both sides are conscious that they need to tackle this properly. However, the Greek crisis and the bitter debates of spring-summer 2015 are illustrative of the difficult way ahead. The debate has in fact evolved towards an even more thorny opposition between solidarity and responsibility. The rules-based approach would consider that solidarity should not come at the expense of responsibility, whereas the politics-based approach would agree to a more flexible attitude taking into consideration elements such as the difficulty to implement reforms, the efforts already made etc. This debate has become bitterer than previously, because taxpayers’ money is often at the centre of discussions. The two camps will need to find a middle road. Otherwise, this divide will plague the debates and lead to a muddled outcome no one will be comfortable or satisfied with.

Conclusion and way ahead

EU reform is an all-encompassing concept. You put in it whatever suits your political agenda. This report has attempted to decipher how member states view three key issues: the role of national parliaments, the appropriate EU regulatory framework and the appetite for further integration.

Subsidiarity is an important element of EU policy-making for all member states. It is, however, not valued and interpreted similarly across the EU. Giving national parliaments a stronger role in EU affairs does not appear to be a priority for all. Some deem national parliaments to be the most legitimate and representative institutions. The EU should therefore appreciate this fact and increase their prerogatives to reflect this reality, which will also abate its legitimacy deficit. Few member states currently share this far-reaching thinking. Most are satisfied with today's rules and would prefer to wait a few more years before making any assessment on how the post-Lisbon instruments have fared. Finally, some are not actively promoting a stronger role for the national legislative body, which is often the case when the executive arm dominates the decision-making on EU affairs. An important element is also evident: not all national parliaments are equipped to take on a stronger role in European affairs, be it due to a question of staff, technical expertise, political interest or reward.

Most EU governments are unlikely to push for a greater role of national parliaments in the next few years. They will more likely advocate for three things: a stronger interaction between the Commission and national parliaments, more inter-parliamentary interaction and a longer time period for national parliaments to study draft legislative acts. Meanwhile, national parliaments will try to build momentum with a new EU leadership keen to include national parliaments in the EU decision making process.⁵² Several chambers, including the UK's House of Lords, the Dutch *Tweede Kamer* and the Danish *Folketing* have been proactive in this field.

With this in mind it will be interesting to follow the outcome of the first "green card" procedure. The House of Lords indeed recently launched a "green card" to urge the Commission to initiate legislation

52. Frans Timmermans sent a letter to all the Commissioners and Vice-President on 18 December 2014, in which he laid out a plan to increase interaction with national parliaments. He will also initiate a dialogue with national parliaments in case the yellow card procedure is launched, before the Commission gives its response.

on food waste.⁵³ This initiative has no legal basis but has already gained traction from other national chambers. COSAC has also given a mandate to the Luxembourg presidency of the Council to set up a working group to further explore feasible options for national parliaments to make suggestions to the Commission (the so-called “green card”). It seems difficult to implement the “green card” without treaty change, which is off the table for the time being. A pragmatic approach could perhaps be that the Commission grants prime attention to such initiatives. It would not however be bound to act upon them.

National parliaments will also most likely try to take advantage of the inter-parliamentary cooperation. Although COSAC might be a useful body for general matters, national parliamentarians may want to put a premium on other fora, such as the Inter-parliamentary Conference on Economic and Financial Governance. It was created as part of the “fiscal compact” for parliamentarians to exchange and establish some form of control over EMU-related matters. Still fledgling as its first meeting occurred in October 2013, this forum has not shown great synergy so far and is still not well-structured, but it could take a greater role if debates on the future of the EMU get off the ground. Further “sensitive integration” will not be possible without the involvement of national parliaments.

The EU regulatory framework has long been under scrutiny but was rarely a priority. The Juncker Commission has put it front and centre with the creation of the First Vice-President in charge of better regulation. This political symbol builds upon the work done within the REFIT process to streamline existing legislation. The “better regulation” agenda covers wider grounds than the REFIT process, because it also aims to affect future legislation. REFIT was mostly concerned with legislative acts already in force. It is Frans Timmermans’ responsibility to guarantee that new legislation addresses a problem that can only be solved at the EU level (often summed up by the mantra “big on big things, small on small things”).

The vast majority of member states have rallied behind the Commission’s “better regulation” agenda. They have placed great expectations on the hope that debates on the right level of EU regulation will become a thing of the past. Only a few member states are more or less publicly arguing that deregulation should be given greater consideration in the EU legislative process. Interviews for this report have shown that this new momentum makes it all the more difficult to discern what member states really think about regulation. The “better regulation” agenda has indeed coalesced member states, which were content with the EU regulatory framework as well as others, which were calling for change.

Nonetheless, the issue is unlikely to wither away any time soon. Suspicions that “better regulation” is another word for deregulation

53. House of Lords, “Lords EU Committee Issues First Ever ‘Green Card’”, 22 July 2015, available at: <http://bit.ly/1IfyuRF>. The initiative has received the support of sixteen chambers and parliaments, or the equivalent of 26 votes.

could grow, especially if consumers' or employees' rights are affected. These concerns have been mostly limited to some political parties (mostly green parties) and civil society groups so far, but a propagation of those concerns cannot be ruled out. Moreover, it is too easy to blame the Commission for the over-burden of regulation. A recent example illustrates this situation. Last November, Frans Timmermans cast doubts on a draft directive to reduce the use of plastic bags. It seemed, to him, an example of the EU over-reaching. But member states unanimously backed the proposal, leaving the Commission with no choice but to continue the legislative process.⁵⁴ Member states felt that this directive would further set in stone national laws on the matter. It shows that the EU regulation debate is more intricate than it would appear from the outset. While the principle of "better regulation", which includes both reviewing existing legislation and being "smarter" about new legislation, is approved across the board, its implementation may be tricky at times.

The same applies to integration. The rules of the game have changed. Not all member states are implicitly in favour of further integration, at least not now. Some consider that it is not necessary for the time being, whereas others foresee potential political backlash from starting this debate in the current circumstances (shaky public support for integration, sluggish growth and the rise of eurosceptic parties). Besides, popular support for the EU is only now showing signs of recovery after years of decline. Even if polls were more encouraging, the end of the "permissive consensus" has written off further "sensitive integration" by default. The debate on the EU in many member states is too disruptive to envisage grand projects. Proposals are being debated in Brussels, but even these adopt a more cautionary tone than before.

The most complicated questions on further integration concern the future of the EMU. The EU has pushed the level of interdependence and integration to great length in the past five years. Various mechanisms to foster fiscal discipline and ensure a safer and more stable financial services market writ large have been agreed upon. The consequences of all of them are not entirely clear; some have not even been implemented yet. However, tools to bring about fiscal discipline have led many member states to approve often unpopular and painful austerity measures. It has impaired the image of the EU and fuelled eurosceptic discourses. Moreover, the focus on the EMU has created concerns in member states outside the Eurozone. They are adamant in their desire to keep the debates as inclusive as possible in order to avoid the creation of a gap between them and the Euro area. This is particularly acute within pre-in member states.

In the end, most countries acknowledge that further integration may be required to build a stronger EMU, but they will postpone this debate as much as possible. While understandable, this attitude is not

54. Dave Keating, "Timmermans Backs down on Plastic Bags", *European Voice*, 11 November 2014, available at: <http://politi.co/1PGrAdE>.

free from problems. The past five years have shown two underlying aspects of the EU project challenged: inherent support for the EU and trust among member states.

Support for the EU remains high, but eurosceptic discourses have never been as appealing and influential as today. It would be incorrect to argue that eurosceptic parties have gained influence only because of their stances on the EU. Opposition to the “establishment” and concerns about immigration have been stronger drivers. Yet, mainstream right-wing and left-wing parties have appeared either incapable of fighting back or sympathetic to some of the arguments put forward by eurosceptics. It is not only the EU institutions’ responsibility to defend Europe; national politicians probably have a more central role to play. These critical arguments will not simply die down with time.

The other challenge emerging from the economic crisis is that of trust. At the core of the debate, member states are not always confident that all of them will stick to the rules they all agreed to. The debate over Greece since the beginning of the year demonstrates, perhaps to the extreme, how trust among member states remains a work in progress. It is absolutely essential to work on this, because it will be the foundation of a stable and possibly strengthened EMU. Never before has it been so central in EU politics. Bail-outs approved in the last few years have ignited vivid debates on solidarity, because member states were loaning significant amount of taxpayers’ money. Since those bail-outs came with conditions, they offered benchmarks to evaluate whether the money was well spent and reforms duly implemented – consequently providing ammunition for criticism in cases of failure. A more integrated EMU is likely to explore ways of producing further interdependence, hence the importance of debating how to consolidate trust among member states.

This report has tried to offer food for thought on how member states understand “EU reform” and how it can play out on the European agenda in the next few years. While positions are still inchoate on many issues, two final thoughts are important.

First, discussing “EU reform” shows how wide-ranging the agenda could be. The different streams of work require specific negotiations and approaches, but they are all political and touch upon member states’ interests very clearly. It will consequently be relevant to follow how the inter-institutional balance between the Commission, the Parliament and the Council develops in the coming years. The debate will necessarily involve all of them as well as other actors, such as national parliaments, which despite relatively similar strategic priorities will differ on many issues. All the actors will use the instruments they have at their disposal and it will likely lead to confusing, sometimes even contradictory and frustrating, debates in the EU. Behind all the technicalities that can often preponderate within the EU decision making process, political narratives and agendas will drive the process.

Finally, most member states are more aware of their capacity, and more willing, to promote their national interests to influence the decision-making process than before. This means that the distinctions between “big” and “small” and “old” and “new” member states are less decisive than before and coalitions to reach an agreement may be less obvious and more difficult to build. It also means that it is ever more critical to get a better grip on what all member states think on a specific matter. Few may be ready to go to the bitter end to defend their interests, but they will actively and steadily try to get the best deal. They may also feel ill-equipped to lead the critical camp, but they will nevertheless try to sway the process. The EU is no longer only run by the big member states. Their influence remains immense, but smaller countries do not shy away any longer from asserting their reluctance and opposition to specific proposals or putting forward fresh ideas. It has already, and will continue, to deeply affect the development of the EU. This needs to be better appreciated in policy, business and media circles, because it is only starting to truly shape up.