

# Critical Size

## Should the European Union Stop Growing?

Kurt Schelter\*



Vincent Kessler/REUTERS

The European Parliament in session.

### I

Since its foundation, European Union history has been characterized by two forces that shape it even today: its deepening and its growth.

In this context, “deepening” means closer and closer cooperation among member states through harmonization of national policies in the decision-making process at the European Union level in the European Parliament, the European Commission, and the Council. And this decision making should be more and more based on the principle of majority rule. Requiring unanimity has become the exception. The

objective of this process is deeper integration of the member states in a European Union that is not a state in national terms, but is more than an economic community, which is what existed at the beginning of the process. It is now a supra-national union.

The motives for this deepening had two sources from the outset. On the one hand, the experience with the very cumbersome Treaty of the European Economic Community led to the belief that only more communitarization and less inter-governmental decision making in the community could significantly improve the political influence of a united Europe on a global scale.

On the other hand, the opinion was growing that a union of six plus an indeterminate number of members must follow different decision-making processes than at the time of the 1957 Treaty of Rome. This was again and again to improve the community’s —later the union’s— capacity to ac-

---

\* Former minister for justice and European affairs in Brandenburg, the author is a professor of law at the Ludwig-Maximilians-Universität in Munich, a guest professor in Mexico City, and an attorney in Munich and Brussels.

cept new members, mainly through more majority voting and more continuity in leadership of the main institutions, especially the European Council prior to the admission of new members. One can now admit that the implementation of a “president of the European Council,” elected for two and a half years, has proven to be a success.

Also, the growth or “broadening” of the European Community, later the European Union, has from the outset dominated and shaped its history. But starting points and motives were very different:

The extension to the south to include Greece, Spain, and Portugal was only logical politically because, after overcoming dictatorships, these core countries of the European continent had to be welcomed back into this community of democratic peoples and nations.

Broadening to the north and including Austria were the consequence of the increasing dominance of the EC in the competing European Free Trade Association (EFTA) region.

Enlarging to include 10 new member states after the Iron Curtain in Europe lifted was understood as the fulfillment of a much-repeated promise: the peoples redeemed from the Soviet yoke had to find their legitimate place in a community of free, democratic, and justice-oriented nations in Europe.

Including Malta and Cyprus was more or less a geographic complement; it is amazing that Cyprus, still a divided country, was accepted without serious doubts.

Today, the question of whether the political mechanism of deepening and broadening should be continuous becomes more and more disputed.

When it comes to *deepening*, we are in a dilemma. On the one hand, the debt crisis in some member states shows that a political union with a common currency can work on a solid basis only if the core policies in this area (economic and fiscal) are harmonized more on the level of the union and the competences of the member states are cut.

On the other hand, in its last decisions about the Treaty of Lisbon, the Federal Constitutional Court of the Federal Republic of Germany has made it very clear that the German Constitution does not allow the German Parliament and government to follow the way of a “federal state of Europe,” in which no significant competences remain to the member states in the classical political fields. A policy of unlimited integration would infringe on the “identity of the German Constitution.” Anyone who wants to avoid this must change German Basic Law, which would include the risk that at the

The growth or “broadening”  
of the European Community, later the European  
Union, has from the outset dominated and shaped  
its history. But starting points and motives  
were very different.

end of this process —perhaps not legally, but in fact— a European central government would arise that would have nothing more in common with the vision of a “united Europe of peoples.” According to all historical experience, this would be the beginning of the end of the European Union and European integration and pave the way for radical re-nationalization of European politics.

Looking at the *broadening* of the union, it is surprising that the president of the European Commission was able without major resistance to appoint a special commissioner entrusted once again with enlargement. After the last wave of growth, this can be understood as a program only. And this program is wrong. With its 27 —and quite soon to be 28— members, the union has reached a critical size, to say the least, if it has not already exceeded that size. Economic circumstances and national political interests are quite divergent. Those member states’ ideas of a “Europe of the future” are very far apart. These differences can hardly be leveled by further deepening, but rather only more obscured with all the negative consequences in a crisis.

Admitting additional members would massively increase those problems. This applies to Serbia, the Ukraine, and especially to Turkey. Even today, in a union of 27, it is quite difficult to detect a “union identity” beyond common contracts, institutions, and procedures. Granting membership to a country of the size, location, neighbors, and internal problems of Turkey would completely change the union’s face, shape, nature, and identity. Citizens like those in the union’s founding member states would not easily accept this. Such a union would be too far from what minds and hearts today associate with a united Europe. The first and least dramatic reaction of union citizens would be even less participation in national and European Parliament elections. Political margins could be sharpened, and we might have to again face the problem of a powerful extra-parliamentary opposition in the member states. The governments of some member states would have to draw conclusions from this development, and one of those might be to leave the union...

We are used to the fact that each enlargement of the union has been accompanied by problems. In particular, the lack of progress of the Central and Eastern European states in different areas, for instance the realignment of a market economy, or reforms in the police and the judiciary, have sparked critical questions and warnings from many experts and political representatives in the face of the too rapid, unconditional accession of those countries. Those warnings were widely ignored against the backdrop of the fact that the opening of the union to the East had been promised for decades to the former satellite states of the USSR in Central and Eastern Europe. The risk of restoration of the former Communist regimes because of dashed expectations in the candidate states was thought to be too high, and there was hope that the shortcomings in some political fields could be resolved in a common effort even after accession. This hope did not materialize in a couple of states.

The European Union is open to new members outside the European states. This is an *option*. But no state in Europe has the *right* to become a member of the union, and the union is not obliged to accept new members, even if they do meet the treaty requirements.

Anyone who wants to preserve the union from harm must be courageous enough to tell the truth to new candidate countries: the union is not currently in a position to accept new members. It has to solve a series of problems in the most difficult situation since its foundation. The union must create new structures, which might then allow more members to feel properly represented.

The instrument of “flexibility” laid down in the union’s treaties, which allows member states to cooperate even more closely on certain issues, needs a counterpart for those states that have to admit from their experience that they have overestimated their strength or their citizens’ determination to integrate. The only possible outcome for those member states must not be leaving the union. The union may not be reduced to a “core Europe” or flee in a Europe at different speeds. That would be false, and a devastating step backward in European cooperation as a whole.

We should think about a “Europe of intersecting circles,” allowing the respective member states to take part in different circles of cooperation and integration: the circle of those who operate a common internal market must be not identical with that of those who want to create common foreign and security policies. Cooperation under the Schengen Convention has shown that there is another way to benefit everyone. This

makes new bodies, new decision-making processes, and a new understanding of European integration necessary. And we should think about a new neighborhood policy on a higher level of cooperation, “privileged partnerships,” and a “renaissance” of the intergovernmental method in political fields where the community method has reached its political or psychological limits.

The last European Council in 2011 surprisingly led quite quickly to a proper way to enter into a “stability and fiscal union”: an intergovernmental approach. The governments of 26 member states have realized that it is not enough only to find a solution to current and very dangerous problems, like the high indebtedness of some members of the euro area and the lack of budgetary discipline throughout the union.

We need a new, wise course for the European Union for the next few years. And the destination can be only a “political union” that deserves the name.

It is no coincidence that ultimately all member states except the United Kingdom have joined this proposal from France and Germany. Not for the first time, the United Kingdom is embarking on a waiting game: just like in the cases of Schengen, Europol, and other projects, in the beginning, the UK blocked even intergovernmental solutions and settled in the waiting room. That was long time ago, and the problems were solved in the end. So, we will experience “*déjà vu*” if we remain calm and patient.

Threats will not help. We must trust each other, following with confidence the proven recipe for all European Union crises: “Experience is a good teacher!”

## II

“Experience is a good teacher” —this saying has also described the relationship between the EU and its member states and the North American states for decades. So, it was a matter of experience to shift this relationship from U.S. predominance to the principle of “partnership in leadership.”

Today, the question of whether  
the political mechanism of deepening  
and broadening the European Union  
should be continuous becomes more  
and more disputed.

The European Union is open to new members outside the European states. This is an *option*. But no state in Europe has the *right* to become a member of the union, and the union is not obliged to accept new members.

Do European Union issues, especially the further broadening of the European Union, have an impact on this relationship?

Relations between the European Union and its member states on the one hand and the states of the North American continent, on the other, are quite special and quite different.

The United States, Canada, and Mexico are partners in the North American Free Trade Agreement (NAFTA). The U.S. and Canada have a very close relationship with European Union member states; most of them are partners in the North American Treaty Organization (NATO). The U.S., Canada, and Mexico are strategic partners of the EU, but Mexico is the only strategic partner that is also connected to the EU by a “Global Agreement.”

The U.S., Canada, and the EU are working on a free trade agreement to facilitate and promote trade across the Atlantic.

The United States, Canada, and Mexico are federal states, like some members of the EU, for instance Germany, Austria, and Belgium. The EU itself is not. It is a political union with a unique structure: it is not a state; it is not a federation; and it is not a confederation. It is a supra-national entity, consisting of sovereign states that have shifted parts of their sovereignty to the union level. And this process has not yet concluded.

The internal structure of the U.S., Canada, and Mexico on the whole is not questioned, although the discussion about (more) autonomy for Quebec has been pending for decades. The history of the EU is closely linked to the question of how to deepen integration of the member states on the European Union level.

Quite special areas of integration are freedom of movement within the borders of the EU and the management of border security on the union’s external borders. The idea of the Schengen Agreement is to abolish internal borders and to improve border security by a couple of measures on external borders. For the time being, there has been no signal from the NAFTA partners about expanding their free trade agreement to an area of freedom (of movement), security, and justice.

From the very beginning, the EU was confronted with the question of when and if more European states should become new members of the union. The U.S., Canada, and Mexico are states that defined the external borders of their respective territory centuries ago. Since then, the broadening of those states has never been an issue.

But certainly an interesting question for the North American states is whether the European Union is ready to accept new members and who they might be.

From an economic point of view, a further expansion of the EU to the East and especially the admission of Turkey as a new member would be of interest to the U.S. and Canada. More members of a free trade agreement on the side of the EU would make such an agreement even more attractive. For Mexico, a European Union of more than 28 member states would make this important trade partner even more important. For all players on the economic field, this would create a win-win situation.

But other issues are involved in any further broadening of the EU, which could lead to conflicts even between NATO partners: the United States has never left any doubt that from their security point of view, the EU should allow as many European states as possible to join this union. The membership of more Balkan states and especially the full membership of Turkey would promote their integration into the Western area of freedom and security and minimize the risk of a restoration of Communism in the Eastern European states and of a “drift of no return” by Turkey, for decades a NATO partner, toward the Muslim world. From the EU’s point of view, especially, Turkey’s full membership might bring with it some strategic advantages, especially on the economic field, but probably more and bigger risks and challenges. It is a risk not only for border security, for instance, to have common borders with Iraq, Iran, and Syria. The EU would become a neighbor of one of the most dangerous regions in the world. And it is a big challenge to integrate a population of nearly 75 million Muslims into a Christian-oriented population.

It will be one of the most important and difficult tasks of the trans-Atlantic partnership to find a common approach to address this issue without damaging this relationship.

The European Union will have to answer the question of whether it has already reached a critical size or not, but, until now, no one is willing to draw the necessary conclusions from this fact. It will be watched critically by its citizens, by applicant countries, by its neighbors, and by its partners across the Atlantic. This will contribute to the reflection process needed to come up with the best solution. ■■■