

Introduction: The End of the Beginning

It almost had to happen. The crisis, which broke out across Europe in early summer 2005 after the French and Dutch people repudiated the proposed federal constitution, had been mounting for years: the European Union (EU) had somehow lost its legitimacy, and no one could do much about it. The EU was never democratic; it had always been a project run by an elite, which in turn justified its existence by results. For most Europeans this was enough. The public had been led to believe that the EU was a new kind of political and economic organization, for which no substitute existed or could be found; it accepted the claim that history had conferred special responsibilities upon this unique institution for directing an irreversible process of development, which would strengthen Europe both morally and materially. This discredited teleology was the foundation of the EU's existence. To save the EU, one must rethink the whole integration process.

The dead certainties of yesterday ring hollow because the EU has long since broken down. The fallout has been widespread. European diplomacy has degenerated into a free for all, revived old grudges, rekindled ancient enmities, and fouled the political atmosphere. Civility has subsequently disappeared. Cooperation, even on simple matters, has become much more difficult. The US-EU friendship has been another casualty. The rise of demagogic public rhetoric and the popularity of a destructive pseudo intellectual literature, on both sides of the Atlantic, strengthen the absurd impression that Americans and Europeans belong to separate and mutually antagonistic civilizations. The chattering has now become really nasty. The hostile ranting is both malignant and contagious.

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The EU's problems run deeper than most experts realize. They are not merely a matter of inefficiency and waste, or even of bad policy, but of design. The malfunctioning Brussels institutions are now out of control. Much like a slow-moving juggernaut, they continue to reduce economic growth, usurp authority from the member states (thereby weakening them), misdirect resources on a grand scale, set conflicting priorities, and generate unrealistic policies. The EU even strangles in its own red tape, undermining the very purposes it was meant to serve. As a result, Europe cannot cope with today's challenges. Failure to repair or replace the EU's institutional machinery will bring the integration process to a halt – or worse if no Plan B exists.

This book explains how the European integration process broke down and also how to repair it. That it should be fixed is obvious. The EU is sometimes likened to a coral reef, which grows in ways understood only by trained specialists and cannot be pared, cut back, or otherwise reduced in size without being destroyed. Such an idea is mistaken. The EU is more like a Rube Goldberg machine: an unnecessarily complicated contraption for performing a simple task. Goldberg's contrivances, however, would always work. The EU no longer does. The EU can nevertheless be dismantled systematically and reassembled intelligently to perform satisfactorily. What's required is less a heroic feat of engineering than a new principle of construction – democracy instead of elitism.

Europe's long-term movement toward closer economic and political union deserves credit for two immense historical achievements. One is to have created a market economy across the continent, the past benefits of which have been considerable. It is an open question whether, in a global economic world, this will continue to be the case. Even more importantly, the EU has, over time, strengthened democracies where they are in place and helped establish them where they are not. This is a worthy contribution to peace, prosperity, and human dignity, whose value can increase in the future.

We are living in an era whose greatest blessing is only now – and episodically – becoming clear: it is the rediscovery of freedom. The ideals for which the EU stands are still alive and well within the often slighted and ill-represented electorates of modern Europe – among people like you and me – as well as in long misgoverned and corrupt nations

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surrounding it. Europe will not only do mankind a service by nurturing these neighbors' political and economic development, it will also enrich and renew its own spirit.

There is no turning back from the verdict of the constitutional referendum. The European public is for the first time now a player in a drama in which it was never assigned a role. Weak, inflexible, and overstretched, the EU has reached the limits of its strength and must be overhauled to survive. This is not a matter of choice but of method. Forget past shibboleths. The grand project of European integration is dysfunctional and in public discredit. Its rescue will require returning power to the states, restoring growth, and strengthening democracy both within the EU and on Europe's borders. Leaving things as they are today will likely result in slow decline. This, however, would be the lesser evil. Inaction could also trigger panic. A design for a new Europe is needed now.

This book will explain what has gone wrong with the EU, why present remedies may make things worse, and how the EU can rediscover its civilizing mission. The author's purpose is to salvage the integration process in the only way possible: by jettisoning the Brussels institutions and rebuilding something different on a new platform, a democratic consensus anchored in a new vision of a future Europe. Such a proposal would have seemed radical a year ago. Today it is simply necessary.

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The legitimacy crisis currently facing the European Union (EU) may be partly the consequence of human error or even the result of folly, but at the heart of the problem is structural breakdown. For decades, Europeans overlooked the high-handed and spendthrift ways of the Brussels technocracy out of trust, believing that, in spite of it all, over the long run the EU was an indispensable and irreplaceable engine of progress. The public repudiation of the proposed European constitution has shaken this complacent belief to the roots. No matter how emphatic the rejection, the episode is only a symptom of a deeper malady. The EU should no longer be imagined as a nascent political structure suffering teething problems: it is unsound and unraveling. The design is flawed, and the machinery needs repair. Coordination is lacking. There are no clear demarcations between its main institutions – the European Commission, the European Council, and the European Parliament (EP) – or between these institutions and powerful affiliated bodies such as the European Court of Justice (ECJ) and the European Central Bank. The relationship is equally blurry between the public and private spheres, both of which influence policy making. The dense thicket of snarled transnational structures that inextricably binds the twenty-five member states to Brussels is the cause of endless jurisdictional conflict between the central authorities and the states and among the states themselves. One never knows who or what can speak or act in the name of Europe. Confusion is endemic, and the threat of chaos is seldom absent.

The EU chronically overshoots and has been vastly oversold. Its vaulting ambitions far exceed its paltry resources. This will not likely

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change soon: contributing member states refuse to pay more into the common kitty and beneficiaries decline to settle for less, even as the EU's appetites continue to grow. It is as a result becoming very hard for the EU to make credible commitments. The EU also lacks feedback loops and subsequently cannot correct its mistakes. The EU has trouble keeping track of its money and makes little effort to stem corruption. The sorry state of affairs is hard to set right: the operating methods of Brussels are arcane, opaque, and – being neither checked nor balanced – simply out of control.

European institutions were created fifty years ago in a world where democracy and capitalism had broken down and had to be reconstructed from the top down. Their original design made little provision for the development of open markets and almost none for self-government. The founders' era has long since disappeared – thanks in part, albeit ironically, to the integration process itself. Many of the politicians, bureaucrats, and policy experts who have built Europe in the past, and who would do so in the future, do not yet realize, however, that their out-moded methods are often counterproductive: they debilitate representative government, impair the market economy, and weigh each of them down with the heavy hand of excess regulation. Such methods deserve much of the blame for the present unpopularity of many of Europe's governments, the anemic economic growth of the past twenty years, and the pervasive malaise from which the continent currently suffers. Europe's malady may require a convalescence spanning decades.

The cure will have to be found in the public forum. Democracy, devolution, and open markets are needed to heal the Brussels institutions: a future EU must rest on popular consent, the sovereignty of the nation-state, the subsidiarity principle, and competitive economies. Only then can Europe have a real government instead of the peculiar form of governance from which it now suffers. "Governance" is the standard EU buzzword for the perplexing maze of order and edict, directive and regulation, and administrative law and judicial interpretation that comprises the purportedly sacred and irreversible corpus of law and administrative fiat – the *acquis communautaire* – by which Brussels tries to rule Europe. It must be disentangled to be understood.

This will not be easy. Official Brussels, as *The Economist's* astute columnist, Charlemagne, once noted, is a club – something formed

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to exclude outsiders – predisposed to adopt insider jargon. Among administrative and governmental bodies, bureaucracies, the EU indeed holds a commanding lead in the cryptic art of inventing unnecessary acronyms, using numbers in place of words, and adopting locations to refer to events – all of which give the impression of having been scrambled through an Enigma machine to prevent de-coding. This misuse of language poses, as intended, a barrier to transparency.¹ Many scholars have been infected with the EU virus. The time has come to talk turkey.

The EU is truly in a sorry state of affairs. The European Commission, which is supposed to lead it, cannot do so. Over the past few years, power within the EU has not been exercised constitutionally – or within any framework of written agreement or implicit understanding. It has rather been seized extra-legally and, until recently, wielded irresponsibly from behind the scenes by France, a nation intent upon projecting power on the world stage. In the meantime, the Brussels governance machinery grinds on, operating according to its own wasteful and perverse logic, which mainly privileges insiders. Both powerful and fragile, the EU's only remaining source of authority is what survives of the myth that sustains it. The loss of its shredded legitimacy may prove fatal unless a new rationale for the EU can be found or an old one rediscovered.² How did Europe get into such a mess?

Current problems date from the attempt of Jacques Delors, president of the Commission from 1985 to 1995, to transform the EU into a superstate.³ His intention was to introduce a European-level socialism like the one he had tried in vain to build previously as French Minister of Economics in the cabinet of François Mitterrand. Delors was the most influential figure in the history of integration since Jean Monnet, but his ambitions collided with the very different ones of the British Prime Minister of the day, Margaret Thatcher.

She envisaged Europe as a large free-trade area. A compromise, the Single European Act of 1986 (SEA), emerged from their numerous clashes. The SEA removed impediments to internal trade but also vested new powers in the Commission. It left unresolved the question of whether the future EU would be organized horizontally through marketplace competition or vertically by means of strong, centralized institutions.

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Delors exercised his new authority to maximum advantage. The result is the present structure of the EU. He brokered a deal, first of all, whereby the largest single program of the EU, the Common Agricultural Policy (CAP), was reduced from three quarters to about half of the total budget. The remainder went into so-called regional funds, which fostered the loyalty of the new Mediterranean member states. He also introduced the practice of budgeting in seven-year cycles, which strengthened the executive power at the expense of the embryonic EP. Delors was also midwife to the proposed European Monetary Union (EMU), something designed to lead the way to a federal superstate. He feared that without it, US-driven globalization would undermine the “European social model.”

The EMU was the product of the Maastricht conference of 1992, the scene of Delors’ greatest triumphs. The ensuing treaty included provisions for two other vast new “competences” (jurisdictional claims), one of them, “pillar two,” for home affairs (the police force), and the other, “pillar three,” for security and foreign policy (diplomacy and defense). These pillars were, however, hollow and not expected to become solid until the future. Only the first pillar, the Single European Act, had any substance whatsoever. How the three pillars related to one another, or to the EMU, was unspecified in the text of the treaty. The unresolved problems stemming from Maastricht would whiplash EU development for many years and give rise to mounting conflict between those who, like Delors, were intent upon “deepening” EU institutions and others, like Margaret Thatcher, who sought to “broaden” the union by bringing in new members. Before real progress at the EU is possible, Delors’ legacy must be settled.

The seriousness of the EU’s problems became apparent for the first time at the Nice Summit of December 2000. It had been convened in order to adapt EU institutions to the impending accession of ten new members, eight of them from eastern Europe. Lorded over by the magisterial Jacques Chirac, who then occupied the European Council’s six-month rotating presidency, it degenerated into a donnybrook. For the first time a still unwary public was exposed to the fierce animosity existing at the summits of power. Nice also produced an egregious patchwork treaty, which overloaded the already creaking governance machinery, left everyone unhappy, and bore the stamp of impermanence. Within

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a month, a movement was afoot to replace the tangled skein of prior treaties and agreements with a new constitution designed to enable the EU to operate more like a state.⁴ The various pros and cons of this much-discussed but little understood document count for less today than the ratification procedure. It brought the public into the policy-making forum for the first time. Eurocrats and politicians can no longer treat the EU like private property.

A Sorry State of Affairs

The Nice debacle also marked the definitive eclipse of the European Commission, the agenda-setter for the European project. The Commission could no longer lead. Neither Delors nor any of his three successors managed to either staunch the burgeoning problems created by his projects or clean up the Commission, which remains riddled with fraud and shot through with bad practice. Jacques Santer, Delors' successor, had to step down as the result of a scandal. Called in as a white knight in 1999, Romano Prodi proved himself to be pathologically windy at the podium, ineffective in Brussels turf wars, and unfocussed. Prodi's authority soon evaporated. He was an impotent bystander at the Nice brouhaha.⁵ His successor, Jose Manuel Barroso, has yet to get his own agenda off the ground.

The new millennium has not been kind to the Commission. It is no longer a cohesive body. An inverse correlation exists between the sizes and strengths of most of its twenty-plus directorates. There is little coordination between them, and they often work at cross-purposes, when working at all. Some do almost nothing. Only a few directorates have real policy-making authority, and even the ambitious programs of the Commission's most successful units, competition and internal market, are no longer headed anywhere. Financial controls at the Commission are inadequate, and corruption is rampant. Private parties often make public decisions. Important projects have been launched without either mandate or supervision. The Commission must also compete against other institutions with vague policy mandates. One of them, the EP, is an expensive and meddlesome talk shop. Another, the European Council, representing the member states, is in disarray. All the components of the Brussels complex vie with the member states. Although

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the Commission counts for less and less, its pretensions remain undiminished.

Romano Prodi knew he had a problem after the Nice shoot-out. In the latter months of his ineffectual and openly ridiculed Commission presidency, Prodi belatedly recognized the gravity of the growing split between what the public demanded and what the EU was delivering, but his efforts to close the breach were pitifully inadequate. Published in July 2001, “European Governance: A White Paper” set out a master plan for the Commission’s reform agenda. It recognized the urgency of “connecting Europe with its citizens” by means of “democratic institutions and representatives of the people.” To narrow the gap, the paper – a characteristic Eurocratic amalgam of the trite, the apocryphal, and the bewildering – proposed taking recourse to more “network-led initiatives” such as the “Telecoms Package.” This epiphany of regulatory success grew out of lengthy consultation with relevant stakeholders on the basis of a Commission working paper rather than in open public debate. To imagine using lessons learned from utility regulation to create democracy boggles the mind. Reading the white paper’s pretentious conclusion, “From Governance to the Future of Europe,” is like watching someone try to steer a drifting ice floe. Called for in the white paper are “structuring the EU’s relationship with civil society,” enlisting local and regional governments in the process, and increasing inputs of “expert advice.” Other recommendations include dovetailing official and unofficial policy making, strengthening EU regulatory agencies, and forcing “citizens to hold their leaders [accountable] for the decisions that the Union takes.”⁶ Such an imposition of authority from the top down not only reflects a novel form of representative democracy; anyone outside of the Eurocracy would recognize it as an exercise in futility.

After Nice, the Commission’s projects and proposals are often difficult to take seriously. A green paper on entrepreneurship (or more specifically the lack of it in Europe) pointed to a serious problem but amounted to another iteration of the banal: “Entrepreneurship is first and foremost a mindset... Entrepreneurship is about people, their choices and actions in starting, taking over or running a business... Risk-taking should be rewarded rather than punished.”⁷ Prodi could have done little to change embedded risk-averse mentalities. Yet where he might have acted, he did not.

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Prodi's economic plan for 2003, the "growth initiative" called Quick-Start, amounted to little more than a massive public works proposal. Heavy-handed and unimaginative, it elicited a joint protest of the Big Three, Schröder, Chirac, and Blair. They griped that "the Commission is pursuing not one but many policies in the context of the Lisbon strategy and that they are at best juxtaposed and at worst contradictory. . . . Declarations are being made on various sectors: the hydrogen economy, ship building, textiles and clothing, photovoltaic solar power, arms, airspace, biotechnology and soon automobiles and steel. There are, however, no overall guidelines."⁸

There were, however, policy surrogates: a number of new zippy-sounding bureaucratic organizations such as the Competitiveness Council set up in February 2002, which housed separate sections for the internal market, research, and industry. At its meeting in February of the following year, the Council began a new European Research Area (ERA) ("a true internal market for science and knowledge") before, in a rousing conclusion, introducing as a remarkable administrative breakthrough the "open method of coordination" based upon an organizational principle only recently discovered in Brussels. This deep insight was that individual member states could better implement policy when using customary methods rather than when responding to Brussels' dictates. If this new initiative was not enough of a snore, the internal market commissioner presented to the Council Communication IP/03/214 as a follow-up to the previous year's "Action Plan on Better Regulation" as well as documentation on several other tedious outstanding matters. The voluminous churning of paper produced scant results. In a September 2004 press interview, Laurens Jan Brinkhorst, chairman of the Competitiveness Council, denounced his forum as "Mickey Mouse" and lacking "any team spirit and focus on an issue."⁹

The Sapir Report of July 2003, which Prodi had commissioned, should have provided the tonic needed to invigorate the Eurocracy. It subjected the Brussels institutions to the most rigorous insider criticism ever. Noting that the end of the long-term slowdown in economic growth was not in sight – and specifically that the ambitious growth targets set at the Lisbon Agenda of 2000 for 2010 were completely unrealistic – the author, a prominent economist and EU consultant, and his expert team concluded that far-reaching reform would be needed