

## The Euro is Forcing the Realization of Political Union - and Perhaps a New Community

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**Suggested Citation:** Prof. Dr. Armin von Bogdandy, M.A., *The Euro is Forcing the Realization of Political Union - and Perhaps a New Community*, 2 German Law Journal (2001), available at

<http://www.germanlawjournal.com/index.php?pageID=11&artID=79>

[Editors' Note: Prof. Bogdandy originally presented this text as a speech at Ciampi-Rau Colloquium on the Future European Constitution in Milan, Italy, November 27-28, 2000.] [1] The institutional form of the European Community (now the European Union) has always been determined by its tasks. It is therefore probable that the future institutional form will be determined by the new tasks. If one accepts this view, then it can be expected that the greatest institutional challenge will be the creation of an appropriate organizational structure for economic union, in the extreme case leading to the founding of a new Community. It appears to me that this scenario most urgently requires discussion: while useful proposals for almost all other institutional questions have been made and only await a political decision, there lacks a convincing conception for this perhaps most difficult step of development. [2] In the first stage the new tasks are to be determined: at the center is the still to be realized political union. This is a vague term which encompasses divergent institutional conceptions. One common thread, however, is that a political union is to be one which makes decisions of great political significance and which fundamentally affect the lives of the European citizens. Foreign and security policy are especially relevant, as are internal security policy and all policies that directly affect the citizens' assets, *i.e.*, their wallets. [3] According to a wide-spread view, the political union should be realized by means of Foreign and Defense policy, and corresponding strains can be found in the Maastricht and Amsterdam Treaties. This form of development towards a political Union largely leaves it up to the autonomous decisions of the governments, especially in view of that fact that, owing the American security umbrella, there is no urgent need for the Union to develop into a credible, independent actor with important restrictions on national sovereignty. Thus the gaze is leisurely cast into the distant future, and the concrete acts are fainthearted. [4] This style of free development could prove to be a dangerous illusion, however, and it is quite possible that developments occur which will very quickly *force* a political union. This political union would not, however, be realized through Foreign policy, but rather, in the tradition of integration to date, would come about through economic policy. It may be the capital markets above all which rob the politicians of time and bring about the need to act quickly. Why? [5] Since 1 January 1999, the European Union has also been a monetary union. The competence to make monetary policy is not just any power, but rather a central right of sovereignty, the exercise of which directly affects important interests of broad social classes. This is probably the single most important power contained in the Treaties, its importance can only be compared to the passage of the original Treaties. [6] The economy and currency condition each other. Nevertheless, the Maastricht Treaty does not introduce a real economic union together with the monetary union. The viability of a monetary union without an accompanying economic union, *i.e.* the competencies to employ other macro-economic instruments such as taxation, creating the budget or setting distribution policy, arose during the negotiations over the monetary union. The Treaty is of the opinion that it is viable, as it foresees only a coordination of these policies with rather weak instruments. The stability pact does not alter this approach. Therefore, there is no *communitarization* of these other macro-economic instruments. Obviously the authors of the Treaty assumed that the Single Market and the international markets would be sufficient to compel the correct national policies. This is a construction that *Jean-Victor Louis*, one of the most knowledgeable of the topic, has described as "conceived for happy times" in a "general climate of understanding." The current development of the Euro indicates a lack of both. The Union's citizens could pay dearly for this miscalculation on the part of their political leaders. A monetary union without an economic union seems, to many of the leading actors, to appear as rather too unstable. This, however, calls into question the basis of a capitalist market economy. [7] What to do? The monetary union could be rolled back. The economic and political costs would be immense. It may even endanger European integration itself. Moreover, there is no reason to question the idea of monetary union as such, but the signs are multiplying that a monetary union without an economic union is too weak. Thus, the fully-fledged economic union remains the alternative solution. [8] Such an economic union has a material and an institutional side. The material side is comprised of the powers to set economic policy: above all the harmonization of direct taxation, and some central steering of the national budgets and re-distributive policies. Moreover, reform of those legal frameworks which date from the good old days of the industrial society might need acceleration through appropriate policies of the Union. [9] In our context, the institutional side is even more important. In view of this area's logic and paramount importance, a fully-fledged economic union requires three features: (a) a solid democratic basis, (b) an efficient decision-making structure and (c) a face to credibly represent the European economic union. This means that the informal *Eurogroup*, consisting of the finance ministers of the States that belong to the monetary union and which currently occupies the spotlight, is in no manner capable of satisfying the institutional demands of an economic union. [10] Only the European Parliament can provide the requisite democratic basis. Direct parliamentary responsibility for these policies is as old as the parliamentary idea itself, and decades of intensive reflection on democracy in the Community have failed to produce a useful alternative to democratization as *parliamentarization* of European politics. If one wishes to democratize European politics, there is no way around the European Parliament. The national parliaments are, for a

variety of reasons, not able to provide for this. A credible *parliamentarization* requires, among other things, a co-decision-making power for the European Parliament for all fundamental questions concerning economic policy and an extensive oversight competence. Furthermore, a reform of the European Parliament itself is necessary: the heretofore lack of representational equality in the elections to the European Parliament must be rectified, which does not preclude the protection of smaller States (Luxembourg, Ireland, Austria) by means of special quotas. [11] The second requirement is efficiency of the decision-making procedures. This necessitates, for one thing, that the Commission have full initiative competence in this area and a strengthening of its governance function; its current weakness, which was evidenced for example in the latest oil crisis, is a fundamental problem. Every dualism of initiative and concrete governance function between the Commission and the Council contradicts the principles of efficiency and transparency. The current case of setting foreign policy may be taken as an example of this dualism. For the Council's decision-making procedures efficiency means moving to the principle of majority decision-making. In view of the Union's dual structure of legitimacy, the Council's central importance should not be affected. [12] Third, a viable political economic union requires a person to represent it. Currently, there is no such political representative for the (rudimentary) economic union. To highlight this one needs only imagine an event of similar import to the Danish referendum within the national context. In Germany - as in any other Member State - two people would have stood before the cameras after the event to give an account to the public and to explain the political reaction: the finance minister and the chairman of the central bank. As an important cabinet minister, the finance minister would have announced the reaction of the political level with the government's authority, and after him the central bank's chairman would have explained the corresponding central bank's view. [13] A person of comparable political weight is not to be found at the European level. The European Union's polycentric and anti-hierarchical decision-making structures have hindered the creation of a credible power of governance at the European level. This solution has thus far served integration well. Yet if one surveys current developments, there are grounds for seeing precisely this inability to speak and act as the cause of the greatest damage. A member of the Commission must take on this role. Current French proposals that a member of the Council be entrusted with this task run counter to the Union's basic logic of institutional structure. The Council is an organ for representing the Member States' interests and thus can not assume a credible governance function for the Union as a whole. This role, however, requires that the a Commissioner be provided with economic powers that make his statements credible. In the end, what would be needed in such a case is a real European government, and therefore rather the opposite of what Romano Prodi appears to favor as the future model. His vision appears to be a European governance in networks. Networks operate on the basis of consensus. A crisis, however, would need decisions, which might polarize and which are vigorously enforced. [14] These proposals require courageous steps towards integration. Given their impact on national sovereignty, only a considerable crisis will set free the necessary political energies to address them. Moreover, even in the situation of such a crisis it appears questionable whether the European Union as a whole can take these steps at all. Denmark has just decided against participating in the monetary union - the most important single policy of the Union - and thus against a membership in a future economic union. Sweden and the United Kingdom are also on the outside, and their membership is not foreseeable. It appears quite unlikely that a convincing majority in these States can be mobilized for an economic and monetary union as sketched here. These countries might even profit from a crisis in the Euro-area. It appears equally unlikely that the accession candidates will quickly join this fast track. [15] The answer to these problems has so far consisted of attempting to create greater internal flexibility within the Union as per Title VII EU-Treaty, according to which a group of Member States may also formulate their own, additional policies within the European Union's institutions. These provisions do not, however, allow for the steps towards integration discussed above for the Euro-countries. Even a relaxation of the constitutional prerequisites for reinforced cooperation within the context of the currently running intergovernmental conference will, in all probability, not be sufficient. A highly political economic policy in the form of a "reinforced cooperation" would probably not have a sufficiently solid basis. Controversial political topics (taxation, redistribution) require clear lines of responsibility. It is hardly conceivable that the Danish, Swedish or English representatives in the European Parliament whose electorate will not be affected by those measure can credibly vote on such policies. Moreover, it also appears scarcely possible to convincingly ascribe a policy to an organization with organs that are only partially composed of representatives and ministers from affected Member States. The current opacity of the European organs and decision-making procedures has already led to problems of acceptance for the current policies. Against this background, deciding controversial policies in the even more opaque procedures of "reinforced cooperation" appears hardly to be an acceptable solution. [16] If the above analysis is correct, then there are only two alternatives. The first is that those Member States that do not wish to participate in the economic and monetary union in the long term are moved to withdraw and are offered a privileged status. The second, more radical and more problematic way leads to founding a European federation as a new organization. Ideas in this direction have been voiced by Wolfgang Schäuble and Karl Lamers as early as 1996, by Jacques Delors at the beginning of the year and can be found in Germany's Foreign Minister's Fischer's speech of 12 May 2000, as well those of French President Chirac's of 27 June 2000; in substance it is older. Just after the negative results of the Danish referendum on the Maastricht Treaty such a solution was examined. However, none of the politicians had the courage to draw the evident, but drastic conclusion. This conclusion entails founding a new federal organization with a higher degree of integration than the current European Union. For one thing, it would have to formulate a unified position *vis-à-vis* the continuing policies of the European Union. Thus, it would have a "bundling" function, similar to that of the European Union *vis-à-vis* the WTO. Second, this organization would

formulate and implement farther reaching policies than the European Union currently does, above all those which are necessary for the completion of economic union. There are blueprints for this organization's internal structure, not least the constitutional draft of the European parliament of 1984. [17] Founding a political union based on the reaction of the markets brings with it significant dangers. It is not impossible that such a development, for which the citizen is responsible in his or her capacity as *bourgeois* and as participant in the financial markets, will place excessive demands on him as a *citoyen*. For certain, such a development with numerous most complex political and legal problems can only be recommended in case of a persistent and grave crisis. If such a crisis does not materialize, further development along polycentric and anti-hierarchical lines appears much more appropriate. However, if the costs of a deficient economic union are becoming too high, the task of realizing a political economic union thus being imperative, there is no way to bypass the creation of an organization with clear lines of responsibility and transparent decision-making structures. Quite possibly things will sort themselves out and the urgent need to found a true economic union will not arise. This possibility does not, however, obviate the need for drafting institutional answers in case the other scenario should be realized.