CONTRADICTORY ASSESSMENTS AND INTERPRETATIONS TO THE ONGOING DISCUSSION ON FLEXIBLE INTEGRATION IN ROMANIA

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***Abstract**:*
The discussion on flexible/differentiated integration is far from novel being able at times to surge up on the European Union agenda. During the past few years the economic crisis, the migrant crisis and more recently the BREXIT have brought to the fore a number of cleavages that now threaten the unity of Europe. It became more than evident that a thorough discussion on the future of Europe is now more than ever required. Ever since an obvious preference for flexible integration has marked the discussions. Against this background the Member States of the European Union have attempted to position themselves in order to either avoid being relegated to a second class statute or dismiss the possibility that without deeper political and economic integration European Union might fall apart. As the whole discussion on a future more flexible Europe has revolved around a deeper Eurozone integration, the countries outside this core have found themselves faced with a number of challenges that need to be addressed. The present article attempts to shed light on the particular situation of those Central European states which are not part of the Eurozone with a particular emphasis on Romania, who is seemingly still not ready for this, but willing to support deeper integration.

Keywords: *future of Europe, flexible integration, hard core, variable geometry*

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The discussion on flexible/differentiated integration has accompanied the European project for a long time now. Ever since the first enlargement a consistent literature has started to develop in reaction to the increasing heterogeneity of the political, economic, social preferences and capabilities of the Member States. Differentiated integration received increased consideration in the 1990s against the background of the forthcoming eastward enlargement. Back then, differentiated integration was designed as a possible solution for the loss of homogeneity due to enlargement. Closer to our days, differentiated integration has made a powerful comeback. The economic crisis, the migrant crisis and more recently the Brexit have brought to the fore a number of cleavages that threatened the consistency and stability of the entire project and called for its reform and revival. As such they have set in motion a renewed discussion on the future of Europe.

In order to streamline the debates, Jean-Claude Juncker, President of the European Commission, put forward on the occasion of the 60th anniversary of the European Union a White Paper on the Future of Europe based on five scenarios – 1. Carrying on with the current agenda, 2. Nothing but the single market, 3. Those who want more do more, 4. Doing less more efficiently, and 5. Doing much more together. Proceeding from a critical assessment of the current situation and the opportunities and threats the EU is facing, the five scenarios were meant to envisage ways in which EU could evolve over the coming decades. Their stated aim was not as much to propose a specific way forward but to "provoke thinking" and launch a broad debate on tomorrow's Europe involving the citizens in all Member States. In this respect, each of the five scenarios was accompanied by explanatory snaps sketching out possible consequences.

Nevertheless, reading behind the lines pointed towards certain preferences and apprehensions in the ongoing debate on Europe's future. So it became clear that the first scenario was nothing but a benchmark. At a time when "there is a mismatch between expectations and the EU's capacity to meet them", "blaming 'Brussels' for problems while taking credit for success at home, the lack of ownership of joint decisions and the habit of finger-pointing at others have already proved damaging", "closing the gap between promise and delivery is a continuous challenge" (Juncker, 2017a, pp. 10–12), this scenario was meant only for the purpose of showcasing what could happen if Europe continues to develop along the lines it had operated up to now and nothing changes. On the other end, the fifth scenario by vigorously pushing for more uniform and complete integration seemed to be a preference of the European Commission, although it is aware that "there is the risk of alienating parts of society which feel that the EU lacks legitimacy or has taken too much power away from national authorities" (Juncker, 2017a, pp. 10–12). However, what surprised in the case of this scenario was its deep-rooted functionalist approach based on the logic that political integration would follow economic integration without any attempt being made at bringing the two in sync despite the widespread agreement on the need for political union in order to steer further the European project. The second and the fourth scenarios were very technocratic in essence and proposed a more limited focus either on the single market or yet to be decided policy areas. They presented the advantage of a more straightforward decision-making and of closing "the gap between promise and delivery" in certain policy areas, in spite of the fact that they fail to deliver the high expectations attached to it in other fields.

The most controversial proved to be the third scenario by proposing to allow those who want to move faster toward integration to do so. This brought about a revival of the older discussion on flexible integration and fanned the flames of the same old sensitivities. As this time round the whole discussion on a future more flexible Europe revolved around a deeper Eurozone integration, Member States attempted to position themselves *vis-à-vis* this prospect. On the one hand, the countries outside the Eurozone while aiming to avoid being relegated to a second class statute have emphasized the risk of future divisions or even disintegration, the difficulties of catching up once being marginalized, the growing complexity of the decision-making processes. On the other hand, especially the most powerful members of the Eurozone have underlined that without deeper political and economic integration European Union might fall apart. What was missing from the whole debate was a thorough discussion on the viable form in which this flexible integration could be achieved since the third of the five scenarios proposed by Jean-Claude Juncker has been rather ambiguous in this respect, especially when

taking into consideration the three distinct models of the sort that have emerged over the years – two-speed, *à-la-carte* and variable geometry (Stubb, 2002, pp. 30–57) – even though their demarcation lines have been sometimes blurring.

Among the three, the multi-speed model is the oldest. Its origins stretch as far back as the beginning of the 1970s when the first enlargement of the then EC took place and consequently a debate on the need to solving the problem of growing heterogeneity started. It proceeds from the assumption that while all the Member States want to reach the same integration goal, they do not have equal abilities and hence they reach this goal at different speeds. Some countries that are capable and willing to take a step forward in the integration reach the identified goal rather quickly, whereas the other countries join in later according to their capabilities and political will. As such, the model revolves around a center – "hard core", "avant-garde", "pioneer group", "center of gravity" – surrounded by a periphery made up of countries that are either unable to achieve the level of integration of the core (the laggards), or unwilling to do so (the opt-outs). Especially the core captured the imagination of the politicians who envisaged different designs for it. For instance, in 1994, in response to Central and Eastern European pressures for accession to the European Union, two leading German MPs – Wolfgang Schäuble and Karl Lamers, proposed the founding of a "hard-core" consisting of an elite club (France, Germany, Belgium, the Netherlands and Luxembourg) whose doors would have remained open to other Member States depending on their capacity to assume the necessary obligations (Schäuble, Lamers, 1994). Only some years later, German foreign minister at the time imagined a "center of gravity" made up of "those states who want to cooperate more closely than others, as it is already the case with the Economic and Monetary Union and Schengen Agreement" (Fischer, 2000). This group of states "would conclude a new European framework treaty, the 'nucleus of a constitution'" of the future Federation.

The ***à-la-carte*** model is regarded as the least orthodox and in clear contrast with the previous one. It represents a clear departure from the principle of equal rights and obligations for all Member States enshrined into EU treaties from the beginning. Its outlines were detailed for the first time by Ralf Dahrendorf in 1979 in response to the stagnation that gripped integration throughout the 1970s (Dahrendorf, 1979). Inspired by the representation of choice as from the menu of a restaurant, it considers that the Member States should be given freedom to choose the policy areas they wish to participate in. Particularly, Great Britain remained profoundly attached to this model. Under the label of ***variable geometry*** we discuss about a model that combines the two above-mentioned models in the sense that enables willing and able states to further integration in a number of policy areas within and outside the treaty framework. In response to German pressures for outlining a French view on the future of Europe, Prime Minister Edouard Balladur presented in 1994 in an interview for the daily newspaper *Le Figaro* a vision of concentric circles that was further elaborated in a number of interventions he had later that year (Balladur, 1994). In his view all the concentric circles built around certain areas of interest (defence, monetary cooperation etc.) must have a common core and leave the door open for all those who want to join. This leads to a multitier Europe with a multitude of "integrative units" (Stubb, 2002, p. 48) whose members are supposed to respect a core of binding rules, but no broader commitments than those implied by these rules.

In Romania, the third scenario was viewed only as paving the way to a two-speed model of integration with all its shortcomings. Given the fact that the whole debate on the future of Europe is intrinsically connected with the perspectives of the Eurozone to which Romania

does not belong, the reaction is up to a point obviously comprehensible. On the whole, Romanian politicians were quick to pick up from the Rome Declaration the part that suited the country best "[w]e will make the European Union stronger and more resilient, through even greater unity and solidarity amongst us" and "[o]ur Union is undivided and indivisible" (European Council, The President, 2017). The paragraph from the Rome Declaration that made a direct reference to the third scenario "we will act together, at different paces and intensity where necessary, while moving in the same direction" was loudly criticized by the Romanian politicians across the political spectrum. The first was the Foreign Minister Teodor Meleșcanu who considered "the emphasis on a hard core and a periphery may involve the risk of accumulating and accentuating economic and social cleavages between Member States, including between the Eurozone and the non-euro area" (Meleșcanu, 2017). On the occasion of the visit of Jean-Claude Juncker, President of the European Commission, to the Romanian Parliament, the leaders of all major political parties warned against the negative consequences of a multispeed Europe. Călin Popescu-Tăriceanu, President of the Senate, stated that it would be "inconceivable" to distribute Member States "in groups vertically to the political decision – some on the stage, others in the lodge and the last on the outskirts" and "unacceptable that the dynamics of convergence, however slow it may be, should be replaced by a process of hierarchy of decision-making capacity and level of development" (Popescu-Tăriceanu, 2017). The leaders of the main political parties and of the minority groups represented in Parliament followed suit in rejecting the perspective of a multispeed Europe based on considerations common to all those who criticize this type of approach. *Per se* they tended to minimize the guarantees offered to Romania by high-level politicians, as for instance the German Chancellor Angela Merkel, that in a Europe with two speeds there would be "no exclusion by a group" and everyone is "invited to participate in all activities" (Bundesregierung, 2017).

Nevertheless, although the two-speed model of flexible integration maintains the commitment of all Member States to a final goal, in the case of economic and monetary union it is highly disputable if this model upholds germaneness and the model of variable geometry does not hold a better explanatory capacity (Majone, 2014, pp. 228–230) since the Eurozone, the would-be core in this case, is surrounded by an extremely heterogeneous group of Member States made up of those with a permanent opt-out (Denmark, UK), a *de facto* opt-out (Sweden), and those reluctant to join the center in a foreseeable future (Poland, Czech Republic). This basically means that, on the one hand, the whole discussion revolves around the idea of a two-/multi-speed integration which does not bear resemblance to the essentials of this model and, on the other hand, stirs particular apprehensions concerning Romania's status within a future, transformed European Union, as the country feels assigned to a group that does not share its determination in joining the Eurozone. In terms of variable geometry, Romania can be considered as having an improved position, as it has already taken part in a number of projects involving a good range of combinations of Member States – European Public Prosecutor's Office, unitary patent, divorce regime of international couples. Nevertheless, Romania has still remained outside two of the most important constructions – the Schengen Area and the Economic and Monetary Union.

This is why the debate on the future of the European Union has stricken a very sensitive chord and triggered at last a discussion on the status of Romania in the European Union in a way that had not been performed during the accession negotiations or any time thereafter. At least two issues have gained prominence. They were innately connected to Romania's

absence from those two above-mentioned structures of cooperation. Firstly, the accession to the Schengen Area is widely considered as a sensitive decision since it has been associated by some Member States with progress in the reform of the judicial system evaluated through the Control and Verification Mechanism (CVM). After years of CVM support from successive Romanian governments, the continuing monitoring by the European Commission stirred up the discontent of those who, although recognizing to the instrument certain merits in averting government abuses to the judicial system as those that generated the massive protests from February 2017, considered that its discriminatory application only to Romania and Bulgaria was "marked by obsessive partiality and limited to 'a certain criminal justice'" (Voicu, 2017) and its continuous usage for keeping us "on the corner, as an undisciplined student, but who has filled the board with the solution" (Piperea, 2016) while "circumventing the major, real and complex elements of the internal framework of justice" (Voicu, 2017). More recently European Union's capacity to assess Romania's reforms on its judicial system and stamp out corruption has come under a harsh attack in the Commission of the U.S. Senate on Security and Cooperation in Europe, also known as the U.S. Helsinki Commission (Clarke, 2017). Just a few months earlier, EU monitoring has provoked a bitter exchange of words between former Romanian Commissioner and Prime Minister Dacian Cioloș and the present President of the Romanian Senate Călin Popescu-Tăriceanu, as the latter publicly accused the former for going to Brussels with "the same thinking as 250 years ago, when Phanariot rulers went to the Ottoman Porte: 'No sword cuts off a bowed head'", although he knows that "CVM is a political mechanism" (Popescu, 2017). The issue has also come very high up on the agenda of the discussions of Romanian politicians with high level officials of the European Commission. In response, during his last visit to Bucharest, the President of the European Commission Jean-Claude Juncker made a public vow to wrap up the Cooperation and Verification Mechanism until the end of his mandate (Juncker, 2017b). In context, it is worth to be mentioned that his promise resonates with a 2016 request by the European Parliament to replace CVM with an EU-wide instrument for monitoring European democracy, the rule of law and fundamental rights. However, when it came to the Schengen Area, Juncker avoided being as specific as in the case of CVM and limited himself to mentioning that it was his desire for Romania "to become a member of the Schengen Area as soon as possible because it deserves it" (Juncker, 2017b).

If accession to the Schengen Area might have a positive outcome once the political sensitivities are jettisoned given the fact that the technical conditions are already met, the situation with Romania's accession to the Eurozone is, despite the country's commitment to join once it fulfils the necessary criteria, far more complicated and fraught with practical difficulties and political discords although almost everybody agrees that Romania is bound to join the Eurozone. The issue at stake is that Romania, according to the Governor of the National Bank, meets cumulatively the Maastricht criteria as from July 2015 without interruption, but in terms of real convergence is lagging far behind (Isărescu, 2017). Under these circumstances the question that arises is how fast should Romania join the Eurozone. On the one hand, there are those who hope for a quick accession if possible as soon as 2019, as for instance the former President of Romania Traian Băsescu (Mănoiu, 2017) or at least to a firm adherence to a strict calendar for joining the Eurozone (Peneș, 2017), as the accession to this club is the only way that can offer a guarantee for being accepted to the hard core of a future more differentiated European Union. On the other hand, prominent members of the

Romanian National Bank warn that a country "enfeebled by large development gaps and weak institutions" (Alexandru, 2017) needs to treat the accession to the Eurozone "in a more prudent, more comprehensive and responsible manner" (Isărescu, 2017; Dăianu *et al*, 2017).

Irrespective which way we look to these declarations, what strikes is the fact that it is impossible to detect at least some rudiments of a possible Romanian standpoint on the future of Europe or an input for a thorough analysis of what impact the working scenarios might have on the country. If the political parties only limited themselves to expressing preferences on what could be acceptable from a Romanian point of view and what not, Romanian civil society likewise was reluctant to engage in an in-depth discussion on the future of Europe as Jean-Claude Juncker had hoped for when advancing the five scenarios. Apart from some scarce speculations on how the relation between center and periphery might be configured (Magdin, Georgescu, 2016; Naumescu, 2017), no real discussion has taken place. Still more, there are no reactions to the clear German attachment for a profound reform of the Eurozone or the visions expressed by the newly elected French president or the multilateral discussions between France, Germany, Italy and Spain although all these are indicative of the fact that a formula of multispeed integration is still very high on the agenda of the most powerful members of the European Union.

Likewise, there is not any sort of debate going on with regard to the partnerships Romania should enter into in order to make its case more successful. In this respect, the message sent by the high-level Romanian authorities and well-profiled politicians is a little bit confusing. They maintain that in order not to be treated as a second-hand country, Romania needs to remain close to a hard core to be built inside or around the Eurozone (Iohannis, 2017b; Cioloş, 2017) despite the fact that they all are well-aware of the distance in economic terms that separates Romania from these countries and the cumbersome and time-consuming way ahead. At the same time, according to the same politicians, Romania should distance itself from the Visegrad group since it does not share with its members their willingness to transfer competences of the Union back to the Member States and a common vision on deeper integration (Orban, 2017). Ironically though, Romania has found itself on a number of sensitive issues (migration, posted workers, etc.) on the same side with the Visegrad countries and against countries like Germany and France. With no other platforms of regional cooperation available and relations with heavy players like Germany and France still not ripe for forming a sort of Weimar Triangle, Romania could be left to navigate a period of intense deliberation on the future of Europe standing only by itself and hoping that its efforts to better coordination with the Eurozone countries will make it reap some benefits or adhering *ad hoc* to some group of countries. Unfortunately, no other alternatives have come up for deliberation as yet even if there is a widespread support for joining the hard core.

One other area which most probably will need special consideration concerns the ways by which a flexible integration could be achieved – opt-out, enhanced cooperation or by signing a new treaty. A formula of opt-out allows Member States to stay out or move on progressively since there are no time constraints to join the rest of the countries. Enhanced cooperation is based on a type of arrangement already foreseen in EU treaties that lets a group of countries to integrate more narrowly while offering safeguards to the rest including the chance to join later. The last among the three avenues towards flexible integration concerns the possibility of bringing the in-depth cooperation outside the existing framework by signing a separate international treaty.

Each of the three alternatives present certain advantages as well as disadvantages that for sure need to be thoroughly evaluated (Gostyńska-Jakubowska, Odendahl, 2017). After being more critical about the perspective of a two-speed Europe, President Klaus Iohannis steadily abandoned the references to the patterns of future integration and started to refocus the discussions on the way forward based on enhanced cooperation (Iohannis, 2017a). As for now he seems determined to maintain it in this area.

To conclude, Romania needs a Europe that goes on with a united structure. The idea of safeguarding the European Union by transforming it into a more flexible entity is not entirely new and triggers a lot of forethought every time when it resurfaces. In Romania the ongoing discussion has prompted a critical evaluation of the country's status in the European Union and a more thorough examination on what it stands for. This long time postponed considerations may offer Romania some guidance in the ongoing negotiations on the future of Europe but cannot supplement a clear strategy in this respect. It is true that a formula of variable geometry might not be regarded as a worst case scenario but still imposes to Romania certain constraints regarding the accession to Schengen Area and the Eurozone in order to improve its status. However, the strategy of approaching the relations with the other Member States will require a bottom-up review. Moreover, while aiming at building solid partnerships with the countries of the hard core, Romania needs to reconsider its capacity of building reliable coalitions with other Member States.

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