

# THE “MULTI-SPEED EUROPE – A REALITY, SOLUTION AND TO DISCONTENT OF SOME – A NECESSITY

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## *Abstract*

*The 1990s are the years that bring about a possible differentiated integration. The new waves of EU membership put European decision-makers in the position of thinking about future integration efforts. Those who can do more and want this will not be able to wait for those who still have to solve nuances of social and economic references. The multi-speed Europe already exists but the domains will multiply, besides the “Euro zone” and “Schengen”. “The multi-speed Europe” represents a necessity of evolution, it can even represent a solution to European problems, although it may also deepen existing discrepancies.*

## *Keywords*

*European Union, multi-speed, integration.*

## **Introduction**

At the beginning of 2018, the intra-European and global conjuncture shows more and more persistent signs that lead to a necessary repositioning of the EU towards itself and to the rest of the world. The frequency of events and phenomena around the EU and across the globe, of those within the Union, require the European decision-makers to have a proper reaction that would answer to the increasingly obvious needs of responding or even reconfiguring themselves at the level of common continental project.

The last position of the French President in Davos shows a concern for a topic that will certainly stir up enough rumors in Central and Eastern Europe: the future evolution of EU by cooperation circles, with differentiated speeds and with specific and additional concerns. The phrase issued on this occasion by E. Macron, “Those in Europe who don't want to move forward should not block those that are ambitious” (Emanuel Macron, Davos Conference, 2018), makes a direct reference to a multi-speed Europe. (Of course, in the context of Davos, populism was presented as a dividing line between the two Europes, the main braking phenomenon of the evolutions towards more integration).

Now, as terrifying as it may seem, from a South-Eastern European perspective, this option has the right to a judicious and objective assessment that would open up the horizons of the future EU to at least acceptable levels and for those who would support such a formula. For as much as we, in the South-Eastern Europe, would like things not to look as such for the founding members of EU, we will have to consider a reality: while the “circle of friends” in the Eastern flank of the Neighborhood Policy has turned into a “circle of fire”, the entire Eastern flank of the Union is reorienting its governmental options to illiberal patterns meant to worry the Union's tough and historical core.

Solving this reality requires answers. It is precisely in the instinct of any construction or creature to self-protect, and the reaction of those in the “Euro zone” is increasingly evident and, in our opinion, natural even if it produces tremors and opens up unclear perspectives. But the principles it sets are fair enough: everyone is welcome, but as long as it has other options or perspectives, it remains open only to those who prove observing it. Europe must go forward in its deepening construction, and the course nuances of the newest Central and Eastern Europeans have no right to block this evolution. Conjecturally and ideologically explainable, the new options and orientations in countries such as Poland, Czech Republic, Hungary or Romania show a certain dilution of European concerns in favor of some regional strategic orientations with emphasis on national interest, either of sovereignty or of a superior (and more recently identified!) social equity (see, with preponderance, the case of Hungary).

Therefore, we have to see in what direction the entire European construction will go at the beginning of this millennium. Until 30<sup>th</sup> March 2019, when a summit dedicated to the European future will take place in Sibiu, as J. C. Juncker has already proposed, we can only try to capture some

of the realities of the day, area and context in which this future is shaped, because, indeed, 2018 is the year of shaping the future EU.

Until then, we will point out Charles Grant, Director of the Center for European Reform, about the future of the Union based on “concentric circles”, another phrase that lives its history alongside that of “multi-speed Europe”. Starting from the reality that a more supple Union would be more viable in the long run because it would leave the countries the ability to choose which areas to participate in integration, the author concludes: “The Euro-zone, Schengen, policing and defense cooperation are all policy areas that currently allow members to opt out. That logic should be extended wherever possible, allowing members to opt out of databases that facilitate cooperation on security, the harmonization of corporate taxation or new arrangements for the sharing of intelligence, for example” (Politico, November 2017). Moreover, in the same opinion, such a Union would become more attractive in the future for the UK, Scotland, Switzerland, Norway or even countries in the current European Neighborhood Policy.

It might sound surprising, but the concern for a “differentiated Union” debate on the issue has origins arising from the 1970s, as pointed out by some authors: “The vocabulary of multiple speeds in European integration comes from the 1970s, when Willy Brandt in 1974 and the Tindemans report of 1975 suggested it would allow some Member States to move towards common objectives more quickly than others (Gillespie, 1996 a, b, 1997). Since then it has been built in to successive legal and practical expressions of integration, notably the enhanced cooperation procedures laid out in the Amsterdam, Nice and Lisbon treaties, which have been applied this year to divorce and patent issues and have now been suggested as a means of implementing deeper economic integration of the Euro zone (Laffan, 2011; Van Rompuy, 2011). The bibliography on this subject is indeed comprehensive, but today, the political and strategic context has reanimated the Union's choice with more speed, as we will try to show through our work.”

## Context

It would seem today that the main and necessary change of paradigm of the European construction lies in the answer to the question “if the EU can configure mechanisms to make it able to respond quickly and efficiently to inside and outside inputs.” We already mentioned this aspect in our article entitled “Towards a new European paradigm?” (Dobra, 2017), where we

emphasize the need to react to an “agenda” that the EU is no longer doing, but comes from outside. We captured the aspect also in one of the European Union's documents, even the one regarding to the further development of the EU. “Many of the profound transformations Europe is currently undergoing are inevitable and irreversible. Others are harder to predict and will come unexpectedly. Europe can either be carried by those events or it can seek to shape them. We must now decide” (White paper on the future of Europe: 15).

Obviously, the multitude of red signals that light up successively over the European Union drew the attention of the highest level decision-makers of the Union. The increasingly tense relationship with Russia, the expansion and upsurge of illiberal programs or Euro-pessimistic parties, if not anti-EU, are only two of the many such signals not mentioned in another paragraph of the same document. “Europe's challenges show no sign of abating. Our economy is recovering from the global financial crisis, but this is still not felt evenly enough. Parts of our neighborhood are destabilized, resulting in the largest refugee crisis since the Second World War. Terrorist attacks have struck at the heart of our cities. New global powers are emerging as old ones face new realities. And last year, one of our Member States voted to leave the Union.” We are, at the level of the European Union, within the necessary change of paradigm, as we already affirm. The Union needs to get out of the position of coordinator of the events that it is interest in, in order to enter the position of respondent to it. The fifty years of European construction ended at the beginning of the 21<sup>st</sup> century, and during this period the whole Earth awoke to life. The multitude of separate events, or, more often, interconnected at global level, forces the EU to turn into a more reactive body to what's happening around it and it affects it, bringing it to the situation of creating mechanisms a lot more effective and more sensitive to keep the current status quo around the world.

There are, in our opinion, a few areas that need urgent resizing, restarting or simply rearrangement, whether we think of the EU's ability to secure forms of “hard power” through a conjugated armed force, or we are referring to the social aspects pertaining to the integration of the hundreds of thousands of refugees already present on the continent or potential in the future. Therefore, new coherent European policies are needed and, at least it seems like, it is the moment of a pragmatic approach of the discussions in this regard.

## We need projects that will offer answers

In the last 5 years, the European Union has often seen itself in the situation to confront itself with novel issues, for which the ability of European institutions to provide real-time responses has been shown to be at least slow. This is one of the reasons why, most often, there is a call for a reform of the institutional mechanisms in order to find the most effective formulas for decision making, so that syncope such the one registered once with the arrival of the largest wave of immigrants in the Union will not repeat. Not by chance, in the very speech of J. C. Juncker regarding the “State of the Union” of 13<sup>th</sup> September 2017, the reference to the need to reform the European decision-making system occupies a central place. “I want our Union to become a stronger global actor. In order to have more weight in the world, we must be able to take foreign policy decisions quicker. This is why I want Member States to look at which foreign policy decisions could be moved from unanimity to qualified majority voting. The Treaty already provides for this, if all Member States agree to do it. We need qualified majority decisions in foreign policy if we are to work efficiently (Juncker, State of the Union Address 2017).

We see, as a matter of fact, as the need for streamlining the decision-making process is becoming increasingly apparent, that the Union is actually within a so-called “logical paradox”: it knows two seemingly contradictory institutional tendencies, that is, as it strives to become more legitimate in the eyes of European citizens, through the transparency and correction of the decision-making process it becomes an increasingly bureaucratic administrative apparatus, more complex, more and more criticized for its inefficiency.

Slowly, at the level of public deliberation regarding the current situation of the European Union, the so-called concept of the “European crisis” has been installed. Going beyond its discouraging implications, since the repetition of this phrase may induce a mistrust in the ability of the European construction to continue its historical route, the concept itself requires a subsequent positioning reaction that would produce theories, debates and projections regarding the long term of the equation. Just as in the case of scientific theories that no longer correspond to the realities highlighted by the experiences in the various fields, the European project has completed the initial construction phase and needs fresh and realistic configurations in order to be able to propagate in the future. And the criticisms against this

project, whether for over-bureaucratization, slow decision-making or lack of legitimacy, are the obvious evidence of insufficient correlation with day-to-day reality at the continental level. In this context, over the last two years, various projections on the European future have produced on the European debate scene, having their origin precisely in the influence and political decision, community factors. However, given the ideological aspect of our presentation, we feel the need to point them out, highlighting the nuances that refer to “multi-speed Europe” or “Europe of concentric circles”.

We will try to evaluate in each of the projections presented, the references to the necessity of future evolution of EU based on the “multi-speed Europe” theory, resulting factor of the legal existence of “enhanced cooperation”, as the founding treaties state.

## **Surprise! Multi-speed Europe already exists**

We will initiate our approach from the communication of the President of the European Commission, J. C. Juncker, presented as “White Paper on the Future of Europe”, made in March 2017. Referring to the possible scenarios of EU evolution, President Juncker develops as one of the possibilities the scenario known as “Those who want more do more”, pointing out that the procedure is in place for the Euro currency and Schengen area, Juncker and European Commission support this possibility as rational for the further development of the Union. “As a result, new groups of Member States agree on specific legal and budgetary arrangements to deepen their cooperation in chosen domains” (White paper on the future of Europe, 2017). In fact, through the *White Paper on the Future of EU*, President Juncker wanted to point out that in the future, some EU members will be able to accelerate in areas such as taxation, defense, internal security or social issues, aiming for faster integration, leaving room for other states to adhere to the new configurations later on. Immediately after the publication of the *White Paper on the future of the EU*, the leaders of France, Germany, Spain and Italy, at an informal summit in Versailles, gave a public statement in support of the third option in Juncker's speech, under the phrase “multi-speed Europe”. “The concept of ‘multi-speed Europe’ would see some EU countries grow more united on economic and defense matters while allowing other states to catch up later, the leaders of four of the EU's biggest economies said at an informal summit on Monday.” At

that time, the meeting was a preparation for the end of March 2017, when the 60<sup>th</sup> anniversary of the signing of the Treaty of Rome was celebrated.

Rejected negatively, especially in the central and eastern flank of the EU, the deepening of the integration by groups of states gets new nuances once with the “Rome Declaration”, an anniversary moment of the Treaty regarding the European Community 60 years ago, on 25<sup>th</sup> March 1967. By renouncing the phrase “multi-speed Europe”, in the abovementioned declaration “different paces and intensities” was used. “We will act together, at different paces and intensity where necessary, while moving in the same direction, as we have done in the past, in line with the Treaties and keeping the door open to those who want to join later. Our Union is undivided and indivisible” (Rome Declaration, 2017).

As a matter of fact, following the criticism of almost entire eastern flank of EU, the tone regarding the “multi-speed Europe”, the main supporters of which are Germany and France, followed by Spain and Italy was voluntarily lowered, which is also noticeable in the next communication of the European Commission. The main concern (fear) of the countries in the EU's Eastern bloc is that “they will be again left behind” by the countries more advanced on the path of integration. “In this regard, the Visegrád message is very defensive. Prague, Warsaw, Budapest and Bratislava express their concerns about creating exclusive clubs, they demand the equality of member states and they want to involve national parliaments more in the political process that would control the subnational institutions” was the reaction of the Visegrad group immediately after the launch of the White Paper on the Future of Europe.

In September of the same year, in the Speech regarding the Status of the Union, the President of the European Commission was already talking about a sixth scenario, additional and also cumulative to the five presented in March. We can therefore talk about a renunciation to the formula “multi-speed Europe”, as a result of negative positioning in Central and Eastern Europe. “Today, I would like to present you my view: my own “sixth scenario”, if you will. (...) Second, Europe must be a Union of equality and a Union of equals. Equality between its Members, big or small, East or West, North or South. Make no mistake, Europe extends from Vigo to Varna. From Spain to Bulgaria. East to West: Europe must breathe with both lungs. Otherwise, our continent will struggle for air”, J. C. Juncker said in response to the criticism addressed to the third scenario of March.

Therefore, referring to a “much more united Union”, the President of the Commission approached also the few areas, Schengen, Eurozone, Banking

Union, where full integration could be achieved at a more sustained pace, so that there would no longer be differences between the current members of EU.

Thus, it is not a coincidence that we started our presentation with the speech of the French President in Davos. Throughout the year, the leaders of the EU “rich countries” have maintained their opinion favorable for the evolution of a multi-speed EU. “We can advance together, but at different rhythms. A Europe that has more speeds already exists, it is provided in treaties (...) Citizens' Europe is a Europe of justice, freedom and equality.”

### **Concerns about differentiation existed long ago**

If we somehow managed to reproduce the main opinions, in the institutional and public space of those who support the “multi-speed Europe”, we will try to find out what the legal bases of this move are, as long as the EU leaders design a mechanism for the future evolution of the Union. The idea of a “multi-speed Europe” is re-emerging with the President Juncker's speech regarding the future EU course of March 2017.

However, we have to say that the concerns for such a scenario have been observed since the 1990s, not by accident, once with the fall of the Iron Curtain. The evident disparities between the Eastern and Western Europe, the inherent differences of democratic culture constitute sufficient prerequisites for European thinkers so that the idea of a necessary integration by different levels to seem possible. Thus, the well-known parent of this idea is another European politician with long history and experience, namely Wolfgang Schäuble, alongside Karl Lamers, who in 1994 published a political program under the title “Reflections on European Policy”. Criticized at that time and later on, once with every measure taken by Schäuble, as Germany's finance minister, the communication mentioned, produced several scenarios that nowadays become again topical. “The political message stated the need to maintain the Franco-German relationship as the leading role in the enlarging Union. The Schäuble-Lamers paper proposed a “hardcore” Europe, in which a group of countries based around France and Germany would coordinate their policies to lead the Union as a whole. However, this core grouping would not establish specific institutional arrangements beyond those already operating in the broader Union” (Armstrong, 2015).

Later, at the 20<sup>th</sup> anniversary since the launching of the program document “Reflections on European Policy”, the term “core-Europe” as it was launched in 1994, was seen as propitious from the perspective of

strengthening the Euro area, reformation of institutional architecture (setting up a Euro area Parliament) and consolidation of foreign policy co-operation. The main vulnerabilities and obstacles were considered the potential crisis of democracy from the perspective of legitimacy, “the sovereignty reflexes of the states involved in the “core-Europe” and the depth differences between conceptions regarding the different European policies of the Member States. We wanted to make reference to the above-mentioned event because many of the issues highlighted by the authors of the document reappear in the contemporary debate regarding the “multi-speed Europe”.

Not being without repercussions, the debates initiated by Schäuble and his colleagues first appear in the Treaty of Amsterdam as “closer cooperation”. “For the first time, the Treaties contained general provisions allowing some Member States, under certain conditions, to take advantage of common institutions to organize closer cooperation between themselves. This option was in addition to the closer cooperation covered by specific provisions, such as economic and monetary union, creation of the area of freedom, security and justice and incorporating the Schengen provisions. The areas where closer cooperation was possible were the third pillar and, under particularly restrictive conditions, matters subject to non-exclusive Community competence. The conditions which any closer cooperation had to fulfill and the planned decision-making procedures had been drawn up in such a way as to ensure that this new factor in the process of integration would remain exceptional and, at all events, could only be used to move further towards integration and not to take retrograde steps” (Maastricht and Amsterdam Treaties).

Today, however, known as “enhanced cooperation”, references to forms of voluntary cooperation with a view to deep integration are laid down in Article 20 of the TEU. “Enhanced cooperation shall aim to further the objectives of the Union, protect its interests and reinforce its integration process. Such cooperation shall be open at any time to all Member States, in accordance with Article 328 of the Treaty on the Functioning of the European Union” (TEU, 2009). Decided in the same article, the minimum number of members who may initiate an “enhanced cooperation” is 9 and only if “the decision authorizing enhanced cooperation shall be adopted by the Council, as a last resort, when it has established that the objectives of such cooperation cannot be attained within a reasonable period by the Union as a whole, and provided that at least nine Member States participate in it. The Council shall act in accordance with the procedure laid down in Article 329 of the Treaty on the Functioning of the European Union.”

By such a guideline, the path for a Europe with variable geometry or “multi-speed” is actually opened up. For if we talk about the objectives of the Union, to which reference is made in the text, we are already talking about fundamental intentions that cannot be denied or undermined by the will of those who cannot or will not want to evolve in the sense of reaching them. That is precisely the reason why it is already provided for in the respective Article, which states that “all members of the Council may participate in its deliberations, but only members of the Council representing the Member States participating in enhanced cooperation shall take part in the vote. The voting rules are set out in Article 330 of the Treaty on the Functioning of the European Union.” The importance and significance of this whole article will be noticed in not many years, once with the management of the global economic crisis of 2008-2010.

### **“Post-crisis” European financial management and its implications**

Starting from the realities stated in Article 136 of TFEU, those relating to the “Euro area”, European decision-makers have begun a process of drafting some documents based on “economic coordination” and “enhanced cooperation”, which led to one of the most eloquent examples of differentiated integration.

Open to all states, under Article 20 of TEU, the cooperation regarding the “financial stability within the EMU” has become, during almost 3 years, as of 2011, an example of “good practice” for differentiated initiatives within the EU.

In its original form, Art. 136 of TFEU contained “Provisions for member states whose currency is the Euro”. Specifically, it foresees the areas in which the Council may adopt measures regarding these states:

“a) to strengthen the coordination and supervision of their budgetary discipline;

b) to elaborate, as regards them, the economic policy guidelines, ensuring that they are compatible with the ones adopted for the entire Union and ensuring their supervision.”

On 25<sup>th</sup> March 2011, the Council unanimously, following the procedure established by the TEU at Art. 48, Para. 6 on the simplified procedure for amending the Treaty, adopted the decision to add amendments to Article 136 of the TFEU, without extending the Union's powers under the Treaties. “The

Member States whose currency is the euro may also establish a stability mechanism to be activated if indispensable to safeguard the stability of the euro area as a whole. The granting of any required financial assistance under the mechanism will be made subject to strict conditionality.”

Based on this amendment, a “European Stability Mechanism” is set up, which comes into operation in February 2012. “The ESM treaty was signed by euro area member states on 2<sup>nd</sup> February 2012. The ESM will be an international financial institution based in Luxembourg. Its purpose will be to provide financial assistance to its members (euro area member states), experiencing or being threatened by severe financing problems, if indispensable for safeguarding financial stability in the euro area as a whole.”

Finally, a month later, in March 2012, the Treaty on Stability, Coordination and Governance (TSCG) is signed by all Chiefs of State and Government of the Member States, a Treaty which implements the concepts of “economic policies coordination” and “enhanced cooperation”. “The only country that to date announced its intention to submit the treaty to referendum was Ireland. The Irish referendum took place on 31<sup>st</sup> May 2012. Several countries considered its possible ratification via an act of government (Cyprus, Malta, Poland) but eventually only Cyprus took that approach. The majority of the Member States did opt ratification along the lines of the provisions for international treaties.”

Becoming effective on 1<sup>st</sup> January 2013, the TSCG represents from historical point of view, an obvious process of initiative in the field of economic policies coordination, as it is as defined in TFEU and, moreover, of enhanced cooperation between the countries whose currency is the euro. “Building upon economic policy coordination, as defined in the Treaty on the Functioning of the European Union, the Contracting Parties undertake to work jointly towards an economic policy that fosters the proper functioning of the economic and monetary union and economic growth through enhanced convergence and competitiveness.” From the legal point of view, the Treaty leaves sufficient room for further developments, as provided for in Art. 10. “In accordance with the provisions of the Treaties on which the European Union is founded, the Contracting Parties are ready to make active use, whenever appropriate and necessary, of measures specific to those Member States whose currency is the euro, as provided for in Article 136 of the Treaty on the Functioning of the European Union, as provided for in Article 20 of the Treaty on European Union and in Articles 326 to 334 of the Treaty on the Functioning of the European Union on matters that are essential for the proper functioning of the euro area, without undermining the internal market.”

Reference to “enhanced cooperation”, as it has already been thought and defined, produces in turn, a highlight of the need for recourse to such sequential initiatives as, with the passage of time, were also proved to be an example of “good practice.” In fact, the next developments of this Treaty have opened the way for new configurations and options that increasingly shape the ability of the states to evolve on the “multi-speed Europe” strategy. The “Euro Summit” Presidency, as well as the provisions of Article 12 (2) have sufficiently opened the way for new strategies falling under the “euro area convergence”. “Euro Summit meetings shall take place when necessary, and at least twice a year, to discuss questions relating to the specific responsibilities which the Contracting Parties whose currency is the euro share with regard to the single currency, other issues concerning the governance of the euro area and the rules that apply to it, and strategic orientations for the conduct of economic policies to increase convergence in the euro area.”

It would be sufficient to point out that, on the basis of an experience opened by the TSCG, within the Economic and Monetary Union have set up new horizons with 2025 as implementation deadline, and which refers to the depth of integration in the economic, financial, fiscal and political fields.

### **A “nuance” issue - the European Prosecutor**

Either we will or not recognize it, in certain cases, differences in assumption create positions that show that “multi-speed Europe” is multiplied in additional areas, the case of the “European Prosecutor” being eloquent.

The initiative in this area, the one to create a supra-national investigation mechanism, has sufficient motivation, as long as, for example, the suspicion of fraud of the European funds exists, and sometimes the complicities seem to be multiplying up to the level of the executives of some member states. From here, inherently, is the debate around the idea of having an independent, supranational institution to further supervise and investigate these possible frauds. At this point, it would be sufficient to make reference to the national reactions of some states, exactly where the suspicions are greater, in order to suggest the idea we want to argue: the differences of opinion are, most of the time, generated by other types of interests or concerns, especially in this case. The solution, and in this situation also, proved to be the “enhanced cooperation”, as long as in the adoption of the initiative, already provided by the Treaty of Lisbon, only 20 of the 28 countries of the Union adhered

at the beginning. “So far, 20 member states have joined the enhanced cooperation: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Germany, Greece, Spain, Finland, France, Italy, Latvia, Lithuania, Luxembourg, Portugal, Romania, Slovenia and Slovakia” (European Public Prosecutor’s Office, June 2017).

Initiated since 2013 by the European Commission, the proposal regarding “The European Public Prosecutor’s Office (EPPO)” has seen a sinuous and representative development for the cases where “enhanced cooperation” has proven to be the saving solution. On 7<sup>th</sup> February 2017, the European Council noted that there was no consensus regarding the regulation proposed by the Commission and, therefore, 16 member states notified the Institutional Troika on 9<sup>th</sup> March 2017 that they wanted to use the “enhanced cooperation” method in view of adopting the EPPO, as it has already been agreed in the Treaty of Lisbon. “In order to combat crimes affecting the financial interests of the Union, the Council, by means of regulations adopted in accordance with a special legislative procedure, may establish a European Public Prosecutor’s Office from Eurojust. The Council shall act unanimously after obtaining the consent of the European Parliament.

In the absence of unanimity in the Council, a group of at least nine Member States may request that the draft regulation be referred to the European Council. In that case, the procedure in the Council shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council for adoption.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft regulation concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorization to proceed with enhanced cooperation referred to in Article 20(2) of the Treaty on European Union and Article 329(1) of this Treaty shall be deemed to be granted and the provisions on enhanced cooperation shall apply.”

We emphasize that exceptionally, in this article, the very “enhanced cooperation” method for the implementation of its provisions that aim the “fight against fraud affecting the financial interests of the Union” is provided. On this occasion, however, there is also provided the possibility to extend the EPPO powers. “The European Council may, at the same time or subsequently, adopt a decision amending paragraph 1 in order to extend the powers of the European Public Prosecutor’s Office to include serious crime having a

cross-border dimension and amending accordingly paragraph 2 as regards the perpetrators of, and accomplices in, serious crimes affecting more than one Member State. The European Council shall act unanimously after obtaining the consent of the European Parliament and after consulting the Commission”, an aspect already sustained by a number of European leaders for 2018.

In the explanatory statement announcing the European Commission's initiative in 2013, the motivation for doing so was sufficiently reasoned in terms of additional efforts that national authorities cannot always ensure. “While dealing with cross-border cases of fraud requires highly coordinated and effective criminal investigations and prosecutions at European level, the current levels of information exchange and coordination are not enough to achieve this, despite the increased efforts of the Union bodies, such as Eurojust, Europol and the European Anti-Fraud Office (OLAF).” More specifically, it is stated that “as criminal investigation and prosecution authorities in the member states currently cannot achieve an equivalent level of protection and enforcement of law, the Union has not only the competence, but also the duty to act.”

And from the subsidiarity point of view, because the issue is important, since most of the criticism came from this direction, the same document, shows its argumentation. “The Union needs to act because the envisaged action has an intrinsic European dimension. This entails the management and coordination at Union level of investigations and prosecutions of criminal offenses affecting its own financial interests, the protection of which is required by both the Union and the member states by Article 310, par. (6) and Article 325 of TFUE. According to the principle of subsidiarity, this objective can only be achieved at Union level, given its scale and effects. As hereinabove noted, the current situation, where the prosecution of crimes against the financial interests of the Union is exclusively a matter for the authorities of the member states, it is not satisfactory and does not sufficiently achieve the objective to efficiently fight against the offenses that threaten the Union's budget.”

In order to reach the end of our case study, we will show what were the main arguments against this initiative, and for this, we will show that today, the initiative is supported by 20 states out of the 28 of the Union, without Hungary, Ireland, Malta, the Netherlands, Poland, Sweden, the United Kingdom and Denmark. Excluding the case of Great Britain and Ireland, as well as other non-AFSJ countries, we will stop at Hungary and Poland as countries whose argumentation are of particular interest to us. “Hungary

and Poland are two of the countries that have refused to join the enhanced cooperation to set up the public prosecutor's office. The Netherlands, Sweden and Malta also ruled out supporting the project, as they are wary of the negative impact it may have on their national judiciary systems. Meanwhile, Denmark, the UK and Ireland have an opt-out on judiciary matters" (Euraktiv, October 2017).

Since its launch in October 2017, the EPPO institution has been welcomed with interest by Transparency International, which also referred to the situation of the two Central European countries: "Until all EU Member States sign up the EPPO, EU funds will still be vulnerable to corruption in countries such as Hungary and Poland. There should be no pockets of impunity in the EU," said the chairman of this NEO in the context in which "according to a recent report, nearly one fifth of OLAF's investigations and recommendations for financial irregularities in Structural and Agricultural Funds were issued to Hungary and Poland." For this reason, the greater the astonishment can be, when we see Hungary's position, for example: "It is not necessary to create a European Public Prosecutor's Office, as we already have the framework within which action can be taken against corruption", Minister of Justice László Trócsányi declared after negotiations with his Dutch counterpart Ard van der Steur in The Hague on 5 December 2016", in the context in which the same Hungarian Minister of Justice highlighted together with the Danish one: "One of the underlying reasons is that they both believe that there are institutions already, for example Eurojust, the EU organisation for prosecution cooperation, acting against criminal acts violating the financial interests of the EU. The creation of the European Public Prosecutor's Office would definitely weaken the position of those institutions, "which is unacceptable for the Netherlands and also undesirable in Hungary."

No wonder, therefore, that, as a result of such positions, the EPPO is seen as yet another step towards multi-speed Europe. "The move is largely procedural but also symbolic for an EU currently debating the possibility of a so-called multi-speed Europe, where some countries can forge ahead with deeper integration" (Euobserver, 10 March 2017). Coincidentally or not, the same press institution announced in November 2017: "EU must confront Poland and Hungary". "These fully-fledged EU member states are not illiberal democracies, they are ill democracies. Countries that deliberately interfere with civil society undermine pluralism and flirt with authoritarianism."

We thus get to the theory that we want to support in this subchapter. That, slowly but surely, as the project and the opportunities for deepening

the European integration grow and multiply, the options of states will be more and more differentiated. Depending on the history of the integration of each of them, more distant or recent, depending on the national political circumstances and even relative to the immediate electoral interests, the positions of the countries relative to different projects are different. We did not choose aleatorily the EPPO case, as it clearly demonstrates how many types of rhetoric can be invoked relative to an initiative of obvious common interest: putting under shared supervision the financial flows that can affect the EU budget, so the objectives of the commune construction.

This rhetoric and these circumstances may be the motivation for which the President of the European Commission has been entrusted with the “enhanced cooperation” EPPO initiative since March 2017. “Several countries move ahead in security and justice matters. They decide to strengthen cooperation between police forces and intelligence services. They exchange all information in the fight against organized crime and terrorism related activities. Thanks to a joint public prosecutor’s office, they collectively investigate fraud, money laundering and the trafficking of drugs and weapons. They decide to go further in creating a common justice area in civil matters.” In addition to some other initiatives, the statement is reproduced in Scenario 3 under the title “Those who want more, do more” (White Paper on the future of Europe, 2017).

## Conclusions

The ideas of W. Schäuble in 1994, for which he has had the honor of being named among the parents of the idea of “multi-speed Europe”, were not at that time solitary, nor scandalous, even if later they were on the head of the one who handled with an iron hand the restoring and stabilization of the European economy after the crisis of 2008. Those ideas were in fact only the results of the thoughts and projections of a man who thought seriously and deeply about some possible aspects of the future of the European Union: “the entire construction will be made up of states that are 50 years of integration away of each other”; “the last entrants do not lack only in common European culture, but also in different visions and projections”; “cultural differences and institutional attitudes are so great from W to E and from N to S, that consensus is impossible”; “in case of the European East, the 50 years of communism themselves will bring additional problems and specific, sometimes negative,

configurations.” These may have been only some of the thoughts of a man who seriously leaned over this aspect at the right time.

The elegance of the historical aspect is that, precisely in the perspective of these realities, Europe has been able to create a safety gateway to move towards new initiatives aimed to achieve EU goals when unanimity, or even qualified majority, cannot be ensured. Leaving open the option of further adherence of countries that didn't participate in the first phase, the EU managed through the “enhanced cooperation” procedure to avoid blocking its progress towards new and new integration stages, without being in the situation to be stopped by countries that do not want that.

“Multi-speed Europe” is not an approach of some against another. Today, the Euro area is the group that sets the speed other countries cannot reach, or do not aim to reach. But it would be wrong for those who can more to wait for those who do not want more. This is all the more important, as it turns out in recent years, that not the power to remain attached to the European values separates us, but the desire to share in the same way, the same values. “The multi-speed Europe” already exists, but it strengthens due to the behavior of some countries. For this reason, it becomes, from a simple option, even an obligation.

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