

Statement



of the German Confederation of Trade Unions (DGB)

White Paper on the Future of Europe

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Summary

On March 1 2017, the European Commission set out a White Paper on the Future of Europe.¹ There was none of the fierce debate that might have been expected with the negative outcome of the Brexit referendum as well as the leave application from the UK government, with the European Union instead remaining trapped in its daily routine. The Brexit negotiations, the row about the distribution of refugees and the issue of financing the EU budget clearly left little or no room for strategic questions on the future disposition of Europe, especially that of the EU. In **December 2017, Europe's future does make it onto the agenda of the European Council.**

The German Confederation of Trade Unions (DGB) holds the view that the future of the Union will utterly depend on an ambitious road map from the heads of government sitting on the European Council.

Contrary to the Rome Declaration in which reference is made to the „incomparably high standard of social security and welfare systems“, European unity and/or the Union are threatened by competition between these systems: the lower the standard the better that is for corporate investment, runs the credo. Legal social and fiscal dumping are valued as accessory rights of single market freedoms. The economic, financial and refugee crises have shown that the current constitutional structure is too incomplete and/or too ill-defined in terms of competence distribution for it to be able to exercise crisis management on behalf of EU citizens. This led to the increasing bypassing of democratic institutions – from the „two pack“ via „six-pack“ to the Troika measures. EU citizens are well aware of this: The counter-concept via election and referendum outcomes appears to be leave or renationalisation. EU-Commission President Juncker is conscious of the precarious situation of the EU.

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¹ https://ec.europa.eu/commission/white-paper-future-europe-reflections-and-scenarios-eu27_en



The social aspect of the European Union should be strengthened and the debate over the EU's future begun. The White Paper sets out how this can be accomplished within the EU's structures.

Five options with their advantages and disadvantages are put forward. One might criticise the fact that the core themes are wrongly set out or certain ones like the social dimension or the progress of democratisation are not given due attention. On the other hand, it can be argued that only after any decision on a defined constitution can one answer any further question about central themes. Here is why: it is only after the subsequent re-ordering of competences between member states and EU that it will be possible to fix a different set of priorities.

A constitutional change for turning the EU into a political union (Option 5 in the White Paper) should indeed be the long-term goal but this does not appear in DGB eyes - given the current situation and the divergent interests of the member states - to be a political option with any prospect of early implementation. **Art 20 EU-Treaty (TEU) and Art 326-334 Treaty on the Functioning of the EU (TFEU) offer as a general instrument instead „strengthened co-operation.“² (Option 3 in the White Paper).** These treaty definitions offer a good basis for a common path in the form of flexible co-operation that ambitious member states may join at different speeds. This could be used inter alia as the format for implementing co-ordinated and harmonised measures along the lines of Title X TFEU in order to give real muscle to the European Pillar of Social Rights. What's more, building on the proposal of Commission President Juncker, the European Labour Authority could form the eventual basis of an EU labour commissioner or EU Labour Minister. This is required if the proclamation at the EU Social Summit in Gothenburg of the European Pillar of Social Rights is to be made effective reality.

The EU-Commission's options *in concreto*

EU-Commission President Juncker in March 2017 presented the White Paper with the words „this is the opportunity to get the EU to function properly again „and with the following proposals:

| Scenario 1 | Scenario 2 | Scenario 3 | Scenario 4 | Scenario 5 |
|-------------|-------------------------------|-----------------------------|-----------------------------|--------------------------|
| Carrying on | Nothing but the single market | Those who want more do more | Doing less more efficiently | Doing much more together |

These 5 scenarios may be classified in three categories:

Confederative continuity (scenario 1 and 4), that retains the status quo with shared sovereignty and competences;

² In the area of common security and defence policy, what's more, Art 42 Para. 6 and 46 TEU make available „permanent structured co-operation“ (PESCO) as an instrument of co-operation.



National division (Scenario 2): The political element and/or the vision of a political union is thrown away, the single market stays on as an institution extended to EFTA and the EEA³. Single market freedoms retain validity in so far as they do not infringe the sovereignty of the member states. Opt-ins and opt-outs would be available for them regarding several measures. Freedom of movement of capital and goods would be prioritised over freedom of establishment and labour.

Federal integration (Scenarios 3 and 5): It means a shared route towards deepening the Union. National competences, such as fiscal controls, monetary/foreign/security policy would be elevated to the supranational level and consolidated. This can work either with all 27 member states or within an „inner federation supported by an outer confederation. The latter would be comparable to today's EU.

From the paper's tone, one can gauge that the Commission itself opts for scenarios 3 and 5. All other variants would sooner or later bring about the EU's collapse. The contradictory political management that was already problematic in stable periods has paralysed the EU during the almost decade-long dominant crisis mode. We saw this with the latest example in the shape of the refugee crisis, with a borderless travel area on one side, handled by a variety of independent interior ministers on the other – each with their own personal agenda. In such circumstances, any slowly maturing co-operation in managing external borders is bound to break down. The same goes for the monetary union: Any agreement over fiscal rules reached in the hope that national governments would follow these is not enough to guarantee the Euro's stability as a transnational currency.

This is grist to the mill of Eurosceptics: A step-by-step reform would neither solve the roots of the problem of a centrifugal development inside Europe nor convince the voters of a (genuine) pursuit of the European Project. EU critics see the future as a (deepened) commercial union – because the original member states had supposedly only agreed to an economic union.

It has to be argued against this narrative that the EU's origins are rooted in a political, not just an economic, intention to end centuries of wars in Europe.

On this basis until the late 1970s there developed a *de facto* federal drive and communitisation of areas that, according to the then EU treaties, lay within the competence of the member states. Directives affecting taxes and social affairs were unanimously concluded.

Margaret Thatcher's election as prime minister of Great Britain closed this era. Thereafter, projects that could find no majority within EU institutions such as Schengen⁴ were pursued on intergovernmental lines of agreement outside the treaties proper – and so was the

³ European Free Trade Association and/or European Economic Area as deepened free trade zone

⁴ Whilst the single currency was from the start part of the EU's legislative framework development, Schengen began in 1985 outside EMU with five member states. The model became increasingly attractive for other member states and was integrated by the Treaty of Amsterdam.

Eurozone. It even has at its disposition its own institutions such as the Eurogroup or the European Stability Mechanism.

The DGB is well aware that progressing in groups can have negative side effects: loss of transparency in the already complex EU construct. Group-formation also means intra-state competition – above all in the area of wages and taxes. As for the above-mentioned successful projects, the DGB's view, however, is that the drive forward by ambitious states can act to remove deadlocks and reduce conflicts among member states so long as each one retains the option of joining Community projects.

Structure of flexible co-operation – Shared route at various speeds

A treaty change for the EU seems in DGB eyes in the current situation and the divergent interests of the member states not to be a political option with any prospect of early implementation. Therefore, the tools that are bestowed by the Treaty on the Functioning of the EU (TFEU) and the EU Treaty itself (TEU) ought to be better utilised. Our view is that Art 20 TEU as well as Art 326 ff TFEU offer a good basis for a shared route at multi-speeds in the form of flexible co-operation. The success of such shared projects depends on three pre-requisites:

Three pre-requisites for keeping things together and enabling progress to be made:

| | | |
|--|---|---|
| 1.) Utilisation of EU institutions; that way full coherence with other EU policies can be safeguarded. | 2.) A group of very decided member states that are ready to invest resources. | 3.) Participation in such co-operation must have advantages, be they economic, political or social. |
|--|---|---|

The asymmetrical development happening in various policy areas within the integration process throws up problems. Market-creating policy, such as the removal of trade barriers, has already made great strides while market-correcting measures such as setting legally binding employment and social standards at EU level have barely begun.

This asymmetry can be ascribed above all to ECJ jurisdiction: The basic economic freedoms codified in the Rome treaties were extended to subjective rights to deregulation. National standards of protection such as protection from mass redundancy in Greece were declared contrary to EU law and abolished. A fresh direction in law-making and a stronger focus on market-correcting measures is theoretically possible through European legislation. But, in fact, the relative political majorities in the Council and Parliament will block this. Political decisions proceed on the lines of the lowest common denominator. These political as well as structural conditions lie behind the liberal economic course of European integration in the last two decades. For this reason, too, the DGB's view is that Scenario 3, „those who want more do more“, offers a practical option for turning Europe into a space of the social policy avant-garde. Such co-operation might for example bring an agreed harmonisation of corporate taxation or fix minimum standards of basic social security.

Admittedly, the TFEU's procedural framework is very strict:

| Pre-requisites for enhanced co-operation | | | | |
|--|------------------------------------|---|---------------------------|---|
| Deepening | No impairment of the single market | Minimum participation rate: 9 member states | Open to all member states | Only active with qualified majority or unanimity in Council |

Over the longer term this instrument should therefore be, inter alia, reformed via a simplified approval quorum as well as an extension of decision-making powers. Provisionally, in our view, however, this is a pragmatic/practical option for achieving a change of course in Europe.

Clarification of competences – how federal should Europe be

A Europe of flexible co-operation might be condemned to failure however if one does not set down the EU's core competences in writing. Without a harmonised core area that is valid for all (core-) member states, it would degenerate into an undefined bunch of states with no brand essence. So far, a comprehensive extension of co-operation in the form of deepening and widening was always the EU's standard answer to integration weariness and crises of meaning.

The 1970s widening to the south, the completion of the European internal market in the 1980s/90s, enlargement to the east, formation of economic and monetary union and the Schengen Accord in the 2000s onwards were a reaction to an emerging „Europe fatigue“. This standard reply of the European political class cannot, however, solve the current crisis. On the contrary: The stake now is retaining what we have achieved and political intervention rather than governance via the market.

A Europe of flexible co-operation therefore requires a definition and statement of its core themes. This is missing in the White Paper. However, a benchmark might be an extended subsidiarity principle: The EU might take over such tasks that can ensure efficiency gains via a transfer of competences that offset possible negative national welfare effects occasioned by centralisation.

Here, the DGB is thinking of strengthened law making based on Title X of the TFEU in which partly co-ordinating, partly harmonising, competences of the Union are foreseen. In an ambitious „roadmap“ interested member states working together with the Commission might propose their priorities for concrete legislative initiatives on social policy for the next five years. The same might happen for correcting the in-built mistakes of European Economic and Monetary Union (EMU) while pursuing the drive for making it a fiscal union that, based on new rules, rejects outright the principle of austerity and the dogma of the „black zero.“ Instead, EMU should be reformed with the introduction of a „fiscal policy golden rule“ granting member states room for public investments for the future; coupled



with an investment offensive from the public authorities (cf DGB-Marshall Plan for Europe: <http://www.dgb.de/themen/++co++d92f2d46-5590-11e2-8327-00188b4dc422>)

Outlook: A fundament for a new EU beacon of a social Europe

Low-tax competition and wage dumping threaten the togetherness of EU member states. Instead of reflecting on shared integration, correcting the structural faults of currency union and taking these forward, workers are being driven into the economic abyss within the framework of austerity measures. The countries that joined with enlargement have hit the limits of their capacity to integrate and are on the defensive as regards any political union. The Commission is aware of this precarious situation and has prompted a fundamental debate with its reflection papers⁵ and White Paper on the Future of Europe.

Simultaneously, however, it has initiated concrete, tough laws that stand diametrically opposed to the social ambitions put forward in the white paper on the EU Social Pillar: from the Roads Package via „Refit“ to the services package, it’s all about deregulation, removal of protective laws for workers and abolition of basic trade union rights.

So long as the Commission is therefore not directly answerable to the European Parliament, so long as there is only one Employment Commissioner who can hide behind the body of the Commission, there may always be this contradictory policy – on the one hand, proclamation of a Social Pillar, on the other continuation of the deregulation programme. In his State of the EU speech of autumn 2017, Commission President Juncker proposed a EU Labour Authority. A starting point for politicising and democratising Title X of the TFEU (social policy). This should be expanded into creating a Labour Commissioner or an EU Labour Minister in order to make good the European Pillar of Social Rights proclaimed at the EU social summit in Gothenburg.

This initiative combined with the White Paper on Europe’s Future can help to implement reforms in individual areas of Title X TFEU that are deadlocked. This requires a group of member states that are ready even in times of crisis to do more together in Europe.

Thereby, the best solution i.e. a deepening of the political union on the lines of a convergence among member states above all in social policy (scenario 5) does not seem achievable right now. But if the best solution is not available then the second-best one becomes the first: The collective path of the willing that remains open for the others when they are ready and able (Scenario 3).

The goals along this new course must be:

- A well-balanced welfare-orientated economic policy geared to correcting the inequities of distribution, the removal of (youth) unemployment and the creation of quality jobs, social and ecologically sustainable investments and protection of the welfare state. Its central element is boosting domestic demand that can be

⁵ Reflexion papers on the social dimension, on globalisation as opportunity, on the future of EMU, on the future of European defense, on the future of EU finances.



bolstered by a productivity-driven wage policy as well as an adequate fiscal and co-ordination taxation policy;

- Introduction of a „golden rule of fiscal policy“ whereby member states win room for public investments for the future; coupled with an investment offensive (cf DGB-Marshall Plan for Europe: <http://www.dgb.de/themen/++co++985b632e-407e-11e2-b652-00188b4dc422> as well as the ETUC Investment Plan for Sustainable Growth and Quality Jobs);
- Embedding a „protocol for social progress“ within EU primary law which prevents the deregulation of the fundamental freedoms in the area of labour and social law along with the principle „equal pay and equal working conditions for the same work at the same place of work“;
- Expanding the social dialogue, extending co-determination, in particular, a directive on the protection of co-determination in cross-border head quarter relocations and the restoration, stabilisation and strengthening of free collective bargaining.