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**The European Integration:
Some Food for Thought**

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The last few years have probably caused a radical transformation of the European project, undermining our “certainties”. The Islamic terrorist attacks, the endless landings of refugees in the southern Mediterranean and the economic and financial crisis have resulted in creating the rise of populist and nationalistic movements, that opened a new era for the European integration. We stand at a crossroads for the future of our Continent and, even though it is hard to say, the Union is somehow in deep trouble.

If Brexit didn’t cause a “domino effect” on other EU Member States – without leading to an institutional crisis –, the fight against terrorism and the management of migration flows put Europe on the side of a slippery slope. Furthermore, the economic crisis has limited the political discretion of the European Countries and it restrained somehow the national welfare states pretences, creating an intense crisis of social rights. In addition, the new hegemony of the financial markets – or, I should say, of some financial players, which speculate on the financial health of those countries that are in distress – has increased the problem of the democratic deficit.

At a time when the focus is on the budgets rather than on the asylum seekers who are knocking on Europe’s doors, a “People’s Europe” must be built as a matter of urgency.

Klaus Tuori is one of the most prominent scholar of EU law and is mostly famous for his research on the topics of European Central Bank, financial markets, law and economy and EU constitutional law. In

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addition, Professor Tuori is the author of various books and articles on the Eurozone crisis. Nevertheless, the present interview takes cues from the seminar Professor Tuori held at *Magna Graecia* University of Catanzaro, as part of the PhD Program in “Teoria del diritto e Ordine giuridico ed economico europeo”.

Leonardo Mellace: *Let's start with an ongoing question. When we try to define the legal system of the European Union and thus understand what it is (State, International organization etc.) many uncertainties arise. Why is that?*

Klaus Tuori: There are several reasons why peculiarity of the EU makes it difficult to define. Two EU dimensions come quickly in mind that complicate the definition: the functional areas and aspirations for the EU. First on the functional area, it seems obvious that in specific areas the EU has elements of a state, perhaps most clearly in the monetary policy area that is not only exclusive union competence but also by nature an undividable one. In some other areas, the EU shares the sovereignty with its Member States, but in effect in a superior position, the more sovereign among the sovereigns. For example, competition policy and more and more also the financial regulation are such areas. The many constitutions of Europe approach has made a major contribution in making this functional complexity more structured, but also provides a different perspective that stresses the interlinkages between the functional constitutions. With the Brexit process, the linkages are also becoming more visible.

The aspirations for the EU can affect the individual perceptions of the EU. For many EU critics, the EU is described as the main culprit for various difficulties at the national level. EU is claimed to control public finances to the extent that national economic policy fails to deliver tangible results. In a sense, the EU is the ultimate economic policy maker in this perspective, and a poorly functioning one. For the EU enthusiasts, the EU is often seen to lack sufficient tools to be able to guarantee a more balanced development in the area. When the discussion turns to positive developments, the respective views of the EU's influence also turn. Thus,

the very fact that the EU shares opinions affects also the way it is perceived and defined.

LM: *How much has the Euro – a single currency without a state – influenced the growth of the national public debt?*

KT: This is another complex issue. Clearly, the economic model of the euro area was not prepared for the type crisis we faced. However, it can be hardly claimed that the UK or even the US was prepared either. It was a new type of crisis stemming from a long evolution of increased debt and asset prices. But clearly, the euro area has been the worst in getting out of the hole. The last decade in the euro area has been very bad for most countries. However, just looking at the facts, actually, the public sector debt, on aggregate, has declined while the one in the US and also Japan (and probably also China) has continued to increase. This can be at least partially be attributed to the EU constraints. Whether this explains the poor economic development or not, is a matter of (unresolved) debate.

At the Member State level, very different patterns emerge. In the run-up to crisis, the level of public debt did not increase in most countries, but the increase in private debt could be related to both real estate booms (Spain and Ireland) or to loss of competitiveness. During the crisis, the private sector debt was turned to public sector debt through various direct and indirect mechanisms.

The peculiar relationship between public debt and the EMU was mentioned already in the Delors Report, namely that the EMU first facilitates the increase in public debt by making it affordable and accessible. When the worries emerge, the binary nature of this process is revealed. A country can be completely excluded from the capital markets with limited set of tools for a rapid correction. Thus, arguably, the euro area Member States face new types of risks stemming from a

high level of indebtedness. Another story is the set of preventive and corrective measures to control the level of deficits and debt that were introduced during the crisis.

LM: *The introduction of the Fiscal Compact – with the crystallization of the golden rule of balanced budget in the individual national systems – has further strengthened the European fiscal rules. But, how can we balance them – and then the neoliberal approach – with the national welfare states pretences?*

KT: To be honest, I am not fully convinced that limiting budgetary imbalances is neither neoliberal nor excludes interventionist policies as such. The deficit limit does originate from the German economic policy thinking, which was present from the Delors report onwards and incorporated in the Maastricht Treaty as an entry criteria and a trigger for the excessive deficit procedure. However, even the German experience from the 1960s onwards shows that in itself the deficit constraint does not dictate the form of a democratic social state or a social policy model. The deficit limit simply states that if a country wishes to have large automatic stabilisers or otherwise wishes to use activist fiscal policy for cyclical purposes, it needs to build sufficient buffers in its fiscal balance in order to avoid it becoming a constraint at the worst moments.

The unfortunate issue seems to be that countries have often been unable to adjust their fiscal apparatus to the needs of the European framework. In addition, it is also likely that the lack of exchange rate flexibility and domestically adjusted monetary policy could have put too much burden on national fiscal policy. This is a very complex issue, where the bare blaming the European constraints is an easy but not necessarily a fruitful solution.

LM: *The emergency legislation seems to require Governments to act in association with other executives rather than through a parliamentary debate. How could we protect European democracies from such a development that centers around decisions taken by executives?*

KT: Good question. At present, my finger would point to national politics. The crisis legislation and various treaties went far in their detail and naturally the European semester has some elements of control, but the issue is still fundamentally a national one. If the executive is able to dictate the discussion by using the EU framework as an excuse, it probably wants to do so. If parliaments or democratic discussion more generally wants to dictate the discussion more, it can do so. Don't always blame the EU but do your work! If you look at the spectrum of different models in euro area Member States, it is hardly the case that the EU framework pushes for a uniform model. Somehow the answers are rather in one hundred concrete changes than in one major change at the EU level. If you follow the discussions on economic frameworks and economic policy at the national level, you are rarely blown away by its high quality.

However, and just to make clear: Here I do not refer to the crisis situations in Greece or even Ireland or Portugal, where the discussions was framed by the EU constraints.

LM: *There are many different theories as to whether a European Constitution exists. Do you think it is possible to talk about a European Constitution?*

KT: This is a theme for a book(s), but a brief answer could be that, substantively speaking, if it looks like a constitution and acts like a constitution, it probably is a constitution. Is it above the level of

normal legislation? Does it provide rules for balancing different values? Is it used by the court as a guidance for judgements in unchartered territories? The answer to all these questions is often affirmative. Is it a nation-state constitution? Of course not, but particularly in the economic area, there are many traces of an economic constitution even beyond what we have ever seen at the national level. It is hardly surprising that with all the constitutional traditions involved, the emergence of a (limited) constitution has not followed any model such as the constitutional moment tradition.

LM: *The Treaty of Maastricht introduced European citizenship. It was created as “fundamental status” that should have strengthened the EU’s social and democratic face. In the light of current and continuing political and economic developments, what is the state of health of European citizenship?*

KT: The approach of giving individuals European rights is hopefully still the basis of the European citizenship. However, the concept of citizenship contains also obligations, which is less of the case. Furthermore, the Brexit process has complicated the idea of the European citizenship, by posing some uncomfortable questions. What kind of a citizenship is it, if it can be annulled by a simple majority of voters and thus only a smallish minority of citizens. Arguable, this question was always part of the assessment of the European citizenship, but now it is being made more concrete by the actual developments.

LM: *Let me ask you the last question. The lack of democratic participation is a problem we need to deal with. How is it possible to do so? Perhaps, by reforming the Treaties?*

KT: As so often, probably the right balance is in the middle. The European citizenship needs to get more positive attributes before it can be added with obligations. Arguably, the agenda is currently set by destructive eurocritics, who have gained the upper hand from the europhiles with their ever closer and always more EU agenda. It is possible that constructive eurocritics need to have a say as well, particularly when the ability of the continent to enhance its citizens welfare is restored. Rather than following some semi-religious approach, I could suggest to take the issues as they are and fix and change what is needed. Again, preferably one hundred small changes compared one big one. The reform of the Treaties could be necessary to gain a firmer legal ground for the current state of affairs, but it needs to be based on a more constructive discussion than is currently possible. Particularly, in the macroeconomic framework, the Treaty and reality have distanced from each other and the reliance on intergovernmental arrangement is not particularly welcome.