
Introduction

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1. BACK TO THE FUTURE

The Lisbon Treaty marks a watershed in the European integration process. With the ink still wet after having signed off on a decade of institutional reform negotiations, the EU was severely hit by the deepest global financial and economic crisis since the end of the Second World War. At the time, the European Union's 'obsession with restructuring its internal arrangements' was famously compared to 'rearranging the deck chairs of a sinking Titanic'.¹ In view of the multiple challenges which have plagued the European Union since – the Greek debt crisis, an unstable neighbourhood, propelling waves of refugees, and the spectre of a British exit from the EU ('Brexit') – one wonders whether the EU's institutional reform still stands the test of time. Seven years after the entry into force of the Treaty of Lisbon and with no further treaty revision in sight, it is worth revisiting the existential call for EU reform made by the 2001 European Council Summit at Laeken in order to verify if the current institutional framework is fit for purpose. This is the overarching aim of this volume.

2. EUROPE AT A CROSSROADS: 2001–2005

In December 2001 the European Council adopted the Laeken Declaration on the Future of the European Union.² It was an important stepping stone in the debate about the future of Europe, a follow-up to Declaration 23 on the Future of the Union, which was annexed to the Treaty of Nice.³ It outlined the main thematic areas and pencilled in future steps that had to be taken on the path to a reform of the Union.⁴ Following intensive brainstorming across the continent the European Council concluded that the European Union was 'at a crossroads, a defining moment of its existence', therefore major changes were necessary.⁵ One has to agree with that diagnosis. The European

¹ K. Mahbubani, 'Europe's Errors', *Time Magazine*, 8 March 2010.

² Laeken Declaration on the Future of the European Union, Bull.EU 12/2001, pp. 19–23.

³ Treaty of Nice amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts, signed at Nice, 26 February 2001, OJ 2001 C 80/1.

⁴ The questions dealt with the clarification and delimitation of competences between the EU and the Member States, the future status of the Charter of Fundamental Rights, simplification of the Founding Treaties and the role of national parliaments.

⁵ For a detailed account see, *inter alia*, P. Craig, *The Lisbon Treaty: Law, Politics, and Treaty Reform*, Oxford University Press 2010, p. 1; J-C. Piris, *The Constitution for Europe: A Legal Analysis*, Cambridge University Press 2006, p. 38.

Union was heading quickly for the biggest enlargement ever, the Eurozone was shaping up, and the EU was dealing with more substantive dossiers than ever before. Yet, as the European Council acknowledged, EU citizens were detached from the integration project, while having big expectations about it. Thus, one of the challenges was to bring the EU closer to its citizens. Another major challenge was the EU's position in the world. The memories of Ground Zero were very fresh in everyone's minds, with the war on terror imminent, while the drive to globalisation and liberalisation of trade were the *leitmotifs* in international relations. The conclusion was simple: the European Union had to face many challenges in the years ahead but, in order to do so effectively, it needed to reform.

The European Council claimed that 'the Union need[ed] to become more democratic, more transparent and more efficient'. Clearly the reforms pursued in the late 1980s and throughout the next decade were deemed insufficient to meet the needs of the new century. In all fairness, however, one has to argue that the four treaty revisions conducted in that period were important steps forward.⁶ At the same time, neither the substance nor the methods employed for these revision Treaties were completely tenable. This was one of the reasons why the European Council in Laeken decided to proceed in a brand new way, injecting a fair degree of democracy into the process by calling a *pouvoir constituant*, i.e. the Convention on the Future of Europe.⁷ The mandate was broadly formulated through a long list of questions touching upon the fundamentals of European integration. They fell under three main themes. The first was a better division and definition of competence in the EU. The European Council called for a more transparent distinction between the exclusive EU competence, the Member States' competence as well as shared competence. Furthermore, the Laeken Declaration encouraged a debate on the existing competences of the Union and how to marry the latter with the expectations of EU citizens. The second theme was more technical in nature, yet highly important: the simplification of EU instruments, primarily the catalogues of secondary legislation at the disposal of EU decision-making institutions. Undoubtedly, three separate catalogues for the European Communities as well as the second and third pillars of the European Union were creating confusion, not to mention that the lack of a coherent and transparent distinction between legislative and implementing legal acts was a source of concern. But first and foremost, the European Council called for a simplification of the primary law and a decision on the future status of the Charter of Fundamental Rights. The third and last main theme touched upon three main weaknesses of the then European integration model. The Laeken Declaration made it clear that the European Union needed more democracy, transparency and efficiency. A series of questions for the consideration of the European

⁶ Single European Act, OJ 1987 L 169/1; Treaty on European Union, OJ 1992 C 191/1; Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts, OJ C 340/1997, p. 1; Treaty of Nice amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts, *loc. cit.* n. 3.

⁷ On treaty revisions and the importance of the Convention in this respect see B De Witte, 'Treaty Revision Procedures after Lisbon', in A. Biondi, P. Eeckhout and S. Ripley (eds), *EU Law after Lisbon*, Oxford University Press 2012, p. 107, particularly at pp. 111–117.

Convention touched upon the institutional set-up of the Union, the role of national parliaments and the efficiency of its decision-making.

With this broadly defined agenda the European Convention started its work under the chairmanship of the former French President Giscard d'Estaing.⁸ Unlike the inter-governmental conferences that had prepared the previous treaty revisions, the European Convention was arguably a far more transparent exercise. A dedicated website allowed EU citizens to follow the debate and made a plethora of preparatory documents available to members of the public. The European Convention and the Intergovernmental Conference (IGC) that followed led to the adoption of a Treaty establishing a Constitution for Europe.⁹ Alas, as is well known, it was rejected by voters in referenda in France and in the Netherlands. And thus, in the summer of 2005, the European Union found itself back at the crossroads, at another defining moment in its existence.

3. THE LISBON WATERSHED

After a period of reflection, the European Union embarked on a new attempt at reforming itself. This time, however, it marked a return to the old ways of guiding the European integration process. This led to a big disappointment for supporters of a federal Europe. Even before the European Council adopted the mandate for the Intergovernmental Conference it became clear to them that the idea of a European Constitution would, at least for now, be relegated to the history books. At the same time, though, it was acknowledged that some elements of the Treaty establishing a Constitution for Europe were worth resuscitating. The negotiation mandate itself was rather detailed, clearing the way for a relatively short IGC, following which the Treaty of Lisbon was signed on 13 December 2007.¹⁰ Clearly, at that time, the European Union was already suffering from treaty revision fatigue, which was exacerbated by a negative referendum in Ireland and a series of legal challenges to the Treaty of Lisbon in national constitutional courts.¹¹ After several ratification dramas, the Treaty of Lisbon entered into force on 1 December 2009.¹²

⁸ For details of proceedings see, *inter alia*, P. Norman, *The Accidental Constitution: The Story of the European Convention*, 2nd edn, EuroComment 2005.

⁹ Treaty establishing a Constitution for Europe, OJ 2004 C 310/1. For a commentary see, *inter alia*, J-C. Piris, *The Constitution for Europe: A Legal Analysis*, *loc. cit.* n. 5; D. Curtin, A.E. Kellermann and S. Blockmans (eds), *The EU Constitution: The Best Way Forward?*, T.M.C. Asser Press 2005.

¹⁰ See, *inter alia*, P. Berman, 'From Laeken to Lisbon: The Origins and Negotiation of the Lisbon Treaty', in A. Biondi, P. Eeckhout and S. Ripley (eds), *EU Law after Lisbon*, Oxford University Press 2012, p. 3, at pp. 22–39; J-C. Piris, *The Lisbon Treaty: A Legal and Political Analysis*, Cambridge University Press 2010, at pp. 25–70.

¹¹ See, *inter alia*, M. Wendel, 'Lisbon before the Courts: Comparative Perspectives', 7 *EUConst* (2011) p. 96.

¹² See, *inter alia*, J-C. Piris, *The Lisbon Treaty: A Legal and Political Analysis*, *loc. cit.* n. 10; A. Biondi, P. Eeckhout and S. Ripley (eds), *EU Law after Lisbon*, *loc. cit.* n. 10; M. Trybus and L. Rubini (eds), *The Treaty of Lisbon and the Future of European Law and Policy*,

There is no doubt that after several rounds of Treaty revision since the fall of the Berlin Wall, hopes were high that this new treaty framework would equip the European Union with a more effective and democratic political system and transform it into a more unified and influential global player. Unfortunately, the post-Cold War dream of increasing levels of peace and prosperity came crashing down in two of the most severe crises to have erupted since the start of the European integration process: the financial and economic crisis and the transformation of the geographical neighbourhood from a ring of friends into a ring of fire which, in turn, has led to a refugee crisis of massive proportions. These crises, combined with tendencies of 'regressive nationalism' (in extremis: the desire of the United Kingdom to leave the EU) and even increased illiberalism in some Member States (e.g. Orban's Hungary and Kaczynski's Poland) have confronted the EU with a trio of fundamental challenges.

The first concerns the gradual erosion of the communitarian roots of the EU as a result of the shift in governance mode in high-profile policy domains. In the words of one commentator, the 'slow poison of intergovernmentalism' is changing the political culture in European integration in favour of the Heads of State or Government who prioritise short-term gains in economic and monetary matters, migration and foreign affairs over common long-term goals.¹³ As a result, qualified majority voting (QMV) has seemingly lost its significance as critical policy issues are lifted from the Council and subjected to intergovernmentalist bargaining in the European Council. In some cases (e.g. quotas for the redistribution of refugees), the Commission's proposals have failed to gain any traction towards a common goal and floundered in the absence of solidarity among Member States. Moreover, the Commission has allowed itself to become more politicised,¹⁴ thereby skewing the pre-Lisbon 'institutional balance' even further. The Court seems to be the final bulwark of *l'esprit Monnet*, but its ivory tower approach in cases such as Opinion 2/13 has exposed it to unnecessary controversy.¹⁵

The second challenge, partly stemming from the first, is an increasingly severe democratic deficit, which translates into ever-more pertinent questions about the legitimacy of the elitist project and detachment from the man in the street. The financial crisis has proved very fertile ground for the rise of the far ends of the political spectrum, including strong anti-EU movements. Then again, the way the EU has navigated through the Eurozone crisis does indeed raise many doubts. The rise of the European Council and shortcomings in the oversight by the European Parliament and national parliaments of reforms in the EU's economic governance and financial sector have added sparks to the embers.

The third major challenge for the European Union is that of dealing with heterogeneity. The rifts which have opened between Member States in the frontline of Russia's aggressive foreign policy, those embroiled in Greece's Eurozone crisis and

Edward Elgar Publishing 2012; M. Dougan, 'The Treaty of Lisbon 2007: Winning Minds, Not Hearts', 45 *CMLRev* (2008) p. 617.

¹³ J. Janning, *More Union in the EU*, ECFR Commentary, 17 September 2015.

¹⁴ See V. Pop, 'Let's Get Political. Juncker-Style', *Wall Street Journal*, Real Time Brussels blog, 7 May 2015.

¹⁵ Opinion 2/13 of the Court of 18 December 2014: Accession by the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms, ECLI:EU:C:2014:2454. See also View of Advocate General Kokott, ECLI:EU:C:2014:2475.

those facing waves of refugees making the perilous journey across the Mediterranean into the EU have called into question the cohesion, solidarity and integrity of the Union. Moreover, the European Union is still facing a well-known dilemma: widening vs. deepening. Following a series of enlargements the EU now comprises 28 Member States, with several countries waiting in the queue.¹⁶ This widening, however, comes at a price. It is becoming increasingly difficult to satisfy the needs and desires of all Member States. Thus, flexible integration models are proliferating. The basic division into Eurozone countries and the wider ring of Member States that do not participate in the common currency is accompanied by several opt-outs that the United Kingdom, Ireland and Denmark benefit from. Some of the 'young' Member States are only slowly phased in to all areas of integration, such as the Eurozone and the Schengen Agreement. With all that in mind, some argue that the future of Europe is inevitably in multi-speed integration.¹⁷ Some, however, go as far as to claim that the end of the integration project may be near.¹⁸

4. FIT FOR PURPOSE?

Seven years after the entry into force of the Treaty of Lisbon and bearing in mind the plethora of crises the Union is facing, it is worth going back to all the existential questions posed by the European Council in 2001 and verifying if the current institutional framework is fit for purpose. This volume offers a legal analysis which goes well beyond the EU's legislature and executive. After all, the effectiveness of the European Union cannot be judged by only focusing on its main decision-making institutions. What is sometimes forgotten in political circles is that the EU comes with a legal order which is directly enforceable at the national level. A key role is played by the Court of Justice of the European Union, which has a particular task of making sure that the law is observed.¹⁹

This volume starts with a series of chapters that touch upon the foundations of the European Union, its competences and main actors (Part I). As mentioned in the introductory remarks above, one of the main objectives of the European Convention was to look into the constitutional foundations of the European Union with a view to simplifying the Treaty framework and making the EU institutions more effective. Both objectives have been partly achieved with the entry into force of the Treaty of Lisbon. In the opening chapter of this book the editors take stock of the Lisbon reform and its implementation during the past years. Inevitably, the picture is mixed. The system designed by the drafters of the Treaty was most likely built on the myopic premise that managing the European Union in the years to come would be largely business as usual.

¹⁶ The current candidate countries include Turkey, Montenegro, Serbia, Albania and the Former Yugoslav Republic of Macedonia. Bosnia and Herzegovina as well as Kosovo remain potential candidates. Iceland has abandoned its accession drive.

¹⁷ J.C. Piris, *The Future of Europe: Towards a Two-Speed EU?*, Cambridge University Press 2012.

¹⁸ J. Zielonka, *Is the EU Doomed?*, Cambridge University Press 2014.

¹⁹ As per Article 19(1) TEU.

However, the challenges listed above brought new dynamics and phenomena that the European Union is having difficulty dealing with.

Another crucial issue which has occupied minds for the last decades is the division of competences between the European Union and the Member States. On the one hand, the Treaty of Lisbon (building on the consensus reached during the drafting process of the Constitutional Treaty) codifies the existing regime and for the first time provides a catalogue of EU competences. On the other hand, the actual division of tasks and decisions of who does what continuously raises doubts and contestation. The balance of competence review in the United Kingdom is a case in point.²⁰ In this book Claes and de Witte look at various parameters of both codification and contestation (Chapter 2).

In no other domain are the tensions between the national and the EU's competence as clearly visible as in economic and monetary policy. This, naturally, is a result of the Eurozone troubles, particularly the sovereign debt crisis in Greece. The crisis was unprecedented and shook the legal foundations of the common currency. Tackling a drama of that magnitude requires a lot of wit, political and legal experimentation and an ability to make sound judgments under the pressures of time and economic reality. In that sense the European Union found itself not just at the proverbial crossroads but also on the edge of a cliff. Handling the Eurozone crisis has undoubtedly created new dynamics in the decision-making process. This is explored by van Duin and Amtenbrink in Chapter 3 of this book.

The democratic deficit of the European Communities and the European Union has been a constantly debated topic in political circles and among scholars over the last decades. As already mentioned, the Laeken Declaration called for more democracy, transparency and efficiency in the European Union. One of the ways in which this can be achieved is increasing the role of national parliaments, particularly when it comes to verification if the European Union and its institutions comply with the principle of subsidiarity. In Chapter 4 Cygan explores to what extent the national parliaments serve as guardians of this principle.

Another aspect of the everyday functioning of the European Union, one that hardly ever reaches the covers of newspapers, is the tedious and technical work which often is delegated to agencies. As Everson and Vos note in Chapter 5 of this book, 'the European agencies have become part and parcel of the EU's institutional landscape. Vitally, it would be impossible today to conceive of a functioning Union in the absence of European agencies, which perform key roles within integration processes.'²¹ This triggers a lot of problems and fascinating questions that deserve answers. This also includes very legitimate doubts as to the powers of agencies, judicial scrutiny of their actions and institutional balance in the European Union.

The quality of democracy at the EU level is a reoccurring theme in debates about the future of the European Union. As noted earlier, this was so also back in the early years

²⁰ For a commentary see M. Emerson (ed), *Britain's Future in Europe: Reform, Renegotiation, Repatriation or Secession?*, 2nd edn, CEPS 2016.

²¹ M. Everson and E. Vos, 'European Agencies: What about the Institutional Balance?', Chapter 5 in this volume.

of this century when constitutionalisation of the Union seemed to be in full swing. Is the European Union anno 2016 a more democratic, transparent and human-rights-based polity? Is it closer to its citizens? Three chapters grouped in Part II of this book look at those matters in greater detail. The starting point is an evaluation of Article 11 TEU, which was introduced by the Treaty of Lisbon and provides some crucial democratic foundations for the European Union, including the basic parameters of the citizens' initiative. In Chapter 6 Mendes puts Article 11 TEU under a scientific microscope and provides a critical analysis of the provision in question.

Article 11 TEU and a few other provisions were also aimed at reducing the heavily criticised secrecy in EU decision-making. Although the drive towards transparency had started before the deliberations of the European Convention, the Convention too paid a lot of attention to rendering the European Union more accountable. This is looked at in detail in Chapter 7, where Curtin and Hillebrandt take a close look at the constitutional overtones, institutional dynamics and the escape hatch of secrecy.

One of the main ingredients of a democratic polity based on rule of law is the protection of fundamental rights. As is well known, the European Communities and the European Union developed in a very idiosyncratic way in this respect. First, it was the Court of Justice that decided to introduce fundamental rights to the EC/EU legal order *qua* general principles of law.²² Then an attempt was made for the European Community to accede to the European Convention for Human Rights and Fundamental Freedoms (ECHR). When that was blocked by the Court of Justice in Opinion 2/94²³ the only remaining option was to develop a bill of rights for the Union. At the turn of the millennium, the European Union had merely a non-binding Charter of Fundamental Rights and no competence to accede to the ECHR. No doubt, the Union was ill equipped in this respect and the Convention on the future of Europe was therefore instructed to take this into consideration. The Lisbon Treaty cemented, at least partly, what was agreed to in the Treaty establishing a Constitution for Europe. The Charter, although technically not part of the Treaty of Lisbon, has become binding through a cross-reference in Article 6 TEU.²⁴ Furthermore, the EU gained competence to accede to the ECHR. This, again, was blocked by the Court of Justice when it delivered its Opinion 2/13 in December 2014. In Chapter 8 Kuijjer takes stock of these developments.

If one looks back at six decades of European integration there is no doubt that the Court of Justice of the European Union (CJEU) has played a fundamental role in shaping the EU and the legal order which underpins it.²⁵ The Court has definitely

²² See, for instance, Case 29/69, *Erich Stauder v City of Ulm – Sozialamt*, ECLI:EU:C:1969:57.

²³ Opinion 2/94 of the Court of 28 March 1996: Accession by the Community to the European Convention for the Protection of Human Rights and Fundamental Freedoms, ECLI:EU:C:1996:140.

²⁴ This, as argued in the academic literature, has the same effect as if the Charter had been formally part of the Founding Treaties. See M. Borowski, 'The Charter of Fundamental Rights in the Treaty on European Union' in M. Trybus and L. Rubini (eds), *loc. cit.* n. 12, p. 200, at p. 208.

²⁵ See, *inter alia*, A. Rosas, E. Levits and Y. Bot (eds), *The Court of Justice and the Construction of Europe: Analyses and Perspectives on Sixty Years of Case-law*, T.M.C. Asser Press 2013.

become one of the most powerful players and a strong anchor in the EU's institutional landscape,²⁶ although its legitimacy is often questioned.²⁷ Part III of this book looks at several aspects of the Court's functioning, including novelties introduced by the Treaty of Lisbon and what is yet to follow.

As much as the Court of Justice of the European Union is important, it too is in need of reform. In Chapter 9, Capeta outlines the main problems and challenges facing the Court in the coming years. Some structural deficiencies are addressed, particularly when it comes to the General Court and its work overload. The style of judicial discourse also raises many doubts. Some judgments suffer from poor reasoning, others leave their *raison d'etre* well locked in the deliberation rooms. The possibility of introducing dissenting opinions comes back regularly in the academic discourse. An interplay between the advocates general and the judges is frequently discussed, too.

Three main procedures at the Court of Justice play a fundamental role in securing that the European Union institutions act within the limits of their powers (Article 263 TFEU), the Member States comply with EU law (Articles 258–260 TFEU) and national courts interpret EU law in a consistent fashion (Article 267 TFEU). Judicial review is discussed by Kaleda in Chapter 10. One of the novelties introduced by the Treaty of Lisbon is the modified *locus standi* of individuals to submit actions for annulment. This particular issue has been a never-ending source of academic literature and frustration ever since the Court of Justice in 1963 closed its doors to Mr Plaumann, and many private applicants that have been trying their luck ever since.²⁸ The door is constantly left ajar, though, arguably, the Lisbon reform was supposed to change this.

There is no doubt that the effectiveness of the European Union can be judged and measured in many ways. One of them is the effectiveness of EU law and compliance by the Member States. Ever since the Treaty of Maastricht entered into force, the Court of Justice has been equipped with powers to impose financial penalties on Member States that do not comply with EU legislation. Sikora proves in Chapter 11 that Articles 258–260 TFEU are not 'lettres morte' of the Treaty and that more and more Member States learn that non-compliance can be an expensive adventure.

An area where the power of the Court of Justice is particularly visible is the preliminary ruling procedure. Although far from perfect, it has proven to be of fundamental importance for the everyday application of EU law in national courts. At the same time this procedure raises questions as some of its aspects are unexplored. Bobek, in Chapter 12, argues that the Court's preliminary rulings can be characterised as between *Dichtung* and *Warheit*.

In one respect the Court of Justice has made a firm mark on the history and evolution of European integration: it set the foundations for the creation of a new legal order.

²⁶ See, *inter alia*, K.J. Alter, *The European Court's Political Power: Selected Essays*, Oxford University Press 2009.

²⁷ See most recently M. Adams, H. de Waele, J. Meeusen and G. Straetmans (eds), *Judging Europe's Judges: The Legitimacy of the Case Law of the European Court of Justice*, Hart Publishing 2013.

²⁸ Case 25/62, *Plaumann & Co. v Commission of the European Economic Community*, ECLI:EU:C:1963:17.

Starting with two cases, *Van Gend en Loos*²⁹ and *Costa v ENEL*,³⁰ it commenced a construction of a legal order for the European Union. In the early 1960s, when both judgments were rendered, the Court took a great gamble with its own legitimacy. More than 50 years later the EU legal order is a fact, although some of it also belongs to *Dichtung* and some to *Warheit*. This does not mean, however, that those developments are free from controversy. Of all the principles developed by the Court of Justice it is the primacy of EU law that raises most doubts and battles between the Court of Justice and national judiciaries, in particular the domestic constitutional courts. In Chapter 13 Capik takes a look at those five decades since *Van Gend* and *Costa* came to town.

One of the most intriguing and challenging lines of jurisprudence of the Court of Justice deals with national procedural autonomy. On the one hand, the judges in Luxembourg are fully aware that the ways of enforcing EU law fall within the domestic domain. On the other hand, when the effectiveness of EU law is at stake they don't shy away from intervening. In Chapter 14 Avbelj analyses the concept of procedural autonomy, as well as its limits and consequences.

As mentioned above, one of the main devices for ensuring the effectiveness of EU law is the infraction procedures. Even if the Court of Justice imposes financial penalties, the victims of Member States' breaches are not compensated by this. This is one of the reasons why the Court developed in its jurisprudence the doctrine of state liability for breaches of EU law as well as the foundations for rules on the liability of individuals for breaches of EU competition law by undertakings. Furthermore, Article 340 TFEU provides a separate regime for the liability of the European Union itself. All of these three liability regimes have moved on significantly since their early days, and this is tracked by Gutman in Chapter 15 of this book.

In his first State of the Union Speech, President J.C. Juncker of the European Commission boldly argued as follows:

This is not the time for business as usual.

This is not the time for ticking off lists or checking whether this or that sectorial initiative has found its way into the State of the Union speech.

²⁹ Case 26/62, *Van Gend en Loos*, ECLI:EU:C:1963:1. See further, *inter alia*, P. Pescatore, 'Van Gend en Loos, 3 February 1963 – A View from Within', in M.P. Maduro and L. Azoulai (eds), *The Past and Future of EU Law: The Classics of EU Law Revisited on the 50th Anniversary of the Rome Treaty*, Hart Publishing 2010, p. 3; B. de Witte, 'The Continuous Significance of Van Gend en Loos', in M.P. Maduro and L. Azoulai (eds), *ibid.*, p. 9; F.C. Mayer, 'Van Gend en Loos: The Foundation of a Community of Law', in M.P. Maduro and L. Azoulai (eds), *ibid.*, p. 16; D. Halberstam, 'Pluralism in Marbury and Van Gend', in M.P. Maduro and L. Azoulai (eds), *ibid.*, p. 26.

³⁰ Case 6/64 *Flaminio Costa v E.N.E.L.*, ECLI:EU:C:1964:66. See further, *inter alia*, N. Fennelly, 'The European Court of Justice and the Doctrine of Supremacy: *Van Gend en Loos*; *Costa v. ENEL*; *Simmenthal*', in M.P. Maduro and L. Azoulai (eds), *ibid.*, p. 39; I. Pernice, '*Costa v. ENEL* and *Simmenthal*, Primacy of European Law', in M.P. Maduro and L. Azoulai (eds), *ibid.*, p. 47; H.C. Hofmann, 'Conflicts and Integration: Revisiting *Costa v. ENEL* and *Simmenthal II*', in M.P. Maduro and L. Azoulai (eds), *ibid.*, p. 60; M. Ramsussen, 'From *Costa v. ENEL* to the Treaties of Rome: A Brief History of a Legal Revolution', in M.P. Maduro and L. Azoulai (eds), *ibid.*, p. 69.

This is not the time to count how many times the word social, economic or sustainable appears in the State of the Union speech.

Instead, it is time for honesty.

It is time to speak frankly about the big issues facing the European Union.

Because our European Union is not in a good state.

There is not enough Europe in this Union.

And there is not enough Union in this Union.

We have to change this. And we have to change this now.³¹

These lines serve to hammer home the point that the European Union is yet again ‘at a crossroads, a defining moment of its existence’. The key question is how to make the changes that the EU needs. Before that happens it is worth taking stock of the most recent reforms introduced by the Treaty of Lisbon and in the wake of the Eurozone crisis. When analysing the current state of affairs it is worth looking through a critical prism not only at the politics of the European Union and the challenges ahead, but also at the relevant legal framework – including the Union’s common roots. This is exactly what the chapters that follow do.

³¹ Full text available at: http://europa.eu/rapid/press-release_SPEECH-15-5614_en.htm.