

2 FROM THE TREATY OF ROME TO THE ROME DECLARATION

Scenarios for the European Union's Future

*Miklós Király**

While it is not possible to find a crystal globe which could accurately predict the future of the European Union, nevertheless we can draw up a few, albeit roughly outlined, scenarios.

Both this presentation and conference¹ would undoubtedly start in a different manner if we were still back in 2007 celebrating the 50th anniversary of the Treaty of Rome. At that time, we could still talk predominantly about successes, outlining the Union's spectacular eastwards expansion, the adhesion of a dozen new states in the so called "Big Bang" and the continued economic growth. Now, in 2017, our confidence in the future has been somewhat shaken.

In truth we have always known that the European Union is an "unfinished" organization. The European Parliament, the institution driving integration with direct democratic legitimacy, in spite of its considerable strengthening over the last decades, still holds limited power with regards to the integration's decision making processes. The workings of the EU have become ever more complex, but through its convoluted bureaucracy it has alienated its citizens. We see that the common currency, the euro, is fragile without a common economic policy. The common foreign and security policy is only successful to a certain degree. The process of integration is still underway, in progress, but its development is hampered by member state fears related to strong central institutions with authority over state decisions. The loss of sovereignty is generally perceived negatively, while the advantages of integration can be easily forgotten.

This changing and constantly evolving European structure is currently faced with new challenges. It is by now stereotypical to say that the European Union has been the subject of major shocks over a short period of time. The financial and economic crisis, large scale migration, the onslaught of a new wave of terrorist attacks in Europe, the decision of the United Kingdom's citizens to leave the Union, that is Brexit. Further to this, several crisis

* Miklós Király: professor of law, Eötvös Loránd University (ELTE), Budapest.

1 The current text is an edited version and translation of a presentation given at the FIDE Hungarian Association Union's conference marking the 60th anniversary of the Treaty of Rome, held on the 10th of November 2017 with the title: "Where to next, European Union?"

MIKLÓS KIRÁLY

areas have developed in the proximity of the Union's eastern and southern borders, from the Ukraine and Syria all the way to Libya.²

It is also a fact that these are not completely new, unknown challenges. *József Antall*, late prime minister of Hungary, had already mentioned most of them in November 1990, during his famous speech about the responsibility of Europe's politicians, delivered at the OSCE summit in Paris:

“On the threshold of the 21st century, Europe and North America should join forces in striving to find their mission, for they are about to face new challenges concerning the politics of power, energy resources, social conflicts, and unfamiliar world views, often in the shadow of international terrorism, and this makes it necessary for them to restore historical unity, and spiritual and moral solidarity.”³

The most painful case is that of Brexit,⁴ as it is not an external influence, but a questioning of the dynamics of the Union's internal development. This means that the Union can not only grow, but also shrink or even diminish. We keep asking what has gone wrong, although we know that we will only be able to get relatively unbiased answers in the long run, after decades, when the United Kingdom's departure from the Union, if it will really take place, will have become history and not daily news, and the initial uncertainty will have been replaced by the new order of relationships between the United Kingdom and the European Union.

Nevertheless, the questions will stay with us until then. Was Britain always an “awkward partner” of the European integration?⁵ Was *Robert Schuman* right, when he wrote about the reclusive England that “For it, the integration process feels like a home invasion, or some sort of serious indiscretion.”⁶ Or is the result of the referendum simply the response to an infringement of a country's constitutional identity? Did the Union perhaps become too interventionist, thus threatening the traditional values of “*Englishness*” and *common law*, as evocatively argued for by the conservative philosopher *Roger Scruton*? Even if there are no definitive answers yet, we can already see the long term effect of Brexit. It is enough to read the European Council Guidelines of April 29, 2017: The

2 See further: Jaap W. de Zwaan, *Stability and Differentiation in the European Union. Search for a Balance*, Eleven International Publishing, The Hague, 2017, p. 45, and especially pp. 12-13.

3 In: *József Antall, Modell és Valóság II.* (Model and Reality II.), Atheneum Nyomda Rt., Budapest, 1994, pp. 326-330, and especially p. 330.

4 For some of the first Brexit analyses see: *ELTE Law Journal*, 2016/1, Brexit special issue or *ZSE Zeitschrift für Staats und Europawissenschaften*, 14. Jahrgang, 2016/2.

5 Cf.: Stephen George, *An Awkward Partner, Britain in the European Community*, Oxford University Press, Third ed., 1998, p. 298.

6 Robert Schuman, *Európaért* (Pour l'Europe), Pannónia Könyvek, Baranya Megyei Könyvtár, 1991, p. 180, p. 103.

2 FROM THE TREATY OF ROME TO THE ROME DECLARATION

decision of the United Kingdom to leave the Union creates considerable uncertainty and can cause disruptions mainly in the United Kingdom, but also in other member states. Those citizens who have built their life on the premise of rights emanating from the United Kingdom's EU membership are now facing the prospect of losing these. Enterprises and other stakeholders cannot count on the certainties and securities of EU law.⁷ Although Brexit will not be the "day of last judgement", and a new order of relationships between the Union and the United Kingdom will develop, this will be a painful and difficult process, perhaps with some chaotic elements.

There are, however, longer term issues as well. Among them we can name the continent's declining population and its fast aging, or the decreasing global economic influence. We can also sense a weakening in the integration's spiritual force, the waning of the European unity ideal. We are experiencing the rise of nationalist and populist parties in several Member States. All of this makes it clear that there is no guaranteed linear development line in the Union's history which would make it possible to gradually progress, one step at a time, towards political union and a federative model. On the contrary, we tend to feel that the European Union itself is a historical construct, with a limited life span, and its survival depends on the efficient handling of crises.

It is therefore legitimate to ask what steps need to be taken in the future. The European Union tries to provide guidance in two important documents, the Rome Declaration, issued to mark the 60th anniversary of the Treaty of Rome, and the White Paper of the European Commission. It would nevertheless be superfluous to deny that there is also a document negating the above on an intellectual level, the so-called Paris Declaration.

The Rome Declaration was signed by the member states and the leaders of the European Council, European Parliament and the European Commission on the 27th of March 2017 solemnly declared that:

"We will make the European Union stronger and more resilient, through even greater unity and solidarity amongst us and the respect of common rules. Unity is both a necessity and our free choice. Taken individually, we would be sidelined by global dynamics. Standing together is our best chance to influence them, and to defend our common interests and values. 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."⁸

7 Special European Council (Art. 50), 29/04/2017, in response to the United Kingdom's announcement. Source: <http://www.consilium.europa.eu/media/21750/29-euco-art50-guidelines-hu.pdf>.

8 <http://www.consilium.europa.eu/hu/press/press-releases/2017/03/25/rome-declaration/pdf>.

MIKLÓS KIRÁLY

The Declaration outlines a number of common goals, namely 1. A safe and secure Europe, 2. A prosperous and sustainable Europe, 3. A social Europe, 4. A stronger Europe on the global scene.

Each of these goals can be further elaborated, which the Declaration does, as per the below:

1. *A safe and secure Europe*: a Union where all citizens feel safe and can move freely, where our external borders are secured, with an efficient, responsible and sustainable migration policy, respecting international norms; a Europe determined to fight terrorism and organised crime.
2. *A prosperous and sustainable Europe*: a Union which creates growth and jobs; a Union where a strong, connected and developing Single Market, embracing technological transformation, and a stable and further strengthened single currency open avenues for growth, cohesion, competitiveness, innovation and exchange, especially for small and medium-sized enterprises; a Union promoting sustained and sustainable growth, through investment, structural reforms and working towards completing the Economic and Monetary Union; a Union where economies converge; a Union where energy is secure and affordable and the environment clean and safe.
3. *A social Europe*: a Union which, based on sustainable growth, promotes economic and social progress as well as cohesion and convergence, while upholding the integrity of the internal market; a Union taking into account the diversity of national systems and the key role of social partners; a Union which promotes equality between women and men as well as rights and equal opportunities for all; a Union which fights unemployment, discrimination, social exclusion and poverty; a Union where young people receive the best education and training and can study and find jobs across the continent; a Union which preserves our cultural heritage and promotes cultural diversity.
4. *A stronger Europe on the global scene*: a Union further developing existing partnerships, building new ones and promoting stability and prosperity in its immediate neighbourhood to the east and south, but also in the Middle East and across Africa and globally; a Union ready to take more responsibilities and to assist in creating a more competitive and integrated defence industry; a Union committed to strengthening its common security and defence, also in cooperation and complementarity with the North Atlantic Treaty Organisation, taking into account national circumstances and legal commitments; a Union engaged in the United Nations and standing for a rules-based multilateral system, proud of its values and protective of its people, promoting free and fair trade and a positive global climate policy.

At the same time, the Rome Declaration does not contain, beyond the above quoted beautiful thoughts, any definite intentions regarding rebuilding, which would imply the modification of the fundamental agreements. For example, there is no mention of pre-

2 FROM THE TREATY OF ROME TO THE ROME DECLARATION

viously vehiculated plans to set up a EU Security Council to enable a more efficient foreign affairs and security policy.⁹

The White Paper of the European Commission¹⁰ was released somewhat earlier, in March 2017, and contains more specific scenarios than the Rome Declaration, as follows: 1. Carrying on, 2. Nothing but the single market, 3. Those who want more, do more, 4. Doing less more efficiently and 5. Doing much more together.

As per the “*Carrying on*” scenario, the 27 member Union (thus excluding the United Kingdom) would focus on enacting its current reform programme. The main goals would be creating jobs, economic growth, investments and financial control. This therefore means that the Union would try to weather the crisis with its current means, even though the challenges faced point exactly towards their inadequacy.

In contrast, in case the “*Nothing but the single market*” goal were to be accepted, the focus of the European Union would again shift towards the operating of a single market. The goods and capital market would take centre stage, but it would lead to growing differences in consumer protection, social norms and environmental protection. This would undoubtedly be a step back compared to the integration’s current level.

The “*Those who want more, do more*” scenario deserves special attention: the European Union would make it possible for willing member states to make cooperation more intensive in specific policy areas. Such areas could be defence, internal security, taxation, social matters or economic policy. This is of course a coded version of the long standing idea of a multi-speed, or even multi-level Europe, which was also hinted at in the Rome Declaration. To a certain extent this Europe already exists, it is enough to think of the Schengen agreement, the euro zone or the possibilities of enhanced cooperation. One can argue for it by saying that we should allow member states who are ready to progress faster, but we should not coerce the unwilling ones.¹¹ The manifold nature of member states requires enhanced flexibility. At the same time, as pointed out by *János Martonyi*’s analysis further, intensified differentiating could lead towards disintegration and fragmentation, therefore we need to be very careful with regards to such initiatives.¹² Furthermore, it would be disadvantageous for Hungary if the EU’s centre-periphery relationship would become reconfigured in the framework of a multi-speed EU.

“*Doing less more efficiently*”: As per this goal, the European Union would focus on doing more, and faster in certain policy areas, while doing less in others. This would lead to the emergence of new priorities, such as trade policy or the entrusting of border control management to the exclusive authority of The European Border and Coast Guard. All

9 de Zwaan 2017, pp. 31-34.

10 COM(2017) 2025 final.

11 de Zwaan 2017, p. 7, p. 41.

12 János Martonyi, ‘Differentiation or Disintegration’, *Hungarian Review*, Vol. VIII, No 5, 2017, available at: http://hungarianreview.com/article/20170914_differentiation_or_disintegration.

MIKLÓS KIRÁLY

asylum claims would be processed by a single asylum agency, and progress would be made with regards to common defence.

The most optimistic goal, and also the one most in line with the initial ideal of an “*ever closer Union*” is the “*Doing much more together*” direction: member states decide that they will do much more together in all policy areas, seeking, in a way, an escape forwards from the crisis. Just as they did back in the 1980s by accepting the proposition of a single market. This time around the focus would be on speaking and acting as one on the international scene and a common foreign policy. Similarly, the common market would be extended to the fields of energy, services and digital. Coordination would be strengthened in fiscal, social and taxation matters.

If we consider the likelihood of the scenarios, the first one, “*Carrying on*” obviously has good chances, simply due to the inertia of the current institutions but the fourth, “*Doing less more efficiently*” goal is also in line with the narrative of skeptical member states wishing to curb the extent of the EU’s central powers. However, it is likeliest that no scenario will be enacted fully, and the future will be shaped by realpolitik, the compromises made by the member states and especially the evolution of the Berlin-Paris cooperation. Obviously much will depend on the results of the elections to the European Parliament in 2019. This approach is corroborated by the fact that no EU state has initiated any serious debates on the scenarios outlined in the White Paper.

The above is however not in conflict with the fact that further reflection papers are being elaborated, or have already been released, often with several variants, on subjects such as the shaping of Europe’s social dimension, the deepening of Europe’s economic and monetary union, the exploitation of globalisation, the future of Europe’s security policy or the future of the union’s fiscal matters.

We must add that it is not only politicians and lawmakers who have a vision on the future of integration, but also the most important interpreter of EU law, the EU Court of Justice, as expressed in its decision number 2/15 on the EU-Singapore Free Trade Agreement.¹³ This binding decision, principally referencing Articles 206-207 of the Treaty on the Functioning of the European Union, declares that the free trade agreement cannot be signed in its current form without the consent of the member states due to the areas of non-direct investments (portfolios) and the handling of inter-state legal proceedings. It does however confirm the EU’s exclusive jurisdiction over most of the agreement, for example the protection of goods, services, public procurement, energy production and direct foreign investment, the support of sustainable development and the exchange of information. Therefore, the decision presents the image of a robust European Union, with well-defined areas of influence.¹⁴

13 Issued on March 16, 2017: <http://curia.europa.eu/juris/document/document.jsf?docid=197823&mode=req&pageIndex=1&dir=&occ=first&part=1&text=&doclang=HU&cid=79954>.

14 The above mentioned study by János Martonyi assess the decision in the same manner.

2 FROM THE TREATY OF ROME TO THE ROME DECLARATION

There is however a radically different, other conception of the European Union, embodied by the Paris Declaration, entitled the ‘The True and the False Europe’, released in October 2017.¹⁵ This declaration is not signed by heads of state or government or by the leaders of European institutions, but by prominent intellectuals and academicians such as *Roger Scruton* from England, *Matthias Storme* from Belgium or *András Láncki* from Hungary. Therefore, it does not have legal or direct political importance, and should thus not be overvalued and placed on the same level with the hitherto analyzed documents, nevertheless, it signals a radically different school of thought. According to this, the current false Europe is fragile and impotent, a world beyond nations and culture, burdened by mistakes. It does not acknowledge that “Christian roots nourish Europe” and the fact that “the true Europe is a community of nations.” The Declaration is a veritable stockpile of negative remarks about the European Union: “an empire of money and regulations”, “covered with sentiments of pseudo-religious universalism”, “promotes a culture of market-driven homogeneity and politically enforced conformity”, a democracy deficit which is a fundamental trait and not a technical problem. Furthermore, “talk of diversity, inclusion and multiculturalism is empty. And “Europe is dominated by an aimless materialism.” Although we can immediately remark that the European Union, through its promotion of the free movement of goods, persons, services and capital and its internal market is definitely anchored in the realities of capitalism and consumer society, the valuing of material goods and consumerism did not begin with the European Union, nor does it exist only on the old continent.

It is also surprising that the Declaration makes only marginal references to the horrors of the two world wars and the death of hundreds of millions of people:

“A national community takes pride in governing itself in its own way, often boasts of its great national achievements in the arts and sciences, and competes with other nations, sometimes on the battlefield. This has wounded Europe, sometimes gravely, but it has never compromised our cultural unity. In fact, the contrary has been the case.”

The Paris Declaration “rejects as false the claim that there is no responsible alternative to the artificial, soulless solidarity of a unified market, a transnational bureaucracy, and glib entertainment”. However, it does not dwell on this alternative, we do not know what kind of scenarios it envisages. It is perhaps the Europe of nation states which serves as a model for the signatories, who seem to forget the fact that Europe between the two world wars was not always the happy, safe and pleasant place some are imagining it to have been. The

15 The Paris statement – A Europe we can believe in. The false Europe is fragile and impotent. <http://politiek.tpo.nl/2017/10/07/the-paris-statement-a-europe-we-can-believe/>. In Hungarian: <https://thetrueeurope.eu/az-igazi-europa-es-tev-europa/>.

MIKLÓS KIRÁLY

influence of small and middle sized states, especially that of Hungary, on the future of the continent, and sometimes their own, has always been minimal.

All of this requires discussions, thinking and debate. The Paris declaration shines a light on the basic worries and doubts connected to integration. No one states that the European Union is a perfect organization, creation, as no human work ever is. *Robert Schuman* had already formulated, for example, that “The rigidification of administration is the prime danger threatening supranational institutions.”¹⁶ We can add to this, based on our own experience, that European bureaucracy has a tendency towards over regulation and towards promoting its ambitious integration programme, often rather impatiently, without much regard to the sensitivity of societies and traditions of its member states. We can however find typical mistakes at member state level as well: the uncritical overvaluation of national sovereignty, the frequent disregard of the Union’s solidarity principles. The rising nationalist and populist parties, hostile to European integration base their policy on this miscalculation.

It is therefore clear that we are seeing conflicting visions of the future, ultimately opposing the unified Europe and its different versions to the Europe of nations. The warring opinions seem to forget that Article 4 of the Treaty on the European Union tries to create a rational balance, underlining that all competences not conferred upon the Union remain with the member states. Furthermore, it refers both to respecting the national identities of member states and to the principle of mutual assistance.¹⁷

If we try to compare the above quoted documents without anger and prejudice, we can say that the ceremonial lines of the Rome Declaration seem to lack the charismatic personality, enthusiasm, authority and firm conviction in the common future of Europe shared by the founding fathers, *Adenaur, De Gasperi, Monnet* and *Schuman*. A convincing narrative, supporting the European cause is missing. It is true that the trauma of WWII and its historical lessons about the necessity of European Union have now faded in the distance of two generations. The White Paper of the European Commission does

16 Schuman 1991, p. 121.

17 Art. 4:

1. In accordance with Article 5, competences not conferred upon the Union in the Treaties remain with the Member States.
2. The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State.
3. Pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties.
The Member States shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union.
The Member States shall facilitate the achievement of the Union’s tasks and refrain from any measure which could jeopardise the attainment of the Union’s objectives.

2 FROM THE TREATY OF ROME TO THE ROME DECLARATION

present logical scenarios, but more from a technical, expert point of view, statically,¹⁸ without going into the depth of the political and social problems influencing the future of the Union. On the other hand, the Paris Declaration masterfully mixes founded and unfounded criticism under the flag of the complete restoration of national sovereignty, and the protection and strengthening of Christianity and national traditions. It is however silent on the future of the European Union, we do not know whether they are ultimately aiming at the complete dismantling of integration and if yes, what are the alternatives they provide.

However, the merciless pursuit of national interests is efficient only as long as it is done, to the detriment of integration, by one, or a few member states only. It is however much less successful when all states strive towards achieving their own national goals, moving within a chaotic system. Let us think of where Hungary would stand in relation to a Germany with a newly awakened national consciousness harshly promoting its own interests on the international scene? There are ways to protect national interests within the European Union as well, in fact, this is justified and necessary for each member state. At the same time, we need to ensure that member states do not tear apart the basic framework of integration, that they maintain the “club” and their reciprocal solidarity. Without a doubt, in certain cases this requires very delicate balancing, for example with regards to border and migration control. But these cases also provide new tests for the viability of the Union.

Naturally, when thinking about the future of the European Union we need to make mention of the Visegrád Four (Hungary, Poland, Czechia and Slovakia) as well, even if only briefly. These countries are united by many factors, such as shared historical experiences, the trauma of having lived the actual horrors of communism, the occasional shared interest of the “periphery” against the economic “centre” in Europe. In truth, they share even some of their prejudices with regards to the Union, clearly showing the fact that in Central Europe there is no easy road from the Soviet empire to integration. The one-time suspicion towards Moscow can easily be shifted to Brussels. But there are also clear opportunities for rational collaboration. It would be good to see ever more factual results and not only political declarations, for example, the long awaited and promised bridges over the Ipoly boundary river, so that the Hungarian-Slovak border does finally lose its practical meaning with regards to human relationships. Or the making of the Budapest-Warsaw connection, by road or train, just as seamless as that between Budapest and Munich.

At the same time, it is important not to overestimate possibilities and overload the Visegrád collaboration, especially in the field of diplomacy, as there are factors weakening the cooperation as well. One of these circumstances is the fact that the state and economic, or even academic and scientific connections of these countries are strongest not with

¹⁸ de Zwaan 2017, p. 27.

MIKLÓS KIRÁLY

each other, but with Western Europe. EU funds, representing the long awaited new ‘Marshall aid’ to the region, are very important to them, even if in varying degrees. Thousands, and in some cases millions of their citizens work in Germany or the United Kingdom. Naturally, there is also the question of national and ethnic minorities, their role and status are interpreted differently, and this will remain a delicate topic for generations. Tensions surging from these situations can be appeased exactly by the European Union, by gradually decreasing the importance of the political borders drawn up by the peace treaties of the 20th Century and in certain cases supporting initiative aimed at the survival of native ethnic minorities.¹⁹

Returning to the basic question, the most important goal is of course the survival of a functioning European Union and the maintaining of Hungary’s membership, namely, in a Union without levels of differentiation. In the words of *Sándor Márai*, the famous Hungarian novelist, it would be a big loss if Europe would collapse back into “thirty-something jealous and distrustful states.”²⁰ The price of a disunited Europe would be huge. Let us not forget that the “old” arguments for integration, formulated after WWII are still relevant: maintaining peace in the region, keeping a strong position on the global market and protection from foreign, especially Russian, threats. Similarly, the arguments for Hungary’s joining, expressed decades ago, are still valid: from the continued and traditional economic ties to the Western part of the continent to the need of financial aid, or even the shared cultural roots.²¹

Paramount among these arguments is the nature of the Union as a “*peace project*.” Therefore let me wrap up my thoughts with a quote from *Helmut Kohl’s* book, *Anguish for Europe, An Appeal*:

“He who has not lived through the war, who knows only the peaceful Europe and who, without a personal experience filled with suffering cannot assess the value of a united Europe for peace and freedom and who...doubtfully and hesitantly asks the question of what is the purpose of Europe’s union, to him

19 See for example: Judgment of 3 February 2017 in Case T-646/13, *Bürgerausschuss für die Bürgerinitiative Minority SafePack – one million signatures for diversity in Europe v European Commission*, ECLI:EU:T:2017:59.

20 Sándor Márai, ‘A lekéssett nemzedék’ (The late-comer generation), (1940), in: Mátyás Domokos (ed.), *A magyar esszé antológiája, Sorskérdések* (Anthology of Hungarian essays, fateful dilemmas) Osiris, Budapest, 2006, Vol. II, p. 285.

21 On the expectations of Hungary and other Central European countries, the arguments for and the benefits and challenges of membership, see: Ferenc Mádl, ‘Hungary on the Way to the European Union – Arguments in Favour and Hardships’, in: Ferenc Mádl (ed.), *On the State of the EU Integration Process – Enlargement and Institutional Reforms*, International ECSA Conference in Budapest, ELTE University, EU Centre for Research and Documentation, Budapest, 1997, Vol. I, pp. 14-33.

2 FROM THE TREATY OF ROME TO THE ROME DECLARATION

we need to answer today, and in the future primarily with: peace. And in particular, the unity of peace and freedom, as a prerequisite to everything else.”²²

²² Helmuth Kohl, *Aggodalom Európáért, Felhívás* (Aus Sorge um Europa – Ein Appell), Antall József Tudásközpont, 2014, p. 141, p. 47, with a foreword by Hungarian prime minister Viktor Orbán.

