

# Editor's Note

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## **“Schrödinger’s Europe”**

THE relationship between the EU and its Member States has always been a complex and sensitive one, with ongoing fights for supremacy but also for the common pursuit of both parties’ goals. The devastating financial and refugee crisis, the addition of Article 50 TEU to the Treaties, the UK’s June 2016 referendum, the referendum in Catalonia and other recent developments brought back to the surface fundamental legal, political and economic dilemmas concerning the bonds of the Member States with the EU and among themselves, as well as the importance of their different views, history and interests for the integration project. Unity in advanced areas like common defense and economic policy is set against the disunity demonstrated in matters such as the refugee crisis.

Thus critical questions arise. What is the impact on the course of European unification of the withdrawal of a Member State from the EU or of the possibility of “differentiated integration” for those remaining? How has the relationship between the EU and its Member States evolved after the events of the last decade? Is differentiation the answer or an invitation to disunity? Due to the undergoing and developing character of these phenomena, it is impossible to give definite answers to the above questions, as this would require divination skills. Indeed, a series of numerous and unpredictable parameters will define the future evolution or dissolution of

the European integration project as the result of the above crises, and attempting to predict which of the possible outcomes will become reality is like trying to give a positive answer to the question: is "Schrödinger's Europe" alive or not?

Even though *European Politeia* does not pursue the art of divination, in the current, double issue young but also more experienced academics attempt to give their personal views and answers to the above questions, analyzing the causes, the parameters and the different angles of the above phenomena, and providing help through science to have a clear picture of the opening, different roads ahead.

In the *Theoria* part of this issue, Professor Dimitris Chrysochoou deals with *the whole and the parts: the demands of 'unity in diversity'*, asking the question of how does the current state of union accommodate the concurrent demands for unity and diversity and what kind of theorizing can grasp this dialectic and, with it, a general view of the whole. His essay revisits the concept of 'organized synarchy' and argues that Europe has brought about an advanced system of ordered symbiosis among codetermined units, which is not about their subordination to a superior centre, but rather about their preservation as distinctive but constituent units. In his view, it is about a common association retaining its essential character as an ordered plurality.

Picking up the torch, Kosmas Boskovits, Member of the Legal Service at the Hellenic Ministry of Foreign Affairs, links the unity and disunity in the European Union with *the respect for common values: Article 7 TUE and institutional dilemmas on the borders of integration law*. In his paper he explores the important institutional dilemmas posed by the Union's tools of

protection of its common values, focusing on Article 7 TEU and the potential of existing judicial procedures in the event of a deadlock of its mechanisms.

Dimitrios Parashu, Dr. iur., presents in his essay "Quocum procedis, Europa?" the Commission's White Paper on the future of Europe published on March 2017, and focuses on the official possibility of differentiated integration of Member States, taking the view that this specific proposal remains vague and timid in its consequence.

On another topic, Antonia-Maria Sarantaki, PhD candidate, writes about the "Hotspot Paradox": *A Fragmented Responsibility-sharing*, raising the question of whether the EU is becoming more united or more fragmented while implementing the hotspot approach. In order to answer this question, the paper analyses the context of the hotspot model, and explores its implementation in Italy and Greece. Drawing from these hotspot operations, various political, legal, organisational, ethical and practical considerations emerge, and in this context, Antonia-Maria Sarantaki takes a critical approach and argues that the hotspot approach as a policy measure provokes fragmentation and therefore disunity among the EU Member States, signalling a policy paradox.

While in the field of immigration and asylum policy, Theodoros Fouskas from the Technological Educational Institute of Athens analyses the *changing influx of asylum seekers between 2014-2016 in Greece and the EU Member States' societies disunity due to the impact of the migration and refugee crisis*. In his view, the unprecedented refugee and migrant flows of 2015 coupled with the movement of the migratory route that comes to Greece from Turkey has put an enormous test on Greece's already overstressed asylum system, and has illu-

minated the weaknesses and difficulties of handling the dramatic rise of asylum seekers, refugees and immigrants and the coverage of their humanitarian needs. With his article, Theodoros Fouskas provides an overview of the situation between 2014-2016 in Greece, as well as examines the impact of the migration and refugee crisis on the unity of the EU Member States' societies.

Georgia Kelepouri, PhD candidate, illuminates *the recent ECJ's trends on the review of national procedural rules* and gives the title: "*a story with split narratives in the process of European integration?*". The author examines, briefly, formulations of rulings and focuses on the legal reasoning of the Court, which unfolds different lines of cases. In her opinion, the current case law is underpinned by the rise of regulatory differentiation, and this pattern takes account of the particularities in national legal systems but at the same time may cause rifts to the structural development of the EU.

This section of the issue is concluded with the essay of Vera Spyrakou, PhD candidate, titled: "*Rethinking the Synthesis in Europe - Political Identity Issue as a Factor of European Integration*". The writer addresses the shaping of European identity as a factor of enhancement of the European integration, by examining the types of the components which amalgamate European identity, in parallel with the phenomenon of euro-scepticism. Furthermore, the paper explores how under various roles, the Union should confront the dilemmas which delay its political integration and lead to the formation of adequate and creative policies which will upgrade the socio-economic European mosaic.

In the *Praxis* section of this double issue a series of judgments is presented and commented on by distinguished members of the judiciary.

In *Judicial Review over the Extension of the Limitation Period in Tax Cases: Hellenic Council of State Judgment no. 1738/2017* in Plenum, Eirini Spanaki, Assistant Judge at the Greek Council of State, highlights the importance of the judgment and the shift in the case law of the Court, which, up until the issuance of this ruling, used to accept the conformity with Article 78 par. 2 of the Constitution of legal provisions extending to the limitation period in tax cases, unless the extension was enacted after the expiration of the time limit.

Assistant Judge at the Greek Council of State, Panagiota Mourkou, presents her analysis titled *Extradition of Applicants for International Protection and the Interaction between Administrative and Penal Proceedings* while commenting on the Supreme Administrative Court Judgment 3046/2017. In its ruling, the Court held that the decision of the Greek Minister of Justice on the extradition and the surrender of a foreigner to the requested country, against which the applicant claims fear of persecution, is lawfully adopted, even before the judgment rejecting the application for international protection of the requested person becomes final, provided that the legal consequences of the aforementioned decision, meaning the enforcement of surrender, are suspended by virtue of the law until the judgment on the international protection request is final.

In his article titled *The Concept of "Safe Third Country", Supreme Administrative Court Judgments 2347-8/2017* in Plenum, Assistant Judge at the Greek Council of State, Ioannis Livaditis, further explores the interpretation of Law

4375/2016, by which Directive 2013/32 (Asylum Procedures Directive) was transposed into Greek law, and its compatibility with the Greek Constitution as well as Article 47 of the Charter. According to the judgment, the obligation to hear the applicant under Article 14 of the Asylum Procedures Directive binds the asylum authority at first instance, but it does not apply to appeal procedures.

Last but certainly not least, Nikos Sekeroglou, Associate Councilor at the Greek Council of State, presents and comments on the judgments 2649/2017 and 3312/2017 of the Plenary of the Greek Council of State in his article titled *Obligation of the Magistrates to Submit Statements of Financial Position (S.F.P.) and Economic Interest (S.E.I.)*. By its ruling, the Court annulled two Joint Ministerial Decisions concerning the obligation of the magistrates to submit statements of financial position (S.F.P.) and economic interest, as non-existent and as illegal.

Finally, in the section which is introduced in this issue and is titled "*Theasis*", four articles are featured with educated views on the current issue's central theme.

Evangelos Venizelos, former Deputy Prime Minister of Greece, former Minister, and Law Professor, addresses the question of the *democratic legitimacy at national level and solidarity between financially unequal Member States: two structural problems of European integration*. The author bases his approach towards fundamental European values and, in particular, towards the pillars of democracy and solidarity, on dealing with two major problems which are linked to these values and constitute structural issues of the European integration: First, the democratic legitimacy (at national level) of choices

that hinder the European integration and, secondly, the solidarity between Member States that are economically unequal.

In the second article of this section, which is titled "Hannibal ad portas? *Dismantling Euroscepticism*", PhD candidate Apostolos Samaras approaches the issue of Euroscepticism and asks the question of whether it constitutes the "Achilles' heel" of the European Union. He examines the state of the European integration by shedding light on the anti-EU rhetoric and the rising Far-Right in Europe, claiming that the current European instability has become a serious challenge, while the 'Two-Speed Europe Concept' evolved into a quite controversial debate. However, he supports the idea that the autonomy and the aims of the Union's legal order remain key factors in resolving the political, economic and social problems of the Member States, even though a radical reform plan is still necessary.

The last two articles are written by two experienced and deep-thinking journalists. Yannis Palaiologos, a journalist with "Kathimerini" newspaper, writes about *The European Economy: Back to the Grind*, while Angelos Athanasopoulos, senior diplomatic and EU affairs editor in "To Vima" newspaper, expresses his thought on the *EU's existential path toward a coming of age*.