

The EU in crisis – testing the limits and potential of solidarity

Jörg Monar

Solidarity between the Member States and the citizens of the EU can be regarded as one of the constitutional principles of the European construction. It has had its own career in the EU treaties, progressing from five references in the post-Maastricht treaties (three in the TEU and two in the TEC) over seven in the post-Amsterdam treaties (five in the TEU and two in the TEC) to no less than 19 in the post-Lisbon treaty framework (eleven TEU and eight in the TFEU). But it is not only codified in the EU treaties: Apart from having been invoked by many EU political figures almost like a mantra as the Eurozone crisis has deepened Eurobarometer opinion polls have indicated that European citizens ranked solidarity fifth amongst a list of twelve values “best representing the European Union” after democracy, human rights, peace and rule of law, but before values such as equality and tolerance.¹

The Eurozone sovereign debt crisis is a crisis in many respects, a financial, an economic, a constitutional – the list could be prolonged –, but it is clearly also a fundamental crisis of solidarity, as it has been testing – and in Greek case for the first time to the breaking point – to what extent other Eurozone Member States are willing to come to the rescue of one Member State (and possibly others) facing a potentially catastrophic sovereign debt default which could force it out of the single currency. Far beyond the references to solidarity in the Treaties – and certainly not helped by the ‘non-solidarity’ no-bail-out clause regarding national financial liabilities of Article 125 TFEU – the sovereign debt crisis has transformed an often vaguely invoked value into an existential question for the future of the Eurozone and perhaps even the EU itself. The changed perception of solidarity was put aptly into words by European Council President Van Rompuy in October when he said that solidarity “*is not a virtue, because a virtue is voluntary*” and that contrary to such voluntarism “*solidarity within the euro area is a matter of necessity and survival*”.² This echoed an earlier dramatic statement from end of August by EP President Buzek who declared solidarity to be “*the main component of Europe*” and that “*without solidarity Europe will not survive*”.³ This sudden centrality of the principle of solidarity to the preservation of the European construction has inevitably also generated an unprecedented debate about the necessary counterparts for solidarity on the side of its actual or potential beneficiaries, and Greece is currently experiencing the full weight these counterparts can take, although other member States – such as most recently Italy – are feeling the extent of the conditionality pressures of financial solidarity as well.

¹ Eurobarometer 74, Autumn 2010, p. 33.

² Speech on the occasion of the departure of the President of the ECB, Frankfurt, 19 October 2011, EUCO 101/11, p. 2.

³ EuroparlTV interview, 31 August 2011.

In the midst of the turmoil of the Eurozone solidarity crisis it is easy to forget that crucial solidarity issues have arisen on two other occasions during this year: The first was when Italy asked for solidarity from its Schengen partners when faced in March with a – for domestic political purposes much exaggerated - influx of refugees mainly from Tunisia in relation with the Arab Spring developments and, when such solidarity was not forthcoming, Italy started issuing these refugees with temporary residence permitting them effectively to enter and to travel on in the Schengen zone. With many of them trying to reach France, the French government reacted with the temporary reintroduction of border controls between France and Italy, the rounding-up of the refugees and their sending back to Italy. All of these measures were clearly contrary to the spirit, if not the letter, of the Schengen rules, and created in April a serious risk of an unravelling of the Schengen open internal border system as other Schengen members (such as Denmark) also started to envisage the reintroduction of internal border controls, and Italian Prime Minister Berlusconi and French President Sarkozy jointly demanding in April an amendment of the Schengen rules allowing for a suspension of the open border rules in response to migration management difficulties. The risk of a disintegration of the Schengen system seems for the moment reined in as a result of a clearly negative reaction of the European Parliament (which has co-decision powers in the field) to the Franco-Italian initiative and fairly moderate and balanced proposals made by the Commission (who has the exclusive right of initiative) in September. Yet the - in comparison with the Eurozone issue ‘mini-crisis’ of Schengen this year ’- has shown that the lack of effective solidarity mechanisms has been on the point of threatening another major historic achievement of the European integration process, the free movement of persons across internal borders.

And then, last but certainly not least, the solidarity issue has also forcefully come up in the debate and negotiations on the new EU Financial Framework for 2014-2020. With the EU budget arguably being the most important instrument of solidarity involving all the Member States Commission President Barroso had certainly a point in presenting the Commission’s June proposals for the new Financial Framework as being governed throughout by the “theme” of solidarity.⁴ At a time of a massive tightening of national budgets and unprecedented austerity measures the far from spectacular spending increases proposed by the Commission have provoked predictable negative reactions from many Member States. Yet having regard to the fact that even under the Commission’s proposals the EU budget would remain a fairly modest common instrument with 1,05% of the Gross National Income the almost immediate national cost/benefit calculations in the national capitals show the negotiations on the new Perspective are unlikely to be guided by a prevailing spirit of solidarity.

So does all this mean that solidarity is really a lost cause in the EU? Perhaps paradoxically the answer is no – and potentially even the contrary. The Eurozone crisis has in fact already generated unprecedented solidarity: With a projected guarantee ceiling of Euro 780 billion, the European Financial Stability Facility (EFSF), which comes on top of the Euro 110 billion

⁴ A Budget for Europe 2020”, COM(2011)500, p. 2.

bailout already bilaterally granted to Greece in 2010 by the Eurozone countries, the EFSF is the single biggest solidarity instrument ever created in the context of the European integration process. Whether this instrument will be sufficient to stabilise the Eurozone remains to be seen, and it is also clear that this instrument has not grown out of a sudden eruption of solidarity as an unselfish value but out of sheer necessity to avoid a collapse of the Eurozone with truly 'incalculable' political and economic consequences. Yet the "*solidarité de fait*" to which French Foreign Minister Schuman referred in his declaration on 9 May 1950 at very outset of the integration process (and his "*de fait*" always implied an element of constraint) has clearly taken a giant step forward. New and reinforced mechanisms of solidarity for Schengen members experiencing migration management problems at their external borders have also been included in the Commission's aforementioned proposals of September 2011, so that here as well the utter necessity of keeping the Schengen system sustainable is likely to generate more rather than less solidarity.

In all of this there is also a warning for the United Kingdom: There may be some feeling of relief (and in some quarters even relish) in a Member State enjoying an opt-out from deeper integration projects like the Eurozone and Schengen which have run into deep trouble. But being forced to proceed with more solidarity and its necessary conditions – and the Eurozone agreement of 9 December on the new "fiscal compact" is a continuation of this logic – is likely to bind the participating countries more and more strongly together, not only in legal terms but also in common political purpose. This could lead to an increasing political marginalisation of the UK within the European construction to the point of irrelevancy on some crucial issues of the future – of which the British isolation at the end of the 8/9 December European Council may only be the first step. As in other walks of life those who are not part of the solidarity of a community may ultimately find themselves 'out' of it.