

Europe: another useless treaty?

An interview with Renaud Dehousse

Stéphanie NOVAK

On March 2012, 25 EU Member States signed a new treaty to increase coordination between economic policies within the Union, something Germany in particular was keen on. Will this allow them to deal more efficiently with the financial crisis? According to Renaud Dehousse, there are reasons to doubt it.

Renaud Dehousse is Professor at the Institut d'Études Politiques de Paris, director of the Centre d'Études Européennes and scientific adviser for Notre Europe. His most recent books include *La fin de l'Europe* (Flammarion, 2005), *Politiques européennes* (Presses de Sciences Po, 2009), and *The Community Method: Obstinate or Obsolete* (Palgrave, 2011).

Books and Ideas: On March 2, 2012, the heads of state or of governments from 25 of the EU Member States¹ signed a “Treaty on Stability, Coordination and Governance in the Economic and Monetary Union”. If we take into account the different treaties, how can we characterize the last ten years in relation to the previous decades?

Renaud Dehousse: It is easy to forget that the Treaty of Lisbon, which came into effect a little more than two years ago, was supposed to bring an end to ten years of difficult discussions about the reform of the European institutions, which were marked, in particular,

¹ Britain and the Czech Republic opted out of this treaty.

by the failure of the Constitutional Treaty. Since then, we have had not one, but two new treaties (and I am not mentioning the mini-revision that was necessary to increase the number of members of the European Parliament). First there was the treaty establishing the European Stability Mechanism, whose goal was to help countries, like Greece, which threatened to default on their debt, and that the National Assembly recently approved; then there was the “Fiscal Compact” wanted by Mrs. Merkel.

Why this sudden acceleration? Because the crises that Europe had to face since 2008 have shed light on the incomplete nature of the Economic and Monetary Union: not only has the coordination of economic policies remained a pious hope, but the absence of a solidarity mechanism was also preventing the Union from responding to the threat that weighed on some of its members, which jeopardized the whole edifice. Adopted in a rush and without long-term planning, these two new treaties are trying to fill up some of those gaps. Yet they clearly provide only a partial answer to the problems that have emerged these last few years. The eurozone still does not have a last-resort lender,² and the coordination that has been envisaged is meant above all to prevent overspending. It is a beginning, but it is probably not enough.

No Major Changes

Book and ideas: What does the “Treaty on Stability” bring with respect to the existing treaties? How does it connect to the previous treaties?

Renaud Dehousse: The new treaty does not bring any major changes. Half of the measures it contains already appeared in the legislative package through which the pact of stability was revised last November. Its main innovation is the famous “golden rule” that forbids any budget deficit.

Admittedly, there was little room for maneuver: concluded on the margin of the existing treaties—because of British opposition—it could not modify the terms of the European treaties. It was therefore necessary to resort to a kind of juridical gymnastics—whose legality was sometimes questionable—to reform the economic governance of the Union.

² See Jean Pisani-Ferry, *Le réveil des démons. La crise de l'euro et comment nous en sortir*, Paris, Fayard, 2012.

Why then launch the Union into a debate about the ratification of a new treaty, whose risks are well known and which promises to absorb a considerable amount of energy? As it is often the case, we must look for a response at the national level. To force a profoundly hostile German public opinion to accept Greece's rescue plan—which constitutes, let us remember, the greatest enterprise of financial aid ever carried out—Mrs. Merkel thought that it was necessary to obtain a strong symbolic commitment from her partners, which would assure the Germans that they would not be constantly asked to help countries that had been too spendthrift in their eyes. So the significance of the treaty is primarily symbolic.

Books and ideas: Is this treaty useful for solving the crisis? Is it useless, as some claim, or even harmful?

Renaud Dehousse: In a sense, the Fiscal Pact provides only a partial response to the crisis of the sovereign debt. This crisis has shown that the excessive volume of debt of European countries is a source of vulnerability. Whether the treaty is ratified or not, it will be necessary to tackle this problem. We cannot simply pass the problem—one more—to future generations.

But obviously, to approach it from the angle of spending is not enough. The case of Greece and, to a lesser extent, of Spain, is telling: without growth, budget discipline can lead to a worsening of the deficit through a lack of fiscal returns. It seems therefore indispensable to complement the current plan—budget discipline with the pact, and solidarity with the European stability mechanism, which is the object of another treaty concluded in June 2011—with a section on growth.

There is now general agreement on this principle. However, as soon as we broach the subject of the means by which growth should be encouraged, we hear a clash of opinions. A dozen governments have recently written to Mr. Barroso to ask for increased efforts in liberalization (reform of the labor market, deregulation of some trades, etc.). The European Left, for its part, calls for the establishment of a system of Euro-obligations that could finance major projects of strategic interest. Given the constraints that weigh on national public finances, it would be logical that the initiative came from Europe. However, quite a few governments are not prepared to accept this: During the negotiations about new financial

prospects, several of them have announced that they were hoping to obtain a *reduction* of the European budget.

A Reinforced Commission, in Theory

Books and ideas: Are there any efficient ways to make sure that governments respect this treaty? For instance, with respect to the Pact of Stability and Growth (1997), which France and Germany, among others, had breached, does this new treaty contain more efficient means of constraint?

Renaud Dehousse: On this issue, the added value of the Fiscal Pact is relatively modest.³ It effectively reinforces the power of the Commission, but this principle, which I find legally debatable, was already contained in the reform of the stability pact. The Court of Justice, for its part, will only be able to intervene to enforce the golden rule, and it will only do so if the states, not the Commission, demand it. While in fact, what constitutes the strength of community control is, in general, the capacity for autonomous action of the Commission. The mutual control by the states does not have the same efficiency. They can be tempted to agree in order not to apply the rules, as they did in 2003 with the stability pact, to avoid imposing sanctions on France and Germany. Today, admittedly, Germany is in a very different frame of mind. But what will be the case in two or three years? The older version of the stability pact had also been called for by Germany; yet it did not prevent another German government from ignoring it!

Books and ideas: One has the impression that the European Commission has never been so weak. Does this impression seem fair to you? What was its influence during the drafting of this new treaty?

Renaud Dehousse: The question is more complex than it seems at first. Of course, the Barroso Commission seems very weak. We rarely heard it during the crisis, while the “Merkozy” tandem occupied center stage. It is not the Commission who wanted this new treaty and it seemed to have weighed little in the negotiations. In fact, both Mrs. Merkel and

³ See Renaud Dehousse, “Le ‘pacte budgétaire :’ incertitudes juridiques et ambiguïté politique, *Notre Europe. Les Brefs*, n°33, February 2012, <http://www.notre-europe.eu/fr/axes/visions-deurope/travaux/publication/le-pacte-budgetaire-incertitudes-juridiques-et-ambiguite-poiitique/>

Mr. Sarkozy have made the case, each in their own way, for going beyond the traditional “community method,” until the former reverted to a more orthodox position.

However, it is important to emphasize that, as soon as we talk about reforming economic governance, the Commission can no longer be ignored. When we skim through the texts that have been adopted during the past few months—including the Fiscal Pact—we can only be struck by the reinforcement of power of the Commission that they outline. From now on, it can intervene in a very direct manner in the creation of national budgets—therefore, in theory, at the heart of national political systems. From a legal point of view, it probably has never been as strong as it is today. Yet it remains to be seen with what political authority it will exercise this new power. The answer will undoubtedly depend on the quality of the persons, but also on the balance of power that will be established with the national capitals.

Books and ideas: Indeed, article 7 of the treaty appears to reinforce the power of the Commission: The members of the eurozone “commit to supporting the proposals or recommendations submitted by the European Commission when it considers that a Member State of the European Union whose currency is the euro is in breach of the deficit criterion in the framework of an excessive deficit procedure.” To what extent is the power of the “proposals or recommendations” of the Commission constraining?

Renaud Dehousse: Propositions can be modified by the Council of Ministers by unanimity only, which reinforces, of course, the position of the Commission in negotiations. It is precisely for that reason that the Maastricht Treaty envisages only “recommendations” when making decisions on potential excessive deficits. The Fiscal Pact tries to reinforce the power of the Commission by considering a type of “reversed qualified majority:” the propositions of the Commission are considered adopted unless a qualified majority at the Council explicitly rejects them. Yet, as I have mentioned earlier, the legality of this procedure is questionable. Modifications of European treaties must be done in accordance with the procedure of revision of the article 48, which calls for the agreement of all the states; it cannot be done by 25 of them, by way of a separate treaty.

Books and ideas: In the last few months, Angela Merkel and Nicolas Sarkozy seem to have taken control of the eurozone. How did we reach this imbalance in the decision-making process? Was it the consequence of a weakness in the institutional arrangements?

Renaud Dehousse: It is true that France and Germany have played a key role, and several factors contributed to this. On an economic level, these two countries represent in themselves almost half of the GDP of the eurozone. They have played a leading role in the construction of Europe, whose initial function was to pacify their relationship. In addition, French and German leaders come from very different traditions and tend to react accordingly. As a result, a Franco-German agreement often lies in the vicinity of the median position within the pool of national positions. The management of the sovereign debt crisis falls essentially within this type of scenario: Nicolas Sarkozy was quick to plead in favor of support for Greece (where French banks were very exposed); Angela Merkel, on the other hand, only accepted this reluctantly, demanding guarantees of budgetary discipline in exchange. It is clear, however, that in the Franco-German couple, it is Berlin who calls the shots at this point. With the Fiscal Pact, Nicolas Sarkozy ended up accepting a reinforcement of European governance by the rules that is light-years away from his conception of politics.

In this crisis, the Commission did not play the leading role that treaties grant it in normal times. But these were precisely not normal times: in a period of crisis, the legitimacy that the heads of state or of governments who have been chosen by universal suffrage can claim is undoubtedly greater than that of the Commission. In addition, it was primarily a matter of filling a gap in the institutional edifice, since the treaty gave no indication about the way the crisis should be tackled and, in the European Union, this “constituent” function remains largely the privilege of the states. However, we must not be fooled by appearances. Many of the solutions that were offered—the idea, for instance, that national budget procedures should be preceded by a “European semester”⁴—belonged to a toolbox whose adoption the Commission had been pushing for for a long time. The real question is whether things will go back to normal after the crisis has gone away, or whether, on the contrary, the new balance of power that has emerged on this occasion will be maintained.

⁴ From March to July of each year, the European Council of the European Union will assess the economic policies of the Member States before national budgets are decided. This monitoring will allow a coordination of the economic policies of the various Member States.

Is a New Agreement Possible?

Books and ideas: Some of the candidates for the French presidential election are talking about re-negotiating the treaty. But is it still feasible at this stage, given that all that is needed for this treaty to be implemented is that 12 out of the 17 states of the eurozone ratify it? What would be the procedure for a re-negotiation? Has the same wish for re-negotiation been expressed in other signatory countries?

Renaud Dehousse: Here again, a purely legal answer is insufficient. The Fiscal Pact can indeed come into effect without being ratified by all the signatory states. This, of course, changes the whole issue of ratification. Unlike what happened with the project of a “constitutional treaty,” no country has a right of veto at its disposal. A potential “no” to the referendum predicted in Ireland would not prevent the implementation of the new treaty, but it would deprive that country of the possibility of benefiting from a new program of European assistance, the Fiscal Pact holding that these programs should be reserved from now on for the countries that have made the choice of ratification. In principle, this should weigh on the manner in which voters approach the question.

From a juridical point of view, the same is true of France. But economically, and therefore politically, the situation in France is very different: the pact in question would lose a lot of its interest if it were not applied in the second economy of the eurozone. Supposing that François Hollande were elected and that he insisted on reopening the dossier, it is unlikely that the door would be slammed in his face. Not only because it would mean attaching little importance to the mandate that—hypothetically—would have been given to him by the French people, but also because he is not the only European leader who is pleading for action in favor of growth. Admittedly, it is hard to imagine that Germany would agree to give up what it obtained at the end of 2011. However, nothing would prevent a new agreement—one more!—to complete the edifice. Whatever happens in the coming months should be important for understanding the new balance of power.

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