



IV ANNUAL CONFERENCE
OF THE LEGAL SERVICE
OF THE EUROPEAN COMMISSION
CONFERENCE REPORT | 2026



Foreword

By the Conference Organising Team

The Fourth Annual Conference of the Legal Service of the European Commission, which took place on 17 April 2025, focused on two topics: the legal landscape of a European Defence Union and Simplification as a driver of competitiveness. Both topics had generated significant debate and complex legal questions, making them especially timely for discussion.

The purpose of this report is to capture the richness of those exchanges and to make them available to a wider audience. It is intended not only as a record of the conference, but also as a resource for continued reflection and dialogue within the legal community and beyond. The video recording of the conference is available online at : <https://webcast.ec.europa.eu/annual-conference-of-the-ec-legal-service-2026-04-17>

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Welcoming remarks

Mr **Alberto de Gregorio Merino**

Director-General of the Legal Service, European Commission



MR ALBERTO DE GREGORIO MERINO

I am honoured to welcome you all to the Fourth Annual Conference of the Legal Service of the European Commission.

I am very happy that we can continue this tradition. We will discuss two topics today – *the Legal landscape of a genuine European Defence Union*, and *Simplification as a driver of competitiveness*. Outstanding speakers in their respective fields will intervene in the two panels that will address each topic in turn. We will also have the privilege of hearing the political vision of Commissioner Kubilius, responsible for Defence and Space, and Commissioner McGrath, responsible for Democracy, Justice, the Rule of law and Consumer Protection. And we are delighted that our audience brings together a wide range of stakeholders on these topics: lawyers in private practice, judges, academics, officials in public administrations, policymakers from across the European Union.

What unites us here today, is our trust in EU law. Rule of law is one of the Union's foundational values, part of its constitutional identity. Yet, we must all be alert that

the geopolitical context, in which the Union operates, and the economic reality in which it is embedded, have fundamentally shifted. This is one of the main challenges for the EU legal community, to uphold the rule of law, in a context of de-construction of the international rules-based order. This change is profound and irreversible, and we must acknowledge this new reality for what it is. In Freudian terms, we will have to transition from the principle of desire to the principle of reality, without abdicating the values and principles that must guide our internal and external action.

At this defining moment for the European Union, we, in the Legal Service of the European Commission, believe that EU law must first and foremost respond to the moment of European independence – a notion, to which President von der Leyen often refers. If EU law has been characterised in the last years by the law of emergency, we must resort to structural and permanent solutions that address the mandate of independence, not conjunctural and temporary fixes that address the urgency of the day.

The role of our Legal Service is also to be an interface between politics and law, to permit the sound translation of law into political decisions without, of course, bending law to politics. Law is a true enabler of EU action. And it is for us, as lawyers, to unlock that full potential of the EU Treaties as our living constitution.

Let me now say a few words on the two topics that we will address today.

These two topics concern two fundamental vectors of independence. As vectors of independence, these topics are not separate conversations. They are structurally intertwined. And it falls on us – as lawyers – to help frame how Europe can respond to both.

On defence, which will be discussed in the morning panel: In the past decade, the Union has made decisive progress

in defence-related integration. Recently, the geopolitical context has accelerated the process. The Union's competence in defence matters rests on a dual legal framework encompassing both the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU). Primary law itself requires this duality to function in a harmonious manner: harmony both in terms of consistency and in terms of non-affectation of the TEU and TFEU competences respectively. We will examine today how to navigate legally these dynamics.

Looking into the Treaty on the Functioning of the European Union, we have witnessed how funding and industrial action can be the precursor for integration of defence capabilities. The Treaty legal bases, covering research, industrial development, the internal market, and transport, have proven powerful enablers of defence-related integration. Various legal instruments have successfully put the TFEU legal bases to use: stimulating joint procurement, industrial capacity and the internal market in defence products and technologies. This proves the agility of EU law. And the results are significant: European defence spending in 2025 is up nearly 80% since before the war in Ukraine; and the Commission has proposed to allocate €131 billion for the defence and space window of the next Multiannual Financial Framework — five times the level of the previous period.

Progress under the provisions in the Treaty on European Union on the common foreign and security policy and the common security and defence policy of the Union have been equally significant. PESCO (Permanent Structured Cooperation) binds participating Member States to deeper structured military cooperation under the Treaties. The European Peace Facility has allowed rapid mobilisation of substantial assistance to Ukraine from the outset of the war.

The mutual assistance clause (Article 42(7) TEU) is increasingly the subject of legal and political debate and deserves closer attention. So does the Treaty rule (Article 42(2) TEU), which envisages that the common security and defence policy “shall include the progressive framing of a common Union defence policy,” which “will lead to a common defence, when the European Council, acting unanimously, so decides” — words that carry both constitutional weight and political ambition. The discussions today will touch upon all these issues.

Next, in the afternoon, we will examine the topic of simplification as a key to unlock competitiveness in the Union. The Draghi and Letta reports presented an alarming assessment of the Union's economic condition and competitiveness gaps. The reports identify the

incompleteness of the Single Market as a central weakness. They refer to internal barriers to trade within the Single Market, equivalent to a tariff of up to 110% for services and around 44–45% for goods. Trade between the EU Member States is reportedly less than half of what flows between the US states. The burden of regulatory complexity is said to disproportionately fall on small and medium-sized enterprises. Set against the backdrop of an intensifying strategic competition, most acutely with China, these data represent a call for action.

A fully functioning internal market is not merely an economic objective, but a prerequisite for European independence. The Commission has responded to this imperative with a concrete legislative agenda: for example, through its Omnibus simplification packages, through its proposals on the establishment of the Savings and Investment Union as a framework to channel private capital toward strategic European priorities, and — most recently — though its innovative proposal for a 28th legal regime, which offers a flexible company law framework, to make it easier for businesses to grow and compete globally. And this work is an on-going effort. In the months to come, sectors that are particularly sensitive to the EU competitiveness — such as energy and digital — will require special attention.

Yet, those working on competitiveness and simplification know that the task of lawyers is far from ‘simple’. The work of policy makers and lawyers is shaped by two main challenges. One is finding the right balance between strengthening EU industrial capacity and strategic autonomy and meeting international trade obligations. The other is ensuring consistency between competitiveness goals and the Green Deal, so that decarbonisation and industrial growth frameworks work together.

Together, these challenges shape a complex normative landscape that EU law practitioners must navigate. It is against this background that today's conference will zoom into the topic of simplification, analyse whether it can unlock the Union's competitiveness potential, and explore the legal possibilities and challenges in that regard.

Both topics before us today call for important policy decisions by the EU institutions and the Member States. Together with the re-unification of Europe through enlargement and the protection of the values of Article 2, defence and competitiveness form four main pillars of the EU independence.

Yet, they share a common legal imperative: they call upon us, as EU law practitioners, to approach the existing Treaties with ingenuity and rigour, and to explore their full potential.

Our task as lawyers is to map the whole spectrum of legal possibilities and to identify where the legal framework supports greater ambition. And before we speak of Treaty change, we should ask ourselves honestly: has the full potential of the existing Treaties been used? Personally, I doubt it.

The exchanges today will sharpen our collective understanding of how to provide policymakers with legal advice that is, at the same time, audacious and legally solid. So, I encourage you to actively participate in the exchanges through the questions and answers sessions that will be part of both panels.

Finally, let me express our sincere gratitude to all our guests and speakers, and to all the audience: you have chosen to be here today, and that choice reflects a shared commitment to EU law and to the future of the European integration. ■



Keynote speech

Mr **Andrius Kubilius**

Commissioner for Defence and Space, European Commission



As a still young but experienced politician, I am excited to see so many lawyers in one room. I was trying to remember if I had at any time in previous capacities, in national politics, ever seen so many lawyers - it's really something. We, politicians and lawyers, sometimes have different opinions about what is possible and what is impossible. But out of that discussion, I think the progress is coming.

So, it is my very special honour to open this conference of the Commission's Legal Service on the topic *"Towards a Genuine European Defence Union: the legal landscape of EU defence policy."*

And let me remind you that in my Mission Letter, development of a genuine Defence Union is one of the key tasks. So, let me begin with some kind of personal confession. The confession is this: in January, I published a substantial paper on defence. I focused on the deficit of institutional defence readiness, besides material defence readiness, and the absence of effective platforms for unified political leadership in defence. I proposed a European Security Council format.

I stand by what I argued then. But I confess that at that time, I thought it was just me, and maybe a limited number of others, who were concerned about the institutional side of defence.

That is why I was sincerely surprised by what Commission President Ursula von der Leyen recently said. The Commission President, in a very deep and strategic way, showed her understanding of the major challenges for our times, when she spoke at the recent Ambassadors' Conference. I quote:

"We urgently need to reflect on whether our doctrine, our institutions and our decision making - all designed in a postwar world of stability and multilateralism - have kept pace with the speed of change around us. Whether the system that we built - with all of its well-intentioned attempts at consensus and compromise - is more a help or a hindrance to our credibility as a geopolitical actor."

She spoke about institutional deficit in European foreign policy. But in my view, the same applies not only to our foreign policy, but also to our defence policy: Are our defence doctrine, defence institutions and our decision making in defence - all designed in a postwar world of stability and multilateralism, with prevailing intentions of compromise and consensus - all the existing legal and constitutional constructs for European defence, as we find them in the Treaty of the European Union, are they more a help or a hindrance for our need to be ready to fight as Europe, not just as a combination of 27?

That question became even more acute after US Under Secretary of War for Policy, Elbridge Colby, in February, told Allied Ministers in Brussels that, what he described as the post-Cold-War "NATO 2.0", is no longer fit for purpose. He said - we need a "NATO 3.0", and Europe should take over *"the preponderance of the forces required"* to deter. Europe should take primary responsibility to defeat conventional aggression in Europe.

And in March, NATO's Supreme Allied Commander Europe, General Alexus Grynkeiwich, stated to the US Senate that the American command in Europe, USEUCOM, is "*prudently and expeditiously transferring primary responsibility for Europe's conventional defence*" to European allies. So, Americans will stay in a secondary role, like they are doing now in Ukraine. For all to hear and to read, he described a deliberate shift from a US-centric model to a European-centric model in European defence.

Whether one welcomes this language or not, we should make no mistake: this is not rhetoric alone. This is planning, and this is real. In this context, your conference title could not be more timely and called for. We know where we want to arrive – at a genuine European Defence Union.

The big question, to which we need to find an answer, is also clear: Are the existing legal landscape; existing Treaties and institutions, built on the basis of those treaties; and existing decision-making rules according to the existing treaties – are they more a help or a hindrance for European defence in new circumstances, when we need to be ready to take into our hands the responsibility for European defence? To be ready to fight as united Europe, not just as a combination of 27?

That is why I have more questions for this Conference, than answers. But as somebody once said: the formulation of good questions is half the job. And it is good that you are here, Members of the legal community. You can do the other half of the job and help answer these questions! It is all about teamwork!

Until now, the Treaty on European Union had a very clear legal definition – at least how I understand it: national security remains the sole responsibility of each Member State; Common security and defence policy as it is defined in the Treaty is more for external actions; territorial defence is provided by NATO coordination, not by the EU. In territorial defence of Member States, the EU only provides the obligation of mutual assistance in the case of military aggression, the famous Article 42(7) TEU.

So, the **first question:**

With the NATO 3.0 concept, territorial collective defence in Europe moves from transatlantic collective defence to more European collective defence. Is the Treaty on European Union fit for such a collective European defence? Is Article 42(2) about common defence in Common Security and Defence Policy or about common territorial defence of Europe?

Second question:

According to the Treaty on European Union, defence is a national prerogative. The outcome of such a historical legacy is total industrial fragmentation. The question is how to overcome this?

Can only a bottom-up approach, as we had until now – based on the national defence prerogative – resolve this challenge? Or can we have united political leadership for European defence and a top-down approach to overcome fragmentation? Is the Treaty on European Union fit for that?

Third question:

In Munich this year, Chancellor Friedrich Merz spoke about the European pillar of NATO. He proposed to build a European pillar of NATO around Article 42(7) of the Treaty on European Union. In that case, which article will be the backbone of European defence – Article 42(7) or NATO Article 5?

Fourth question:

What will Europeans be additionally expected to do to strengthen the European pillar of NATO? If there is a need to Europeanize NATO headquarters – is the Treaty on European Union ready for that?

Fifth question:

To fill potential gaps if American troops stationed in Europe will be shifted to Indo-Pacific, Europe will possibly need to create a European Rapid Reaction force, or what somebody calls, the European Army. Is the Treaty on European Union ready for that?

Sixth question:

If Putin decides to test NATO Article 5, and our military intelligence services publicly say such a possibility is realistic, some members of the EU in the neighbourhood of Russia will face aggression of Russian army with all its battle-tested experience, with the possibility to use millions of drones. Only the Ukrainian army has similar experience.

How can we integrate that Ukrainian experience with European defence capabilities? As you know, politically, NATO is not available for Ukraine. EU membership is still complicated. Is the Treaty on European Union ready to solve this challenge?

Seventh question:

Can a European Defence Union be a solution for the integration of Ukraine, the United Kingdom and Norway

with the defence capabilities of the European Union? Can we agree that in that case, it would be impossible to squeeze such a European Defence Union into the existing Treaty on European Union?

Eighth question:

In that case, would a new Intergovernmental Treaty on European Defence Union be the best approach? As was the case with the Schengen Treaty?

Ninth question:

Would it be possible in that case to create a European Security Council as the leadership institution of a European Defence Union? With the big E5 countries as permanent members, 3 rotational members and the leaders of EU institutions among Security Council members? For collective leadership of European Defence Union with democratic majority decision making. And for “*swift preparation of most important decisions*” – as Angela Merkel suggested back in 2018, when she spoke about the initiative to build a European Security Council, when such prepared decisions then can be supported by a majority of European Defence Union Members, like usually happens with Coalitions of the Willing.

Tenth question:

Could the new Intergovernmental Treaty on European Defence Union be built on the principles of Article 42(7) on “mutual assistance”?

And the last question, number 11:

Could this Treaty on European Defence Union create provisions for European military headquarters? Could the Treaty provide for the possibility of a European Army and European Common Defence Stockpiles? And for proper financial arrangements for European defence?

Being conservative in my nature, I am always ready to defend existing law. But when we need to defend our territory, the law needs to provide the right possibilities for European defence – that we would be ready to fight as Europe, not just as combination of 27.

In short, for our defence readiness we need also legal defence readiness. We need you!

And at the end, as Commission President Ursula von der Leyen urged us, let’s finally answer the main question: Is the present existing legal and constitutional structure for European defence, as we find it in the Treaty on European Union, more a help or a hindrance for our need to be ready to fight as Europe?

My sincere answer: today, in my view, it’s not enough for our defence.

That is why I urge the creation of a new, genuine European Defence Union, which would also include the United Kingdom, Norway and Ukraine. And to do that, let’s have an additional new Intergovernmental Treaty. Let’s have the law for the defence of Europe by Europe and for peace in Europe! ■



Towards a genuine European Defence Union: the legal landscape of EU defence policy

Ms **Mikaela Kumlin Granit**

Permanent Representative of Sweden to the European Union



MS MIKAELA KURLIN GRANIT

European Defence Cooperation: A Member State Perspective

European defence has moved decisively from the margins of EU policy to the centre of political and academic debate. This shift bears witness to a profoundly altered geopolitical landscape, driven primarily by Russia's war of aggression against Ukraine. As a direct consequence, defence and security issues now dominate discussions at both national and European levels.

Russia's full-scale war of aggression on Ukraine, occurring on the Union's immediate borders, has underscored that Russia constitutes – and will remain for the foreseeable future – to be one of the greatest threats to European security. This reality has compelled Member States to strengthen societal resilience, enhance defence capabilities, and rapidly increase production capacity in the defence sector. At the same time, developments in the Middle East and growing unpredictability in the transatlantic relationship have further reinforced the urgency for Europe to assume greater responsibility for its own security.

This new context suggests that defence and security cooperation will constitute one of the principal driving forces of European integration in the years ahead – a development that would have seemed improbable only five years ago. From a Member State perspective, particularly that of Sweden, the change has been remarkable. Defence was long regarded as an exclusively national competence, with EU efforts largely confined to external crisis management operations. Cooperation occurred primarily on an intergovernmental and voluntary basis, while NATO remained the cornerstone of collective territorial defence.

The geopolitical rupture has altered this division of labour. Together with Finland, Sweden reassessed its longstanding policy of military non-alignment and joined NATO in March 2024. Today, there is broad agreement that Europe must shoulder a significantly larger share of responsibility for its own security and defence. This has translated into a noticeable reorientation of EU policy: from an emphasis on missions abroad towards territorial defence, resilience, and the development of domestic defence industrial capacity. New programmes, such as SAFE (Security Action for Europe), EDIP (European Defence Industry Programme), and ASAP (Act in Support of Ammunition Production), have been introduced at unprecedented speed – a development warmly welcomed by many Member States, including Sweden.

Nevertheless, it remains essential to recall that defence continues to be, first and foremost, a national responsibility. Capability planning, armament decisions, and territorial defence are retained at the national level, even as cooperation intensifies. This is evident when comparing the hundreds of billions of euros spent annually by Member States on defence with the Commission's proposed defence-related budget of approximately €113 billion over seven years.

In this context, the emergence of EU defence industrial programmes should be understood as complementary support rather than a substitute for national efforts. Sweden, home to one of Europe's leading defence industries, illustrates the potential of this approach. The Swedish defence ecosystem benefits from a strong tradition of innovation, engineering excellence, and adaptability of civilian technology for military use. Success stems from designing advanced systems, sourcing high-quality components globally, maintaining design authority at the national level, and preserving freedom of action. While reducing harmful dependencies – particularly on certain third countries – is necessary, this should not entail replacing one dependency with another. Instead, it calls for diversified supply chains involving both European and trusted international partners.

The simplification agenda, including the Defence Omnibus initiative, is therefore of considerable importance. The European Union can play a valuable role by creating incentives for increased production, fostering cross-border cooperation, and enhancing competitiveness. However, NATO must remain the foundation of collective defence. EU initiatives should avoid unnecessary duplication and focus on supporting Member States in delivering the capabilities required under NATO defence planning. The goal is a single set of forces, with EU efforts reinforcing rather than competing with the Alliance.

The European Defence Agency remains a vital instrument in this regard, as a Member State-driven body focused on capability development. Defence ministers should

continue to set the agenda, with the Commission providing supportive incentives within its competences. In the event of an attack on a Member State's territory, the EU would most likely have a significant supporting role, even if not directly military in nature. This includes managing refugee flows, maintaining economic and financial stability, ensuring energy supply, supporting health systems, and facilitating military mobility. A genuine European Defence Union must therefore embrace a “whole-of-society” approach – similar to Sweden's total defence concept – encompassing civil preparedness, infrastructure resilience, and societal cohesion.

A brief note on Article 42(7) TEU is warranted. As a binding mutual assistance clause, it is explicitly complementary to NATO's Article 5. It is expected to trigger a broad Union response – economic, humanitarian, civil protection, and infrastructural – thereby reinforcing rather than duplicating NATO's military role.

Europe has entered a new era. The Union should not seek to replace NATO, but rather to strengthen industrial production capacity, improve resilience and preparedness, and support Member States' defence efforts. A clear recent example of constructive EU-NATO cooperation was the adjustment of Stability and Growth Pact rules to facilitate increased defence spending. The central challenge ahead lies in striking the right balance: respecting national competences while building a more capable, resilient, and competitive Europe. In this endeavour, the European Union has a vital contribution to make. ■



▲ Morning panel

Towards a genuine European Defence Union: the legal landscape of EU defence policy

Mr **Jean-Baptiste Laignelot**

Director, External Relations, Legal Service of the Council of the European Union



Legal Foundations of a Genuine European Defence Union

“Our work, in the next five years, will be focused on building a true European Defence Union” Ursula von der Leyen, 18 July 2024.

Defence is a topic currently undergoing rapid development, and for very good reasons, which we all know. A huge amount of money is being, and will continue to be, spent on defence in Europe – hundreds of billions of euros, with a risk of fragmentation and dispersion of resources. On the contrary, if these funds are spent in an organised way, they may become a factor for greater integration in the single market, in addition to being a condition for our collective peace and security.

Defence raises numerous questions, including very interesting legal ones: the question of competence (EU vs Member States, EU vs NATO, TEU vs TFEU), the question of jurisdiction, the question of financing (EU budget, Member States, European Peace Facility), etc. We must ensure that

there is a legal and conceptual framework within which we can safely work if we are to make progress towards a genuine European Defence Union.

I will focus on the question of competence and illustrate this with recent developments in the field of the defence industry.

Is there an EU competence towards a European Defence Union?

When we speak of “European Defence Union”, we are referring to three distinct elements: the European Union, the European defence, and a defence Union. Certainly, there is a strong demand across the European continent for security and defence, and for the EU to assume its responsibilities. However, initial reactions to the concept of European defence are often negative. I identify two broad categories of such objections: the “pacifist” and the “nationalist”.

The “pacifist” objection claims that defence is not at the core of the EU. The EU is perceived as a peace project, focused on the economy, the internal market, and common sectoral policies such as agriculture, transport, energy or environment; in external action it is associated with trade, development, human rights and values, but not with collective defence, war or military force. This interpretation is not accurate, as I will explain.

The “nationalist” objection asserts that defence and security fall within the exclusive competence of the Member States, and that the EU must not enter this sacrosanct domain of national sovereignty. This view relies on one sentence in the Treaty: *“the national security remains the sole responsibility of each Member State”* (Article 4(2) TEU) and also on the right of each Member State to protect its essential security interests, as indicated in Article 346 TFEU. However, it would be incorrect to conclude that this excludes Union action in this area; there is an EU competence, although it requires careful explanation.

There is a strong principled justification for the EU competence in defence and security: from the outset, the EU was founded to maintain peace in our dear Europe, following two horrible wars. The EU is fundamentally a peace project. But as expressed in the Latin maxim: *Si vis pacem, para bellum* – if you want peace, you have to prepare for war.

For this reason, the EU level cannot be ignored when addressing security and defence, while respecting the Member States responsibilities in this field, in accordance with the principle of subsidiarity. In addition, the EU has to respect the *specific character of the security and defence policy of certain Member States, and to take into account the security and defence interests of all Member States, in accordance with the Treaties* – a formula that has found its way into several European Council conclusions.

So, to avoid both the pacifist and the nationalist pitfalls, we must navigate the safe waters of the Treaties, carefully interpret the relevant provisions, and examine their origins.

From that legal perspective, let us look at the question of competences to analyse the legal principles and concepts enshrined in the EU Treaties, in particular Title V of the TEU.

This Title does not emerge in a vacuum: it has a long history, characterised by spectacular failures at the beginning, such as the European Defence Community in 1952-1954 or the Fouchet Plan in 1961. Subsequently, we witnessed a partial success, mostly forgotten, with the Western European Union which existed between 1954 and 2011. In 1992, the Maastricht Treaty established the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP) for actions outside the Union. After the Amsterdam Treaty (1997), the Western European Union and its two agencies were integrated into the EU, and in 2004 the European Defence Agency was created. In the Lisbon Treaty (2007), the mutual assistance clause, derived from the Western European Union, was incorporated into the TEU (the infamous Article 42(7)).

After 70 years of progressive developments, the notions of common defence or common defence policy appear once in the TFEU in Article 2(4) and several times in the TEU: in the preamble (10th recital), in Article 24(1), 42(2), in Protocol 10 on PESCO (Permanent Structured Cooperation) and in Protocol 11 on the concerns of the Irish people. But “common defence” is never defined, so it is necessary to interpret this notion from a contextual and teleological perspective and, in particular, by reference to the preamble: *“Resolved to implement a common*

foreign and security policy including the progressive framing of a common defence policy, which might lead to a common defence in accordance with the provisions of Article 42, thereby reinforcing the European identity and its independence in order to promote peace, security and progress in Europe and in the world”.

It is noteworthy that the context set out in the Treaty emphasises reinforcement of the European identity and its independence, and not the actual defence of the territory against an armed aggression. Such a wording can be seen as an indication that the drafters of the Treaty envisaged the benefits of a common defence in terms of creating an ever-closer union among the peoples of Europe and of advancing European integration, rather than in terms of collective defence.

Article 24(1) TEU also refers to the common defence policy and common defence in the following terms: *“the Union’s competence in matters of common foreign and security policy shall cover all areas of foreign policy and all questions relating to the Union’s security, including the progressive framing of a common defence policy that might lead to a common defence”*. It is the second time we find this notion of “progressive framing”.

Article 42(2) TEU reads: *“The common security and defence policy shall include the progressive framing of a common Union defence policy. This will lead to a common defence, when the European Council, acting unanimously, so decides.”* The third time.

The TFEU only mentions defence once, when listing the categories of areas of EU competence in Article 2(4): *“the Union shall have competence, in accordance with the provisions of the Treaty on European Union, to define and implement a common foreign and security policy, including the progressive framing of a common defence policy”*. So, the fourth time.

For the EU to build a common defence policy is not optional: it is an obligation for the EU and its Member States to make constant progress in that policy, already now. There is no need for a future European Council decision and ratification by the Member States, contrary to common defence, which is a different matter. The wording of the first sentence of Article 42(2) TEU is clear: the CSDP *“shall include”* the progressive framing of a common defence policy. There is, therefore no doubt about a true EU competence in defence matters, even if it does not concern, or not yet, a common defence in the sense of a collective territorial defence.

Under what conditions can a European Defence industry be built?

Now that the competence of the EU in the field of defence has been sufficiently clarified, I will illustrate the current evolution towards a genuine European Defence Union through concrete examples, in particular, examining the legal bases and the limits imposed by the Treaties. The European lawyers have demonstrated considerable creativity, while fully respecting the limits of the Treaties and remaining under the oversight of the Court of Justice.

The first example is the European Defence Fund (EDF), which was created in 2021 with a budget of €7.3 billion for the period 2021–2027, to encourage research and development in the defence industry. It rests on two legal bases: Industry and Research.

The second example is the European Defence Industry Reinforcement through Common Procurement Act (EDIRPA), the regulation adopted in 2023 with a budget of €300 million for the period 2023–2025, to strengthen the defence industry through common procurement. It is based on the Industry legal basis.

The third example is the Act in Support of Ammunition Production (ASAP), the regulation adopted in 2023 with a budget of €500 million for the period 2023–2025, to strengthen and modernise the defence industry, with a view to delivering urgent munitions and missiles to Ukraine and assisting Member States in replenishing their stocks. It relied on the Industry and Internal Market legal bases.

The fourth example is the Security Action for Europe (SAFE) instrument, adopted by the Council in May 2025, aiming to provide emergency and temporary financial assistance to Member States in the form of loans of up to €150 billion. It is based on an economic policy legal basis.

The fifth example is the European Defence Industry Programme (EDIP), an initiative with a budget of €1.5 billion, aimed at strengthening and modernising the European and Ukrainian defence industries for the period 2025–2027. It rests on the Industry, Internal Market, and Financial Cooperation legal bases.

Finally, the military mobility package – a proposal for a regulation – was presented in November 2025 on the Transport legal basis and is currently under examination by the European Parliament and the Council.

And just in April 2026, the Commission presented its proposal for an Agile and Rapid Defence Innovation Programme, with a budget of €115 million for one year (2027). The draft regulation was proposed on the Industry legal basis.

All these legal instruments share a common feature. As can be deduced from the legal bases used, they all fall within the policies of the Treaty on the Functioning of the European Union (TFEU): industry, research, the internal market, economic policy, transport, and financial cooperation. This raises the question of their compatibility with the *“progressive framing of a common Union defence policy”* under Article 42(2) TEU. Indeed, the defence industry does not form part of the Common Foreign and Security Policy (CFSP). Consequently, the right of initiative belongs to the Commission; the European Parliament is most often the co-legislator with the Council, and the legal acts are subject to judicial review by the Court. Nevertheless, the defence industry may pursue the objectives of the CFSP – it even contributes to them significantly and involves the CFSP actors, such as the European External Action Service (EEAS) and the European Defence Agency. Moreover, Article 21(3) TEU, a relatively little-known provision, states that *“the Union shall ensure consistency between the different areas of its external action and between these and its other policies”*. This principle also applies to defence.

At the same time, in accordance with Article 40 TEU, one policy must not encroach upon the other; the CFSP must not encroach upon TFEU policies, and TFEU policies must respect the CFSP, which, pursuant to Article 24(1) TEU, is subject to specific rules and procedures, including a different voting rule and the absence of judicial oversight, save precisely for monitoring compliance with Article 40 TEU and, of course, in respect of sanctions.

How, then, is this rather fundamental tension to be resolved? According to consistent case law, the adoption procedures for a CFSP decision and for a legal act under the TFEU are incompatible. It was therefore not possible to opt for a dual legal basis combining CFSP and TFEU.

The dividing line identified, drawing inspiration from the case law of the Court, is that a measure adopted under the TFEU may contribute to the CFSP, provided that such contribution is incidental to the main object of the act and does not alter its essential nature.

On that basis, and in full agreement among the colleagues in the legal services of the Commission, of the European

Parliament and of the Council, it was considered that when a proposal such as EDIP pursues the objectives set out in the relevant TFEU legal basis, the fact that it thereby contributes to the Union's defence and security policy, as established by the CFSP, is unproblematic, provided that it does not alter the essential nature of the measure. More precisely, it was considered that, in accordance with the Treaties, it is not only possible but also desirable that measures intended to support the European defence industry take account of the interests and priorities of the Union's security and defence policy. That said, it was also considered that an act adopted under the TFEU cannot itself define the objectives of the CFSP but must rather ensure consistency with the existing CFSP objectives by referencing them or contributing to their achievement. These objectives must be defined elsewhere within the CFSP framework.

Consequently, where CFSP elements contained in a TFEU legal act affect the procedures and exercise of CFSP competences or are not of an incidental nature, it was considered that such elements are not compatible with Article 40 TEU and require a CFSP legal basis. Since that basis cannot be combined with a TFEU one, such elements must be removed from the text, and this approach was followed. By contrast, where TFEU elements do not affect the CFSP, are merely incidental to the main object of the act and, moreover, ensure consistency between the CFSP and the Union's other policies in accordance with Article 21(3) TEU, they raise no legal difficulties.

Under these conditions and caveats, it has proven possible, over the past five years, to begin developing a genuine European Defence Union, not only through CFSP actions, but also through TFEU instruments that have been adopted in record time and are now being implemented by the Commission at an accelerated pace. Thanks to these resolute actions, the Union is fully discharging its responsibility to contribute, together with its Member States and partners, to the maintenance of peace through strength on our continent, and to support Ukraine in its defence against Russian aggression.

Robert Schuman emphasised in the first words of the famous founding declaration of 9 May 1950: *“World peace cannot be safeguarded without creative efforts commensurate with the dangers which threaten it. The contribution which an organised and living Europe can bring to civilisation is indispensable to the maintenance of peaceful relations”*.

Thanks to a genuine European Defence Union, the Union and its Member States will be better armed, in every sense of the term, to preserve peace in the world. They will also be better prepared for the future, since no one knows what the future holds. The competences exist within the Treaties; considerable progress has already been made over the past five years and more can be achieved if the Union and its Member States remain united and jointly defend the general interest. ■

Towards a genuine European Defence Union: the legal landscape of EU defence policy

Ms **Belén Martínez Carbonell**

Secretary-General of the European Union's External Action Service



From Strategic Vision to Action: Building a European Defence Union

Discussions concerning European defence integration have a long history, dating back to the Schuman Declaration. However, there are compelling reasons why the issue has gained renewed prominence in recent years.

The most immediate is Russia's aggression against Ukraine, which has been accompanied by hybrid attacks, cyber operations, and sabotage of critical infrastructure across the European continent. These threats have come uncomfortably close to European citizens, testing the Union's defence readiness. Coercive power politics undermines the rules-based international order. More recently, developments in the Middle East have provided further instability. Meanwhile, China remains a long-term systemic challenge, while issues of economic security have acquired heightened salience. Crucially, these developments are occurring against the backdrop of a fundamental reorientation of the transatlantic relationship.

Although the European Union remains fundamentally a peace project, as Jean Monnet and others have long emphasised, there is now a widespread recognition that preserving peace requires credible deterrence and the capacity to defend oneself against aggression. For the first time in many years, Eurobarometer surveys indicate a genuine public appetite for deeper integration in the field of defence.

In light of this new geopolitical reality, the present contribution sets out the Union's approach to defence policy in action, focusing on three main themes. First, it outlines the vision and objectives for EU defence integration. Second, it examines how these objectives are translated into concrete tools and instruments. Third, it identifies the actions required to advance towards a genuine European Defence Union.

Strategic vision

The High Representative / Vice-President Kaja Kallas and Commission President Ursula von der Leyen are co-drafting a new European Security Strategy. This strategy seeks to bridge the internal and external dimensions of security in a coherent manner. It addresses a wide range of threats, ranging from military readiness to the protection of citizens from external risks, economic security, energy security, and democratic resilience. Security in the contemporary context is understood as an all-encompassing concept.

In the specific area of defence, the strategy builds upon substantial work undertaken in 2025, including the White Paper on Defence, the Defence Readiness Roadmap, and the Preparedness Union Strategy.

In the area of defence, the principal objectives are fourfold: (1) to achieve defence readiness by 2030, enabling Europe to defend itself against external threats through adequate capabilities, a strong European pillar within NATO, and robust defence industrial capacity; (2)

to sustain support for Ukraine, recognising that Europe's security is being defended on Ukrainian borders; (3) to enhance the Union's capacity to manage crises in its neighbourhood; and (4) to build greater resilience in Europe and beyond, with our partners.

The overarching aim is clear: the European Union must secure its own destiny as the political expression of a united Europe that protects its citizens and democracies, safeguards its values and interests, and contributes to a more stable international order.

Translation of objectives into instruments

These objectives are translated through a strengthened institutional framework. Nearly a decade ago, the Union took a significant step forward with the launch of PESCO (Permanent Structured Cooperation), which has initiated seventy-four concrete projects. These include, for instance, the military mobility project, which has led to a comprehensive set of measures aiming at removing all remaining barriers in Europe across regulatory, infrastructure and capability dimensions. PESCO is underpinned by twenty binding commitments, ranging from increased defence spending to the alignment of national defence plans. We have continuously deepened our relationship with NATO, which remains the cornerstone of European territorial defence and collective security.

Numerous further initiatives are being pursued within the context of the Strategic Compass (2023) and the Defence Readiness Roadmap (2025). The Union has also activated Article 42(7) TEU, the mutual assistance clause, and is preparing exercises to operationalise it in practice.

The EU's support for Ukraine exemplifies how far the Union can act in this domain. This assistance rests on three mutually reinforcing pillars: a military pillar (e.g. provision of long-term predictable military support, including lethal and non-lethal equipment, and training via the European Union Military Assistance Mission – EUMAM, which has already trained nearly 90,000 Ukrainian soldiers); a security pillar (through the civilian EU Advisory Mission – EUAM Ukraine, which strengthens internal security and the rule of law); and a defence industrial pillar aimed at integrating Ukrainian companies into the European defence technological and industrial base. A fourth pillar focusing on stability aims to address future risks. Its work strands include reintegration of veterans and countering hybrid threats, with cyber resilience expected to be introduced shortly.

Broadening our partnerships across the world, the Union has concluded twelve security and defence partnerships with third countries, including South Korea, Japan, the United Kingdom, India and Ghana. It maintains approximately 4,000 military and civilian personnel deployed in missions and operations worldwide. Finally, through the European Peace Facility, the EU can provide targeted military support in the form of assistance measures to Ukraine and other third states.

Actions required for a European Defence Union

Several steps are now required. First, decision-making processes under the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP) must be streamlined to enable swifter action. This includes more effective use of constructive abstention (Article 31 TEU), a gradual expansion of qualified majority voting, and the use of enhanced cooperation.

Second, the Union must make better use of its institutional framework to acquire the necessary capabilities, reduce fragmentation in the defence market, and maximise the impact of collective defence spending.

Third, partnerships must be prioritised, beginning with NATO. The European pillar within the Alliance needs to be strengthened. Diversification of partnerships with like-minded third countries should also continue, including joint training, exercises, and industrial cooperation.

There is little doubt that, step by step, the Union is progressing towards a genuine European Defence Union. This endeavour ultimately depends on the political will of the Member States to overcome historical differences, align institutions and industries, and act collectively. Only by doing it better, together, and using the present urgency as an opportunity, can Europe effectively protect its citizens and contribute to international peace and security. ■

Towards a genuine European Defence Union: the legal landscape of EU defence policy

Dr Carolyn Moser

Research Group Leader, Max Planck Institute, European Security Revisited (ENSURE)



Article 42(2) TEU and the Prospect of Common Defence: A Legal and Governance Perspective

As the final contribution to this panel, this presentation explores Article 42(2) of the Treaty on European Union (TEU), which offers the prospect, or more precisely, the concept of common defence. Although this provision has remained inactive to date, discussions in Brussels and national capitals suggest growing interest in its potential activation in the future.

The provision is analysed here within the broader legal and governance framework of the European Union and European defence. Three principal arguments are made in this context. First, common defence constitutes both an endpoint and a catalyst for European defence integration. Second, the contours of common defence remain deliberately vague, thereby offering considerable scope for interpretation and implementation. Third, the transition to common defence goes beyond the Common

Security and Defence Policy (CSDP); it requires a broader, holistic approach, encompassing industrial policy, military mobility, and other supporting measures. Before examining Article 42(2) in detail, three preliminary observations are warranted.

First, any analysis must recognise the distinctive institutional and procedural framework of the Common Security and Defence Policy (CSDP), which is due to the sensitivity of that policy area. As encapsulated in Articles 24 and 42 TEU and, unlike in most areas of EU law, the European Council and the Council are the primary actors, with the High Representative and the European External Action Service (EEAS) also playing a prominent role. Decision-making is based on unanimity in line with Article 42(3) TEU. In principle, the European Parliament and the European Commission have limited involvement and the jurisdictional scope of the Court remains restricted. This intergovernmental setting differs markedly from the supranational model familiar to most EU lawyers.

Second, the provision is dormant and lacks established practice or jurisprudence at the national and EU levels. Scholarly commentary is also relatively sparse. This scarcity of material requires a creative and explorative approach, drawing upon broader legal and contextual knowledge.

Third, the inherent vagueness of EU law in this domain should not be viewed as a problem but embraced as an opportunity. In the current challenging geopolitical environment, such ambiguity provides valuable leeway for innovative solutions, although legal possibilities must always be weighed against political feasibility and desirability.

Article 42(2) TEU provides as follows:

“The common security and defence policy shall include the progressive framing of a common Union defence policy. This will lead to a common defence, when the European

Council, acting unanimously, so decides. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.”

The second subparagraph of Article 42(2) clarifies that the Union’s policy in this area “*shall not prejudice the specific character of the security and defence policy of certain Member States*” and shall respect obligations arising from the North Atlantic Treaty and be compatible with the common security and defence policy established within that framework. From this provision, six key insights may be inferred.

First, EU law is not indifferent to the finality of defence integration. The explicit reference to common defence, albeit cautious, is deliberate and significant. While semantic differences exist across Treaty provisions, the prospect of a common defence is clearly envisaged. Hence, far from being purely symbolic, this prospect has acquired renewed relevance in the current security context.

Second, the Treaties confer upon the Union a competence that encompasses not only defence integration, but also the activation of a common defence. This competence is best described as *sui generis*: it operates on the basis of unanimity and relies primarily on Member State assets. Nevertheless, this intergovernmental character does not preclude complementary supranational measures in support of defence-related industrial, research, or mobility initiatives. Indeed, combining elements located in both the TEU and TFEU will be essential for achieving a common defence in the sense of Article 42(2) TEU.

Third, the underlying logic is incremental. Through convergent action and progressive framing of a common defence policy, the Union may reach a point at which transition to common defence becomes appropriate. This step represents a qualitative milestone, as it would involve establishing some sort of common command and control structures, as well as ensuring deployable and interoperable capabilities. Whether it would also imply moving beyond voluntary cooperation and towards greater rigidity and compulsory contributions is uncertain, as the precise conditions of a common defence remain to be defined.

Fourth, the substantive content and institutional form of common defence remain largely undefined. This indeterminacy, while potentially disconcerting to lawyers, provides valuable flexibility. Common defence should be understood as more comprehensive than mutual

defence alone; next to mutual assistance, it would likely also encompass crisis management, strategic planning, capability planning and development, and partnerships. Inspiration for pragmatic and modular institutional approaches may be drawn from existing multilateral arrangements, such as the European Air Transport Command (EATC).

Fifth, the transition to common defence follows a two-step procedure: a unanimous decision by the European Council, potentially allowing constructive abstention, followed by endorsement (effectively ratification) by Member States in accordance with their constitutional requirements. Article 42(2) therefore tends to be described as an evolutive clause, offering a simplified form of Treaty revision outside the ordinary Article 48 TEU procedure.

Sixth, common defence cannot exist in isolation. It must respect the specific characteristics of certain Member States’ defence policies (including neutrality or independent nuclear deterrents) and remain compatible with NATO obligations. The principle of a single set of forces applies, yet structures may be designed as separable, where necessary. While compatibility with NATO is essential, this requirement does not reduce the EU to a mere supporting actor—neither operationally nor financially or industrially.

Common defence, as envisaged by Article 42(2) TEU, should be understood as both a process and an endpoint. The Treaties already offer numerous tools, such as enhanced cooperation, PESCO (Permanent Structured Cooperation), a pioneering group of States under Article 44 TEU, and TFEU-based measures, that have not yet been fully utilised. A genuine European defence policy requires a holistic “smart bricolage”, combining instruments from both Treaties.

Law functions as an enabler in this context, rather than an obstacle. However, while it can prepare and endorse progress, it cannot substitute for political will. Common defence represents only one element within a broader security architecture that complements national defence policies, cooperation in the NATO framework, and other international frameworks (such as the OSCE).

In these complex times, Article 42(2) TEU should be seen not merely as a legal curiosity, but as an invitation to reflect creatively on the future of European defence. Complex problems require sophisticated solutions, and the Union’s legal framework provides a solid foundation for meeting the challenges ahead. ■

Towards a genuine European Defence Union: the legal landscape of EU defence

QUESTIONS AND ANSWERS

Article 40 TEU states that Common Foreign and Security Policy (CFSP) shall not affect TFEU policies, and vice versa. Its wording is ambiguous and has not been clarified by the Court of Justice since the Lisbon Treaty. Similarly, Article 4(2) TEU requires the Union to respect essential State functions (using the term “respect” rather than “sole responsibility”). Moreover, Article 346 TFEU appears to envisage the use of TFEU legal bases in the defence field. Do the panellists consider that a genuine conflict exists, or might a systemic interpretation of the Treaties afford greater scope for the use of TFEU provisions in support of defence objectives?

Mr Jean-Baptiste Laignelot emphasised that the apparent conflict is largely illusory. A systemic interpretation of the Treaties demonstrates that TFEU measures can meaningfully contribute to CFSP objectives without violating Article 40 TEU. Article 346 TFEU is particularly instructive. Although the Court of Justice has interpreted it narrowly, its existence confirms that the TFEU does not preclude Union’s action in the defence field.

Dr. Carolyn Moser added that, more broadly, the Union’s mission to preserve peace has not changed, but the means required to achieve it have evolved in response to the current geopolitical environment. The EU is moving beyond its traditional “normative power comfort zone”. The challenge for lawyers is to adapt existing instruments, while remaining faithful to core values and principles.

In the 11th recital of the Preamble to the TEU [which refers to the “progressive framing of a common defence policy” that “might lead to a common defence”, thereby reinforcing European identity and independence in order to promote peace, security, and progress in Europe (see also Article 21(2) TEU)], does “progressive” refer solely to a temporal dimension, or might it also encompass structural progress - for example, through differentiated integration or the use of Member State capabilities in an EU-guided framework? Furthermore, is the promotion of peace, including with regard to external borders, not a core objective alongside military strengthening?

Mr Jean-Baptiste Laignelot replied that “progressive framing” should be understood broadly, not merely as a matter of time but also of structure and depth. It can include enhanced cooperation and differentiated integration, allowing willing Member States to move forward within the Treaties. The promotion of peace, including the protection of territorial integrity (as regularly invoked in the Union’s sanctions regime concerning Ukraine) remains a central objective of the CFSP alongside military capability development.

The European Union was founded on values of peace and economic prosperity. Given that law is primarily designed for peaceful periods, and considering current challenges such as corruption and complex relations with third countries (including the United Kingdom, Switzerland, Serbia, and Ukraine), how can a credible European defence be constructed when foundational values appear to be eroding?

Ms Belén Martínez Carbonell insisted that European defence policy is firmly grounded in the Union's values and in full respect of the Treaties. Cooperation with third countries includes alignment on values and international law.

Ms Mikaela Kumlin Granit concurred that, when implementing funding or partnerships, the same objectives and standards regarding the rule of law apply. Respect for democratic values remains a priority for European citizens.

Below the high threshold of Article 42(2) TEU, how might constructive abstention be used more effectively to enable a more ambitious and forward-leaning defence policy?

Dr. Carolyn Moser indicated that constructive abstention has become significantly more relevant since 2022 and has enabled the European Union to advance when unanimity was unattainable. It is a valuable tool for differentiated integration. Additional mechanisms – such as Article 44 TEU (entrusting tasks to groups of Member States), enhanced cooperation, and a more ambitious use of PESCO (Permanent Structured Cooperation) – could be employed more creatively to allow “avant-garde” groups to progress, while leaving the door open for others to join later.

Regarding the national constitutional requirements under Article 42(2) TEU, how do these compare with procedures for own resources decisions? Could this procedure be viewed as a quasi-constitutional mechanism offering wider scope than ordinary legislative processes?

Dr. Carolyn Moser underlined that the procedure constitutes a *sui generis* form of a simplified Treaty revision. The Lisbon judgment of the German Federal Constitutional Court (2009) requires parliamentary approval in Germany, making the process complex. Greater awareness and preparatory mapping of national constitutional requirements will be essential to ensure that this does not become a stumbling block.

Given the centrality of nuclear deterrence within NATO, has any consideration been given to a European dimension of nuclear protection, possibly drawing on existing instruments such as the European Atomic Energy Community Treaty?

Ms Mikaela Kumlin Granit accentuated that nuclear deterrence remains a core element of NATO and is difficult to replace. The EU's primary added value lies in industrial policy, capabilities, and resilience rather than duplicating NATO structures. Recent French proposals and joint drills indicate evolving thinking on the issue but there is limited appetite for a fully European nuclear project at present.

Mr Jean-Baptiste Laignelot commented that nothing in the Treaties prevents Member States from extending nuclear protection to others under Article 42(7) TEU, although this remains a highly political matter for Heads of State and Government. ■



▲ Morning panel

Closing remarks

Morning session

Mr **Clemens Ladenburger**

Deputy Director-General of the Legal Service, European Commission



As underlined by our **Director General, Alberto De Gregorio**, the panel has addressed a matter that has become an existential challenge for the European Union. Against the backdrop of the presentations by **Commissioner Kubilius** and **Ambassador Kumlin Granit**, we have sensed a profound urgency to secure Europe's own destiny and to strengthen European independence. This imperative finds concrete expression in the eleven questions posed by the Commissioner, which converge in one central inquiry: do the current Treaties and the Union's institutional framework constitute a help or a hindrance in this quest?

Without presuming to provide a definitive answer, one overarching theme from the discussion merits emphasis. The European Union operates on the basis of two Treaties - the TEU and the TFEU - which, since the Treaty of Lisbon, form part of a single, integrated EU legal order. This single legal system is animated by a shared set of values and objectives (Articles 2 and 3 TEU), an ambition of an *"ever closer union among the peoples of Europe"*, and a common pursuit of foreign policy goals, including the

progressive framing of a common defence policy.

This unified legal order is characterised by a single system of competences, overarching principles of EU law – notably the principles of autonomy, uniform application, and sincere cooperation – and consistent methods of interpretation (textual, contextual, historical, and teleological). As several speakers have illustrated, this systemic coherence enables the seamless interaction of TEU and TFEU instruments. The military mobility project, originated under PESCO (Permanent Structured Cooperation) and advanced through TFEU-based measures, offers a compelling example.

The Treaty framework is not indifferent to the objective of common defence. On the contrary, the deliberate ambiguity of certain provisions, as **Dr. Moser** rightly observed, should be viewed as an invitation to creative yet legally grounded solutions. EU lawyers are accustomed to harnessing such ambiguity to advance integration. The panoply of legal bases in the TFEU, combined with the flexibility mechanisms in the TEU (including constructive abstention, enhanced cooperation, Article 44 TEU, PESCO, Article 42(2), and Article 42(7) TEU), provides a rich toolkit with which to advance European defence policy.

This holistic approach mirrors the *"whole-of-society"* or *"total defence"* concept highlighted by **Ambassador Kumlin Granit**. Securing European independence is not a task for the military alone; it demands the mobilisation of the entire Union legal order and all areas of society. Awakening the *"Sleeping Beauties"* in the Treaties requires more than a prince's kiss; it calls for sustained intellectual effort, political will and creative legal interpretation. ■

Launch of the Legal Service's new book *'Exploring the new frontiers of EU Law'*



Keynote speech

Mr **Michael McGrath**

Commissioner for Democracy, Justice, the Rule of Law and Consumer Protection



MR MICHAEL MCGRATH

It is a privilege to address so many distinguished lawyers from across the European Institutions and Member States.

Today's second session asks a valid question: *"Is simplification the key to unlocking competitiveness in our Union?"*

And I would like to answer this question using an example from my own portfolio – the *EU Inc.* proposal.

Today's founders and investors are faced with 27 national legal systems and more than 60 company forms. For too long, this regulatory fragmentation, these unnecessary burdens, and their corresponding costs have dissuaded Europe's talent, ambition, and innovation from setting up, scaling up, and staying in Europe. And, as I am sure you have heard, this proposal for a harmonised corporate legal framework aims to reverse this trend. So, when addressing this session's question, I would like to begin with the wider picture of simplification. While one could argue that 'complexity is an inevitable feature of legislation' – this does not mean that legislation cannot also bring

simplicity. And I do not mean merely simplifying rules to undo complexity that earlier legislation introduced! I mean simplification through harmonisation – getting back to the basics of European legislative work and to the basis of the European project itself. And this is what the *EU Inc.* proposal aims to achieve: simplification achieved through harmonisation; harmonisation that addresses fragmentation; and defragmentation that delivers integration.

A truly integrated Single Market was called for in the Draghi Report. And removing the "Terrible Ten" obstructing barriers was the subject of the Single Market Strategy. The *EU Inc.* proposal aims to break down one of those barriers – the complicated and fragmented rules that companies face throughout their lifecycle – and by addressing fragmentation through harmonisation, the *EU Inc.* proposal aims to deliver both simplification and competitiveness.

But the *EU Inc.* proposal was not only a reaction to that Report and Strategy. 16 months of extensive consultations also revealed that stakeholders wanted – and needed – something novel, consistent, and simple.

This is why the *EU Inc.* proposal offers an optional, harmonised corporate legal framework with a recognisable EU brand; a framework that responds to the needs of innovative companies but remains open to all founders; and a single corporate rulebook for the entire lifecycle of companies in the Single Market.

There are four main ways the *EU Inc.* proposal will make this a reality – and a further fifth one where we count on Member State's support.

First, companies using the *EU Inc.* legal form can set up quickly and cheaply. Quickly means registering online, within 48 hours. Cheaply means for no more than €100, and with no minimum capital requirement.

Second, *EU Inc.* will be digital-by-default and require information once-only. Digital-by-default means corporate processes throughout a company's lifecycle: from setting up and submitting corporate information, through online shareholder or board meetings and fully digital share transfers, to digital insolvency procedures. The once-only principle means that companies will submit information to business registers only once; and business registers will transmit their company information to other national competent authorities.

EU Inc. companies will be able to make use of the tools of today: the multilingual and digital EU Company Certificate and EU Power of Attorney. And these will be made compatible with the tools of tomorrow: the upcoming European Business Wallets.

Third, *EU Inc.* is about talent. *EU Inc.* will help companies compete for and retain talent by issuing employee stock options. And a harmonised timing of taxation will ensure that employees are only taxed once they have received income from their options.

Fourth, *EU Inc.* is about investment. The *EU Inc.* brand speaks the language of global investors, and stands for a company established in a stable region governed by the rule of law. *The EU Inc.* proposal also simplifies and digitalises financing rounds and share transfers, so that companies will have better access to early-stage investments and venture capital and to raising equity across borders throughout their growth cycle. And they will be able to provide their investors with credible exit options: through secondary share sales; and access to public trading venues for shares.

Fifth, legal disputes must be resolved swiftly and consistently by experienced judges. This is where the commitment of each Member State will be crucial for realising the full potential of *EU Inc.* In the Communication accompanying the proposal, we encourage Member States to designate specialised courts to handle *EU Inc.* disputes improve consistency in rulings, minimise procedural bottlenecks and deepen judicial understanding of the unique aspects of *EU Inc.* We will offer support to Member States in these efforts, such as through initiatives under our European Judicial Training Strategy.

To conclude, allow me to come back to the question posed by this panel.

Simplification may not be “the one and only key” to “unlocking” competitiveness. But that is because we are not facing a closed door. Rather, we are traveling along a road that is littered with barriers. Our companies have navigated these hurdles for many years. But sometimes they stumbled or were forced to take a side road by relocating overseas. Each redirection or fall represents a missed opportunity – weakening Europe's competitiveness and prosperity.

In response, the *EU Inc.* proposal offers defragmentation through harmonisation, delivering competitiveness through its built-in simplification. In this, it is certainly ambitious; and I look forward to taking this forward with the co-legislators as quickly as possible. ■



Simplification: the key to unlock competitiveness in the Union?

Mr **Jean-Denis Combrexelle**

Honorary Section Chairman, French Conseil d'Etat



Simplification and the Causes of Normative Inflation

As public officials and legal practitioners, we are living through a decisive moment in the history of the world, of Europe, and of our countries – a decisive moment for democracy. Democracy which, as history has unfortunately shown, is fragile and which is now increasingly challenged by a growing climate of suspicion.

Is democracy truly the best political system, or merely, to paraphrase Churchill, the least bad? Those often described as “technophiles” tell us that democracy has been overtaken by the emergence and rapid development of digital technologies, particularly artificial intelligence.

At the same time, the so-called “illiberal” regimes are emerging, presenting an allegedly superior efficiency, more proclaimed and amplified through social media than genuinely demonstrated, as a defining characteristic in contrast with our older democracies.

Necessity of norms in democracies and the dangers of normative inflation

There exists, however, a third threat to democracy – one that is more insidious and not unrelated to the foregoing developments. It concerns democracy’s internal functioning and the phenomenon of normative inflation.

The first point that must be strongly affirmed is that democracy necessarily requires norms because it rests upon the rule of law. The rule of law depends upon norms and principles that organise society and protect public freedoms, together with independent judges entrusted with ensuring their observance and application.

Yet, while it is essential to defend legislation and the norms it establishes, it is equally necessary, and this is the subtlety of the argument, to avoid an excess of norms in the name of those very same democratic and republican principles.

Our democracies face a particular danger: they produce more norms and procedures than tangible results perceptible to ordinary citizens. Gradually, voters, taxpayers, and users of public services grow weary of announcements and legislative promises. What they seek are concrete improvements in their daily lives, yet, these often arrive late and fall far short of the expectations created. The consequences of this situation are numerous.

First, and quite evidently, norms intended to guarantee public freedoms may, through their sheer quantity and complexity, become a threat to those very freedoms, such as the freedom to conduct a business or freedom of movement, or, as demonstrated by the Draghi Report, to the competitiveness of the Union and its Member States. As the European Commission itself has emphasised, this raises the profoundly political question of public consent to regulation.

The effects are also felt in everyday life through the proliferation of paper and online forms, which represent the concrete manifestation of legal norms. Despite genuine efforts made by public administrations, it is impossible to produce simple forms on the basis of complex rules. One of the leading American specialists on bureaucracy, David Graeber, estimated that we spend approximately six months of our lives completing forms.

Normative inflation also affects the room for manoeuvre available to policymakers. Expectations placed upon politicians continue to rise, even as their powers become increasingly constrained by regulations and case law, generating a form of “democratic frustration” with deeply damaging consequences.

Political causes of normative inflation

When analysing the mechanisms that lead to normative inflation, attention is generally focused solely on the production of norms. This encourages the recurrent criticism of the State and bureaucracy – pejoratively labelled the “deep state”. Yet, to borrow an analogy from economics, there exists, in reality, both a supply of norms and a demand for norms, with the equilibrium between the two occurring at a particularly high level.

Let us first consider the production of norms by public institutions, including those of the European Union.

Political leaders themselves bear an important share of responsibility. The media-political nexus thrives continually on announcements and legislation. However, the principal target of criticism within both the Union and the Member States has increasingly become the administration itself, which is frequently blamed for virtually every malfunction within society. The reality inside the machinery of a state is rather more subtle.

One cannot understand bureaucracies if one mistakes caricature for reality. Public administrations are most often composed of brilliant young and senior officials driven by a genuine commitment to the public interest and willing to devote extraordinary amounts of time and energy to their work. Yet, herein lies the difficulty: this pursuit of perfection may ultimately undermine the very objective.

There is a tendency to draft texts that are exhaustive and perfect, covering every conceivable situation, preventing fraud and regulatory arbitrage, with the result that the

legal cathedral constructed by administration becomes so complex that it ultimately fails to achieve its intended practical goals. This raises an almost philosophical question but also a political and managerial one: does the proper functioning of our democracies not require the acceptance of a certain degree of imperfection?

At this point, it is necessary to address the demand for norms originating from civil society, namely businesses, associations, and private individuals. Here lies the central paradox: companies, professions, and individuals constantly complain about excessive regulation. Yet, reality reveals something more complex. The very same actors who denounce normative excess often demand, when directly concerned, that the relevant rules be drafted with extreme precision. This is true of businesses, which, in the name of legal certainty, request highly detailed provisions clearly defining the permissible boundaries of conduct. It is equally true for private individuals.

In this sense, all stakeholders in our societies have become addicted to norms, in the name of a principle well known to European Union lawyers: legal certainty, which is often perceived as achievable only through exhaustive and comprehensive regulation.

Cultural causes of normative inflation

A deeper cause of all this is neither technical nor legal, but cultural. One of the determining factors shaping both the quantity and content of norms is the level of trust or distrust existing within a society. The pervasive climate of distrust that now characterises our societies, and which is continuously fuelled by social media, is one of the principal drivers of normative inflation.

To put the matter concretely: if I draft a directive, a regulation or another legal act that establishes a principle or legal mechanism without entering into excessive detail, this implicitly but concretely means that I place trust in the loyalty and reasonableness of my fellow citizen or competitor, in the expertise of the relevant professional, in the judgment of the administration applying the rule, and in the wisdom of the judge who will resolve disputes.

Democracy functions properly only where there exists a minimum degree of trust, indeed, I would even say goodwill, among public and private actors alike. Conversely, where a general climate of distrust prevails, there arises a demand for extremely detailed

rules intended to provide protection through legal certainty. Our political and administrative systems, judges included, spend their time constructing walls of paper.

Particular responsibility of the European Union

At this stage, it is necessary to address the particular responsibility of the European Union, and I do so not merely from an external perspective but also from an internal one, given my former role as a ‘référéndaire’ at the Court of Justice of the EU.

The European Union has been built on law. A former president of the Court, Robert Lecourt, even wrote a book with the explicit title *L'Europe des juges* (“Europe of the Judges”). During the politically difficult years of European integration in the 1960s and 1970s, law and judges compensated for insufficient political will. Today, however, the Union focuses on its normative trajectory and, despite the lessons that ought to have been drawn from Brexit and despite the principle of subsidiarity, has difficulties in distinguishing between what is essential and what is secondary – a distinction that is nevertheless crucial in the present period of our history. Consequently, not only do the same observations concerning normative inflation apply at Union level, but the phenomenon is actually intensified there. The reasons are numerous but I would like to emphasise three, in particular.

The first may appear provocative in this setting. Does there truly exist a distinct and autonomous body of the European Union law, or is what we call “Union law” too often merely a more or less harmonious synthesis of national legal systems? Should we not acknowledge that a part of the complexity and heaviness of directives and regulations results from the effort to aggregate and accommodate the specific features of the legal systems of different Member States?

This is not intended as criticism of the Union institutions themselves, because the administrations of the Member States, which, as everyone here knows, play a decisive role in shaping Union legislation, bear considerable responsibility for a body of Union law conceived largely as a compromise between national systems.

The second reason lies in the distance between the institution that enacts the norm and the society expected to apply it. There is a sociological hypothesis that the greater the distance, the more complex and abundant

the regulation becomes. Without in any way questioning the competence or goodwill of Union officials and judges, one needs only observe that the distance separating them from society is significant.

The third issue concerns the over-transposition of directives, a subject of direct importance to the Member States, including my own country. Time does not permit a detailed discussion and everyone here knows the established position of the Commission and the Court of Justice: Member States are at the origin of over-transposition. I would simply raise one question: should this position perhaps be nuanced, given that citizens’ perception and lived reality of Union law are shaped primarily by the transposed national text?

Remedies common to the Member States and the European Union

First, it must be clearly stated that there is no miracle cure in this field, and those who claim otherwise are demagogues. Elon Musk has now left the DOGE with results that are, at best, negligible and, at worst, deeply disappointing.

It is therefore essential not to misdiagnose the problem. Bureaucracy and regulation resemble the portrait of Dorian Gray: they reflect not merely the failings of public administrations, but the defects, weaknesses, and shortcomings of a society as a whole. This requires our political and administrative systems to recognise that the solution to every problem does not necessarily lie in the adoption of additional rules.

The Commission has addressed this issue directly, notably through initiatives such as the Omnibus legislation. In terms of public policy, faster and more effective results can often be achieved “at constant law”, that is, without adopting new legislation, through better mobilisation of public services and incentive-based mechanisms. The energy and time of public administrations should not be consumed exclusively by the production of new norms but rather directed towards achieving concrete and visible results for ordinary citizens.

Within this new approach, artificial intelligence will naturally be capable of assisting us. What is at issue is the division between the content of legislative norms and the operational content embedded in software applying those norms. One might even imagine systems, in which legal rules themselves are reduced to a minimum, with

the essential elements incorporated into the AI software implementing them. This would, however, raise important questions concerning democratic accountability and oversight of AI systems.

In other words, the time may have come to move beyond the traditional pairing of legislative production and simplification exercises and instead deploy all available technological tools in support of a fundamentally new approach to regulation.

Naturally, it is necessary to address the existing stock of norms, which has now reached a level increasingly difficult for people to accept. Yet, the real challenge lies in controlling the flow of new norms – a task that will require unprecedented cultural and technological change.

Finally, *I have a dream* that the complexity and severity of the challenges we are about to face will not give rise to a society defined by conflict, distrust, and permanent contempt, because these are the very forces that fuel normative inflation and directly undermine both our freedoms and our competitiveness. ■



▲ Afternoon panel

Simplification: the key to unlock competitiveness in the Union?

Prof. Dr. **Meinrad Dreher**

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PROF. DR. MEINRAD DREHER

Principle-based legislation vs. detailed legislation. What is the problem?

Regulation and bureaucracy in the EU have reached excessive levels. Everyone knows examples of this. And numerous studies show that more than half of the bureaucratic burdens originate in Europe.

The Commission aims for simplification. However, it still largely follows the old track. This means *Stop the Clock*, reducing the scope of legislation, and lowering reporting obligations as well as other red tape. None of these are game changers. They are merely small-scale, system-immanent corrections. Real simplification requires a change of course, namely disruption. And only effective simplification leads to greater competitiveness. What does real and effective simplification mean? Five points seem central.

Principle-based legislation and principle-based regulation at all levels

What is that about? In many areas of commercial law-legislation, there are two models: principle-based or detailed

legislation. Detailed legislation is the traditional model: pursuing objectives through detailed, subsumable legal provisions. Example: requiring a legally detailed compliance management system for all companies. Principle-based lawmaking takes a different approach: it largely limits itself to specifying an objective, in other words, rather short, qualitative legal criteria. Example: requiring companies to have an appropriate, adequate and effective compliance management system.

In practice, principle-based legislation is often undermined by detailed and granular regulations, communications, guidelines, and similar instruments. The reasons include not only the regulatory enthusiasm of European institutions but also, unfortunately, the constant calls from companies and their associations for detailed “guidance”, despite simultaneously demanding deregulation and de-bureaucratization. The result is usually that, notwithstanding an initially principle-oriented approach, over-regulation and over-bureaucratization emerge.

There are certainly areas, in which principle-based legislation has no place; for example, when it comes to safety requirements, quantitative capital requirements, or the scope of reporting obligations. In most regulatory areas, however, nothing prevents principle-based legislation combined with typification and standardization. The disadvantage of reduced legal certainty is outweighed by advantages such as greater company-specific freedom, incentives for innovation and efficiency, and less detailed administrative control – all fundamental conditions for greater competitiveness. In other words: only a principle-oriented approach is an appropriate response to an increasingly complex reality.

Reforming delegated acts and delegated rulemaking

Unlimited delegated acts are the main cause of excessive regulation and bureaucracy. The Council and the European Parliament have largely given away control over

delegated regulations. This has resulted in remarkable de-parliamentarisation. In 2023/2024, the Commission issued 552 delegated acts, often containing highly detailed provisions; nevertheless, the Parliament raised only five objections and the Council none. Each withheld authorization for delegated acts has a significantly larger effect than many other measures at the European or national implementation level – and that without any cost.

The to-do list with regard to delegated acts is therefore as follows:

- To begin with: observe the principle of essentiality, which means regulating important matters in a principle-oriented way within the basic legislative act.
- Next: refrain from delegation wherever possible. Examples such as the Solvency II Directive with 76 authorizations or the IRRD with 14 authorizations should not occur in the future.
- Finally: make use of sunset clauses for delegated acts.

Simplification and competitiveness through genuine level playing fields

Many EU basic legislative acts show considerable deficits when it comes to creating genuine level playing fields. These deficits include, for example, the often-missing transparency regarding the degree of harmonisation through an EU directive. Another issue is the still-frequent use of minimum harmonisation. The IRRD again serves as an example. It will apply from 30 January 2027 and is central for the recovery of insurance undertakings. It is closely linked in substance to the Solvency II Directive on insurance supervision. Although this directive is designed for full harmonisation, the complementary IRRD explicitly follows a minimum harmonisation approach.

Another deficit lies in the numerous Member State options contained in EU legislative acts. Together, these factors lead many Member States to engage in national gold-plating. What begins as European harmonisation ends in national fragmentation. Against this background, and to realize the Single Market, the following measures should be adopted wherever appropriate:

- choosing the legal form of a regulation rather than a directive;
- creating transparency regarding the degree of harmonisation of directives;
- opting for full harmonisation instead of minimum harmonisation in directives, and
- largely refraining from Member State options.

Legislative consolidation instead of proliferation and fragmentation

This thesis addresses two problems of EU legislation. The Commission promises to reduce bureaucracy, yet, the number of legislative acts continues to increase. In 2025, there were more legislative proposals than in any year since 2010. The Commission argues that the number of laws is not decisive but rather their motivation and content. In certain cases, this may be true. However, at some point quantity turns into a lack of quality. Around 6,300 legislative proposals between 2019 and 2024 cannot be justified merely by new legal acts responding to unexpected geopolitical crises or by efforts at simplification.

But the number of legal acts is not the only problem. Fragmentation is equally problematic. Areas of law are often spread across many legislative acts. Public procurement law provides the first example: at EU level there are six directives with 476 articles across 907 pages. In addition, there are four regulations and various Commission communications. Against this background, it is hardly surprising that the average duration of procurement procedures is increasing, SME participation is declining, innovation is suffering, and many companies are turning to other markets.

The second example is EU legislation on sustainability. It is divided, among others, into the Corporate Sustainability Reporting Directive, the Corporate Sustainability Due Diligence Directive, and the Taxonomy Regulation. These rules are closely interlinked in substance; in some cases, they overlap. Legal practitioners are overwhelmed by the complexity. The Omnibus I Directive does not change this excessively complex system.

What needs to be done? Essential legal areas that place particular burdens on citizens and companies must be covered within a truly unified regulatory framework. The issue is therefore not a frequently cited *Single Rulebook* for a certain legal field that, in reality, consists of quite a few separate legal acts. The guiding principle should instead be legislative consolidation rather than proliferation and fragmentation.

Reducing the allocation of tasks to additional actors

What does this mean? Many EU legislative acts assign specific tasks to third parties. These include EU agencies, auditors, or corporate officers. Each such allocation of tasks leads to a flood of regulations, high costs, and considerable complexity. Today, this involves more than 40 EU agencies, a lot of mandatory corporate officers, and equally numerous mandatory audit obligations for certain processes.

One example of such costly and complex audit obligations concerns the new auditing requirements in connection with sustainability reporting.

Anyone who wants to reduce regulation and bureaucracy in the economy inevitably encounters the system of mandated corporate officers. Legislators pursue supposedly important concerns by obliging companies to appoint individuals as representatives, specialists, or responsible persons. Each such obligation interferes with the freedom of entrepreneurial organisation. However, company managers are in any event obliged to comply with legal requirements, including those relating to hazard prevention.

And finally, the 42 European agencies: most of them contribute significantly to regulation and bureaucracy. Their pronouncements create a flood of rules that even experts in the respective fields can barely oversee. Ultimately, the number and activities of European agencies urgently require limitation. Anyone who has ever tried to gain an overview, for example, of specific issues in financial market regulation through the pronouncements of the European Banking Authority, the European Securities and Markets Authority, and the European Insurance and Occupational Pensions Authority, knows what I am talking about. The published documents amount to tens of thousands of pages – and the number grows daily. Clearly, detailed legislation continues here in the form of detailed regulation. A principle-based regulatory approach is not even remotely visible where it would, in fact, be possible.

Given all this, what are the prospects for simplification and competitiveness?

Some in the European Commission believe that there is what is known as the “Brussels effect.” They argue that detailed rules for European companies are advantageous in international competition. This is because the EU effectively sets standards for third countries. Other countries would follow these rules. As a result, European companies would face significantly lower compliance costs. And this would create a competitive advantage for companies from the EU. Laws and regulations in the areas of artificial intelligence, data protection, and sustainability are cited as examples.

A detailed study from February 2026 does not confirm this. It speaks of a “Brussels defect” rather than a “Brussels effect.” While there is indeed a Brussels effect, particularly in the area of product specifications, it does not serve as a justification for detailed legislation and regulation. The consequences of such measures are higher production costs, reduced flexibility, less innovation, and a particular

burden on SMEs. And companies from countries such as China or the U.S. are not inclined to voluntarily adopt EU standards anyway.

This brings us back to today’s panel discussion: Is simplification the key to unlocking competitiveness in the Union? The answer is a resounding “yes”. But the path to simplification and competitiveness is still unclear to many. Currently, measures such as reducing documentation requirements, limiting reporting obligations, cutting down on paperwork, and removing other administrative hurdles are at the forefront. But a shift toward greater competitiveness cannot be achieved with such piecemeal measures. We need a real change, of course. And that means we need clear policy decisions, especially on the following three points, which I will conclude by mentioning.

First, much more principle-based legislation and regulation. This necessarily entails less legal certainty and guidance. But a standard, Europe-wide framework based on principles – with complete equality across all Member States – can no longer be achieved on the basis of detailed regulations. Instead, the focus must be on greater self-responsibility, greater entrepreneurial freedom, greater incentives, and greater trust – but conversely, also on greater entrepreneurial or individual responsibility and, where necessary, liability. Second, much less delegated legislation at the EU level as a result of principle-based legislation, and thus a much smaller volume of laws and regulations. Finally, much more mandatory harmonisation at the EU level and much less national discretion in the implementation. ■



Simplification: the key to unlock competitiveness in the Union?

Dr Frank-Thomasser

Chair of the Council of Bars and Law Societies of Europe (CCBE)
Company Law Committee



DR. ALIX FRANK-THOMASSER

The 28th regime and the EU Inc. – the philosopher’s stone for a simple and competitive business environment?

Will simplification of company law accelerate business? Here are some comments about the proposal for the 28th regime corporate legal framework, seen in a broader context of simplified company law throughout the globe.

In legal and economic scholarship, simplification of company law refers to regulatory reforms that aim at reducing legal complexity, administrative burdens, and transaction costs for companies, while preserving the core regulatory objectives of corporate law. The concept is closely linked to theories of regulatory efficiency and the law-and-economics, as well as the institutional economics approach, which emphasize that overly complex legal frameworks can hinder entrepreneurship, cross-border investment and market integration. Simplification, therefore, focuses on clearer rules, streamlined procedures and digitalised administrative processes. And most importantly, it must be distinguished from deregulation: while deregulation

weakens legal standards, simplification of company law seeks to maintain existing protections, such as creditor protection or corporate transparency, while making the legal framework more accessible and efficient for economic actors. Thus, simplification seeks regulatory efficiency, not necessarily less regulation.

In legal scholarship, simplification is sometimes criticized because it may indirectly lead to regulatory weakening. Major concerns include regulatory competition; companies may choose the least restrictive legal regime; and loss of Legal Protection. Simplification could weaken protection regarding employee participation, creditor protection and corporate accountability. Finally, when corporate rules are harmonized at supranational levels (e.g. EU law), critics argue that national democratic control decreases.

Examples of simplified company law systems

Having introduced the pros and cons of simplification of company law based on a scholars’ approach, I would like to delve into various examples of simplified company law systems throughout Europe and the globe. These examples shall give us a better understanding of why simplification of company law may create a successful business model to enhance entrepreneurship and increase competitiveness.

Simplified Company Formation (Companies Act 2006) - United Kingdom

The Companies Act 2006 (CA 2006) introduced significant simplifications to the UK corporate structure, particularly for private companies (Ltd), with the goal of reducing the administrative burden on small businesses (“Think Small Approach”). The final provisions came into effect on 1 October 2009. Key simplification elements were online incorporation through Companies House; company formation possible within 24 hours; minimal capital requirements (as little as £1); and standardised company structure (Private Limited Company – Ltd).

OÜ – Osühing - Estonia

The OÜ is the standard and most popular entity (99% of e-resident businesses) in Estonia. Key simplification elements are 100% online company registration (registration can be done online in as little as 1–2 weeks [or faster with e-Residency]); digital signatures are legally binding; company formation in less than a day; foreign entrepreneurs can register companies through e-Residency; and a non-resident management is possible via a Contact Person: Licensed in Estonia.

FlexCo (Flexible Kapitalgesellschaft) - Austria

The Flexible Company (FlexKapG / FlexCo) was introduced in Austria in 2024 through the Flexible Company Act (Flexible Kapitalgesellschaft-Gesetz – FlexKapGG). The FlexCo is a new corporate form positioned between the traditional GmbH and startup-friendly corporate models used in other jurisdictions. The main goal to introduce the FlexCo was to make Austria more attractive for startups, venture capital and innovation-driven firms. Key simplification elements are simplified employee participation; flexible capital structure; lower capital threshold of €10,000; and simplified formal requirements for the transfer of shares.

The SAS – France

Since its simplification by the Law of 12 July 1999, the SAS (Société par Actions Simplifiée or Simplified Joint-Stock Company) has become a popular, flexible legal entity in France designed for businesses of all sizes, often preferred by subsidiaries and startups. It offers limited liability for shareholders, no minimum capital requirement, and high freedom to structure governance through articles of association.

SRL/BV – Belgium

Belgium introduced a simplified corporate structure with the SRL/BV under the 2019 Code of Companies and Associations. The reform removed the traditional minimum capital requirement, replacing it with a functional creditor protection system, and introduced highly flexible governance and share structures. Key elements of the creditor protection are a mandatory financial plan upon the incorporation and two solvency tests before profit distributions.

Delaware Model – USA

The Delaware corporate law system's simplification elements are extremely fast incorporation (often same

day); flexible corporate governance rules; clear and predictable legal framework; and, most importantly, a highly specialised Court of Chancery for corporate disputes.

Pte Ltd. - Singapore

Singapore's PTE Ltd. is widely recognised as one of the most business-friendly corporate tools. Simplification mechanisms are digital incorporation via ACRA, Singapore's central corporate registry and regulatory authority. Simplification elements are company formation often within 1 day; low bureaucracy and transparent regulation; and simplified compliance for small enterprises.

PTY Limited or LLC or Ltd - New Zealand

A New Zealand Limited Liability Company (LLC) is a separate legal entity from its shareholders. It is more of a corporation rather than a partnership. Foreigners can own 100% of the shares. Simplification features are online company formation in a few hours; standardised legal structure; transparent corporate registry; and simple compliance rules.

28th regime and the EU Inc.

Will the proposed 28th regime and the *EU Inc.* qualify for a simple, competitive and successful business environment? I would like to analyse this question based on a three-criteria test: assessing efficiency, legal integrity and institutional feasibility.

The *EU Inc.* is structured as a limited liability company available in every Member State's legal order but governed primarily by the Regulation, by its articles of association, and subsidiarily, by the relevant national law designated by the Member State of its registration. In this context, the *EU Inc.* is neither a wholly autonomous European legal instrument nor merely a label attached to existing domestic forms. It may rather be considered a hybrid format.

That hybrid nature is both a strength and a limitation. It offers a recognisable EU form but it remains partially embedded in domestic legal environments. For practitioners and investors, this means that the *EU Inc.* will not eliminate a thorough legal analysis of the law of the Member State of its registration. It will reduce some of that work but not remove it completely. The legal predictability will continue to depend on national interpretation and national enforcement and the need for national jurisdiction-specific legal advice remains unavoidable.

Efficiency Test: Does the reform reduce compliance costs?

The proposal's fast-track incorporation model (Articles 15–16) is one of its most visible innovations: 48 hours; maximum €100; and incorporation through an EU central interface built on BRIS (Business Registers Interconnection System), if the founders use the harmonised application form and the EU template articles.

However, the proposal does not abolish legality control. Article 14 requires preventive review of the articles of association at incorporation and upon amendment. First, the proposal still recognises the need for *ex ante* legal control. Second, it seeks to standardise and compress that control so that it becomes less procedurally burdensome and, where templates are used, less dependent on bespoke drafting and certification. In substance, the proposal preserves the function of legality review but weakens the monopoly over the route, by which that function is delivered.

Articles 58 and 59 represent a particularly significant development concerning the transfer of shares. They allow fully digital share transfers and explicitly prohibit Member States from imposing additional formalities for legal validity, including notarial intervention. Responsibility for reviewing the transaction is transferred to the company itself, which must verify title, ensure compliance with the articles of association, and either register the transfer or provide reasons for refusal within a short timeframe. This constitutes a clear shift in the allocation of legal control. The traditional model of external authentication is replaced by an internal verification mechanism centred on the company and its share register.

The governance framework of *EU Inc.* is flexible. The company must have a board of directors and at least one director must be resident within the Union. Directors are subject to core duties, including acting in accordance with the articles; in good faith; in the company's best interests; and with appropriate care, skill and diligence. The proposal also introduces a form of business judgment rule and provides for conflict-of-interest management.

From a legal perspective, this confirms that *EU Inc.* is not a purely formal structure but it contains substantive governance rules. However, the framework remains relatively lean when compared to many established national systems and significant reliance is placed on the articles of association and residual national law. This reinforces the continued importance of legal advice, since the simplification of formation does not eliminate complexity but it shifts it to later stages of the company's lifecycle.

Legal Integrity Test: Are the original legal protections still preserved?

An important substantive choice is the abandonment of any minimum capital requirement. Articles 61 and 62 of the proposal provide that shares will, by default, have no nominal value, that the company is not required to have a minimum amount of capital, and that it is not required to build capital or legal reserves over time. Such provisions may, of course, not prevent the application of relevant Money Laundering Rules.

The Commission's argument is clear: minimum capital is often economically inefficient, burdensome at incorporation, and poorly aligned with startup financing realities. The compensating safeguard of the draft proposal is not capital but a set of operational controls: balance-sheet tests, solvency tests; director duties and liability; shareholder return of unlawful distributions; and expert involvement in capital reductions where appropriate.

Creditor protection rules remain a sensitive and important issue, considering the zero-capital reality of the *EU Inc.* proposal: Articles 63 and 72 provide for limited maintenance rules of equity. A mandatory financial plan upon incorporation, as required upon the incorporation of a Belgian SRL/BV and linked to specific shareholder liability, could increase confidence in a zero-capital *EU Inc.* The solvency test, as foreseen in Article 72 of the proposal, should provide stronger protection for creditors in light of the proposed burden of proof, which burdens the creditor rather than the director nor the shareholder of an *EU Inc.* Further, the proposal distinguishes between standard liquidation procedures and simplified winding-up mechanisms for innovative startups. For solvent companies, it introduces streamlined and largely digital processes, including once-only communication with authorities and faster closure.

This is a notable and somewhat unexpected development. The approach nevertheless remains partial. It introduces only a targeted simplified winding-up framework for *EU Inc.* companies qualifying as innovative startups, within an insolvency environment that remains fundamentally national. At the same time, the removal of mandatory legal representation (Article 92) signals a clear intention to reduce procedural safeguards.

From a legal perspective, this requires attention under the scope of insolvency law. The combination of simplified procedures, digital processes and optional legal representation may be efficient but it also raises concerns regarding creditor protection, procedural integrity and the handling of complex or contested cases.

Institutional Feasibility Test: Can authorities still enforce the law effectively?

The proposal's digital architecture is well defined: it builds around BRIS; uses EUIDs (European Unique Identifier); extends the once-only principle; allows filing through the EU central interface; and provides for an EU Company Certificate and a digital EU power of attorney. Articles 20, 28, 30, 31 and 35 are particularly important. This matters for legal certainty in two ways. It is positive that it reduces duplication, added burdens and some translation requirements and makes verified company data more portable across borders. However, under these conditions, legal certainty is increasingly based on digital infrastructure, rather than on formal documentary verification. That may prove modern and efficient; it also places greater weight on register reliability, digital identity systems, authentication integrity and administrative interoperability.

At first sight, the 18 March 2026 *EU Inc.* proposal preserves preventive legality review and maintains reliance on judicial and administrative enforcement. At the same time, it clearly aims to reduce mandatory procedural intermediation in standardised processes, particularly at incorporation, share transfers and aspects of winding-up. This constitutes a political choice, which must be assessed in terms of its impact on legal certainty, risk allocation and the functioning of safeguards. Attention must be given to the wording of the relevant articles introduced, as well as to the inclusion of all relevant legal professions able to undertake such preventive control (Article 14).

For most people, the *EU Inc.* will not change much for the time being. The new *EU Inc.* will primarily affect the corporate world. The situation is particularly complicated for small and medium-sized enterprises. Language barriers, financing sources and access to local work force often suggest the application of a national company law form. This may result in the fact that small and medium-sized enterprises may still have to deal with national rules – with all the formalities, access barriers and traditional processes, while large companies may benefit from the flexible *EU Inc.* and less bureaucracy. At the same time, these large companies can grow more strongly and have easier access to investors and financial power to “shop” the most convenient legal and tax regime, when relevant. In the long term, this can lead to a structural competitive advantage for large companies that use the *EU Inc.* – and a structural disadvantage for smaller or medium-sized enterprises that could lose out. It is therefore pivotal for a successful *EU Inc.* that it serves enterprises of all sizes and offers a safe legal background for its shareholders and creditors. ■



Simplification: the key to unlock competitiveness in the Union?

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Simplification and predictability: building the business case in the Single Market

This contribution addresses the themes of simplification and predictability. The perspective adopted here is that of a cook. Within DG GROW, we operate in the kitchen of economic law-making – specifically, Single Market law in Europe. Listening to the contributions of my fellow panellists, which offer valuable suggestions for new recipes and kitchen tools, it seems appropriate to take the audience into the kitchen. We have two posters hanging on the wall in our kitchen. The first is Article 3 of the Treaty on European Union, which calls for a highly competitive social market economy. That is what we must prepare; it is our responsibility. The second poster depicts Gulliver in the land of Lilliput – lying on the ground, handsome, big, and strong, yet, tied down by hundreds and hundreds of strings. These strings, all knitted by the Lilliputians, represent the barriers in the Single Market. The core task is therefore to take out the scissors. We have a vast array of scissors in our drawers to cut these strings: enforcement and infringement

procedures. We count on the Court, of course, but we also have the Single Market Enforcement Task Force.

So, we have identified the “Terrible Ten” – the ten most economically nonsensical barriers that Member States have devised. These range from excessive labelling rules: wherever minimum harmonisation applies, Member States frequently add further requirements. I have, in my office, a small plush elephant whose accompanying label is three times longer than the elephant itself. This is because of national labelling rules. They are not necessarily illegal but they are economically counterproductive.

Encouragingly, the issue has now reached the highest political level. The European Council conclusions of two weeks ago explicitly addressed the Terrible 10. This list was developed using heatmaps that highlighted non-compliant or particularly burdensome national measures that call for remedial action.

Infringement procedures remain indispensable but they cannot be used in every case. It is therefore necessary to persuade Member States of the economic benefits of removing barriers. Cutting the ropes that bind Gulliver is not enough, however. Gulliver must also stand up, for while he remains on the ground he will continue to be “trampled” on. Standing up requires leveraging Europe’s economic power. Europe is an €18 trillion economy. How can EU regulation help us to leverage all that power? Because we need to and should not be afraid to.

This leads me to what I would term the molecular kitchen. Because we are embarking upon new initiatives here, our friends in the Legal Service occasionally ask whether we are perhaps going too far. I should therefore like to introduce our new recipe book.

The title of this recipe book is “Business Case”. For any business case, in whatever area, five essential

ingredients are required: inputs; people; technology; access to capital, and a market, in which to sell the final product. We have therefore begun to develop Single Market legislation that goes beyond classical harmonisation and defragmentation, focusing instead on promoting the business case. The first example is the Critical Raw Materials Act. This Regulation addresses the well-known difficulties surrounding critical raw materials, which do not fall from the sky. Painful experience with Chinese export restrictions on magnets and rare earths has underscored the need to create a viable European business case for extraction, refining, and recycling – whether within Europe or beyond. The initial problem was access to permits. Rather than harmonising national procedures, we introduced an overriding principle in the form of a regulation. This represented a quiet revolution. Member States must now observe strict deadlines and digital procedures (with only limited possibilities to stop the clock). We have also addressed access to capital through a portfolio approach, identifying strategic projects that reduce dependency and granting them accelerated financing pathways and streamlined national permitting. The market dimension has been further developed in the Net-Zero Industry Act, which introduces specific non-price criteria in public procurement to foster lead markets for clean technologies.

This demonstrates a creative yet legally grounded approach, remaining firmly within the scope of Article 114 TFEU, while focusing resolutely on outcomes.

Public procurement, mentioned earlier, provides another illustration. We tend to describe the organic growth of public procurement law over thirty years as a cathedral with numerous side chapels – more than eighty bylaws governing specific sectors. For too long we have trimmed rosebushes with small scissors; we have now chosen the axe. We will therefore start from scratch. Before the summer, a completely new instrument will be proposed, in a way that makes public procurement – which accounts for almost 15% of EU GDP – a fully-tapped investment lever, not just a procedural tool. It will have two main parts: how to procure and what to procure.

On “how to procure”, we intend to introduce a fully digital marketplace, in which all public procurers and suppliers will be able to register. This will enable radical simplification of *ex ante* procedures, replacing them with effective *ex post* controls, greater transparency and the detection of corruption or single-bidding patterns. Cities and mayors will benefit from reduced administrative

complexity when planning infrastructure, such as kindergartens. The “what to procure” dimension seeks to reorganise the existing eighty bylaws according to product categories, providing clear guidance (and ideally standardised tender templates) to create European lead markets and scale. More ambitious options remain under discussion.

A further initiative concerns market surveillance and product safety. The Delors mantra – “*EU regulates; Member States implement*” – has been put under great strain by the flood of five billion small packages annually from third countries via online platforms, many of which contain non-compliant goods. This situation undermines legitimate European producers. We therefore propose a fundamental reorganisation of the three existing market surveillance instruments. Key elements include improved cooperation between customs and market surveillance authorities; joint risk analysis using digital tools; trans-European laboratory networks; and greater alignment of certification practices. While retaining national presence on the ground, we seek better coordination.

Finally, the European Competitiveness Fund will replace more than twenty separate programmes. By moving from a structure in which function followed form, to one in which multiple programmes are consolidated, companies will need to “knock on only one door”. Projects will be assessed on a de-risking basis, leveraging private investment rather than relying solely on grants. This approach is particularly important for the decarbonisation transition, which involves both technological and market risks.

In summary, three guiding principles emerge. The first is the business case as the North star. The second is a recalibrated application of the subsidiarity principle, supported by modern technology including agentic AI. The third is trust; and it is excessive rules and delegated acts that often crystallise distrust. The time has come for form to follow function. Far from being heretical, this approach enables us to make a genuine difference. Legitimacy is achieved when regulation is accepted because it delivers tangible results – when Gulliver finally stands up. ■

Simplification: the key to unlock competitiveness in the Union?

QUESTIONS AND ANSWERS

When creating a norm that must be implemented across twenty-seven legal systems while maintaining a level playing field, it is difficult to remain purely at the principle level. A pertinent example is the EU energy law which features an EU regulator, multi-level cooperation among national regulators, and three layers of legislation below the Treaty and even below delegated and implementing acts. It is a densely regulated area that doubtlessly accounts for many of the 6,500 acts previously mentioned. Creating an EU-wide sophisticated energy market makes it difficult to avoid defining detailed market rules at EU level. The same applies to financial markets. How do you see this interplay?

Prof. Dr. Dreher explained that detailed regulation or a principle-based approach each carry distinct advantages and disadvantages. Attempting to regulate every detail across twenty-seven Member States is bound to fail and even detailed rules frequently generate disputes over interpretation. A principle-based approach yields less legal certainty in the traditional sense and requires greater trust, ultimately placing more responsibility on the judiciary. However, it also delivers greater competitiveness and entrepreneurial freedom. It is essential to distinguish conceptually between simplification (how we regulate) and (de)regulation (what and how much we regulate). Deregulation via a principle-based methodology does not necessarily weaken legal standards; it constitutes an alternative regulatory technique. In areas such as hazard prevention, detailed rules remain indispensable but in many others a principle-based approach better serves the objectives of Article 3 TEU. The existing architecture and excessive use of delegated acts warrant reform, so that core decision-making returns to the co-legislators.

How does the principle-based approach reconcile with businesses' need to understand what they must do to comply, particularly regarding rules enabling cross-border enforcement of unfair trading practices? Such rules may function as a regulation in one Member State but not in another, making compliance difficult. Moreover, what are the consequences in terms of exposure to enforcement actions, including turnover-based fines?

Ms Jorna stated that if one operates a company under principle-based legislation, compliance remains essential. Lawyers and bankers rightly demand legal certainty to manage risk. A proven solution is the presumption of conformity: if legislation requires products to be clean and safe, and a producer adheres to harmonised European standards, a presumption of conformity applies. This model has worked well in practice. A parallel debate is currently underway concerning the “do no significant harm” (DNSH) principle in EU budget implementation. Two extreme positions exist: one demands exhaustive reporting that is problematic for SMEs, while the other relies on overall compliance with sustainability rules. The presumption model may help bridge principle-based legislation with the practical reassurance needed by companies and investors.

The distinction between simplification and deregulation, while conceptually clear, can prove problematic in practice. For instance, extending reporting obligations from annual to five-yearly intervals may appear as simplification but can amount to deregulation by nullifying the reporting's analytical value, preventing effective trend monitoring and supervisory action. When simplification alters the balance of protected interests without following proper procedural safeguards and stakeholder involvement, the new equilibrium may lack legitimacy. How to eliminate useless complications and preserve the legitimacy of the revised balance? Should Member States be granted, via simplification, wider margins of appreciation?

For **Dr. Frank-Thomasser**, the focus must be on the quality of legislation rather than its quantity. Simplification and deregulation carry different political connotations but the real issue is ensuring that laws achieve their intended purpose. For reporting requirements, excessive reduction can impair policy-making. Regular, meaningful data are often essential to detect trends and intervene effectively. The appropriate division of competences between the EU and Member States is both an efficiency and a political question.

The approach described aligns closely with Nordic legislative traditions, which favour principle-based rules. Such legislation functions effectively in the Nordic context thanks to three elements: high levels of trust between actors, pragmatism, and an effective judiciary willing to clarify principles. Do the EU and EEA possess sufficient trust, pragmatism, and judicial efficiency across thirty jurisdictions to sustain this model?

Prof. Dr. Dreher reminded that Norway's population is approximately 1% of the EU's, which makes building trust and pragmatism easier. Nevertheless, the EU can be proud of significant achievements, such as the joint procurement of COVID-19 vaccines, which demonstrated effective coordination, mutual recognition and the value of standards creating presumptions of conformity. Progress occurs in steps, sometimes with setbacks, but an overall movement towards greater trust is evident.

Another source of complexity is the fragmentation of legal bases in the Treaties. Different articles pursue distinct objectives and involve varying procedures and competences. This often necessitates separate measures and variable geometry. Considering enlargement and the limitations of the current Treaty framework, including in defence, should we now consider Treaty amendment as a means of achieving genuine simplification?

Ms Jorna noted that Article 114 TFEU on harmonisation remains a powerful legal basis. As the Union enlarges, relaxing unanimity requirements becomes increasingly important. Form must follow function, and a more teleological approach to interpretation may be required. Because judges, alongside the Commission and Member States, bear a degree of responsibility for complexity. All actors must work together to reduce it wherever possible. ■



▲ Afternoon panel

Closing remarks

Afternoon session

Mr **Paolo Stancanelli**

Director of the Directorate F (Institutions) of the Legal Service,
European Commission



MR PAOLO STANCANELLI

Life is simple but we insist on making it complicated – this iconic sentence is attributed to Confucius, so you can measure how the topic we analysed this afternoon is firmly rooted in wisdom.

In the last 18 months, simplification has become one of the keywords towards the strengthening of the competitiveness of the EU economy and certainly one of the most used words in the parlance in the meeting rooms and in the corridors of the EU headquarters.

Our speakers have brilliantly led us through the very diverse facets and dimensions of this concept. Unsurprisingly, they have, by and large, agreed in identifying the factors at the root of the problem of over-regulation; but then they have offered different paths for reflection on how to attain the “holy grail” of simplification.

Commissioner McGrath set the tone by providing a very concrete example of the simplification drive in our law-making, presenting one of the flagship initiatives of the second von der Leyen Commission: the *EU Inc.* Proposal.

He emphasized the main, sometimes underestimated, added value of pieces of EU law: simplification achieved through harmonisation, from 27 to 1. And another important element: simplification by design, which stems from a slimmed down set of directly applicable rules covering the entire lifecycle of companies; from the quick and cheap digital registration to the easy equities raising- and transfers-tools.

Mr Combrexelle located the issue under discussion within the broader context of our constitutional systems, recalling that democracy entails the rule of law, as it is inherently founded upon that principle. I found his reflections on the paradox of the three compelling factors underlying the negative phenomenon of normative inflation particularly thought-provoking: first, the imperative for politicians to legislate, which is vital to their role; second, the bureaucratic pursuit of regulatory perfection; and third, the demand for legal certainty expressed by those who most frequently complain of excessive regulation, namely businesses and individuals. Equally inspiring were his methodological reflections on how this phenomenon might be countered: on the one hand, by fostering a climate in which trust between political actors and citizens can flourish within our societies; and, on the other, by reducing to a minimum the distance between the authority that enacts legal norms and the society that is expected to apply them.

Prof. Dr. Dreher presented us a very clear and operational action plan to go beyond the “cosmetic” forms of simplification and towards a real and significant change of pattern: replacing the current model of detailed legislation by a new approach of principle-based legislation, namely well-designed norms only aiming at achieving defined objectives through short, qualitative legal criteria.

In this connection, he pleaded for some methodological tools, which, in truth, are currently considered also by the Commission in its reflections for a modernised better law-making approach: systematic full harmonisation instead of

minimum harmonisation; ban of national gold-plating; and limitation of delegated and implementing acts, including through the introduction of sunset-clauses. Interestingly, **Prof. Dr. Dreher** acknowledges that his plan would bring both the legislators and the subjects of the law out of their comfort zone and would require more self-responsibility by all of them and to place much more mutual trust in that all the actors remain committed to pursue the objectives fixed by the law.

Dr. Frank-Thomasser offered us a different view from her perspective of private corporate lawyer, starting from an assumption that is key to me: simplification must be distinguished from deregulation, in the sense that while the latter weakens the legal standards, the former reduces legal complexity and administrative burdens but aims at preserving the standard of protection fixed by the law. Still, she warned that not-well framed simplification acts risk to lead to regulatory weakening. She presented some positive examples of simplification of company laws around the world, which have created the right conditions for enhancing entrepreneurship and competitiveness. Concerning her deep and articulate assessment of the efficiency and legal integrity of the *EU Inc.* proposal, in summary, I would qualify her provisional verdict as a sort of “too early to call”. Fair enough; after all the proposal has still to be scrutinised and possibly improved before adoption by the co-legislators.

Finally, **Ms Jorna** came to us from the perspective of the operative on the legislative forefront, who has to turn the mainstream objective set out in the political guidelines of the second von der Leyen Commission into practice. Literally, she made a reality of the saying “one image is worth a thousand words”, with Gulliver laying down, constrained by lacets (national barriers and third-countries unfair competition). And then she brought us into DG GROW kitchen; interesting visit. She presented us with some new or even yet to come proposals – public procurement reform; products surveillance, in which we will be able to appreciate a radically new approach; and her new ‘recipes book’: overriding national rules instead of harmonising them or introducing more effective *ex post* controls instead of lengthy *ex ante* control. And finally, she pointed at the resistance that this new approach generates in the Brussels belt and beyond.

Based on all these learned contributions, I think that we can conclude that achieving simplification in law-making and law-enforcement is not so simple after all, yet, remains an essential target of the overall policy action in our challenging times. Of course, we have to ensure that simplification does not turn into deregulation, meaning the removal of the protective norm. Actually, deregulation in this sense would not only jeopardize the values and legitimate interests protected by the EU legislation currently in place but also – far from boosting the EU economy – it would have a detrimental effect on the integrity and the competitiveness of it. In the last 12 months, a number of initiatives have been put in place: ten omnibuses cutting down provisions featuring in numerous legal acts and bringing little added value; and new proposals specifically tailored to focus the new norms on what really matters (*EU Inc.*; Capital Markets Union proposals).

Now, we are shifting into higher gear: the Commission will soon adopt a Communication setting out additional tools and practices to modernise how laws are designed and implemented to ensure they are clear, agile and fit for purpose. By streamlining procedures and strengthening compliance, we can enhance competitiveness, provide legal certainty, and deliver faster and more effective responses to pressing needs. I trust that some of the good ideas that we discussed today may be reflected into this new Communication.

Be ensured that, like the swallows, the Annual Conference of the Legal Service will return next spring in April, date still to be confirmed. Watch this space and, hopefully, see you next year with new and certainly very interesting topics. ■

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