

## Strengthening EU Policy based on European Variations as a Key to Cooperation<sup>1</sup>

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### Foreword

The European Union in the coming years must evolve on numerous fronts. The Covid-19 pandemic has revealed the necessity of cooperation to address major challenges and has raised anew the question of how we should continue to build the Union. This discussion paper provides suggestions regarding the way forward.

The Netherlands Scientific Council for Government Policy (WRR) is publishing this discussion paper to mark the start of the Conference on the Future of Europe. The House of Representatives has stressed the necessity of a new long-term vision for Dutch engagement in European policy-making. In response to the February 2020 debate in the House of Representatives, the Prime Minister invited the WRR to update its *European Variations* report presented to the government in 2018.<sup>2</sup> The report, a historical and constitutional analysis of European decision-making, presented a number of policy models offering greater scope for variation within the Union. While fundamental values and objectives must be observed throughout the Union and by all member states – democracy and the rule of law, respect for human rights, a social market economy (including the free movement of persons, goods, services and capital) and sustainable development – unnecessary forced uniformity is counterproductive, reduces credibility, and lowers public acceptance of European cooperation. The government embraced the WRR report as a basis from which to reflect on decision-making in the European Union in light of the many differences in circumstance and views among its member states. *European Variations*, published three years ago, argued that the European Union can and must allow more room for variation to prevent deadlock and improve its functioning.

A memorandum was drafted in preparation for a meeting with the Prime Minister, the Minister of Foreign Affairs and the Minister for Foreign Trade and Development Cooperation, exploring possibilities for variation between European member states in economics, security, and public health and healthcare. These areas are currently being re-examined and were not addressed in our 2018 report. Since the planned meeting was unable to take place at the beginning of February 2021 due to the forthcoming elections, and with preparations under way for the formation of a new government, the WRR has decided to recast the memorandum in the form of the present publication.

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<sup>1</sup> The authors are grateful to Ton van den Brink, Aart Hendriks, André Knottnerus and Marianne de Visser for contributing their knowledge.

<sup>2</sup> This report has been published in English translation as the open access book *European Variations as a Key to Cooperation* by E. Hirsch Ballin, E. Ćerimović, H. Dijstelbloem & M. Segers, WRR / Springer Open 2020, <https://www.springer.com/gp/book/9783030328924>.

## Introduction

The polarization of Dutch opinion regarding the European Union and its policies requires a rethink of our old approach. The Netherlands Scientific Council for Government Policy advocated an novel approach in its 2018 report *European Variations*, which addressed the euro crises, the refugee crisis, Brexit, and the strained rule of law in some member states – issues that, although salient, have been overshadowed by the Covid-19 pandemic. This paper assesses how the approach advocated by the WRR in its 2018 report can help strengthen EU policy in response to current challenges.

We focus on three fast-developing areas: security, economics, and public health and healthcare. We are in the midst of a possible economic reset as the pandemic forces us to rethink the relationships between government and market as well as between the EU and its member states. We further need to anticipate the impact of long-term developments such as population ageing. In public health and healthcare, we see the emergence of new forms of coordination and cooperation as well as a nascent European ‘Health Union’. Although European security policy is less developed, urgent questions are on the agenda as we are reminded of Europe’s growing connectedness with and dependence on the rest of the world. In all three areas, the fundamental question is how much unity is necessary and how much room there is for intra-European diversity. Our view is that the European Union must allow greater room for variation to keep and increase the support of European states and their citizens.

## European Variations

In the *European Variations* report, the WRR called for an end to the all-or-nothing approach in which issues are either managed at the European level or left to member states. This choice has long informed the Dutch preference for a uniform system of pan-European legislation (the so-called *acquis communautaire*) over other forms of cooperation.

In practice, such uniformity has often been dispensed with (witness agreements such as Schengen, Dublin, EMU, refugee resettlement and relations with NATO). While opt-outs are often seen as the next best solution, the WRR recommends a different approach: the judicious acceptance of intra-European variation as a future model for European cooperation.

This can take different forms, for example using existing procedures or supplementary treaties depending on what the treaties allow. It is not just a choice between participating and staying on the side-lines. Variation can take different forms – regarding the content of policies, in how decisions are made, or in the coalition of participating member states.

- Variation in policy content concerns scope for differences between member states when fulfilling public interests, goals and values. Even if they implement European policy in different ways, they are still involved in joint decision-making and thus display political solidarity. The treaties already allow national policy discretion by means of directives specifying minimum harmonization or establishing open standards.
- There are also different ways to reach decisions. Decisions on policy and legislation can be intergovernmental, rely on the community method of European legislation,

or be entirely supranational with European institutions given additional responsibilities for implementation. Member states' powers remain crucial – whether they have the power of veto, decisions require their cooperation, or there is binding majority decision-making.

- The formation of different coalitions of EU member states – or in some cases, non-members or prospective members – is a more radical form of variation. Opt-outs, the formation of leading groups, multiple speeds and closer cooperation can be used when there is insufficient grounds for uniform action. This will allow for a more realistic, less forced approach when a country is not fully willing or able to accept all Union laws and rules on a given subject such as participation in the euro. A notable example is that of associations, possibly as a preliminary stage in the incorporation of new member states.

Variations are no panacea for all EU matters. Nor can they infringe on the common principles of the Union. The WRR nevertheless sees an opportunity to make use of the scope provided by the EU's common foundations – the principles of democracy, the rule of law and solidarity as well as the informed fulfilment of European public functions.

We argue that it is precisely the broad agreement on the foundations of the Union that enables variation and its proper use – important for both the operation and persuasive power of European co-operation. Accepting intra-European variation strengthens rather than weakens the functioning of the European Union and builds public support for the union. We illustrate this approach in three policy areas: security, economics, and public health and healthcare.

The *European Variations* report argued that institutional improvements alone cannot strengthen the Union's operation and persuasiveness. Chapter 3 discussed the causes of growing angst surrounding the EU's functioning as social protection gave way to market liberalization, globalization, and alienation due to the lack of solidarity in extreme situations. Variations in implementation or participation must therefore occur within parameters such as adequate social benefits to maintain the support of European publics.

Accepting variation is also necessary to strengthen the EU's democratic roots. Our report argued that variation – within the bounds of the Union's alas no longer undisputed common basic principles – will better allow the EU to address political diversity among its member states. The EU after all is not a pre-federal association but a structure that, in certain key policy areas, builds on the constitutional order of its member states. This also applies to the position of Europe's citizens: the treaties expressly state that European citizenship does not replace but complements national citizenship.

European legislation results from the interplay of national and European institutions, with the latter made up of people drawn from or representing the member states. While European citizens elect the European Parliament, citizens of member states elect their national representatives and thus determine by whom they are governed and by whom they are represented in the (co-legislating) Council of the European Union and the European Council. The European Union is therefore not a new, separate democracy, but a *demoicracy* (*demos* being the plural of *demos*). The multilateral democratic roots of European cooperation provide a unique basis for intra-European variation.

## Security

### Analysis

Security is an extensive policy area involving numerous actors. In its report *Security in an Interconnected World*,<sup>3</sup> presented to the government in 2017, the WRR addressed three conceptions of security: (1) personal security, closely tied to freedom from repression and the potential for human development; (2) ‘flow security’ or the security of raw material supply chains as well as information and communication links; and (3) the more physical or ‘hard’ security of states against aggression and other forms of violence. Domestic and international security are interlinked. This can be seen, for example, in the consequences of terrorism and violent political fanaticism, and in the insecurity resulting from climate disasters that force people to flee.

Security is linked to the democratic rule of law. While international security is tied to security within states and the European Union, this understanding, to date, has gained little traction. The past year, however, has clearly revealed the national and international importance of the three facets of security. The Covid-19 pandemic poses direct and indirect threats to personal security. The shifting power balance between the major powers requires a renewed focus on the Union’s hard security, while the EU faces its own dilemmas regarding engagement with Russia and China.

European security policy is among the less-developed policy areas and is closely tied to NATO. It is precisely the limits of European security policy that inform variation in the degree and form of member state engagement. The question is not whether European security policy is possible – the treaty assumes that it is – but how it can be designed without inconsistencies for the shared commitment to the fundamental values and objectives of the Union and for common policies on trade, climate and development cooperation.

A number of pressing questions hang over the further development of European security policy. While NATO member states have committed to spending 2% of GDP on defence, this does not apply to Sweden, Finland or Austria. Despite such differences, how can we ensure that the European Union as a whole robustly and coherently implements its security policy, including against new threats such as cyber warfare and attempts to undermine the democratic constitutional order? Are the facets of security policy tied to member states’ disparate economic interests – producing and procuring equipment, Nordstream 2, Huawei 5G networks – sufficiently coordinated with and embedded in European policy? The result does not have to be a uniform European response; decision-making, policy content and participation can vary between member states. The departure of the United Kingdom gives rise to a new situation and new criteria.

### Policy Issues

- *Armed forces* have crucial roles in safeguarding security. While their responsibilities do not encompass all aspects of security, their remit is constantly expanding, for example to include defence against cyber and hybrid warfare. Article 42 of the

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<sup>3</sup> English translation of this report, entitled *Security in an Interconnected World: A Strategic Vision for Defence Policy*, edited by E. Hirsch Ballin, H. Dijstelbloem and P. de Goede, Springer Open 2020, <https://www.springer.com/gp/book/9783030376055>.

Treaty on European Union states that the EU must have a common security and defence policy and an operational capability based on civilian and military means. This operational capability relies on resources made available by member states. Their deployment may vary depending on available knowledge, resources and specialization in the newer areas. The Netherlands and other EU countries are running major risks by not adhering to the budget agreements. The scope afforded by these variations must not violate the treaties.

- *Joint missions.* The Union can also use member states' operational capability on missions outside Union territory for peacekeeping, conflict prevention and the strengthening of international security in accordance with the principles of the United Nations Charter. Numerous such missions have been conducted by groups of member states. Article 42(2) and (7) of the Treaty states that this cooperation must not prejudice member states' positions within and outside NATO and must therefore respect variation. In 2020 the EU took part in 6 military and 11 civilian missions involving different coalitions of participating countries.
- *Procurement.* The European Defence Agency has responsibilities for procurement and armaments to improve the military capabilities of member states. The question is how this agency can be better equipped with the research capacity necessary for a EU-wide security policy. Joint procurement of weapons systems is a form of variation on which countries can decide independently. Whereas the United States only has four different weapons systems at its disposal, the EU has 20. This leads not only to higher costs due to smaller-scale procurements, but makes it much more difficult to use each other's stockpiles in times of war, resulting in less striking power.
- *Police cooperation in border regions.* Personal security benefits from the 'hard' protection provided by the police. European cooperation in actions against serious cross-border crime has been free of legal constraints since the 1990s and is now supported by Europol, Eurojust and the European Public Prosecutor's Office, and in specific cases by joint investigative teams. In border regions, police operations depend on additional bilateral treaties such as the treaty concluded with Germany in 2005 on cross-border police and criminal justice cooperation and the Benelux treaty on police cooperation supplemented in 2018. Differences in management and national priorities, however, have not been eliminated. Additional agreements between neighbouring countries concern joint policy and the deployment of necessary resources, for example in actions against cross-border organized drug trafficking.<sup>4</sup>

## Economics

### Analysis

The global economy has reached a tipping point. Competition from China and its supply of cheap, low-skilled labour has long exerted downwards pressure on wages and prices in OECD countries. This is now slowly but surely changing due to population ageing. In the decades

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<sup>4</sup> See T. Spapens and S. van Nimwegen, De Belgisch-Nederlandse strafrechtelijke samenwerking, [http://www.belspo.be/belspo/organisation/Publ/pub\\_ostc/Drug/DR74\\_rapp2018.pdf](http://www.belspo.be/belspo/organisation/Publ/pub_ostc/Drug/DR74_rapp2018.pdf).

ahead, labour will again become scarce around the world, most notably due to China's shrinking labour force although population growth in India and Africa may be a compensating factor. Wages and prices will therefore probably increase in the decades ahead. This will put pressure on government budgets in countries with pay-as-you-go pension systems, as higher pay-outs will be necessary while the tax base shrinks. To reduce the debt burden in real terms, there will be calls for higher inflation to reduce the growing government debt in real terms. At the same time, the government's role in the economy, especially policies that support firms and employment, have been viewed more positively since the start of the pandemic. This is also reflected in the positions of the European Union and the European Central Bank. Examples include the suspension of the requirements of the Stability and Growth Pact (SGP), the establishment of the coronavirus recovery fund, and ECB support for banks through cheap loans and low interest rates.

The Dutch economy differs in important ways from the economies of the major EU countries. The Netherlands is foremost a trading nation and has a largely funded pension system. The Netherlands has often sought to align itself with German budgetary policy and its stance on monetary issues. The distinctive features of the Dutch economy, however, imply that interests of the two economies will grow apart over the coming decades. For example, given the pay-as-you-go pension system in Germany, its budgetary needs will start to differ from the Dutch. We should therefore anticipate fiscal policy proposals from EU members in this respect. As another example, French economists, have recently circulated a proposal to abandon the uniform requirements of the SGP in favour of tailor-made conditions for each country.<sup>5</sup> The problem is that the short-term measures necessary to address the pandemic, such as the pandemic fund, may be used to avoid structurally necessary adjustments and become permanent.

### Policy Issues

- *Pensions.* Pension savings are low in many EU countries because pensions are paid from current taxes (as is the case for the AOW-part of Dutch pensions) in pay-as-you-go systems. The ageing of the EU population means that pension disbursements will grow while taxes collected from the working population will decrease. This may fuel demands for partial financing at the EU level in a way that countries with funded systems end up paying part of the real bill due to inflation. Rising government debts will put pressure on the ECB to buy up sovereign debt and hence to indirectly provide monetary financing for budget deficits. Ensuing inflation would then reduce debt levels in real terms – a clear case of undesired interaction between fiscal and monetary policy. European Commission projections of pension costs and budget rules clearly specifying the proportion of the budget allocated to pensions may help raise awareness of this problem. A measure that the Netherlands may insist on is tying the retirement age across the euro area to life expectancy (with implementation through an EU directive based on the SGP).
- *Early repayment of the pandemic contribution.* Although the pandemic necessitates European stimulus measures in the short term, current plans seem excessive. The IMF's recent *World Economic Outlook* has revised its initially gloomy forecasts. For example, it is expected that the Netherlands will make up almost all of its economic

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<sup>5</sup> P. Martin, J. Pisani-Ferry and X. Ragot (2021) 'Pour une refonte du cadre budgétaire européen', *Les notes du conseil d'analyse économique*, no. 63, April 2021.

losses in 2021. Dutch government debt will probably remain below the SGP ceiling of 60% and the Council of State is already voicing fears that money is being squandered.<sup>6</sup> The pandemic fund is certainly on the large side as almost all countries can now borrow at minimal interest rates. For this reason, many countries are only using the grant component to evade conditionalities. It would make more sense if joint financing is only allocated to projects generating scale effects at the European level, such as investments in renewable energy. In any case, the Netherlands can opt to repay its share of the pandemic fund loan early to avoid the introduction of a joint tax leading to fiscal union.<sup>7</sup>

- *Pressure on the ECB.* Private debt held by households and businesses has risen steadily since the credit crisis. When interest rates start rising again due to the changing population pyramid, sky-high debt will become problematic as rollovers become more expensive. The ECB's large-scale purchase of sovereign debt, which keeps interest rates low, is a major driver of private debt financing. The Dutch government could accelerate the repayment of sovereign debt to put pressure on the ECB not to engage in excessive purchases (due to the 30% limit). The Netherlands could also issue registered bonds that cannot be transferred to the ECB. The ECB's new monetary policy strategy is not a purely technical question; in the United States, the Fed has already deemed temporarily higher inflation acceptable and the ECB will probably make use of similar leeway to continue buying up government debt. The ECB's independence does not preclude a debate on this strategy in the EU. Monetary and fiscal policy are interlinked and the temporary trade-off between the two types of policy clearly does not extend to the longer run. It is also clear that this trade-off is viewed differently across euro area countries.
- *Debt reduction.* Population ageing (which will drive up nominal interest rates) and ballooning government debt will make it increasingly difficult to maintain balanced budgets. In the Netherlands, per contrast, it is private (mortgage) debt that has risen steeply; repayment problems will likely ensue if capital market interest rates start to rise. High private and public debt levels leave economies vulnerable to rising interest rates. The Netherlands thus has reason to make private debt financing less attractive. This could be achieved by for example revising the corporate tax system to treat equity and debt financing more equally.<sup>8</sup> To prevent tax arbitrage, this would be easier to achieve at the EU level, although it does not necessarily mean that tax rates have to be the same in all countries. An EU agenda in this respect should be

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<sup>6</sup> Council of State (2021) Voorjaarsrapportage 2021, No. WO6.21.0089/III/B, 15 April 2021, The Hague.

<sup>7</sup> For more information see: <[https://www.europaanu.nl/id/vl90ry4p59zr/nieuws/vragen\\_en\\_antwoorden\\_over\\_het\\_mfk\\_en?ctx=vl7hbc8eikhu&ta b=0](https://www.europaanu.nl/id/vl90ry4p59zr/nieuws/vragen_en_antwoorden_over_het_mfk_en?ctx=vl7hbc8eikhu&ta b=0)> Regarding the pandemic fund, it states: "The funds raised will be repaid from future EU budgets from 2027 to 2058 at the latest. The loans will be repaid by the member states that have entered into them. In order to facilitate repayment and further ease pressure on national budgets, the Commission will propose new own resources at a later stage of the 2021-2027 financial period, on top of those already proposed."

<sup>8</sup> See the various studies and references at: <<https://ec.europa.eu/jrc/en/corporate-tax-policy/debt-bias-in-corporate-taxation>>. See also R. de Mooij (2012) Tax biases to debt finance: assessing the problem, finding solutions, *Fiscal Studies* 33, 489-512; and D. Schindler and H. (2019) Hervorm de vpb door beperking van de renteaftrek, in *Ontwerp voor een beter belastingstelsel* edited by S. Cnossen and B. Jacobs, ESB, pp. 118-134.

welcome. To date, there is no EU-level, long-term plan to rein in government debt. The Netherlands could take the initiative by convening a conference on this issue.

- *Internal devaluations and revaluations.* Relative competitiveness and expenditures in the EU are unbalanced. It is often claimed that due to the introduction of first fixed exchange rates and then the common currency, adjustments through devaluation and revaluation are no longer possible. But this is not so if devaluation and revaluation are construed in economic rather than monetary terms. The balance can be restored by means of a simultaneous internal devaluation (wage moderation) in one part of the Union and an internal revaluation (boosting wages) in another. Examples within countries include the so-called Wassenaar Agreement between employers' organisations and labour unions in the Netherlands (to moderate wages) and the introduction of the minimum wage in Germany. While it would be politically difficult to sell such a proposal to individual countries, a coordinated, simultaneous devaluation and revaluation would probably be easier to swallow. It would both improve competitiveness and boost spending across the EU. Such a proposal could also be used as a trade-off against proposals to ease limits on public debt for certain countries.
- *Bank mergers.* The ECB, bankers and national governments are increasingly calling for bank mergers. This would create EU champions (to rival American investment banks) and may involve bailing out weaker banks. But who would ultimately benefit? In the Netherlands, consumers and businesses are already paying the price of limited competition with just three major banks left. The merger of two poorly performing universal banks would lead to few efficiency gains and the greater likelihood of more state aid. Cross-border mergers to create banks specialized in for example the financing of certain corporate loans, enabling merged banks to dispose of business units, would be more interesting. So would an option for banks to be established directly under EU law, with the European Court of Justice in Luxembourg having a special chamber for banking cases (the resolution of failing banks is already dealt with by the Single Resolution Board in Brussels). The advantage of such an arrangement would be that capital requirements would apply at the aggregate rather than at the national level.

## Public health and healthcare

### Analysis

While the EU responded rapidly to the economic impact of Covid-19 in 2020, taming the virus itself has taken longer. Uncoordinated action by member states undermined the effectiveness of the European response and put pressure on the single market, the Schengen Area, and European cohesion and institutions. Plans have been circulating in Brussels since the summer of 2020 for a 'European Health Union' with greater European cooperation in public health and healthcare.<sup>9</sup> While this cooperation is focused on preparing for and responding to cross-border health crises, it also addresses longer-term issues relating to member states' limited control of the global supply chain for medicines and the handling of

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<sup>9</sup> For an overview of these plans, see: [https://ec.europa.eu/info/strategy/priorities-2019-2024/promoting-our-european-way-life/european-health-union\\_en](https://ec.europa.eu/info/strategy/priorities-2019-2024/promoting-our-european-way-life/european-health-union_en)



major differences between national healthcare systems. These differences are problematic for controlling pandemics and in some ways impede the free movement of persons and services.

At first sight, greater cooperation in public health is hampered by the EU having few powers in this area (see Article 168 TFEU). But the article does specify that Union action for public health complements national policy, promotes coordination, and can include legislation to meet common safety concerns including for major cross-border threats to public health such as Covid-19. Legally, there are few direct restrictions, particularly since the protection of public health is a key principle of the European treaties.<sup>10</sup> Many cross-border matters such as food safety, the licensing of medicines, the recognition of professional qualifications, and patients' rights to cross-border healthcare are already subject of different.<sup>11</sup> For the Netherlands, many issues are best addressed nationally given the different structure of national healthcare systems. But there is also potential for more European cooperation, with benefits for Dutch society. The question is whether a full health union and the allocation of wide powers to the EU is the best response. Precisely because greater European power in public health would encroach on member state healthcare systems, different or more specific forms of cooperation and the conferral of powers need to be studied.

### Policy Issues

- *Pandemic control.* An obvious option is to strengthen existing European partnerships such as the European Centre for Disease Prevention and Control (ECDC) and the Health Security Committee (HSC), which comprise national health ministers.<sup>12</sup> To ensure more effective preparation and response to health crises, the ECDC needs more resources and powers, in coordination with the WHO (with which the centre cooperates).<sup>13</sup> European crisis preparedness measures encroach deep into member states' care systems, and can thus be controversial. Joint definitions, risk assessment methodologies and crisis scenarios can improve coordination between member states' pandemic control measures and promote cooperation without detracting from their authority. The HSC could be tasked with monitoring these plans, which should improve available information. France and Germany appear to support this approach. Further developments could draw inspiration from mechanisms for food safety, power outages, and the banking union, as these areas have more stringent requirements to share information.<sup>14</sup>
- *Procurement of medicines.* Another possible area of greater cooperation is the collective procurement of medicines, as in the case of coronavirus vaccines. There

<sup>10</sup> K.P. Purnhagen, A. de Ruijter, M.L. Flear, T.K. Hervey and A. Herwig (2020) 'More competences than you knew? The web of health competence for European Action in response to the Covid-19 outbreak', *European Journal of Risk Regulation*, 11: 297-306.

<sup>11</sup> A detailed overview of the EU's 'indirect' influence on the health field can be found in H. Vollaard, H. van de Bovenkamp and D.M. Martinsen (2016) The making of a European healthcare union: A federalist perspective. *Journal of European Public Policy*, 23(2), 157-176.

<sup>12</sup> L. Cabane (2020) 'Weighing options to improve the European Union's response to large-scale transboundary health crises', available at: <https://www.transcrisis.eu/weighing-options-to-improve-the-european-unions-response-to-large-scale-transboundary-health-crises/>

<sup>13</sup> Calls for a wider mandate for the ECDC were already being made in 2019, see: <https://www.ecdc.europa.eu/sites/default/files/documents/Third-External-Evaluation-ECDC.pdf>

<sup>14</sup> A.L. Beaussier and L. Cabane (2020) 'Strengthening the EU's Response Capacity to health emergencies: Insights from EU crisis management mechanisms', *European Journal of Risk Regulation*, 11: 808-820.

are two arguments in favour of such an arrangement: the price of drugs and security of supply. Countries regularly pay different prices for the same medicines. For many years, there have been growing shortages of medicines, partly because production has been outsourced to China and India and supplies from these countries are not always reliable. EU member states – and perhaps other countries too – could organize collective procurement on a voluntary basis. The Netherlands already enjoys low drug prices due to the policy whereby health insurers designate preferential medicines. But this does not extend to innovative medicines, as the Netherlands with its small population is relatively unattractive sales territory for pharmaceutical firms.<sup>15</sup> Procurement could take place at the EU level, with medicines distributed on the basis of solidarity. The civil protection mechanism could be adopted for this purpose, as it was by the Commission in early 2020 to build up strategic stocks of ventilators and protective masks. These stocks were used partly to cover shortages in Spain, Italy and Croatia.

- *Sharing scarce resources.* European cooperation is also possible in the treatment of rare conditions or diseases requiring expensive infrastructure or scarce expertise. Individual member states are often unable to meet such needs and therefore act jointly in some areas. This applies, for example, to the virtual European Reference Networks (ERNs) used to discuss rare or complex diseases with colleagues. Supported by the European Commission, this initiative involves 300 hospitals in 26 member states. European cooperation also benefits organ donation (availability, matching, safety, normative concerns) as it improves quality and increases supply. Good examples of cooperation in this field are Sanguin and Eurotransplant.
- *European healthcare standards.* Covid-19 has revealed the importance of robust and resilient healthcare systems. Although member states' healthcare systems differ greatly, the differences are not equally insurmountable. Medical treatments and procedures, for example, are largely uniform thanks to the international scope of physicians and medical practices (even national Covid-19 measures have an international character). Convergence also occurs as treatments are subjected to more efficacy assessments, providing a basis for greater harmonization. It is conceivable that minimum European healthcare standards will be adopted particularly for 'classic' diseases. This is variation in policy content and could serve as the start for more comprehensive EU health efforts.
- *Cooperation in border regions.* Finally, there is scope for greater cooperation in border regions. The Commission wants to require member states to disclose the number of hospital beds, medical personnel and medicine stocks in each country as preparation for the next pandemic. In practice, geographic proximity and cultural affinity inform cross-border healthcare. This finding could also guide proposals to share facilities. Patient transport is best organized over the shortest possible distance, preferably to locations with the same hospital culture. German hospitals therefore admit Dutch patients. Doctors are considerably more mobile and medical devices can easily be shared and distributed across Europe, provided stocks are sufficient. Cooperation in border regions – for example in Limburg – also shows the

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<sup>15</sup> The Netherlands has since 2015 shared information on innovative medicines with a group of smaller countries (BeNeLuxA) and conducts joint negotiations with manufacturers.

scope for greater harmonization on other transnational issues, such as labour migration.

## **Conclusion**

This exploration of the current issues in security, economics, and public health and healthcare illustrates the potential of judiciously accepting differences in policy content, decision-making, and configurations of participating member states to further European cooperation. Our suggestions are meant as examples of how the future of the European Union can be freed from the straitjacket that policy must be set either exclusively at the European level or by member states. In public discourse, the European Union today is often implicitly or explicitly presented as the opponent of national policy-making: ‘The Hague’ or ‘Brussels’, preserving or surrendering sovereignty, saving or paying. This polarization of views also affects Dutch attitudes towards Europe, which have not always been productive in recent years. After initially taking tough stances, the Netherlands has often had to back down – which does nothing to benefit the credibility of the Dutch position, either in the European Union or at home.

This polarization of opinion regarding the European Union fails to recognize how the EU can and should function according to its principles: not as a replacement, but as a harmonization and extension of national politics; not as a less democratic competing public system, but as part of ‘democracy’. The European Union is not a foreign power; it only takes decisions in bodies in which the Netherlands often enjoys an effective presence. This applies to the Commission and its services, the Council, the Parliament and the European Council as well as to institutions such as the European Central Bank, Europol and Eurojust, and the Health Security Committee. The European Union should not be seen as a different constitutional system, but as a common extension of the national constitutional systems of the Netherlands and other member states.

As one of the founders of the European Union, the Netherlands is expected to have a more consistent and constructive attitude. The greater acceptance of variations in European policy can contribute towards this end. The demand for further European cooperation can already be seen in a number of areas. It would be useful to conduct a preliminary review of the current state of EU regulation in these areas, identifying the variations that exist, which are possible or desirable, and what the sticking points would be. A variation-based approach would not only provide scope for greater flexibility but would also ease the pressure on cooperation between very different member states.

Finally, exploring variations in the European Union can help create a better framework for assessing the opportunities that the Netherlands has in the EU. It would provide a basis on which to forge new coalitions, which are badly needed now that the United Kingdom has left the EU. As a medium-sized country in economy and population, the Netherlands in any case must find a balanced approach towards the EU. A vision of the EU based on European variations offers in our opinion the more fruitful attitude for tackling European issues.