



European
Institute

Ever Closer Union

Report of the hearing held on 15th April, 2016



LSE Commission on the Future of Britain in Europe

Rapporteurs:

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Foreword

This is a report of the hearing that took place on Friday 15th April 2016, from 14.00-16.30hrs. This was the tenth session in the 'LSE Commission on the future of Britain in Europe' series.

The hearing began with two keynote presentations:

- Simon Glendinning (Professor of European Philosophy, LSE), 'The Teleology of European Union'
- Antonio Armellini (Former Permanent Representative of Italy to the OECD; former spokesman for EC Commissioner Altiero Spinelli), 'Time for two Europes'

A broad range of experts and practitioners were invited to participate in the discussion. These included guests with senior experience of political office and diplomacy; leaders of policy think-tanks; senior journalists; and consultants and academics. For the discussion, we were keen to have contributions from a variety of perspectives in order to explore our theme in different contexts and in relation to different interests. There were different views of the history of European integration, different views of the political and legal significance of the idea of "ever closer union", and different views on Britain's relationship to all of these. This report synthesises the discussion and is a fair representation of its findings.

We are very grateful for the expert contributions and for the additional papers submitted in parallel to the hearing by both participants and non-participants. Together, the material provided high quality evidence on which to draw conclusions. The hearing adopted the 'Chatham House' rule on not attributing comments to individuals in any public statement afterwards, and this rule is respected here.

Marion Osborne and David Spence provided excellent organisational support and help putting together our panellists. Roch Dunin-Wąsowicz helped greatly with the wider preparation for the hearing, and comments on an earlier draft. Any remaining errors in this report are my sole responsibility.

Simon Glendinning

Professor of European Philosophy, European Institute, LSE.

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1. Introduction

How should the phrase “Ever Closer Union” (often referred to here simply as “the phrase”) be understood? This question deserves to be explored both conceptually and historically, and its significance across various fields identified: the history of the phrase throughout the process of European integration; its impact on British political thought with regard to the EU; and the wording and ramifications of the negotiated opt-out from it for the United Kingdom.

Two very general, and intertwined, dimensions deserve special attention: the idea of a basic *heading* or *direction of travel* of European integration; and the *history* of the interpretation of that basic heading. In the hearing, those dimensions were developed and explored through four main discussion themes occupying four parts of the hearing.

The first part of the hearing covered the history of these words, from the time they first appeared in the process of European integration, up to but not including the UK renegotiation of its commitment to this principle in 2016. The second part was devoted to how the words have been portrayed in the media, especially in the UK leading up to the 2016 renegotiation. The third part consisted of a reflection on the resonance of the words in the European Parliament, both in terms of a critical reflection from MEPs and its more general political significance for Europe’s legislative body. The fourth part detailed the appearance and nonappearance of the phrase (and its parts) in the rulings of the European Court of Justice and was aimed at determining its legal significance for furthering European integration.

2. Summary

The conclusions of the hearing's discussions were that:

- The phrase “ever closer union among the peoples of Europe” has its origins in a political project of establishing a supranational government in Europe. However, while its formulation is explicitly teleological (directed towards a certain end) the history of European integration cannot be described as having been governed by that teleology.
- The EU and its predecessors are the result of an ongoing creative project in the making. It had been assumed in its first phases that this would be a gradual process towards political union, but it is now accepted that some Member States might be more integrated than others. After the 2016 renegotiation there is no requirement for the UK to move towards deeper political and economic integration. The EU is now an effectively multi-speed union without a single “final destination”.
- Historically the idea of “Ever Closer Union” was conceived as a way of overcoming the pathologies of national state formations, rooted in a commitment to peace through the internationalisation of politics. The “federal” ambition has not disappeared from the politics of European Union, but the idea of the nation state (as such) as the source of international conflict is no longer widely accepted.
- UK media representation of the EU, though usually focused on disseminating rudimentary information, often equates “Ever Closer Union” with an ideological, hegemonic, and supra-nationalist European political project.
- The idea of “Ever Closer Union” is a significant political touchstone for parliamentary politics on the EU level, which thereby takes a distinctively different shape than the groupings in national parliaments. Indeed, along with the traditional Left/Right dichotomy, it is an axis of ideological divide in the EP chamber in a way it is nowhere else.
- The idea of “Ever Closer Union” is not an explicit driver of the ECJ rulings, even if it has appeared in them from time to time. Had the Court been barred from using or even tacitly appealing to the phrase, it most likely would have reached the same conclusions in the 57 occasions when the words actually appeared in its rulings (57 out of 29,969 rulings).
- As a Member of the EU a state may both enhance the sovereignty it retains, and have a say in the development and powers of the union in those areas where sovereignty is shared or pooled. “Having a say” in this project includes what, if anything, is to be understood by the phrase “Ever closer union among the peoples of Europe”. The 2016 renegotiations should be understood in this light.

3. The Concept of Ever Closer Union

Talk of “Ever Closer Union” is, of course, a contraction of the full enigmatic formulation: “Ever closer union of the peoples of Europe”. This is enigmatic because it holds together two features of the European Union that seem to be intractable, irreducible and contradictory. First, it seems to contain an internal tension within it between the singularity of a “union” and the plurality of “peoples”. And, second, it seems to sustain an ambiguity over whether it concerns (primarily) a political body aiming to cultivate conditions for closer cultural or spiritual relationships between peoples, call that a union of minds, or a political body aiming at closer political relationships between nations, call that a union of governments.

However, what is at issue in any way of understanding the phrase is the idea of moving ever closer towards something. This idea, the idea of a purposive movement towards some end or goal makes the phrase fundamentally teleological in character. Accordingly, a basic question concerns how one should understand the *telos* of “Ever Closer Union”. With respect to the ambiguity already noted, the teleological direction might be thought as either conditions of ever closer understanding and cooperation between the (especially but not exclusively national) “peoples” of Europe (a union of minds); or a movement of transformation of governments from a plurality of national governments towards a supranational government (a union of governments).

Both of these interpretations have been defended in the theoretical literature on the emergence in Europe of a “political body” beyond Europe of the nations. Both have their roots in the writings of the philosopher Immanuel Kant, and his early anticipation and prediction of the emergence in Europe of “a great political body of the future, without precedence in the past”. The first interpretation is probably Kant’s own. It is the idea of political institutions which create sustainable conditions of co-operation and understanding between the peoples of Europe that makes war between the nations increasingly “less likely”. The second interpretation is illustrated by the work of the contemporary philosopher Jürgen Habermas who construes the European project as a movement towards the creation of an international or supranational state in Europe. In 2013, for example, he called on today’s Member States to take steps, as soon as possible, toward what he calls “a supranational democracy”: an international state which is formed by a fundamental “transfer of competences from the national to the European level”. He proposed a common economic government for Europe where nations could preserve their identity within a supranational democracy by retaining the role of the “implementing administration” of decisions made at the supranational level.

These two interpretations of “Ever Closer Union” need not be thought of as mutually exclusive. Habermas, in particular, would urge that the first

telos (a union of minds) is best achieved through the development of the second (a union of governments). It is clear, however, that Kant thought the latter ambition, if taken to its logical end in a European government, would prove an unworkable disaster. A stable and lasting European government would require the existence of a European “*demos*”, and that prospect looks stubbornly distant at best. So Kant recommended instead a unique and historically unprecedented “federation of free states” as the best way of institutionally cultivating the first goal.

The two conceptions of institutional design in view in these two interpretations of the *telos* of union were strikingly present in the differences between the first draft and the second draft of the renegotiation achieved by the UK government in February 2016 under the title of “Sovereignty”. The original draft of the text proposed by Cameron and Tusk outlines a clear *telos* of “trust and understanding among peoples living in open and democratic societies sharing a common heritage of universal values” and yet stipulates that it is not “equivalent to the objective of political integration”. In a fascinating development, this formulation did not survive into the final text. It was replaced by a lengthier, and much more legalistic one, focused almost entirely on the UK’s “opt-out” of any further political integration, should it take place. The final document “recognised that the United Kingdom, in the light of the specific situation it has under the Treaties, is not committed to further political integration

into the European Union”. It also outlined that Treaties remain the only source of legitimation of the Union and “do not compel all Member States to aim for a common destination”, leaving the *telos* of ‘Ever Closer Union’ undefined, but the possibility of deeper integration among some Member States strongly implied.

The original tension between unity and plurality of the ambition for “ever closer union among the peoples of Europe” clearly remains here – but it is now expressed differentially rather than internally: some peoples within the Union might be more integrated than others. The general tension is nevertheless retained in what one might call its voluntarism: there is no requirement for Member States to move towards deeper political and economic integration; it therefore remains dependent on whether nations desire it, and should some Member States desire it, then they are free to pursue it. Should others (not only the UK) not desire it, they are not obliged or compelled to do so. The possibility is affirmed here of a multi-speed union without a single *telos*.



Whether the *telos* of “Ever Closer Union” is conceived as a union of minds or of governments the renegotiation showed for the first time that today there is no shared vision of a single *telos* of union among the 28 Member State of the EU. Or, at least, no single aim of political integration common to them all. The reality today revealed by the negotiation is that there are in fact different “tiers” of European Union integration: a tier focused around the Eurozone and increasingly common economic government and deeper political integration (which may or may not survive in the form of a single group); a tier focused on commitments to an increasingly single-market; and a tier from the post-Communist European Member States who are rediscovering their own sovereignty at the same time as engaging in a process of European integration, and still deciding their path in the Union.

There was a conviction, powerfully reinforced by the experience of nationalism and wars among the nations of Europe, that national political formations are intrinsically pathological and should be replaced by a more rational international system that would be effectively immune to them.

These developments raise important questions about the historical character of the Union itself, and indicate that its understanding of its own (ideal) historical *telos* changes in the course of its own (actual) history of making and attaining new institutional conditions. One should then distinguish between supposing that there is a fixed normative horizon when we speak of either a “union of minds” or a “union of governments”, and a processual movement between what has been attained in either respect and what is then regarded as attainable: a sense of historical development where the path and horizon moves as we do.

The general historical “scansions” of the history of the European political project become crucial. The main feature of its early development was a hope among many that there would be a rapid movement towards an international state. The basic political motivation for this was the conviction, powerfully reinforced by the experience of nationalism and wars among the nations of Europe, that national political formations are intrinsically pathological and should be replaced by a more rational international system that would be effectively immune to them. The hope for rapid development did not last into the era of “functionalism” where a slower step-by-step approach was taken: the EU taking over certain national functions in the expectation that there would be a logic of successive developments in different areas “pulled” into play by the earlier transfers of competences to the European level.

Both of these models preserved a supra-national or “federalist” *telos* as their guiding ambition: the movement towards a union of governments. However, during the course of the second half of the twentieth century the idea of the nation state as an intrinsically problematic political form began to lose its hold on the political imagination. Instead, it was increasingly widely believed that it was not the form of the nation-state as such that was the problem but the form of government within that state. In particular, the pathologies were strongly connected to authoritarian, totalitarian and otherwise non-democratic regimes. A democratic nation-state, by contrast, was regarded as an instrument of peace and security both within itself and between such states.

This shift powerfully altered the “horizon” of thinking about the ends of European Union. Federalism no longer appeared to be the only rational ambition of “Ever Closer Union” (though many cleaved to that idea and still do), and in its place a new “mantra” – with a new corresponding *telos* – has appeared to have taken hold within many national governments and on some of those working within the EU institutions: “National where possible, European where necessary”. This new formulation is, of course, open to different teleological interpretations, but it seems clearly to indicate a significant historical mutation within the unfolding historical development of the European Union as a political project. It is also a mutation that the UK should feel comfortable with.

The now known reality of a differentiated union with overlapping circles of

engagement and perhaps with multi-speed elements means that there is a delicate equilibrium in place. If Britain departed, the vision of Europe as an area of free-trade in a single-market would have considerably diminished force within the EU, and there would be pressure, especially on countries in the Eurozone, to make a decision over the extent of economic and political union that they would be prepared to accept or want. Further opt-outs might be sought by various states, perhaps especially from post-communist countries unlikely to want to give up only recently acquired independence and sovereignty. The EU could start unravelling – not in one go, but gradually, in the way of the Holy Roman Empire.

At this stage in its history the EU is now faced with the alternative of either altogether abandoning the idea of supranational union in favour of a form of intergovernmental cooperation that finds agreement to pool or share sovereignty where it can; or of an EU of two Europes, one pushing towards political union and centred on the Euro, and another based on market rationalization, but both existing independently and not adversarially within a broader European Union. The first alternative is a movement towards a more Kantian model, aiming primarily at optimising co-operation and understanding between the peoples of free states; the second, a simultaneous hybrid of two very different visions, one stronger than Kant’s (a union of governments) and one rather weaker (a trading bloc).

4. The Historical Emergence of the Phrase

At the end of World War Two there was an upsurge in feeling for the Kantian idea that peace could be secured only through world government constituted by regional federations. In Europe the watchword for reconciliation was, in the words of Winston Churchill, “a kind of United States of Europe”.

This movement for European unity was supported by the USA, and the Marshall Plan was intended to assist this process. Britain blocked the Marshall scheme from leading to a European federal treasury, but led the way for the formation of the Council of Europe (1949). While it was not an organization that served as a building block of the future European Union, it has been one of its spiritual forerunners. The Council of Europe that established the European Human Rights regime, to which all EU Member States must subscribe to, was an initiative that Britain fully supported.

Article 1a. The aim of the Council of Europe is to achieve a **greater unity** between its Members for the purpose of safeguarding and realizing the ideals and principles which are their common heritage and facilitating their economic and social progress.

Statute of the Council of Europe,
London, 5th May 1949

Under the guidance of Jean Monnet it was the European Coal and Steel Community established by the Treaty of Paris (1951) that took up the ambition for a rapid movement towards a kind of United States of Europe. The preamble of this nascent

European treaty laid the foundation for the introduction of “Ever Closer Union” in the Treaty of Rome (1957), officially the Treaty establishing the European Economic Community (EEC), that Britain did not take part in.

CONSIDERING that world peace may be safeguarded only by creative efforts equal to the dangers which menace it; CONVINCED that the contribution which an organized and vital Europe can bring to civilization is indispensable to the maintenance of peaceful relations; CONSCIOUS of the fact that Europe can be built only by concrete actions which create a real solidarity and by the establishment of common bases for economic development; DESIROUS of assisting through the expansion of their basic production in raising the standard of living and in furthering the works of peace; RESOLVED to substitute for historic rivalries a fusion of their essential interests; to establish, by creating an economic community, the foundation of a broad and independent community among peoples long divided by bloody conflicts; and to lay the bases of institutions capable of giving direction to their future common destiny.

The Treaty establishing the European Coal and Steel Community (1951); signed by the Governments of Belgium, France, Germany, Italy, Luxembourg and the Netherlands

The “Commission” formed the central institutional expression of the ambitions

of this treaty: a supranational authority aiming to create an economic union as a transitional phase on the road to political union.

The Treaty of Paris matters because it shows that very early on in the process of European integration “the spirit of peace” and “the spirit of creativity” were put side by side, and from very early on the idea of ‘Ever Closer Union’ was conceived as rooted in a commitment to peace but open to the ongoing *creative project* in the making, a gradual process towards political union but not a blueprint laying out a fixed path to that end. At the same time, the words of the preamble of the European Coal and Steel Community signify that this was a *political project* from the start, and those signing up to it, including the UK when it later joined the EEC, knew that from the beginning. Furthermore, the 1975 information pamphlet the government of

the day sent out before the referendum on the UK’s continued membership in the then European Community made it very explicit that its ambitions were more than economic. It is notable too, however, that the interpretation in the pamphlet of the phrase “Ever Closer Union” is implicitly that of a union of minds:

The aims of the Common Market are:

- To bring together the peoples of Europe.
- To raise living standards and improve working conditions.
- To promote growth and boost world trade.
- To help the poorest regions of Europe and the rest of the world.
- To help maintain peace and freedom.

From a historical vantage point, then, “Ever Closer Union” should be understood *processually*. The idea of a “federalist” end



has been part of that processual political development and it remains a guiding light for many, but it cannot be seen to underlie all the political developments of the so-far-attained initiatives and institutional arrangements. Europe's nations have long been concerned with the transition of Europe from a condition of war to one of lasting peace; and the institutional expression of this has fluctuated between an ambition for a union of governments and a movement *away* from something (war), and *towards each other* (friendship, solidarity) in a union of minds. It certainly is, however, a political project *away* from exclusive national sovereignty, be that through the Single Market or other forms of European integration; but it has not always been understood as a movement towards exclusive international sovereignty.

It is important to see, therefore, that the vision of "Ever Closer Union" has altered over time, and it means what it does today because of the plethora of things that Member States have up until now

managed to do together, and the new conditions that this has produced.

One of the features of this history, however, is that while it was, from the start, a *political* project, its results, both its achievements and its problems, seem not to have been widely or profoundly felt by the wider population of the Member States until the 1990s. At that point, both the federalist and single-market conceptions of the idea of "Ever Closer Union" began to intensify and circulate more widely – and neither found much enthusiasm from Europe's publics. The effort to create a European "*demos*" and the propensity to concretise what the phrase "really" means may even have helped create polarization. As part of the renegotiation the UK projected a certain reading of "Ever Closer Union", and decided to disengage from that. However, this tends only to confirm that the attained conditions of union and political perceptions at any given time matter more than any supposed intrinsic meaning of the phrase, and belong to an ongoing history of an unpredictable development.

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5. The UK Media

Much UK media coverage – even some in popular media – is, in fact, very good. However, at times it has played a decisive and largely negative role in how the European Union is perceived in British society. It is equally clear that they devote very little actual attention (positive or negative) to the issue of “Ever Closer Union”. The main thing the UK media do with regard to the European Union is explaining why it is or isn’t necessary in the first place. They seldom go into philosophical or historical discussions on the ideational features of European integration. This likely has its cause in the reasons why the UK joined the EU in the first place. Unlike the original six founding countries it did not grapple with the trauma of occupation during or guilt for World War II, it was not recovering from Fascism like Greece, Spain and Portugal, or from Communism like the countries of Central-Eastern Europe. The reasons for the UK’s original accession were arguably

much more pragmatic, and the dominant media narratives concern themselves largely with practical not ideational questions.

On the other hand, the UK media representation of the European Union does foreground the “threat” of a European political project as intrinsically ideological, hegemonic, and supra-nationalist in intent. While the Treaty of Lisbon may point in that direction, the direction of travel is complicated by the increasing significance and presence of “intergovernmental” structures, especially the powerful role of the European Council – although that body operates by qualified majority vote, and may be thought anyway to give Germany a power position that is neither federalist nor intergovernmental. While the subsidiarity formula, “National where possible, European when necessary”, is hardly recognized by the media in Britain, that may also reflect the



fact that, as the European Commission President has admitted, there have been shortfalls in its application.

One reason for the characteristically negative representation of the EU in the British media may be that media outlets typically turn away from their specialist correspondents at times of EU “drama”. This results in a tendency to oversimplify or even completely avoid reporting at a time when knowledge and experience is needed most. For example, the BBC was the only major EU public broadcaster in Europe not to air the debate between the (in any case controversial) European Commission Presidential candidates in 2014. In a certain way the British media simply reflected the lack of understanding and interest in the EU, and not only in Britain: polling showed that 90% of voters throughout the EU had never heard of the pan-European parties involved or of the EU Commission candidates. The story that the BBC and most of the rest of the British media focused on was the rise of UKIP.

This vicious circle is especially exemplified in the tabloid press. However, it is clear that this part of the British media does not have a monopoly on public opinion, and the BBC remains the most powerful media outlet in the country.

One feature of the media in the UK that needs to be highlighted is the extent to which it is no longer simply a UK media. The digital revolution in the 21st century has brought people closer, not just within Europe, but also beyond. Both the internet and non-national TV has led to a closer

cultural “union” of people and peoples than could have been envisioned by the founding fathers of the EU – although it is now not a fundamentally European community of “friends”. The closer union of peoples of Europe must therefore be put into the context of the increasing globalisation of media and social media services and the increasing ease with which we communicate transnationally. Young people today are more closely connected over national borders through the internet and through media culture. This makes transnational communication immediate and accessible to almost all, and globally, not just regionally. Social media does, of course, have a remarkable tendency to polarise discussions, and is as likely to provoke discussion about national identity (and its fragility in an international environment) as it is likely to provoke “cosmopolitan” feelings of international belonging. Nevertheless, there is no doubt that many people today, especially young people, are less “rooted” in a national soil, and have an instinctive international sympathy not limited to (but not excluding) such unity “among the peoples of Europe”, in a sense of mutual understanding and respect.

6. The European Parliament

The third major theme of the discussion on the idea of “Ever Closer Union” was its importance in the context of the developing political formations in the European Parliament (EP). Like the media, the phrase is not itself the subject of discussion or debate, and it is likely that even if it were the views in the EP would be of marginal significance to the Brexit debate in the UK. Nevertheless, without being a theme for discussion the ideas that circulate around the phrase are a significant political touchstone for parliamentary politics on the EU level, which thereby take a distinctively different shape than the groupings in national parliaments. Indeed, along with the traditional Left/Right dichotomy, it is an axis of ideological divide in the EP chamber in a way it is nowhere else. The pro-federalist cluster, in particular, regard the phrase as belonging squarely within their own political purview, and a growing non-federalist group has developed as a consequence. The latter presently consists of about 160-180 MEPs out of a total of 750, this includes the two largest British delegations: the Conservatives and UKIP. In the 2000s it was the former party that famously broke off from the federalist and centre-right European People’s Party grouping and formed a separate EP group, the European Conservatives and Reformists (ECR), opposed to federalism. From the perception of these MEPs, the European Parliament has been gradually assuming more and more powers, especially after the Lisbon Treaty (2007). Their frustration is that much greater, because anti-

federalist groups have found themselves outvoted in most debates in recent years. This has also made the cleavage between the federalists and non-federalists in the European Parliament that much more apparent, and there is no doubt that the phrase is a politically charged element in the formation of this divide.

Playing this slightly “spectral” role in EU Parliamentary debates is in some respects internal to the set-up of the EP itself. That is, the fact that there have been very few explicit references to “Ever Closer Union” in the EP reflects the fact that its very proceedings can be framed as the practice of this idea: whether that is seen in terms of greater powers to the Parliament or simply the practical reality of a certain kind of sovereignty sharing. Relating back to the overarching processual interpretation of the phrase, one can say that its ongoing significance is inseparable from the actual and ongoing process of European governance, both



informing and being informed by the developmental conditions of attained co-ordination and integration. On this view, a certain kind of opposition to the idea of “Ever Closer Union”, opposition, that is, which presupposes that it has a *fixed* teleological sense (an international state), is largely symbolic. This is especially true of the UK, which is (really is) a Member State of the EU but does not, and is not obliged to, participate entirely or at all in every political project that internationalises decision making powers. On one reading of this, it means that it has been taking part only partially and reluctantly in the process of “Ever Closer Union”. On another reading, however, it simply shows that this process is neither linear nor irrevocably directed towards a fixed internationalist or federalist objective. On the latter reading, the idea that there is fixed end-goal (*telos*) governing actual developments is doubted; rather there are procedures through which co-operation and co-ordination between states in different forms, including the delegation of competences to non-national bodies, is enacted. The upcoming referendum in the UK is, however, putting pressure on governments and citizens in other member states explicitly to address the political goals of EU institutionalization of co-operation.

That issue is likely to reflect the changing perceptions over the course of the EU’s short history of the nature of the nation state discussed at the start of this report. Is the nation state itself a sovereign “beast” that needs taming, or are the crucial questions bound up with the form of

government within such a state (a point which could suggest that the “beast” can just as well re-emerge in a sovereign international state)? It is not clear whether federalists today cleave still to the idea that the national form is the principal danger or have other reasons, such as the emergence of newly competitive large states, for favouring a supra-national order. Clear divisions remain between MEPs who go to Brussels/Strasbourg to further a federalist cause in the name of “Ever Closer Union”, and those who go there to secure national interests. Nevertheless, there is considerable consensus around the assumption that an international order based on democratic, prosperous, cooperating nation states is a powerful driver of peace and stability in Europe, and some among these will argue that *limited* sovereignty (all round) is a condition for this.

7. The European Court of Justice

The last case-specific section of the hearing focused on the legal force of the phrase in EU Treaties and their interpretation by the European Court of Justice (ECJ) in Luxembourg. The bottom line is that the phrase is not an explicit driver of the ECJ rulings, even if it has appeared in them from time to time. Specifically these were cases concerning the rights of individuals as derived from EU law as such, and not national law, which were accompanied by invoking the spirit of the Treaties, which is to say the idea “ever closer union of the peoples of Europe”. This took place only in order to vest individuals with rights as European citizens, and not to unilaterally further European integration.

However, what drives the court is what it perceives to be the policy and purpose behind each and every Treaty article or set of articles. The same is true of particular legislative instruments of the EU as defined by the court in its rulings. Once again there was a question whether a sort of “spectral” presence of the phrase might inform judgements. Nevertheless, it was thought that had the Court been *barred* from using or even tacitly appealing to the phrase, it most likely would have reached the *same* conclusions in the 57 occasions when the words actually appeared in its rulings. (Note that this is 57 times out of a total of 29,969 rulings, and a further 554 cases in which the Court refers either to the “closer union” objective or its spirit; House of Commons Briefing Paper No. 07230, 16th November 2015).

the EU has never been a one-size-fits-all operation, even before the Treaties allowed for varied national paths and multi-speed formations within the EU umbrella

The legal perspective also shows there have been many instances when differences among Member States on how European policy should be interpreted have been successfully accommodated. In this regard the EU has never been a one-size-fits-all operation, even before the subsequent Treaties that allowed for varied national paths and multi-speed formations within the EU umbrella. This historical background of EU law helps to see that nothing fundamental is changed by the UK’s 2016 renegotiation as far as the law is concerned. The changes certainly have political significance, but that significance lies primarily to the context of David Cameron’s decision to support UK’s continued membership.

8. Conclusions

The idea of “Ever Closer Union” has never had a single or fixed teleological sense which has driven the political project of co-ordination and co-operation between the nations of Europe who have joined the European Union, neither for the UK nor for the other Member States. Nevertheless, it is significant that the chapter of the renegotiation that contains a discussion of this phrase is entitled “Sovereignty”. In other words, it is an essentially *political* concept belonging to an essentially *political* project. And on this score, the idea of collective action is such that any member of a democratic club may help set the rules and their interpretation.

As a Member of the EU a state may both enhance the sovereignty it retains, and have a say in the development and powers of the club in those areas where sovereignty is shared or pooled. This political process in an ongoing political project is illustrated by what took place in the 2016 renegotiation, and includes what, if anything, is understood by the distinctive and ambiguous phrase “Ever closer union among the peoples of Europe”.

As a Member of the EU a state may both enhance the sovereignty it retains, and have a say in the development and powers of the club in those areas where sovereignty is shared or pooled

Participants List

First	Surname	Title
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Brendan	Donnelly	Director of the Federal Trust; former Member of the European Parliament
Mark	English	Head of Media, European Commission Representation in the United Kingdom
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