

Opening Lecture Master European Law, Leiden University, 11 September 2020

On the 11th of September, Samira Rafaela was invited to deliver the opening lecture for the opening of the 2020-2021 Master in European Law. During this lecture she discussed the events of the first year of her mandate in the European Parliament which were dominated by the withdrawal of the United Kingdom from the European Union and the outbreak of the COVID-19 epidemic which highlighted the need for reform.

The European Union in times of COVID, the need for reform highlighted

Good afternoon to you all.

Let me start by thanking the Europa Institute for the invitation.

I always enjoy speaking to students so I happily accepted your invitation. And I am especially glad that the opening of your academic year can take place here in the Law Faculty itself and not just remotely via Zoom, Skype or one of all those other tools we have been using over the last 6 months.

For me it is already ten years ago that I pursued my Master's degree. Also here in Leiden, but in Public Administration. In that sense, this address feels like a homecoming, to the city I enjoyed as a student. The endless possibilities when you are studying here are fantastic and to be cherished. So please enjoy it while you still can.

Today I want to talk with you about the State of the European Union in times of COVID. Next week, President Von der Leyen will address the Members of the European Parliament in her first State of the Union in Brussels. A lot has happened, since I entered the European Parliament and I would like to walk you through it, mainly Brexit and the ongoing COVID-19 crisis.

Let me be clear, the EU is not merely a story of success. The European integration is a process that is more like a marathon than a sprint. The EU faces numerous current-day challenges. Only if we tackle them adequately, will we be able to create a European Union that is fit for its purpose.

But before discussing the pressing challenges of today, allow me to take you back to May 2019. It was then that I was elected as a Member of the European Parliament for D66. One of the youngest and the first Dutch MEP of Afro-Caribbean descent. Although I was number three on the candidates list, I got elected with preferential votes. Because European elections are run over a number of days, I had to wait over a weekend before knowing the final results. And as you might imagine, the wait was killing me. Based on the exit polls, I thought I had not made it. What followed was basically a weekend on the couch at my mum's. From Sunday night onwards, the results started flowing in and my team was counting. And it was somewhere on Monday or Tuesday that I finally found out I got elected, via the media.

After this momentous election, I rushed myself to Brussels where the newly elected Members gathered in their political groups. In my case that meant the establishment of a new group as a number of other parties merged with ALDE. Macron's Liste Renaissance, for example, joined us and now we have the third largest group of the European Parliament, called Renew Europe. What resulted was a liberal pro-European group representing modern democratic values. It was also in this initial stage that we had to express our preferences for Committee memberships. I got my preferred choices: International Trade, Women's Rights and Gender Equality, and Employment and Social Affairs. And I'm now also a Member of the Committee on Human Rights.

The political groups that make up the European Parliament are not something you will find in the Treaties, nor will you find them in most of your study books. That is because formally the European Parliament is made up of 705 individual Members. But in practice, and with a few exceptions, these Members have formed Groups in which they collectively decide on a common line along which to vote in committee meetings and plenary voting sessions. My group, Renew Europe, has 98 seats in the European Parliament, which means that in advance and during plenary weeks we will all gather in group meetings, in which we decide on voting lists and how to approach certain debates. And sometimes there are strong differences within a group, ideological or simply geographical. In some cases, this leads to Members deviating from the Group line during plenary. Or the outcome of a Group meeting is simply to have a free vote on a complete file or an individual paragraph or amendment.

As you might be aware, for the first time since the European Parliament was directly elected, the 2 largest groups - the Christian Democrats and the Social Democrats - no longer form a majority together. This gives the European Parliament a new dynamic in which Renew Europe is vital for every majority. And you can bet that we use this leverage in negotiations.

Back then after the elections, we knew that one significant challenge was on the horizon. Namely, the withdrawal of the United Kingdom from the European Union. In my group, that also meant the departure of 16 British colleagues from the Liberal Democrats who were just elected. Friendships were created and I am still in good contact with them. They remain part of the European family and Brexit cannot stop that.

Most of you will probably be familiar with the whole Brexit saga which has been dragging on for more than four years now. After the referendum of June 2016, the British invoked Article 50 of the Treaty on European Union in March 2017. After this, a two-year negotiating period would start.

After a number of extensions and two general elections in the United Kingdom, the United Kingdom formally left the European Union on the 31st of January this year. But only with a Withdrawal Agreement and Political Declaration in place and no agreement was reached on the future relationship. The economic Brexit is scheduled to take place at the end of this year and for a smooth transi-

tion we need an ambitious deal. The British have been urging they want frictionless trade, but they do not want to be part of our customs union.

This week, they indicated they want to change the protocol for Northern Ireland as agreed in the Withdrawal Agreement that was reached between the European Union and the United Kingdom. The British government itself said that this would “break international law, but only in a very specific and limited way.” I probably do not have to tell a group of law students that any breach of international law is not acceptable in the slightest.

In short, the British want to have their cake and eat it. The attitude by the current British government is making it almost impossible to reach an agreement. This will hurt people on both sides of the Channel. In very concrete terms this will hurt British companies exporting products to the European Union and European companies wanting to sell their products in the United Kingdom. Without a deal, there will be import tariffs and quotas as the European Union will be bound to treat the United Kingdom as any other third country it does not have a trade agreement with. This is the so-called Most Favoured Nation treatment.

A couple of weeks ago, I visited the Port of Rotterdam and the Customs authorities there. They have been taking all necessary preparations for a no-deal scenario to limit the negative consequences if that happens. For example, they showed me where lorries will have to park while waiting for entry to the United Kingdom. Only lorries with the required certificates will be allowed entry there. For now, and throughout the negotiations over the last years, the European Union is standing united behind the Commission’s negotiator, Michel Barnier. Mr Barnier is working within his mandate and is doing his utmost best to guarantee the integrity of our single market.

If anything, Brexit has shown us how connected we are in the European Union. You cannot simply take a Member State out of this project. When this is all over, we will have to think about the process of Article 50. In my view, more flexibility regarding negotiating deadlines is needed. It is simply not possible to agree on a divorce settlement and future relationship within the 2 years as stipulated by Article 50.

And if all the uncertainty around the withdrawal of a Member State was not enough, early this year COVID-19 changed everything.

And I am not exaggerating.

Let me summarise it:

- Since March, the European Parliament has not gathered in Strasbourg, the official seat according to the Treaties. Next week’s session was supposed to take place in Strasbourg again. However, due to rising Covid figures this session has also been moved to Brussels to the displeasure of the French government which might challenge Parliament’s decision at the Court of Justice in Luxembourg.
- All meetings are now conducted with remote participation. Members do not need to be physically present in the European Parliament

- All voting is done electronically, something that is for example not done in the Dutch Parliament and has never happened in the history of the European Parliament.
- As I did not have a printer like many of my young colleagues in the EP, this meant I had to buy one because we have to print and sign ballots.
- The proposal for the new Multi-annual Financial Framework has been completely revised
- The Commission has proposed the creation of a recovery fund worth 750 billion euros.
- Financing for this will be done via some form of debt and risk sharing. The Commission, with its high credit rating, will borrow money on the capital market, which it will then distribute among the Member States partly as grants and partly as loans.
- Direct European taxes are being proposed, namely a plastic tax that will flow towards the European Union's own resources. Hopefully a start for more direct European taxes such as a digital tax to be levied on the big tech firms such as Apple, Google and Facebook.

If anything, the COVID-19 pandemic has also highlighted the need for reform in the European Union. Budgets for a period of seven years are outdated. Seven years ago we were still dealing with the Eurocrisis. Since then, the United Kingdom has decided to leave the European Union, and back then no one thought society would be hit by a virus as hard as we have been this year.

But most of all, the instant reflexes from Member States at the beginning of the epidemic were to take measures at a national level. Various lockdown measures were introduced and borders were closed. We saw footage of lorries in traffic jams waiting to cross the border. The very thing the European Union had achieved was under pressure.

It was only after the initial shockwave that the European institutions started to take measures. And in a few cases, ironically, this meant less Europe. For example, more flexibility was offered regarding the state aid rules. And planes did not have to fly empty to guarantee their slots for next year.

However, the big solutions to the crisis took a lot of time to develop. Because the EU budget is set in stone for a period of seven years, the Commission had to write a completely new proposal for the period of 2021-2027. In parallel, the Commission proposed a recovery fund of 750 billion Euros called Next Generation EU. Then it was up to the European Council to reach agreement on these two proposals, which was not an easy task. And for me as a Member of the European Parliament it was just as vague and non-transparent as for you. Every Council Summit goes along the same lines: the Heads of State and Government arrive in Brussels, they talk to the media and then they go in. From that moment it is anyone's guess as to what is happening inside.

Lessons need to be learnt from the outbreak of the COVID-19 pandemic. The European Union was clearly not ready to respond in a manner fitting the severity of the situation. It is in this vacuum that the reflex of taking national measures is fully understandable. When the current pandemic is over, we cannot simply continue as if it never happened. Because the question regarding a new virus or biohazard is not one of if, but when. And we need to be prepared. We cannot afford a repeat of

what has been happening this year. For that, we need a European Commission supported by its Member States, that has carefully prepared several scenarios including the response to them. That is what citizens demand and what they deserve: a European Union prepared for a crisis. The impact of COVID-19 is immense and it is laying bare problems that were already existing in society, before the outbreak. Think, for example, about persisting gender inequality, or problems in supply chains with terrible working conditions in South East Asia. You can imagine that strong lockdown measures have led to an increase in domestic violence over the last couple of months. As a Member of the European Parliament, I simply cannot sit still when the Polish government announces it is considering withdrawing from the Istanbul convention on the elimination of all kinds of violence against women.

These are concerning developments. The values that we stand for in Europe are under pressure and we cannot stand by and watch Europe going in the opposite direction. Putting ourselves at risk.

The EU began as a peace project founded upon shared values. New Member States agreed to what we stand for when they joined after meeting the Copenhagen criteria. We can simply not allow it when they regress.

That is why Renew Europe has called for human rights and rule of law conditionality for EU-funding. Personally, I admire my Hungarian colleagues from Momentum who are fighting the fight against Viktor Orbán. It is from their stories that you know that the freedoms we enjoy here are not a given.

As coordinator for Renew Europe in the European Parliament Committee on Women's Rights and Gender Equality, it is one of my priorities to ensure that women will be protected at all times. The measures we take for the recovery of our society and economy, should be designed with a gender lens. Sectors in which women are relatively more active than men were hit hardest during the COVID-19 pandemic: healthcare for example or the garment and textiles sectors. That is why I call upon the Commission to ensure that the recovery will address this impact.

At the same time, COVID-19 should not distract us from the pressing challenges that the European Commission wanted to address before the outbreak of the pandemic. I am talking of course about climate change, institutional racism and the BlackLivesMatter movement that followed. These are pressing issues for our generation. We have to unite and to act quickly, we cannot simply wait another year or Parliamentary term. That is why the European Parliament strongly calls upon the Commission to get to work with the Green Deal that was presented last year. And to ensure that our transition towards a greener economy will be socially just.

The European Parliament also demands from the Commission and Member States to tackle discrimination and racism throughout the EU. I am looking forward to the Commission Action Plan to tackle racism and discrimination.

And let me be clear: no one should be left behind.

It was Commission Executive Vice President Margrethe Vestager, who correctly said that the recovery should be a green recovery. I call upon the European Commission to act in this spirit and to present ambitious legislative proposals to the Council and the European Parliament.

As the lawyers of the future, you are the protectors of the rule of law. This bares significant responsibilities, since the rule of law is under heavy pressure. Rights of women, minorities and the LGBTIQ community do not come naturally in all Member States.

At times, it feels as if the achievements we fought for in the EU in the last decades are being reversed. LGBTI-free zones in Poland are an example of this. And what happened in Moria this week is a clear violation of the fundamental rights of those who were already vulnerable. The EU has to act directly and proactively on these matters. The credibility of Europe is at stake.

I want to conclude by speaking directly to you. In about a year, you will be able to graduate and most of you will start looking for a job. Whether you will become a lawyer, working in or around the EU institutions or become a politician yourself, I call on you to speak truth to power. Because that is what lawyers and Members of Parliament should share. Often, when I talk with my aunt who is a lawyer in criminal law we see how similar our fields can be.

I conclude, Europe has faced numerous crises and every time we came stronger out of the crisis. When the sun is shining, people simply do not feel the need for reform, but now they do. What people thought to be a bridge too far is now going to happen. We are going to invest billions in those areas where COVID-19 has hit hardest.

Only if we truly show the people that this is because of European solidarity and strong cooperation, will that enable us to create a more perfect Union. A Union that is fit for purpose and one that does not necessarily require another crisis, to complete the next steps of European integration. I am hopeful that all the challenges that we are currently facing will be able to propel the European Union into a new phase in which it will be better prepared for the future. For you.

So, I wish you all the best during this academic year. Please respect the social distancing requirements. Because the sooner we are out of this situation, the better.

I will conclude with these three remarks

- Speak truth to power
- Stand for your values, they cannot defend themselves
- Enjoy your academic year.

Thank you very much.