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Speech of Prof. Dr. Kerber in the European Parliament about the book entitled “Modi-A European Nightmare”

This book showcases the Franco-German friendship but as Hannah Arendt once said: friendship always exists between individuals, never between people.

I met the author in 1985. He was senior to me and attended the French Grande École ENA a year before my entry. Today *Modi* is still a highly respectable French citizen who like me is a strong if not passionate advocate of Hayek, the first winner of the nobel prize for economics. Hayek argues that the government is unable to plan, foresee and create order.¹ His vision of order contradicts the French concept of rational administrative planning.

Modi's elaborate report on the Commission gaining more control over regional policy is a good example of that pretence of administrative rationality. Although the administrative efforts have been enormous, the Commission has failed to achieve its aim to adequately allocate funds².

The Court of Public Auditing of the EU has continuously rejected the report of the Commission on the allocation of funds in the framework of regional policy. *Modi* explains and substantiates this failure in detail. Thus his book is a document that displays the failure of the French concept of administrative thinking. Neither the Commission nor the national administration can do better, because as Hayek proves and *Modi* writes: Both lack the knowledge to allocate funds and to control them adequately.

There is no reform possible except for the radical cut in funds. This will be inevitable with Brexit. Hopefully the UK will not give in to the demands of the Commission represented by M. Barnier, a deterrent choice and entirely unsuitable for the negotiating position. I promise to do my utmost to convince Germany not to fill the financial gap after the UK's departure. Only severe cuts in the EU budget will bring about a debate on its reform.

¹ The Constitution of Liberty: Law, Legislation and Liberty

² to mention just the poor example of the library for the University of Stetting. Stettin has lost a considerable number of students over the last years can still afford two economic faculties and now has a brand new library which is of course empty.

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Modi addresses another Hayekian concern: the decline of law. An example of this decline is the competition policy which was once a pillar of the EU's ambition. By its own discretion the Commission has

- altered primary law: Whereas until 2003 exemptions from the prohibition of cartels could only be obtained by individual ruling. There is now a legal assumption which can be claimed by all corporations concerned
- adapted secondary law regulation for cartels and mergers: merger control has been disconnected from market power and is orientated simply by political considerations concerning the internal market
- has modified the guidelines to suit its objectives: shaping competition law as part of industrial policy
- Finally the Commission can count on the ECJ and its generous appreciation of politically inspired antitrust rules following the more economic approach which is actually a more political approach. Thus antitrust law with its limits under strict court rule has been lost as a legal domain.

Finally the Parliament symbolises the decline of an unrepresentative instance far away from the sovereign people of Europe with a conglomerate of powers whose striking feature is a lack of separation of powers. *Modi's* description of the European Parliament reads like a satire. The institutional mix in the EU is exactly the nightmare Hayek is haunted by. Every institution shares the powers of the other which leads to the phenomenon of the "Brussel's Bubble" with no accountability whatsoever. The Commission is omnipotent, the Parliament is the antechamber of the Commission and the ECJ is the legal lubricator of the system.

There is therefore space for Hayek's idea of a second chamber composed of gentlemen with irreproachable CVs a long mandate whose only function is to bring the Commission and the European Parliament back to its senses: limiting legislation and defending European law against the Commission and if necessary against the European Parliament. To overcome this democratic deficit let me read to you some Postulates for a European Reform Treaty.