

CHALLENGE EUROPE

The people's project?

The new EU Treaty and the prospects for future integration

December 2007

Foreword by José Sócrates

Graham Avery	Hervé Bribosia
Malena Britz	Elizabeth Collett
Richard Corbett	Pat Cox
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In strategic partnership with the
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Foreword

by José Sócrates

The Lisbon Treaty concluded on 18 October brought an end to a period of uncertainty and doubt in the European Union. It will now be signed in Lisbon in December, opening the way for the ratification process to begin in the EU's 27 Member States.

The world has not stopped waiting for the Europeans to solve their internal problems. It is therefore urgent that we conclude the process of reforming our institutions and concentrate on the key points on our political agenda.

The Lisbon Treaty is a tool for improving the democratic accountability and efficiency of the European Union's decision-making process, responding to well-known needs for the daily functioning of an enlarged Union and providing us with the necessary legal framework for several years to come.

The new approaches proposed by the Lisbon Treaty – for instance, on foreign policy and on freedom, security and justice – correspond to the pressing demand from our citizens for the European Union to play a more decisive role in world affairs and in the fight against organised crime and terrorism.

European citizens expect concrete results from the European institutions. That is why in Lisbon in October, the day after agreement was reached on the Treaty, I proposed to the other Heads of State or Government to have a broad discussion on how the European Union can face the challenges of globalisation.

We all share the urgent need for a comprehensive statement on globalisation based on the key targets set by the Lisbon Agenda; namely, the creation of jobs, improving our competitiveness and making our citizens' qualifications a priority, especially to improve Europe's output in science and research. We should also take very seriously the new impetus behind our energy strategy and its role in tackling climate change - areas where no one can dispute the effective added-value of acting together in the EU framework.

I believe that moving on with the key issues in our agenda will create the best political environment for the Lisbon Treaty ratification process to

succeed. I fully support all initiatives to explain in detail the content of the Lisbon Treaty, its innovations and its implications for the future of the European Union. That is why I very much welcome this contribution from the European Policy Centre to the public debate on the Treaty.

José Sócrates is Prime Minister of Portugal.

Introduction

by Jacki Davis

As soon as the Lisbon Treaty was agreed at the informal EU Summit in October, ending the stalemate which began when French and Dutch voters rejected the Constitutional Treaty in 2005, EU leaders were quick to insist that it was time to “move on”.

Most only mentioned in passing the need to get what had been agreed behind closed doors ratified, with all but Ireland – which is constitutionally obliged to do so – intent on avoiding a popular vote and approving the new Treaty through their national parliaments if they possibly can.

Their reluctance to submit the Treaty to referenda is understandable, given the virtual certainty that it would be rejected in at least one of the EU’s 27 Member States – for domestic political reasons as much as, or more than, because of attitudes towards the EU generally or the Treaty itself. Opinions also differ greatly – among political scientists as well as politicians – on the merits of referenda as democratic tools. But the impression this created that the public’s views on the outcome of the negotiations were irrelevant was unfortunate, to say the least.

Even if they manage to avoid asking the public to give its verdict on the Treaty, EU leaders must recognise the need to explain and ‘sell’ it to their citizens – and to engage them in the debate about Europe’s future on an ongoing basis.

If there is one lesson which should be learnt from the events of the past two years – not just from the two ‘No’ votes on the Constitutional Treaty, but also from the way some EU governments used the alleged unpopularity of the EU back home as a powerful bargaining chip in the negotiations on its successor – it is that without the support and active engagement of Europe’s citizens, the European project cannot advance.

This issue of *Challenge Europe*, which contains articles by a host of leading commentators and experts, is intended to contribute to the efforts to explain and analyse key aspects of the new Treaty; assess the prospects for further integration in the light of the lessons which have been learnt through this difficult chapter in the EU’s history; and consider how best to respond to one of the key challenges facing Europe’s politicians in the years ahead: namely, how to turn the EU from an elite-driven into a ‘people’s project’.

The articles in the last chapter focus, in particular, on why it is so important to engage the public in the debate over Europe's future – irrespective of whether the new Treaty is put to referendum in some Member States or not. They also examine the various tools which have already been used, or might be considered for the future, to involve citizens in the policy-making process and give them a sense of ownership over the European project.

EU leaders are surely right to put the emphasis now on moving away from an endless debate about the Union's institutional architecture to addressing the issues which matter most to ordinary citizens. But to do so, they need to develop better, more systematic and more sophisticated ways to find out what those issues are and what the public wants and expects from Europe, building on the experiments which have been conducted so far.

A page in the EU's history has been turned and, assuming a successful ratification process, this painful chapter can finally be closed. How the next one opens depends to a significant extent on whether EU leaders recognise and rise to this challenge.

This publication, which reflects the European Policy Centre's long-standing and continuing commitment to fostering discussion and reflection on these issues, is intended to contribute to the debate over how best to do this.

Jacki Davis is Communications Director at the European Policy Centre and Editor of *Challenge Europe*.

I. KEY ASPECTS OF THE NEW EU TREATY

Towards a new institutional balance?

by Christian Lequesne

The European Council of June 2007 decided to convene an Intergovernmental Conference (IGC) to draw up a Lisbon Treaty “amending the existing Treaties with a view to enhancing the efficiency and democratic legitimacy of the enlarged Union, as well as the coherence of its external action”.

The mandate gave the IGC little margin for manoeuvre, more or less confining it “to a role of legal expert”¹ in charge of implementing political compromises which had been previously decided by the Heads of State and Government.

The Lisbon Treaty agreed by EU leaders in October 2007 simply amends the existing Treaties. The idea of replacing all of them with a single text – called a Constitutional Treaty – has been dropped.

National sovereignty zealots do not have to worry any more: the denominations “Constitution” or “constitutional” will not become European, as there will be no reference to the symbols of the Union such as the flag, the anthem or the motto, nor to “laws” or “framework laws”, nor to a “Union Minister for Foreign Affairs”.

But even the gravediggers of the Constitutional Treaty must acknowledge that many of the innovations resulting from the 2004 IGC have been integrated into the Lisbon Treaty, especially the institutional provisions – although there are noticeable differences between the Constitutional Treaty and its replacement.

It should never be forgotten that adapting the EU’s institutions to the perspective of further enlargement was the starting point of the constitutional process. The Laeken Declaration of December 2001 stated that: “The Union needs to become more democratic, more transparent and more efficient. It also has...to bring citizens, and primarily the young, closer to the European design and the European institutions.”

The Lisbon Treaty: institutional changes

Most of the work done by the European Convention on the Future of Europe and then the 2004 IGC concerned institutions. Yet, paradoxically, it was not the institutional issues which stirred up serious controversy (especially in France and the Netherlands) during the Constitution ratification process.

So what are the main institutional changes in the Lisbon Treaty? Will they significantly improve decision-making in an EU of 27 today, plus more to come in future? Can we already identify winners and losers from the reforms among the different EU institutions, or between the Union and the national institutions?

Of all the key institutional changes in the Lisbon Treaty, the extension of Qualified Majority Voting (QMV) in the Council of Ministers to 50 new policy areas, is probably the most important issue. In an EU of 27, which is set to grow still further in future, these changes are highly valuable because they limit the possibility for any Member State (big or small) to use its veto to block decision-making.

Although formal votes are rarely taken in the Council, the QMV rule implies that the Member States have to build coalitions in order to reach compromises. This is very different from the unanimity rule, which allows every single Member State to block the decision-making process single-handedly – as they will still be able to do, under the Lisbon Treaty, on defence, fiscal or social security issues.

Parallel to the extension of QMV, the new system of Double Majority Voting (DMV) – with proposals requiring the support of at least 55% of the Member States (comprising at least 15 of them) representing at least 65% of the EU population to be passed – has been preserved in the Lisbon Treaty.

However, because of opposition from Poland (supported by some other Member States, such as the Czech Republic), the new DMV system will only take effect on 1 November 2014, with the present weighting system continuing to apply until then.

From then until 31 March 2017, two more restrictions will be in place. First, when a decision is to be adopted by qualified majority, any Member State may request that it be taken in accordance with the QMV rules as defined in the current Treaty. Second, if Member States representing at least 75% of the population or 75% of the Member States necessary to constitute a blocking

minority, oppose the Council adopting an act by qualified majority, the Member States must search for a satisfactory solution to answer their preoccupations; in other words, they should reach a consensus.

It will be impossible for EU citizens to understand such a complicated mechanism and it does little to meet their demands for greater transparency in EU decision-making. However, introducing this transitional period was the only way to persuade Poland to sign up to the new Treaty.

Polish President Lech Kaczynski wanted to stick with the voting system laid down in the Nice Treaty, regarding it as the best deal to satisfy Poland's demand for 'big' Member State status. It is true that DMV, by formalising the population criterion, favours the EU's more populated countries – Germany today and maybe Turkey tomorrow. However, no system can guarantee a perfect representation of all the Member States.

The Lisbon Treaty also transforms the European Council into a 'full' institution, distinct from the Council of Ministers. Born as an *ad hoc* institution in 1974, the European Council has been progressively institutionalised in EU treaties since the Single European Act (1987). This evolution makes sense, because it is within the European Council that the Heads of State and Government build the main political compromises on EU policies.

The European Council's power will be enhanced by its new right to elect its own President (by QMV) for a two-and-a-half-year term, renewable once. The Presidency of the various Councils of Ministers (except that of Foreign Affairs) will continue to be held by each Member State for six months on the basis of equal rotation, but the Presidency of the European Council will be permanent.

The European Council President: 'one telephone number'

The new, elected President (like the Secretary-General of NATO) is supposed to ensure greater continuity and efficiency in the EU's work, and improve the Union's external representation on Common and Foreign Security Policy issues – making former US Secretary of State Henry Kissinger's famous joke about not knowing what telephone number to call in Europe less relevant.

However, the efficiency and legitimacy of the permanent President will very much depend on the person chosen for the job. He or she should be a politician who commands respect in the Member States and is able to cooperate with the Commission President and the High Representative for

Foreign Affairs and Security Policy. He or she will also need to be someone who has positive ideas about the EU's future development. The holder of this post should not necessarily come from a big Member State, and should speak at least three languages (as every European politician should do in 2007). A good Luxembourg Prime Minister might, for example, be a suitable person for the job!

The Lisbon Treaty also confirmed the new composition of the Commission enshrined in the Constitutional Treaty, but again only from 1 November 2014. Until then, the College of Commissioners will continue to have one national from each Member State, including the Commission President and the High Representative for Foreign Affairs and Security Policy, who will be one of its Vice-Presidents.

For this latter job, which will be created in 2009 (assuming the Treaty has been ratified), the EU will need an active politician (not a retired ambassador) who can navigate a course between the instructions he or she receives from the European Council President and those from the Commission President.

Regrettably, the EU is condemned to function with a large College of Commissioners for seven more years, with an inevitable sectorisation of tasks and a difficult question to answer when Croatia joins: what portfolio could its Commissioner be given, given that there are already not really enough 'proper' jobs to go round?

The switch, from November 2014, to having Commissioners from just two-thirds of the Member States (selected on a rotating basis) will be an improvement. The Lisbon Treaty states that this rotation shall be organised in an equal manner, and it is indeed important for every Member State, whatever its population size, to have the same right to be represented in the Commission. However, some rationality should also be introduced in the order of rotation, as is currently the case for the Presidency of the Council of Ministers. Could one really imagine a College of Commissioners which includes Estonian, Latvian and Lithuanian members but no British, German or French?

Reducing the size of the College will undoubtedly remain a sensitive issue in future, especially for the 'small' Member States which are now in the majority and will argue that they have already lost power in the Council with DMV.

The Lisbon Treaty also reinforces the political legitimacy of the Commission President, stating that "the European Council acting by a qualified majority,

shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members.”

If the European Parliament votes for a Commission President according to political criteria (right/left cleavage), this will move the EU closer to a majoritarian political system. But will this necessarily be the case? Nationality could also remain a criterion for choosing the holder of this post.

Furthermore, the Commission President’s legitimacy will be enhanced in parallel with that of the European Council President. Considering that most competences are shared between the EU and the Member States, conflicts will be inevitable between the two personalities whose legitimacy flows from two different sources.

Shifts in parliamentary power

The Lisbon Treaty also introduces changes for the European Parliament. As has been the case in every institutional reform since the Single European Act, the Parliament’s legislative power will increase through an extension of the co-decision procedure, especially in matters relating to policing and the judiciary.

However, these changes do not mean that the citizens will necessarily become more aware of the real role played by the Parliament in the EU legislative process.

The Lisbon Treaty stipulates that the number of MEPs should not exceed 750, plus the Parliament President. The representation of citizens will be degressively proportional, with a minimum threshold of six MEPs per Member State, and no Member State shall be allocated more than 96 seats. Again, this will only apply after the June 2009 European elections (i.e. in 2014).

The Lamassoure-Severin Report, adopted by the Parliament’s Constitutional Committee in October 2007,² set out proposals for distributing seats between the Member States to take account of the new 750-member ceiling. These envisaged a decrease in the number of seats for most of the Member States, with only Austria, Malta, Slovenia and Sweden getting a slight increase.

In the final treaty negotiations at the October Informal Summit in Lisbon, Romano Prodi’s Italian government contested the proposed end to the parity

between the number of seats devoted to Italy (72) and other ‘big’ countries like France and the UK. The compromise, as usual in the EU, was a ‘half-half’ solution: in 2009, Italy will get the same number of seats as the UK (73) but one less than France.

Any analysis of the new institutional balance introduced by the Lisbon Treaty is not complete without examining the new role given to national institutions, and to national parliaments in particular.

In general, the Lisbon Treaty puts more emphasis than the Constitutional Treaty on avoiding any encroachment by the EU on national competences. The new Article 5 of the Treaty on the European Union states, for instance, that: “The Union shall act only within the limits of the competences conferred upon it by the Member States.”

National parliaments, which will be asked to ratify the Lisbon Treaty in most Member States (except Ireland), will now be given eight weeks, instead of six, to examine draft legislative texts and give an opinion on whether the Treaty’s subsidiarity provisions have been respected.

The subsidiarity control mechanism is also reinforced in the sense that if a draft EU legislative act is contested by a majority of national parliaments, the Commission must re-examine the proposal and decide whether to maintain, amend or withdraw it.

If it chooses the first option, it will have to justify why it considers that the draft complies with the principle of subsidiarity. The Commission’s opinion, and those of the national parliaments, will then be transmitted to the Council of Ministers and the European Parliament for consideration.

If the Council and Parliament decide (by a majority of 55% of Council members or a majority of votes cast in the Parliament) that the proposal is not compatible with the subsidiarity principle, it will not be given any further consideration.

It remains to be seen whether national parliaments will invoke this right to give an opinion often or not. One first conclusion can already be drawn, however: namely, that they will become full players in the EU decision-making process, acting as the ‘watchdogs’ of national competences. Several other examples of how the role of national parliaments has been enhanced can be found in the Lisbon Treaty, such as the possibility to contest any EU proposal relating to family law.³

Winners and losers?

Although most of the changes to the EU institutions contained in the Constitutional Treaty have been taken up again in the Lisbon Treaty – the reform of QMV, the composition of the Commission and Parliament, the creation of a permanent President of the European Council – many of them appear to be commitments to act in several years' time, rather than immediately.

This delaying tactic means they are not going to improve the decision-making process in an EU of 27 in the short term. It is also difficult to say which Member States have won and which have lost out as a result of the institutional reforms contained in the new Treaty. As is usual in the EU, every Member State has had to give some powers up in order to gain others in a positive sum game.

If there are losers and winners in institutional terms, the most significant factor is the increase in the power of national institutions *vis-à-vis* the EU institutions – a trend exemplified by the new role given to national parliaments.

Generally speaking, the Lisbon Treaty insists – throughout its 250 pages – on the protection of Member State competences. This is in line with current public opinion both in the 'old' and 'new' Member States.

The discussions which took place in Maastricht 15 years ago about whether to include a reference to the “federal vocation” of the EU in the Treaty seem very far away. In 2007, no single government would dare to propose such a reference. The ‘obstinate’ sovereign state is now uppermost in most European minds, and it has won. But it is far from certain that this is the best way to cope with the challenges of a global world in which each EU Member State on its own (including Germany, France and the UK) looks rather small.

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Endnotes

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2. Lamassoure-Severin Report on the composition of the European Parliament, A6-0351/2007, 3 October 2007.
3. “Du traité simplifié au traité européen modificatif”. www.eurogersinfo.com/actu3007.htm

The new architecture for EU foreign policy

by *Graham Avery*

The Lisbon Treaty makes important changes to the EU's handling of foreign affairs. Without modifying the basic aims and scope of the Union's activities, it adapts the structures to create a new 'architecture' for the conduct of foreign policy.

First, some basic questions. What foreign policy provisions does the new Treaty contain? How is it different from the Constitutional Treaty? What improvements does it offer?

What are the innovations?

The Treaty creates a "High Representative of the Union for Foreign Affairs and Security Policy". The holder of this post will assume the tasks of the High Representative for Common Foreign and Security Policy (CFSP) (currently Javier Solana), a new position as Vice-President of the European Commission and the chairmanship of meetings of the EU's Foreign Affairs Council (in place of the present six-monthly rotating Presidency).

The Treaty also creates a "European External Action Service" to assist the High Representative in fulfilling his or her mandate. It will comprise officials from the Council Secretariat, the Commission and the diplomatic services of EU Member States.

These long titles require abbreviation, and since they do not make good acronyms, I will use the expressions 'High Representative/Vice-President' and 'External Service'.

How does it differ from the Constitutional Treaty?

The only real change – and it is a change of name, not of substance – is that the High Representative/Vice-President replaces the "Union Minister for Foreign Affairs" who figured in the Constitutional Treaty. Although the new title is less euphonious, it is an improvement, since the term 'Minister' – borrowed from the vocabulary of the nation state – implied that the EU was developing in the direction of a superstate. That is far from the case: the new architecture will not replace national policies by a common European policy.

In this sense, the Declaration attached to the Treaty at the insistence of the British government is correct in saying that its provisions “will not affect the existing legal basis, responsibilities, and powers of each Member State in relation to the formulation and conduct of its foreign policy, its national diplomatic service, relations with third countries and participation in international organisations...do not give new powers to the Commission to initiate decisions or increase the role of the European Parliament...do not prejudice the specific character of the security and defence policy of the Member States.”

This Declaration, exquisitely crafted by legal experts, gives the impression that the Lisbon Treaty changes nothing, but is that really the case?

What improvements does it offer?

In fact, the new Treaty improves the system in two important ways.

First, it reorganises the way in which foreign policy is handled at the European level, drawing together the two ‘pillars’ which presently characterise the system – the ‘intergovernmental pillar’ of the CFSP managed by the Council Secretariat, and the ‘Community pillar’ of external policies managed by the European Commission. It does not abolish the ‘pillars’ – their different modes of decision-making will still apply – but it brings them closer together in the same organisational structure.

By eliminating duplication and increasing efficiency, this offers a streamlined and more effective means of doing things at the European level. In a word, it is more *coherent*.

It is also designed to make the EU more *visible* in the world. The current situation in which the EU is represented by a multiplicity of agents (the rotating Presidency of the Council, the High Representative for CFSP and the European Commission, to name just three) will be replaced by a system which can articulate the EU’s policies and positions with a single voice: the High Representative/Vice-President and the External Service.

Second, the new system brings *national* and *European* levels of diplomacy closer together, by creating a structure in which national diplomats and officials of EU institutions will work side by side.

Here again, the new architecture does not replace national diplomacy with European diplomacy, or vice versa; instead, it offers the chance for foreign

policy professionals to work together so that European policy-making is enriched by national experience and national policy-making by European experience. At present, the distance and even rivalry between these two levels tends to exaggerate the antithesis between ‘national’ and ‘European’. Differences exist and will remain, but often they are less important than shared interests and the advantages of common action.

In future, young people starting work in foreign affairs will be able to make a career partly in national diplomacy (in a foreign ministry or an embassy abroad) and partly in a European service (in Brussels or a Union Delegation in a non-EU country). This new generation of diplomats will have a better understanding of the practical realities of European and national action, and develop a professional culture in which the terms ‘national’ and ‘European’ no longer imply antinomy but synergy.

What problems will it encounter?

First, the new person

The task of the new High Representative/Vice-President will be exceptionally difficult. The holder of this post will have two ‘hats’: responsibility for CFSP – the hat presently worn in the Council by Javier Solana – and responsibility in the Commission as Vice-President for coordination of external policies. This hat is currently worn by Commission President José Manuel Barroso, who coordinates the work of Commissioners for External Relations, Enlargement, Development and Trade. In the preceding Commission, it was worn by Chris Patten who, although not a Vice-President, had a coordinating role in external affairs.

With the creation of this new post, a member of the Commission other than the President will, for the first time, have authority over others in the College. Up to now, the post has been honorific, not hierarchic: a Vice-President often had responsibility for important policies, or chaired groups of Commissioners, but he never had real authority over his colleagues.

Up until now, the principle that all Commission Members are equal has been jealously protected, and the idea of creating ‘junior’ Commissioners countered by the argument that it would imply one nationality being subordinate to another.

The Treaty says that the Vice-President will be “responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action”. Interpreted literally, this could imply that he or she will be responsible for the entire field of external affairs, without other Commissioners being involved; but more realistically it must mean that the Vice-President will coordinate the work of other colleagues responsible for individual portfolios. His or her coordinating role within the Commission will be subject to the President's overall coordination of the College.

The timing of the Treaty's entry into force, planned for 1 January 2009, creates a potential problem. Since the present Commission's mandate ends on 30 October 2009, a new Vice-President appointed from January 2009 would join a College which still had ten months to run, and this would require reorganisation not only of external affairs but also in other fields: for example, if the Vice-President were Javier Solana, his arrival would imply the departure of the Spanish Commissioner and the reallocation of his portfolio.

So far, I have discussed the two 'hats' of High Representative and Vice-President respectively. But the new figure will also have a third 'hat' – presently worn by the foreign minister of the country holding the Presidency of the Council of Ministers. Under the new Treaty, the rotating six-monthly Presidency will be abolished for foreign affairs, and in its place the High Representative will chair the Foreign Affairs Council and “represent the Union for matters relating to the Common Foreign and Security Policy”.

This task of chairing and representation demands time, and is complicated by the fact that many of the matters coming before the Council will be presented and presided over by the same person – the High Representative/Vice-President. The difficulties of wearing this third hat, along with the two others, have been underestimated: if Javier Solana has displayed the qualities of a human dynamo in his present post, he or his successor will need to be a superhuman gymnast.

Another element of the EU's new architecture is the creation of a President of the European Council, who, according to the Treaty, “shall, at his or her level and in that capacity, ensure the external representation of the Union on issues concerning its Common Foreign and Security Policy, without prejudice to the powers of the High Representative of the Union for Foreign Affairs and Security Policy”.

The ‘foreign affairs triangle’ of the European Council President, the European Commission President and the High Representative/Vice-President will require good interpersonal relations as well as diplomacy.

Second, the new service

For the European External Action Service, the new Treaty provides that:

- it “shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission, as well as staff seconded from national diplomatic services of the Member States”;
- its task is “to assist the High Representative in fulfilling his or her mandate”. But the Treaty gives no guidance on its structure or institutional attachment.

The absence of instructions is probably wise, since the External Service will need flexibility to adjust over time in the light of experience – particularly if it is destined to grow one day into a fully-developed European diplomatic service.

Much therefore depends on the next round of decisions, for which the Treaty provides that: “The organisation and functioning of the service shall be established by a decision of the Council, acting on a proposal from the High Representative after consulting the European Parliament and after obtaining the consent of the Commission.”

Although preparatory discussions between Council and Commission began in 2004 after the Constitutional Treaty was signed, they identified only the main questions – not the solutions – and were suspended after the ‘No’ votes in the referenda in 2005. These discussions should be resumed immediately after the Lisbon Treaty is signed.

Many of the basic questions concerning the External Service depend on how the High Representative/Vice-President exercises the tasks involved. Can he or she effectively combine two hats as an agent in both the Council and the Commission? How much time will the holder of this post devote to the Council, and how much to his or her tasks within the Commission?

On the one hand, the new service can be seen as an expansion of the Council Secretariat, occupied mainly with CFSP but issuing instructions to the Commission for the management of programmes and allocation of the budget.

This concept, in which the ‘second pillar’ handles the political decisions while the Commission executes them, is typical of the thinking in the Council and some Member States.

In the Council Secretariat, it argued that the mandate of the High Representative/Vice-President is so specific – a personal union of the two ‘pillars’ – that the new service must be independent or ‘equidistant’ from the Council and Commission. There is a fear among Council Secretariat personnel that their professional influence will be reduced if they are placed in an organisation with a larger number of Commission staff.

On the other hand, some, including the European Parliament, argue that the service should be placed within the Commission, coordinating its work under the ‘first pillar’ and the work of the ‘second pillar’, thus asserting the primacy of the Community method over the intergovernmental method.

But the Treaty includes the limiting clause that “in exercising his or her responsibilities within the Commission, and only for these responsibilities, the High Representative shall be bound by Commission procedures to the extent that this is consistent with the preceding paragraphs”. He or she will be the servant of two masters, Council and Commission, and managing this duality will be the key challenge for the holder of this post and the External Service.

Commission officials argue that if the Vice-President is to coordinate the work of other Commission services – not to mention other Commissioners – then the External Service must be within the same organisation; otherwise, how could it ensure effective coordination? There is a suspicion within the Commission that the arrival of the new Vice-President may enhance the influence of the Council and Member States, promoting the intergovernmental method in foreign affairs to the detriment of the Community method.¹

Decisions on the structure, tasks and personnel of the External Service will depend in large part on the choices to be made concerning these basic questions. There are other questions, too:

- Should the External Service assist the High Representative/Vice-President in fulfilling his or her ‘third hat’ responsibilities’ – the chairing of meetings of the Foreign Affairs Council? Or should this be done by the Council Secretariat, which will assist the chairing of other Councils?

- Should the External Service assist the new European Council President in his or her work on CFSP? Or should this be done by the Council Secretariat as well?

...and what are the solutions?

The design of the new External Service requires skilled institutional engineering. Organisations resist change, and European institutions are no exception. There will be important changes for politicians and senior officials working on foreign affairs in the Council Secretariat and the Commission.

Bringing together in one structure the two groups presently working on opposite sides of the rue de la Loi in Brussels – often competitors, sometimes rivals – will not be easy. They include not only permanent officials, but four Members of the Commission occupied with external affairs and nine Special Representatives for CFSP. To ensure synergy between the first and second ‘pillars’, so that the EU has a ‘joined-up’ approach to the formulation and execution of foreign policy, differences of approach and even of loyalty will have to be resolved.

Perhaps the most elusive piece of the puzzle is how to place the new service in the EU’s institutional framework, so that it can serve the Council for part of its work and the Commission for another part.

The easy solution would be to locate it in neutral territory, outside the Council and the Commission, but this would add another wheel to a vehicle which already has too many, and increase the risks of duplication and complication. Since the new service is supposed to work closely with both institutions, not independently of them, the best answer is surely to give it the status of an agency or ‘common service’, subordinate to Council and Commission but organically connected to both. Interesting examples of this kind of ‘double function’ are already to be found in the EU’s interpretation service and its anti-fraud office.

The big challenge for the new organisation will be to make ‘double-hatting’ work in practice, so that the flow of advice to the High Representative/Vice-President` is streamlined and duplication is eliminated.

Here again, there will be a temptation to adopt easy solutions. A structure which replicates within itself the duality of the first and second ‘pillars’ – by maintaining separate branches for the ‘pillars’, and even two *cabinets* for the High Representative/Vice-President – would be a second-best solution. A compromise

in which the structure of the new service is ‘mirrored’ in the Commission and Council – with parallel sets of geographic services – would be a third-best solution.

Up to now, I have hardly mentioned the new Union Delegations in non-EU countries which will report to the High Representative/Vice-President. Based on the Commission’s existing network of more than 120 Delegations, accredited to more than 150 countries throughout the world, they will be the ‘jewels in the crown’ of the new External Service.

With nearly 5,000 personnel, the Commission’s Delegations will bring more human resources to the new structure than either the Council Secretariat, where about 350 people work for Javier Solana, or the Commission’s Directorate-General for External Relations, which numbers about 700.

Here too ‘double-hatting’ will be crucial: a Head of Delegation will need authority and resources – including a unified staff, capable of handling both ‘pillars’ – to represent the Union in the country to which he or she is accredited.

What of the Member States? Their attitude will be of key importance: if the new External Service is really to bridge the divide between national and European diplomacy, Foreign Ministries must be involved as ‘stakeholders’.

For the moment, the contributions of Member States, in both quantity and quality, remain uncertain. Will they send their ‘brightest and best’ employees to the new service? Will they expect to occupy the ‘high-profile’ positions in Delegations? Creating a unified service from different sources of recruitment in a way that is fair to the personnel, and at the same time respects ‘geographic balance’, will demand skilful management.

Among national diplomatic services, attitudes to the new service differ: the younger generation views it as an opportunity for wider horizons, while mid-career diplomats tend to be less enthusiastic. Perceptions also differ between big and small countries: for Foreign Ministries in smaller countries, the new organisation may offer career opportunities and useful services such as the sharing of political and economic reports, but they suspect that the bigger countries will dominate the structure.

Finally, one point on which everyone agrees, although it is not mentioned in the Treaty, is that the External Service will be financed from the EU budget. At no stage have Member States shown any interest in financing it from national contributions.

This consensus has important implications: since the European Parliament forms part of the EU's budgetary authority, it will have a voice in the service's design and functioning. This in turn opens up wider questions of the accountability of the new service, and the democratic deficit of the CFSP.

Conclusion

Whatever the reasons for the French and Dutch 'No' votes on the Constitutional Treaty, the new architecture for EU foreign policy which it created was not a significant factor. That is why its replacement contains practically the same provisions. Public opinion in the EU consistently favours better cooperation among Member States for common action in international affairs, and for the defence of European values and interests in the world.

The new Treaty offers big opportunities:

- better coherence and consistency in the Union's policies and actions in international affairs, and greater effectiveness and visibility;
- better cooperation between the Union's institutions, and between them and the Member States, in the formulation and execution of policies.

But its implementation poses huge challenges:

- to provide the authority and means for the new High Representative/Vice-President to undertake the task successfully, combining his or her several 'hats';
- to provide the structure and personnel for the new External Service to function effectively, combining the two 'pillars' and bringing national and European approaches closer together in the conduct of foreign policy.

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Endnote

1. It should be noted that the Lisbon Treaty abolishes the Community. It provides that "throughout the Treaty establishing the European Community, the words Community and European Community shall be replaced by Union". Consequently, the expression 'Community method' will become obsolete and another term will be needed to capture its meaning. Most definitions of it refer to the EU institutions playing their full role in the decision-making process, in contrast to the intergovernmental method where the role of the Commission is reduced and the European Parliament is marginalised. So I propose in future to use the expression 'integrated method' in place of 'Community method'.

Multispeed Europe? Flexibility and enhanced cooperation in the EU

by *Hervé Bribosia*

In its broadest sense, flexibility refers to all the occasions when one or several EU Member States are not subject to the same Union rules as others.

Such flexibility has been inherent to the EU since the very beginning of the European Communities: take, for example, the derogation mechanisms related to the establishment of the single market,¹ or the transitional periods agreed with new Member States to give them more time to comply fully with some aspects of EU policy.

In general, such derogations or exemptions are temporary and based on objective differences between the Member States. However, flexibility took a new form in the Maastricht Treaty as its provisions amounted to institutional differentiation between Member States on social policy and Economic and Monetary Union (EMU).

The social agreement was not binding on the UK until the Amsterdam Treaty made it so. The UK and Denmark were exempted from adopting the single currency, whereas all other Member States were – and still are – supposed to join as soon as they meet the convergence criteria.² Furthermore, in both cases, the Council is (and was) entitled to enact regulations which do not apply to the non-participating Member States, with their voting rights in the Council suspended when adopting such regulations.

While such institutional adaptations remain somewhat exceptional within the EMU framework, they are more radical within the European System of Central Banks, where non-participants are excluded from the European Central Bank's Governing Council and Executive Board, and thus from the Eurosystem. They are only involved in the General Council, an advisory organ of the ECB.

It is against this backdrop that “enhanced cooperation” can be viewed as a mechanism which generalises the concept of institutional flexibility (or ‘differentiation’) between the Member States. Created by the Amsterdam Treaty, it is a ‘last-resort’ mechanism which can be triggered when it is considered that agreement on a particular action cannot be reached by the Union as a whole.

In such cases, the Council could authorise a certain number of Member States to press ahead without the rest, while still remaining within the Union framework. Accordingly, enhanced cooperation could potentially be implemented in all areas covered by the treaties,³ but only in those areas and to the extent that this remains compatible with the *acquis communautaire*. In other words, the same legal bases – i.e. the same powers, instruments and procedures – apply to enhanced cooperation. Therefore, nothing could be done using the enhanced cooperation mechanism that the Union would not be entitled to do itself.

Again, the only institutional adjustment relates to the Council: non-participating Member States would not be involved in the adoption of decisions implementing enhanced cooperation, they would not be bound by such decisions and they would not be required to help meet the costs involved (other than administrative).

The Franco-German axis, supported at times by the Benelux countries and the European Commission, played a major role in promoting this concept, which was meant to reconcile the *deepening* with the *widening* of the Union.

The main argument was that EU enlargement would increase the pressure for the creation of sub-groups like the euro zone, and that it would be better to develop such sub-groups within the Union's institutional framework rather than outside, as has often been the case in the past. The new mechanism would also help to re-integrate and develop the Schengen *acquis* inside the EU's institutional framework.

This argument was likely to convince the supranational institutions to accept the principle of enhanced cooperation, as the Community method and judicial control would be preserved. But it was also meant to provide some guarantees to potential non-participating Member States.

Enhanced cooperation was considered seriously for the first time in relation to minimum taxes on energy products. It was also envisaged as a way to make progress on the European Company Statute and the European Arrest Warrant; and former Internal Market Commissioner Fritz Bolkenstein suggested using it to establish a common consolidated definition for taxing company profits. It is in cases like these, where unanimity is still required in the Council to get an agreement, that new opportunities for enhanced cooperation could be found.

However, the fact remains that, to date, the enhanced cooperation mechanism has never been triggered, even though a great deal of time was spent developing the concept and then reforming it in the Nice Treaty. Its use has only been suggested in a few cases – and then mainly as a threat during the negotiations on proposed new regulations to try to secure agreement among all 27 Member States.

Furthermore, intergovernmental cooperation outside the Union framework has not been contained, as had been hoped. To take just one example, the Prüm Treaty (or “Schengen III”, as it is sometimes referred to) – which was signed by just seven Member States – addresses issues connected to the Area of Freedom, Security and Justice⁴ which would have been ideal candidates for enhanced cooperation.

It may well be that the incentives are not strong enough to persuade participating Member States to embark upon enhanced cooperation within the EU’s institutional framework. It has also often been argued that the conditions set for using the enhanced cooperation mechanism are too strict. However, the innovations contained in the ill-fated Constitutional Treaty – which were designed to make the mechanism easier to trigger, more useful and therefore a more attractive option – focused on the procedural aspects of enhanced cooperation. These innovations have been fully preserved in the Lisbon Treaty.⁵

Innovations in enhanced cooperation

There are three innovations in the Lisbon Treaty which are designed to make it easier to trigger enhanced cooperation:

- the ‘last resort’ condition has been significantly watered down: the Council can decide whether agreement ‘at 27’ is impossible and authorise a move to enhanced cooperation at the same time;
- the decision to move to enhanced cooperation could be taken by Qualified Majority Voting (except in the Common Foreign and Security Policy (CFSP));
- the conditions for participating in such an initiative can be laid down in the authorising decision, and can therefore be used to test the capacity and will of the Member States which declare their intention to participate from the outset.

By contrast, the fact that the minimum participation threshold was set at eight Member States in the Nice Treaty, one-third of the Members States in the Constitutional Treaty, and now nine in the Lisbon Treaty, is not particularly significant.

The most revolutionary change relates to the “*passerelle*” system, which gives participating Member States the power to amend the procedures which will govern the implementation of enhanced cooperation, without seeking the approval of those which have chosen not to join in. This would enable them to decide among themselves to switch to decision-making by QMV or to use the ‘ordinary’ legislative procedure (co-decision).

This may encourage integrationist Member States to embark upon enhanced cooperation, especially as such procedural changes would become part of the *acquis* of enhanced cooperation and would be binding on all future participants.

Another major novelty relates to the scope of action in enhanced cooperation. It is now clear – notably thanks to the downgrading of the ‘last-resort’ condition – that enhanced cooperation may not necessarily be limited to adopting a single proposal on which there is deadlock in the Council. Nor would the participating Member States be obliged to stick to the content of the original proposal.

The new Treaty states that those wishing to take part “shall address a request to the Commission, specifying the *scope and objectives* of the enhanced cooperation proposed”. It follows from this that the enhanced cooperation mechanism would be more prone to create structured and more ‘exclusive’ sub-systems like the Schengen Area or the euro zone, without having to predefine them through an Intergovernmental Conference negotiation.

The usefulness and attractiveness of enhanced cooperation has thus been improved by increasing the autonomy of those Member States which are involved in its creation, its functioning, the definition of its scope and the conditions for participation.

Nevertheless, it is still far from certain that it will be used in the coming years, given the current reluctance of the European Commission, the German government and most of the new Member States, to do so.

Optional participation in the Area of Freedom, Security and Justice

Whilst enhanced cooperation has never been triggered as such, the system has in effect already partially been used to adopt measures building upon the Schengen *acquis* within the EU framework, as a result of the right to optional participation granted to the UK, Ireland and Denmark. A similar mechanism has been set up for all three Member States for implementing

Title IV of the Treaty on asylum, immigration and other policies related to the free movement of people.

In the Constitutional Treaty, and thus in the Lisbon Treaty too, Denmark's exemption has been extended to all proposals designed to build on the *acquis* in relation to the Area of Freedom, Security and Justice.

As for the UK and Ireland, the scope of their special status was extended by the Constitution (notably in relation to the collection of, storage, processing, analysis and exchange of relevant information). The Lisbon Treaty will extend the UK's special status still further in all issues related to judicial cooperation in criminal matters and police cooperation. This means that the scope of the British exemption will cover the whole Area of Freedom, Security and Justice, as is already the case with Denmark (although the legal regime remains different). Ireland also decided in the end to align its status with that of the UK.

This is not the place to attempt an analysis of the extremely complex technicalities related to this special status or 'opt-in' clauses, which have been aggravated in the Lisbon Treaty.

The European Court of Justice has recently been called upon to rule on a British challenge to two regulations adopted by the Council from which the UK was excluded (allegedly denying its right to opt in and be involved in their adoption).⁶ The Court will, for the first time, be required to consider how these protocols are to be interpreted and articulated, and may thereby provide some guidance on how they should be implemented in the future.

Judicial cooperation in criminal matters, including some minimum harmonisation of national criminal laws, was also particularly targeted in the Constitutional Treaty as a potential area for enhanced cooperation. A so-called 'emergency brake' on the legislative process was devised, but in case of continuing deadlock, authorisation to move to enhanced cooperation "shall be deemed to be granted" to willing Member States.

The Lisbon Treaty has not only somewhat simplified that procedure, but has also extended it to police cooperation and the establishment of European Public Prosecutor's office. As a result, the whole of the former 'third pillar' of the Treaty (Title VI TEU) will be covered by this special procedure designed to make it easier to trigger the enhanced cooperation mechanism.

Permanent structured cooperation in defence

Another innovation introduced by the Constitutional Treaty and taken up by the Lisbon Treaty relates to “permanent structured cooperation”, which is designed to increase and further integrate the armed forces of participating Member States and engage them in the most demanding ‘Petersberg’ missions (humanitarian, rescue, peace-keeping and crisis-management tasks).

Permanent structured cooperation resembles enhanced cooperation in that it can be launched by a Council decision, which would also identify the participating Member States. Only those Member States that want to participate, fulfil the criteria and have made the commitments on military capabilities predefined in the relevant protocol would be able to take part. Non-participants would be precluded from voting in the Council (and perhaps even from taking part in the deliberations), but they could inform the Council of their intention to participate at a later stage.

The main difference lies in the fact that the scope of “structured cooperation” is predefined in the Treaty and relatively wide, which could make it more “permanent” than enhanced cooperation.

It is likely to be introduced by QMV as soon as the Lisbon Treaty enters into force, assuming a successful ratification process: it is not bound by any ‘last-resort’ requirements, any minimum threshold of participating Member States or any substantive conditions. Last but not least, a Member State’s participation in permanent structured cooperation can be suspended if it does not comply with its commitments on military capabilities and any participant will have the right to withdraw from the structured cooperation.

In other words, permanent structured cooperation is another kind of predefined institutional flexibility, similar to the euro zone or the Schengen area. The creation of this new ‘sub-system’ may reflect the enduring shortcomings of its enhanced cooperation counterpart, as the latter may still be perceived as more constraining, less exclusive and thus not as attractive or useful.

A more autonomous euro zone

The Lisbon Treaty has also taken on board several innovations aimed at strengthening the autonomy of the “Member States whose currency is the euro”. A protocol formally recognises the ‘informal’ existence of the Eurogroup,

which excludes those which have not adopted the single currency from shaping the decisions to be enacted by the Council of Ministers.

More significantly, the new Treaty makes it possible for euro-zone members to further deepen economic coordination amongst themselves, by increasing the range of instances in which the Council can suspend the voting rights of non-participants and adopt measures which do not apply to them. These include:

- within the framework of multilateral surveillance, the “adoption of the parts of the broad economic policy guidelines which concern the euro area generally”, and the “recommendations made to those Member States whose currency is the euro (...), including on stability programmes and warnings”;
- within the framework of the public deficit procedure, firstly in order to declare the existence of such a deficit in those Member States, and secondly where the Council establishes “that there has been no effective action in response to its recommendations (...), including the decision to make those recommendations public”.

Conclusion

The Constitutional Treaty overhauled and beefed up the provisions on enhanced cooperation, created an analogous system in defence policy and strengthened other predefined systems of institutional flexibility, like the euro zone.

The Lisbon Treaty goes even further, notably by extending the special status granted to the UK, Ireland and Denmark to virtually all the policies related to the Area of Freedom, Security and Justice. Last but not least, it largely exempts the UK and probably Poland from judicial control with regard to the Charter of Fundamental Rights.

From the Maastricht Treaty onwards, institutional flexibility has become a paradigm of the Union’s constitutional evolution. Although it did not help to save the Constitutional Treaty as such, it did contribute to redeeming most of its substance. This is a graphic reminder, if any is needed, that the first purpose of flexibility – not to say its main purpose – is to make it possible to get agreement on new treaties at IGCs, and thus to facilitate decision-making at the treaty-revision level.

By contrast, the main purpose of enhanced cooperation is to make the *legislative* decision-making process more flexible. This mechanism has

never been used (nor has the general “constructive abstention” mechanism in the CFSP), but the European Convention which drafted the original Constitutional Treaty considered that enhanced cooperation could be useful in future to accommodate both the willing and the unwilling, as a dynamic tool for European integration.

Enhanced cooperation has accordingly been made more attractive, in particular by increasing the autonomy of those who may sign up to it in future, as well as their potential scope for action. It could thus lead to the creation of other structured sub-systems without the need for an IGC – a potentially valuable innovation in the current context, with the prospects of getting agreement on future EU treaties in a Union of 27 Member States (and more in future) looking ever less likely.

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Endnotes

1. See articles 15 and 95 TEC.
2. As a result, Greece had to wait a couple of years before joining the club, and Sweden is still unwilling to do so. Amongst the new Members States, only Slovenia has so far adopted the euro, whereas Cyprus and Malta are to do so on 1 January 2008.
3. The Constitution, and now the Lisbon Treaty have extended enhanced cooperation to CFSP, while sticking to unanimity to authorise it.
4. Convention of 29 August 2005 on “The stepping-up of cross border cooperation, particularly in combating terrorism, cross border crime and illegal migration”.
5. Apart from the minimum threshold of participation, see below.
6. See the Opinions of Advocate General Trestenjak delivered on 10 July 2007, on Cases C-77/05 and C-137/05.

Business implications of the Lisbon Treaty

by Fabian Zuleeg

Much was made in the 2005 French referendum campaign on the Constitutional Treaty of the allegedly 'business-friendly' nature of key provisions, amid claims that they posed a threat to Europe's 'economic and social model'.

So were these criticisms justified? How significantly does the new Lisbon Treaty differ from its ill-fated predecessor in this respect, and what impact is it likely to have on business, assuming that it is successfully ratified?

Overall, the relevant changes are relatively minor adjustments to ensure better economic governance and put current policies on a more secure legal footing, as well as simplifying decision-making through a more widespread use of Qualified Majority Voting (QMV).

There are, however, some exceptions to this generally positive trend: the removal of a reference to "free and undistorted competition" from the list of EU objectives included in the Constitutional Treaty; and the addition of a reference to the "protection of citizens" as an objective in the EU's relations with the wider world.

These changes are unlikely to have an impact on current policies, but they have the potential to influence long-term policy and direction.

This paper considers the potential impact of the Lisbon Treaty by looking first at the original provisions in the Constitutional Treaty and then at the changes made during the 2007 negotiations on its successor. It focuses on two key elements:

- direct effects on businesses linked, for example, to the internal market; and
- changes in economic governance in relation, for example, to euro-zone economic policy and the European Central Bank (ECB).

The paper concludes with a discussion of the wider implications of the Lisbon Treaty, linked to the broader issue of how effective the Union is in conducting its business and the strategic direction of EU policy.

The Constitutional Treaty

The main focus of the Constitutional Treaty was clearly not on economic matters. Rather, it aimed to supplement much of the economic integration achieved to date (in particular, the single market) with political, social and environmental aspirations.

This was particularly evident in the list of broad EU objectives, with the goal of a free and undistorted single market balanced by provisions on issues such as security, sustainable development and combating social exclusion. Free and fair trade was also cited as a key external priority, again among a range of other objectives.

This theme was continued in later parts of the Constitutional Treaty. A commitment to the principles of equality and non-discrimination was coupled with employment and social policy provisions, articles on protecting the environment and consumers, and specific references to services of general economic interest – a term used to describe many of the ‘network’ industries such as utilities (energy and water) and telecommunications.

This does not, however, mean that the Constitution ignored economic issues. Above all, the founding principle of the free movement of people, goods, services and capital – the so-called ‘four freedoms’ – was preserved, alongside a ban on discrimination of any kind on nationality grounds. (The Charter of Fundamental Rights also reflects these provisions, specifically referring to the right to free movement of people as well as emphasising the protection of property rights, including intellectual property rights.)

By and large, economic policies are shared EU/Member State competences, including the internal market and economic and monetary policy (with the exception of monetary policy in countries which have joined the euro), as well as specific policies in areas such as employment, cohesion, agriculture, fishing, consumer protection, transport, research and development, energy and space. Economic policy areas where the EU has a coordinating or complementary role include industry, tourism, education and vocational training.

One of the key areas where changes were made in the economic sphere was the extension of QMV to most economic issues already covered by the existing treaties, most notably the Structural and Cohesion Funds and the common transport policy. QMV was also introduced for social security measures related to the free movement of workers, but with an emergency

brake added to allow a Member State which feels there is a risk to fundamental aspects of its social security system to refer the matter to the European Council. QMV was also extended to cover some new areas, such as European energy policy (which was also given a new legal base) and uniform protection for intellectual property rights.

The Constitutional Treaty also included the possibility of introducing European legislation to establish principles and conditions for the operation of services of general economic interest, in particular economic and financial conditions. The importance of these services was highlighted and the Treaty emphasised Member States' competence in providing, commissioning and funding such services. They can also coordinate their efforts and cooperate at the European level in fields such as tourism and industry, and the Treaty made explicit reference to the concept of a 'European Research Area'.

At the same time, policy areas seen as being of fundamental direct national economic interest – namely taxation, social security protection and harmonisation, and the EU's finances – remained subject to unanimous decision-making.

The European Parliament's role in the EU budget process was enhanced by making the entire budget subject to normal legislative procedures. It remains, however, unclear whether this will have a real impact on the budgetary processes, given the continuing predominant role of Member States in such negotiations.

In relation to the harmonisation of indirect taxes, a specific reference was added to the need to avoid distorting competition. It was also made explicit that any EU initiatives relating to the coordination of social policy are of a complementary nature and are not aimed at harmonising national systems. The economic governance of the euro zone was addressed in the Constitutional Treaty in a number of ways.

The Treaty proposed a greater use of QMV in the broader economic governance of the zone, including for the coordination of economic policies and efforts to combat excessive deficits.

Furthermore, the role of the EuroGroup was recognised and the Treaty included provisions for further economic coordination between euro-zone countries. It also specified that Member States must adopt broad guidelines for economic policies in order to contribute to the Union's economic

objectives. The European Commission was given a somewhat stronger role, with the right to issue warnings to Member States when their economic policies contravene these guidelines or might jeopardise the functioning of European monetary union. It was also given the right to address warnings directly to Member States with excessive deficits, rather than having to go through the Council.

Finally, the Constitutional Treaty stated that all economic policy must respect the principle of an open market economy with free competition.

Changes in the Lisbon Treaty

The Constitution's economic provisions remain virtually unchanged in its successor, with a few notable exceptions.

There are more references to energy and climate change in the Lisbon Treaty, reflecting the way this issue has risen to the top of the European policy agenda in recent years. The environmental provisions refer specifically to climate change, and the energy provisions further stress the need for solidarity between Member States on issues such as energy supply and the inter-connectivity of European energy networks.

Some changes have also been made to the social security provisions contained in the Constitutional Treaty to emphasise the possibility for Member States to apply the 'emergency brake' described above. On services of general economic interest, a Protocol is annexed to the Treaty emphasising the importance of such services, acknowledging their diversity, and recognising the role that national, regional and local authorities play in their provision.

In making these changes, EU leaders are essentially putting down markers to emphasise the limits to the transfer of sovereignty from Member States to the Union. However, in light of the way these amendments have been introduced, they appear to be of a more symbolic nature and are unlikely to have any substantive impact on EU policy-making.

The changes with regard to the European Central Bank (ECB) are limited and follow on from the discussions in the 2004 Intergovernmental Conference (IGC). The ECB had raised concerns about the wording used in the Lisbon Treaty to describe its institutional status. Anxious to safeguard its specific institutional features, the ECB pressed for the Treaty text to reflect the fact

that while it is clearly an institution linked to the EU, it is not an EU institution as such. This issue was raised in a letter from the ECB President to the Portuguese Presidency this autumn. However, the Member States, led by Germany, decided against changing the wording, arguing that the Treaty's provisions are strong enough to safeguard the ECB's status.

The very limited changes made to the specific economic provisions of the Constitutional Treaty make the amendments to the overarching EU objectives even more striking.

The first change merges the objective of "an internal market where competition is free and undistorted" into the next line, dropping the reference to "free and undistorted competition". The second, which has attracted relatively little attention, adds the phrase "contribute to the protection of its citizens" in the reference to the EU's relations with the wider world. The relevant clause now reads: "In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens."

These changes were introduced at the request of new French President Nicolas Sarkozy, and even the first went virtually unnoticed until the media picked up on it during the June 2007 EU Summit. In response to the ensuing furore, the rationale for deleting the reference to "free and undistorted competition" was explained and a Protocol added to safeguard EU competition policy.

EU officials were quick to insist that the change would not have any legal impact as the Treaties contain numerous specific references to competition, but it did provide French voters with a tangible result from their rejection of the Constitutional Treaty, reflecting the controversy in France over globalisation and competition.

By contrast, the new reference to the "protection of citizens" was not picked up at the Summit, and the rationale for it was neither detailed nor debated at the time.

This change can be interpreted in a number of ways. 'Protection of citizens' in the context of the EU's relations with the wider world could refer to consular protection of EU citizens or to protecting them from terrorism, disaster or conflict. However, in the wake of the Summit, Paris made it clear that it saw this as a reference to protection against the perceived threats of globalisation.

This interpretation was spelt out by Foreign Minister Bernard Kouchner in a speech to the French Senate, when he said: “Faced with concerns expressed by French citizens of a Europe which does not offer sufficient protection against a certain type of globalisation, we have managed to obtain that the ‘protection of citizens’ has become one of the objectives of the EU in its relations with the rest of the world. This clarification will provide us with, for example, a lever to better combat [company] relocations.”

Taken together, these two changes to the Constitutional Treaty represent, for France, a strategic shift away from competitive markets and towards ‘protection’, public provision and a more interventionist role for national governments. As a press statement issued after the June Summit declared: “On the fundamental issues...we have obtained a major shift in the EU’s objectives. Competition is no longer an EU objective or an end in itself, but a means of serving the internal market... Moreover and in its relations with the rest of the world, it’s now clearly stated, for the first time, that the EU must contribute to ensuring the protection of its citizens. The word ‘protection’ is no longer taboo.”

The differing interpretations which can be put on these changes – and the reassurances from EU lawyers that they will have no legal consequences – may explain why other Member States have not raised concerns about them. Whether they have any political impact on future policies will depend on other Member States’ attitudes: it is likely that those which traditionally advocate free trade and investment (such as the UK) will resist any push for concrete policies aimed at introducing more restrictive practices.

While the Treaty changes and the way they have been interpreted in Paris might only be a symptom of the new direction in French economic policy – rather than reflecting a widespread sentiment in the EU – they nevertheless have the potential to cause uncertainty and send an ambiguous message to the rest of the world about the EU’s commitment to global economic integration.

This could make international free trade agreements less likely and could be seen by non-EU countries as a sign that the Union believes globalisation and competition are negative developments, and that citizens and national economies have to be shielded from them.

If these changes do signal a wider shift in Europe’s attitude to globalisation, future EU policy could be affected. On a domestic level, some Member States might regard it as a licence to intervene more in the operation of

markets; at the European level, it could compromise the future development of the single market.

For French citizens, the amendments appear to have been enough to assuage immediate fears about the EU's future direction. But opting to placate populist fears of globalisation instead of tackling them head-on is likely to backfire in the long term – the price for more protection in the face of global competition is likely to be a loss of competitiveness.

Broader implications

The Lisbon Treaty also has some broader economic implications arising from the more general provisions. For example, the institutional changes designed to ensure more effective EU decision-making could have a positive impact on future economic governance and economic integration.

But the tortuous negotiations on this round of institutional reform have also highlighted just how difficult it has become in an EU of 27 to reach agreement on contentious issues and points to a future in which few ambitious projects are likely to be put on the table.

It is clear that the Union will be severely hampered if it continues to make economic policy in this way, given how much more needs to be done in relation to economic integration: further developing the single market, especially in relation to the knowledge economy, services and public services; providing the EU with the right economic instruments to tackle issues such as energy and climate change; enhancing European competitiveness and ensuring the sustainability of Europe's social models.

Consideration now needs to shift to deploying other mechanisms to achieve the EU's goals, including an increased use of non-legislative measures; ensuring that current EU provisions are implemented in full (and resisting attempts to water them down); and giving countries that are willing to integrate their economies further the instruments to do so.

There also needs to be a much more proactive debate on future economic policy. Without a robust defence of the single market's achievements and the wider positive effects of globalisation, there is a risk that economic integration could lose ground.

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II. THE FUTURE OF THE EU INTEGRATION PROCESS

No quick fix for Europe's legitimacy problem

by Antonio Missiroli

The way it was done may have been questionable, but virtually everybody breathed a sigh of relief when the informal European Council in October 2007 struck a final deal on the new Lisbon Treaty. An awkward page of recent EU history could be turned, provided the agreement survives the ratification process.

But it would be difficult to deny that the two-pronged ambition articulated at the December 2001 Laeken Summit – to bring the EU closer to its citizens *and* to reform its institutions to equip it for the challenges of the 21st century – has *not* been met. Paradoxically, bringing the Union closer at least to some of its citizens – through the national referenda held in France and the Netherlands on the Constitutional Treaty – has, in a way, contributed to making the reform of its institutions more (rather than less) difficult.

A possible conclusion to be drawn from this is that the traditional (and remarkably successful) elite-driven process of the past decades – based on what political scientists call 'output legitimacy' – has probably reached its limit. The 'founding fathers' of the Community did not consult their citizens at the time, nor articulate their ultimate goal (an "ever closer union") too explicitly, but European integration has delivered results that have vindicated their original vision. Today, however, that approach cannot hold.

At the same time, the limited attempts made so far to add some extra legitimacy to the process have proved rather sterile – or even counter-productive.

Turnout at European elections has declined steadily and sharply in recent years, thus weakening the so-called 'input legitimacy' of the European Parliament and casting serious doubts on the existence of a pan-European 'polity'. Moreover, resorting to popular referenda *ex post facto* to ratify decisions taken by governments – either through (constitutional) necessity or (political) choice – has proved somewhat problematic. Campaigns have mostly turned into national referenda on the government in office and have ended up tarnishing, rather than strengthening, the overall legitimacy of the integration progress in a growing number of Member States.

The trouble with treaty reform

The fact is that the Union has grown *ever wider*, not just in terms of membership but also of policies: suffice it to think of justice and home affairs, environment, international crisis management and, now, energy. None of these new policies and policy areas belongs in the traditional ‘portfolio’ of *common* policies: they have been increasingly ‘Brusselised’, but not ‘communitarised’.

The EU has also grown *ever more diverse*, again in terms of both membership and policies. For decades, European integration advanced through the expansion (gradual and progressive, with occasional hiccups) of the so-called ‘Community method’. Now, different modes – rather than models – of coordination and integration coexist and interact, sometimes even within the same policy area: from benchmarking to the pooling of capabilities, from the creation of voluntary codes of conduct to evermore complex opt-in/opt-out arrangements.

On the one hand, therefore, greater internal heterogeneity makes building consensus and implementing agreed reforms at 27-plus ever more difficult – and runs the risk of playing, at least indirectly, against further enlargement. On the other, the growing impact of all EU policies (old and new) on the everyday lives of ordinary citizens, as well as on domestic political arenas, has contributed to opening the floodgates to a wave of populism and nationalism. As a result, the Union risks finding itself squeezed between the two (which are often turned against ‘Europe’) and the formidable pressures of globalisation.

Taken together, all these trends now make it almost impossible to pursue the historical ambition of an “ever-closer Union” through successive, cyclical reforms of the Treaties.

This was the way in which the elite-driven process materialised, especially in the two decades between the Single European Act (1986) and the French and Dutch referenda (2005). An institutional ‘spill-over effect’ was set in motion whereby evermore ambitious goals were agreed upon by governments, then translated into Treaty language, and subsequently ratified and implemented. Whatever was not finalised in one Intergovernmental Conference (IGC) – the so-called ‘leftovers’ – could well be tackled again in another one: to this end, explicit *rendez-vous* clauses were inserted in the Treaties themselves.

This was the logic that drove the Maastricht (1991), Amsterdam (1997) and Nice (1999) exercises. Notably the difficulties encountered at Nice led to

what was arguably the last chapter in the elite-driven process described above. The Laeken Declaration, the ensuing launch of the Convention on the Future of Europe (2002-03), and the drafting of a “Constitution for Europe” represented, in fact, the most ambitious effort to produce a “great leap forward” in terms of ends, means and overall legitimacy.

Does the partial failure of that effort mean that there will be no more Treaty changes for the foreseeable future? Of course not, but institutional reforms – as and when required – will probably follow a different path.

On the one hand, they are likely to be put in place when new members join the EU club – starting with Croatia, whose Accession Treaty is expected to address a number of ‘leftovers’ from the Lisbon Treaty itself. On the other hand, new policies and new ‘formats’ for existing policies are likely to be first tested and developed by a limited number of Member States (those willing and able to do so), then possibly incorporated in the Treaties – and even ‘communitarised’ – at a later stage.

This is what already happened with Schengen in the 1990s, and what is happening now with the Prüm Treaty. It is also the way in which “enhanced cooperation” proper – as foreseen in the old and new treaties – and other forms of flexibility and variable geometry could be implemented in the future.

What is unlikely to happen – and marks the end of an era in European integration – is that EU leaders decide to tackle the overall institutional design of the EU, triggered by a generic mandate for a new IGC. Both the long crisis over the Constitutional Treaty and the secretive horse-trading that preceded the agreement on the Lisbon Treaty have proved that: a) not only it is now almost impossible to achieve unanimous consensus on far-reaching institutional reforms among such a large number of Member States; but b) it is also possible that reopening negotiations on the broader EU set-up could lead to ‘great leaps backward’ in the integration process. (This is precisely one of the side-effects of the emergence of populist and nationalist pressures inside at least some Member States.)

So where does this leave us? *Output* legitimacy is increasingly challenged by both the difficulties involved in reforming common institutions and the contagious habit of blaming ‘Europe’ and/or its institutions for all the problems affecting our societies. This same habit also ends up hampering *input* legitimacy.

As a consequence, the debate has now already begun on how to add political spice and relevance to the 2009 European elections without playing into the hands of the growing cohort of *terribles simplificateurs* or populists of all sorts across the Union.

What legitimacy...?

There are at least two angles from which to address the legitimacy issue. One, already mentioned above, is *ex post* legitimacy, i.e. the possibility of involving citizens in a key decision after it is taken at the top political level. The main instrument for this – at least to date – is popular referenda of the type held in some Member States since 1992 on successive Treaty reforms.

Opinions differ greatly – among political scientists as well as leaders – on the merits of referenda as democratic tools. Inside the EU, constitutional arrangements also vary enormously, in general and specifically in relation to EU matters. But it seems evident now that the current situation is extremely unsatisfactory: while, on the one hand, crucial decisions like the reform of the EU Treaties – or enlargement, for that matter – are subject to unanimous ratification, each and every Member State is free to adopt whichever procedure it deems opportune or necessary to do this.

As a result, if and when a referendum is called in one or other Member State (but not in all), the citizens of that country also decide for other EU citizens who are not granted the same right. Such asymmetry has caused deep resentment, for instance, in the whole debate over the Constitutional Treaty. Whenever the argument is made that a referendum is a ‘fairer’ and more democratic procedure, consistency would in all logic require that every EU citizen is then given the same right.

This is, of course, easier said than done. First of all, adopting a common (let alone single) ratification procedure at the EU level looks simply unrealistic at this stage: Ireland, for instance, would not change its Constitution to scrap the referendum requirement, nor would Germany change its Basic Law to make it possible. Every Member State would claim its own sovereign right to act in compliance with national, not European, rules in these matters.

Not only does it appear impossible to make parliamentary ratification binding for all, but it is also unlikely that referenda would be adopted across the EU board. In this respect, the proposal reiterated a few months ago by the European Movement to submit the Constitutional Treaty to an EU-wide

referendum on the occasion of the June 2009 European elections, while fascinating, is quite unrealistic.

But let us try and imagine for a moment that this option is considered for some other future decision: how could it work in practice?

The main challenge would probably be to agree on a common definition of the electoral body: one only (i.e. all EU citizens taken together), or 27-plus separate ones?

The first scenario would require *ad hoc* legal arrangements and, presumably, setting an acceptable 'threshold' for the validity of the referendum: a minimum turnout and possibly also an appropriate share of votes cast to determine the outcome – presumably above a simple 50% plus one, as it is increasingly customary in 'sensitive' referenda. The problem with this scenario is that it presupposes what it is meant to help shape in the first place: a single European 'polity', or *demos*.

The other option (27-plus separate referenda) is only marginally more realistic: first, it would presuppose agreement among governments to hold the vote on the same day everywhere (which does not even happen now for European Parliament elections). Second, it would probably require setting a 'fair' and acceptable threshold for calculating the final result, as the whole point of an EU-wide referendum would be to overcome the unanimity rule whereby the 'Yes' campaign needs to win everywhere. In other words, how many national 'Yes' or 'No' ballots representing how many people would be sufficient/necessary to approve or reject the decision?

The only relevant case to consider for a comparison and a precedent in this respect is Switzerland, as the Confederation has clear rules (by *canton*, language group and population) for calculating the outcome of its numerous referenda, taking into account its internal diversity. Projecting and adapting those rules to the EU as a whole could produce interesting results – and, of course, very lively discussions in each country and across the whole Union.

...and for what?

The second possible angle from which to address the legitimacy issue has to do with 'input' or *ex ante* legitimacy. In the current debate, the main instrument for achieving this seems to be some sort of explicit electoral mandate for the EU institutions.

Such a mandate could stem from the European Parliament elections: the party group which wins the most votes would get the right to nominate the new European Commission President, thus conferring some extra legitimacy on the whole College, long criticised as an executive of ‘unelected officials’.

This has in part already occurred – for example in spring 2004, when the centre-right European People’s Party claimed this right after becoming the largest group in the new Parliament. But it did so *ex post facto*: its bid was not made explicit during the campaign and the voters did not really have a chance to endorse or reject it – let alone express themselves on possible candidates.

Interestingly, a specific proposal to this end was formulated by the former Irish Prime Minister John Bruton during the Convention on the Future of Europe, when he suggested that the Commission President be elected on a separate ballot instead of from the party list (although he or she could be endorsed by one or more parties). His proposal, which drew inspiration from the US electoral process, was rejected, but it is no secret that the main parliamentary groups are now openly considering the possibility of making the 2009 elections more ‘competitive’ by indicating their own candidates for the job in advance.

There would indeed be many advantages in doing this. The campaign would be much more attractive, thus favouring a higher turnout: voting for the Parliament would matter more, going well beyond casting a protest ballot or endorsing a particular party list. It would also be less ‘national’ and more ‘European’, as the candidates would have to run an EU-wide campaign. And the winner would have not only much more legitimacy, but also a much stronger hand *vis-à-vis* the Member States, because he or she would not owe the post to backdoor negotiations in (now much less) smoke-filled rooms.

But there is a snag, or maybe two. First, the recent evolution of the European Parliament – at least since its offensive against the Santer Commission in early 1999 – has been more in the direction of the US Congress model than a German Bundestag or Westminster-style chamber, its co-decision powers notwithstanding. Making its election instrumental in choosing the head of another EU institution would impinge upon that fledgling role, and also render the Commission President more dependent on the party group he or she came from. (In this respect, incidentally, the Bruton proposal, although much more difficult to implement, would have the advantage of making the Commission President more independent.)

The second snag is arguably more serious. There are, in fact, some good reasons for having ‘unelected officials’ at the wheel of the EU executive.

Over the past decade and a half, in particular, following the introduction of the single market, the Commission has acquired evermore substantial regulatory powers. By nature and definition, a regulatory body must be (and be seen to be) independent and apolitical to be credible and, indeed, legitimate.

Electing its President along ‘partisan’ lines would change that and would thus require, in turn, a general review of the way in which the Commission operates, in light also of the planned reduction in its overall size from 2014. For instance, how would a country which feels unfairly penalised by a Commission ruling react if: a) it is not represented in the reduced College on the basis of the rotation principle; and b) on top of that, it is governed by a party coalition different from (or even opposed to) that supporting the Commission President?

The Commission has worked quite well so far as a sort of tacit ‘grand coalition’ at EU level. Indeed, the ‘soft’ politicisation of José Manuel Barroso’s appointment prompted negative reactions in some countries, epitomised in the caricature of his Commission as ‘ultra-liberal’ in the 2005 French referendum campaign. Going all the way down that road would inevitably require some adjustments to the EU’s overall institutional design – adjustments which, however, are ever less easy to agree upon, as argued above.

The way forward

Still, there is no room for complacency, or need for resignation. The main challenge for the Union’s legitimacy today appears to consist in injecting a robust dose of good *politics* – as opposed to populism and nationalism – into the numerous and various good policies that are already shaped, adopted and implemented in Brussels; in other words, to address the mismatch between – as Vivien Schmidt puts it in her recent book on *Democracy in Europe* (2006) – the “policy without politics” that reigns in Brussels and the “politics without policy” that tends to prevail at the national level. This could help improve the way in which the institutions and the policies themselves work, and thus add both input and output legitimacy to the European integration process.

Exactly how to achieve that, however, remains a moot point – and depends a great deal, ultimately, on the willingness of EU leaders to engage more openly and ‘fairly’ in the public debate about European integration.

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To be or not to be? The price of constantly saying ‘No’

by Peter Sutherland

As EU governments prepare to embark on the gruelling process of ratifying the newly-agreed Lisbon Treaty, with the scars of the two ‘No’ votes on the Constitutional Treaty in France and the Netherlands still barely healed, it is justified to reflect on the whole process that has brought us to where we are – as it relates to Britain in particular.

It was the prospect of a popular vote on the new Treaty in the UK – and its likely defeat at the hands of the British electorate if that happened – which persuaded other EU leaders, albeit reluctantly, to make significant concessions to the UK government during the negotiations in the run-up to the Informal Summit in October which sealed the deal.

No doubt that reluctance was fuelled by some irritation that the government which had extracted significant concessions from its EU partners before signing up to the Constitutional Treaty in 2004 (and never made any attempt to ratify it) was demanding more concessions this time around than any other country – including the two which had suffered the ‘No’ votes in 2005. This raises key questions for the future.

Firstly, can the EU continue to develop if one or two countries can effectively stop its evolution contrary to the combined wishes of all the rest?

Secondly, having referenda at all to adopt complex treaties that fall far short of being Constitutions (as the Lisbon Treaty does) is clearly neither democratically necessary nor desirable. One may speculate that many of those from Britain who proselytise everywhere for referenda do so with a motivation which is destructive.

Thirdly, do the people of the UK truly want to be part of an entity that has the sharing of sovereignty and indeed the supremacy of EU law at its core? If the approach taken by much of the British media and political establishment genuinely reflects the state of public opinion on this issue, other Europeans are more than justified in asking this question.

Many in the media and political establishment actually deny that Britain joined such an entity. The suggestion that the European Communities were created purely to provide a Common Market, without any diminution in the

historic concept of sovereignty, is nonsense. It was quite clear too, from the outset, that the integration process was intended to be a continuing one. Any other interpretation is the result of distorted historic revisionism.

For most Europeans, it is a tragedy to have to ask this question at all because the EU needs Britain at least as much as Britain needs the EU. It is fair to say that of all the larger Member States, the UK has been the most consistent supporter of external free trade and a genuinely functioning internal market. This makes it surprising, if not perverse, to find Britain often, in effect, undermining the necessary means to achieve desirable ends. These means are the institutions of the EU.

There can be no doubt that many of those in Britain who attack the proposed Treaty with such sustained virulence do not want to be a part of the EU at all. They either want to be part of a mythical and purely intergovernmental group of states that is not on offer, or they want the UK to stand apart from the whole project. However, I suspect most of them recognise that were there to be a referendum on withdrawal from the EU, they would probably lose, so they ask for a referendum on the Lisbon Treaty instead. In doing so they must recognise that were it to fail and, as appears likely, every other Member State were in a position to adopt it, a crisis would result.

One thing is clear. The constant negativism and talk of “no surrender” and “red lines” is unsustainable. Those who believe anything good can be said of the EU in British political circles appear to be exceptionally thin on the ground. As a result, the UK feels constrained to opt out of more of the competences of the EU and, in the process, becomes increasingly semi-detached: it is not a member of the euro zone or of the Schengen area, the EU’s passport-free zone.

Even in the areas where it is more engaged, such as foreign policy or on agreeing the EU budget, it is a constant opponent of further advances or increased resources. And now the UK has increased its semi-detached status by negotiating an extraordinarily complicated system of opt-ins and opt-outs on justice and home affairs issues – an area that most others have willingly subscribed to in the new Treaty (although Ireland contends rightly or wrongly that it had little option but to follow Britain’s lead, because of its shared borders with the UK).

This British negativism has been a consistent reality. Every treaty revision since 1973 involving institutional change has been diluted and reduced by the UK.

There is little doubt that the rest would have advanced with European integration much further in the absence of Britain. Of course, the UK has the right to refuse treaty changes, but this comes at a price: reduced influence in Europe. This has serious consequences, not least for business.

Now we have seen it all again. The exaggerated interpretations of the content of the changes in the proposed Treaty are presented as serious erosions of national sovereignty. The fact that virtually no other country sees these changes as substantial is dismissed.

The only country that will certainly have a referendum is Ireland, and it will do so only because it is obliged to under a restrictive constitution. One might assume from some comments in the UK that others do not value their sovereignty as much as the British. After all, 19 states have already done all that is required to ratify the original and more expansive Treaty, and a number of others could do so without difficulty. It is worth recalling that the UK originally trumpeted this Treaty as a triumph for British diplomacy. On the other hand, the 'No' votes in France and the Netherlands are constantly interpreted as votes against Europe when, in many instances, they were anything but (generally being against Jacques Chirac, globalisation, migration and so on).

It is time to confront this situation head on. The UK is out on a limb, as it has been for years. In Eurobarometer and other opinion polls over the entire period of membership, the British public has been close to – or often at – the lowest percentage of general support for the EU or recognition of its benefits.

If it is to be confronted, those so stridently demanding a referendum on the Lisbon Treaty should have the courage of their convictions and state where they truly wish to end up. They should do so, too, realistically and not claim reform of the EU as a goal when they know that the dimensions of the reform they want would never be conceded by the rest.

How did it come to this? It cannot be claimed that the past ten years of the EU's history were objectively so unsuccessful as to render the evolution of a more coherent and positive account of the Union by the British government to the British electorate impossible. The successful launch of the euro, the Union's growing role on the world stage, its enlargement and its greater willingness to embrace the liberal economic philosophy favoured in the UK should all have been occasions for a genuinely pro-European government to celebrate and reinforce Britain's contribution to the Union's success. It is a great pity that this was not done.

We must recognise the blatant inconsistencies in the British debate. Others in Europe have been reluctant to exacerbate tensions in the UK by saying publicly what many of them think: that Britain basically does not want to be part of the club at all. I do not believe this to be true. Withdrawal is still seen by most people, as it should be, as a marginal, even eccentric proposal.

But it is time to be frank: it is unreasonable to continue with this virulent debate conducted on the absurd premise that it is possible for Britain or any other Member State to block everyone else in their legitimate choices. The price the UK will pay for its semi-detached status, in terms of a loss of influence, can only grow in the future.

There has been much speculation since the two ‘No’ votes on the Constitution about the advent of an ‘à la carte’, or multispeed, Europe. In fact, this has already happened to some extent – through the creation of the euro zone, the Schengen passport-free zone, and now the Prüm Treaty on justice and home affairs issues – and the complex opt-ins and opt-outs in the new Treaty have taken the Union further down this road.

This trend looks set to continue, with other Member States increasingly tempted to resort to using the beefed-up ‘enhanced cooperation’ mechanism in the new Treaty to make progress when they encounter a UK-shaped roadblock in their path, pushing Britain even further out on a limb. And if some others, seeing how successful the UK has been in developing its own special status in the EU, decide to follow its example, an increasingly fragmented Union may struggle to provide an effective response to the challenges we face in the 21st century.

The new Treaty includes a provision (originally written into the Constitutional Treaty) allowing Member States to leave the Union. This provision states that countries “may decide” to withdraw from the Union and sets out the procedure for doing this; it says nothing about asking anyone to leave. If the current trend both in public opinion and the absence of positive leadership in Britain continues, then there will be increasing calls in Britain to apply this provision. And although a referendum on that issue would not be won today, some day it might be – to the great disadvantage of Britain and of Europe as a whole.

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The ‘Europeanisation’ of national administrations

by Malena Britz and Mark Rhinard

A popular criticism of EU politics is that it takes place within a metaphorical bubble, detached from the wider world and insulated even from national administrations.

The ‘Brussels bubble’ was on full display during the negotiations on the Lisbon Treaty at the June 2007 European Council. Heads of State and Government, surrounded by small cadres of advisors, haggled over essential elements of the former Constitutional Treaty. Top officials from the EU institutions worked to ensure consistency and uphold some semblance of a European perspective. The media strove to inform the public on the basis of cryptic press conferences and the occasional official leak. Analysts studied what the changes meant for the policies and institutions at the European level.

This essay looks beyond that bubble to see what effect the Lisbon Treaty might have on national administrations; i.e. the central government authorities in each of the Member States responsible for managing relations with the EU. In particular, it considers whether, and how, some of the changes introduced by the Treaty may alter the way national administrations function, both internally and vis-à-vis the Union.

In the academic world, this is a process known as ‘Europeanisation’ – the way in which EU political and economic dynamics become part of the organisational logic of national policy settings. Space restrictions here limit our analysis to just a handful of Treaty changes and only a general assessment of potential EU effects, without entering into a robust analysis of Europeanisation. Nevertheless, this essay offers insights into how some of the new Treaty provisions might generate pressures for change.

In this context, two sets of reforms in the Lisbon Treaty are worth highlighting: one related to ‘rule’ changes and the other to ‘role’ changes.

The *rule* changes include:

a) *The move towards Qualified Majority Voting in a host of new policy areas (many related to Justice and Home Affairs).* This will require more departments and staff in national administrations – especially those ministries involved in

foreign, justice, and internal affairs – to learn the ‘logic’ of managing the supranational aspects of EU decision-making.

b) *The Double Majority requirement to be used when taking votes by qualified majority.* Traditional Member State coalitions formed to pass legislation in the Council may no longer suffice, requiring EU governments to improve relations with unfamiliar EU national partners.

c) *New provisions stipulating that the EU's institutions must provide formal access to national parliaments during the European legislative process.* This rule change may provide leverage for national parliamentarians seeking reform of the national structures currently used by legislatures to oversee their executives in EU matters.

The *role* changes include:

a) *The establishment of a new High Representative for Foreign Affairs and Security Policy.* This new post will draw national officials closer into the workings of the European Commission, and could drive convergence between national policies related to security, humanitarian aid and development.

b) *The creation of a permanent President of the European Council.* This has both ‘pros’ and ‘cons’ in terms of how it may affect national administrations, and there is a risk of increased confusion over responsibilities in the EU, especially those related to external affairs.

New rules

The extension of QMV to some 50 new policy areas represents the largest expansion of majority voting in the Council, in quantitative terms, to date.

Many of the issues that will become subject to QMV are somewhat arcane (and long overdue), including: comitology rule decisions; the approval of statistical methods used in the euro zone; and the allocation of transport subsidies to the former East German *Länder*.

Other policy areas are more sensitive: notably, the application of QMV to issues related to the Common Foreign and Security Policy (CFSP) and Justice and Home Affairs (JHA).

Some implementing decisions in the area of the CFSP will be taken by qualified majority. For example, if the European Council asks the High Representative to draw up an external strategy, that strategy can be approved by QMV. JHA provisions including legal migration, policing and criminal law which currently remain under the unanimity voting rule will shift to majority voting, although an ‘emergency brake’ (a carry-over from the Constitutional Treaty) will be retained to allow a government to slow down proceedings if it faces being outvoted on a particularly sensitive issue.

For national administrations, the extension of majority voting means that a wider swathe of domestic ministries and agencies will need to adjust their relations with the EU.

Some foreign, justice and internal affairs ministries, for instance, base their dealings with Brussels on an intergovernmental ‘logic’. That logic rests on the intergovernmental privileges currently afforded to Member States, including the national veto and an absence of European Commission activism outside ‘first-pillar’ policy-making.

In the future, the ability to be outvoted (even if only in principle) will demand a move towards a more supranational logic. For instance, more resources will need to be devoted to influencing Commission-led policy- formulation, and to implementing new EU laws in an effective and timely manner (for JHA issues). Ministry officials will need to be more energetic in defending their interests early in the EU legislative process, lest they be left behind by an advance guard of Member States. They will also need to be more conciliatory towards their negotiating partners.

Even for EU members which retain an opt-out from some areas (namely, JHA), it would be a fallacy to believe that they can avoid working with the EU institutions entirely in the areas covered by the opt-out. The very nature of cooperation on criminal matters, for example, means that collective action and policy effects will ‘spill over’ to other policy areas and to other countries, requiring Member States with an opt-out to at least follow, and probably abide by, new rules. The luxury of staying off the playing pitch simply does not exist.

For all the areas subject to QMV, a new Double Majority threshold will be used in Council voting (starting in 2014), with legislative proposals requiring the approval of 55% of the Member States representing at least 65% of the EU’s population. The rationale behind this increased threshold was a fear among

larger Member States that a coalition of smaller countries might successfully push through legislation on its own (and Poland's counter-concern about German dominance in the EU).

For national administrations seeking to form winning coalitions, old alliances may no longer be suitable. Medium-sized Member States, in particular, will need to bring on board not just one large country (traditionally France, Germany, Italy or the UK), but rather multiple big countries.

Research on coalition formation across all issue areas in the Council reveals the presence of four main blocs: a Northern group and a Southern group (linked by Germany), and an eastern Baltic group and an eastern Visegrad group.¹

The Northern group, which includes many small- and medium-sized Member States but only one large one (the UK), might no longer have enough votes in the new double majority system to win the day. The obvious answer is to bring in more populous Member States (such as Poland), or break the old north-south divide (by bringing in France and Italy). Both solutions will be necessary at different times, meaning that EU members in both the North and the South should swiftly become better acquainted.

Another rule change introduced by the Lisbon Treaty has received little attention thus far: the provisions giving national parliaments participation rights. The Commission must notify national parliaments of legislative proposals, and then wait eight weeks for them to submit comments before governments begin deliberations in the Council. If a third of parliaments object, the Commission must issue a 'reasoned opinion' on their objection. If half of them are still not satisfied, the Council and European Parliament must 'act' on their concerns.

Most observers regard this provision as largely symbolic. The Commission already notifies national parliaments of its proposals (as an informal courtesy), and parliaments can probably best kill off a proposal in Council simply by putting pressure on their own governments to reject it.

However, the actual effect of this new role for national parliaments may be more subtle. For many years, national parliamentarians have gnashed their collective teeth over their gradual exclusion from collective governance. Always on the look-out for ways to rebalance authority, they may leverage the new treaty provisions as an opportunity to become more active in EU affairs, using their scrutiny and challenge rights to push for domestic

reforms, such as greater rights for EU oversight committees and stronger mechanisms for holding ministers in check.

In that regard, renewed attention may turn to the Scandinavian parliaments, most of which have highly-developed mechanisms for accountability and oversight on EU matters. There may very well be an increase in ‘learning’ processes across parliamentary systems in Europe, as parliaments use a new ‘rule’ in Brussels to build a new ‘role’ for themselves.

New roles

The Lisbon Treaty also includes a number of provisions that create new posts on the European stage and impact upon national administrations.

One important new role – and one which will be critical for the EU’s role in the world – is that of a “High Representative of the Union for Foreign Affairs and Security Policy”. This new post will subsume the positions of High Representative for the Common and Foreign Security Policy and a Commission Vice-President, with the holder becoming the permanent President of the Foreign Affairs Council. By combining the foreign policy roles of the Council and Commission in one post, greater coherence in EU external relations and better access to EU resources is envisaged.

For national administrations, the impact of this new role is likely to be two-fold. First, the ‘double-hatted’ nature of the High Representative will draw national governments closer into the workings of the Commission. Currently, a rather strict division exists when national administrations interact with Brussels on foreign policy matters.

For instance, governments are integrally involved in the development of the CFSP, and participate actively in setting priorities, elaborating positions and implementing commitments. By contrast, the Commission’s external relations competences are managed at arms-length from national administrations (beyond the occasional enabling legislation in Council, national administrations are involved only through informal relations or through comitology committees).

The new High Representative position, which should improve the flow of information between the EU institutions on Commission activities and which will have access to the Commission’s external affairs budget, is likely to encourage national administrations to become more involved in (and to

potentially influence) external policy matters that were once the sole preserve of the Commission.

Second, the combined roles embodied in the High Representative may force similar convergence at national levels. Administrations which are not already improving policy and procedural links between security policy (a Council competence) and development policy (led by the Commission), for instance, may have to start doing so now within their own governments.

The new EU 'face' for foreign policy may also tilt the balance of power amongst national ministries, as defence ministries (to cite just one example) seek more involvement in development policy, or *vice versa*. In general, ministries of foreign affairs are likely to find themselves facing competition over the distribution of EU foreign policy portfolios in their own government.

In short, this role change at the EU level may precipitate a national-level scrum over policy authority among executive agencies. However, in Member States where strong connections between external policy authorities have already been implemented, the EU's move toward coherence may be mutually reinforcing.

Finally, another new post created by the Lisbon Treaty is that of the President of the European Council. The European Council itself will become more integrated into the EU's institutional machinery, and will fill this post by QMV. The holder will be appointed for a two-and-a-half-year term, renewable once, and will double as the Chair of the General Affairs Council.

The intention behind the creation of this post is to improve continuity in the EU's agenda and to enable the European Council to provide a stronger lead, befitting its status.

For national administrations, this innovation should make it easier to foresee EU policy developments and react to them with forewarning. However, it may also come with a fair degree of confusion as to where some responsibilities lie.

The President will have a variety of internal and external responsibilities, but how these relate to those of the Commission President (who will enjoy the same level of authority) and the new High Representative (who will be subordinate to both) has yet to be clarified. Moreover, protocols for both the High Representative and the Commission President to draw on the Community external relations budget still need to be worked out.

Tensions will inevitably arise between the formal duties given to the holders of all these posts, thus putting a premium on selecting leaders with compatible personalities.

Member States will need to focus their foreign policy attention on these multiple roles and, if frictions arise, to understand how the politics being played out between these key actors will affect the prioritisation of issues. It might also mean that Member States find themselves in conflict with the European Parliament more frequently over budget questions associated with external relations issues.

If development aid and security policy are brought closer together in the EU (for instance, if they are used in the development of European Security and Defence Policy missions), deep-seated reservations about the policy compatibility of those areas will come to the fore.

The permanent Presidency of the European Council may also impair the ability of smaller Member States to project their own voice on the world stage. Traditionally, the rotating Presidency of the Union has given Member States the opportunity to push their respective foreign policy priorities during their term in office. In particular, it allowed smaller states to ‘punch above their weight’ by using the EU as a mouthpiece. A permanent Presidency means that national administrations may find themselves without an important tool for foreign policy influence.

Conclusion

In this essay, we have reviewed just a handful of Lisbon Treaty provisions that are likely to affect the way national administrations manage their relationships with the EU. Further analysis is required to tease out the full implications of these provisions and the array of other changes contained in the new agreement.

One major effect which is already being felt, however, overarches the specific implications described above.

The Lisbon Treaty will compound the legal complexities surrounding EU governance. The defunct Constitutional Treaty had a major advantage over the Lisbon Treaty – that of relative clarity. The former would have replaced the EC and EU Treaties (and the myriad of protocols and Accession Treaties attached to them) with a single Treaty. That Treaty would have contained just

four main parts, thus clarifying the legal underpinnings of the EU and bringing a stabilising force to European/national relations.

The Lisbon Treaty, by contrast, amends an already complex set of Treaties and imports many of the provisions that were in the Constitutional Treaty. Lawyers have spent months sifting through the legal wreckage while Member States raised last-minute objections and obstacles, and a number of issues – including precisely how the British and Danish opt-outs from JHA measures will work, now that many of those provisions lie in the former first pillar – still need to be worked out.

One thing is certain: confusion and disputes over the Lisbon Treaty changes are inevitable in the coming years. Member State representatives will need to be nimble as legal opinions shift and the ‘rules of the game’ are altered. Uncertainty will put a premium on a government’s ability to build effective relationships and gather policy intelligence in other national capitals. Member States capable of coping with these greater uncertainties will find themselves at a distinct advantage.

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Endnote

1. Daniel Naurin (2007) ‘Network Capital and Cooperation Patterns in the Working Groups of the Council of the EU’ *EUI Working Papers RSCAS 2007/14*.

Ratifying EU treaties: current and future prospects

by Sara Hagemann

EU leaders' relief at finally reaching a deal on the Lisbon Treaty in October after tough and tortuous negotiations was understandable, but there is one more hurdle that must be overcome before it can enter into force. Even if governments manage to fend off calls for referenda in the few countries still under pressure to hold a popular vote, getting all 27 Member States to ratify the Treaty may not be as easy as some have assumed.

Against this backdrop, the failure of most EU governments to make any real attempt to 'sell' the new Treaty to the public during the negotiations – and to give people a sense of ownership over the European project – is all the more surprising.

As with all EU Treaties, the Constitution's successor must be approved by all 27 EU Member States and a 'No' in just one of them could derail the institutional reform process yet again, plunging the EU into a crisis of unprecedented proportions.

Still, history suggests that both the public and the national opposition parties may confound the pollsters by supporting the new Treaty when it comes to the crunch. It is one thing to argue against the government and the EU at a more abstract level; quite another to veto a treaty and possibly even leave the Union altogether. (Even in the UK, where a referendum on the Treaty would almost certainly be lost, pro-Europeans believe that they could win a popular vote on EU membership itself.)

Governments face two major challenges as they embark on the ratification process: general uncertainty about public opinion in a number of countries and the risk that opposition parties may seize on the ratification process as an opportunity to campaign against the government rather than to debate the actual issue on the table. It would come as no surprise if the debate focuses on domestic issues rather than the content and implications of the Lisbon Treaty itself. But it would be regrettable, as this does much to misinform the public. Indeed, the EU's future may largely depend on addressing and overcoming this dynamic at the national level.

As Antonio Missiroli argues in another article in this publication, negotiations on wide-ranging treaty 'packages' are unlikely in the future, not

least because of the difficulties – so evident in the negotiations on the Lisbon Treaty – in getting 27 Member States to reach agreement. However, Treaty revisions of a more limited scope will no doubt be necessary, even within the next decade, and these will again require the consent of either national parliaments or the public directly.

If voters in an EU of 27-plus are to support further EU development, they will need to see a clear connection between their preferences (whether expressed through referenda or through the election of national and European political representatives) and the politics that emanate from ‘Brussels’.

The road ahead for the Lisbon Treaty

The vast majority of EU governments will seek to ratify the Lisbon Treaty through their national parliaments. Only Ireland is legally bound to have a referendum, but some other Member States – especially Denmark, the Netherlands and the UK – have come under strong pressure to put the issue to a popular vote.

The likelihood of any of these countries going down the referendum route is slim at present, but much depends on the sequence of events.

Those struggling to fend off the loudest calls for a popular vote were given a significant boost when the Dutch government decided not to hold a referendum, following an independent legal evaluation of the new Treaty by lawyers and constitutional experts who concluded that there was no legal requirement to do so.

But if any other EU governments give in to the pressure – with Denmark causing particular concern because of its strong tradition of involving the public, and the UK because of an intensive campaign by powerful sections of the media – the January 2009 deadline for ratification will be hard to maintain. This could pose problems for the European Parliament elections in June 2009, as attempts by candidates to focus on the challenges facing the EU and offer voters a real choice between political parties on key policy issues would risk being overshadowed by the continuing debate over the Treaty.

Ratification through national parliaments cannot be considered a ‘done deal’ either. There is a fairly high threshold for parliamentary approval in a number of countries (generally either a three-fifths or two-thirds majority), and the debate so far in some Member States has already shown that governments cannot sit back and take parliamentary support for granted.

The risk of failure should not be overstated, but there are currently too many political unknowns for Member State governments and the EU institutions to be assured that the Lisbon Treaty will enter into force in 2009, as planned. However, the chances of this happening will be greatly increased if governments manage the process in a way which gives parliaments and populations a stake in the planned changes to the EU institutions and policies, but which also makes it clear that there are real consequences of both a 'Yes' and a 'No' to the Treaty.

This time, the ratification process should not be left to become a 'second order' issue – with the risk that the outcome merely reflects the popularity or otherwise of incumbent governments, rather than attitudes towards the Treaty itself – either in parliaments or with the public.

EU treaty ratifications in the future

With or without referenda, therefore, the ratification process will be a major test of the ability of all 27 EU governments to convince the electorate that their interests can be effectively represented within an enlarged Union. It is therefore worrying that most governments appear hesitant to take up this challenge, on the grounds that there is little public enthusiasm for Europe or EU issues and therefore little to be gained in terms of domestic political support. As a result, the real campaign and debates have yet to begin.

However, time is tight, not just for meeting the January 2009 deadline laid down in the Treaty for completing the ratification process, but also for efforts to reverse the steady downward trend in voter turnout in the 2009 European elections – and, indeed, support for the EU generally within the next decade. Only about 50% of EU citizens currently think that their country's membership of the Union is 'a good thing'. If this trend continues in an EU of 27-plus, further Treaty revisions or major policy changes may become impossible.

The EU is certainly democratic in procedural terms, in that governments and Members of the European Parliament (MEPs) are directly elected, and together appoint the European Commission and must give their consent to policy changes to further the public's interests. There is, however, a widespread perception that decisions are imposed on national populations by 'Brussels', rather than being arrived at with the active and constructive participation of national representatives.

The representative structures and checks-and-balances of decision-making ensure that EU policies tend to be 'pitched' on the centre-ground, and are

therefore more likely to reflect the views of a majority of the population. However, without a genuine debate about how political authority is exercised at the European level, many people find it difficult to form opinions about major policy issues on the EU agenda and feel that they could not influence the direction of the EU policy agenda even if they did.

As the negotiations for the Lisbon Treaty indicated, the EU will have to come to terms with the fact that without a popularly-founded mandate for policy change, reforms ‘directed’ from Brussels are likely to reduce rather than increase general support for the Union. As a result, governments are likely to face ever-greater struggles to ratify future treaties and will be more likely to resist new day-to-day EU policy initiatives.

Pan-European referenda are not the solution

So what can be done to boost public interest in the European debate and ensure better support for European integration in general – and EU Treaty changes in particular – in the future?

Most political scientists generally regard referenda as an unreliable and misleading indicator of citizens’ preferences – and those on EU Treaties particularly so, not least because turn-outs are generally disturbingly low. The Union does not therefore appear to be anywhere near the point where an EU-wide referendum could be considered a viable option. There would also be a serious risk of the biggest Member States’ populations dominating the EU debate and setting the agenda because of their sheer size. This would not correspond well with the EU’s dual identity as a ‘Union of States’ and a ‘Union of people’.

However, a modest increase in the incentives for elites to ‘compete’ more openly in Brussels would help citizens to understand and begin engaging with EU politics, and might gradually lead them to demand more direct involvement in the policy-making process.

Such debates do not have to be conducted on the basis of different ideologies – be it ‘intergovernmentalism’, ‘supranationalism’, ‘federalism’, on a party political basis, or something altogether different. The point is simply that citizens need real choices on real issues which are important to them. They need to see that their preferences are translated into action at the EU level, not merely through the technical legislative outcomes which are passed down to national administrations, but also by receiving more

information about the stance taken by governments and MEPs on a given policy and its implications.

A more open style of EU politics would encourage citizens to understand the policy options, identify clearly which leaders take what positions on key issues and to take sides in EU-level policy debates.

When is 'No' not an answer?

If EU policies were generally perceived as relevant to its citizens, then there would be a much greater chance of the Treaty ratification process being conducted on the basis of the voters' preferences on specific policy developments, rather than on EU membership in general or simply amounting to a verdict on the popularity of the government of the day.

The current situation – and the immediate challenge of getting the Lisbon Treaty ratified – demonstrates the importance of moving the focus towards the content of the Treaty, instead of turning the process into a vote of confidence in the EU in general.

A 'No' in any of the EU's 27 Member States this time around would present governments with a stark dilemma: whether to continue operating on the basis of the current Treaty, to contemplate the prospect of a multispeed Europe in many more policy areas than is currently the case, or to consider the possibility of progressing by allowing one or more Member States to leave the EU altogether.

Some Member States used this uncertainty as a negotiating chip in the talks on a successor to the Constitution, effectively transferring the power of the veto from EU-level negotiations to the population as a whole. It was a notable – and ironic – feature of the Lisbon Treaty negotiations that those facing the most intense pressure for a referendum – and with the least chance of winning any such popular vote – were in a stronger bargaining position than those facing little opposition in the ratification process.

This has attracted little attention in analyses of how EU treaty negotiations and subsequent ratifications are conducted. However, in an enlarged Union, it seems clear that consideration should be given to drawing up a common set of rules to govern what happens in the event of a single 'No'. The current situation where one country can single-handedly block progress cannot continue indefinitely.

Nor is pursuing the construction of an *à la carte* Europe instead of the unitary Union we have now necessarily in the EU's interests. The increasingly 'utilitarian' language used in national capitals, which points in this direction, may be well-received in the national political context, but is fraught with danger. A fragmented Union operating on many different levels would not, for example, enhance the EU's role in the world, and this again could undermine the public's perception of the benefits of EU membership.

Conclusion

The political elite in Brussels and in national capitals need to consider how to give the public and the national parliaments a real stake in the EU's future development.

A common EU-wide framework for how to deal with a 'Yes' or a 'No' to EU treaty reform from the population or parliament of any one country needs to be devised, to challenge the current tendency of some governments to use the threat of an unsuccessful ratification process – i.e. an *ex-post* veto – as an argument to get their way in Council negotiations.

However, such strategic considerations must not be allowed to overshadow the most urgent task: to make the EU's activities relevant to the voters and their parliamentary representatives in the first place. This is the only way to ensure the further development of the Union.

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III. THE PEOPLE'S PROJECT?

Why we need a new model of participative democracy

by Pat Cox

The founding fathers of modern European integration, although elite – both in the sense of small numbers and high office – were the beneficiaries of a post-war permissive public consent. The horrors of two World Wars in less than half a century, and their consequences, made the public in the original six founding Member States willing to accept this hopeful new experiment as an antidote to the dreadful alternatives they had so recently survived.

Complemented by *Pax Americana* and aided by the Marshall Fund, Europeans themselves took responsibility for re-shaping the old continent. Pooling sovereignty, creating innovative supranational institutions, harnessing the power of creative reconciliation – and doing so imbued with a strong sense of the common European good and shared destiny which provided the essential driving force for change.

This positive momentum was reinforced by the perception of a common external threat in the form of the Soviet Union, accentuated by Europe's Cold War divisions and the Iron Curtain.

It is a political landscape that belongs to another era, whose truths have faded in the public memory with the passage of time and of older generations. Few then could have contemplated the extraordinary success that this experiment would enjoy, extending as it does today to include 27 Member States.

Yet for many of its citizens, a significant part of the EU's internal self-expression has been excessively regulatory in form and content. It has yielded prosperity through the single market and the single currency, but has also resulted in a segment of the public seeking reassurance that the contemporary European project offers an authentic political vision for a modern society and not only a platform for markets, economics and technocracy.

The grand vision has been eroded over time by creeping intergovernmentalism and an increased assertiveness of national interests over a sense of the common European good.

This has been accompanied by a form of reductionism that has diminished the European process in popular commentary and opinion, frequently aided and abetted by the self-serving posturing of national capitals. The EU is now seen as synonymous with 'Brussels', and Brussels itself is tantamount to a byword for institutionalisation, remoteness and bureaucracy. This may be a caricature and therefore distorted but, also true to this art form, it contains a sufficient germ of truth to be credible.

The new Europe and new Europeans

The great double paradox is that having found our new Europe, we struggle within it to find new Europeans, while outside our borders, our attractiveness as a beacon of hope is undiminished.

The collapse of the Berlin Wall, the implosion of the Soviet Union and the reunification of Germany have all released new energies and tensions with whose ripple effects we are still coming to terms. The European Community was transformed into the European Union and a vision of a Political Union, of sorts, was added to that of the Economic Union.

The ambitious Treaty on the European Union had leftovers that were carried into the Amsterdam Treaty, whose leftovers were carried into the Nice Treaty, whose unresolved tensions spilled over to the Convention, whose Constitutional Treaty aspirations were punctured by Dutch and French popular votes. A period of reflection has yielded a salvage operation in the form of the Lisbon Treaty.

The first steps on this path are to be found in Council conclusions as far back as December 1989 in Strasbourg. Perhaps the greatest contribution that the new Treaty can make, content given, is the prospect of a period of consolidation focused more on delivery than design.

European institutions and political and diplomatic players at all levels have a limited stock of political capital with which to work. This prolonged period of reflection and re-design, but also of introspection, has come at a high opportunity cost.

That is why it is paramount that the Lisbon Treaty should be ratified, as a platform in itself and as a release from the design fatigue which has sapped the political energy of the Union's institutions, and distracted them and public opinion from focusing on delivery. A return to incrementalism in treaty-making suggests that this reform will not be the last word, but it should last for a period of time.

Plan D in this context would be 'D' for Delivery. No amount of public relations or communications policies, indispensable as they are, can adequately substitute for visible political achievement. "What is the EU for and what can it do for me?" is a simple, but not a simplistic, question that today's generation is entitled to ask. Tomorrow's popular consent will be more active than passive, more to be earned than to be assumed.

A new European agenda

It is not 'mission impossible'. Energy and climate change have already commended themselves as the new coal and steel agenda for our times. The cautionary tale in Europe's multi-tiered system of governance in the recent past is to avoid gaps between policy aspiration and delivery becoming gaps in credibility. The encouraging tale from the past 50 years and more is that where the common European good has been married to institutional and political innovation, Europeans have succeeded together to a surprising extent.

If the European project did not already exist, it would make sense to invent it today. In terms of time and distance, ours is a shrinking and increasingly interdependent world. This phenomenon and its associated pace of change are here to stay.

Europe is challenged by globalisation, by ageing demographics, raw material competition, resource scarcity, climate change and new security risks. Europeans more and more sense a shared vulnerability in the face of these new challenges.

This should strengthen our resolve to act together, especially in the context of what will be a relentless relative European and Western decline in the 21st century with the rise of emerging economies and powers such as China, India, Brazil and Russia. This process of relative decline will challenge our collective EU capacities, but certainly would dwarf us as Europeans if our only capacity to respond was predicated on 19th century concepts of national sovereignty.

Europe's search for finality in its political project must also be matched by a search for agility appropriate to the new century.

Europeans themselves have changed. Top-down, elite-led and elite-owned political communications are no match for the plurality and diversity of today's civil society. A better-educated, Internet-savvy generation is more self-reliant,

more rooted and more at home in a participative and self-confident civil society. This is another kind of political Europe. It is a Europe of self-empowerment, of people power.

This strength should be recognised at all levels of governance in the EU for what it is, and not perceived as a threat to traditional centres of power and authority, not least at the European level itself. The EU should seek to lead the way in developing a new kind of political osmosis between civil society and European decision-making by pioneering dynamic new tools for a wider participative democracy.

This is not to substitute for democratic politics, but to strengthen it through searching for effective new complementarities. Europe needs to confront the ‘Brussels as Europe’ syndrome to overcome one of its most potent perceived deficiencies.

Inventing and delivering a new model of participative democracy could be an energetic counterpoint to jaded cynicism and a return to a concept of Europe at once pragmatic, visionary and innovative – the very qualities that commended the celebration earlier this year of the signing of the Treaty of Rome 50 years ago.

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Bridging the divide? The Parliament and the people

by Richard Corbett

With the focus in the recent negotiations on a new EU Treaty on innovations such as the ‘permanent’ President of the European Council and ‘double-hatted’ High Representative for Foreign Affairs, little attention has been paid to one of the biggest changes it introduces: namely, the enhanced role given to the European Parliament.

In fact, the changes enshrined in the new Lisbon Treaty will significantly modify the institutional balance within the EU by re-enforcing its parliamentary element.

But a key question remains: will these changes enhance the importance that citizens attach to the European Parliament? And will they therefore succeed in meeting one of the key objectives set for the Convention on the Future of Europe which drafted the original Constitutional Treaty, by helping to bring the Union closer to its citizens?

To answer this question, it is important to examine first what impact the institutional changes contained within the Lisbon Treaty will, in fact, have on the Parliament’s role, as the ‘big winner’ from this round of institutional reform.

The Parliament’s role has been enhanced in the new Treaty in three main ways:

- making the adoption of virtually all European legislation subject to the Parliament’s approval;
- giving it the power to ‘elect’ the President of the Commission;
- strengthening its rights over delegated decisions made by the Commission.

The fact that these changes have not featured prominently in the Lisbon Treaty debate may indicate that they are uncontroversial, or simply that the Treaty’s Eurosceptic opponents feel that this is a weak point to attack it on. Nonetheless, the changes to the system, whilst continuing a trend that started more than a decade ago, will be significant.

Legislative powers

The European Parliament was a mere ‘talking shop’ until the 1997 Amsterdam Treaty gave it co-legislative powers with the Council of Ministers

for the bulk of the EU's legislative activity. (The 1992 Maastricht Treaty had an initial version of the co-decision procedure, but only for ten Treaty articles and the Council had an ultimate right to overrule the Parliament.)

The scope of the procedure was extended by the 2001 Nice Treaty, but this still left large areas of policy beyond its reach. In these areas (including agriculture, fisheries, tax, justice and home affairs), the Council could ignore Parliament's views and adopt legislation in defiance of the elected assembly.

The Lisbon Treaty will largely rectify this situation. The co-decision procedure will become the norm, with very few exceptions – and even these will sometimes fall under the assent procedure whereby the Parliament can veto (but not amend) Council positions. The budgetary procedure will also be modified so that the whole of the Community budget falls under a similar joint decision-making procedure (at present, the Council has the final say on 'compulsory expenditure' – largely agriculture).

Parliament and the election of the Commission President

The second major amendment is, at least at first sight, a symbolic change of vocabulary, with the Parliament given the right to 'elect' the European Commission President. In fact, previous Treaties have brought in the main procedural changes involved.

Before the Maastricht Treaty, the Commission was nominated by national governments for a four-year term of office. Now it is appointed for a five-year term (straight after the European Parliamentary elections) through a procedure that involves the assembly at two stages.

First, the European Council (deciding on the basis of Qualified Majority Voting rather than unanimity, as previously) proposes a candidate for President to the Parliament, which must approve or reject him or her. The rest of the Commission is then put together by agreement between the President and national governments, with the Commission as a whole having to obtain a vote of confidence from Parliament to take office. The Parliament has already secured changes to prospective Commission teams using these procedures in recent years – and the other side of this coin is, of course, that the Parliament could always dismiss the Commission through a vote of no confidence.

Keeping all this, but describing the Parliament's vote on the Commission President as an "election" (a word already used in Parliament's Rules of

Procedure) simply consecrates these changes. But it could help public opinion to understand that the executive holds office only by virtue of proving acceptable to the elected representatives of the people, and that the Commission is not a set of unelected bureaucrats but rather a political executive that holds office only through the support of a majority in Parliament.

Scrutiny of the executive

The third breakthrough for the Parliament is in its ability to block executive decisions of the Commission, at least when it can be characterised as exercising delegated legislative authority.

Until recently, the Commission was subject only to the scrutiny of committees of national civil servants (so called ‘comitology’ committees), which often had the power to block Commission decisions and refer them back to the Council. Until last year, the Parliament had no equivalent right to blow the whistle on a Commission decision.

Furthermore, when matters were sent back in this way, they were referred to the Council alone and not to the Parliament and Council as a joint legislative authority. This too changed last year through a revision of the ‘comitology’ system which gives the Parliament the right to oppose a measure envisaged by the Commission, blocking its enactment and requiring the Commission to make a new proposal.

There are two constraints on this new power: the type of Commission decision that it is subject to must be ‘quasi-legislative’ in nature – not routine management decisions – and the implementing measure must be based on legislation that was originally adopted under the co-decision procedure. This second condition will no longer be so limiting, as the Lisbon Treaty extends the co-decision procedure to cover virtually all legislation. Furthermore, the Parliament will be given a new right to revoke the initial delegation of powers.

The perception that an unaccountable Commission decides on European legislation was always a myth, but it does take significant implementing decisions. These will now be subject to effective parliamentary scrutiny.

Engaging the public

The changes introduced by the Lisbon Treaty are therefore very significant and will enhance the Parliament’s role in important ways. But will the

public recognise this, and will it therefore help to bring the EU closer to its citizens?

Much is sometimes made of the fact that, paradoxically, the turnout in European Parliament elections has fallen – it averaged just below 50% at the last European elections in 2004 – at the same time as the Parliament’s powers have increased.

This should not be exaggerated, for two reasons; first, the Parliament’s powers are relatively new. For some 45 years since it was first created (and for 20 years after it was transformed into a directly-elected institution), it was largely a ‘talking shop’ – and was widely recognised as such. It takes time to reverse such an image, and its legislative powers are in fact just a few years old.

Secondly, the decline in turnout has not been as dramatic as the fall in turnout for national parliamentary elections in several Member States (and, come to that, in US Congress elections). It is part of a general trend – not exclusive to the European level.

In fact, turnout in the 2004 European Parliament elections actually increased (on average) among the EU’s 15 ‘old’ Member States. It was several ‘new’ Member States, which suffer from notoriously low turnouts in national elections as well, which pulled the overall average down.

This does not mean there is any room for complacency. Declining participation in democratic procedures is a matter of significant concern and it would be folly to ignore it, or simply put the blame on national politics. However, it is not peculiar to the European Parliament.

That being said, turnout at European elections will always be lower than for national elections. The latter are understandably seen by the public as more important, the players and processes involved are more familiar to people than the European institutions, and they usually have the drama of the future of a national government being at stake.

This is perhaps the most significant difference perceived by citizens between national and European elections.

When we vote for our national parliaments, we are usually thinking about our government – and deciding whether to give them another chance or throw the ‘rascals’ out. The consequences of this decision are especially visible in the United Kingdom, where the furniture vans are seen ready and

waiting to move into Downing Street the day after the national election if the sitting Prime Minister loses power. However, when it comes to the European elections, all that is at stake is the balance between the political groups in the Parliament, with no visible effect on the executive. It is not what people in Europe are used to.

This could, of course, be changed if the entire European Commission (which is anyway appointed for a new term at the same time as the new Parliament starts work) emerged from a parliamentary majority.

That would be going too far, too fast for most countries, as governments want to have a say in who from their country becomes a member of the Commission and are anxious to preserve their right to nominate their own candidate.

But such a system could be introduced for choosing the President of the Commission – which is a post that does not rotate on the basis of ‘Buggin’s turn’ (being passed from one holder to another on the principle of rotation between the Member States), but rather on the basis of a political choice made every five years. If this choice were effectively to be in the Parliament’s hands, then it would certainly become a matter that would feature in European election campaigns.

The new Treaty reference to Parliament “electing” the Commission President encourages this. Many already consider that it is just a matter of time before European political parties nominate their candidates prior to European elections (indeed, the Greens did so last time by nominating Daniel Cohn-Bendit in the unlikely event of them winning the election).

This would not be quite the same as happens in our national contexts, but at least the choice of Europe’s ‘Chief Executive’ would more visibly depend on the results of European elections, thereby making those elections more interesting and, in any case, showing more visibly that the choice of the head of the executive depends ultimately on how people vote in the elections.

Conclusions

To sum up, the Union’s institutional system has evolved through incremental change. The Lisbon Treaty will enhance the role of the elected Parliament within the system and is therefore an opportunity for greater democratic participation in the EU’s decision-making process.

European institutions will always feel further from people than national or local institutions. They also deal with a smaller range of subjects of interest to the average voter. We will never see European election campaigns fought on the same basis and with the same intensity as national election campaigns.

But the Parliament's enhanced role may at least contribute to a perception that political choices expressed by the electorate *do* matter, and that the EU institutions – unlike those of any other international structure – *are* subject to the scrutiny of a pluralist parliament with representatives from across the political spectrum, including parties in government and parties in opposition from each country.

This, at the very least, should help dissipate the image conjured up by Eurosceptics of a centralised superstate run by unaccountable bureaucrats.

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‘Reconnecting’ the EU: how to create a European public sphere

by Luc Tayart de Borms

There is a paradox at the heart of the dilemma facing the EU: while it is widely respected by other global players and the lure of membership remains as strong as ever for many countries on its borders, it is failing to capture the imagination of many of its own citizens.

Despite all the rhetoric from EU leaders in recent years about the need to ‘reconnect’ Europe with its citizens, that ‘disconnect’ persists, reinforced by national debates in which Brussels is blamed for many of today’s economic and social ills. Europe is perceived by many as a cumbersome, costly bureaucracy that interferes unnecessarily in the lives of the 490 million citizens in its 27 Member States.

There are myriad reasons for this disconnect. But perhaps the overriding problem is that, in many people’s minds, the concept of ‘Europe’ lacks the compelling rationale which the tragedies of two world wars in the first half of the 20th century gave it in the early days of its existence.

After World War II, when the citizens of a continent ravaged by war sought peace and prosperity through the European Coal and Steel Community – which laid the foundations for the European Community established by the Treaty of Rome in 1957 – the EU’s *raison d’être* was self-evident. But that waned as memories of World War II began to fade and the end of the Cold War lifted another serious threat to the continent’s stability.

EU leaders failed to recognise the important psychological and political shift that took place when the Berlin Wall came tumbling down, and the issues of war and peace became less immediate concerns. It was clear that the EU could no longer afford to rest on its laurels as an effective peace-keeper for the past 50 years, but politicians have failed to explain to the public why ‘Europe’ is just as important as ever to respond to the new challenges facing us – thereby distancing the EU from its post-war generations.

Europe needs new visions

Today's Europeans – particularly the younger generations – need new visions and rationales for Europe that resonate with their values, address their concerns and reflect their hopes for the future. But can this be done? And what do they actually want?

Europe is not a product that can be sold to customers through self-congratulatory advertising campaigns. As European Commission Vice-President Margot Wallström has put it: “We are not selling socks.”

It is a project, a work in progress, that requires meaningful engagement with citizens to break out of the vicious circle of self-defeating Euroscepticism. To do this, European and national decision-makers need more than simple ‘Yes’ and ‘No’ votes at the polls. They need to change the way the EU institutions interact with citizens and this requires an inclusive, genuine, ongoing pan-European debate.

The European Commission consults interested stakeholders on official public documents as part of its policy planning and development process. However, generally speaking, these consultations attract only a narrow group of stakeholders. The debate then moves to the European Parliament, which also holds consultations that, again, attract a narrow group of stakeholders. Eurobarometer opinion polls take the European pulse on certain issues on a regular basis, but this only provides a ‘snapshot’ of public opinion. It is not a dialogue – and it is dialogue which is urgently needed.

Some European politicians have recognised and embraced the challenge of reconnecting Europe with its citizens. Indeed, one of the main planks of Commissioner Wallström’s Plan D for Democracy, Dialogue and Debate, launched in the wake of the French and Dutch ‘No’ votes on the Constitutional Treaty, was a call for innovative models of citizen communication.

As the EU wrestled with the dilemma of how to emerge from the crisis sparked by the ‘No’ votes on the Constitutional Treaty, it seemed an ideal moment to rise to this challenge by launching an ambitious project to hold a genuine pan-European debate on the way forward for Europe.

With support from the European Commission, a group of independent organisations led by the King Baudouin Foundation,¹ got together to organise the European Citizens’ Consultations (ECC), an unprecedented exercise which

sought to involve the public in all 27 EU Member States in the discussions on the Union's future.

At a groundbreaking event in October 2006, citizens from all the EU's Member States met in Brussels to discuss what they wanted from Europe and identify the issues which mattered to them most. They chose three topics to be debated at national consultations in every Member State: energy and the environment, family and social welfare, and immigration and the EU's role in the world.²

These issues were then debated over five weekends in the Member States, with each producing a declaration on 'the Europe we want' and identifying priorities for action in each area. A total of 1,800 people took part and the results of their deliberations – a report entitled *European Citizens' Perspectives on the Future of Europe*³ – were handed over to EU policy-makers by the citizens in May 2007, just a few weeks before the June 2007 Summit which negotiated the outlines of a new institutional reform settlement to replace the ill-fated Constitutional Treaty.

Discussions on the outcome of the Consultations are continuing and the process is still being evaluated, but some initial observations can already be made.

The ECC demonstrated clearly that those who argue it is impossible to organise a genuine pan-European public debate on EU issues because they are too complex to be discussed by 'ordinary' citizens in a meaningful way, or because the barriers of language and geography are insurmountable, are mistaken.

At each event, the citizens who participated (chosen randomly to reflect the diversity of the population) demonstrated that they were perfectly capable of debating these issues in all their complexity and coming up with a concrete set of recommendations for policy-makers.

The choice of topics to be discussed and the outcome of the national consultations also suggest that the EU's citizens are looking to Europe to help provide answers to some of the most pressing problems they face in their everyday lives, recognising the need for European responses to issues that cannot be dealt with at the national level alone. The outcome also suggests that for citizens, it is the results that matter, not the arguments over who does what.

Deliberative processes: power tools

The ECC and other such experiences have shown that deliberative processes are a powerful tool for involving citizens in policy-making, and could be used more widely to bring the EU closer to its citizens.

It is, however, important to understand exactly how such processes work and what role they are intended to play.

It must be stressed that they cannot and should not replace the representative democratic processes Europe has in place today. But the results of this approach are surprisingly rich and should do more than merely inform policy-making – they should help to shape policy-making, so that citizens feel that they are contributing to the European project in a meaningful way.

The ECC showed how this can be done. It was the citizens themselves who presented their report to policy-makers and the media, and challenged Europe's politicians to take it into account in their deliberations on the way forward.

To avoid this being just a one-off exercise and to guarantee that citizens are given an ongoing say in EU policy-making, deliberative processes need to be used more regularly. This should become an EU policy in its own right (like communications policy), and become an integral part of the policy-making process, alongside other mechanisms such as consultations with interested parties and impact assessments.

Taking the debate beyond the institutions

Much has been said in recent years about the need for communication to be a 'two-way street': not only do the EU institutions need to explain what they are doing to the wider public, but they also need to listen to what the public itself has to say. Deliberative processes are one vehicle for doing this.

The Commission's Plan D called for innovative models of citizen communication. The Commission's latest Communication: 'Communicating Europe in Partnership', again stresses the need to take the debate on Europe beyond the institutions to its citizens. It reconfirms the goal outlined in the 2006 White Paper on a 'European Communication Policy' to ensure

two-way communication, with active participation by citizens and a shift from a Brussels-based to a ‘going local’ approach.

In the course of the coming months, the Commission will present its proposals to widen the democratic debate in Europe. The new Communication also calls for more qualitative research tools to give a fuller picture of public expectations. Public deliberation, as we learned during the ECC, can play an important role in meeting this need.

A European public sphere is achievable

Another objective outlined in the Communication is the development of a European public sphere, where members of the public interact with each other and society at large.

Public information and debate are essential ingredients of democracy. Today, this process is confined to individual national public spheres – a situation which threatens the democratic aspirations and legitimacy of Europe’s transnational institutions.

It is often argued that the EU can only achieve greater legitimacy if there is a Europeanisation of national public spheres, where we go beyond borders to create a European public sphere. The media, the Commission, foundations and civil society organisations can help to shape this, but a truly European public sphere can only be driven by the public discussing similarly-framed issues at the same time across all 27 Member States.

This was what was done with the ECC, which demonstrated that deliberations of this kind can indeed trigger such broad public discussions, involving national and regional media. The ECC showed us that creating a European public sphere is not a utopian dream – it is achievable.

Mainstreaming deliberative processes

All of the ambitions outlined in Plan D, the White Paper and the new Communication are laudable. But at the end of the day, policy is just that: policy. To put this policy into practice, we need to mainstream deliberative processes which involve the citizens.

The Commission’s general principles and minimum standards for consulting interested parties, as well as the impact assessment guidelines, undoubtedly

offer the necessary framework, but they both lack specificity when it comes to consulting non-organised interests.

To support the different Commission Directorates-General in using deliberative processes, a special unit within the Secretariat-General could, for example, serve as a 'clearing house'. The economy of scale benefits derived from not re-inventing the wheel would offset the perceived burden of yet another layer of bureaucracy.

We have the model, let's use it!

The ECC proved that such public deliberations not only work very well, but also exceed expectations. The Commission already has guidelines on consultation, but such discussions traditionally involve affected stakeholders. We have the methodology and we have the technology to engage Europe's citizens in shaping their future. Politicians need to use these instruments and include them in the policy-making toolbox.

The ECC has shown that citizens very much want to be engaged and to have a say in shaping their lives and their children's lives. Isn't that what we mean by "participatory democracy"?

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Endnotes

1. The ECC was co-funded by a group of 21 European foundations, including Compagnia di San Paolo, Riksbankens Jubileumsfond, Calouste Gulbenkian Foundation and the Robert Bosch Stiftung, and organised in collaboration with the European Policy Centre, the European Citizen Action Service and the Network of European Foundations. The European network of partners and funders included organisations from all Member States, with partners at national level organising the national consultations.
2. The citizens were organised into small discussion groups supported by facilitators, interpreters and resource persons where they identified shared topics. Participants' voices shaped the event and its outcomes in several ways, ranging from electronic simultaneous voting to wireless laptops on each table and flip charts in the market place (open space discussion and speaker corners). Innovative dialogue design and simultaneous interpretation into all EU official languages overcame the typical barriers to effective participation – ensuring that each citizen could make her or his voice heard.
3. The report can be found on the ECC website: www.european-citizens-consultations.eu

Public opinion, surveys and deliberative democracy: more bang for bucks?

by Pierangelo Isernia

A vibrant debate on the extent and nature of the EU's democratic legitimacy is currently taking place,¹ with scholars deeply divided on this issue.

On one side are those who deny the very existence of a 'democratic deficit'² in the EU, arguing that the Union should not bother itself with democratic worries. On the other are those who argue that such a deficit does exist and constitutes a major setback in the process of increasing European integration.³

At the core of the debate between supporters and detractors of the EU's democratic credentials lie different conceptions of both the nature and trajectory of the European project and its institutions, and the intrinsic characteristics of modern democracy.

Several arguments have been offered to either support or criticise the view that the EU is affected by a lack of democratic legitimacy. A crucial indictment, in the "standard version"⁴ of the democratic deficit, is that the EU is perceived by the public as being "too distant" from them, its institutional engineering too complex and arcane, and its performance too difficult to assess.

The need to involve the citizens in the European decision-making process more actively and to give them a chance to express their views has been widely acknowledged by the European Commission. In the 'White Paper on a European Communication Policy' (2006), the Commission outlined a detailed plan to "close the [communication] gap" with the public and place "the European Union on a renewed common basis". The main purpose of the White Paper was to build an agenda for improving communication and enhancing the public debate in Europe.

But not everybody agrees with these aims. Andrew Moravcsik, for example, argues that for several theoretical and empirical reasons, we should not expect greater, and better, participation to result from moves towards a more participatory and deliberative EU. He warns that: "In a world without salient issues, new institutional avenues for participation, such as referendums and constitutional conventions, do not necessarily encourage rich deliberation by an engaged population."⁵

In fact, greater participation at the European level could, frankly, be counterproductive. The Constitutional Convention process failed, according to Professor Moravcsik,⁶ “because it runs counter to our consensual social scientific understanding of how advanced democracies actually work. There is simply no empirical reason to believe, as the advocates of constitutional reform clearly believed, that opportunities to participate generate greater participation and deliberation, or that participation and deliberation generate political legitimacy.”

To further complicate the matter, the EU legitimacy's issues are inextricably linked with a wider process, affecting the whole fabric of contemporary representative democracy at the domestic as well as the EU level. As the democratic institutions move through a “third great transformation”,⁷ the problem of size gain triggers the classic trade-off between the effectiveness of the system and democratic control.

Institutions become bigger to cope better with globalisation and other intrusions into national sovereignty, but, in so doing, they also become more and more detached from the citizens and less accountable to them. The increasing disillusionment with electoral politics is accompanied by declining participation, decreased commitment to democratic institutions and values, and progressive detachment from the public sphere.

This disenchantment with democracy (‘civic deficit’) is the result of citizens requiring much more from government and becoming disillusioned when their requests are not met. The standard problems of public participation at the domestic level become even more acute at the European level, as its institutions are far more remote from the citizens. Thus, as Erik Oddvar Eriksen and John Fossum⁸ suggest: “This question speaks to the challenge of *forging* democracy at the supranational level; it also brings up the challenge of *sustaining* national democracy within an altered European and global context.”

Overcoming the ‘civic deficit’: the role of deliberative democracy

Deliberative democracy is an attempt to provide an answer to these problems. It is based on the belief that public debates and collective actions *mediate* between European citizens and EU policies and institutions. Deliberative theories of democracy start from the premise that it is necessary to find a way to encourage citizens’ participation in political life and link deliberation to public choices.

Accordingly, scholars and politicians have begun to elaborate proposals aimed at decreasing the people's detachment from the European political realm. In the democratisation jargon – mainly applied to Least Developed Countries and, occasionally, to the EU – what is needed is a diffuse sense of 'democracy ownership' on behalf of the people, a word borrowed from the economy which symbolises the concept of property over political resources. Deliberative democracy is intended to provide the arena in which people can deliberate with the information they need at their disposal.

The European Commission has launched several initiatives to explore the conditions and potential for more and better deliberation at the European level.

Under its Plan D, for example, the 'European Citizens' Consultations' (ECC) project, led by the King Baudouin Foundation and the 'Tomorrow's Europe' deliberative polling project, conducted by Notre Europe, offer important precedents and a first set of data to be analysed. Similarly, under the 6th Framework Programme (FP6), several projects have been financed which include among their goals promoting a better understanding of the conditions under which deliberative democracy at the European level can be implemented.

In pausing to reflect on what all these experiences add to the previous stock of knowledge, we should also ask whether the scientific and financial investment they involve is worthwhile. Before even pretending to offer a conclusive assessment of these experiences, the first task is to clarify what these tools and experiences can offer that is new and different as compared to previous, existing, scientific tools.

Most of what we know about the democratic deficit at the public level comes from survey data, such as the Eurobarometer and other comparative European surveys. Since its inception, the Eurobarometer has played a crucial informative role in gauging the state of public consensus on Europe and European integration. The Eurobarometer series offers a unique set of data to systematically monitor cross-national developments in changing public support for (and opposition to) European integration. As stressed by Ronald Inglehard and Karlheinz Reif,⁹ these surveys have made it possible "to gain new insight into the evolution of a sense of European identity, the quality of life in Western societies and cultural change".

The Commission is now asking itself: "What more can be done to gauge European opinion?"¹⁰ Of course, several things can be done to improve the

Eurobarometer surveys both technically and scientifically. Bringing recent developments in survey research into the process more systematically can help to design better questions, improve sampling practice and offer more insightful analysis. Eurobarometer could, for example, avail itself more systematically of the experimental developments in survey research to shed further light on the conditions under which different policies and institutions would be supported by European public and why.

The question, however, is whether this would be enough to help us answer some of the questions that are troubling us now; questions related to the conditions under which the creation of an European public sphere is possible and a truly European political public can become a reality.

In assessing deliberative tools, as compared to other more traditional instruments, it is important to be clear about the conditions under which these instruments are supposed to be used. In fact, deliberative democracy experiments are much more ambitious than survey research and standard opinion polls.

By including civil society in the policy process, thus ensuring that larger portions of society can be involved in political participation, deliberative democracy aims to create *informed arenas of dialogue* which allow citizens to become informed and exchange opinions – among themselves and with experts and policy-makers – in order to deliberate on political options.

In this connection, deliberative tools appear to offer interesting potential to allow researchers and practitioners to better understand the counterfactual world underlying the Commission's White Paper philosophy – a world in which a thoroughly-engaged citizen would be a reality.

How different would this political world be from the prosaic one we live in now, and what conditions can make it possible?

The EU – a 'unique social creation'

The EU is an historically unique experiment of social creation and Europe is already an "experimenting society"¹¹ charting a new path in the history of the Continent. Innovative experimental methods are useful to help us understand under what conditions we could experience a truly European *demos*, overcoming linguistic, historical and cultural barriers. Deliberative methods such as deliberative polling are appropriate in this context,

because their intentionally quasi-experimental design enables researchers to explore counterfactual political worlds, such as the one we want to visit.

To avoid accusations that all this smacks of excessive utopianism, these experiments must be carefully crafted so that they can help answer the important questions and address the real problems we face now.

What really distinguishes good deliberative tools from other, more manipulative, ones is the extent to which they fulfil the conditions that deliberative democratic theory deems essential for this to happen, but also (and at the same time) do not ignore the existing psychological and political barriers to communication, dialogue and deliberation.

Deliberative democracy is oriented towards generating a process of communication, dialogue and deliberation that is 'transformative' for the citizen and strengthens the 'public spirit.' To attain these goals, communication, dialogue and deliberation must be based on equality, inclusiveness and pluralism. A carefully designed experiment in deliberative democracy has to ensure that all these three conditions are properly met.

Some research designs are better equipped to fulfil these requirements than others. For example, a properly conducted deliberative experiment should be careful to ensure that it brings together a statistical microcosm of the population to deliberate. It should offer every citizen the same possibility of taking part, offering each of them some incentives to overcome 'rational ignorance' (where the 'cost' of educating oneself on an issue outweighs any potential benefit one could rationally expect to gain from doing so) and giving them the possibility to behave more like 'ideal' citizens. The inclusiveness and equality of the citizens stems from truly random sampling.

Moreover, deliberative experiments should create an environment which enhances discussion, increases knowledge and motivates citizens to take an active part in the process of deliberation. The format of the experiment, the choice and careful training of the moderators, and the balanced and accurate nature of the information circulated are crucial to ensure the creation of an environment conducive to discussion among free and equal citizens.

Similarly, the citizens must be able to interact with a heterogeneous group of other citizens, with different positions and different arguments from their own. During the deliberation process, citizens will learn to acknowledge and respect the plurality of values existing within a polity. In such a way, the

individuals contribute to constructing the public good and developing a public *spirit*.

By giving the participants the possibility to be informed, discuss an issue, have contact with a variety of different positions, and listen and react to carefully constructed and balanced arguments and counter-arguments, deliberation can show what the public would think about an issue under the ideal conditions of democratic theory. As such, it is a counterfactual experiment that attempts to explore how different the political world would be if it was inhabited by thoroughly-engaged citizens.¹²

Experiments in deliberative democracy

The participatory experiments carried out at the European level so far, albeit in a piecemeal and uncoordinated way, have been very useful in offering some first experiences and in training a set of researchers conversant with the problems posed by such scientific endeavors. At least two further steps are needed now.

First, a more systematic effort to create a set of carefully designed and cleverly implemented experiments is required, in order to accumulate replicable scientific results and evidence in the realm of public opinion formation and functioning in a multi-level governance system.

For this reason, deliberative experiments should explore, on the proper scale, what a truly European *demos* would think about the EU – and about specific issues related to some of the policy areas developed by its institutions – if it knew more and was more involved in the public debate.

Of course, changes in policy preferences as a result of more informed and considered opinions are to be expected. Other results will, however, be truly unprecedented, such as the way people cope with the extraordinary challenge represented by the multi-lingual nature of this experience.

Deliberative experiments should be expressly designed to address some of the issues the Commission and European Parliament are struggling with, such as how to create the conditions required for improved communication strategies and how to improve the quality of information made available to European citizens.

Second, deliberation should be explicitly connected to politics, namely to the European Parliament elections, to explore how deliberation and discussion shape policy preferences at election time. As the political science

literature stresses, in a democracy elections represent the stage in which the attention paid to politics is at its highest. It is crucial to explore how policy preferences are shaped by an experience that strives to overcome the 'nationalistic' bias of European elections, in order to understand how far representative democracy can go in Europeanising these elections.

This will move the discussion from preferences to voting behaviour (albeit through 'self-reporting' by citizens as to how they voted), making it possible to measure how deliberation and discussion affect voting behaviour in parliamentary elections, both in terms of turn-out and voting preferences.

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Endnotes

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Our democratic atonement: why we need an Agora Europe

"Political machinery does not act of itself. As it is first made, so it has to be worked, by men, and even by ordinary men. It needs, not their simple acquiescence, but their active participation"

John Stuart Mill,
Considerations On Representative Government (1861)¹

by *Kalypso Nicolaidis*

We all relish the story of the Rabbi who, when asked to adjudicate in a dispute, listens to Avi and says: "You are right"; then listens to Shlomo and says: "You are right," and then, when their third companion protests: "Rabbi, you said Avi was right and then you said Shlomo was right, but they cannot both be right, can they?!", replies: "You are right."

I felt similarly torn between two camps – and my own two selves – as the 2007 Intergovernmental Conference (IGC) closed with a 'two-faced' deal between the EU's Heads of State and Government: the public deal on the Lisbon Treaty, *the Constitution in all but name*, and the private deal on its mode of ratification, *all but referenda please*.

Those in the first camp – let's call them *Euro-realists* – sigh with relief. For some of them, there was no need for referenda in the first place, as an intergovernmental EU is about indirect accountability through national governments and parliaments. With an IGC and an amending treaty, we are back to a *status quo ante* we should never have deviated from. For others – *realists by necessity* – it may or may not be a pity to forego popular ratification of the Treaty, but direct democratic procedures must be sacrificed on the altar of the necessity for reform. At this historical juncture, experimenting with EU democracy is a luxury.

These guys are right. The EU has urgent tasks to attend to internally and on the international scene, and it cannot afford another two years of introverted institutional debates and the risks of demagoguery associated with such referenda – all the more so if institutional reform is a key to future enlargements.

Those in the second camp refuse such complacency – let's call them *Euro-democrats*, for want of a better term. How can European governments

ignore two national rejections of the Constitutional Treaty and unfulfilled promises of national referenda, they exclaim, as they adopt a text which is the same in all but name as the one to which these rejections and promises applied?

There may, of course, be little in common between British or Danish sovereignists bent on ratification referenda for instrumental purposes (as a way to corner either their government, their country's EU membership or both) and genuine idealists who espouse a principled belief on the issue.²

But these guys are right – and it will not do to dismiss the idealists' argument by lumping them together with their sovereignist co-campaigners. Is the Lisbon Treaty *such* a matter of life-and-death for the EU to warrant such hypocrisy? Surely, the EU has not ground to a halt since the last enlargement – in fact, it has never been more efficient.³

As some of us had advocated, the best way out of this conundrum would have been to stick to a real 'mini treaty' *à la Sarkozy* for what was absolutely necessary and leave the more ambitious stuff for later.⁴ If the Constitution was to be served again cold to already cynical European publics, then ignoring voters would be a sham.

Whatever one thinks about the merits of referenda and the real risk of slippage they involve, a democratic promise is a democratic promise. Democracy is a Pandora's box: once we are engaged on its bumpy road – whether in Ankara, Algiers or Brussels – we must accept its verdict, come what may.

In short, if constitutional symbolics matter – as they do to all Eurosceptics – the document is different and should be allowed to live through elite christening; if institutional and policy reform is what matters, the document is the same and its birthrights are deeply compromised. Depending on your leanings, both camps are right.

Now, you may ask, if both camps are right and given that the die is cast as far as the Lisbon Treaty is concerned (barring unforeseen developments), there seems to be no way to square the circle. You are right! Or are you?

Whether its (democratic) sin was necessary or not, the group of co-conspirators who can be collectively described as the "European leadership" can breathe a sigh of relief – and maybe they had indeed run out of options. But what if they felt a bit, just a bit, of (democratic) guilt?

If they did, it may be far-fetched to frame their predicament in terms of forgiveness. Nevertheless, can we not imagine new rituals that could contribute to our democratic atonement?

Participatory democracy: how do we do it?

After all, democracy was supposed to be the point of the exercise, even if the conventioners dealt with it as an afterthought.

Echoing the draft Constitution, the Lisbon Treaty itself sets out to strengthen what it calls “participatory democracy” – in other words *democracy that is not the representative kind*, defined by Wikipedia as “a process emphasising the broad participation (decision-making) of constituents in the direction and operation of political systems”, as opposed to traditional representative democracy which limits citizen participation to voting, leaving actual governance to politicians.

Over the last few years, increased participation has been mostly associated with the holding of referenda. So one way to describe the challenge facing European politicians today is to ask whether participatory democracy could be made to better complement representative democracy rather than exclusively serve the rival brand – namely, direct democracy and its favourite instrument, referenda.

There are, in fact, a number of ways in which citizens (or civil society, as scholars describe them) can or should ‘participate’ more in politics, be it at the European or national and local levels. In each case, representative democracy can be strengthened – but not necessarily. I can distinguish between at least three.

The first and most mainstream understanding of participatory democracy relates to *participation in governance*. Indeed, such participation is, to a great extent, what distinguishes governance from ‘government’. Here, the challenge is to create opportunities for all members of a political group to make meaningful contributions to decision-making, and to broaden the range of people who have access to such opportunities.

This track is parallel to representation, where both tracks contribute directly (even if marginally, in our age of expertise and technocratisation) to collective rules and decisions about the polity; it is espoused and practised somewhat haphazardly by the European Commission, and the new Treaty calls for more. There are many benefits, including the expectation that such decisions will be better enforced if forged with greater involvement of those concerned.

The second way in which we can understand participatory democracy is more indirectly connected to governance *per se*; i.e. *participation in political deliberation*. Here, participation is valued as an end in and of itself, helping to create better informed and connected ‘citizens’ – certainly what Commission Vice-President Margot Wallström had in mind when she launched her Plan D for Democracy, Dialogue and Debate following the rejection of the Constitution by French and Dutch voters. After all, as John Gray so aptly put it, democracy can only work “if citizens come back out of their bunkers and start talking”.⁵

However, part of the problem when the ‘push’ comes from EU institutions is the prevailing idea that one-way flows of ‘information’ sparkled with a bit of listening will do the trick. But deliberation based on reason and knowledge is, of course, a much more demanding and reciprocal process.

One of the latest incarnations of such a process has been the deliberative poll carried out under the banner of ‘Tomorrow’s Europe’, organised by Notre Europe, in October 2007.⁶ This was an attempt to create a microcosm of an ideal (but non-existent) pan-European community – with language barriers broken down and discussion fully encouraged – to find out what the people of Europe “really think” (if there is such a thing as “really thinking!”).

Another interesting avenue is suggested in a recent Dutch report requested by the government after the Dutch ‘No’ to the Constitution, which calls, *inter alia*, for *ex-ante preferenda* instead of *ex-post* referenda on EU issues.⁷ I believe we can generalise this insight towards a call for promoting a *preferenda culture* across Member States, whereby citizens would be involved early on in major EU-related decisions, be encouraged to debate with the political class on specific issues and be presented with meaningful alternative options when consulted.

In this spirit, healthy conflicts of view within, as well as between, national polities in Europe can become a force for further mutual engagement, understood as real mutual recognition.

Here again, there is little contradiction with democracy of the representative kind, to the extent at least that such deliberative processes do not lead to alternative proposals for determining the common good that might be at odds with classical representative decisions.

But there is a third way to understand participation – *participation through mobilisation* (i.e. political activism) which falls more squarely outside the

formal political realm. It is the preferred mode of participation for those who consider that the realms of civil society and politics must remain separate to curb the risk of citizens simply being co-opted into acquiescing to the main tenets of the political system, and therefore increasing the likelihood of complacency among, and corruption of, all those involved in politics.

Under this banner, participation directly rivals representation and involves a whole range of behaviour more or less connected to resistance, denunciation and advocacy. It is only through the existence and flowering of this form of mobilisation, some would argue, that our body politic can remain vibrant and truly ‘political’; that is, an arena where conflicts over the public good are played out in full.

It is important to note that, in all cases, participation has to do with greater inclusiveness, albeit with different implications as to who should be included.

With governance, selective integration of people in the political process and self-selection combine to integrate citizens who usually belong to a knowledge or expert field close to that of bureaucrats or politicians. With deliberation, the circle widens to interested citizens – or citizens generally, in the case of the random sampling associated with deliberative polling or other forms of direct consultation.

But it is with the politics of mobilisation that inclusion of the less powerful and the marginalised becomes most likely. Inclusiveness here can – and should – even extend beyond Europe or to non-EU citizens within the Union. Some would argue that the logic of political activism, based on common action by like-minded ‘militants’, is antithetic to the deliberative logic based on the exchange of reasoned arguments.⁸ A meaningful democratic atonement would take on a formidable challenge: to bring these three concentric circles together through the oldest trick of political theatre: all the characters eventually meet through unity of time and place.

Agora Europe: creating the ‘Woodstock’ of European politics

Such a democratic theatre, we are told, was built in Athens 2,400 years ago. To be sure, any self-aggrandisement by the Greeks based on this inspiring past would be more credible if they were to recognise that the democratic experiment of ancient Greece was both deeply daring and deeply flawed – no women, barbarians or slaves were allowed in – and that we have an opportunity

to correct the flaws of Athenian democracy (above all, its exclusionary nature) in today's Europe.

Some of this spirit was present when the 2003 Greek EU Presidency floated the idea of creating an 'Agora Europe'. Since former French President and Convention Chair Valéry Giscard d'Estaing himself had declared in the 1970s that Greece's candidacy for EU membership could not be questioned as Greece "invented" democracy for Europe, the onus was certainly there. At last, Greece was to use its historic aura in order to promote bold democratic advances within the EU.

The *Agora Europe* that modern-day Greeks had in mind was to meet every year in a big European city and bring together hundreds of thousands of European politicians and citizens over several days – the biggest transnational political festival of all times; the Woodstock of European politics.

The first 'round' could be held in Athens, exploiting the Olympic facilities and making it the "Olympic Games of European Democracy". The first Agora, *Agora Europe 2003*, would discuss the draft Constitution before it was even handed over to the Heads of State and Government.

Iraq and inertia combined to confine the idea to the dustbin of European history, alongside countless other such grand projects. Why not, however, resurrect it today, as one of the answers to the need for democratic atonement?

It may certainly be true that Europeans cannot deliberate 'at 490 million', in 23 languages, across 27 countries. Indeed, according to a SOFRES poll carried out at the end of the 2007 IGC, half of Europe's population has never discussed EU matters with citizens from other countries and only one in 30 have done so very often.

However, the current post-Constitutional moment demonstrates that a wide variety of publics can be interested in discussing the Union with a sizeable group of other Europeans. Political gatherings can be widely inclusive and magnified through the media. But at least two ingredients are required if they are to mobilise people in great numbers, especially the younger generations: some degree of idealism or contestation (in other words, questioning of the *status quo*) and a sense of fun, a festive atmosphere, meeting new faces, letting go.

If this is true, why not attempt to create, with *Agora Europe*, a truly popular annual event for the EU; a mix between a political gathering and a festival that would attract large crowds of all ages from Europe and beyond.

Who would sponsor such a grand event? The most obvious answer would be to turn to the natural promoter of democracy in the EU, the European Parliament. Indeed, the Parliament has recently initiated a series of small-scale Agoras to foster deliberation on specific themes with ‘civil society’ on its own premises.

Obviously, even if the Parliament were to take the lead, other EU institutions would need to support the initiative – starting with the Commission in the context of Plan D and with the European Council endorsing and promoting the whole thing – if this was to be a forum where politicians meet citizens.

But these official EU institutions could not, alone, foster the festive spirit that the Agora would strive for. Instead, their role would be to empower non-governmental organisations, schools, political parties, movements and individuals to take the project into their own hands.

Agora Europe would constitute a large-scale experiment in direct deliberative and participatory democracy at the trans-national level, supported by a savvy use of the Internet all year around – a ‘virtual Agora’ including e-voting and e-voice, which could somehow connect with the face-to-face Agora.

The event would take place outdoors, include a mix of political debates, concerts, plays and other ‘happenings’, and would thus constitute a highly visible and publicised expression of Europe in action. Its avowed aim would be to help foster deeper mutual understanding and healthy debate between our diverse national/regional political cultures, as well as between politicians and citizens.

It could be seen and framed as the visible and popular expression of an emerging European citizenship; critical, multifaceted and open to others. It would also serve as an umbrella and focal point for an array of trans-European networks (policy or otherwise), thus contributing not only to *deliberation and mobilisation* but also to *governance*.

Such an initiative would reflect the belief that democracy at the European level should not replace but rather enhance national democracy by highlighting the value-added that the EU can bring to its citizens.

The trans-border dialogues the Agora would help sustain would hopefully support and expand domestic debates, but the EU could also play a leadership role in promoting the inclusion in democratic debate of groups and individuals who are often not given enough of a voice in their respective countries. The Agora would not replace the many avenues through which the EU institutions consult civil society groups, but it could serve to create a time and place where a number of these initiatives converge.

The Agora would hopefully grow from year to year, and aim for participation on a par with the big European festivals. It would mirror the spirit of events like the European Social Forum (ESF) (with 50,000 participants a year) both in its multifaceted nature and as a transnational event.

There are however, at least three fundamental differences between *Agora Europe* and an event such as the ESF.

1. *Adversary politics matter.* In contrast to gatherings aimed purely at contestation of the existing political order and activist politics – with their inevitable homogeneity of thought and participation (according to some participants, there was no debate for or against the Constitution at ESF meetings in 2002-04) – this event would be about orchestrating political conflict and dialogue, and would be explicitly sold as a gathering between citizens (Europe's civil society) and politicians or EU actors (political society), from all levels; for example, cities, regions, governments, national parliaments and, of course, Brussels institutions.

Perhaps paradoxically, the Agora would help embed 'Europe' in domestic politics. It could build on, and 'federate', other events and initiatives taken at the domestic level or indeed by the European Parliament itself, including debates organised around specific themes throughout the year. But as a place to showcase hard-nosed debate, it would be more exciting than a pure activist gathering.

2. *The power of institutional backers.* Because this event would involve European *officialdom*, it could draw on institutional resources both in Brussels and in the Member States. Thus, for instance, education ministries could be closely associated, encouraging schools and universities to send groups of students, organise year-long courses or competitions (essays, drawings, plays, debating tournaments) that could culminate at the Agora at the end of the year (with the granting of prizes, etc.). An annual deliberative

poll could also be carried out at the end of the Agora, or, indeed, several such polls on specific issues.

The Agora's cross-party character would also help attract wide participation from political activists, trade unions, pan-European parties, NGOs and assemblies of all sorts, social movements, with newspapers and other media encouraged to provide trans-national coverage.

3. *A spirit of freedom (let a hundred flowers bloom)*. These two features could obviously be seen to constitute a drawback for more anti-conformist young Europeans – and is it not often through anti-conformism that one's interest in politics is sparkled? So it would be important to counter the Agora's potentially 'official flavour' (no grey suits allowed!) by taking a very open approach to participation and content, through a decentralised use of web-posting of events and initiatives, and involving popular bands and other personalities from rock to folklore, from chess champions to football players, from Christos 'the monument-wrapper' to light shows and fireworks experts.

All this would be designed to ensure that these events would be on a different scale, and more spectacular and visible, than anything we have seen before in the EU (which may be why nothing of this sort has been suggested under the Commission's Plan D yet).

Organising a yearly *Agora Europe* would obviously pose enormous logistical as well as political challenges for everyone involved. But if it contributed in some way to popularising European politics, it might yet help curb the looming populist drift in Europe. And in doing so, it might also contribute just a little to the democratic atonement of Europe's political class, at the dawn of our 21st century.

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Endnotes

1. I borrow this quotation from *openDemocracy*, one of the most wonderful fora for debate on the web, which has *inter alia* been promoting deliberative polling experimentation in the EU. I would like to thank Julia De Clerck-Sachsse for her contribution to this piece.
2. In October 2007, the British Shadow Foreign Minister and staunch Euro-sceptic, William Hague called the Government's U-turn on a referendum, "one of the most bare-faced and deliberate misrepresentations in the modern annals of political deceit".
3. Renaud Dehousse, Florence Deloche-Gaudez and Olivier Duhamel (eds) (2006) *Elargissement, Comment*

l'Europe s'adapte, Observatoire des Institutions Européennes, collection Evaluer l'Europe.

4. Philippe Herzog and Kalypso Nicolaidis 'Europe at fifty: towards a new single act', *openDemocracy*, 21 June 2007.
5. J. Gray 'Does Democracy have a Future', *New York Times Book Review*, January 1995.
6. Deliberative polling combines small-group discussions involving large numbers of participants with random sampling of public opinion. Its overall purpose is to establish a base of informed public opinion on a specific issue. Citizens are invited to take part at random, so that a large enough participant group will provide a relatively accurate, scientific representation of public opinion. It was first proposed by James Fishkin in his 1991 book *Democracy and Deliberation*.
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Engaging young people in the European project: it's the ideas, stupid

by Elizabeth Collett

Young people in Europe are increasingly seen as a 'threat' to the future of democracy.

Recent surveys in eight European countries found that just 37% of those aged between 15 and 25 are interested in politics,¹ while the most recent Eurobarometer survey of Young Europeans found that just 20% were involved in associations or voluntary work.²

This seeming lack of political participation suggests a grim future for governance at all levels, especially given that the habits of politicking gained in early life have the potential to become the habits of a lifetime.³ However, this broad conclusion ignores the very real interest young people have in political issues and participation in politics through methods not recognised by current institutional political frameworks.

Rather than simply predicting doom as so many turn away from traditional political parties, politicians and policy-makers need to re-consider how deeply this disinterest is rooted and find new ways to engage young people in both the national and emerging European debate.

Characteristics of youth political participation

Despite the depressing 'headline' opinion poll figures, a closer look at the evidence suggests a wealth of interest in political issues. Young people quickly mobilise around specific agendas, such as human rights and the environment, as well as debates which affect them more closely, such as employment policies and education. Recent examples of mobilising issues include the proposed changes in employment law in France in 2005, and the mass-protests in London and Madrid against the war in Iraq.

However, this awareness is balanced by a significant distrust of political institutions and particularly politicians themselves. As a result, party membership has been declining for several decades (and is closely linked to the decrease in partisanship amongst the young⁴), as has participation in elections.

Too often, this non-participation is attributed to apathy, ignoring the possibility that the reason why young people remain on the sidelines is that there is no political movement which adequately reflects their views and interests. While this does not have a direct impact on involvement at the European level, it has been suggested that those who are more engaged at the local and national level are also more likely to develop an interest in European politics.⁵

These trends are not uniform across Europe, either in terms of political participation or attitudes. According to the Eurobarometer survey, while 62% of young people participated in an election or referendum between 2004 and 2007, the participation rate ranged from 77% in Belgium to just 44% in Ireland.⁶ Generally, the figures suggest that young citizens of the EU's older Member States are more likely to get involved in political life than those from the newer EU-12.⁷

Different surveys also reveal different levels of interest in politics amongst young people – ranging from 37% to 96% – depending on who asks the question.⁸ Given the big differences in responses on this issue, it is questionable how useful these surveys are in determining the degree of apathy.

Why the decline?

From the political perspective, the most obvious cause of disinterest amongst young people is disillusionment, both with politicians and political structures. Politicians are perceived as corrupt and full of empty promises,⁹ while political structures are ineffective at responding to the problems young people currently face.

The media has contributed to this, creating a stage for intensive scrutiny of government ministers' every word and deed. Today's 'instant', 24-hour media demands instant responses, and this has had a strong impact on the public's view of politics. Compounding this, today's media-savvy younger generation is adept at deciphering the subtleties of advertising. The 'spin' and 'on message' tactics employed by politicians are far less impressive to them than to their parents.

Conversely, some researchers have suggested that growing disenchantment is actually a result of inadequate efforts by political parties to engage young people on the issues closest to them.¹⁰ Certainly, the current demographic

trends in Europe mean that young people are a far smaller target group for politicians than their parents. Political parties are also more professionalised and less reliant on mass membership, resulting in less proactive recruitment of young people.¹¹

Historically, young people have regularly been a critical factor driving political change, and this remains the case in Europe. The youth movement Otpor, developed during the late 1990s in Serbia, is credited with being the main catalyst for the eventual downfall of Slobodon Milosevic. The movement spawned similar groups across Eurasia – for example, in Georgia (Kmara) and the Ukraine (Pora) – many of which were instrumental in bringing about shifts in power.

In stable West European countries, it is difficult to envisage a political scenario which might spark similar political movements amongst young people. Given the liberal democracies in which European citizens live, political demonstrations develop around specific issues, in the hope of influencing – rather than overthrowing – existing political powers.

In addition to the political dynamic, the rapidly changing modern world is itself having an effect on young people's attitudes. We live in a globalised, inter-connected and diverse Europe, and as one commentator noted: "The nation state faces ever increasing difficulty in maintaining the credibility of its claim to provide public goods for the nation."¹²

The effect of the recent credit crisis in the US economy on the various European economies exemplifies the fact that, more than ever, politicians are fire-fighting rather than exercising control. This has a negative effect on all voters, but particularly on those still developing a political consciousness.

More specifically, the way young people live their lives and use technology affects their relationship with political life. Increasing consumerism in Western society also heralds a shift away from collective solidarity and engagement in politics along ideological lines.¹³ It merges with a more individualised sense of the world: young people consider education and employment to be individual responsibilities, and are thus less reliant upon governments and far more on markets, to ensure their future prosperity. This suggests that the private sector will have more influence on today's youngsters than politicians and governments.

On the other hand, young people remain engaged on issues, and more flexible and individual arrangements for political participation can harness this new, dynamic way of life.

Certainly, the Internet provides a wealth of opportunity for political engagement, fostering openness, spreading knowledge and sparking activism. Politicians have begun to use websites such as Facebook and MySpace, and online petitions are becoming a commonplace way of lobbying on a particular issue. It would, however, be a mistake to rely on technology alone: ‘virtual’ activism needs to remain complementary to ‘actual’ activism.¹⁴

Individualism also expresses itself through new ways of maintaining and expanding social contacts. New technologies – mobile phones, e-mail and Internet groups – have made social networking much simpler, yet more diverse. Some fear that this will lead to a loss of local community bonds – the foundation of political participation – but, again, if policy-makers can find a way to adapt institutional structures to benefit from these communication channels, participation may increase.

Finally, it has been suggested that failing to engage in politics is a result of a preoccupation with the complexities of daily life. A survey conducted amongst young people in Slovenia found that issues such as long-term economic dependence on the family and unemployment pressures conspired to prevent any deep engagement in politics.¹⁵

This seems perverse. Dissatisfaction with major aspects of society should lead to more political participation, not less. However, combine this with a growing sense of disillusionment in political structures, a concern that governments could not help even if they wanted to and the very individual responses that today’s young people have towards collective problems, and we are left with a generation with a number of issues of concern and few political outlets for addressing them.

Participating in European politics

While the emerging globalised environment poses problems for ‘establishment’ politics at the national level, there are opportunities for the EU to become a new platform for political participation amongst young people.

The new world of diffuse social networks – transnational and not reliant upon geography – opens up the possibility for new forms of political

engagement. Indeed, technology can eradicate borders and foster ties between young citizens in different countries. At the same time, personal identity is becoming a more fragmented and elusive concept in the national context. Young people may identify more strongly with a brand than a nationality, especially if they are disillusioned with national politics and therefore believe that the latter comes with no significant political power.

The so-called 'post-politicality' of young people – an interest in issues rather than institutions – could become an advantage for a project which has traditionally focused on resolving problems rather than adopting political ideologies.

While the context changes across Europe, young people increasingly face the same challenges and are having to confront a number of policy dilemmas their parents do not face: fears, for example, about the future burdens imposed by demographic change and concerns that environmental damage in their lifetimes will be irreversible.

National politicians are having difficulty addressing these problems effectively on home territory, but what about the EU?

The Berlin Declaration published to mark the EU's 50th anniversary included a commitment to deliver tangible benefits in specific areas, such as on environmental issues and job creation. These are key issues for young people, but they want to deal with them differently from the current policy-making generation.

Structural barriers still exist. The 'art' of the EU is mystical to all but a few, not least because the legislative processes in the Union sometimes defy logic. There is no uniform curriculum for studying the EU in schools, and some countries do not currently even include it.¹⁶ But in any case, for young Europeans, the media is a bigger source of information than school or university (88% versus 79%) about their rights and responsibilities as an EU citizen.¹⁷

While the EU appears to be doing a good job in inspiring belief in the goals of the European project, the oft-cited disconnect between citizens and the institutions suggests that young people's ability to affect direct change in Brussels is quite limited – and this is reflected in a lack of trust among young people in their ability to influence the EU institutions.¹⁸

The major mechanism for engaging in Europe – voting in European Parliamentary elections – is inadequate to respond to the needs of the younger generation (and arguably the older generation as well). Certainly, some of the mechanisms for engagement favoured by young people, such as participating in debates with politicians and being consulted on political decisions, are not available to them.

While Europe may have the potential to inspire young people, it lacks the mechanisms to communicate the relevant issues and encourage direct participation. Arguably, knowledge of the institutional processes, though important, is less vital than including unconventional methods of participation as part of our conceptualisation of democracy.

Policy-makers should be looking both at new ways of listening to young voters and inspiring them through their ideas.

What is, and can be, done? European policies for participation

The European Commission is aware of the need to involve young people in its work, and has developed various programmes to address their needs and interests, as well as to engage them in the EU project.

The 2000-06 Youth Programme brought these initiatives under one umbrella, and prioritised active citizenship and participation. The new Youth in Action programme, which runs until 2013, has added a focus on jobs and training, recognising that encouraging participation alone – without addressing core issues – is an insufficient European response.

The youth programmes favour outreach initiatives: examples in 2007 have included the European Youth Week, a EuroMed Youth Parliament and even a Youth Summit to celebrate the EU's 50th anniversary. The Youth Summit resulted in a Rome Youth Declaration which focused on the issues important to young people. It concluded by stating that governments should recognise the contribution of youth organisations, but also alternative forms of participation. The interest is there, but harnessing it remains difficult.

The youth programmes also emphasise the need to provide information on the EU, but the most recent Eurobarometer Survey suggests that the Union still plays a very small role in educating young people about itself (26% of young Europeans cited it as a source of information), compared to the media

and peer groups. In the absence of a standard EU curriculum in schools, knowledge about the EU remains patchy across the continent. The EU needs to find other methods of engaging young people, not least by fostering ownership of the Union amongst this generation.

At national level, governments and non-governmental groups are active in engaging young people in the European project, with initiatives ranging from organising trips to visit the institutions to sending out EU diaries to school children.¹⁹ Model parliaments, national debates and inter-cultural exchanges are all designed to inspire interest in the European project, and it is interesting to note that many of these focus on issues rather than processes.

Bursting the ‘Brussels bubble’

The vast majority of initiatives are about making European citizens in the Member States – in this case, young citizens – understand Europe’s importance. But there is work to be done in Brussels as well.

Young professionals working in Brussels – whether passionate about European integration, deeply sceptical or a little of both – need no convincing of the EU’s relevance. However, due to the constraints and demands of their work, they may lose sight of the bigger picture. There are few outlets for some of the most talented and erudite graduates of the Member States – and the most politically engaged – to look again at the key issues facing their generation in Europe.

This is what the European Policy Centre’s Ideas Factory is working to rectify. Run by EPC policy analysts and involving a wide range of young professionals, it offers a different kind of thinking in Brussels and an opportunity to look again at the most pressing challenges for this nascent generation of policy-makers. As such, it aims to play a role in ensuring that the political ambitions of the current generation are not lost in outdated political structures and irrelevant political priorities.

By bursting the ‘Brussels bubble’ from within, and assessing what relevance the EU might have over the next 50 years, this new generation in Brussels – already expert in the institutions – can refocus on the issues. By doing so, it is hoped that they can help to re-engage their generation across Europe, and bridge the gap which has been growing between the current policy-makers and their constituents.

By learning how this generation might do things differently, young professionals in the EU can bring Europe closer to their peers across the continent, rather than waiting for them to draw closer of their own accord.

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Mission Statement

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