The European Parliament: Towards Parliamentary Democracy in the European Union?
The European Parliament – Towards Parliamentary Democracy in the European Union?

Published 2008 by EUROPEUM Institute for European Policy
Rytirská 31, 110 00, Prague 1, Czech Republic
www.europeum.org

Edited by Tomáš Nigrin, Věra Řiháčková, Tomáš Weiss
Proof reading: Dustin Edge
Graphic design: (v)design, Vit Šmejkal

ISBN: 80-86993-07-8

The European Parliament: Towards Parliamentary Democracy in the European Union?

Tomáš Nigrin, Věra Řiháčková, Tomáš Weiss (eds)

EUROPEUM Institute for European Policy, 2008
# Table of contents

Acknowledgments ................................................................. 7  
Editorial Note ...................................................................... 7  
Introduction ......................................................................... 9  
Giandomenico Majone: The European Union’s Democratic Deficit: Back to First Principles .......... 13  
Questions and Answers .......................................................... 43  
Mats Braun: Reform Treaty — Elite Driven Integration vs. Politicisation ................................. 51  
Geoffrey Harris ................................................................. 59  
Jana Hybášková ............................................................... 65  
Ondřej Liška ................................................................... 69  
Questions and Answers .......................................................... 73
Acknowledgments

The initial versions of nearly all contributions to this publication saw the light of day during the international conference of “The European Parliament – Towards Parliamentary Democracy in the European Union?” The conference was organised by the EUROPEUM Institute for European Policy within the framework of the project INFO/2007/03/0020 “EP Generation: The Way Towards Europe, European Parliament and Me: 50 years after Treaty of Rome.” This project was funded by the European Parliament and Konrad-Adenauer-Stiftung. The conference was organised in co-operation with The International Institute of Political Science of Masaryk University, a project partner, and held under the patronage of the Committee on European Affairs, Chamber of Deputies of the Parliament of the Czech Republic in November 2007 in Prague. The organisers would like to thank all institutions involved in organising the conference for their generous support and smooth co-operation. A special note of thanks goes to all conference speakers for their input and valuable time. Our sincere thanks also go to the proofreaders who contributed significantly to the final outcome of the publication.

Editorial Note

This publication includes all conference contributions. They appear here in a number of different forms; some speeches are virtually verbatim transcripts of what was said at the conference; some speakers made minimal follow-up changes to their contributions before publication; and others chose to turn them into articles (complete with references and footnotes). The structure of the publication follows the conference programme. There are highlights after each section from the relevant Q&A session.
Introduction

Enhancing the legislative powers of the European Parliament and the parliamentary organization of the EU system of governance has been seen for a long time as a means to face the EU democratic deficit. In reality, the expectations of providing a superior system of European government have not been met. The citizens’ interest in European elections has been steadily declining since 1979. They can still barely identify a set of protagonists in the developments at a supranational level, let alone endorse their policies. The conference “The European Parliament – Towards Parliamentary Democracy in the European Union?” was aimed at exploring both the academic and the political visions of the future of parliamentary democracy at the European level, as well as the involvement of the national parliaments of EU member states in the process of European governance. Overall, the final debate tackled a much broader spectrum of the issues and visions of the development of European integration.

It has been clear for some time that the functionalist strategy of promoting the spillover from one (economic) sector to another has failed. Both the functionalist approach and the classic community method, of which the European Commission is the embodiment, are being constantly questioned from the standpoint of legitimacy. Instead of a steady progress towards a federal union (as Jean Monnet and other founding fathers had expected) and the end of a permissive consensus from the member states’ citizens, the European Integration process and EU institutions are suffering from a perceived lack of legitimacy. However, the views on democratisation and the democracy of the system differ. The debate on how to solve these problems is under way both in the academic and public spheres, with the European Parliament usually at the center of the debates on the institutional solutions, given its direct legitimacy.

The conference proceedings you are reading at the moment are round off the project “EP Generation: The Way Towards Europe, European Parliament and Me: 50 years after the Treaty of Rome.” They were supported by the European Parliament and the
Konrad Adenauer Foundation. The implementing project partners were the EUROPEUM Institute for European Policy and the International Institute of Political Science of Masaryk University in Brno. A website www.euractiv.cz that covers these EU issues was provided by a media partnership with the project. The particular project activities were supported by the European Affairs Information Department of the Ministry for regional development of the Czech Republic, the regional network of Eurocentres, and the Information Office of the European Parliament in the Czech Republic.

The impulse for writing this project stemmed from, generally, a poor knowledge in Czech society of European political institutions, their respective functions, plus their overall competency. According to regular public opinion polls, the European Parliament represents the EU institution that is known of the least among the Czech public. Uninformed citizens usually tend not to participate in elections for the European Parliament and are thus not involved in the political process at the EU level. Young people between the ages of 17–24 are one of the least informed groups, according to the polls. This group became the main target group for the project, with project activities tailored to their interests and needs. The young people of this selected target group will also have an opportunity to take part in the upcoming EP elections in 2009. Therefore, strengthening their motivation to participate in this process was one of the priorities of the project as well.

Generally, the project was divided into three parts. First, a series of two debates in every regional center in the Czech Republic took place, focusing primarily on secondary school students and the general public. Whereas the debates with secondary school students were moderated by a local expert, the (usually afternoon) debates for the general public European Parliament were usually presiding over by one of the Czech Members of the EP. An expert on the EU issues also participated in both debates. Many questions concerning the European Parliament and the European Union were answered. In addition, many brochures and CDs containing information on the subject matter were distributed. The list of the debates and their coverage can be found at www.euractiv.cz in combination with daily news on EP activities, as well as several analyses and link dossiers.

In the second project phase, a summer school was organized by the International Institute of Political Science of Masaryk University for the group of secondary school students in order to impart valuable information about both the European Parliament and the EU. More than 40 students took part at the summer school, significantly improving their knowledge on the European Parliament.

Thirdly, a university course aimed at providing students with expert knowledge on the European Parliament was also organized. The course took place at Masaryk University in Brno and at Charles University in Prague during the course of the 2007/2008 academic year.
The European Parliament: Towards Parliamentary Democracy in the European Union?


The keynote speech was delivered by Professor Giandomenico Majone from the European University Institute, one of the leading scholars on legitimacy and relations between national and supranational levels of governance in the EU. Professor Majone criticised the current institutional setting, e.g. the Commission’s monopoly on legislative initiative, and argued that we cannot use the same integration methods today that were developed during the 1950s. Instead of the unified deepening of integration that appears ever more difficult with continued expansion, he proposed a common, basic system of integration that can be developed further by “clubs” of issue-driven member states. The more successful clubs would attract more member states, paving the way to further integration with more transparency and support from the general public. Professor Majone’s speech provoked a number of questions and criticism that ultimately led to an interesting debate.

The following panel, chaired by Petr Bratský, MP, drew together Jana Hybášková, MEP, Ondřej Liška, (then) Chairman of the Czech Parliament’s European Affairs Committee, Geoffrey Harris, EP Head of Human Rights Unit, and Mats Braun from the Institute of International Relations in Prague. The panellists not only commented on the keynote speech, but also added their own reflections on the democratic legitimacy of European integration and the specific role of the European Parliament.

Despite the time and date of the conference on a Friday afternoon, there were almost 100 participants at the conference. The topic apparently hit upon an unsatisfied demand within Czech society. It is worth noting that students and other young people made up a significant part of the audience. We can assess the vivid interest from this segment of the population as particularly positive. It suggests that future generations of voters are interested in democracy at the EU level and the European Union in general. We hope that the conference helped them to expand their knowledge and sharpen their respective opinions in regard to some European issues.

The editors
The European Union’s Democratic Deficit: Back to First Principles

Giandomenico Majone

Short Profile:
Giandomenico Majone is Professor Emeritus of Public Policy at the European University Institute (EUI) in Florence where he held the position of chair of the Public Policy department from 1987 to 1995. Before joining EUI, he held teaching/research positions at a number of European and American institutions, including Harvard’s Kennedy School of Government. After leaving EUI, he has been a Visiting Professor at the Max Planck Institute for the Study of Society in Cologne, Nuffield College in Oxford, the European Institute of Public Administration in Maastricht, the Center for West European Studies at the University of Pittsburgh, the Department of Government at the London School of Economics, as well as the National University of Mexico and the Colegio de México. Prof. Majone is also a member of the editorial board of several international journals in the fields of public policy and comparative policy analysis, a member of scientific boards at the Netherlands Interuniversity Institute of Government as well as the Centre for European Law and Policy in Bremen, Germany. His current research deals with comparative US-EU regulatory policy-making, international regulatory cooperation, and the legitimacy problems facing non-majoritarian institutions. His latest book, Dilemmas of European Integration, was published by Oxford University Press in March, 2005. He is currently finishing a book titled The Would-Be World Power: The European Union At Fifty (most likely to be published by Princeton University Press). He graduated with a degree in Political Science from the University of Padua and also a degree in Mathematics from the Carnegie Institute of Technology. He holds a Ph.D. in Statistics from University of California, Berkeley.


**Abstract**

The fragility of the legitimacy basis of European integration has become increasingly evident with the steady expansion of the competences and of the geographical boundaries of the EU. After more than half a century, political integration remains an elitist project: no Europeanization of the masses has taken place even remotely comparable to the “nationalization of the masses” of the 19\textsuperscript{th} century. So far, all attempts to enhance the democratic legitimacy of the EU have failed. This paper argues that the reason of the repeated failures is the reluctance to go back to first principles. In case of the Community method, going back to first principles means recognizing that the Commission’s monopoly of legislative and policy initiative violates basic democratic and constitutional principles; in case of monetary union, it means realizing that the ECB operates in a political vacuum because EU leaders failed to take certain crucially important steps before the creation of the euro area. In general, European leaders were always willing to sacrifice democracy for the sake of integration. The traditional integration methods are by now largely obsolete, but they still shape the political culture of the EU. The values and beliefs of the old culture favor a single-track approach to integration, top-down harmonization, and a monopoly of policy ideas. A EU with 27 or more members needs a new political culture, based on diversity and competition as organizing principles of a highly heterogeneous polity.
1. The Quest for Legitimacy

The “democratic deficit” of the European Community – and by implication of the entire process of European integration – came to be perceived as a serious problem only after the Single European Act and the Maastricht Treaty greatly expanded the competences of the EC and the scope of qualified majority voting, and transferred monetary sovereignty to the European level. The significance of these developments will be discussed in a later section of this paper. Before doing this, however, I shall briefly review some of the proposals advanced in the hope of resolving the problem. The first analyses were rather simple, not to say simplistic, and suggested straightforward solutions. Typical of the early arguments is the analysis of Shirley Williams (1991). According to the British political leader, “The “democratic deficit is the gap between the powers transferred to the Community level and the control of the elected [European] Parliament over them, a gap filled by national civil servants operating as European experts…and to some extent by organized lobbies, mainly representing business” (ibid., p.162). It follows that the obvious solution is to progressively expand the powers of the EP, until this institution closely resembles a national parliament. As for national parliaments, they must recognize “that power is inevitably moving to Brussels and that a deal with MEPs is a prerequisite of national parliaments’ exercising some control over their ministers” (ibid., p.173).

The proposition that power is inevitably moving to Brussels is more moot today than when Ms. Williams was writing these lines, almost two decades ago. In recent years the role of the member states in the Union has grown rather than weakened, and leadership has moved from the Commission towards the European Council. The changes have been such that a keen academic observer of the European scene has argued that the underlying principle of recent institutional reforms of the Union is the protection of states’ rights (Dehousse 2005). Economic nationalism is having a revival. Even the newly published OECD Economic Survey of the European Union 2007 notes that “there are signs that integration is slowing down, and the reform agenda needs fresh impetus”. The Report points out that the internal European market is still far from being a reality in such crucially important areas as energy policy, the entire services sector (which generates 70 per cent of EU GDP) and, not least, immigration from the new member states.
Also the role of national parliaments in the integration process appears much more important today than some two decades ago. This importance was acknowledged by the now defunct Constitutional Treaty, and was emphasized by the federalist leader, and former German foreign minister, Joschka Fischer in his well-known Humboldt University speech of May 2000. Herr Fischer argued that the EP should have two chambers, one of directly elected members and the other of members of national parliaments. The key piece of evidence against Shirley Williams’ solution of the democratic-deficit problem, however, is the perfect negative correlation between the steady growth in the powers of the EP and the equally steady decrease in the level of participation in European Parliament elections. At the first direct election in 1979, the turn-out was 63 per cent. The 1992 Maastricht Treaty introduced the co-decision procedure by which the EP became a co-legislator with the Council in fifteen areas, but turnout dropped to 56.8 at the 1994 EP elections. The area of co-decision was further expanded by the Amsterdam and Nice Treaties, but the level of participation continued to drop: to 49.4 per cent in 1999, and 45.7 in 2004. In Germany, the largest member of the Union and traditionally considered to be a strongly pro-integration country, the turnout in European elections declined from 65.7 per cent in 1979 to 43.0 in 2004; in the Netherlands, another presumed integration champion, the turnout declined in the same period from 57.8 per cent to 39.3. It should also be noted that the aggregate data conceal a great variability of turnout rates across member states and from election to election. For example, at the 1999 elections less than 30 per cent of the eligible voters in the Netherlands bothered to vote, while the Finnish turnout was less than half the rate of the previous European election. At the 2004 elections, the disappointing turnout of 45.7 per cent would have been even lower, except for the fact that in Italy the European elections had been combined with regional and local elections. This variability of participation rates is largely due to the fact that European elections are not about Europe, but about national political issues, national political parties, and the fight for national political office. After half a century of integration, the citizens of the Union continue to see in the nation state the natural arena of democratic politics. At any rate, the decreasing turnout in European elections in spite of the steady growth of EP’s powers suggests, at the very least, that the popular view of “creeping competences” to the European level may play a significant role in the steady loss of legitimacy of the Union, see below.

Several other means of resolving the EU’s legitimacy problems have been tried, but the results were equally disappointing. Following the advice of the 1985 Adonnino Committee, and with the support of new budget-lines sanctioned by the EP, the European Commission launched its “People’s Europe Campaign” with its various initiatives aimed at inventing the symbols of the new European polity: a European
logo and flag, an EU anthem, a standardized European passport and driving license, an official “Europe Day” public holiday, European citizenship, and a host of other “cultural actions” designed to give the EU a “human face”. However, these initiatives do not seem to have caused any transfer of loyalties to the European level. In an opinion survey conducted in March 2007 by the German publicly-owned TV, ZDF, on the occasion of the 50th anniversary of the signing of the Treaty of Rome, 60 per cent of respondents even doubted the existence of a common European culture (Spiegel Online of 19 March 2007). Rather, what some observers find striking about Brussels’ culture-building initiatives is that they echo many of the techniques and methods used by nationalist elites in the nineteenth and twentieth centuries to forge the new nation states – precisely the model that European integration is allegedly seeking to transcend (Shore 2006).

Be that as it may, no “Europeanization of the masses” has taken place even remotely comparable to that “nationalization of the masses” so perceptively analyzed by George Mosse in the case of Germany, but which occurred in all countries of West Europe during the nineteenth century. Indeed after the “war of liberations” (1813-14) against Napoleon, what was before an elite movement in favor of German unification became “a mass movement and as such embraced many different classes in propagating a fervid belief which became a major force of its own” (Mosse 1975, p.15). Unlike the old patriotic movements, the European integration movement always remained an elite phenomenon – a project to build “Europe without the Europeans”. Pascal Lamy – former lieutenant of Jacques Delors and European Commissioner, and present Secretary General of the World Trade Organization – summed up the problem succinctly: “Europe was built in a St. Simonian way from the very beginning, this was Monnet’s approach. The people weren’t ready to agree to integration, so you had to get on without telling them too much about what was happening: Now St. Simonianism is finished. It can’t work when you have to face democratic opinion” (cited in Ross 1995, p.194).

The White Book on European Governance of the Prodi Commission (2001) represents another attempt to come to grips with the problem of insufficient democratic legitimacy. The official documents admit that “many Europeans feel alienated from the Union’s work. This feeling…reflects particular tensions and uncertainty about what the Union is and what it aspires to become, about its geographical boundaries, its political objectives and the way these powers are shared with the Member States” (Commission 2001, p.9). Painful admissions, after half a century of European integration; but which remedies does the Commission proposes? Aside from strengthening the Community method – a proposal to be discussed at some length in section 3 – five principles are seen as important for establishing “more democratic governance”: openness, participation, accountability, effectiveness, and coherence. The principles
of openness and participation seem to be reasonably self-explanatory – although as usual they are easier to state than to implement in practice. All major policy decisions – from the Single Market project to monetary union and “big-bang” enlargement – were taken behind closed doors, without public debate, let alone participation, and even without any serious assessment of the risks involved, and of possible unintended consequences (Majone, forthcoming). At any rate, the Commission’s ideas of openness and participation are rather idiosyncratic. Thus, it has been observed that when the Commission tries to reach out to “European civil society”, it tends to engage primarily with transnational groups which are “closely linked to the EU institutions through the intimate web of networks and personal relations that characterize the EU-dominated ambiance of Brussels's European Quarter”. Many of the NGOs that the Commission consults in its “dialogue with civil society” are organizations directly funded by the EU itself. For example, five NGOs in the working group on citizens and institutions of the Convention on the Future of Europe were financed, either directly or through EU-funded projects, by the Commission itself. Not surprisingly, the working group called for “the government of the Union to be in the hands of the Commission which alone [is] capable of representing the common interests of its citizens” (Shore 2006, pp.715–716; see also Norman 2003).

Concerning accountability the White Paper states: “Roles in the legislative and executive processes need to be clearer. Each of the EU institutions must explain and take responsibility for what it does in Europe”. Yet, this prescription, if consistently applied, would actually lead to rejecting the very Community method which the Commission intended not only to strengthen, but even to extend to all EU policies. The reason of this contradiction is that the Commission’s monopoly of legislative and policy initiative – one of the pillars of the Community method – undermines the very foundation of parliamentary democracy, and even violates the constitutional principle of separation of powers, see section 3. The principles of effectiveness and coherence will be discussed in section 4, but hopefully enough has already been said to justify the conclusion that the White Book’s proposals are simply incapable of “establishing more democratic governance” in the EU. In fact, they were soon forgotten. It is well known that the Prodi Commission hardly exerted any influence on the debate within the European Convention which drafted the Constitutional Treaty (Norman 2003).

One more attempt to increase the legitimacy of the European integration process without questioning first principles, must be mentioned here. The idea of “Social Europe” as a legitimating factor has been advocated with increasing frequency in recent years. Historically, social policy has made a crucially important contribution to the process of nation-building by bridging the gap between the state and civil society. National insurance, health and welfare services, public education, housing
policy, regional transfers, were, and to some extent still remain, powerful symbols of national solidarity. A comprehensive European social policy, it is suggested, could do the same for the process of European integration by providing a concrete demonstration of Europe-wide solidarity. However, the political, financial, and administrative obstacles to even a small-scale reproduction of the national welfare states at the European level are so formidable as to justify the use of the term “mirage” for the vision of a “Social Europe” (Majone forthcoming). To begin with, the very modest role of traditional social policy in the process of European integration is largely due to the reluctance of the national governments and parliaments to surrender control of such a politically salient and popular area of public policy, and to transfer the necessary competences and resources to the Union. In the EU, the social policy domain is effectively preempted by the member states.

A second problem is the variety of welfare-state models coexisting in Europe, each model and each of the numerous national variants being rooted in particular historical and political traditions, and deeply embedded in different socioeconomic contexts. Even in the old EU-15, at least four main types were clearly recognizable: a Scandinavian model; an Anglo-Saxon model; the model of the “Bismarck countries” of Central Europe; and the welfare systems of the southern rim of the Union. In the enlarged Union the situation is not only more complex, but also in a state of flux. If the probability of a European welfare state somehow emerging as a transnational synthesis of national welfare systems was always small, today it is close to zero. As Obinger and coauthors write: “With the benefit of hindsight, we may conclude that the window of opportunity for the supersession of national social programmes by European schemes has diminished with each enlargement, because each increase in membership has multiplied the number of constituent units and thereby increased the number of possible veto players potentially opposed to greater uniformity of provision” (Obinger et al. 2005, p.556).

But the main obstacle to the establishment of a European welfare state is popular opposition to it. It is not only the national governments that refuse to surrender control over social policy. One of the major strengths of the welfare state is the broad electoral support for core social programs, hence the unpopularity of cutbacks and the suspicion of radical innovations. The same voters who strongly support the national welfare state, also resist any significant transfer of social policy competences to the European level. Eurobarometer data mapping the preferences of citizens in the EU-15 with regard to their preferred level of government for social policy making, indicate that only about one-third of the population supports a shift of social policy competence to the Union (Obinger et al., ibid.). The only countries where a bare majority of citizens favor the integration of national social policies are the net receivers of European transfers. If such countries are excluded, then the data
show that support for a European social policy has declined among the wealthier member states, at least since the late 1980s. In fact, the series of Eurobarometer data shows that opposition to involving the Union in policies dealing with the personal distribution of income is long-standing.

2. Integration and Democracy: The Big Tradeoff

The failure of the proposals discussed in the preceding section suggests that one cannot understand, let alone solve, the democratic-deficit problem without going back to first principles. The vision of a politically united Europe was always, and continues to be, an elitist project. Unless this point is clearly understood and constantly kept in mind, the process of European integration – from the founding treaties in the 1950s to the constitutional debacle of 2005 and the latest attempts to restart the process – remains unintelligible. Of course, all key ideas of modern history, from popular sovereignty to the ideas of nation and of citizenship, and the principle of nationality, were originally advanced by intellectual and political elites – were “invented”, to use the title of Edmund Morgan’s well-known study of the rise of popular sovereignty in England and America. Thus James Madison’s “invention” of an American People distinct from, and superior to, the peoples of the thirteen former colonies and then sovereign states, turned out to be a decisive move in the struggle to replace the Articles of Confederation by a strong federal constitution. To quote Morgan: “As the English House of Commons in the 1640s had invented a sovereign people to overcome a sovereign king, Madison was inventing a sovereign American people to overcome the sovereign states. It was not one of those inventions for which the world was unprepared, but an invention crying out for realization” (Morgan 1988:267). Such timely ideas prove their vitality by their capacity to mobilize the people and push them to political action.

Unfortunately, in spite of some promising signs in the years immediately following the end of the Second World War, in Europe federalist ideas proved to be untimely, and thus unable to mobilize the masses and push them to political action. In the course of half a century a certain Europeanization of intellectual, economic, and political elites has taken place, but this process hardly touched the vast majority of citizens. All attempts to induce a transfer of loyalties from the national to the supranational level – by various social-policy measures, the common agricultural policy (CAP), or the policies of regional aid and social cohesion – failed completely in this respect, when they did not increase the level of conflict among the member states, as in the case of the CAP. In the absence of popular support for the political unification of the continent, the founding fathers of communitarian Europe, and all integrationist leaders after them, were faced with a fundamental trade-off between
democracy and integration – which they consistently resolved in favor of integration. The prime example is the Community method, which defines the role of the various European institutions and the modes of their interactions. As defined by the Commission’s White Paper on European Governance (Commission 2001, p.12), the Community method rests on three principles:

1. The Commission is independent of the other European institutions; it alone makes legislative and policy proposals. Its independence is meant to strengthen the ability to execute policy, act as guardian of the Treaty, and represent the Community in international negotiations.

2. Legislative and budgetary acts are adopted by the Council of Ministers and the European Parliament, always on a proposal made by the Commission.

3. The European Court of Justice guarantees the maintenance of the balance among European institutions, and respect for the rule of law.

From a normative point of view, the most striking feature of this method is the monopoly of legislative and policy initiative enjoyed by the non-elected European Commission. It is therefore important to understand clearly what this monopoly implies. First, other European institutions cannot legislate in the absence of a prior proposal from the Commission. It is up to this institution to decide whether the Community should act and, if so, in what legal form, and what content and implementing procedures should be followed. Second, the Commission can amend its proposal at any time while it is under discussion in the Committee of Permanent Representatives of the member states, or in the Council of Ministers, while the Council can amend the proposal only by unanimity. If the Council unanimously wishes to adopt a measure which differs from the Commission’s proposal, the latter can deprive the main Community legislator of its power of decision by withdrawing its own proposal. The Commission also proposes the legal basis for the measure under discussion, which basis determines the required majority in the Council.

This monopoly of legislative and policy initiative granted to a non-elected body represents such a blatant violation of fundamental democratic principles as to be unique in modern constitutional history, and fairly rare even in ancient history. The model is not Athens, but Sparta, where the popular assembly voted Yes or No to every proposal advanced by the Council of Elders, but had no right of proposing measures on its own account. If one considers also non-democratic polities in modern Europe, then there is the illustrious precedent of the French Constitution of 1799, under which Napoleon, as First Consul, enjoyed a monopoly of legislative initiative. On the other hand, even the Constitution of the German Empire of 1871 granted no right (let alone a monopoly) of legislative initiative to the executive headed by Bismarck; only the two legislative branches, Bundesrat and Reichstag,

...
could initiate legislation, at least formally. Some years ago a sympathetic American observer wrote: “It is unimaginable that Americans would grant such political power as the Commission staff enjoys to a career bureaucracy. Not surprisingly, the people of Europe increasingly expect democratic accountability by Community political and bureaucratic leaders” (Rosenthal 1990, p.303). Significantly, these words were written a few years after the Single European Act greatly extended the European Community’s competence.

It is of course true that in contemporary parliamentary systems most legislative proposals are introduced to parliament by the executive as draft legislation. Once legislators receive such proposals, however, they are free to change or reject them. This is not the case under the Community method, where as a rule the Council may modify Commission proposals only under the stringent requirement of unanimity. In parliamentary systems, moreover, the executive cannot preempt the right of initiative of parliamentary parties and of individual members of the legislature. For example, during the eighth session of the legislature of the German Federal Republic, (1976-1980), the federal government introduced 322 bills, 52 bills were initiated by the federal states through the Bundesrat, but the Parliament (Bundestag) still managed to introduce 111 bills (Pilz and Ortwein 1995). In a separation-of-powers system like the United States, on the other hand, not only do legislators have the final word over the form and content of bills, but, further, only legislators can introduce bills. In the course of a typical congressional term, members of Congress will introduce several hundred bills on behalf of the President or of executive-branch agencies. During the same period, members of Congress will introduce on their own behalf as many as fifteen thousand or twenty thousand bills (McCubbins and Noble 1995).

The sweeping delegation of legislative and policymaking powers to the non-elected Commission was a response to the crisis of the mid-1950s. After the collapse of the plans for a democratic, pre-federal European Political Community, the founders of the European Economic Community, all sincere democrats, faced a situation never contemplated by the federalists of the first post-war decade: the existence of a trade-off between democracy and integration – which they consistently resolved in favor of integration. The implications of this choice did not appear as serious to the founders as they appear to us today because it was expected that the range competences of the EEC would remain so narrow that the indirect legitimacy provided by the democratic character of the member states would suffice. Even Robert Schuman, founder of the European Coal and Steel Community and “European saint”, thought that the competence of the supranational institutions should be limited to technical problems, without extending to functions involving the sovereignty of the member states. Also at the national level, after all, certain technical tasks are
delegated to “non-majoritarian institutions” such as independent central banks and regulatory authorities. The relatively limited scope of the original plans explains why the debate about the democratic deficit started only some thirty years after the establishment of the Community. What was originally a marginal valuation – some sacrifice of democracy for the sake of greater efficiency in limited areas of economic integration – became a serious violation of basic democratic principles as the powers of the EU kept growing.

3. Democratic Deficit and Delegation of Powers

Delegation of powers to non-majoritarian institutions may be reconciled with the theory and practice of representative democracy as long as the objectives of such institutions are clearly and narrowly defined, and policy discretion is strictly disciplined by means of efficient ex ante and ex post controls. Now, most EU policies are regulatory in nature, and in this respect the Commission may be considered a sort of super-agency (Majone 1996). However, it has been assigned a variety of other functions – executive, legislative, and quasi-judicial – and, in addition, the institution has become increasingly politicized over the years. This multiplicity of functions and objectives expands the scope of the Commission’s discretionary choices, complicating the task of evaluating the overall quality of the institution’s performance. The collegial nature of the institution compounds the difficulty. The European Parliament is understandably reluctant to dismiss the entire college in order to sanction a single Commissioner – in spite of this possibility having been offered by the 1997 Treaty of Amsterdam. On the other hand, because the Commission has been assigned a large number of separate tasks, it is extremely costly to dismiss it even when there is intense dissatisfaction with how it carries out one particular task. Thus the real normative issue is not so much the delegation of certain functions to a non-elected body, as the scope and open-ended nature of the delegation.

In spite of the growth of EU powers, most critics of the democratic deficit are still reluctant to admit that the root cause of the phenomenon they deplore lies in the priority given to integration over democracy. Less realistic than the founders, they would like to have both – more integration and more democracy – and grope for ways of resolving the basic dilemma without either questioning the logic of the method followed so far, or admitting the lack of popular support for a full-fledged European government. The willingness of integrationist leaders to sacrifice democracy for the sake of deeper integration was again revealed at the time of the Maastricht Treaty, when it was decided to give constitutional status (i.e., a treaty basis) to the independence of the European Central Bank. Before monetary union, the independence of the national central banks had only a statutory basis. This meant
that in principle national parliaments could always change the rules if they thought
that the central bank was using its independence in a manner with which they
disagreed. This was true of the Bundesbank and is still true of the Bank of England
and of the US Federal Reserve. In contrast, to change the rules under which the ECB,
and the national banks as members of the European System of Central Banks (ESCB),
operate requires a treaty revision acceptable to all the member states – an extremely
complex procedure. The net result is that the national parliaments have lost any
control over monetary policy, while the European Parliament has no authority in this
area. The ECB is free to operate in a political vacuum since there is no true European
government to balance its powers, and even the institutions of economic govern-
ance are poorly defined. In contrast, an independent central bank like the Federal
Reserve operates within an established governmental structure where Congress, the
President, and the Treasury can provide all the necessary political counterweights.

The ECB’s exceptionally high level of independence was meant to compensate
the shortcomings of macroeconomic governance at European level. Because of the
decision to pursue monetary integration in the absence of political agreement on
crucial institutional and policy issues, the formal and informal mechanisms used
to temper the independence of national central banks are not available at EU level.
For example, some economists have argued that the socially optimal delegation of
monetary policy is not to a completely independent central bank. Rather, in order
to maximize social welfare, governments should have the option of overriding the
central bank’s decisions in particular circumstances. Thus, the “optimal” central bank
should follow a non-linear decision rule: in case of small output shocks it determines
the acceptable inflation level independently, while in case of large output distur-
bances, it follows the government’s preferences. But at European level there is no
economic government, no generally accepted political counterweight to the central
bank, hence it is not clear how appropriate procedures for overriding ECB decisions
could be designed and enforced.

It has been argued that because of the absence of an effective system of economic
governance at European level, the political insulation of the ECB is necessary to the
credibility of the new common currency. At any rate, this insulation was what Germany
imposed to the other member states as a non-negotiable condition for giving up the
Deutschmark in favor of the euro. This being the situation, it seems rather pointless
to complain about the “democratic deficit” of the ECB without first questioning the
wisdom of a monetary union introduced not for sound economic reasons, but in
order to advance the integration process – or particular national interests. Critics of
the ECB, including French President Sarkozy, point to the US Federal Reserve as the
better model, since it is politically more accountable, and not exclusively concerned
with price stability. The critics forget that the Fed – established only in 1913, that is,
more than a century after the establishment of the American federation – operates within the framework of a fully fledged system of government where Congress, the President, and the Treasury can provide all the needed political counterweight to the decisions of the monetary authority. Early in 1951, for example, there arose a serious conflict between the Treasury and the Fed about the appropriate level of interest rates. With the help of the US President, the conflict was eventually settled by means of the 1951 Treasury – Federal Reserve Accord – a delicate compromise in which the Treasury accepted slightly higher rates and granted a bit more flexibility to the Fed (Greider 1987: 327–8). In the interpretation of one scholar, the Accord “defined quite clearly that the Fed was a political agency whose power depended on the balance of political support it could attract from its key constituencies: the President, the Treasury, interest groups like bankers, and Congress” (Kettle 1986: 80). This is a richer, and probably healthier, environment than the political vacuum in which the ECB operates, but, to repeat, the major responsibility for this serious deficit of political accountability is less the ECB’s than of those leaders who established monetary union for political, rather than economic, reasons – and without consulting European voters.

In sum, the scholars and political leaders who deplore the EU’s “democratic deficit”, in its different facets, tend to complain about epiphenomena, when they should go back to first principles in order to identify underlying causes and possible remedies. The thesis of this paper is that without going back to first principles there is no hope of understanding, let alone resolving, the legitimacy problems of the EU. In case of the ECB, going back to first principles means recognizing that certain crucially important mechanisms of economic governance should have been agreed upon long before the introduction of the common currency. Until these holes in the policymaking machinery are filled, authority over the entire domain of monetary policy will continue to flow by default to the ECB – a situation unique in modern democracies.

In case of the Community method, the basic message should be that after half a century of European integration it is time to ask whether the loss of democratic legitimacy entailed by the Commission’s monopoly of legislative and policy initiative is still justified in terms of such assumed benefits as the commitment of the national governments to the cause of European integration. The Commission, and especially its Legal Service, are of course fully aware of the strategic importance of agenda control, and look for every possible occasion to expand the scope of the Community method. But this can only aggravate the democratic deficit, and even in efficiency terms one can question the wisdom of extending the Commission’s control of the policy agenda to areas, such as Justice and Home Affairs (JHA), where the national governments enjoy a comparative advantage in terms of expertise and material resources. During a five-year transitional period, 1999–2004, both the
national governments and the Commission could advance policy proposals in the communitarized parts of JHA. Given the Commission’s limited experience in this area, and the political sensitivity of the issues arising in JHA, the decision to allow a competition of policy ideas, from both national and supranational sources, was wise. However, the traditional Commission’s monopoly was reintroduced at the end of the transitional period. Yet this writer is not aware that any of the political or intellectual leaders who lament the EU’s democratic deficit criticized this exclusion of the democratically legitimated national governments – or of the directly elected European Parliament, for that matter – from policy initiation in a politically sensitive area. Perhaps the most striking aspect of the current debate about the “deficit” is the neglect of the continuous expansion of Union powers, as well as of its geographical boundaries, as a possible cause of the legitimacy problem. In the vast literature on the subject it is hard to detect any awareness that one of the important roots of the problem may be the bulimia of the European institutions.

4. Legitimacy and Efficiency

It has been argued, correctly I believe, that it is “too much to expect the EU to meet the same level of legitimacy as its member states; it may not even be necessary for it to do so, provided it delivers a reasonable level of benefits in terms of efficiency” (Shackelton 1998: 134). It is certainly true that efficiency is especially important for a polity that is new, and still lacks popular support. The efficient delivery of benefits does not, per se, produce legitimacy; but a serious crisis is bound to occur, sooner or later, if the new polity is unable to sustain the expectations of major groups for a long enough period to allow legitimacy to develop upon a new basis. There seems to be little doubt that disappointed expectations are one reason why the EU, instead of progressively attracting the loyalty of its citizens, is becoming less popular and less trustworthy with the years. Since its beginning, the process of European integration has been driven essentially by economics. Indeed, the essence of the Monnet method consists in pursuing political integration, not by open political means, but under the guise of economic integration (Majone 2005). The major risk inherent in this approach is precisely that poor economic performance over a period of years may impede the emergence of new sources of legitimacy, and thus further undermine the normative foundations of an elite-driven project like European integration.

In the early phases of the integration process this risk was not sufficiently appreciated because the foundational period of the European Communities largely overlapped with the three “glorious decades” 1945-1975, when Europe experienced an unprecedented period of growth, macroeconomic stability, and high levels of
social protection. GDP per capita in West Europe, which in 1950 was only 40 per cent of the US level rose to 70 per cent by 1975. Labor productivity was at or above US levels, and most countries reached a situation of full, or nearly full, employment. It can be shown that these results had little to do with the creation of the Common Market (Majone, forthcoming), but the impression was created that it was feasible to use the same policies to pursue two different objectives: more integration for the Euro-elites, and greater prosperity for the masses. This optimistic view was shattered when the “economic miracle” came to an end. After the phase of very rapid catch up with the United States, convergence in the levels of per capita income stopped at the beginning of the 1980s and has remained unchanged since, at around 70 per cent of the US level. While the American economy was generating employment as well as maintaining working hours, Europe’s employment performance was weak and working hours fell consistently. During the 1990s growth of EU GDP was disappointing both in absolute terms and with regard to the US. Overall growth slowed from the 1980s, which itself had slowed from the 1970s, in spite of the implementation of far-reaching reforms in both the macro-environment (consolidation of public finances and lower inflation, EMU) and micro-environment – Single Market Program, Uruguay Round and to a certain extent labor market reform. (Sapir et al. 2004). In other words: the customs union, the Single Market, a common trade policy, a supranational competition policy, extensive harmonization of national laws and regulations, finally, a centralized monetary policy, apparently made no difference as far as the economic performance of the EU – relative to America and even in absolute terms – was concerned.

Given such disappointing results, it is not surprising that the desire to improve poor economic performance has driven EU policy for more than twenty years: from the Single Market Program, which was meant to provide an answer to perceived “Euro-sclerosis” in the mid-1980s, to EMU in the 1990s, and to the “Lisbon Strategy” at the beginning of the new century. But while Euro-elites are clearly worried about the economic performance of the Union, in public they keep insisting that European integration has delivered 50 years of economic prosperity – along with other important public goods, (European Commission 2001). The official propaganda went unchallenged in the past because of the veil of ignorance that used to shroud European policies. While the implications of domestic policies are reasonably clear to the citizens affected by them, until recently most EU policies were too technical, too remote from the daily problems of people, to seriously concern public opinion. True, the Common Agriculture Policy, or specific regulatory measures, have been discussed and criticized often enough, but controversies and contestations always remained confined within fairly narrow academic and political circles, or within particular interest groups. Monetary Union and Eastern Enlargement have changed
all of this. Unlike most policy decisions taken in Brussels, the decisions taken by the ECB in Frankfurt are widely advertised, and their consequences – whether on home mortgages, on consumer credit, or on the availability of publicly-provided services – have a direct impact on the welfare of all inhabitants of the Euro-zone, indeed of the entire EU. Similarly, the implications, true or presumed, of enlargement on jobs, wages, social standards, and organized crime have become part of the daily concerns of West European citizens.

This is not only a new, but also an ominous development because it accelerates the obsolescence of the method of integration by stealth, while inducing a growing demand of accountability by results – precisely what is foreign to the political culture of the EU, see section 6 below. Future European policies will be evaluated no longer in terms of their possible contribution to the integration process, but by their actual contribution to the welfare of the citizens of Europe. This means that poor performance, in particular poor economic performance, will pose more of a threat to the credibility and legitimacy of EU institutions than in the past. Legitimacy involves the capacity of a political system to engender and maintain the belief that its institutions are reasonably efficient in resolving the major problems facing society. Conversely, a breakdown of effectiveness in the provision of a satisfactory level of economic growth will endanger even a legitimate polity’s stability It is this connection between efficiency, legitimacy, and systemic stability which makes the poor economic performance of the EU over the last thirty years, relative to its major international competitors, so worrisome. Unless the EU can demonstrate (by deeds, not by words) that it adds value to what individual member states, or subsets of member states, can achieve on their own it will be impossible to resolve the legitimacy crisis that is threatening the Union’s stability.

5. The Accountability Deficit

The immediate problem – in the sense of a condition about which something could conceivably be done, even without a root-and-branch reform of the traditional approach to European integration – is the accountability deficit: accountability, rather than a probably unattainable full democratic legitimacy, should thus be the main concern of those who wish to enhance the overall legitimacy of the Union. Under present conditions the democratic deficit may be reduced – for example, by giving more powers to national parliaments on matters related to the vertical division of competences; by making it easier for the European Parliament to censure the Commission on questions of policy; or by setting more precise limits to the powers of the European institutions – but not eliminated. On the other hand, the
problem of establishing an effective system of accountability has become urgent for the reasons given in the preceding section. Today, the practical implications of decisions taken at European level are immediately perceived, not just by elites and special interest groups, but by the average citizen. Under these conditions it will be necessary to pay much more attention to the general accountability framework. The limits of the present framework are revealed by the fact that a parliamentary censure of the Commission on a question of policy seems an unlikely prospect given the absolute majority required – a much higher figure than can be achieved by any one party in the EP. Thus when the Santer Commission resigned in 1999 in anticipation of a vote of censure, it did so not because of disagreements over the direction of policy, but rather as a result of charges of corruption and general incompetence.

To develop a suitable accountability framework it is necessary to understand the sources of the EU’s accountability deficit. Here I can only mention two such sources. First, since European policies are often initiated less to solve concrete problems than to drive forward the integration process actual outcomes are seldom rigorously evaluated, or evaluated at all – unless the budgetary costs to the member states become intolerable. This explains why ineffective policies can survive, unexamined and unchallenged, sometimes for decades. For instance, the conservation part of the Common Fisheries Policy remains one of the few exclusive EU competences (recognized as such also by the ill-fated Constitutional Treaty) even though over its more than twenty-year history it has largely failed in its aim of conserving fishery resources – despite its seeming institutional advantages over other, in practice more successful, international fisheries regime (Majone 2005).

Second, the independence of the European institutions means that the traditional mechanisms of democratic accountability are largely absent. Thus, all European treaties emphasize the apolitical character of the Commission, insisting on its complete independence ‘from any government or from any other body.’ Up to a point, this insulation from the political process makes sense if we think of the Commission as the guardian of the treaties, or as an independent regulatory authority. This was indeed what the institution was intended to resemble originally. In the meanwhile, this independent institution has become a highly politicized body, taking decisions involving political judgment and a high level of discretion. In spite of this, the framework of political accountability remains quite weak – as already mentioned, the dismissal of the entire Commission is a measure which the European Parliament is understandably very reluctant to use, while it is practically impossible for the EP to censure the Commission on issues of policy. Also, to repeat an important point already made, the multiplicity of functions assigned to the Commission makes it very costly for the EP to force the resignation of the
Commission in response to even extreme dissatisfaction with the performance of one particular function. Hence, greater concentration on the Commission’s core competences would reduce both the strains on its narrow legitimacy basis, and the accountability deficit. The ECB, on the other hand, does not wish to be considered an “institution” (but only a “body”) in order to escape the duty of loyal cooperation imposed by the treaties on all European institutions.

Institutions which are not democratically accountable must be keenly aware of the limited legitimacy capital at their disposal, and hence use that capital very sparingly. Thus, a distinguished American constitutional scholar has argued that the functional justification for judicial review in the area of individual rights is that the judiciary has the essential ingredient for this task, which is lacking in the political branches of government: it is “insulated from political responsibility and unbeholden to self-absorbed and excited majoritarianism” (Choper 1982: 68). In other areas, such as relations between the states and the federal government, and questions having to do with separation-of-powers, on the other hand, the Supreme Court’s involvement should be drastically restricted: the resolution of such issues should be left to the political process. The functional justification of this strategy is that the member states of the federation, as well as Congress and the Presidency, are all adequately represented in the political process and can defend their interests there. In sum, the Supreme Court should be active only in areas where it enjoys a distinctive institutional competence – where it has a clear comparative advantage with respect to all other available institutions.

Applying this line of reasoning to the EU context, it is clear that the role of the Court of Justice (or of the Court of First Instance) could not be played as effectively by any other European institution. Also a body like the ECB can reasonably claim to enjoy a distinctive institutional competence to manage the common currency – given the conditions under which monetary union was established. As noted previously, the Bank’s exceptional level of political independence was meant to compensate the serious weakness of macroeconomic governance at European level. Whatever the doubts about the macroeconomic wisdom of the Bank’s almost exclusive commitment to price stability, from the point of view of accountability this explicit, treaty-based commitment has the advantage that the performance of the ECB can be measured unambiguously against the rod provided by the regular statistical measurements of inflation in the euro zone. In this sense, at least, the ECB is an accountable, hence to some extent legitimated, institution: its task is limited and clearly spelled out. Because of the idiosyncratic constitutional architecture of the EU, the distinctive institutional competence of the EP is less clear than in case of the national legislatures. It is at any rate clear that if supranational power is ever going to be democratized, the Parliament must be able to tighten its grip
on executive power, and also to play a much more significant role in setting the legislative and policy agenda.

The most serious legitimacy problem is posed by the Commission, precisely because it is much more difficult to identify its distinctive institutional competence. As already noted, most EU policies are regulatory in nature, and in this respect the Commission may be considered a sort of super-agency. However, it has been assigned a variety of other functions: executive, legislative, and quasi-judicial. This multiplicity of functions and objectives expands the scope of the Commission’s discretionary choices, thus greatly complicating the task of evaluating the overall quality of the institution’s performance. As a result, both political accountability and accountability by results are reduced to vanishing point. In the legislative area, for example, ‘success’ is measured primarily by the number of Commission proposals accepted by the member states, rather than by the quality of the actual results. Moreover, the Commission’s exclusive control of the legislative and policy agenda, allows it to pursue objectives of political integration and self-aggrandizement while pretending to solve specific policy problems: the Monnet method of integration by stealth.

6. The Obsolescence of the Traditional Integration Methods

One of the key points in Joschka Fischer’s speech at Berlin’s Humboldt University (see section 1) was the irreversible crisis of the Community method. From this crisis the former German foreign minister, a convinced European federalist, concluded that the federalist project cannot possibly be realized by trying to drive forward the integration process by means of policies designed by remote supranational institutions. The method itself, according to Fischer, is one of the problems confronting the Union today: in spite of its past successes, it has proved unable to achieve the political integration and democratization of Europe. In fact, whenever a group of member states decided to move forward along the integration path – as with monetary union or the Schengen agreement – they did so outside the framework of the Community method. The conclusion: in an enlarged and necessarily more heterogeneous Union differentiation will be unavoidable. Former European Commissioner Pascal Lamy, also mentioned in the first section, is equally convinced of the obsolescence of the traditional methods. Talking with the American chronicler of the Delors Commission presidency, he admitted that European integration has been pursued “without telling the people too much about what was happening”, but such an approach, he added, “can’t work when you have to face democratic opinion”.
We have here two “good Europeans” acknowledging the obsolescence of the integration methods used for half a century. Their intellectual honesty is admirable, but it is not clear whether these and other critics realize how much the methods of the past still shape the political culture of the EU – a political culture characterized by deep ambiguity about the “finality” of the integration process; goal displacement; a total (if often feigned) optimism verging on irresponsibility; and the belief that integration can only be one way. To understand the development of this peculiar culture it is necessary to go back to the origin of the present integration methods. After the collapse, in 1954, of the European Defense Community (EDC), and the consequent abortion of the pre-federal European Political Community (EPC), most federalists chose to continue the struggle, so to speak, underground: pursuing political integration under the guise of economic integration – the strategy known as the Monnet method of integration by stealth. I use the label “cryptofederalism” to denote a type of federalist revisionism characterized by this roundabout approach to the political integration of Europe (Majone, forthcoming). While the orthodox federalists openly worked for a “United States of Europe”, the cryptofederalists claimed that the same goal could be achieved by indirect means, and “without telling the people too much about what was happening” – to quote again Pascal Lamy.

In the decade following the end of World War II federalism, although always an elite movement, had been a non-negligible factor in European politics, especially in Germany, Italy and the Netherlands. By the mid-1950s, however, the federalist vision had already lost its credibility and whatever public support it had enjoyed in the immediate postwar period. The main reason was the failure of all federalist analyses and predictions. It was simply not true that none of the dramatic problems of postwar Europe could be solved without first building a powerful European superstate on the smoking ruins of the nation state. There are some interesting analogies between the rise of federalist revisionism in the 1950s and that of Marxist revisionism in the 1890s. A crucial causal factor in the former case was the realization that the nation state was not going to wither away; in the latter, the realization that Marx’s predictions of the impending collapse of capitalism and the inevitability of the socialist revolution were based not on fact, but on wishful thinking. Marxist revisionists “were not people who abandoned Marxism completely…but those who sought to modify the traditional doctrine…or who held that some of its essential features were no longer applicable in the present state of society” (Kolakowski 1978, p.98). Similarly, cryptofederalists did not abandon orthodox federalism completely; on the contrary, they could reasonably claim that they were keeping alive its legacy and at least some of its intermediate aims in a hostile political environment.

In both cases, however, the abandonment of the original vision had as a practical consequence a loss of interest in “ultimate goals” and a concentration on means.
Eduard Bernstein, the founder of nineteenth century German revisionism, summed up its attitude in a formula which became famous as the target of orthodox attack: “What is generally called the ultimate goal of socialism is nothing to me; the movement is everything” (Kolakovski 1978, p.108). Also for Paul-Henry Spaak and Jean Monnet – the founding fathers of cryptofederalism – the finality of European integration became increasingly unimportant; what mattered was the movement, the process, especially the creation of European institutions. The lack of a serious interest in the finality of the integration process, and fascination with the process of institution building, were especially pronounced in the case of Spaak. According to the Belgian statesman, “everything which tends toward European organizations” was good. In the words of Alan Milward: “Any form of integration, any form of common authority in Western Europe, had become the indispensable guarantee for post-war security, and he [Spaak] became increasingly indifferent to what that authority might be or do” (Milward 1992, p.324).

A striking demonstration of this bias in favor of institution building, regardless of what a new European institution might actually accomplish, is the establishment of the European Atomic Energy Community – the now almost forgotten but still surviving Euratom, which came into existence simultaneously with the European Economic Community (EEC) on 1 January 1958. The motives leading to Euratom were mostly political. Among these motives was a conviction which Jean Monnet – paraphrasing Lenin’s dictum about Soviet power and electricity – expressed thus: “The United States of Europe means: a federal power linked to the peaceful exploitation of Atomic Energy” (Les Echos, special end-of-the-year issue, 1955, cited in Lucas 1977, p.11). Initially, also the French government had strongly supported Euratom, in the hope of sharing the enormous costs of atomic energy research and development while enjoying most of the benefits. However, when it became clear that the other member states, and especially Germany, disliked the idea of a common nuclear project, France became instrumental in placing Euratom in a permanent state of hibernation (Tsoukalis 1993).

By the 1970s it was clear that no automatic progression from a common market to economic union and finally to political union, was to be expected. Economic integration was moving forward, while political integration was blocked, not only by French President de Gaulle but even more by lack of popular support. The predictive failures of neofunctionalism led to its virtual abandonment as a unified approach to the study of European integration; but because of the little importance cryptofederalists attach to ultimate goals, such failures had no effect on the practitioners of the Monnet method. The leading idea of the method was simple: to implement, wherever possible, the strategy of the fait accompli – the accomplished fact which makes opposition or argument useless – especially by establishing supranational
institutions for tackling problems experienced by several countries (Marc 1989) Whether these institutions would eventually merge into a central political authority was not a question that particularly concerned either Monnet or his followers. Because the strategy of the fait accompli makes argument useless, the notion of a critical assessment of results is foreign to the philosophy of integration by stealth – and to the political culture of the EU. Lacking such critical assessment, it is always difficult to know whether European policies are initiated in order to solve some concrete problem which could not be tackled at the national level, or mainly as a means of institution building and expansion of supranational competences. People familiar with the method of policymaking in Brussels tend to favor the second hypothesis. Thus N.J.D. Lucas, who analyzed Community energy policy from the late 1950s to the mid-1970s, concluded that “sectorial policies will not be designed simply to produce an optimal technical solution, but to some extent will be designed to promote the influence of the Commission and to forward the aim of European political unity…technical soundness need not be a high priority in Commission work” (Lucas 1977, pp.96-7).

Other observers of the Brussels scene have been impressed by the skill of the Commission in using all the ambiguities built into the European treaties in order to advance the integrationist cause by roundabout means, and to expand its own competences. As one of its first and most influential members recalled in the late 1980s: “The Commission was determined to push ahead with the process of integration, not only in the economic field but also from the institutional and political aspects, and to this end to make use of all weapons and methods provided in the [Rome] Treaty and to employ all the opportunities for further development” (von der Groeben 1987, p.31). No European leader, either then or later, seemed to be worried about the long-run implications of an approach which basically consists in trying to achieve several goals at the same time, and using the same policy instrument. Economists and decision theorists know, however, that the attempt to pursue different objectives with the same instrument usually produces sub-optimal outcomes. What is perhaps less appreciated is that when an institution, such as the Commission, pursues several objectives simultaneously, accountability is reduced to vanishing point. As we saw in section 5, accountability requires limited and precisely defined objectives. When objectives are multiple and ill-defined it becomes easy to confuse means and ends, process and outcome. Such confusion is known to students of formal organizations as “goal displacement”. This organizational pathology has been so important in the practice of cryptofederalism as to become a key feature of the political culture of the EU; visible not only in specific applications of the Monnet method, but also in the propensity of EU leaders to assess success in procedural, rather than substantive, terms (Majone 2005, pp.107–110). Thus, an initial political agreement to proceed
in a certain direction is often celebrated as an achievement of historic significance, even though many important issues remain unresolved and ultimate success is still far from being certain. Agreement on Economic and Monetary Union, for example, has been celebrated as a turning point – indeed, a point of no return – in European integration. However, the Maastricht Treaty, although extremely detailed on procedural matters concerning monetary union, left a number of fundamental policy questions unanswered. As a consequence, EMU was, and remains, a high-risk strategy with no easy exit option if things go wrong, but all these uncertainties and ambiguities were carefully concealed from the general public. The chosen strategy simply assumed an irrevocable commitment to the single currency, and accorded no place to failure (Tsoukalis 1993).

The unwillingness of the European leaders to envisage the possibility of failure, much less to discuss it in public – the culture of total optimism – explains why they are so often caught unawares. The inability to provide a timely and adequate response to the constitutional debacle in 2005 has shown in the clearest possible way that the Union has no machinery for crisis management. In an extraordinary meeting in Brussels in early June 2005, the Presidents of the Commission, of the European Parliament, and of the EU Council at first tried to minimize the impact of the French and Dutch rejection of the Constitutional Treaty. They insisted that the ratification process must continue so that at the end of 2006, when the process was supposed to be completed, a general reassessment of the situation could be made. Their hopes were dashed by the British decision to postpone indefinitely the referendum originally scheduled for the first half of 2006. Denmark, the Czech Republic, and Poland soon followed the British example, reinforcing the impression of many commentators that the draft Constitutional Treaty was effectively dead. The response of the EU leaders to this second shock was not a concrete decision, or suggestion of a possible exit strategy; only the resigned admission that nothing could be done before the French elections of 2007. As we now know, even this assessment was too optimistic. At the time of this writing (mid-October 2007) it is still an open question whether the scaled-down “Reform Treaty” will be ratified before the next European elections. The final result is so uncertain because by now direct citizen participation in decision-making on treaty matters is (to use the expression of L. Morel) “politiquement obligatoire”. Certainly, it seems highly unlikely that France and the Netherlands can ratify any future treaty just by a parliamentary vote. Also in Britain, the movement for a referendum has built a head of steam, with Prime Minister Gordon Brown coming under pressure from both the pro-European and euroskeptic wings of his own party. According to reports of the Financial Times of 29 August 2007, Whitehall officials think that the government’s arguments against a popular vote on the Reform Treaty ought to be strengthened by making
clear that: (a) if there is a referendum in Britain there will almost definitely be a No vote; and (b) that those people rejecting the new treaty are basically advocating a withdrawal from the EU.

Given the accumulating evidence of widespread popular dissatisfaction, how can we explain the reluctance of EU leaders to envisage the possibility of failure, and to prepare contingency plans? The answer is twofold. First, the EU’s political culture demands total optimism concerning not only the finality of the integration process, but also the uniqueness of its trajectory. Thus, neither the Treaty of Rome nor its subsequent amendments provide clear procedures to be followed should a member state wish to leave an increasingly diverse Union – a possibility belatedly acknowledged by Article I-59 on “Voluntary withdrawal from the Union” of the now defunct draft Constitutional Treaty. The thesis that total optimism is a key feature of the political culture of the Union is supported by another peculiarity to which I have called attention in a previous publication: the willingness of EU leaders to actually increase the risk of failure – often for political reasons that are never made explicit, in fact are often denied (Majone 2005, p.110). The original plans for monetary union envisaged no more than a handful of countries (essentially, the Deutschmark bloc, plus France) the structural similarities of whose economies seemed to approach the conditions for an optimal currency area. The final decision to start EMU with eleven, soon to become twelve and then thirteen, countries – a decision made possible by a flexible interpretation of the Maastricht parameters – was dictated by political considerations. Similarly, the original plans of opening accession negotiations with no more than five countries from Central and Eastern Europe – five being the number favored by the Commission, while the government of Chancellor Kohl would have preferred to start with only Poland, the Czech Republic, and Hungary – were soon superseded by the decision, taken at the Luxembourg European Council in December 1997, to open formal accession negotiations with all ten Central and East European candidates, plus Malta and Cyprus. The reason was again political, with each incumbent member state pushing for its own favored candidate(s); some leaders hoping that through large-scale enlargement “Europe may finally become a world power”; and the Commission attempting to present enlargement as feasible without an increase in the budget, and without demanding too many sacrifices from the incumbent member states.

7. **Needed: A New Political Culture**

The second reason for the reluctance to consider the possibility of failure is a firm conviction, held for many years, that integration should only be one way. The belief that the integration process is irreversible and unidirectional has never been seriously
challenged by cryptofederalist, but a debate about alternative approaches to the final goal started with the Maastricht Treaty on European Union (TEU). In the preparation for the Maastricht Summit, in September 1991, the Netherlands Presidency proposed that both the Common Foreign and Security Policy and Justice and Home Affairs were to be brought within the sphere of application of the Community method. As so often in the history of the EC/EU, the attempt to establish an explicit commitment to a federal Europe produced a backlash and sharpened conflicts among the then twelve member states. The proposal of the Dutch Presidency was enthusiastically supported by the European Parliament and by the Commission, but was rejected by all the other member states, except Belgium. As a result, the negotiations leading to the TEU were pursued on the basis of the Luxembourg scheme of a Union founded on three separate “pillars”, with the Community method largely confined to the first (economic) pillar.

The perceived loss of unity of the Community legal order, and the likely effect on the *acquis communautaire* of the many opt-outs and derogations contained in the Treaty, attracted much critical comment. One of the severest criticisms was expressed by Deirdre Curtin in an article titled “The Constitutional Structure of the Union: A Europe of Bits and Pieces” (Curtin 1993). Professor Curtin concluded her analysis with pretty strong words: “The result of the Maastricht summit is an umbrella Union threatening to lead to constitutional chaos… at the heart of all this chaos and fragmentation, the unique *sui generis* nature of the European Community, its true world-wide historical significance, is being destroyed. The whole future and credibility of the Communities as a cohesive legal unit which confers rights on *individuals* and which enters into their national legal systems as an integral part of those systems, is at stake” (ibid., p.67, emphasis in the original). The loss of legal unity – a worrisome indication of which was what Curtin calls the “hijacking” by the drafters of the Treaty, of the *acquis communautaire* – was said to be fatal because “[b]uilt into the principle of an “ever closer union among the peoples of Europe” is the notion that *integration should only be one way*” (ibid.; emphasis added).

Integrationists were alarmed by the loss of unity symbolized by the pillar structure of the Maastricht Treaty. It is by now clear, however, that the differentiation or flexibility which appeared in several forms in the Treaty was no momentary aberration, but the clear indication of an emergent strategy for achieving progress in politically sensitive areas, even at the price of a loss of overall coherence of the system (Craig and de Búrca 2003). As a matter of fact, the idea of a common market structured by uniform European rules (“One Market, One Law”, later expanded into the slogan “One Market, One Law, One Money”) had been already given up by the early 1970s, when it became clear that total harmonization conferred on the Community an exclusive competence which it is ill-equipped to discharge (Weatherill 1995).
The movement away from a strictly unitary approach to European integration, initiated by the Maastricht Treaty, gathered momentum with the Treaties of Amsterdam and of Nice. The aim of greater flexibility was given official recognition and constitutional status by both Treaties, which included a separate Title on closer or ‘enhanced’ cooperation among sub-groups of member states. Since Amsterdam, the tendency had been to make the use of enhanced cooperation more feasible and operational, and the Constitutional Treaty was actually meant to reinforce this tendency. The drafters of these treaties were aware that in an increasingly heterogeneous Union enhanced cooperation may offer the only hope of avoiding stagnation while preserving key elements of the traditional framework. However, opinions about the usefulness of enhanced cooperation vary widely. An optimistic school of thought tends to focus attention on its presumed potential to regulate diversity in a principled way – that is, so as to promote the objectives of the EU. A more pessimistic school argues that, far from furthering those objectives, the various forms of voluntary cooperation among member states will in fact undermine the basic assumption of the Community method: that all countries would move together along the same integration path. It is true that the possibility of enhanced cooperation has never been used so far, but this is presumably due to the strict conditions imposed by the treaties. But if these conditions are relaxed at the same time that national preferences become more varied as a consequence of enlargement, the temptation to form smaller, more homogeneous groupings may well become irresistible. This is because growing heterogeneity in the member states’ socioeconomic and geopolitical conditions, hence in policy preferences, makes it impossible to enact rules that are both uniform and (Pareto) efficient.

A Union of twenty-seven, or more, members at vastly different levels of socioeconomic development should be considered a mutant of the old EU-15, not to mention the original EEC. It can be shown that the mutation pressures to which the EU is exposed today are to a large extent the unanticipated consequences of the application of the old integration methods under radically new conditions. In spite of this, many students of the EU continue to believe that the approaches to integration that have been followed for half a century are still basically valid, and capable of evolving in response to changing problems and new priorities. I do not share this optimistic view; on the contrary, I believe that methods that were reasonably successful in promoting integration under the economic, social, and geopolitical conditions prevailing during the trente glorieuses 1945-1975, are now largely obsolete. I am not denying that the Union may be able to evolve in response to the new conditions; but my guess is that it will not be straight-line evolution (what biologists call "orthogenesis"), rather a kind of evolution with many side branches, like that of the modern Equus.
What is needed today, then, is a political culture adapted to the situation in which the Union is now operating. Where the old culture favored straight-line evolution, top-down harmonization, and a monopoly of policy ideas, the new political culture should support diversity and competition as organizing principles of the European polity. The European treaties attach great importance to the application of competition rules in the economic sphere. Paradoxically, however, competition among the legal and regulatory systems of the member states has hardly played a role so far – despite the hopes raised by the principle of mutual recognition when it was first introduced. A few years ago, a Canadian economist, well-known for his contributions to the theory of fiscal federalism, wrote: “I believe that the European Union is quite stable but that the stability has been acquired by the virtual suppression of inter-country competition through excessive policy harmonization… To prevent the occurrence of instability, competition is minimized through the excessive harmonization of a substantial fraction of social, economic, and other policies. Harmonization is not complete, but if one compares the degree of harmonization in Europe with that in Canada, the United States, and other federations, one is impressed by the extent to which it is greater in Europe than in the federations” (Breton 1996, pp. 275–6). Also a growing number of European economists are becoming convinced that increased heterogeneity in member states’ economic and social structures entails rising costs of uniform policies: harmonization is no longer possible.

What should take the place of harmonization? According to Friedrich Hayek competition is a procedure for the discovery, not of static equilibrium, but “of such facts as, without resort to it, would not be known to anyone, or at least would not be utilized”. History has endowed Europe with a diversity which is both unique in the world and the greatest resource of the old continent. Competition between different systems and methods of governance would allow us to utilize this resource in the most effective way. A first step in the right direction would restrict the Commission’s monopoly of legislative and policy initiation, so as to stimulate a competition of ideas among all the member states and institutions of the EU, especially of course the European Parliament, see section 3 above.
References


Questions and Answers

1) Mr. Professor, I would like to ask you about the picture that you drew of the clubs within the EU. If this comes true, what do you think would be the thing with which the citizens of the EU would identify?

Prof. Giandomenico Majone: Thank you. I do not think, at least in this kind of mental model that I have traced, that the EU will disappear. The EU, the Union, whatever people want to call it, will continue to exist because it represents a minimum set of principles and institutions that everybody accepts. For example, although I have been very critical, both in my presentation and in the paper on the European Commission, we still need an institution like the European Commission. But the main function of the European Commission will be to see whether all the member states, regardless how they organize internally, apply these freely accepted principles in good faith. Therefore, its role as the guardian of the treaty would still be there. What would be present much less would be its role as an organizer, as an initiator, or as a monopolist of policy ideas. If that were the case, then the need to harmonize these different clubs would be reduced. There would be much more mutual recognition. Of course, we need an entity such as the court of justice. I have been doing some reading recently (and do not laugh at me please) about the old German Empire (the first one, you know, the German Holy Empire of the German Nation) that, during the 19th century, history treated as the worst model you can imagine. However, modern historians have argued in support of some of its more positive aspects. Even though it was not centralised, it had some basic structure. It had courts, in fact two supreme courts, one in Vienna and one in Spire. It also had a parliament, at least at the beginning. The Reichstag had its political circles, the Reichskreise, an equivalent of the clubs I have been discussing. These were subgroups of the German state of course, with enough common interests to organize things within themselves without having to ask permission from the Empire, an action that, in any case, would not have produced much progress for their separate agendas. Looking again at German history, you had the Bund that included all the 39 German states after 1850. However, then you had
north bund and south bund, etc. So, what I have in mind is a different configuration that, within an overall scheme, would be held together by common principles and institutions. And since you asked that question, allow me to add one more point. I think it would be a very good idea to test the seriousness of the Euro-leaders who claim to be the great Europeans – the Germans, maybe the Dutch, and let them take the lead on deepening integration – if you want integration, fine, do it. In a smaller group, supposedly, perhaps Germany, France, maybe Italy, Spain possibly, the Benelux countries – suppose they get together to discuss this question. That would already be a critical mass. They would really be able to build something that could be highly integrated. Of course, all the other members could join if they wanted to. This is how it is now under their enhanced cooperation. But let them go ahead and prove this legitimacy – show us all what should be done, what can be done. I contest that we should have a common foreign policy, a common security policy. If they succeed, the attraction of this group would be enormous. Perhaps it would not be for everybody though, especially the UK, which has somehow different interests. But it would certainly be attractive for a large numbers of other countries. It would be a way of experimenting with different solutions. Other countries that have always accepted the general principles are proceeding in a different way. We already have clubs in a sense (the EURO-zone is a club; Denmark, the UK, and Sweden is another). We also have other divisions: those who accept the Schengen agreement and those who do not, neutralist countries who do not join on the debate on security etc., etc. And also between European leaders, especially amongst the ones who support continued integration. Regardless, at any time there are difficulties. For example, after the French and Dutch have rejected of the Constitutional Treaty, the only way to proceed now is for a small group of countries to move ahead by themselves. Let them try. Let us see if they put through something interesting. Then everybody will learn what their ideas are, what are their techniques, what institutions they favour. But to do the opposite, to pretend to have a common foreign and security policy when there is no agreement as to what the essential interests of Europe are, what the geo-politicians call vital would be hasty. With the Iraq war, as in many other cases, we see that still we do not have this kind of agreement. If a group of countries feel that they can define a common and vital interest in an operationally and politically viable way, it would represent exactly the kind of demonstration that we need. Anyhow, regardless of results, what really happens is the following: procedures, a process takes over, and precedents over the entire outcome. But people, do not worry. If you look at public discussions concerning possible outcomes, you will find that the process is important. That comes from the 1950s. That is how Monnet thought. It is how the people thought – the process is what counts. We can set up a process, create European institutions, and move ahead that way. We can see that it is not as automatic as they thought. But let’s experiment
more and see if people produce (and by that, I mean group of countries) acceptable results. If they are successful, I am sure that many other countries will follow. To conclude my answer to you, this is kind of a picture I have in mind. Of course, the EU could have another name under which it would still have some common rules, some basic institutions, the European Commission, the Parliament, and the Court of Justice. But those institutions will do rather different things. The rules would be much more reduced than they are now. For example, no country would be forced to join a monetary union unless they feel that it is in their interest.

Geoffrey Harris: Well, in the nicest possible way, I would like to say I totally disagree with you. I think you have provided an excellent description of the European Economic Community possible up until the 1980s. However, in the 1980s, there was a revolution in Europe. The European Commission was sacked by the European Parliament and followed by a number of treaties which have totally transformed governmental procedures from how they were in the past. In addition, the European Commission retains the right of initiative. Virtually everything that has passed after the new treaties were enacted has been a submission of co-decision on the part of the Council and the European Parliament. The political reality of the Union today was not a European reality up until the time of Jacques Delors. There was a large crisis of legitimacy his time in power because the press, particularly in my country, gave the impression that Jacques Delors ran Europe. The European Commission ran Europe. It was as if Jacques Delors would go to church, as he did every Sunday, read his sports paper every morning as he used to, and declare that there would be a single currency. Of course, and the subject of our conference is precisely this, we live in parliamentary democracies. They are, by no means, perfect. However, they give people the opportunity to choose their governments, their elected representatives, and, over the past 20 years, have been witness to the effects of a number of treaties. I do not recognize Brussels the way you have described it. The European Parliament (which is actually what we are talking about in this conference) has been, since the 1980s, pressing forward with the whole process of political integration. If it has fully succeeded in terms of federalist ideals, I do not know. What I do know is that there has been a treaty that has been called the Treaty of Lisbon, which is subject to ratification in 27 different parliaments. The European Commission did not invent those parliaments. They were elected by the people of those countries and will decide ‘yes’ or ‘no’. If a particular country decides to have a referendum, it will be up to them. The idea, to be absolutely frank with you, that any country is going to be forced to abolish its currency, is a little unfair. I come from Britain so I find it pretty unlikely. And I am sure that Bulgaria and Romania are not so fickle either. There is a question of legitimacy, yes. And the
basic point – the departure of the involvement of the citizens of the EU – is very, very important. But the debate has to take place on the basis that the political union (because this is what it is all about) would conduct economic analyses that may or may not be right about whether the European Economic Community is irrelevant to the economic progress of the last 50 years. That is the matter of point. But the whole point is about peace, human rights, and democracy. And, yes, there is a problem of legitimacy – the lack of involvement from our citizens. We do not live in some kind of intellectual dictatorship. I must wonder (and I ask you to explain) how it is that the European Commission must be elected by the European Parliament although it has already been sacked by it once. A Commissioner from your own country was not nominated because his views on a particular subject that had nothing to do with markets or European integration was not approved by the European Parliament. So we have a developing parliamentary democracy and a constitutional treaty. So my question is just a simple one: are you actually saying that this new (constitutional) treaty should be thrown out the window and that we should go back to the first principles of the EU? Or are you just stimulating our critical thoughts, which I am sure you are? (2)

Prof. Giandomenico Majone: In regard to your very last point – if the new Lisbon Treaty repeats 90%, as I understand, the now defended Constitutional Treaty, then that is fine with me. If you read my book, published in 2005, concerning the dilemmas of European integration, you will see in the last chapter that I am actually very much in favour of this. For example, I take as example, honesty – in a sense, both intellectual and political – to give a chance to a member country that wants to leave in order to create a procedure by which it can be done. It is interesting that the Rome Treaty did not have this type of language. Why? Because it thought that everybody has to eventually and necessarily get to the point. So, this is now the question. But you have also mentioned the fact that the Barroso Commission was the beginning of the difficulties. However, you should explain to me then why the European Parliament, first of all, does not claim to have a right of initiative or legislative initiative like any other parliament. I really see absolutely no compelling reason today why that should be. Perhaps 40–50 years ago things might have been different. Secondly, why does the European Parliament have practically no possibility of intervening on the quality of decisions made by the European Commission on policy issues? It can at least centre the European Commission on things having to do with, you know: dishonest affairs, corruption, etc. (as it happened with the Santer Commission). But on questions of policy, I know it would take an absolute majority of the European Parliament to get things done. And there is no European party that can commend an absolute majority.
So those are the questions. But even this is not really…I think it is a question of political culture. I want to stress that I am a European. I could even be happy to be a European federalist if I could convince myself that it is a viable project. To be honest, rather than having an Italian government, I would prefer to have a good European government. For example, the enlargement would have been a good occasion to rethink the whole process. Is that really what we need, what we want, etc? Please do not misunderstand. I am not saying that we should do away with a thing like the Lisbon Treaty. We need some kind of European integration in one form or another. By analogy, I would say, perhaps, my position would be fairly close to the one of Tony Blair when he gave a speech at the European Parliament in 2005. That is a spirit. I am the first one to recognize it. I have not lived many years outside of Europe. Unless Europe can speak in one voice, it will never be one among 25. It is easy enough to speak with one voice. But how? That is the question. So, maybe by experimenting on a group of countries speaking with one voice on important issues it may come to be. But if any country can block legislation…This is really my basic point. From a methodological point of view, what I am really concerned is that the failure to raise these basic questions not only in public debate in regard to the political conduct by European leaders, but also the intellectual debate, the academic debate. Secondly (and this goes more for a politician), there is a rhetoric that is presented every time there is an occasion to present it. A very short example: in March 2000, the Lisbon strategy was announced with great hype… By 2010, we will reach and indeed overtake the US. That reminded me of some Soviet speeches, the five-year plan, ‘we will bury you’, ‘we will overtake you’ – that sort of thing. But all the experts knew that prospect was impossible for the simple reason that European productivity was too low compared to US productivity. And so, there was no chance that we would be able to catch up within 10 years. In 2005, the European Council acknowledged that fact and eliminated the reference to 2010. But the objectives were still there. Even though the objectives themselves are quite good, there was deadline. At the beginning of 2007, there was a Council in Berlin. Under the German Presidency, Angela Merkel announced that the Lisbon strategy was working. Why? Well, because the economy is moving ahead. Unemployment numbers are reducing. Of course, that was a cyclical movement. In fact, now the economy is deteriorating somewhat. That is the kind of rhetoric that is never challenged by either the Parliament or by academics. We need more pressure on those people to be more responsible. If you say something, be as honest and intellectually minded as you are domestic. We also know that domestic politicians lie a lot. However, there is always an opposition party. So, if you say things that are too far from of the range of possibility, it may eventually produce a boomerang effect. But this does not seem to happen in Europe.
3) Mr. Professor, you have expressed a very harsh criticism of the communal methods of the present-day EU. But the community method is not only the initiative of the European Commission; it is also the rule of the European Commission. The community method also includes lobbying by other stakeholders in European integration, especially business stakeholders who have been pushing since the 1960s or especially the 1980s for a single market, for harmonization. And, it seems to me, that when I apply reason to your idea of a multi-speed Europe, I find that it is something that national politicians have advocated and would like to experience, whereas businesses and other stakeholders would prefer a common Europe with common and harmonized standards so that they would be able to live in legal certainty throughout the whole of Europe.

Giandomenico Majone: First let me clarify something: I am not advocating, even as a conceptual model, a multi-speed Europe. If anything, perhaps it is admissible to use the terminology of variable geometry, but not a multi-speed Europe. What it means is that there exists a group of countries who are devoted to political integration. Because we are really talking about political integration here. Other countries will follow at their own speed. The goal of a model, (or club, if you like), is for different groups of countries to have their own priorities and preferences within, of course, a common framework. Otherwise, we would simply disband the Union. And that would allow for the sort of competition I was talking about before. If you see a group of countries that is doing very well…If, in five years from now, the monetary union is a terrific success, then Denmark, Sweden, even the UK, may have second thoughts about joining it. If not, the doubts will continue. So, that is what I mean to say. We need that kind of competition. Multi-speed is not a formal competition. The language of variable geometry is a sort of competition. But now, the main question. You are absolutely right: the community method is not an invention of the Commission, of course. It was put in the Treaties by the member states and interpreted by the Court of Justice. So, it is a mixture from the Member States and the Court. I am far from advocating the case in favour of the member states. More disasters have been done by the member states in one form or another than by any other institution. However, that is the result among the member states, who for different reasons advocated a certain approach. The Court of Justice uses every possibility to indicate one specific trajectory. And some of this should be maintained. I am not advocating…for example, you need a body like the European Commission to monitor how the Member States implement the rules that they freely accepted. Nevertheless, even though I say I am not in favour of the monopoly of legislative initiative at present, I also believe that there should be several new possibilities. Primarily, the European Parliament should have the possibility of making proposals. That should also be the
case for the Member states – not uniformly, but in many areas. And then of course, the Commission should have strong veto power (at least, stronger than now). So the Commission, representing common principles, and especially common rules, should have the ability to veto and declare, for example, that a proposal by Government ‘A’ is against the principles that we have all decided to accept. So, there should be a strong veto power. In other words, there is more emphasis in my view on what is called negative integration. In the treaty of Rome and other treaties that followed it, it was stated what the national government cannot and should not do. There are prohibitions. That is why it is called negative integration. We need a body that would be a Commission and a Court of Justice to see that prohibitions are, in fact, respected and implemented. As a general rule, I am against a monopoly of legislative initiative. Of course, in some areas very close to economic integration, we still need strong rules. And that principle is a third component of the communal method is a principle of institutional balance. We do not find it in the treaties; it is a doctrine of the European Court of Justice. Like all legal doctrines, they are beneficial up to a point. But they cannot move far in practice because the relative weight of different institutions changes all the time. The Commission is, at the moment, weak. The Member States are strong. The European Parliament is certainly stronger than it was in the past, etc. But the principle is still there. And if it is there, it can be used. For example, the Commission has refused to give the power of decision-making to the European agencies. There is a large number, 15 or 16 of European agencies, for example, on the European Food and Safety Authority. Those European regulatory agencies, which are usually high level in the quality of their procedures, operate as networks; this is another good model, I think, in principle. They use national regulators, form a network, then come to a common decision. But they cannot make a final decision. In America, a regulatory agency takes a final decision within the limits set by the law, which is subsequently passed or rejected by Congress. Within the limits of the law, the final decision is made by a regulatory agency, i.e. the Federal Trade Commission or the Federal Communication Commission. They decide. They also propose technical rules to Congress, but so do European agencies. However, European agencies cannot make final decisions, except in a few cases (three cases, to date, on rather trivial issues). I think this is an important point. Unless there is an authority that is in charge of the full impact of a decision, it is impossible to know who is accountable. Suppose that the European Food and Safety Agency makes a wrong decision at some point and bad things result from the point of view of public health. Whom would we blame? First, we would obviously blame the agency, the authority on the matter. But the authority would most likely say that, if we were to look at the documents, they were not the ones who signed the decision. It was signed by the Commission. The Commission signed after having consulted with the Member
States through a committee. You can see how accountability becomes evanescent; it does not exist any more. Who is responsible? We do not know. And we do not know precisely because of these certain aspects. The Commission scales down that which the European Court of Justice accepted against the authority given to the European agencies to make final decisions. It has deprived the European Commission of its executive power under the treaties and therefore is a violation of the principle of institutional balance. We see situations in which we get involved because of lack of clarity. All we have to do (and I have asked several legal scholars, not just legal colleagues) is give the Commission veto power. We must let the regulatory agencies, the experts in that area, make their final decisions and determinations. And then, if you think that that decision is against some principle of the European law, we can veto it. That is what they do with national authorities in the area of telecommunication, for example. It is not clear why they could not do it with other European agencies. Perhaps they were afraid of losing the power that they now possess. Although this is only one example, it is a kind of situation from which Europe should escape. There is absolutely no reason for it. Every American is surprised. Don’t your regulatory agencies make a final decision? No. It is the Commission. But the Commission, are they experts? No. They are not experts. They are lawyers, a few economists, etc. So that is the problem. I do reject some of the implications of the communal method. However, I do not reject the method completely because I think it can have very useful purposes.
Reform Treaty – Elite Driven Integration vs. Politicisation

Mats Braun

Short Profile:
Mats Braun is a research fellow at the Institute of International Relations in Prague. He received his Master’s degree in political science from the Södertörn University College in Stockholm, Sweden. His research focuses on European integration, especially the legitimacy of the EU. He is a Ph.D. candidate at Charles University and also lectures at Charles University and the New Anglo-American College in Prague.
1. Let me start with one reflection regarding the main difference between the Reform Treaty (RT) and the Treaty Establishing a Constitution for Europe (TCE, Constitutional treaty). I agree with those scholars and other commentators who argue that the actual changes brought about by these treaties, if they were to be compared, are rather small. Furthermore, the substantial changes that the TCE was supposed to bring about were rather modest. It follows that the substantial changes included in the Reform Treaty also are relatively modest, even if some scholars who might share my perspective would welcome the institutionalization of the role of national parliaments as protectors of sovereignty, the openness of the Council, and the influence of the EP.

Yet, in one respect, the RT implies the acknowledgment of the failure of the TCE. The TCE was all about the political legitimization of the EU. It was not as much due to its substantial content as it was based on the changes in the constitution-making process by which it was drafted in comparison to the traditional method of intergovernmental conferences, and also on the level of finality symbolism.

The drafting of the Constitutional treaty included an attempt to change the process of constitution making/treaty making in the EU (cf. Fossum, Menéndez 2005). Procedural changes were thought of as one important instrument that could help rectify the EU’s alleged democratic deficit. What we might call the Laeken model included the Convention on the future of Europe. Even if it can be disputed how successful the Convention was as an instrument to increase public interest and hold debates regarding the future of the EU, this method, compared to the IGC method, included a commitment to increased openness and inclusiveness while forming the future of the EU. Despite the fact that the Convention can be criticized for having a too narrow agenda (and that the final outcome was modified by the IGC before signing the treaty), the whole process was led by ideas of openness and inclusiveness. After its rejection in France and the Netherlands and a period of reflection on the new Reform Treaty, it seems to be back to business as usual despite plan D and the commission’s current communication strategy. This means an indirect acknowledgement that the EU is a project driven by elitists, and thus a failure of the idea of a more inclusive method of treaty-making as a response to the alleged legitimacy deficit (cf. Moravcsik 2007).

Secondly, if we compare the Reform Treaty with the Constitutional treaty, we find that a big part of the changes made are referring to symbols of nationhood: constitutions, flags, anthems, mottos, and holidays. These changes are sometimes described as cosmetic (see e.g. Peers 2007). If cosmetic changes should indicate that such changes are unimportant – then I don’t agree. On the contrary, these changes imply the retreat from an attempt to sell the Union with the use of grand visions rather than in terms of pragmatic results. It also implies a retreat from the rhetoric of finality in the TCE.
The constitutional rhetoric provided the EU with a problem because it opened up the possibility of interpreting the EU as wanting to overcome the nation state, even if this were something hardly anyone would prefer. The resigning on this rhetoric could be interpreted in two ways, either as a return to what professor Majone (2007) would call crypto-federalism (i.e. that the EU continues in its evolution towards a federation without anyone openly admitting it), or as a retreat to a more realistic and instrumental vision of the EU.

Constitutional rhetoric with an instrumental nature of political discourse on European integration (in most of member states where the Europhiles’ commitment to the EU is strong) can be described as a commitment to the EU as an instrument for promoting, for the majority, a selection of nationally set goals. In the Czech Republic, for example, this is evident. The Europhiles consider the EU an instrument that strengthens the sovereign nation state by pooling some of its sovereignty with other states, whereas Eurosceptics and Euro-realists argue that the EU challenges the nation state. Also, even though some Eurosceptics acknowledge some of the instrumental benefits of the EU, they reject it or partially reject it as a result of being caught up in the dominating discourse on sovereignty (e.g. the Eurorealist ODS). The main point here is that no one seriously challenges the discourse on the sovereign state. In other words, no one would like the EU to overcome the nation state (see Braun 2006).

2. The point of departure in my argument is that, even if the Reform Treaty were to be ratified, (which remains to be seen), the project of the TCE has still failed not only in making the constitution-making procedure more open, but also in selling a vision of finality in the EU. Thus, in both respects, the Reform Treaty represents a retreat to a safer and more tested method. What implications does this failure have then for the possibilities of politicization for the EU? Shall we be satisfied with the EU as an elite-driven project and give up on the idea of increased public participation in EU matters?

As Andrew Moravcsik argues, a Harvard professor and leading scholar in the field (2007), is it really so that the EU will be more representative of European interests if it is less democratic? The politicisation of the EU would, by necessity, include an increased amount of majority rule. Majority rule on a European level includes the risk of constituting groups of permanent losers. Given the current lack of a European demos that could provide enough trust in society for the minority to accept the majority, such a development might indeed lead to a more democratic EU, yet one with an even bigger legitimacy deficit. Still, even if we accept this argument, there are also some points that should be made against this elitist vision of the EU.

The defence of the EU as an elitist project is based on the assumption that EU policy outcomes would correspond to the views of an average voter, thus making the outcome of elite negotiations on the European level democratically legitimate.
(Moravcsik 2002). This is, however, based on a misunderstanding of what politics is all about. Voter preferences (regarding policy outcomes) are constructed in political debates. Thus, it is impossible to argue that the outcomes of compromises behind closed doors are democratically acceptable only because they correspond with the views of an imaginary average voter.

Furthermore, this view seems to suggest that the EU is an apolitical project that supports Pareto (cf. Majone 2006). Yet, the European integration process is political. The question is whether a project can be considered apolitical that, by its critics, is accused of being both neo-liberal as well as socialist. Perhaps, we could argue that there is a consensus from the broad middle of most member states. Yet, that does not mean that the EU is ideologically neutral. The EU is, as Kjell Goldman argued: neither left nor right, but still a mixture of liberal internationalism, social democratic, social policy, green concerns for the environment, and conservative concern of national interests. In addition, the role of Christian Democracy should of course be added to this list.

If we want to establish whether or not the EU is political, the crucial question is whether the process of European integration will lead to a policy drift on the national level? If the answer is yes, then it is clearly a political project (Follesdal 2007). The policy drift has one socially democratic version – the EU is considered to produce a neo-liberal regulatory framework for the single market and a monetarist framework for the EMU (see Scharpf 1999). But it also certainly comes in a rightist version by which the EU is accused of over-regulation and unnecessary centralization. In any case, the crucial point of the argument is that the EU allows for policies that wouldn’t have been possible to impose otherwise amongst the single member states. Thus, the EU is definitely not accepted as apolitical by its critics. Perhaps a limitation of competence from the EU would satisfy some of the criticism coming from the right. The leftists, on the other hand, would demand one of two mutual and completely different solutions – either the total abolishment of the EU, or the construction of a substantial social dimension of the EU.

This shows, I hope clearly enough, that the idea of an apolitical EU is limited. The EU is a political project, even if it is built on a consensus that, for the majority, stems from the political elites of Europe. For this reason, the EU faces a legitimacy problem that cannot be solved by arguing over the apolitical nature of the integration process. Furthermore, the failure of the TCE constitutes a legitimacy problem not solved by the RT. The conclusion that we must draw from this is that relying on the cooperation of the political elite cannot solve the legitimacy deficit of the EU. In the future, we must make it necessary to facilitate more political competition and majority rule on the European level, i.e. the politicisation of the EU. However, this can only be done if we manage to establish some basic trust between the citizens of Europe that would enable majority decision-making.
3. Therefore, the crucial question is: Can a European *demos* be constructed? There seem to be three possible solutions to this question – the first one resembles that of building a national identity in the nation states, the second one is based on deliberative democracy, and the third one that argues that the output the EU produces, in the long run, still enables the construction of an identity. These strategies are, of course, not totally optional (cf. Eriksen, Fossum 2004).

The first strategy would emphasize the shared common history and culture within Europe. It would most likely also include findings of some kind to which the people of European could feel united. Still, the question remains as to whether the strategies of the national movements of the 19th century can be applied to the EU in the 21st century. First of all, did the 19th century, the blooming period of national movements, allow for the totally different possibility of creating historical and political myths? Secondly, in most cases, the imagined community (as Benedict Anderson referred to it, 1983) was not only the effect of direct elitist planning, but also an unintended creation due to technological developments and the rise of the common media, etc. Thirdly, the question is whether this model is wanted at all. The bi-products, the cost in terms of European nationalism, and the risk of building a European fortress of sorts might be too high.

The second strategy is based on the argument that the EU could hope to achieve some kind of constitutional patriotism. This patriotism would be based on using the procedures of deliberative democracy, identifying core values that could be accepted by everyone, and, in the future, lead to some common identity structured around constitutional patriotism. However, this model also has some drawbacks. Most notably, it is hard to see these shared values would be. For these principles to be truly accepted by all, they would need to be so universal that the US and Japan would also desire to be included; they would need to be centred on basic human rights, liberal democracy, and the market economy. The dilemma is whether these values can be definite enough to bring about affection and, at the same time, broad enough to avoid any political contest to their legitimacy. It seems nearly impossible to solve the problem of what one political entity considers an uncontroversial norm is to another entity of an ideological programme.

Thirdly, we can imagine that the integration process in itself could lead to the slow creation of a common identity through the gradual increase of interaction between the member states. For this model to be successful, however, it is necessary that national politicians clearly articulate the success of the European project. This seems to be the strategy opted for the by the commission. In its ‘Communicating Europe in partnership’ campaign from October 2007, the Commission stressed the need to articulate the successes of the EU as such as possible (EU 2007).
Basically, in order to ensure success for this model, it is necessary to keep the argument credible that the EU is an instrument that can provide benefits for single member states. Compared to the first model, this third model has the advantage of disallowing Europe from having to relate to any “other” for the construction of its identity; it is sufficient within the continent’s shared history of wars that stand in stark contrast to the positive development brought about by integration (Waever 1992). In other words, cooperation and integration will lead to a vaguely defined golden age that will differ greatly from Europe’s war torn past of national competition. Europe is caught in a position of striving for a glorious future, something that will be constructed by reason. The problem with this third strategy is that it often leads to situations in which the EU is described as apolitical and where the ‘voice of reason’ (which sees the only way forward), stands against the irrational Eurosceptic. Since the outcome of the integration process is not apolitical, this view needs to be accepted. Therefore, there is also a need for increased political articulation of European issues at the national level, and not only about the successes of the EU. What is required is to find a way, at the same time, to emphasize the benefits of integration and remain open-minded for alternative options and legitimate political debates. What is required is a situation where there is not merely a choice between the voices of reason for a functional pro-EU contingency and the stereotypical irrationality of the Eurosceptics.
Conclusion

I started out by emphasizing that the failure of the Constitutional treaty and the escape offered by the Reform Treaty indicates a failure for the attempted transformation of the EU from an project driven by elitist to a more open and inclusive endeavour. This failure is linked to changes made to the procedures of treaty-making and changes in the rhetoric used in the treaties, not to changes in their substantial content (even though such changes were rather marginal).

This failure could be interpreted as a victory for an apolitical articulation of the EU. Nevertheless, there is one major problem with the ‘let’s go back to an integration driven by elitists as if nothing has changed’ approach. The problem is that the EU is a highly political project. Therefore, a politicisation of the EU seems inevitable. However, politicisation implies majority rule and majority rule has losers and winners.

I pointed out three paths that could lead to the construction of trust between European people that would be necessary for increased majority rule. None of these offers an easy solution for the construction of a European *demos*. Still, there is nothing to suggest that this would be impossible. From this perspective, it is necessary to regret the tendencies of a return to a view of integration as driven by elitists working at the EU level.
References

Speech

Geoffrey Harris

Short Profile:
Geoffrey Harris is Head of Human Rights Unit, DG External Policies, in the European Parliament. He has been an EP official since 1976 and has served in various positions, including a posting in the President’s private office. Mr. Harris used to be in charge of EP delegations dealing with the expansion of the EU. He is the author of one book (The Dark Side of Europe: The Extreme Right in Europe Today, 1993), plus a number of articles and conference papers. He is also the Emile Noel Fellow for 2007–2008.
First of all, allow me to introduce myself. I am not a politician. I am an official of the European Parliament that has observed the development of parliamentary democracy at the European level in the period since the Parliament was first elected in 1979 and, in particular, since 1989 when parliamentary democracy was extended at the national level to your country, as well as many other countries. And of course, this process of expansion had a profound impact on the development of the political structure of the European Union.

I would add that I am a personal beneficiary of expansion because, of course, my country was the first, along with Denmark and the Republic of Ireland, to join the Economic Community of 6 countries in the early 1970s. So I have always taken a positive view on this expansion and, to some extent, have benefited from it. Nevertheless, I had a very interesting job between 1992 and 2004. I was assigned to organize the work of the European Parliament in relation to the expansion process. Therefore, I have taken part in organizing many meetings in this very room, but also in the parliaments of the 12 new member states of the EU. And, in that sense I would say, is part of my job as an official working with European parliamentarians. Indeed, the goals of national parliamentarians from candidate countries have been, to some extent, to extend parliamentary democracy. It is all very well and good to say that people shouldn’t be forced to meet the criteria of the membership of the EU. That is certainly true. On the other hand, the basic political criteria: parliamentary democracy, a control of the executive, the armed forces, the rule of law, and freedom of expression – all of these political conditions are very important as the basis for what is effectively a political decision to join the EU. As I have said in this room (and in other countries as well), we have had very lively discussions with Czech parliamentarians and representatives from different governments over the years about the conditions of membership. Although there were some controversial issues (for example, the Benes’ Decrees), the very fact of having these discussions in public between parliamentarians is, in my opinion, the main point. The difference between parliamentary democracy at the European level and traditional interstate relations is that the arguments take place in public. The European Parliament meets, legislatates, adopts decisions, resolutions, sacks commissioners, or appoints them in public. Indeed, there may be crises of legitimacy, plus problems of complexity and transparency. However, it is not a secret decision-making process that exists in the European Parliament.

I have mentioned that, since 1989, we have been living in a new Europe. Personally, I have always considered this as a very positive new era. But there has always been a slight hesitation over the years within the Institutions that any kind of expansion would undermine the institutional development and threaten the development, for example, of the powers of the European Parliament. This was very much considered
by old-fashioned thinkers, if you like. It has been the British point of view that the more members that join the EU, the less political union will be present. In fact, this is a complete opposite to what has happened. I know this in respect to the country of my birth and a great parliamentary democracy. However, the fact is that we now have a EU of 27 parliamentary democracies and, in the form of the Treaty of Lisbon, the settlement of a 30-year constitutional process that began with the first ever elections of the European Parliament and its subsequent proposal for political union. Consequently, a whole series of initiatives were enacted by the Member States and the Commission (I think it is about 5 treaties in the period leading up to what would be the Treaty of Lisbon) that would represent a kind of constitutional settlement establishing the powers of the different institutions. I would see this as an extraordinary political success.

I will give you one example from the millions I can think of. One night, I happened to watch a movie about the life of Simon Wiesenthal, a man who, having survived a concentration camp, hunted down the Nazis after World War II. He was actually here at the time when the war in Prague broke out. If you think back to Europe in 1945 and 1947 and then think of Europe in 2005 and 2007, it is a fantastic, historical achievement about which everyone, even the euro-skeptics and the federalists, should feel a sense of pride. The very fact there are so many countries, as far away Moldova, Georgia, let alone the Balkans, that dream of a future as members of the democratic EU is a huge historical achievement over the span of one generation, especially if you think of a generation as 60 years or so. That is a very important achievement in terms of democracy, in terms of human rights, in terms of the rule of law, as well as peace. Because it may be that economic conditions are independent of treaties, I dare say that what Professor Giandomenico Majone said before is right to some extent. However, if we don’t achieve an irreversibly peaceful Europe, it will have enormous economic consequences as well.

I must talk about the impact of expansion. As my point, we have, at the European level, established a kind of European democracy. This means that the Commission is no longer a law under itself because it is appointed by the European Parliament, elected by the European Parliament, and has its programs approved by the European Parliament. Its individual members are responsible to the Parliament and all the legislation and laws are adapted by agreement between the Council, representing national and political legitimacy, and the European Parliament, representing European political legitimacy. This is my first point.

My second point is the impact of expansion on the EU and on the European Parliament in terms of democracy. First of all, because it is a democracy, your countries have brought in different members of the European Parliament allowing for a new political balance within it. When I started working there, a large amount of my time
was always spent with the socialist group, the largest group, a centerpiece for alliance making within the Parliament. Now the largest group is the European People’s Party (EPP-ED). It is center right and the dominant force. To some extent, this is a result of the election to the European Parliament from the countries of Central and Eastern Europe. So it has certainly become much more of a political parliament over the years as a result of this. Even more so, the expansion of the European Parliament was way ahead the Commission in terms of what this growth was all about. The Commission was, among the baffling elements of the EU, extremely hesitant about expanding. Somehow, the fact that everybody wanted to join this club was a bad thing rather than a sign of success. European Parliament always encouraged the widest possible expansion on the condition, of course, of the members meeting the conditions of membership. However, the EU meeting has its own conditions – namely, furthering political integration. The impact of all of this on the Parliament has produced a much more self-confident institution. You will be surprised that very powerful governments, lobbyists, and interests groups of all kinds take the Parliament extremely seriously. If it is, in theory, that the European Parliament is so insignificant in terms of foreign affairs, I find it extraordinary that so many diplomats, ambassadors, NGOs, and human rights organizations invest so much time and effort trying to influence different resolutions and activities within the European Parliament in their particular fields. And so, the European Parliament is now much more self-confident, precisely as it now sees itself as a partner of the Council of Ministers. And this, in terms of the Treaty of Lisbon… the Treaty represents a culmination of the process that the Parliament first initiated. Although the Treaty may reflect some community method, it is not the one that I recognize. It was a treaty that was originally drafted by a Convention made up of national parliamentarians and was renegotiated in the form of the Treaty of Lisbon by the elected governments.

So finally, I will come back to the basic question. I certainly agree with Professor Giandomenico Majone that this is a very basic question – why this lack of interest? Does this represent a crisis of legitimacy? It is a very big academic and political point. But I would just like to say by way of an example, since we happen to be in this building and I happen to remember the discussions about which the members of the European Parliament were very, very concerned (namely the break up of the Slovak and Czech Federal Republic) that that very decision was made without a referendum, well against the trend of public opinion in both the Czech Republic and Slovakia. There was no particular enthusiasm in either case. However, it was a decision by institutions elected by a particular set of elections during that particular time. That is the way the EU works now. You might say that it is a pity that 90% of people do not vote. However, the right to vote is what is at stake here. This is what people fought and died for, to have a right to vote and elect the members of the European
Parliament. Maybe people take democracy too much for granted and should be forced to vote, like they are in Belgium. However, the results of elections in Belgium may signify that perhaps that method is not the best solution. When everybody is forced to go to the polls, it provides the government with an easier majority to deal with. But the right to vote is there. So to say that it is illegitimate would not be true. Because the governments of Tony Blair, Nicolas Sarkozy, or whoever, were elected, they are responsible to call for referenda that can either be won or lost. If they do not call for referenda, they must answer to their parliaments.

For my final point, since I am obliged to stop and since many of you are students, I would explain the EU as an entity that harkens back to the 1950s, to Jean Monnet or even Jacques Delors. However great these two people might have been, we are now in the 21st century in a postmodern era. Those structures in the postmodern era are no longer so monolithic. There will never be the EU with one person in charge. It is going to be a much more diffuse power structure, a more modern and efficient power structure, based on the sharing of power by the Parliament, the Council, and the Commission in the most transparent way possible. The very fact that sometimes it does not appear so clear to an individual government, even to a Prime Minister or a President, as to what is exactly going on (and I do not say that this is good, however) reflects that we are no longer in the top-down forms of democracy or dictatorships that we have had in the past. Certainly, we do live in parliamentary democracies at the national level. At the European level, it might be too optimistic at the moment. However, in order to introduce a discussion, I would say that we could be fairly proud of the achievements and issues (the economic issue, in particular) that the EU has faced since the 1990s. There are different issues now – the issues of migration, terrorism, and the environment, not just the economy. And of course, we now have totally different relations between Europe and the US than we did during the 50s and 60s.
Speech

Jana Hybášková

Short Profile:
Jana Hybášková was elected Member of the European Parliament (SNK-ED, EPP-ED) in 2004. She is member of the Committee on Foreign Affairs and the Sub-committee for Security and Defence; she is also Head of Interparliamentary Delegation for relations with Israel. She was appointed member of the Steering Committee of the World Movement for Democracy in 2006. She is a well-recognized specialist in the fields of terrorism, European security, the Middle East, and democratization. She served as Ambassador from the Czech Republic to the State of Kuwait and Qatar from 2002–2004, Adviser to Pavel Telička (State Secretary for European Affairs) in 2001–2002, and Ambassador from the Czech Republic to the Republic of Slovenia from 1997–2001. She graduated with a degree in Arabic and Oriental Studies from Charles University Prague, Faculty of Arts. She is also the author of the book Čekání na válku (Waiting for the War), Prague: Rybka Publishers, 2004.
First of all, I would like to quote an opening of a poem by T. S. Eliot:

\[
\begin{align*}
\textit{Time present and time past,} \\
\textit{Are both perhaps present in time future,} \\
\textit{And time future contained in time past.} \\
\textit{If all time is eternally present,} \\
\textit{All time is unredeemable.}
\end{align*}
\]

This is something that we should always remember. Geoffrey has already talked about the very beginnings of the European Union. In my opinion, I think that his thoughts represent something that we should reiterate not only here on the premises of this institution. What we should remember is that the reason behind all this was to make sure that there would be no wars - in other words, to do everything in our power to prevent the causes of World War II from resurfacing. The European Union is a stabilizing, peaceful instrument, something that we should bare in mind. We should also remember that any future steps, be it in the field of economics, be it in the field of stability, are to be seen as instruments of long-term stability, a prospect that also remains the main objective of the European Union. It is in this respect that I remember Schuman's Declaration in which he stated that peace and stability can only be maintained thanks to creative thinking. This creative thinking is commensurate to the threats that it faces. I believe that it is creative thinking that represents the fundamental added value that also defines the system we refer to as the European Union. If one looks at the key moments of its formation, it was, first of all, all about economic unification. Then came the second stage of the common market, the establishment of the Euro-zone, our common currency. If we are to examine the very beginnings of the 21st century, then it could be said that the dearest commodity of the 21st century is security. Therefore, I daresay that the fundamental tasks behind the processes taking place in the EU should be those decisions that shall enhance the security of European citizens. And it is this particular field of security and defense that will be a new unifying element. We have used all kinds of instruments to achieve what we have achieved. One of them was the Maastricht Treaty. I also believe that the Lisbon Treaty is, in theory, comparable to the Constitutional Treaty that has been previously referred to here. But in political practice, it is, in a sense, something that can be compared to the Maastricht Treaty because, again, it pushes us one step further toward stability. Seen as such, the Lisbon Treaty is particularly important in the area of security and defense. I think that we can expect better and more efficient tools to achieve our goals in this area. The European Union does not exist in vacuum. All the processes are influenced by globalization. It is very important that we act as one entity representing the many millions of inhabitants. This is extremely important.
We must remember the five threats, be it terrorism, be it mass destruction, be it climate change, be it migration, or be it the radicalization that we have witnessed recently. These are threats that cannot be coped with by individual member states. Therefore, this is why we need the Lisbon Treaty to provide new instruments to help us tackle this new situation. We find ourselves in a new world that perhaps political scientists are able to define. But the definition of the relationship between globalization and democracy is difficult to understand at times. What is important in the Lisbon Treaty is the provision that, by democratic and political instruments, we can achieve both representative democracy and participative democracy. I believe it is this participative democracy that should be paid more attention to because it is the area that could most effectively reduce what we call the democracy deficit. In other words, democracy should only be viewed, in terms of representation, as the citizen, the state, and the European Union. On the other hand, we need to look for new ways that would allow citizens to participate in our lives. And I am not talking here only about nongovernmental organizations. Of course, these organizations can play a key role. At present, I am talking more about the business community, about European businesses, European companies, supranational companies. These companies need the EU because it provides them with more influence that can be used in the international arena. When we speak about participative democracy, we are also talking about more transparency, new ways of lobbying, and the importance of lobbying in today’s politics. When we speak about the European Parliament (and this should be reiterated again and again), we are talking about the largest political body in the world. This fact makes it unique. In other words, because of its size, an actual quantity of MEPs can be translated into quality. This is particularly true in one key area, not so much in the budgetary area, the budgetary control area, or in the area of the executive power. Indeed, it is true in a fourth area that is not mentioned very often - namely, the idea that the European Union’s representation the voters does represent the future of European thinking, not only of political thinking, but also of democratic thinking, business thinking, commercial thinking, and scientific thinking. Making use of the European Parliament in this sense is something to which we should really pay attention. The idea is there to allow the European Union to help us reduce this so-called democracy deficit by allowing supranational organizations, national organizations, and national companies to take part in all these processes. It is true that the European Parliament currently has very good relations with the Commission. The community method is still applied in this respect. But what is more interesting for me is the relation between the Parliament and the Council, the body that represents the 27 member states. It is there where certain conflict may occur. Because the axis here is the national parliament and the Union level, we know where the European Parliament stands on said axis. And, unfortunately, this element that
represents the European Union and the European political level is something that we have failed to achieve in the Lisbon Treaty. The actual identification of the citizenry in the European Union is still at the behest of the individual member states. This is one thing on which I would like to extrapolate, namely the question of identity. Indeed, we can talk about variable geometries, about a multi-speed Europe, and about the compromises necessary for its continued advancement. However, what is really at stake here is to what extent a citizen can identify himself or herself with a policy that is not represented at the level of individual member states, but rather at the level of the European Union. This is where we find ourselves in a situation where we must ask ourselves what is it that will allow European citizens to identify themselves with the European Union. I am glad to have interpreters here with us, people who also work with us in the European Parliament. I would like to say that it is their work that makes it possible to view language as something that can also be useful. I know that very few of you (and very few of us) use what I call the Euro-media. We need to make sure that we can use the European media because, without reading and listening to the media, we will not be able to understand what is happening at a European level and will always look at things from the point of view of our own domestic situations from the singular point of view of our domestic press. A failure to adhere to this approach will result in the perpetuation of a key element responsible for the problem of the democracy deficit.
Speech

Ondřej Liška

Short Profile:
Ondřej Liška was appointed Minister of Education of the Czech Republic in December 2007. Before accepting the ministerial office, he was the chairman of the European Affairs Committee in the Chamber of Deputies of the Parliament of the Czech Republic. He graduated with a degree in political science and religious studies from Masaryk University in Brno. He worked for the Forum 2000 foundation in 2000–2001 and served as the chairman of the Czech-Austrian forum for dialogue in 2003–2004. He was also elected deputy of the Assembly of the city of Brno and served in the committee for culture and education (2003–2005). He was an advisor for regional development and EU Structural funds in the Group of the Greens in the European Parliament (2004). He was elected Deputy in the 2006 general elections and became the vice-chairman of international relations for the Green party. He has lectured at universities, as well as public and expert conferences in the Czech Republic and abroad – for example, in Germany, Austria, Poland, India, Malaysia, Japan, China, the Philippines, Cambodia, and South Korea. He is also the author of various expert papers, articles, and one book entitled Církev v podzemí (The Underground Church).
European integration is such a vast topic that we could spend ages discussing it. When we look at the causes of the democratic deficit, why do we talk about European institutions being so distant from national institutions, let alone the citizens of Europe? You have argued, using a reference to a work by Professor Giandomenico Majone from 1998 in which he claimed that it is impossible to apply the same standards to European integration that we apply on national levels for a simple reason – Europe is a unique and unprecedented project. Therefore, our perception of Europe evolves hand-in-hand with development in Europe and elsewhere. The distance felt between the citizens of Europe and its institutions (a relationship that has been endlessly debated) is not supported by facts. Where does this idea of distance come from? Ideas such as these do not seem to be perceived as by-products of the problems that the European Union currently faces, but rather as something of a fatal nature. I believe instruments are now available (a point that I will discuss later in more depth) that can be used to dispel the negative consequences on integration from the effects of those by-products, causing them to disappear gradually. In the midst of our discussions, we have also witnessed something further. Supported by a number of independent analyses, there is no direct correlation between the growth of power and increased legitimacy enjoyed by the European Parliament and the increase in voter turnouts in the European Parliament’s elections. To paraphrase this statement, even if we gave the European Parliament all the power it could possibly have, it would not make the idea of Europe feel closer to its citizens. At the same time though, we must realise that without expanding the powers of the European Parliament, we shall never achieve a higher degree of transparency vis-à-vis with other European institutions. Whilst empowering the European Parliament, we must use other tools and pose other questions.

Furthermore, oversight over European executive power simply does not exist in the form that we know it from member states. We know that member states’ parliaments have their representation in the Europe-wide consultation network of European affairs committees (COSAC) but there is no real surveillance over the work of European executive power. At the same time, we must bear in mind that the Treaty of Lisbon represents progress down that path. Concerning budgets and other fiscal issues, there is now a greater role to be played by the national parliaments. Of course, there is no perfect link between the executive powers on the one hand and the law making powers on the other that represent a clearly defined relationship. That is something where we still have room for improvement. Another thing that could be related to the ‘democratic deficit’ or the distance of ‘Europe’ from its citizens (whatever you call it) is the institution of European elections. I am not referring to elections for the European Parliament, but rather to elections in which different views and visions of Europe would compete

against one another. I often get asked whether the Constitutional Treaty should be subjected to a referendum in the Czech Republic. Despite my environmental opinions and Green Party membership, my answer is no. And why? I must admit and realise that national referenda have caused a reduction in the European dimension of the problem. Make the problem a simply ‘yes’ or ‘no’ vote for the current government and its policies. Therefore, if we are to think about introducing a popular vote as a principle of European democracy, we should be clear that a referendum be held on one single day. It should represent a procedure of common decision-making by which to strengthen the European dimension rather than reduce the process to a popularity vote, to a rating given to the government. Furthermore, it is obvious that the compromises, trade-offs, and political decisions reached by the European Parliament, its Council, and so on, are so complex, so multi-layered and difficult to communicate, that they will remain far from the superior type of decision-making we are aiming for. I believe that attribute rests in the very history of the Euro-Atlantic region. If we look at the legitimacy of political decisions, it is always something that is forged by political competition. Some people are in favour of something and some people are against the same thing. And those two groups should be free to compete, to engage in free competition. This is not a platform that the European Parliament should offer. It is a broad arena with all kinds of viewpoints – European, as well as others. Indeed, there are a number of ideas and concepts that discuss this point. But if we do not have such a political arena as this, where every citizen can make their opinions clear and, in the same way, also vote in favour of the European Parliament, well, that is not something the European Parliament can currently offer. The European Parliament sees the creation of predictable alliances. Therefore, no decision will be able to take us completely by surprise.

The last thing that I would like to share with you is a sign of hope. Today it is no longer possible to say that economic and political integration are independent from each other or be separated. I do not want to name any names, but those who say that we should forget about the political dimension of integration and reduce Europe to a single market are mistaken – that is something that will never happen in the future. At the same time, we must bear in mind that, just as we succeeded in building the single market, we cannot take such an easy route to European demos. These two different dimensions are simply inseparable. However, by achieving the European spirit of democracy, a European consensus would not be a technicality. It is not something to be achieved through a specific procedure, by legislation, or simple mathematics. It is something far deeper, something that deserves a broader debate. That is why the open-mindedness of European political parties is an important prerequisite for making room in the constantly emerging European political sphere. Through this course of action, the European Union should become more a legitimate and transparent space for everyone.
Questions and Answers

1) I would like to ask what you think about the enhancement of direct democracy elements, in particular about the direct election of the Commissioners.

Ondřej Liška: The mechanism that is provided for in the Lisbon Treaty allows for the election of the President of the Commission. Even though that is true, a further step should be taken here. In other words, we should have conditions that would allow for an election of the whole Commission by the majority in the European Parliament. Speaking about a direct ballot is something that, in my opinion, sounds absolutely unrealistic. It is unrealistic because there are always two elements at play. One is a mathematical approach to the actual number of votes or ballots. And the second is the ethical dimension of this issue. This is the whole question of legitimacy for this particular type of vote. I don’t think we have gone that far. What I would like to see is a European Parliament functioning on the basis of permanent coalitions that will work for a certain period of time. Perhaps this would slow down integration. At the same time, however, it would also ensure that there is more responsibility and more accountability.

2) The Economic and Social Committee (ECOSOC) always represented an element of participation and representation of employers and employees and different interest groups, which always complemented directly elected politicians. The Members of European Parliament tend to overlook this body now even though they have an obligation to consult with them in several cases. Do you think that ECOSOC is still an important actor?

Geoffrey Harris: The European Parliament is not obliged to consult with the ECOSOC and the Committee of Regions. However, the Committees do serve a function. Namely, the representatives of employers, trade unions, and representatives from different regions are able to travel regularly to Brussels where they can learn directly what is going on. I think that is a useful function of inclusion even if they
don’t have any great influence on policy making as such. I don’t have any personal opinion for or against these two consultative bodies. Nevertheless, since consultation is, by definition, a good thing, I would say it is better to have them than to not have them. However, they don’t have any decision-making power. That is in hands of the Council and the Parliament.

Jana Hybášková: Like Mr. Harris, I have no clear-cut standpoint on this. In fact, these two committees have nothing much in common with what I do. What I am particularly interested in is the question of security and defense. It is in these two areas (and this is something that I see almost every day) that consultation is a fairly weak term. I think we need not only consultation, but also direct cooperation. We need direct collaboration with businesses, for example, because the question of European security cannot be promoted otherwise. There is one thing that I have learned in the European Parliament. Being that it is only my personal experience, perhaps I should apologies to our Czech politicians. In my opinion, it seems that in national politics (and this is also true of Czech politics) we very often see an important politician addressing a conference, speak for thirty minutes, and then immediately leave after that. Afterwards, there are experts and representatives of businesses still left in the room who are all trying to speculate what it was that the politician was actually trying to tell them. I am happy to see that situations like this have seen a certain change at the European level. At that level, we have academics, the business community, and different working groups are all represented. The politicians usually stay in the room until 4 or 5 in the afternoon in order to do one thing. Namely, they want to conclude their thoughts and respond to what they have heard. They do this because what they have heard is extremely important to them. So, I think it is not only a matter of consultation, it is a matter of collaboration, a matter of making sure that there is contact between these different communities because the EU is an extremely complex mechanism.

3) What do you think about current relations between the EU and Russian Federation?

Geoffrey Harris: That is very good example of where the European Parliament takes the lead, in my view, taking a stronger and more coherent position than many of the Member States. Perhaps it has done so because it has different responsibilities than the Member States. However, the European Parliament has been very clear in regard to the direction of the political development inside the Russian Federation. It so happens that, as head of the Human Rights Units, I was charged with organizing a visit of the Human Rights Subcommittee to the Russian Federation. After months of saying ‘yes, yes, we
will arrange it’ etc., etc., they suddenly said that there were elections approaching and that our visit would not be a good idea after all. The Green group did manage to make a visit, however. Their visit confirmed how bad the situation is in regard to the development of domestic politics. The European Parliament still has many, many contacts within the surviving group of NGOs because one of the most deplorable tendencies is the effective destruction of civil society. Either through the implementation of laws or the imprisonment of people who might give money to foundations or (it is not for me to make a outlandish statements) even the extraordinary number of deaths amongst people who attempt to investigate what is actually going on in either the business world or so-called anti-terrorist actions set in place by the government of the Russian Federation. One of the candidates for the Sakharov prize this year was Anna Politkovska, one of the many journalists that have been assassinated in the Russian Federation. So, I think that the Parliament does take a strong view. Of course, this is foreign policy. It is a question of the relationship between Europe and third-world countries. However, it is also a question of balancing the interests of the EU in regard to energy and trade. Nevertheless, since we all have benefited from a wave of democracy in the late 1980s and 1990s, it is certainly the common view across the European Parliament that what is currently happening in Russia is not only potentially bad news for Russia in regard to democracy, but also bad news for neighboring countries, Georgia and these various areas. This so-called ‘frozen conflict’ represents a selection of countries that are effectively occupied by groups of people loyal to the Russian Federation.

So the Parliament takes a strong view. But what can the parliament achieve? The Parliament is not a superpower or a super-state. We cannot tell the Russian Federation what to do. The European Union can tell countries that want to join it (or want something from it) what to do. However, at the moment, Russia is benefiting from the price of oil. And this element is almost single-handedly financing its foreign policy at the present time. Another thing we should keep an eye on in the European Parliament and also in national parliaments as well (and I simply say it to myself, more than rumor) is the likelihood that a member of Mr. Putin’s party of will become president of the Parliamentary Assembly of the Council of Europe. This entity was founded at the end of the 1940s in order to enhance democracy and human rights in the free countries of Europe during that time. There is also development taking place in the OSCE about election observation issues, something that we more or less take for granted in our countries. The current trend in Russia is very bad and indeed one of the areas where the Parliament obviously cannot change the world. It is stupid to be naive. But the field of human rights is an area where the Parliament can make its point and, sometimes, might have a greater impact than we might expect. It can do this simply by drawing attention to what is going on and encouraging brave people all around the world to continue to fight for their human rights and the rights of others. This is important
because politics is unpredictable. There were people who fought for their human rights in this country 20 or 30 years ago and were subject to solidarity from outside sources. That solidarity, no doubt, was part of the process of achieving political reform. I do not see political reform around the corner in Russia at the present time. It is not a positive direction.

Jana Hybášková: I want to comment on the current EU-Russia relationship as well simply because it is a topic that, as you will agree, we focus on daily in our work. It is no longer just the Greens who take the lead. One very positive thing, as far as I can see, is the development of the discussion over human rights. You are aware that it was proposed that Anna Politkovska be awarded this year’s Sakharov prize. The European Parliament tried to create a new award, an award of consciousness that should be given to journalists who become politically and socially active. We work with the Subcommittee for Human Rights and try to make it possible that European diplomats take part in the different trials that take place in Russia. We consider it a success that we persuaded the EU diplomats and the embassies in Moscow to come to the trial of Nizni Novgorod during which Stanislav Dimitrovsky was also tried. Our representatives were there as well. I think that, thanks to the pressure we exerted on Nizni Novgorod, the court could not sentence Dimitrovsky. Indeed, this is one of the areas where we can become involved.

Another important area is one of solidarity. Even though people may not use the word much now, we still have an age-old problem in the export of Polish meat to the Russian Federation. Poland respects the idea of solidarity, regardless of the interests from the member states. Therefore, a solidarity clause must come to pass. Poland has achieved support from other member states. Another thing that is rather controversial is the support (or rather non-support) of Russia joining the WTO. In addition, the Energy Charter is on the agenda in many discussions within the European Parliament. Another important point to be discussed after the EU-Russia summit will be held on 10th December in regard to Kosovo. Whether or not Kosovo proclaims its independence, it will indeed have its consequences. This is something that we are watching over, something that we focus on.

4) How can we attain a common European (EU) position that would be respected by the third countries? Europe is usually very quiet and even if they say something, it is usually very vague.

Jana Hybášková: Europe (EU) is not a state in its own right. And as such, it has no chair at the UN Security Council. We also have no common military force, unlike the United States, for example. In other words, this question of weight in the foreign
policy arena is again a methodological mistake. I think the European Union is trying to achieve what we would call a ‘Common Foreign and Security Policy’ and we all would be happy to have a coherent foreign policy; and I think we are slowly getting there. A point of departure is although the fact that we may not have Mr. Javier Solana (High Representative for CFSP) and Mrs. Benita Ferrero-Walder (Commissioner for External Relations) to steer the policy, there would be just one person who would be responsible for it as well as for the European diplomatic service. This is a model that will represent a major step forward, leading to what you call our common position. I would like to refer back to the example of Russia. In this respect, we can see that the European Union does have a common position. This is true in relation to the US as well. Even more so, the US position towards Europe has seen some changes. People in the US Democratic Party who are preparing for their new professional posts in the new administration are doing everything they can to come closer to the people who are important in diplomatic circles here in Europe (EU). I can tell you that the the US has been already calling for more active participation from the EU in the Middle Eastern conflict in all the negotiations pertaining to that particular area. So the times have been changing.

5) We have spoken about the protection and enforcement of human rights outside Europe. But I would like to ask you particularly about the countries that are members of the European Union – to what extent the EU has been successful in enforcing human rights principles in its member states? For example, in the Czech Republic, we have seen a number of cases taken to court. I am speaking particularly about the case of property owners here who, in fact, claim that their human rights have been violated.

Jana Hybášková: I am not a lawyer. I am not a legal expert. I would like to say that the European Court of Human Rights is part of the Council of Europe, not part of the European Union. This is something that, here in the Czech Republic, is often confused. The whole debate about the Lisbon Treaty has also dwelled a lot on human rights, including the right to comfortable accommodation. This is something that is still open to discussion. At the same time, I would also say that Europe has been looking at these questions in great detail. But what you are talking about is not so much the protection of human rights, but their enforcement. Speaking of minorities, especially the Roma minority here in the Czech Republic and the Slovak Republic, we have set up the European Agency for Human Rights in Budapest, which will tackle upon these issues. In this particular area, I would not say that a deficit exists from the European Union. We are seeing major differences in the field of enforcement. Again, what we have in the Lisbon Treaty is one way to tackle this problem. The inner workings of that treaty represent an approximation of different systems and the mutual recognition of rulings both in civil and penal law cases.
Geoffrey Harris: There is a discussion that is going on in the European Parliament itself as to whether all human rights issues (both external and internal) should be dealt within one particular committee. However, for the time being, it is important to bear in mind that, when the European Union is complaining about the human right violations in Russia or Sudan, for example, it represents quite a different situation than focusing on issues that currently exist for citizens inside the European Union. Therefore, we have a specific committee on civil liberties, justice, and home affairs. As it has been pointed out, this field is a very sophisticated legal area because it means that court cases can be fought at the national level. They can be fought either through depending on EU law or in the European Convention on Human Rights. They can be taken to court even when a country’s power of national sovereignty in regard to human rights has been abolished. If all the member states actually read and accede themselves to the European Convention on Human Rights, there is a provision in the Lisbon Treaty for the European Union. The Parliament has a practice each year of drafting an annual report on the EU’s activities in regard to human rights around the world. In addition, the Committee on Civil Liberties has its own annual report on citizens’ rights inside European Union. Sometimes there are issues that are to be considered internal or external, as was the issue on the reported cooperation between the European governments and the United States in terms of CIA flights and renditions. These were internal issues of fundamental rights, as well as foreign policy issues.