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**Mountain or Molehill ?:
A Critical Appraisal of the Commission White Paper on Governance**

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**THE COMMISSION AS SORCERER'S APPRENTICE ?
REFLECTIONS ON EU PUBLIC ADMINISTRATION AND THE ROLE OF
INFORMATION TECHNOLOGY IN HOLDING BUREAUCRACY
ACCOUNTABLE.**

Deirdre Curtin

1. Introduction

During the run-up to the White Paper on Governance, the Commission behaved, in some respects, like a rather imperious wizard, albeit posturing in New Age clothing, consulting with external experts and so-called satellite "new players in Europe" (Governance Team, 2001), maintaining on-line contact with the public via its (by its own standards- extensive) web-site, combing *inter alia* scientific literature for a "magic cure" (pp.3 & 9) as well as conducting exhaustive in-house discussions. The adjective imperious relates both to the process and to the outcome. The assumption that the Commission's role and contribution could be to find just that "magic" formula which would enable it to transform the future of democracy in the EU (the sub-text, both literally and figuratively from the beginning of the White Paper process) gradually became submerged in its own highly specific obsession, namely, to re-discover and re-invigorate its own role in the decision-making, prompting it to change in mid-course into rather more traditional garb.

Side-stepping the somewhat well-debated principles, such as those of proportionality and of (active) subsidiarity (stressed in the run-up, the public hearings and in the reports of various internal Working Groups), the Commission plumped squarely in its White Paper for a notion of "good governance" which is very reminiscent of the more general terms used by the Committee of Independent Experts in their Second Report of September 1999 on the problems with the Santer Commission (Committee of Independent Experts, Volume 2). This notion of "good governance" is filled-in in a rather marginal fashion in the White Paper (p.10) and is sufficiently vague and uncontroversial to mean potentially everything to everyone without resolving very much. Certainly, it offers no threat or loss of focus to a Commission intent on consolidating its own position at all costs, and simply represents a rather loose set of aspirations common to all "government" worthy of its name. Thus, for example, there is nothing very new or substantive in the conclusion that, in the name of "more openness", the Commission will provide up-to-date and online information on the preparation of policy through all stages of decision-making" (p.4) nor that the Commission will "establish and publish minimum standards for consultation" with regional and local partners as well as representatives of civil society (p.4). At the same time, the Commission devotes most space and effort to emphasising its role in the classic "Community method" of decision-making and its own role in the process of initiating it as if the nature and scope of the problems facing the EU have not changed in the 50 years since it was first conceived. Given the almost unbearable lightness of some of the Commission's proposed solutions and tracks forward, and the less than bewitching spectacle launched by the White Paper itself, the image emerges of a light-weight and uninspired Sorcerers' Apprentice unwittingly *adding* to existing misunderstandings and problems.

Much of value has already been said in this symposium on various aspects of the White Paper. In this contribution, I deliberately stand back somewhat from the details of the White Paper itself to focus and offer some reflections on the evolution of the broader context of governance right across the spectrum of EU rules, processes and structures. In this context, I will isolate some trends in the manner in which the idea of public administration has evolved at the level of the EU and will locate the content of the White Paper in the context of that wider perspective. In the process, I will place a special emphasis on the role of information and communications technology in our evolving notions of governance (more active participation of a wide range of stakeholders or public administration “unbounded”: see Shapiro and *infra.*) and how it facilitates, even transforms, that process. After all, it can be said that information and communications technology (hereafter: ICT) not only creates new possibilities in the relationships between citizens and public administration, it also *transforms* existing possibilities and relationships (see, ICT and Government Committee, 2001). I, thus, raise the role of a mature, active and informed public sphere as a *complement* to representative institutions in terms of holding EU bureaucracy accountable in all its multi-faceted forms.

2. The evolution in the institutional reform context leading to the White Paper on Governance

In many of our political systems, it is common cause that a political scandal often becomes a vehicle for grumbling disorders about the political system in general, but that its aftermath, in particular independent reporting, can help a return to good-health (Leigh and Lustgarten, 1996). When the Santer Commission felt forced to resign in the aftermath of the publication of the First Report of the Committee of Independent Experts in March 1999 (CIE) the boils of secrecy and of lack of (collective) responsibility of the Commission were rather publicly lanced (Curtin, 2000). A secretive administrative culture is the single and predominant reason given by Paul van Buitenen, the whistleblower , in his book, *Strijd voor Europa (The Struggle for Europe)*, to explain why the events in question could happen, and how the facts became submerged in what, at times, amounted to a virtual conspiracy of silence. The resulting crisis was, for many Euro-sceptics, empirical vindication of the so-called "rottenness in the heart of Europe"(Craig, 2000). The reflections by the CIE on increasing the accountability and the transparency of both the Commission and of the EU political system in general (Chapter 7, Second Report) were forward-looking and designed to enable the body politic in general, and the Commission in particular, to find paths back towards some level of good health. The gist of the general problem, according to the Committee, is openness and transparency, as linked with responsibility and accountability (see Chapter 7, “Integrity, responsibility and accountability in European political and administrative life”, volume 2). These fundamental principles should permeate the Commissions, and, indeed, the Unions, as well as political and administrative culture in all areas and at all levels. This reflects a sense of contemporaneity that many can identify with in many different political and administrative contexts all over the world.

So far so good. The (Kinnock) White Paper on Administrative Reform which was produced in March 2000, after an extensive (internal) consultation process, focused on those issues of internal reform and management which could be dealt with by the Commission as part of its own internal organisation. Moreover, given the (amazing) fact that, in all its 50-odd years of existence as the most important part of the public administration of the EU, it had never undergone a proper reform of the way it is organised and functions, this exercise was scandalously overdue and could, given time constraints, only touch upon the tip of the iceberg, in terms of the most pressing organisational and management defects highlighted by the CIE in its reports (Metcalf, 2000).

What the White Paper on Administrative Reform reveals is an administration which is desperately trying to pull itself up by its boot straps. This reflects the fact that it did not voluntarily undergo this process of organisational reform but was somewhat forced to because of events. The Commission, in so doing, nevertheless took on board the fact that, during the course of its lifetime, the domain and understanding of public administration as such has undergone considerable changes. The move from a traditional bureaucratic paradigm, in the sense of a downward and inward looking Weberian organisation, towards a more modern administration, viewed in more business, private sector terms, enabled the goals of efficiency and performance to move to centre-stage (see, in general, Guy Peters, 2001 and Owen Hughes, 1998). The outcomes and the results of administrative action become the new focus in an attempt to imbue a more managerial and market-like ethos into the public sector. In a sense, it is this shifting paradigm which forced the Commission not only to re-constitute internally and, in a managerial sense, the manner in which it achieves these goals (see, for example, the focus placed on tools such as “activity-based management”, core business, *etc.*, in its *White Paper on Administrative Reform* and subsequent implementing measures) but also to engage in some degree of fusion of the private and public sectors (via tools such as contracting-out, outsourcing, *etc.*).

But in undertaking this, in itself, rather limited exercise of internal administrative reform, the Commission repeatedly came up against the ceiling that, no matter how it twisted and turned in terms of reformed managerial and financial re-organisation, it simply did not have the resources to cope with the (ever-increasing) number of tasks allocated to it. At the root of many of the Commissions’ problems in carrying out its various tasks lies the fact that, over the last decade, it has, cumulatively, simply acquired too many, especially so, as this was without a concomitant increase in resources (see, for detail, CIE Reports). Overload led to confused priorities and to inadequate co-ordination (Metcalf, 2000). It is, after all, not so difficult to understand that it is, indeed, impossible for it simultaneously and adequately to oversee detailed implementation of new programmes, policy conception over steadily increasing areas, initiative of Union laws and the enforcement of existing laws. This impossibility led it to do what administrations all over the world have done : to contract out duties and tasks; the exception here being that, initially, it took place on an *ad hoc* basis and with no agreed structure of oversight and control, thereby invoking the wrath of the CIE when inspected under a magnifying glass in all its tedious detail (see, CIE Report of March 2001 in particular).

The fact that the European Commission, as a public administration, was forced to seek refuge in a rather elaborate system of contracting out certain (not so precisely) delineated tasks is not at all surprising (see, too, Paul Craig, 2000). It constitutes the tip of the needle in terms of a gradual process of moving public sector tasks outside the realm of complete control by the central administration towards more partnership with the private sector (to various degrees and in various guises) and is a problem that sophisticated state of the art administrations are grappling with all over the world (see, *inter alia*, J. Pierre and B. Guy Peters, 2000; Parliament of Australia ,2000; Discussion Paper of Auditor General of Canada, 1999 and Ford and Zusmann, 1997). This theme of contracting out or out-sourcing is thus a central theme of modern-day public administration.. It involves recognition of the need to move beyond being a *bounded* public administration towards a more *unbounded* existence where it is recognised that there is a need to include outside interests and stakeholders in the process of decision-making (Shapiro, 2001). It is this latter phenomenon, in particular, which forced the Commission to move beyond the issue of administrative reform to the much wider issue of governance. The use of the word ‘governance’ is precisely meant to indicate a level and intensity in the “unboundedness” process. Commissioner Busquin equated governance squarely with unbounded

public administration: “Governance means public administration through the interaction of the traditional political authorities and “civil society”: private stakeholders, public organisations, citizen.”, (cited with approval in the Opinion of April 2001 of the Economic and Social Committee). Nevertheless, the conscious use of the term “governance” announces a significant erosion of the boundaries separating what lies inside an administration and what lies outside (politics, the citizens, other stakeholders). Martin Shapiro has helpfully put the importance of the term governance in these terms: “To be sure, governments and their administrative organisations still make collective decisions, but now everyone , or at least potentially every one, is also seen as a participant in the collective decision-making process.... Today elected and non-elected government officers, non-governmental organisations, political parties, interest groups, policy entrepreneurs, “epistemic communities” and “networks” are all relevant actors in the decision-making processes that produce government action”. This, in itself, does not mean that these actors are, as such, replacing the formal political actors; instead, it means that there is an erosion of administrative boundaries along a continuum.

3. Some reflections on the scope of public administration in the European Union

Given the unique (albeit still largely undefined) nature of the EU, there is more to the story of the evolution of public administration or public tasks at that level than a simple parallel with national administrations, even in terms of their “unboundedness” or otherwise. Given the unique configuration of the EU as a multi-level governance polity, it was never just simply a matter of a central administration with some decentralised tasks (at national level). Instead, from the very beginning, there was a complex interweaving of the tasks of the (central) (direct) administration, the Commission, with the tasks of the (central) (indirect) administrations of all the Member States, sometimes as an elaborate partnership arrangement, sometimes as a straight-forward hierarchial arrangement. At the same time, there is a pressing need for the EU as a whole to learn to develop new systems of governance as part of an ongoing process of structural re-organization (Metcalf,2000). The difficulty lies precisely in the fact that there is no ready-made model to imitate.

The contours of certain more specific trends can, nonetheless, be discerned, at least in outline form, in the overall EU public administration landscape. I would, in any event, mention the following examples. First, the power which “experts” acquired within the centralised power-structure of the Commission via the instigation and exponential growth of the comitology procedures is an example of the erosion of administrative boundaries and has been richly documented in recent years (see Joerges and Vos). Second, an increasing number of (sensitive) tasks of public administration are arguably carried out by a growing number of independent bodies such as Europol, pro-Eurojust, *etc.*, and there are clear moves to move towards regulatory (and operational) as well as more classical information-gathering agencies also in this field (see Curtin and Dekker). Third, there is a marked growth in the position, tasks and influence of informal committees with no legal basis (*e.g.*, Chief of Police tasks, also other examples in CFSP and external relations: Curtin and Dekker) . Fourth, the General Secretariat of the Council exercises powers comparable to a public administration over certain policy areas, and such tasks have gradually grown in importance and significance since the Treaty of Maastricht (see Curtin and Dekker). To say that the latter are simply “inter-governmental” in nature and effect is, in my view, to close ones eyes to the reality of an increasingly inter-twined and complex fabric of public administration at level of the EU.

Finally, on the national side of public administration, this, too, has become much more variegated, both as a result of the “hiving-off” of functions to (quasi-) private sector parties and as a result of increasing trends towards decentralisation and regionalisation at national levels of administration. The latter trend, in particular, has forced the Commission to recognise that, when it talks both in terms of “indirect administration” at national level and in terms of a more inclusive and participatory approach to policy-making, it needs to take account of the flurry of regional and local actors which de-centralisation processes have spawned in the past decade or more (among the “new actors of Europe” according to the White Paper Governance Team, June 2001). Indeed, some of its ideas which developed in this specific context bear witness to a degree of originality and innovation not present in much of the rest of the White Paper (see, for example, the interesting proposals to enter into “contracts” with national and regional actors as a more flexible means of ensuring implementation of EU policies, White Paper, pp.13-14).

However, on the whole, what emerges from this general (and necessarily sketchy) overview of the background landscape to the more detailed topic of “governance” in EU structures, processes and rules, is that, in its White Paper, the Commission seems to be stunningly selective and self-referential in the manner in which it chooses, from a complex and fragmented landscape, which elements to engage with, even though it pretends to cover the topic in its generality (*i.e.*, to have an overview of the scope of the governance process in all its complexity) at the level of the EU. Instead of a vision of public administration and governance as it has developed over the years, in all its detail and its fragmentation, it, instead, chooses to focus exclusively on classical aspects of the decision-making and implementation process as it relates to its own tasks and functions as originally conceived and honed in the foundational years of the EC (“the Community-method”). From this perspective, certain selections are made, such as, a dismissive treatment of the role which “committees” (comitology) play in the decision-making and implementation process (for example, White Paper, p.31) without any recognition (or discussion) of the potentially positive aspect of this facet of the process (Joerges, 2000) and ways in which it could be further amended in order to ensure that the paraded principles of good governance are further embedded in the rather procrustean bed in practice. On the other hand, the advent and development of regulatory agencies is hailed as a putatively useful solution, again without much substantive discussion (White Paper, pp. 23-14). It is beyond the scope of this contribution to discuss either of these issues in substance, other than to remark on the self-referential nature of these (important) aspects of the decision-making process viewed exclusively through the spectacles of the Commission’s own role in the decision-making process.

The fact that the Commission does not, at any stage, make the slightest reference to the growing governance structures in the field of policing and criminal law (the so-called “Third Pillar”), in which it is now actively involved, is remarkable. The only explanation that I can give is that of the entire philosophy which underpins the White Paper itself in its final form, namely, that, for political reasons, the consolidation and re-trenchment of its classic institutional position are of the order of the day, despite clear evidence of the fact that the whole question of governance at the level of the EU can only be begun to be understood by placing it in a context of “structural pluralism”(Giddens). The Commission, therefore, deliberately chooses to ignore completely a difficult and rapidly evolving part of governance in the EU, namely, its new functions and tasks in the field of criminal and policing law in particular (so-called Third Pillar), its tasks (and those of other institutions) in regard to the myriad bodies, working parties, organs and networks in and around these areas, and the serious lack of co-ordination among them as well as the exponential growth in data-bases, some based in the

Commission, some not, and the growing number of proposals to link that data without any broader control framework of good governance or anything else (see, in general, Peers). The wizard is seemingly so spell-bound with admiration of his own reflection that much of interest and significance taking place in the immediate environment is missed.

4. Information and communications technology, citizen participation and bureaucratic accountability

It is not uncommon to come across statements to the effect that the technology behind ICT has occasioned a very fundamental shift *inter alia* in the role of government and governance (ICT and Government Committee, 2001). At the very least, it can be agreed that the ICT revolution involves a technology that strengthens intellectual (learning) capacities such as information, communication and knowledge (Bellamy and Taylor, 1998). This, of course, has particular pertinence to the role of public administration (government) in modern societies, given the centrality of communication and the provision of information to their functioning. Public administrations all over the world are finding it imperative to ensure that they are in a position to engage in social processes of *collective learning* as a means of harnessing collective intelligence as a source of continuous improvement as well as of *information sharing* (Lebessis and Paterson, 2000). ICT is, at the same time, responsible for a vast increase in the amount of information that is available both in a quantitative sense and in the manner in which it renders information accessible. ICT, in principle, increases the transparency of processes and structures by generating information about the underlying productive and administrative processes through which public administration accomplishes its tasks (ICT and Government Committee).

Part of a possible significant shift in contemporary society is the advent and multiplication of networks right across the various spectrums of economy, polity and society (Cassels). Networks are explicitly conceptualised as pluri-centric forms of governance in contrast to uni-centric or hierarchial forms of governance. It is, in any event, becoming a truism that ICT has a strong network character: the Internet has been aptly described as a “loosely connected network of networks with communication technology at their core” (Frissen, 1996). The horizontalisation of governance in the form of networks is a major trend in modern-day public administration (Bovens, 2000). In the EU, it is certainly not limited to the fields of economic policy-making and related areas (Kohler-Koch and Eising, 1999). In the sensitive fields of policing and criminal law, we are also witnessing an untold and very scantily documented rise in different forms of network governance outside and in addition to formal institutional structures. If we read the Council conclusions of 20 September 2001, it is finally laid down in black and white for all to see just how central a role committees of (senior) civil servants, networks of public prosecutors and task-forces of Police Chiefs, and quasi-institutions such as the Provisional Judicial Cooperation Unit (Pro-Eurojust) are assuming in the construction of EU policy-making in the field of law enforcement (Council Conclusions, 2001).

One major problem is that the trend towards increased horizontalisation of governance relationships does not fit at all with an understanding of accountability in purely vertical pyramidal terms (see, for example, Bovens, 2000). In other words, accountability as it has been traditionally understood and applied in the Member States of the EU and in the EU itself (despite the absence of the rigid division of powers found at national level) is premised on the vertical structure of public administration and the absolute primacy of (representative) politics in that context. The democratic

process by which the executive is accountable to the legislature is the crowning principle of this system, and the concept of administrative responsibility (or ministerial responsibility) is its symbolic seal. Such vertical accountability is embedded, albeit certainly imperfectly, in the EU system as well. Indeed, in recent years, it has been reinforced in significant ways, in particular, by the development of (further) executive responsibility to the European Parliament and, indeed, this would seem to be part of the Commission's implied agenda for the 2004 IGC institutional reform process (see pp.30-31; see, also, P. Magnette, 2001).

But, at the same time, there is more to developing notions of accountability tailored to the modern-day "fourth branch" of government, both at national level and at international level and their complex inter-weavings. More effort of imagination is required than a simple copy (albeit adapted) at the level of EU structures and processes of the classical national system of vertical accountability. The clash between the vertical structure of government and the trend towards horizontal networks, no fan of hierarchy, is one of the main problems facing government (governance) in the information society. This fundamental problem is not alluded to at any stage in the White Paper, although the early work of the Forward Studies Unit showed awareness and sensitivity to this aspect of the debate (Lebessis and Paterson, 1996 and 2000). Instead, the Commission in its White Paper is content to adopt a congratulatory approach to its information policy (including the controversial new regulation on public access to documents) and some meagre thoughts in a separate communication on developing its communications policy (p.11). Indeed, further examination of the Report of the (internal) Working Group 2a ("Consultation and Participation of Civil Society") as well as that of Working Group 1a ("Broadening and enriching the public debate on European matters"), reveals that the general attitude displayed within the Commission to the significance of ICT is a highly ambivalent one, confined largely to viewing it in purely *instrumental* terms. In other words, it tends to focus on the introduction of more *on-line information* (for example, data-bases providing information on civil society organisations that are active at European level or listing all consultative bodies involved in EU policy-making) rather than on reflecting on the *institutional* potential and dynamics of the technology in a broader (citizenship) framework (see Bovens, 2001).

The decision by the Commission not to deal with the key issues of access to information and the linked question of the communication policies of the institutions is a major defect in the White Paper and pre-determined a fairly marginal role for "active" civil society representatives in its development of the governance agenda in the EU. In my view, the Commission in its White Paper gravely underestimates the changing relationship between public administration and citizen and the role which ICT is playing in that regard. It is a rather futile exercise to attempt to pigeon-hole as part of an exclusively vertical pyramid of accountability the role of the citizen and their civil society representatives in the manner which the Commission attempts to do (see, for example, pp.14 *et al*). In effect, its contribution only goes in the direction of expanding the composition of an advisory, and, to date, fringe-organ, namely, the Economic and Social Committee, to include "representatives" of civil society (p.15.). Actually, the point is not only the risk that the Commission, according to certain criteria, "selects" a limited number of Brussels-based NGO's with sufficient capacity, *etc.*, giving it funds, buying its loyalty, but that a golden opportunity is lost to harness the energy, the interest and the engagement of a wide variety of civil society participants who are not necessarily looking for strict "participation" rights as such, but, instead, to engage in a vigorous and dynamic fashion in public debate, where different viewpoints can be heard, deliberated upon and ultimately be decided

upon by the formal decision-makers (see, further, Curtin, 1999). It is precisely this process where I would suggest ICT can play a key role.

A decline of trust by citizens in their political institutions is a feature of many Western democracies over the course of the past decade or more . This crisis of confidence has been evident not only in the drop of support for politicians as a group (Pharr and Putnam) but also in the drop of support for (and public participation in) political parties (see Peter Mair, 2000, Frissen, 2001). The same phenomena are present both in many Member States of the EU and also with regard to the political parties which put forward candidates in the European Union context. The Commission for its part is content to remark in anodyne (and inaccurate) fashion that: “European political parties are an important factor in European integration and contribute to European awareness and to voicing the concerns of the citizens” (p.16).

What is, as a matter of fact (rather than as a pious aspiration), very striking in these times is the empirical evidence pointing towards the increasing interest of citizens in theme-related information and theme-related activity as an alternative form of political engagement. For example, in the Netherlands, the level of activity among citizens in organisations and associations has increased in a striking fashion over the course of the past decade (see Report of *Sociaal en Cultureel Planbureau* on the Netherlands in Europe, 2000). In the European Union, too, the growth in the existence and activity of the so-called “civil society” sector in and around the structures and processes of EU governance is increasing very steadily (see, for example, the Opinion of the Economic and Social Committee, 2000 and Curtin, 1999) .

As a result of engaged , albeit non-traditional, political activity, citizens not only have much greater motivation to seek out information as to the performance of the public administration for themselves (or via an association or interest group to which they belong), they are thus better placed than ever to scrutinise the manner in which public administration tasks are carried out . Moreover, it follows that (large groups of) citizens no longer need or wish to have passive relations with the public authorities, but instead wish to play a vigorous part in defining these contacts as they see fit (ICT and Government Committee, 2001). In other words, citizens are themselves developing their role, using the technology offered to them by ICT both in terms of acquiring information and maintaining virtual and horizontal relations with no traditional time and space constraints (Dutch Council for Scientific Advice to the Government), and are more willing to engage actively in (specific) issues now than in times where a more heroic view of politics prevailed (see, on the role of ICT in strengthening the possibilities for civil society organisations to participate in the process, *Internet en Openbaar Bestuur*, 2001).

In other words, the input of civil society is, in my view, not to be harnessed to some convenient point in the decision-making system when a chosen few can be selected at the behest of a central actor (in this instance the Commission) to be allowed to participate in the formulation of an opinion of an advisory organ with a very limited role to play across the broad thrust of the public administration and governance process. A more fruitful and tailored approach is to seek “spaces” for deliberation by a wide range of interested parties at various stages in the decision-making and implementation processes, prior to their adoption by those formal political actors who ultimately can be held both responsible and to account in a mature political system (see, further, Curtin, 1999).

5. Towards ‘arts and crafts’ good governance in the EU ?

The focus has shifted from the realm of the Commission as unsuccessful wizard, at least in terms of convincingly ordering chaotic structures and processes, and anticipating signs of turbulence ahead, to that of designing an architecture capable of the task of accommodating highly eclectic and diverse manifestations of EU governance. A recent and very extensive (comparative) study on *Success and Failure in Public Governance* (see, Bovens, 't Hart and Guy Peters, 2001) concludes a mammoth task focused on comparative national examinations, with a plea for what it terms an ‘arts and crafts’ conception of what constitutes good governance. There may, indeed, be something in this image for those struggling with evolving governance structures at the level of the EU . In the process, we may perhaps be inspired by the vision and, at the same time, the modesty of those early 20th century ‘arts and crafts’ architects (Frank Lloyd Wright and others) who, carefully and with considerable eye for layers of detail and unpretentious workmanship, toiled to produce affordable and holistically pleasing spaces where real people could grasp the philosophy behind the structures put in place. Good governance is, in this sense, conceptualised as:

“...working one’s way through a complex series of challenges in the most effective and politically sensitive manner possible. When doing so, people in [governments] would be working with incomplete information... and would be attempting to please the public with diverse and often conflicting values. These governments would also be faced with a number of internal governance problems, not the least of which is the attempt to co-ordinate the activities of numerous organizations working within the public sector.”

The White Paper on Governance is a missed opportunity for the Commission and for the European Union. Instead of doing some serious redrawing of the boundaries of public administration as it has evolved in law and in practice at the level of the EU itself and in relationship to the various systems of national public administration, the Commission has sought refuge in rather old-fashioned thinking on the “Community method” of decision-making and its specific institutional configuration therein. Instead of placing the citizen at the centre of the European construction alongside the related concerns of accountability and democracy, it has revealed a disturbingly self-interested and entrenched perspective on the future of governance in the EU. Moreover, the Commission, ostrich-like, has refused to place its analysis in the wider perspective of the debate on the “future of Europe” and the coming Inter-Governmental Conference in 2004. Yet, the overlap is considerable since a key question in both domains relates to questions of openness, transparency and accountability.

An “arts and crafts” conception of good governance as applied to the European Union requires, in my view, carefully crafted principles capable of reaching into every nook and cranny of the governance of the EU as intertwined with that of its Member States. What mechanisms can be devised to ensure the effective and transparent co-ordination of the various actors and processes in this sense? How can our standards of accountability and of responsibility be adapted to the spread of more “unbounded” (non-hierarchical) governance also at the level of the (post-national) EU? At the same time, it can be considered whether actors from a broadly based civil society should be given an opportunity to input into the public debate at certain crucial moments (a type of “notice and comment” as provided for in the US Administrative Procedures Act and in the UN Aarhus Convention) . The initiation of such procedures at the level of the EU needs to take account of the scattered and eclectic nature of public administration at this level.

At the same time, a crucial substantive challenge that lies ahead in the context of EU governance is the question to what extent ICT is transforming at this level to the relationship between the citizen and the wider public administration? An avenue worthy of serious exploration is the granting of digital access rights to information also at the level of EU public administration and governance structures. In the Netherlands, the Dutch Commission on Constitutional Rights in the Digital Era drafted proposals to adapt the Dutch Constitution to the information society and included a right of access to information held by the government. Recognition of information rights can help to render the constitutional state an appropriate accommodation for the information society; such embedment is particularly important in the European (constitutional) context (Bovens, 2001). How can our thinking on the role and significance of (broadly based) information rights in the digital era take concrete (legal) shape? It is clear that these are, at the moment, grossly inadequate and that one can even deduce a worsening of the situation in that regard since 11 September 2001.

Only with more openness and less unnecessary secrecy can ideas on citizen participation and holding bureaucracy at the level of the EU to account take further shape. To believe that all will be solved in terms of undemocratic decision-making by simply giving more powers of co-decision to the European Parliament or institutionalising the role of national parliaments or other actors at the level of the EU is too simplistic. The Commission, in many ways, found the good catch-phrase (“good governance”): the debate on the future of Europe which the newly established (constitutional) “Convention” will jump-start in March 2002 must now give it some carefully crafted shape and substance in the unique context of the European Union.