In this introduction to the EUI Review focusing on the Lisbon Treaty, I want to offer a rather personal account of what it implies and of how it came about. It is a story about whether the glass is half full or half empty. On the half full side, I have to admit that I felt happy and relieved when the Treaty finally entered into force at the end of last year. With this event a decade of seemingly endless negotiations between governments and knotty ratification processes came to a conclusion. While the final result is certainly not perfect, the Treaty is without doubt a major achievement and a crucial step in the European integration process, and it goes without saying that it will be the basis the Union operates on for many years to come. Supporters of the Treaty argue that it increases the Union's democratic legitimacy and transparency and that it will make the Union more coherent. While this is certainly the case in many regards, the Treaty at the same time leaves any Europhile partisan of the integration process with somewhat mixed feelings. And here we come to the perception of the glass being half empty. Regardless of any judgement on the final outcome: the good start made after Laeken and the Convention was followed by a very tiring and disappointing process of actually arriving at a reform treaty. The way in which the Lisbon Treaty finally came into force leaves us with a bad taste, and to a certain extent besmirches its positive elements.

When we look back at these almost ten years of political and institutional engineering (on which Christine Reh will shed some more light in this EUI Review), which finally resulted in the
Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, we can distinguish two quite different parts of its development story: an innovative, euphoric and positive period ranging from 2001 to 2005, and a rather disappointing, difficult and stringy period from 2005 to 2009. After the Laeken Declaration in 2001 and the establishment of the European Convention, the times were dominated by enthusiasm and a true feeling of political entrepreneurship. In the Convention, of which I had the chance to be a member as a Spanish MP, the majority of the members were convinced that they were engaged in a trendsetting political endeavour which had the potential to prepare Europe to enter the next level of its integration process and to bring it closer to its citizens. When attending the signing by the then 25 Member States in Rome in 2004, I looked forward to the ratification process and was confident that the document would fulfill the reform needs of the enlarged Union and the expectations of its Member States and citizens. In addition, I and many others believed that the concept of a European ‘constitution’ would be perceived very positively by the citizens, that the word ‘constitution’ itself would provoke a wave of enthusiasm.

We were proven wrong. When afterwards in May 2005 the French public rejected the Constitution and just three days later the Dutch did the same, a major shock rocked Brussels, myself and everybody actively involved in the European integration process. I can clearly remember the pain and the helpless perplexity we felt after this, and I will never forget how Juncker, Barroso and I gave a press conference the next day, where we tried to put a brave face on the matter. In reality, however, all the positive feelings that had accompanied the process until then were blown away overnight. The following ‘period of reflection’ that was proclaimed was dominated by doubts and uncertainties: the overall future of the Union, or at least its further Treaty development, was called into question.

We had to realize that—regardless of the good intentions and the truly-felt enthusiasm at the beginning of the process—we had veered away from many ordinary European citizens. It became painfully clear that the story of Europe’s founding fathers—European integration as a means to prevent war and to build a continent of peace—was no longer compelling enough to a majority of the citizens. They had started to become increasingly sceptical towards an ever-growing Union, and the Europe in which the elites believed was drifting away from the concerns of its citizens. This mismatch in expectations, together with fuzzy fears, was probably one of the main reasons for the constitution’s failure.

When the rewriting of the Constitution then started, leading to the Treaty text the Member States signed in Lisbon in 2007, many core elements of the Constitution were saved. However, many of the elements which, to my mind, would have taken the Union to a new level were deleted. All the elements with a symbolic character, like the European anthem, the flag and the motto (‘United in Diversity’), which the Constitution would have legally enshrined, can no longer be found in the Lisbon Treaty. One might consider this of minor relevance, but I think that such symbols are crucial to giving some more emotion to European integration and in forging a common identity. Clearly, the removal of these symbols together with the banning of the word ‘constitution’ was an indicator of a more sober and humble way forward—quite the opposite of the initial feeling of enthusiasm with which the convention started off. Personally, I think that this is a pity and that we may actually need a more emotional approach to the Union to get citizens more enthused. However, the Irish referendums after the Treaty signature and the murky ratification process certainly did not contribute to achieving this aim. With calling the Irish to vote again on their initial decision and the introduction of the Convention, as some perceive it, ‘through the backdoor,’ many citizens were unfortunately confirmed in the reservations they have towards the EU.

Now with the Lisbon Treaty finally in force, I think it is important to look forward on the basis of what we did achieve, and to put an end to the tiring process of institutional engineering and debate. In this regard, I would like to stress a few important points. First of all, both exaggerated optimism and exaggerated criticism of the Treaty are misplaced. We should now carefully follow and analyse how the provisions of the Treaty are implemented and what really changes regarding the functioning and the outreach of the Union. Any hurriedly formulated condemnation of the Treaty and its provisions should be avoided. Secondly, it is very important that the long process of getting to a new Treaty be put behind us. This extensive navel-gazing exercise was exhausting, and made it sometimes difficult to properly face the numerous challenges that Europe has to deal with. Finally, I hope that all the institutions involved and the Member States will do their best to efficiently and creatively implement the Lisbon Treaty in order to achieve ‘optimised working methods to tackle both efficiently and effectively today’s challenges in today’s world, to reinforce democracy in the EU and its capacity to promote the interests of its citizens on a day-to-day basis’ (to use the words of the Commission promoting the Treaty).

Needless to say, the implementation of the Lisbon Treaty provides opportunities to face reality and to
handle today’s pressing issues in a better way. The Treaty might also pave the way for Europe to become more democratic and transparent and to be a more coherent international actor. However, it hardly says anything new on how to possibly deal with the current crisis of the euro, the mandate of the European Central Bank, and broader questions on fiscal policy and economic governance. When thinking about these grave economic issues, it is an irony of history that the Lisbon Treaty entered into force at pretty much the same time that its namesake, the Lisbon Strategy, was effectively buried. Although the economic action and development strategy for the last ten years (practically the period from Laeken to the Lisbon Treaty) formulated ambitious aims to be reached by 2010, we have to admit that most of its goals have not been achieved. In sum, we have to keep in mind that the Lisbon Treaty is an important step in the integration process, but that we now need to focus on its possible impact and on the other challenges Europe has to deal with.

I am happy that this EUI Review will offer space for some light to be shed on various elements of the Lisbon Treaty and its potential to contribute to facing these challenges.
When the ‘Convention on the Future of Europe’ was launched in February 2002, expectations ran high on both the substance and process of European Union (EU) reform. The questions to be addressed by the Convention were more far-reaching than in any previous Intergovernmental Conference (IGC), and the process of negotiation was to be different—more inclusive, more transparent, more deliberative. In short, reform was to be more ‘constitutional’, and talk of Philadelphia quickly followed the Summit of Laeken. Between the Laeken Declaration of 2001 and the ratification of the Lisbon Treaty in 2009, EU reform was played out in three stages: first, the Convention process; second, a period of intergovernmental bargaining and popular votes; third, a phase of ‘de-constitutionalisation’. What united all three stages was their divergence from the established IGC mode that had dominated EU reform since the Single European Act, based on a combination of bureaucratic pre-negotiation, high-level summits and limited public involvement. Indeed, the 2002-2003 Convention was more public and inclusive than a classic IGC; the intergovernmental negotiations of 2003-2004 were more political and followed by a string of popular votes on (and rejections of) the Constitutional Treaty; and the negotiation of the Lisbon Treaty—a direct response to the failed referenda in France and the Netherlands—was more restricted and decidedly ‘non-constitutional’ than previous conferences. What more, given the current reform fatigue as well as the codification of the Convention method and the introduction of a ‘Simplified Revision Procedure’ in the Lisbon Treaty, a traditional IGC is unlikely to be held any time soon.

The Convention process was launched in 2002—following on from the success of the 1999-2000 Charter Convention; from dissatisfaction with the 2000 Nice IGC; from the experiment of a broad ‘Future of Europe debate’ under the 2001 Swedish and Belgian presidencies; and, not least, from Joschka Fischer’s Humboldt Speech two years before. For some, the Convention was to be Europe’s first constitutional assembly; for others, it was little more than a replica of the 1995-1996 Reflection Group. The Convention was certainly more inclusive than a classic IGC, bringing together national and European parliamentarians as well as government representatives, and holding public hearings with civil society. The Convention was also more transparent than a traditional IGC; it deliberated openly and published the minutes of its plenaries (though not of the meetings held by its powerful Secretariat). And the Convention was more confident than previous preparatory committees; according to its chairman Valéry Giscard d’Estaing, the process was to end the EU’s ‘semi-permanent Treaty revision’ (de Witte) and find lasting answers to Europe’s fundamental questions. As such, the Convention not only attracted public attention and absorbed political resources; it quickly reached centre-stage in the academic debate as well and triggered an unprecedented interest in EU constitutionalism and normative thought, in the study of negotiation and preference formation, and in the application of Habermas’ theory of communicative action.

In terms of process and output, the Convention was remarkable in two respects. First, rather than tabling options to Europe’s Heads of State and Government, the Convention’s 102 members reached consensus on a ‘European Constitution’—shorthand for the ‘Draft Treaty Establishing a Constitution for Europe’. This draft was certainly not the readable pocket-sized constitution some participants had hoped for, but it would have repealed the existing TEU and TEC; made it easier to distinguish fundamental principles from detailed policy-provisions; and facilitated public recognition through its constitutional symbolism and incorporation of the ‘Bill of Rights’. Second, following the Humboldt Speech and the Laeken Declaration, the Convention openly framed its work as ‘constitutional’. In stark contrast to the established practice of implicit constitutionalisation that had dominated EU reform since the 1950s, explicit constitutional rhetoric was ‘normalized and mainstreamed’ (Weiler and Wind); politicians and the press evoked a ‘constitutional moment’ (Ackerman); and constitutionalism became popular in the academic study of Europe.
Yet, this turn to explicit constitutionalisation was neither unequivocal nor uncontested, and it backfired eventually. Towards the end of the Convention process already, there was a growing sense of ‘IGC-isation’. Foreign ministers decidedly intervened into the final stages of deliberation, and the ‘conventionnels’ were acutely aware that their output—no matter how consensual—required unanimous agreement by Europe’s Heads of State and Government. The IGC that eventually followed the Convention was more explicitly political than previous conferences; determined to preserve the momentum and concerned not to unravel the Convention’s hard-won compromise, Heads of State and Government kept negotiation at the top-political level and delegated preparation to their foreign ministers on the one hand, and to the ‘Focal Points’ as well as a first ‘Piris Group’ on the other, rather than to a full-fledged Group of Representatives. Following hard bargaining by several national governments—Poland, Spain and the UK in particular—and the failed Brussels Summit in December 2003, agreement on the Constitutional Treaty was finally reached under the Irish Presidency in June 2004.

The 2003-2004 IGC was played out at a more political level than previous conferences; working on the basis of the Convention’s draft, it was also more pre-structured and constrained. Yet, even though it was different in style, the IGC firmly belonged to the ‘old’ mode of Treaty reform and to implicit rather than explicit constitutionalisation—in stark contrast to the domestic ratification process that followed. Indeed, matching the Convention’s constitutional rhetoric and the expectation that a constitution requires popular support, an unprecedented number of Member States promised to submit the Constitutional Treaty to a popular vote even where they were not constitutionally obliged to do so, and ratification by referendum was promised in the Czech Republic, Denmark, France, Ireland, Luxembourg, the Netherlands, Poland, Portugal, Spain and the UK. The results are all too familiar: While a majority of countries ratified the Constitutional Treaty and referenda in Spain and Luxembourg supported it, in May and June 2005 French and Dutch voters clearly rejected the document. The speed at which the constitutional pendulum swung back in the face of these events was striking.

Following the ratification fiascos in France and the Netherlands, Europe’s governments called for a ‘period of reflection’, which was mainly used to ‘de-constitutionalise’ EU reform—or, more precisely, to ‘re-de-constitutionalise’ the process. Indeed, if the legal theorist Joseph Raz is correct in arguing that a constitution must be known, accepted and sustained by the public, and that a constitution’s recognition can spring from the authority of its authors, from the explicit consent of those concerned or from moral force, then post-2005 Europe was de-constitutionalised in two ways: First, the Lisbon Treaty and the political discourse were purged of any ‘constitutional register’ (Walker); second, the reform process was decidedly ‘de-democratised’.

In terms of substance and discourse, unlike the Constitutional Treaty Lisbon amends rather than repeals the EU’s existing Treaties; it minimises the Charter’s symbolic value by opting for legal recognition rather than full-fledged incorporation; and it removes any constitutional symbolism that could foster public recognition: the flag, the anthem, the motto. The mandate which the 2007 IGC received from Europe’s Heads of State and Government is perhaps most telling in that respect; it states plainly that the “TEU and the Treaty on the Functioning of the European Union will not have constitutional character’ and that the ‘terminology used [...] will reflect this change’. The political discourse thus conveys a clear anti-
constitutional message—a message that becomes even stronger when read against the backdrop of the explicitly constitutional interim: Pre-2000, constitutional rhetoric and symbolism were avoided; post-2005, they were rejected outright.

The reform process tells a similar story. Up until the 2000 Nice IGC, the EU’s Treaties were largely changed without popular endorsement; they were ratified by national parliaments, and only few Member States held referenda. The Convention, by contrast, strove to democratise the reform process and to evoke a constitutional moment through public and popular involvement. Following the failed referenda in France and the Netherlands, however, EU reform was decidedly de-democratised again. The latest Treaty was agreed in secluded negotiations, and the substantive transition from ‘European Constitution’ to ‘Reform Treaty’ was dominated by Heads of State and Government on the one hand, and by the ‘Piris Group’ of legal experts on the other. Unsurprisingly, all Member States decided against holding referenda on Lisbon, with the exception of Ireland, which was constitutionally obliged to do so. In sum, if previous Treaties had been changed without explicit popular endorsement in most Member States, the Lisbon Treaty was adopted in spite of the failed referenda on its predecessor and the first Irish ‘no’. The widespread popular disinterest of the first decades of European integration—or, to put it more positively, the tacit acceptance of incremental change—was one matter; the explicit ‘re-de-constitutionalisation’ of the reform process and discourse was quite a different, more decidedly anti-constitutional move. Seeing both the language and the method of intergovernmental diplomacy return, the 2007 IGC thus stood in direct contrast to the Convention process—constitution had become the ‘c word’ again (Weiler and Wind), and Europe was to be constituted by an international treaty.

In all likelihood, the Lisbon Treaty that entered into force on 1 December 2009 will indeed put a preliminary end to the semi-permanent reform of Europe—yet for different reasons and in different ways than the Convention had envisioned. Procedurally, the Convention method did find its way into the new Treaty, but Lisbon also introduces a ‘Simplified Revision Procedure’ which delegates reform to the European Council rather than to a separate IGC; politically, after the eventual Irish ‘yes’ to Lisbon, there seems to be little appetite for a further round of full-fledged institutional change. After its brief explicitly constitutional interim, the future European Union is thus likely to return to implicit and incremental constitutionalisation.

Christine Reh completed her Ph.D. in Political and Social Sciences at the EUI in 2007. Her thesis was entitled: The politics of preparation: delegated decisions, arguing and constitutional choice in Europe.

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**Corrigendum**

Due to an editing error in the Winter 2009 EUI Review, the table on ‘EUI Administrative and Teaching Staff, 2002-2009’ (page 28) omitted information included in the original table, resulting in an inaccurate representation of the composition of the EUI’s staff. A corrected table is reproduced here, and the EUI Review sincerely apologizes to the author and to readers for the error.

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Le roi est mort, vive le roi! Against the backdrop of some earlier hopes, the Lisbon Treaty might look as just the next treaty in a long sequence of European negotiations, and not like a fundamentally new start. Its very name is already an indicator for this. Its rather baroque and boring wording bespeaks of long lines of continuity and a complicated birth: a document called the ‘Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community’ does not sound like a founding document of a new political creature. Nor does it smell of spin doctors or an appeal to the people(s)—for better and for worse.

On the other hand, the Lisbon Treaty does stand for an important transition: its article 1 declares that now, the ‘Union shall replace and succeed the European Community’. Thus, it has brought a development to an end that reaches back to 1957, when the Treaties of Rome had been signed by the six original member states of the European Economic Community (EEC). And while since then the EEC treaty had been amended many times, the Lisbon Treaty now stands for a more radical new departure. One could argue that since the 1950s, a fundamental legal and institutional reorganization had been avoided. Such a step had, for instance, been discussed in the negotiations leading to the Maastricht Treaty of 1992, when different approaches had rivalled with each other. Back then, some had proposed to follow the model of a temple built on three pillars: as a first pillar, the European Community would bundle the Union’s supranational institutions, while its two other, intergovernmental pillars would deal with the Common Foreign and Security Policy and Justice and Home Affairs. Others had opted for more drastic alternatives, for instance the idea of modelling the Union like a tree—epitomising a massive trunk with some branches—and thus a stronger role of the community institutions for all policy fields. But in the end,
the ‘templiers’ prevailed and so the basic structure of the Community kept was now contained in a pillar structure. The ‘Economic’ was dropped from the name of the European Community to represent the wider policy base given by the Maastricht Treaty to this first pillar. The Lisbon Treaty has now eliminated the pillar structure of the temple and knit the different forms and modes of integration more closely together. In this light, it is indeed a long and glorious life that is coming to an end with the Lisbon Treaty.

“Very often, however, important alterations in the construction and the very fabric of European integration have developed incrementally and on secondary stages, based on rather vague or, in some cases, barely existent treaty stipulations.”

So why, then, was there no big public mourning—or celebration—when the European Community came to an end? Leaving aside the issue that most EU citizens do not care too much about the Union, it is mainly because there is a very strong element of continuity. This is most obvious in article 1 of the Lisbon Treaty. Accordingly, the new agreement ‘marks a new stage in the process of creating an ever closer union among the peoples of Europe’—and thus certainly does not intend to abolish or supersede previous structures but only to take them an important step further. Continuities are also strong on the formal legal level, and in the negotiations several Member States insisted on having them stressed. For this reason, the Lisbon Treaty is less radical than the failed Constitutional Treaty according to which all existing treaties would have been replaced by a single document. The Lisbon Treaty, in contrast, only amends the existing treaties and thus continues the hitherto existing form of European integration by being based on several cross-referencing legal documents. Still, if one looks at contents, the similarities between the Constitutional Treaty and the Lisbon Treaty are striking. Thus, the content is more radical than the legal form. But on the level of legal symbolism, the idea of clinging to the good old existing structures was an important outcome of the dragging negotiations of the last couple of years.

All in all, this attempt to diagnose a precise moment of and a reason for the European Community’s decease leads to a result that would not satisfy any physician. But if we really want to understand European integration, we should maybe even question the central premise of this exercise, i.e. the attention paid to big treaties. Certainly, lawyers love them as much as political scientists like to focus on the grand bargaining rounds that go along with them. Moreover, the public needs symbolically charged events to understand changes that take place at European level. Very often, however, important alterations in the construction and the very fabric of European integration have developed incrementally and on secondary stages, based on rather vague or, in some cases, barely existent treaty stipulations. The EEC treaty of 1957 offers good examples: on its basis, the Common Agricultural Policy (CAP) became the most important common policy of European integration in the 1960s and 1970s. But the nine articles on agriculture in the EEC treaty were extremely vague. Negotiations lasted another decade until the CAP was fully developed and operational. And this policy could well have shared the fate of the Common Transport Policy for which one also finds hazy ideas in the EEC Treaty, but where the deliberations over the next decade did not lead to a strong policy within the Community structure. The piecemeal processes leading to EU competences in the fields of technology and research or of culture are other examples for this peculiar trait of European integration. The same holds true for the role of the European Court of Justice and the status of EU law. For its history, landmark decisions since the 1960s such as Van Gend en Loos of 1963 are more important than the original treaty stipulations. It was only then that the principle of direct effect of European law was slowly established. Other key features of the integration process, such as the European Councils, were even first developed outside the treaty structures and only later integrated into the formal European architecture.

Against this backdrop, the big treaties of European integration seem less as clear-cut containers and caesurae in a longer process. Very often, they brought about a consolidation of incremental developments that had been triggered by the last treaty or that had taken place outside the treaty structures. Moreover, they then served as potential springboards for further steps of integration. Every (German) football fan knows Sepp Herberger’s bonmot: ‘After the game is before the game’. So far, the framers of the European integration process seem to have followed the same ideal, and it would be strange if this rule of thumb were not applicable any longer in the world of the Lisbon Treaty.

Le roi est mort, vive le roi?—After the game is before the game!
Une démocratisation accrue de l’Union européenne ?

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1. Avant-propos
Le traité de Lisbonne comporte une démocratisation accrue du processus de décision au sein de l’Union européenne et, par conséquent, une réduction correspondante du « déficit démocratique » de celle-ci. Si dans les années ’90 on pouvait affirmer, à tort ou à raison, que l’Union ne remplissait pas elle-même les critères démocratiques qu’elle cherchait à imposer aux pays candidats à l’adhésion, cette affirmation ne tient plus la route après le traité de Lisbonne (TL). Cette démocratisation résultera notamment de l’application des nouvelles dispositions du TL, mais elle pourrait s’accroître si les institutions de l’UE décision des institutions de l’UE décidaient d’exploiter davantage les virtualités offertes par le Traité lui-même ou par la pratique institutionnelle.

2. La démocratisation du processus de décision
  a) L’extension de la procédure législative ordinaire (ou de codécision)
L’argument principal de ceux qui dénoncent le déficit démocratique de l’Union européenne se fonde sur le constat que les parlements nationaux ont perdu progressivement leurs pouvoirs législatifs sur les matières relevant de la compétence communautaire (au fur et à mesure que l’Union légifère dans ces matières), alors que les transferts de compétences au niveau européen n’ont pas été compensés par un accroissement parallèle des compétences législatives du Parlement européen. Avec Lisbonne, cet argument perd de sa crédibilité dans la mesure où 90% environ des futures lois européennes seront soumises à la procédure législative ordinaire. Cette estimation se fonde aussi bien sur le nombre de bases juridiques auxquelles s’appliquera la procédure législative spéciale (à savoir 30, dont 27 prévoient une décision du Conseil), que sur le nombre limité d’actes législatifs qui seront proposés par la Commission dans les matières où la décision continuera à relever du Conseil et non pas du collégial (fiscalité, une partie de la politique sociale, certaines dispositions relatives à la citoyenneté et à la gouvernance économique).

“Si dans les années ’90 on pouvait affirmer, à tort ou à raison, que l’Union ne remplissait pas elle-même les critères démocratiques qu’elle cherchait à imposer aux pays candidats à l’adhésion, cette affirmation ne tient plus la route après le traité de Lisbonne.”
représentatives à la prise de décision.

Il faudrait aussi des comportements conséquents des institutions de l’Union en termes de transparence du processus, de majorités parlementaires qui s’expriment, de participation des citoyens ou de leurs organisations représentatives à la prise de décision, etc.

b) L’implication des parlements nationaux dans le processus législatif de l’Union

Les auteurs qui ont dénoncé le déficit démocratique de l’Union européenne ont fait valoir aussi que l’accroissement des compétences du PE n’était pas suffisant en soi pour combler le déficit de démocratie résultant de la perte des compétences des PN et de leur défaut d’influence sur la législation européenne.

Or, le TL a renforcé l’implication des PN dans le processus législatif de l’Union. Il a introduit une série de dispositions visant à leur assurer une meilleure information sur les documents et propositions de la Commission, à élargir la période pendant laquelle ils peuvent se prononcer sur les propositions d’actes législatifs, à améliorer leur implication en matière d’espace de liberté, sécurité et justice, ainsi qu’à leur octroyer un droit de veto dans la procédure simplifiée de révision des compétences de l’Union. En outre, les PN auront un droit d’intervention spécifique sur le respect du principe de subsidiarité par le législateur de l’Union (early warning system).

Certains commentateurs ont souligné l’insuffisance de ces nouvelles dispositions car les PN n’auraient guère le temps, ni les ressources, pour examiner de manière approfondie les environ 400 documents envoyés chaque année par la Commission. De même, les PN n’auraient que peu de chances de réunir le quorum d’un tiers de leurs chambres, ni à fortiori le quorum de la majorité simple, pour émettre un avis motivé défavorable sur les propositions de la Commission. On peut observer à cet égard que les propositions de la Commission susceptibles d’être soumises au contrôle de subsidiarité par les PN se chiffrent probablement à une centaine chaque année dont la plupart seront des actes de gestion, de mise à jour du droit existant ou d’exécution d’engagements internationaux de l’Union. Les propositions législatives significatives dont les PN devraient évaluer la valeur ajoutée pour l’Union ne devraient pas dépasser le chiffre de 20 à 25 par an, ce qui devrait permettre un contrôle efficace par les PN, à condition que ces derniers se limitent à se prononcer sur la légitimité d’une action législative de l’Union (et non pas sur la substance même de celle-ci) et qu’ils disposent d’une structure administrative (tel que le secrétariat de la Conférence des organes spécialisés dans les affaires communautaires : COSAC) pour coordon-
n er les avis des différentes chambres nationales dans le délai de huit semaines.

Cette autodiscipline des PN ne signifie d'aucune manière qu'ils ne puissent pas se prononcer également sur la substance des propositions de la Commission, d'autant moins qu'ils ont déjà émis environ 450 avis sur celles-ci dans le cadre du « dialogue politique » lancé par le président Barroso en septembre 2006. Mais dans ce cas les avis des PN ne sont pas soumis à un délai précis, et n'ont pas de conséquences procédurales explicites, contrairement au mécanisme d'early warning.

Par ailleurs, il y a lieu de souligner que la « légitimité démocratique » des lois européennes sera renforcée même en l'absence de « carton jaune ou orange » de la part des PN, car une absence éventuelle d'objections concernant le respect du principe de subsidiarité signifiera à contrario que les PN ont reconnu implicitement la valeur ajoutée de l'action législative de l'UE.

c) La nouvelle démocratie participative et l'initiative citoyenne

Bien que le fonctionnement de l'Union soit fondé sur la démocratie représentative, le TL introduit un nouveau principe de démocratie participative qui implique d'associer les citoyens aux projets législatifs de l'Union et au processus de prise de décision qui les concerne. Les dispositions de l'article 11 du Traité sur l’Union européenne illustrent la volonté de rapprocher l’Europe des citoyens en utilisant tous les instruments disponibles (consultations publiques, forums, chats sur Internet, etc.). Le TL n’a pas voulu instaurer un véritable droit à l’information et à la consultation de la part des citoyens, en préférant imposer aux institutions de l’Union des obligations de dialogue et de consultation. Par ce moyen, le TL reconnaît et rend obligatoires les engagements de consultation de la société civile et des organisations représentatives que la Commission avait pris de manière volontaire et unilatérale en 2002 suite à son Livre blanc sur la gouvernance européenne. Par conséquent, les milieux concernés (stakeholders) pourraient à l’avenir faire valoir devant la Cour de justice l’éventuel non-respect par la Commission européenne de ses engagements en matière de consultation des parties intéressées sur les projets législatifs (par exemple, l’obligation de respecter un délai minimum de huit semaines, de donner un feedback aux organisations consultées, etc.).

En outre, le TL a introduit un nouveau droit. Un million de citoyens ressortissants d’un nombre significatif d’Etats membres peuvent demander à la Commission européenne, titulaire du droit d’initiative législative au sein de l’Union, la présentation d’une proposition de loi européenne. Par cette procédure qui existe au niveau national dans seulement 12 Etats membres sur 27, l’Union affirme sa volonté politique d’être à l’avant-garde de ses Etats membres pour ce qui concerne un instrument significatif de démocratie directe. Il est vrai que, comme l'ont souligné plusieurs commentateurs, ce nouveau droit octroyé aux citoyens n’est pas un véritable droit d’initiative, mais plutôt un droit de pétition, car la Commission européenne ne sera pas obligée de donner suite à la demande d’un million de citoyens. Cela s’explique par la particularité du système institutionnel de l’Union, où ni le Conseil ni surtout le PE ne disposent du droit d’initiative législative, celui-ci étant réservé à la Commission européenne. Par conséquent, il n’était politiquement pas possible d’accorder aux citoyens plus de droits que ceux attribués au PE. D’autres commentateurs ont fait la « fine bouche » au sujet de l’exigüitée du quorum choisi (équivalent à 0,2% de la population de l’Union), en faisant valoir que la Commission ne donnera pas forcément suite à des demandes de législation aussi peu représentatives. De tels commentaires semblent ignorer que la Commission donne suite à la très grande majorité des demandes qui lui sont soumises, y compris à celles de certains groupes d’intérêts (lobbies) qui ne sont pas nécessairement plus représentatives de l’intérêt général européen.

Par conséquent, on ne voit pas pourquoi la Commission devrait refuser la présentation d’un projet de loi qui serait demandé par des organisations représentatives telles que les syndicats européens, les organisations de protection des consommateurs, de l’environnement, etc. (à fortiori si de telles demandes étaient relayées par une résolution du PE allant dans le même sens). On pourrait même envisager que les promoteurs de l’initiative législative, une fois recueilli le million de signatures suivant les critères prévus par la future réglementation, envoient leur demande en même temps à la Commission et au PE, permettant ainsi à ce dernier de voter une résolution au titre de l’article 225 du TFUE qui inviterait la Commission à soumettre la proposition législative. Dans ce cas, la Commission aurait trois mois pour répondre à la demande du PE en motivant sa décision.

3. Conclusions

Si l’on voulait résumer les avancées du TL sur la base de critères de démocratie et de transparence, on pourrait conclure qu’à l’avenir environ 90% de la législation européenne fera l’objet d’une consultation publique préalable (tout comme d’une analyse d’impact ex-ante et d’une évaluation ex-post), d’une implication des PN, d’une publicité au niveau des votes aussi bien au niveau du Conseil qu’au sein du PE, d’un contrôle juridictionnel de la Cour de justice et, last but not least, de l’accord du PE. A cela s’ajoute le fait que la législation européenne devra respecter les droits fondamentaux...
contenus dans la Charte devenue désormais contraignante et que chaque citoyen pourra faire valoir le non-respect de ces droits devant les tribunaux nationaux et, le cas échéant, devant la Cour de justice.

Les avancées consenties par le TL seraient cependant plus crédibles vis-à-vis des citoyens européens si les Institutions de l’Union mettaient en œuvre des procédures conformes à l’esprit des critères de transparence et de démocratie rappelés ci-dessus. A titre d’exemple, la procédure de codécision s’achève aujourd’hui dans presque 80% des cas en première lecture où la majorité simple des membres présents du PE est suffisante et où la transparence n’est pas entièrement assurée, car le PE est appelé à « ratifier » en séance plénière le résultat de négociations qui se sont déroulées discrètement au cours de réunions trilatérales non publiques entre le rapporteur du PE, la présidence du Conseil au niveau de hauts fonctionnaires (le Coreper) et les représentants de la Commission. En d’autres termes, la procédure de codécision a subi le même effet de “Coreperisation” — pour reprendre l’expression d’un député européen — que le PE et de nombreux observateurs ont reproché dans le temps aux délibérations du Conseil (à savoir que les ministres participant aux sessions du Conseil se bornent dans 80% des cas à entériner à leur niveau les accords intervenus entre les hauts fonctionnaires des Etats membres et de la Commission sans aucune transparence du processus législatif).

Il serait dès lors souhaitable que les lois européennes les plus significatives soient adoptées en deuxième ou troisième lecture de la procédure de codécision car la majorité parlementaire serait plus élevée (à savoir la majorité absolue des membres du PE), à condition cependant d’éviter les solutions de compromis à mi-chemin qui pourraient nuire à la clarté et à la cohérence de la décision. Il faudrait, en d’autres mots, un clivage politique plus marqué entre les partis politiques et, par conséquent, une meilleure transparence du processus législatif, avec une attention plus grande au contenu des lois européennes de la part des média et de l’opinion publique.

Il est vrai que la transparence du processus législatif pourrait nuire à l’efficacité de la décision. C’est d’ailleurs pour cette raison que le Conseil ouvre au public uniquement les déclarations initiales des ministres et le vote final sur les propositions de la Commission, alors que les délibérations véritables sur les compromis qui interviennent entre les États membres sont réservées aux déjeuners ou autres réunions non publiques, par exemple au sein du Coreper. Toutefois, le PE s’est longuement battu contre la procédure dite de « comitologie » qui permettait à la Commission, dans certains cas, de compléter, voire de modifier, une loi d’une manière non transparente, car il estimait à juste titre que le problème n’était pas l’efficacité de la procédure mais bien l’aspect démocratique. Il faudrait donc que le PE applique le même traitement à la procédure législative en renonçant à privilégier une adoption en première lecture d’actes législatifs importants, tels que ceux concernant les droits des citoyens, afin de favoriser la publicité des débats et l’attention des média, ce qui permettrait de faire apparaître au grand jour les positions des États membres par rapport à celles du PE et de susciter un plus grand intérêt de la part de l’opinion publique européenne.

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The European Union’s external relations are at the heart of the Lisbon Treaty. This reflects the intention of the Constitution-, and then Treaty-, makers who thought that, in an increasingly globalized world and after 9/11, the relation between the EU and its world environment would be a promising way to relaunch the European project, after the Euro and enlargement. Their focus on the external dimension was itself grounded in four main trends that have become striking in EU external policy. First, the external relations of the EU have been expanding and have acquired over time an increasing importance and visibility. Second, the CFSP/CSDP in particular has become more substantial and operational. Third, the Member States have retained an active role in the EU’s external relations notably within the CFSP, but also through participation in ‘mixed agreements’, i.e. those international agreements to which both the Union and its Member States are party, and more broadly through the strategic policy-making role of the European Council. Fourth, these features of EU external policy have themselves led to a sustained dialogue between the Member States, the political institutions (Council, Commission and European Parliament) and the European Court of Justice, as well as conflicting interpretations of the Treaties regarding competence and compatibility issues, legal bases, the duty of cooperation and their policy implications in terms of effectiveness and influence.

The Lisbon Treaty codifies, confirms and enriches what the EU has been doing in international affairs. It also provides a set of legal and political opportunities which, over time, could have a significant effect.
on the EU’s efforts to respond to international challenges and shape its international environment. In a nutshell, we make three arguments. First, the Lisbon Treaty requires the Union to develop a grand strategy and constitutionalizes the outline of what that grand strategy might look like. Second, the Treaty confirms the commitment of the Member States to the EU’s security and defence policy and provides them with increased flexibility to cooperate and conduct their action. Third, despite the continued ‘specific rules and procedures’ established for the common foreign and security policy, the Lisbon Treaty offers new opportunities for coordinating the different dimensions of the Union’s external action.

“The Lisbon Treaty codifies, confirms and enriches what the EU has been doing in international affairs. It also provides a set of legal and political opportunities which, over time, could have a significant effect on the EU’s efforts to respond to international challenges and shape its international environment.”

**The Constitutionalization of the EU Grand Strategy**

The increased importance of external relations/foreign policy for the EU and the desire of the treaty makers that the EU should further enhance its international clout and visibility implies the existence of a ‘grand strategy’, an overall conception of the EU’s international goals and of the ways it plans to achieve those foreign objectives, particularly to ensure its security (including of course the security of its citizens) broadly defined. A grand strategy provides a vision of international relations, defines the nature of potential threats and risks, and identifies the options and instruments that the polity considers the most efficient for dealing with these security challenges. Policy makers use this as a basis to define priorities and criteria for policy choices in order to integrate all the elements of power and balance ends and means.

The EU has already formulated its European Security Strategy, as well as a number of other strategy documents, such as the strategies for Weapons of Mass Destruction and Small Arms and Light Weapons, the European Consensus on Development, a counter-terrorism strategy, and others. However, not only does the Lisbon Treaty institutionalise the formulation of the EU grand strategy, it expands and reinforces this imperative. In fact, the Lisbon Treaty requires the Union to develop a grand strategy and constitutionalizes the outline of what that grand strategy might look like. Specifically, the Treaty makes a difference in two areas.

First, the Treaty gives to the European Council the role, and indeed the duty, to define the EU’s overall strategy on the basis of input from the Council, the High Representative, the Political and Security Committee and the Commission. Moreover, the European Council’s formal Treaty-mandated strategic role covers all external policy and not only the CFSP. The European Council ‘(…) shall define the general political directions and priorities (of the Union)’ (Art 15(1) TEU); it ‘shall identify the strategic interests and objectives of the Union (…)’ (Art 22 (1) TEU) and ensure that the Union action is consistent. This important role of the European Council is reiterated for the Common Foreign and Security Policy (art 26(1) TEU). Moreover, the European Council (which acts by consensus) also plays an important role in establishing the conditions for the use of Qualified Majority Voting by the Council within the CFSP.

Most importantly, the decisions of the European Council on the interests and objectives of the EU ‘(…) shall relate to the common foreign and security policy and to other areas to the external action of the Union.’ (Art 22 (1) TEU) It is supposed to bring together all the elements of EU power instead of accepting a rigid dichotomy between economic and political external policy of the EU. The creation of the High Representative of the Union for Foreign Affairs and Security Policy (High Representative) and the European External Action Service belong to the same logic.

Second, the strategies elaborated by the European Council are required to reflect a Treaty-defined set of priorities and principles. Usually, grand strategies are not defined in constitutions, except some very basic and general principles. However, the Lisbon Treaty, more than previous European treaties, specifies a number of fundamental principles and foreign policy objectives. First, through Art 3(5) TEU:

In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.

This list acknowledges the perceived need for the EU to shape its international environment in accordance with its particular set of values and interests and thereby to increase its own security. A more detailed list of principles and objectives is set out in Art 21 TEU and
the European Council is required to act on the basis of these when defining the EU's strategy according to Art 22. The importance of values alongside interests; the protection of human rights; sustainable development; supporting multilateralism, 'good global governance', and especially the UN; respecting the rule of law and more specifically international law are some of the key treaty-defined aspects of the EU's grand strategy.

In thinking of the implementation of the Lisbon Treaty as far as the organisation of external relations is concerned, therefore, we should expect the European Council to be taking a stronger lead; we should expect more strategic guidelines, the use of these powers to establish a distinctive Union voice drawing on the principles laid down in the Treaties and covering all aspects of external action, not only CFSP. The Commission will need to make its voice heard in this process, via the High Representative, its President and its other Relex Commissioners, including Trade.

The development of CFSP/CSDP through flexibility and enhanced cooperation

The Lisbon Treaty emphasises the role of the Member States in the implementation of the CFSP and, in particular, the CSDP, putting their civilian and military capabilities to the task. ‘The common foreign and security policy shall be put into effect by the High Representative and by the Member States, using national and Union resources.’ (Art 26(3) TEU; see also Art 42 (1), (3)) While this partially codifies existing practice, the Treaty puts the emphasis on the commitment of the Member States to provide the necessary capabilities for the CSDP. This emphasis on the part played by the Member States goes together with institutionalised flexibility and the possibility of enhanced cooperation in CFSP and CSDP. Under the new Treaty, enhanced cooperation may be harder to establish but the scope of its use is less restricted. In particular, the Treaty now requires the Council to act unanimously in approving a proposal for enhanced cooperation (Arts 20(2) TEU and 329(2) TFEU). This is significant given the wider scope for enhanced cooperation and the now explicit possibility of setting conditions for participation (Art 328(1) TFEU); this way all the Member States will decide on the conditions.

Apart from enhanced cooperation, the Lisbon Treaty also incorporates a number of other existing and new flexibility mechanisms, applicable especially within the CFSP/CSDP, including constructive abstention (Art 31(1) TEU, used for the first time by Cyprus over the EU-Lex mission to Kosovo in Feb 2008); participation in the European Defence Agency (Art 45 TEU); the delegation of tasks to a group of Member States (Arts 42 (5), 44 TEU); and permanent structured cooperation (Arts 42(6), 46 TEU).

“The importance of values alongside interests; the protection of human rights; sustainable development; supporting multilateralism, ‘good global governance’, and especially the UN; respecting the rule of law and more specifically international law are some of the key treaty-defined aspects of the EU’s grand strategy.”

For CFSP, while constructive abstention should help to avoid decision-making blockages, differentiated integration appears to be a more problematic tool. Its possibilities are rather limited, since without full unanimity the EU’s single voice is lost and the policy impact thereby undermined. In addition, an enhanced cooperation initiative in the CFSP would not have a policy-driving role and it will be difficult to integrate it fully into an EU grand strategy, creating issues of coherence and unity.

For Defence, unanimity remains and enhanced cooperation cannot be used to move to qualified majority voting (Art 333(3) TFEU). In defence matters, Member States are heterogeneous in terms both of operational capacity and foreign policy preferences (neutralism, NATO, etc.). The Treaty recognises this by providing that the Union’s policy ‘shall not prejudice the specific character of the security and defence policy of certain Member States’ (Art 42(2) TEU). As a consequence, the possibility of flexible operationalization of CSDP granted by the Lisbon Treaty is likely to be utilized, especially since the Lisbon Treaty emphasizes the role of Member States in giving effect to the policy area.

Cross-sectoral agreements

Since the Treaty of Lisbon emphasizes the need to bring together all the elements of EU power in implementing its external policy, it is relevant to examine what used to be called ‘cross-pillar mixity’, that is agreements which contain both CFSP and other policy fields, such as trade, development, environment etc.

Under the pre-Lisbon regime agreements with a cross-pillar dimension were generally concluded as so-called ‘classic mixed agreements’, that is, agreements to which both the Member States are party alongside the EC, the Member State presence covering the CFSP dimensions of the agreement. Agreements concluded jointly by the EU and the EC were rare, and following the Small Arms and Light Weapons case they would in all probability have been contrary to Art 47 EU. The Court there held that Art 47 EU created a clear delimitation rule between the CFSP and Community powers, and one which gave a priority to the Community pillar. Moreover, according to the Court, if an action contained
elements that were indissolubly connected to both the CFSP and the Community powers, and neither one predominated, then Community powers alone would have to be used since a dual CFSP(EU) and EC legal base could not be permitted under Art 47.

The Lisbon Treaty has replaced Art 47 with Art 40 TEU which provides that not only should the exercise of CFSP powers not affect other Union powers, but also that the exercise of other Union powers is not to affect the CFSP. In addition, Art 1 TEU and Art 1 TFEU both proclaim the equal value of both Treaties – the TEU containing the CFSP powers and the TFEU containing other external powers. So, the former Community (i.e. non-CFSP) priority rule disappears. Does this mean that a dual CFSP and non-CFSP legal base might now be possible? The answer will depend on the Court's interpretation of Art 40 TEU. Although Art 40 uses – as did Art 47 – the words 'shall not affect', the separation envisaged here is not between separate Treaties, legal orders or international legal persons (Union and Community) but is rather a matter of procedures and the powers of the institutions. This is closer to the normal issue of the compatibility of two legal bases, a feature of the case law on the EC Treaty.

In addition, and significantly, the provision in the revised Treaties which deals with the procedures for negotiating and concluding international agreements (Art 218 TFEU) envisages the possibility of agreements containing provisions relating to both CFSP and other policy fields and implies that agreements may be concluded which have a mixed CFSP and non-CFSP character. Specific procedures for negotiation and conclusion of an agreement are envisaged only where it ‘relates exclusively or principally to the common foreign and security policy.’

There is in this provision no indication of what legal base should be used, and it would certainly be possible to argue that for such agreements—where the CFSP element is not principal or predominant—that the relevant non-CFSP base(s) alone should be used, applying the usual legal base case law. However, where an agreement ‘simultaneously pursues a number of [CFSP and non-CFSP] objectives or which has several components, without one being incidental to the other,’ then—if this is to be a Union-only agreement—Art 40 TEU now appears to require a dual legal base to be used.

The type of mixed legal base (CFSP and non-CFSP) that we have considered here is not mandatory. Since neither the existence nor the exercise of the Union’s CFSP competence affects Member State competence, there is nothing to prevent the Member States, subject to their loyalty and solidarity obligations (Art 24(3) TEU), from deciding to use ‘classic mixity’ and to conclude the agreement themselves alongside the Union insofar as it concerns its CFSP dimension. On the other hand, since CFSP competence is not preemptive (that is, not subject to Art 2(2) TFEU), the Member States might be more willing to contemplate a Union-only agreement covering CFSP matters, such as peacekeeping, WMD or counter-terrorism for example, in the knowledge that this would not pre-empt them from acting in these fields in the future. If classic mixity is chosen, the common position of the Member States may be represented either by the rotating Presidency, as now, or by the High Representative.

Conclusion

In sum, the Treaty of Lisbon emphasizes and strengthens two aspects of the EU’s external policy, coherence and flexibility. On the one hand, it makes possible and facilitates coherence across different aspects of external policy and in particular between foreign, security and defence policy (the CFSP/CSDP) and other external policies, including trade, development and environment as well as the external effects of European domestic policies. On the other, it helps flexibility by recognizing the continued role played by the Member States and by providing a variety of mechanisms to facilitate this. While the Treaty provides significant new opportunities in these two areas, a note of caution is in order. First, the objectives of coherence and flexibility might, at times, contradict each other. For example, more flexibility for Member States can make it more difficult to achieve genuine coherence for the EU as a whole. Second, as such the Treaty cannot tell us whether, how, and to what extent the actors and institutions involved will seize upon the range of opportunity available to allow the EU to face global challenges.

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The Lisbon Treaty and the Start of the European External Action Service: Options and Problems

Principal Administrator, DG RELEX, EC | Albrecht Rothacher

War, according to Heraclitus, is the father of all things. It is also the father of the EEAS. The nasty Balkan wars following the disintegration of Yugoslavia in the 1990s had seen the revival of unsophisticated stereotypes based on recycled WWII propaganda on who was good and who was bad. Since there was no EU consensus, Milosevic, Mladic and Karajic could plot their evil aggressions and cleansings with impunity for years, until finally if belatedly the NATO bombing campaign (in itself a senseless little war) and the democratic revolt in Belgrade cut them short.

European disunity on the Balkans was clearly more about perceptions, much less so about strategic interests (of which most EU members had little). Hence the logical solution to prevent further mayhem and policy paralysis in Europe’s neighbourhood was to share intelligence and to arrive at common analyses, from which joint action should follow. Instead of 27 embassies producing 27 different stories feeding into national foreign policy making—and logically disagreeing full-heartedly at subsequent Council meetings on problems and solutions—ideally a single profound analysis pooling all available abundant know-how, resources and brains could do the job in cooperative ventures more expertly, cheaper and infinitely better. Thus went the thinking back in 2003, when the EEAS was proposed by the Convention on the Future of Europe.

Since it was member states’ diplomats who negotiated the Constitutional Treaty (and later the Lisbon Treaty) understandably they did not go as far as to draft a full merger of their foreign services and ministries (the decline of the role of national bankers following monetary union and the ECB after Maastricht was warning enough) that might truncate their own and their colleagues’ career prospects. Rather there should be a merger of the Commission’s external services—HQ operations in Brussels and its 140 Delegations with the Council’s small foreign relations team, and with national diplomats on secondment—roughly to be composed at a ratio of one third each. Actual staffing strength stands at 3000 for the Commission (mostly local staff at Delegations), 700 for the Council’s External relations people, the Solana team and his representatives, and some 60,000 diplomats and foreign ministry staff with member states. From its inception therefore this partial merger appeared as somewhat lopsided. The new edifice was to be headed by an EU ‘Foreign Minister’ (now: ‘High Representative’), who chairs the EU Foreign Ministers Council and as a Vice President sits at the Commission’s weekly meeting at the same time. Europe should thus finally have an identifiable and memorable face for the rest of the world and hopefully would also have a single voice.

As all politics in Europe is personal politics as well and heads of governments after the Czech signature to the Treaty in November 2009 very quickly decided that they wanted none of the heavyweights for the job mentioned in the media. No Tony Blair, no Carl Bildt, no Wolfgang Schüssel, all with strong profiles, strong views and no shortage of enemies. For reasons of European grand coalition politics the post had to go to a Socialist. The choice was narrowed down to one between Massimo D’Alema, previously foreign minister of Italy, and Catherine (Lady) Ashton, who had served for fourteen months as a trade commissioner succeeding Peter (Lord) Mandelson at the Commission. D’Alema’s extensive Communist past proved less acceptable to most East Europeans than Ashton’s short stint as a treasurer at the Campaign for Nuclear Disarmament. Hence, to her evident surprise she was chosen.

The Treaty’s rather ambivalent provisions were read by most to mean that the new EEAS was neither fully intergovernmental nor communautarian, but somehow a neutral agency-type institution, sui generis. Predictably this very quickly degenerated into a major
row, fought roughly between Parliament and Commis-
sion on the one side and the 27 member states (as they
are organized in Coreper) on the other. A report by
Elmar Brok (EPP) hinted that if the EEAS was to spend
any money or wished to pay its salaries, it would better
be constructed in line with the Parliament’s wishes and
its budget, its policies and its senior personnel appoint-
ments subjected to parliamentary scrutiny. This was
the last thing most member states wanted.

In order to avoid the usual endless bickering over
appointments and posts so familiar in all intergov-
ernmental EU business, the Treaty had authorized the
High Representative to be the sole appointing author-
ity. First however headquarters operations would have
to be merged and prior to the merger the rules and
modes for future staffers be decided. Clearly Com-
mission officials legally would not accept worse con-
ditions, and member states’ secondments would not
accept inferior conditions either. Also it would have
to be decided which units would merge and which ones
would stay with the Commission and the Council
respectively. Trade, development work, humanitar-
ian aid, enlargement and even the neighbourhood
policy, ranging from Belarus to Morocco, President
Barroso decided with Lady Ashton, should remain in
classical Commission DGs, with Commissioners de
Gucht, Piebalgs and Füle in charge of operational and
programming work. Ashton would assume a well co-
ordinated role of political oversight over these regions,
which include Africa, the Balkans, East Europe, North
Africa and the Middle East. This left the EEAS ‘only’
the primary responsibility for Asia, Russia and the
Americas, that is: at least all the actual and potential
superpowers, and a political plate still sufficiently full.
This decision nonetheless noticeably raised eyebrows
among member states.

By late February 2010 it transpired that the new service
reporting to the High Representative at headquarters
would be headed by a Secretary General and his Deputy
at its first tier, directors-general at the second tier, etc.
It would consist of a complete set of country desks and
regional directorates and would be complemented by
horizontal units, covering international organizations,
human rights, developmental issues, non-proliferation,
etc., as well as a legal service, a personnel department
and a planning function (much as with most foreign
ministries and the Commission’s own DG Relex’s cur-
rent structure), but also by the EU Military Staff, crisis
management and the Situation Centre (which in the
past had been exclusively in the Council’s remit and
are ministry of defense functions) reporting directly
to the High Rep. Financial matters would continue
to be handled by the Commission’s services. Heads of
Delegations would report on financial matters to the
Commission rather than to the EEAS.

Once the EEAS is set up and running (probably by
the late summer of 2010) and most senior appoint-
ments are made—with all member states having a fair
share of their favoured persons well placed and thus
having a stake and inside views in the service—the
sniping from the sidelines will in all likelihood die
down, and the damage done to the EU’s reputation in
third capitals be repaired. The question will however
remain whether the new structures will succeed in
reducing the already mind-boggling administrative
and policy-making complications in EU foreign
policies and whether the cacophony of its external
relations voices will become more harmonious. The
jury is obviously still out, but there are good reasons
to remain sceptical.

1 On British views of Croatia and Bosnia, for instance,
see: Marcus Tanner. Croatia. A Nation Forged in War.
New Haven 1997; and Brendan Simms. Unfinest Hour:
2 Graham Avery. ‘Europe’s foreign service: from design
to delivery’. EPC Policy Brief, November 2009
3 European Voice, 28.1.2010
4 Nikolas Busse ‘Grummeln in Brüssel’ Frankfurter
Allgemeine 2.2.2010
5 European Voice 18.2.2010

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the EUI from 1980-1982. The author notes that this
article is based on public sources and reflects purely
personal views.
The long awaited entry into force of the Lisbon Reform Treaty opens up new opportunities as well as new challenges for the European Court of Justice (ECJ). The Reform Treaty affects the role of ECJ as an actor within the European Union (EU) system of governance. In addition, the Treaty influences the relationships between the ECJ and other institutions operating at the national and international level in Europe. It is possible therefore to address the major challenges for the ECJ after Lisbon by assessing the impact that the Treaty has, first from an internal EU perspective and then taking a broader external outlook.

Internally, the Lisbon Treaty accomplishes several objectives. As already provided by the Constitutional Treaty the three pillars structure that characterized the EU architecture from the Maastricht Treaty is abandoned and—apart from the ad hoc rules for the Common Foreign and Security Policy (CFSP)—uniform law-making procedures and judicial review mechanisms are established for most policy areas in which the EU is competent to act. The expansion of the jurisdiction of the ECJ is particularly remarkable in the area of freedom, security and justice, where until now the ECJ had only a limited and asymmetric competence.

The Lisbon Treaty also includes a major improvement in the field of human rights protection, as it eventually grants binding legal value to the EU Fundamental Rights Charter (CFR) making it justiciable in all cases falling within the scope of application of EU law. Moreover, in order to address the criticism of the ECJ’s restrictive jurisprudence on access to justice, the Reform Treaty has expanded the power of the EU judiciary to review actions of annulment brought by private plaintiffs against EU regulatory acts. Judicial review by the ECJ is formally established also against CFSP restrictive measures targeting natural or legal persons.

In this innovative legal framework, the ECJ is likely to face several institutional challenges. By getting involved in sensitive fields such as immigration, criminal law and criminal procedure the possibility of confrontations with the EU political branches of government might increase. It will be interesting to analyze, furthermore, what role the ECJ will be willing to exercise on matters of foreign relations and security: while the recent Kadi decision has demonstrated the confident approach of the ECJ even in counter-terrorism matters when fundamental rights are at stake, the Treaty still restricts the ECJ jurisdiction in most CFSP issues.

On the other hand, if the abolition of the pillar structure might diminish the role of the ECJ in policing the boundaries of Community competences against encroachments of measures adopted under the intergovernmental pillars, the maintenance by the Treaty of several special decision-making regimes beside ‘co-decision’ (now renamed the ‘ordinary legislative procedure’) is likely to keep the ECJ at the core of other inter-institutional disputes: given the plurality of institutions sharing power in the EU system of governance, the ECJ will face the uneasy task of deciding about the allocation of powers between different bodies (the Parliament, the Council, the Commission).
From the substantive view point, the grant of legally binding status to the CFR enhances the possibility for the ECJ to operate as a human rights court. Indeed, the ECJ started to use the EU ‘Bill of Rights’ even before its formal incorporation in the Treaty, using it as a reference text for its jurisprudence in the last 10 years. The binding force of the CFR can operate as an additional incentive for the ECJ to take fundamental rights seriously. It remains to be seen, however, how the ECJ will deal with the Treaty Protocol and the European Council Conclusions which restrict the application of the CFR in the UK, Poland and the Czech Republic.

The future role of the ECJ in the field of fundamental rights in the EU legal system will have major consequences also outside the EU architecture strictu sensu. As is well known, the European constitutional system is characterized by the existence of three sets of interlocking norms and institutions for the protection of fundamental rights. Hence, in performing its task, the ECJ is constantly relating with judicial bodies operating within the 27 EU Member States as well as with the Strasbourg-based European Court of Human Rights (ECtHR), charged of ensuring compliance with the Council of Europe Human Rights Convention (ECHR).

When considered in this broader multilevel constitutional context, the Lisbon Treaty creates additional challenges for the ECJ since it affects the position of the ECJ vis à vis its national and international judicial counterparts. On the one hand, the expansion of the EU competences and the new binding value of the CFR creates potential for tensions with national Constitutional Courts. On the other hand, the Treaty-mandated accession of the EU to the ECHR, with the introduction of an external supervision of EU acts by the ECtHR, increases the risk of conflicts between the ECJ and the ECHR.

“The expansion of the EU competences and the new binding value of the CFR creates potential for tensions with national Constitutional Courts; the Treaty-mandated accession of the EU to the ECHR, with the introduction of an external supervision of EU acts by the ECtHR, increases the risk of conflicts between the ECJ and the ECtHR.”

Although the good functioning of the European multilevel system of fundamental rights protection will depend on the willingness to cooperate of all the institutional actors involved, the ECJ, for its part, can contribute to the achievement of a workable arrangement with both the national Constitutional Courts and the ECtHR. In particular, by exploring the wide potential of the CFR and by ensuring a consistent and effective protection of fundamental rights within the EU legal system the ECJ can prevent tensions with other courts and perhaps counter-act some worrying contemporary trends.

In a number of recent decisions, in fact, several national Constitutional Courts have demonstrated increased uneasiness with the process of European integration even to the point of questioning the principles that for more than a half-century have underpinned the Community edifice. Such nationalistic cries, however, threaten both the past achievements and the future objectives of the European supranational project. One may only hope, therefore, that the ECJ will not be intimidated and continue to perform its task of ensuring respect for the EU rule of law with vigilance.

At the same time, the ECJ could take a few steps which would greatly enhance its position. First, it could give more regard to the arguments of the national Constitutional Courts that have activated the preliminary reference procedure, showing a willingness to dialogue with the ECJ. It could then consider revising the too formalistic style of its judgments and evaluate whether the time has arrived for introducing dissenting opinions—which would help explain the competing rationales of the decisions taken and make the ECJ more accountable. If the ECJ is up for these tasks, it is likely that the criticism raised in a number of Member States will lose most of its strength.

Just as the Lisbon Treaty influences the relationship of the ECJ with national courts, it also affects the position of the ECJ vis à vis the national legislatures. To ensure respect for the principle of subsidiarity the Reform Treaty has set up the possibility for Member States' Parliaments to bring actions of annulment before the ECJ against allegedly ultra vires EU acts. This measure was designed out of the (somewhat exaggerated?) fear of several Member States that the EU might overstep its competences. It could nonetheless be transformed into an instrument to educate the national legislatures in the complexities of the EU legislative process.

In conclusion, the Lisbon Treaty opens fascinating scenarios for the EU judiciary. The ECJ is performing the function of a Supreme Court in a quasi-federal constitutional system in which power is vertically and horizontally separated. As the transformations of the law in the books and the law in action show, the European institutional architecture is subject to dynamic evolution. After Lisbon, major challenges will arise for the ECJ both in relation to the other EU branches of government and to the institutions operating at different layers of the European multilevel structure. It will be up to the ECJ to transform these challenges into new opportunities.
If there is anything in the Lisbon Treaty which should be cheered with equal enthusiasm both by opponents and detractors, it is probably the increased role of the national parliaments invited by many of the Treaty’s provisions. Indeed, the German Constitutional Court, which placed itself firmly among the critics with its decision on the Treaty (even though it eventually approved it), also called for increase of the parliamentary involvement in the decision-making in the Union.

The most substantial innovation is the Early Warning Mechanism (EWM)—the so-called ‘yellow card’. Originally proposed by the Convention on the Future of Europe, the EWM provides an institutional framework to facilitate public deliberation on the substance of draft European legislation, both within and between national parliaments (NP). Sceptics should be pleased, given that it allows for national control and parliamentary criticism of European policies; integrationists should be satisfied as well, as it is expected to create the much craved European public sphere. In a nutshell the EWM is a very soft form of involvement of the NP in the EU legislative process, involvement so carefully circumscribed that it cannot amount to interference. NP are to receive all draft EU bills and will have 8 weeks to express their opinion on them, but only with regard to whether or not the bill conforms with the subsidiarity principle. In other words, parliaments have the opportunity to argue that the matter to be legislated is better handled at the national rather than Union level. Of course, limiting the scope of EWM only to subsidiarity control unduly blunts an edge, the sharpness of which is yet to be seen, but hopefully many substantive objections may be raised under the guise of subsidiarity. Should one-third of the NP issue negative opinions, the Commission will have to review the bill and then ‘adopt a reasoned decision to maintain, amend or withdraw the draft.’

The EWM has been greatly ignored by observers, probably because NP can not formally block a legislative proposal. Indeed, it is too soft to impress those interested in power politics only, but in the long run it may have substantial effects in more subtle ways. There are also other reasons for disdain towards the EWM: despite all the talk we have heard since the Treaty of Amsterdam about engaging national parliaments, so far the latter have shown only various degrees of indifference (usually explained by executive dominance, insufficient resources, limited reaction time, etc).

However there are reasons to expect that this time ‘it is for real’ and the EWM will be effective. The first reason is that the voice of the national parliaments is not weighted in the count towards the necessary ‘superminority’ of one-third. Thus, governments of small member states may choose to use the NP they dominate in order to oppose the proposal on a plane where they are equal to the bigger ones. Second, the votes of the second chambers, which are usually sidelined in the domestic legislative process, are now equalized, so this European mechanism may tempt some of their members to employ it for domestic purposes. This becomes all the more important when one
consider that executive dominance is characteristic only for the chambers which are electing and sustaining the government; the chambers which have no such responsibilities are free to seize this opportunity for engagement. Third, a government may choose to improve its bargaining position in Council by having its parliament publicly commit it to certain position. Fourth, while the short deadline may indeed preclude most of the incentives of the NP, it will allow them to have their say before the government minister expresses his/her position, and perhaps even before the government has time to form any position at all. Last but not least, with regard to the consensual nature of the Council (which prevails even where qualified majority voting is possible), it is highly probable that a series of well-grounded negative opinions from one third of the NP will be sufficiently persuasive for a minister or two just to change their minds.

“The beauty of the EWM is in the pressure it exerts on national parliaments to create concerted action—otherwise they can’t reach the threshold needed for the mechanism to take off. The EWM stands or falls on the ability of parliaments to generate a pan-European communicative network and thus provides them with strong incentive to cooperate with each other.”

One might ask what is so great about the addition of yet another hurdle to the already complicated legislative process? The beauty of the EWM is in the pressure it exerts on national parliaments to create concerted action—otherwise they can’t reach the threshold needed for the mechanism to take off. The EWM stands or falls on the ability of parliaments to generate a pan-European communicative network and thus provides them with strong incentive to cooperate with each other (though whether they will actually take advantage of it remains to be seen). So NP in their attempt to mobilise support will have to find a way to communicate their (domestic) concerns to their peers. Unlike governments, parliaments may neither speak unanimously nor privately, which means that all interests will be present in the discussion and all arguments subjected to public scrutiny. Moreover, the reasoned opinions are to be negative, i.e. will promote precisely the critical public opinion, and will enable the network of parliaments to become the ‘critical authority’ which ‘subjects to publicity’ the exercise of political and social power by the EU, thus legitimizing the lawmaking. According to Jurgen Habermas, the necessary condition for democracy is the availability of communicative structures at every level of opinion- and will-formation; law- and policy-making and the legitimacy of law depends on such communicative arrangements. If the EWM successfully develops into such a communicative arrangement, we will be able to call it the most important innovation of Lisbon.

Yet again, what is so great about this concerted public scrutiny of the substance of the EU policies? One could say that it is nothing new, as national parliaments have always been engaged in such scrutiny. Yet it makes a difference if, in Habermas’s words, ‘the same themes … acquire simultaneously the same relevance for a large public that remained anonymous and … spur citizens separated by great distances to make spontaneous contributions. This process gives rise to public opinions that aggregate themes and attitudes to the point where they exercise political influence’. Only when this happens on a pan-European scale, will we have a European public sphere and EU-democracy. Interestingly, this public sphere is described in purely functional terms, and therefore contrary to Habermas’s own urge to forge European identity, this does not seem necessary. If a single identity-based EU-wide public sphere is not available, its function may be taken up by other means, e.g. by an institutionalised deliberative network around which a web of informal transnational channels develop to connect the simultaneous discourses in the national public spheres.

This will be not a European democracy, but demoacracy—a polity where many distinct demoi can make societal problems issues of common concern. Democratic control over the exercise of EU powers means ‘more’ Europe, as it brings the European issues into the most robust public spheres available. The resulting discussions are heard between the member states and in Brussels, in a way that can affect subsequent opinions. Thus, European citizens will be actively participating in European governance by virtue of their participation in democratic processes at the national level. Up to now it has been the administration in Brussels to identify and solve the societal problems—a black box, if you will, away from the gaze of the national spheres. But now, with the EWM, national parliaments and publics are expected to focus on the same subject at the same time. Helping them adjust their lenses simultaneously is not too ambitious a task for the EWM, is it?

Spring 2010
The European Citizens’ Initiative (ECI), introduced with the Treaty of Lisbon, is one of several recent attempts to tackle the European Union’s democratic deficit. The basic idea is to link citizens directly to the EU by introducing a direct democratic element. By gathering one million signatures across Europe, an initiative invites the Commission to take action.

The ECI started as a debate in the constitutional convention and was subsequently implemented in the constitutional draft and later into the Lisbon Treaty. So far a green paper has been released and the consultation process was brought to an end with a Commission hearing in Brussels in late February 2010. Next steps entail that the Commission drafts a regulation governing the Citizens’ Initiative.

Up to now, the Treaty and Green Paper remain unclear in their provisions. Striking is that both documents concentrate solely on technical details, whereas the greater political implications of European-wide initiatives have remain untouched. However, as was clear from a European Union Democracy Observatory (EUDO) workshop on the implementation of the Lisbon Treaty organized in February, the real focus should be not only on the technical regulations, but on their interplay with the dynamics of an initiative process. These two elements taken together might have much vaster repercussions on the existing European institutional setting and democratic fabric of Europe than has been thought. The full potential of ECI can only be met if its technicalities are implemented in a way that is adjusted and compatible with the dynamic nature of initiative processes.

This article provides a short introduction to the central policy statements regarding the future set up of the ECI. In the end, a worst- and a best-case scenario on the Commission’s next steps will be constructed in order to clarify which points of the ECI should be brought to the forefront during implementation, so that the ECI can become a true and functional instrument of direct democracy.

The Treaty and the Green Paper

The Lisbon Treaty gives only marginal guidelines for the future implementation of the ECI, but does lay out three fundamental points. First, an initiative should require no less then one million signatures to be valid. Second, these signatures should come from a significant number of member states. Third, provided that both former requirements are met, the Commission is thus ‘invited’ to put forward a legal act on its behalf. As one can see, the convention’s provisions leave ample space for the actual implementation and the drafting of a regulation on the side of the Commission. Central questions such as the procedural sequencing and the question of how strong a successful initiative might bind the Commission to act on its behalf are left open.

The Green Paper provides a more detailed picture of the future outlook of the ECI. Nevertheless, it remains confined to provisions regarding mere technical issues (signature verification, voting age, etc.). It sets the minimum amount of member states necessary for a successful initiative at one-third. To guarantee the ‘pan-European’ character of these initiatives, the minimum threshold for making an initiative successful in one of these countries is set at 0.2% of the population. Member states have discretion over the minimum age requirement for the signing of an initiative, as do they over the signature verification process. The paper emphasized providing the possibility of online-signing.
via the Internet, though little is said on how security and personal data protection should be guaranteed. The Commission proposes a one-year time limit to gather signatures following registration of the initiative in Brussels, and a half-year limit for the Commission to react to the successful initiative.

The Green Paper remains very vague on the format of ECIs. For example, it leaves undefined what requirements must be met to qualify as an ECI. It is unclear how detailed the information on an ECI should be and whether unified translations in all member-state languages are necessary. This is highly problematic as it blurs the terms on which the Commission can decide whether an initiative is eligible or not. Similar to this, there is no ex-ante check on the potential validity of a planned initiative. Indeed, the Green Paper explicitly states that it lies with the initiative takers to verify whether their request would fall into the institutional framework of the Commission’s power. Contrary to most initiative systems on the national level, the Commission also does not foresee any funding for initiative promoters.

Although the Green Paper remains mute on the question of who can actually launch an initiative, most member states know from experience that it is helpful to have an ‘initiative-committee’ requirement. Before accrediting your initiative you must set up a committee. This prevents single individuals from ‘jamming’ the eligibility testing institution with endless streams of initiative applications. The formation of these committees also functions as a filter for serious initiative proposals. With their founding come specific restrictions and instructions about the formal requirements of an initiative. This guarantees that the initiative takers know how to correctly draft an initiative and reduces the risk that their initiative will be dismissed by the Commission at a later stage on formal grounds. It can also function as a mechanism that guards and observes whether the initiative is congruent and correctly translated in each member state. The fact that the Green Paper explicitly denies funding to initiative takers is a further drawback as this might only encourage powerful and well-organized interest groups. One could even go so far as to say that the ECI might one day be mainly used by transnational interests, rather than ordinary citizens, to further their own policy demands. Even more problematic is that there is no foreseen explicit ex-ante control of the registering of initiatives. By making no statement on this issue, the Green Paper explicitly denies funding to initiative takers is a further drawback as this might only encourage powerful and well-organized interest groups.

The above-mentioned lacunae make clear that neither the Treaty nor the Green Paper offer enough substance for a successful implementation of the ECI. Not much of the experience gained through initiatives on the national and sub-national level in the member states seems to have found its way into the text. Both the Paper and Treaty remain suspiciously silent on the main features of initiatives, namely that they are actor-driven, sequentially and dynamically unfolding processes. Initiative processes usually unfold in a path-dependent fashion, meaning that choices at the beginning can constrain the choice set at the end. Similar to this, the Green Paper offers little about the actors meant to be involved in an initiative process. Who are the promoters? Are they individual citizens, organized interest groups, or political actors? The only actor that features prominently in the paper seems to be the Commission with its numerous implicit possibilities to water down initiatives. There is also much room for critique in the technical provisions of the Green Paper.

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Problems
The above-mentioned lacunae make clear that neither the Treaty nor the Green Paper offer enough substance for a successful implementation of the ECI. Not much of the experience gained through initiatives on the national and sub-national level in the member states seems to have found its way into the text. Both the Paper and Treaty remain suspiciously silent on the main features of initiatives, namely that they are actor-driven, sequentially and dynamically unfolding processes. Initiative processes usually unfold in a path-dependent fashion, meaning that choices at the beginning can constrain the choice set at the end. Similar to this, the Green Paper offers little about the actors meant to be involved in an initiative process. Who are the promoters? Are they individual citizens, organized interest groups, or political actors? The only actor that features prominently in the paper seems to be the Commission with its numerous implicit possibilities to water down initiatives. There is also much room for critique in the technical provisions of the Green Paper.

Finally, at the end of the day we are still left with a fundamental question unanswered. That is, how does the new ECI instrument differ from the already existing petition right to the European Parliament? As an initiative has no legal binding impact on the action of the Commission, the ECI doesn’t contain the type of ‘relay-function’ that usually differentiates an initiative from a petition. EU citizens have no incentive to go for an initiative, as it is easier for them to go for a petition where they would not have to organize trans-nationally.

Scenarios
We can imagine both an unfavourable and a favourable scenario from the above. If the Commission
leaves open most of the identified loop-holes, there is little hope that the ECI will succeed. The Commission should clarify how binding a successful ECI would be for itself. In addition, the sloppy ex-ante control of ECI applications leaves several escape routes for the Commission to reject uncomfortable ECIs at later stages. If these escape routes are abused, the damage to the EU’s credibility vis-à-vis its citizens would be beyond words. An initiative declared invalid ex-post on shaky legal grounds would only discredit the democratic accountability of EU institutions. Furthermore, the ECI will need a formal institution where citizens backing rejected initiatives have a chance to appeal. The already over-burdened European Court of Justice cannot be seen as the solution to this problem, as emphasized at the EUDO conference. This would greatly delay and complicate any appeal. If the Commission proceeds along this scenario, the outcome of the ECI is more likely to further alienate citizens from European Institutions, rather than to bring them closer.

In a more positive scenario, the Commission proposal would fix most of the loopholes found in the Green Paper. As emphasized, the implementation of an ex-ante and ex-post verification mechanism for initiatives must be of absolute priority. Each initiative should be tested for formal requirements and it should be checked whether it falls into the framework of the Commission’s powers, upon registration. Initiatives could be rejected, accepted, or rejected for resubmission on these grounds with a detailed explanation of the reasons. Such an institution could be attached to the existing petition committee of the European Parliament. As a side-effect this would boost the parliaments’ control function and help to further diminish the democratic deficit of the Union.

In the end, direct democratic institutions are for sure not universally positive. As the opposing examples of the Weimar Republic and Switzerland show, it rather depends on what you make of them. Whether the outcome is positive or negative for democratic accountability depends on how well-thought through, institutionally-engineered and adapted these institutions are to their environment. It is now in the hands of the Commission to craft a viable blueprint for a working ECI. I hope that they are aware that what they are doing can have far greater repercussions on the existing political fabric of Europe then would seem at first glance.

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2 The ‘one seat’ initiative was a mass petition addressed to the Commission and launched by EMPs. Its aim was to make Brussels the solely seat of the European Parliament. The petition that gathered over one million votes was rejected by the Commission with the argument that such institutional matters would not fall into its framework of power.
Alumni Association Report
The 2009 General Assembly of the EUI Alumni Association (AA) last met on 2 October 2009. It was preceded by a two-day careers event co-organised and co-financed by the Academic Service of the EUI. The event included panels featuring EUI alumni currently working in international organisations, in European Union institutions, and in multinational companies and international law firms. Then-AA President Valerie Hayaert organized a Chianti Walk and a visit to Florence for alumni and their families. The General Assembly approved the Annual Report of activities carried out so far by the current Executive Council (EC). The AA informed members that Alumni fees were dedicated to the programme 'Excellence/not National grants' to fund the grants of three EUI Researchers for an amount of €28,215. It then reported on the publication in 2008 and 2009 of two books from the last two alumni conferences edited by former members of the Executive Committee: Back to Maastricht: Obstacles to Constitutional Reform within the EU Treaty (1991-2007) (edited by Stefania Baroncelli, Carlo Spagnolo and AA vice-president Leila Simona Talani) and Globalization, Development and Integration: A European Perspective (edited by Milica Uvalic, Amy Verdun and AA Treasurer Pompeo Della Posta).

The EC next announced the organisation in January 2010 of an alumni conference on 'Europe in Crisis', which took place in the Badia on 15 January 2010 with more than twenty papers presented by EUI alumni on how the European Union and its member states have been affected by the financial and economic crisis. An edited volume based on these papers is also on the EC's 2010 agenda.

The EC then reported on the development of local branches of the AA. In particular it announced, and supported, the formal creation of a local non-profit branch in Brussels (Association Sans But Lucratif (ASBL)) which aims to serve EUI alumni in Europe's capital. Launched by the Secretary of the AA, Sigfrido M. Ramirez Pérez (HEC), and a team of fellow alumni working in Brussels (Salomé Cisnal de Ugarte (LAW), Assimakis Komninos (LAW), Levente Borzsak (LAW) Pieter Bouwen (SPS), Svetlozar Andreve (SPS), and Tobias Witschke (HEC)) this Brussels' Chapter aims to bring together EUI alumni living or working in Brussels, as well as to welcome and help current EUI researchers or alumni there for research or work. Thanks to the collaboration of the EUI official in Brussels, Ana Aguado Cornago; the historical representative of the European Commission in the EUI High Council, Jean-Claude Eckhout; and the encouragements of senior alumni, particularly Alan Hick, Director of Studies at the Economic and Social Committee of the European Union, the Brussels chapter organised several events in 2009. First was a dinner-debate in June at the Economic and Social Committee of the European Union with then- and future-EUI presidents Yves Mény and Josep Borrell on the future of the EUI. Next were two lunch-seminars which brought together alumni working in EU institutions and affairs with alumni from academia who have recently published a monograph. The first took place on 20 October in the Rond-point Schuman office of the European Commission Representation in Brussels with a presentation of the book Global Multi-level Governance: European and East Asian Leadership, by alumnus Cesar de Prado (Barcelona Institute for International Studies-IBEI) and a lively discussion by alumnus Paul Clairet (ECO), currently senior adviser in the Directorate General for Development. On 7 December, Amy Verdun, Director of the Jean Monnet Center of the University of Victoria, presented her forthcoming volume on the Politics of the Stability and Growth Pact with a discussion by alumnus Filip Keereman, Head of Unit at the Directorate General for Economic and Financial Affairs. To demonstrate its support for the development of local branches of the EUI AA, the EC met that same day in Brussels, welcoming new member Nanette Neuwahl (LAW), Jean Monnet Chair from the University of Montreal, and extending its thanks to Valerie Hayaert (HEC), who steps down after having bravely served the Alumni Association for several years.

The EC also decided that the next General Assembly will take place during the Graduation Ceremony events of 2010, while Careers Day will be shifted to the June Ball weekend in order to attract more current researchers. The agenda for that meeting is full of important issues, particularly the appointment of a new Executive Committee for the forthcoming two years, and a discussion on the adaptation of the current statutes to the changes carried forward by our institution. It also includes the awarding of the 4th Alumni Prize for the best interdisciplinary thesis selected by a jury headed by Peter Hertner (HEC-University of Halle-Wittenberg), and composed of EUI Alumni Ruggiero Ranieri (HEC-University of Padova), Alan Cafruny (SPS-Hamilton College New York), Milica Uvalic (ECO-University of Perugia) and François Lafarge (LAW-Ecole Nationale d’Administration, Strasbourg). As for the 2008 elections, the General Assembly has accepted an e-voting procedure in which voting is allowed only by members who have paid their annual AA fees, encouraging the use of their EUI email account to make such measure is
easily implemented by the electoral sub-committee. It is likely that future possible AA initiatives, such as social networking, an on-line ‘who’s who’ and other e-projects, will be linked to the use of an EUI email account with a login and password, as soon as the EUI’s new web 2.0 is ready for them. If you have ideas for new initiatives in this regard, please consider standing as a candidate for the new Executive Committee. See you at the graduation ceremony!

-Sigfrido M. Ramirez Perez, Secretary of the EC of the AA, sigfrido.ramirez@eui.eu

Alumni News and Awards

‘78 Edward Chaney, (HEC 1978-1982), Professor of Fine and Decorative Arts, Southampton Solent University, has won a Major Research Fellowship from the Leverhulme Trust for the project ‘Polytheism and its discontents: cultural memories of Egypt in England.’

Paolo Nello (HEC 1978-1981) has been Head of the Department of Political and Social Studies of the University of Pisa since April 2009.

‘80 Philemona Murray (SPS 1980-1989) is Jean Monnet Chair ad personam in the School of Social and Political Sciences at the University of Melbourne. She was recently appointed a Research Asso-
ciate of the Institute for International Integration Studies at Trinity College Dublin. She is a Visiting Professor in the International Relations and Diplomacy Studies Department at the College of Europe, Bruges and was recently appointed an Associate Research Fellow at UNU-CRIS (United Nations University – Comparative Regional Integration Studies), Bruges.


‘81 Patrick Del Duca (LAW 1981-1985) is practicing law in Los Angeles as a partner of Zuber & Taillieu LLP, and teaching International Finance at UCLA Law School. His book, Choosing the Language of Transnational Deals: Practicalities, Policy and Law Reform, is forthcoming from the American Bar Association this spring.

‘82 John Loughlin (SPS 1982-1987) was designated an Officier de l’Ordre des Palmes Académiques by the French Ministry of Education. The award is given to those who have made a major contribution to French education and culture.

‘85 Nadia Urbinati (SPS 1985-1989), Nell and Herbert M. Singer Professor of Contemporary Civilization in the Department of Political Science at Columbia University, has been selected as a recipient of a Columbia University Distinguished Faculty Award. The Faculty of Arts and Sciences gives this honor annually to junior and senior faculty members who have shown exceptional merit in scholarship and dedication to teaching.

Valeria Camporesi (HEC 1985-1990) was appointed Vicerrectora de Extensión Universitaria and Divulgación Científica of the Universidad Autónoma de Madrid, in July 2009.

‘88 Silke Bramer (LLM 1988) has published Co-operation between National Competition Agencies in the Enforcement of EC Competition Law.

‘90 Paolo Bernardini (HEC 1990-1994), currently professor of Early Modern European History at the University of Insubria (Como, Italy), has been selected as one of the inaugural fellows of the Notre Dame Institute for Advanced Study for 2010-2011. Dr. Bernardini will work on a book on the suppression of the Jesuits in Europe.

Amy Verdun (SPS 1990-1995) was appointed to the position of Chair of the Department of Political Science at the University of Victoria, in British Columbia Canada, on 1 January 2010. She has been at that department since 1997, and is the first woman to be its Chair.

Laurent Gallisso (SPS 1990-1992) has been Secrétaire des Affaires étrangères principal at the French Embassy in Rome, since July 2008.

‘91 Adrien Favell (SPS 1991-1995), Professor of European and International Studies at Aarhus University, was selected as one of the five Danish ’EliteForsk’ research award recipients in January 2010. The prize, which comprises DKK 200,000 as a personal merit award and DKK 1,000,000 for research activities, is awarded annually. Nominated researchers are evaluated and selected by Board of the Danish Councils for Independent Research.

Anna Lixi (LAW 1991-1997), having moved from the Policy Desk for G8 in DG Development, is now Political Desk Officer for Zimbabwe.


‘97 Daniel Guinea (SPS 1997-2005) was awarded a 5-year Ramón y Cajal Fellowship at the Universidad Nacional de Educación a Distancia, in Madrid, in 2009. He recently received funding for a three-year grant from the Spanish Ministry of Science for a project entitled ‘Women’s work-family reconciliation and occupational segregation in Spain, Italy and Great Britain.’ A co-
researcher on this project is Cristina Solera, another EUI alumna now at the University of Turin.

Giampiero Giacomello (SPS 1997-2001) is Assistant Professor of International Relations at the Dipartimento di Politica, Istituzioni, Storia, Università di Bologna. His 2009 co-edited volume Security in the West: Evolution of a Concept is being distributed by Cornell University Press. A more recent co-edited volume, Manuali di studi strategici. Da Sun Tzu alle ‘nuove guerre’, was published in 2010.

Jens Steffek (SPS 1998-2002) was appointed Professor of Transnational Governance at Technische Universität Darmstadt on 1 January 2010.

Anselmo R. Paolone (HEC 1998-2005) has recently published Educazione comparata e etnografia, tra globalizzazione e posmodernità, Roma, Monolite.

Susana de la Sierra (LAW 1999-2003), Professor at the University of Castilla-La Mancha, has recently co-authored Ponderación y Derecho Administrativo, Marcial Pons, Madrid.

Andreas Dür (SPS, 2000-2004) has taken on the position of Professor of International Politics at the University of Salzburg, Austria, on 1 September 2009.

Jean-François Mouhot (HEC 2000-2006) has been awarded a three year Marie Curie Fellowship to work on a project entitled An Environmental History of Haiti (1492-present). He will be at Georgetown University for two years, and will then spend the final year of the fellowship at the EHESS in Paris. He has also recently published Les Acadiens réfugiés en France (1758-1785): L’impossible re-integration?, which was based on his EUI Ph.D. thesis.

Steffen Prauser (HEC 2000-2005) has been Director of the Centre for Second World War studies at the University of Birmingham since 2008.

Sandra Marco Colino (LAW 2001-2007), Lecturer, University of Glasgow School of Law, has recently published Vertical Agreements and Competition Law - A Comparative Study of the EU and US Regimes, Hart.


Reem Morsi (LLM 2002) was awarded a British Chevening Scholarship in 2009 to complete a second MA in filmmaking, which she is doing in London. She married in 2008 and currently lives between London, UK and Vancouver, Canada.

Rafael Leal-Arcas (LAW 2002-2008) joined Queen Mary University of London School of Law in 2006 and was promoted in 2008. His most recent book International Trade and Investment Law: Multilateral, Regional and Bilateral Governance was published in 2010.


Niklas Olsen (HEC 2004-2009), currently a post-doctoral fellow in History at the Saxo Institute, University of Copenhagen, was granted a Young Researcher Award by the Danish Council for Independent Research. The awards are given to talented young researchers under the age of 35 at the time of application. The award is given on the basis of a grant of at least one million DKK from one of the five scientific research councils, and the selected award winners each get DKK 200,000 as ‘special operating costs’ in addition to their project grant.


Michael Geary (HEC 2005-2009) has been appointed to the position of Lecturer in History of European Integration at Maastricht University in the Netherlands. He has recently published his first book entitled An Inconvenient Wait: Ireland’s Quest for Membership of the EEC, 1957-73.

Staff News and Awards

Luigi Guiso, Professor of Economics at the EUI, was awarded the prestigious Smith Breeden Prize at the American Financial Association’s annual meeting in Atlanta, Georgia, on 4 January 2010 for his article ‘Trusting the Stock Market’. The paper was coauthored with Paola Sapienza (Northwestern University) and Luigi Zingales (University of Chicago). The prizes are awarded annually to the top three papers published in The Journal of Finance on topics other than corporate finance.

Anthony Molho, Professor of History at the EUI, will receive the Premio Galilei 2010 per la Storia Economica Italiana, in October 2010. The prize is awarded by the Fondazione Premio Internazionale Galileo Galilei dei Rotary Club Italiani.

Stefania Galeazzi (Library) has been named a ‘Finalista’ in the 2010 Premio artistico-letterario Nicola Mirti, Alcamo, Trapani, for her poem ‘Fantasia’, reprinted below:

‘Fantasia’

Si confonde il cielo con la terra.
Di blu si tinge il mare,
con il bianco latte delle nuvole che nelle curve delle onde evapora.
Dove si trova il colore dell’amore
e dove si perde il sapore della vita?
E’ possibile scivolare all’orizzonte
nel sole scaldare i freddi pensieri?
Nel cielo volano storie d’amore così profonde che si perdono nell’anim.
E’ fantasia che nasce,
e’ realtà che vive,
è vita che muore
sulla strada invisibile del tempo.
Births

Jip Oliver, son of Detlaf Jahn and Marieke Broeren, born on 31 July 2009.

Julia, daughter of Gemma Mateo and Andreas Dür, on 19 August 2009.

Noam, daughter of Alana Lentin and Partho Sen Gupta, on 27 November 2009.

Julia, daughter of Costica Dumbrava and Valentina Stoeva, on 19 December 2009.

Francesco Maria, son of Anna Herold and Francesco Maria Salerno on 27 December 2009.

Giulia, daughter of Costica Dumbrava and Valentina Stoeva, on 19 December 2009.

Sean Thomas Mazzuoli, son of Gabrielle Horan and Emiliano Mazzuoli, on 28 November 2009.

Giulia, daughter of Costica Dumbrava and Valentina Stoeva, on 19 December 2009.

Francesco Maria, son of Anna Herold and Francesco Maria Salerno on 27 December 2009.

Lena Anna, daughter of Fabian and Tijana Breuer on 29 December 2009.

Elsa, daughter of Farkas Orsolya and Marco Spazzini, on 5 January 2010. Big sister Laura is pictured here.

Alexandros, fourth son of Anna Triandafyllidou and Evgenios Theodoropoulos, on 11 January 2010.

Gabriele, son of Alessandro Masselli and Cécile Brière, on 16 January 2010.

Ilona Anue Agur, daughter of Itai Agur and Liufang Chou, on 24 January 2010.

Nilas, son of Espen D. H. Olsen and Silje Tellmann, on 8 November 2009. Espen and Silje have an older son, Teodor.

Jakob Markgraf, son of Heinz-Gerhard Haupt and Michaela Markgraf, on 4 January 2010.

Eva Steer, daughter of Philipp Ther and Martina Steer, on 23 February 2010.

Benjamin Ajay Elia, son of Kiran Klaus Patel and Christina Patel, on 3 November 2009.
In Memoriam

Ana Fraga, (LAW 1998-2000) EUI Alumna and a senior adviser to the Committee on European Affairs of the Portuguese Parliament unexpectedly passed away in February 2010. She had just returned from East Timor where she had been UNDP adviser to the national parliament for one year, leaving behind much of her imprint and saudade.

Ana had a very broad range of interests and a curious mind, combining a refined sense of humour with great amiableness and generosity. She had conquered a solid reputation among (and the friendship of) fellow colleagues in the Portuguese and other national parliaments' European Affairs committees and the EP's constitutional committee and among many MPs and MEPs. In addition, while an assistant of law at the University in Lisbon she organised several workshops and seminars where academics and parliamentarians met to discuss EU matters. At some point she decided to pursue her studies at the Institute for European Studies (IEE) of the Catholic University in Lisbon. We had just put up the MA programme, which she completed very successfully together with her first year at the EUI, where she had been accepted in the meantime. In 2001, she published her IEE dissertation on the role of national parliaments in the process of European integration. After leaving Florence, she was active and continued to publish in various academic projects, among which a joint paper for a special issue of SESP on Portugal and the European Convention, in which we synthesised many of our discussions along the years.

Ana was a gifted painter and her latest exhibition was still on in a gallery near to the parliament when she passed away--Recortes de fantasmas. The exhibition was an interplay between her original short stories and different paintings of silhouettes, juxtaposed with her own silhouette.

Ana was an especially close friend of EUI alumna Federiga Bindi, who informed the many EUI and common friends about the last goodbye to Ana at the Basílica da Estrela, which she prepared with great love, dedication and commotion. As she beautifully phrased it, we could see Ana nel suo volo in cielo.

-Francisco Torres

Nunzio Bastianelli was among the very first staff recruited from the European institutions in Brussels to come to Florence to start up the EUI. He worked here, in the Library, from 1/9/1975 until his retirement in 1997. He was a happy realist, and quintessentially Italian; one could imagine him a stray character from a Guareschi story. Like many of his countrymen he emigrated as a young man, worked many years abroad, returned, and eventually resettled in his native town of Atina. He navigated by four fixed stars: origins, family, work, and the enjoyment of the good things in life, including charming the ladies. He met pretension and pompousness with commendable skepticism, making no exception even for the exhortations of superiors. Listening to him talk about food was the next best thing to eating it. He was a serious man with an infectious laugh. He was never idle on the job, took pride in what he did, and mastered every new challenge, including computers! Off the job he was always full of projects for his home, building and growing things. For whoever knew him, it is not possible to think of him without a smile.

-Michiel Tegelaars
December 2009 Events

On 16 December 2009, EUI President Yves Mény handed over the presidency of the Institute to Josep Borrell in a ceremony before the EUI High Council and Academic Council.

On the morning of 17 December, the EUI held the inauguration of Villa Salviati, the new Florentine premises of the Historical Archives of the European Union and future site of the Robert Schuman Centre for Advanced Studies.

In the afternoon of 17 December, EUI members and friends were invited to visit Villa Salviati, and to say their farewells to former-President Mény at a reception held in his honour.
Dear Josep,
Dear High Council Members,
Dear Colleagues and friends,

After eight years as President of EUI, the time has come to pack up and go. Cutting the rope and taking the road to the unknown is not easy. But I do believe that our governing bodies have taken a very wise decision in putting a ceiling to the term of the Principal. Innovation and fresh air come from the alternation and rotation of those in charge. I have been a staunch supporter of mobility in our administration, and the first rule of good governance is to practise what you preach!

These eight years have been fascinating years, at least for me. We may have differing thoughts on many things, but I believe that we all agree that this place is one of the most attractive and stimulating places of learning in Europe and probably in the world. Where can you find a place which is not only very international in character – this is not uncommon nowadays—but where there is no one dominant national culture? We are located in Italy and we all love this beautiful country, but we are not Italian. English is our main working language, but we are not British. And I do not think it matters much if the President is French or Spanish—what matter is the balance that we have to keep between various academic cultures and traditions, balance between the various nationalities which make Europe, balance between the three authorities (and only three) listed by the Convention: the High Council, the Academic Council and the President who, for the first time I believe, are sitting together in the same room.

By construction, this institution is a blend of various cultural, academic and linguistic elements and it would betray its vocation if it was otherwise. Blending is not only a quantitative operation. When a tea or coffee trader tries to produce the best possible tea or coffee, he looks for the best varieties in order to get a unique taste that you do not find elsewhere. It is a daunting task indeed because so many variables have to be taken into consideration: the crops are not always of the same quality; the taste and needs of the consumer evolve; the market conditions are in permanent flux.

The situation at the EUI is not much different. I could elaborate and list the effects this has on an administrative, academic or research level. But it will take ages and I do not want to bore you with such a detailed examination. I will limit myself to providing a few considerations around what I call the 4 Cs that is: competition, challenges, change and community.

Competition. The Institute has for a long time considered itself as a unique institution. There is some truth in this view, as there is no equivalent university in the world as far as I know. But to be unique is not enough to survive in a competitive world. Every institution is unique in its own way, but has to compare itself with other institutions sharing the same objectives and aiming at the same target even if their institutional apparatus or modus operandi are different.

In today’s world, economic factors including human capital are extremely mobile. There was a time when a British or French student applying to the EUI would have studied and graduated only in his/her country of origin—not to say in the place of birth. Today only a small minority of applicants have been educated exclusively in their country. Most of them have become academic travellers. But in order to beat the competition which today is not only national or European, but international—we need the appropriate means. I do not know of any university or centre of excellence at the top of world rankings which does not get the appropriate resources. Sometimes the EUI might seem costly to the Member States. But as I have often underlined, the Member States pay only half of the bill. Our costs cannot be favourably compared to mass universities where library or administrative costs are distributed over many users. But I am ready to...
bet that we are less expensive than institutions comparable in terms of size, excellence and output. We are much cheaper than Max Planck Institutes, or Graduate Schools in America. We should be and we are very cautious in the use we make of public money, and indeed the auditors have always given full support to our financial management. Member States should never forget that excellence has a price, but that mediocrity is even more costly, in spite of the illusion that cuts might give at first sight.

Challenges. A certain number of challenges spring from this key feature that the EUI should address in order to remain ahead of the race. The first challenge is to be able to attract the best possible professors, researchers and fellows. This can be obtained if a condition is fulfilled—a condition which is rather simple to annunciate but difficult to achieve: Excellence.

When elected to this position, I declared that I was not interested in being the President of a mediocre institution. And I believed each of our professors, researchers and fellows. This can be obtained if the appropriate material means: good working conditions, adequate grants and salaries, good or rather excellent library and IT services, efficient administration. Everything concurs to the creation of excellence. Nothing is indifferent or secondary.

Resources are important. They are not enough. We must be demanding with ourselves, with our students, with the administration. Scientific progress is made through challenging questions, programmes and methods. We do not help anybody by being too kind or too lenient. Facing the harsh reality, drawing lessons and taking decisions on the basis of evaluation is and will remain the key for the reputation of the place. I have great admiration for the way the American universities are challenging themselves all the time. It does not mean that we have to imitate them in a blind way. But we have a lot to learn from their capacity to look at the world as it is, rather than as it fits one’s interest or comfort, as too often happens in Europe.

The second challenge is and will be to increase the pluralism and diversity which constitute a fundamental feature of the place. Pluralism is an important value in particular in Europe, a continent which has multiplied at pleasure wars, conflicts and antagonisms by refusing pluralism. In our Institute I am not referring so much to cultural or national pluralism, which has always been a fundamental value of the place. I cannot recollect a single conflict based on nationality. I refer rather to the necessity for the Institute to look more and more beyond the European borders. Even if more than 50 nationalities are represented at EUI, Africa (with the exception of some Mediterranean countries) and Asia are as yet unexplored territories on the Institute map. It is urgent to address this issue which I personally regret not to have been able to tackle fully. The same could be said in relation to the social composition of our European intake. We have achieved a good gender balance at least for the researchers and fellows. But we are not representative at all of the ethnic diversity of Europe. Only a few or our students are the children of foreign migrants. We should have given more attention to this rising and promising generation. I am not talking of affirmative action. I only underline the necessity of paying more attention when selecting applicants.

Pluralism also means plurality of methods and approaches. I am not making a plea in favour of eclecticism and confusion. I am aware that not all methodological choices have equal value in relation to a research question. But I do believe that there is not a single best way to look at the world in social sciences. Progress will come from confrontation between different approaches, not from the imposition of a preferred doctrine or methodology. […]

The third challenge is professionalisation and applies to everybody from researcher to administrative staff. This institute was created in a kind of void. There was no real model to imitate or emulate at the time. The concept of a doctoral school had practically no meaning in Europe and the only example of transnational administration was the European Community, something not very appropriate as a model for a university institution. The Institute has evolved in two directions: filling the empty box that a doctoral school had practically no role at the time; adjusting the community framework in order to avoid the red tape and pesanteur which today characterizes Brussels bureaucracy.

In both these directions, the challenge is to be everyday more efficient and professional. On the Academic side, it means preparing our researchers as well as possible for their professional life. It means doing more for them. It means that the researchers accept to be challenged and convinced that there is a life and a tough life
after EUI. Completing a PhD is not enough. Completing an excellent PhD is not enough. Researchers with the help and support of their professors must learn how to present a paper, how to write it in English, how to submit a research project or an article in an international journal. This is part of the baggage that a student must travel with. Some departments have already gone a long way in this direction. But progress remains to be made. Our students should be at the top and at the forefront in this domain.

Professionalisation is also a key value and duty for our administration. There are various types of professionalisation according to the services provided. There are great variations in professional requirements from the Library to the Computing Services, to the Accounting Service. It is the fundamental role of the Heads of Service to keep updated and to introduce the necessary reforms implied by a world in constant movement. They can’t expect to convince their collaborators of the necessity for improvement, if they do not take the lead. But let me underline that the EUI administration has considerably improved its efficiency over the past years. There is certainly still room for improvement here and there. But the High Council should be aware that we have exhausted our capacity for doing more with less. Some services or individuals are already beyond their capacity to absorb the daily flow of demands and duties.

This brings me naturally to the third ‘C’: Change. One of my favourite quotations is by one rather famous local expert: Niccolò Machiavelli. In Chapter Six of The Prince he proposes the most illuminating interpretation of the difficulty to bring about change. ‘….it ought to be remembered that there is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success, than to take the lead in the introduction of a new order to things. Because the innovator has for enemies all those who have done well under the old conditions, and lukewarm defenders in those who may do well under the new’.

However being aware of the perils and difficulty of change should not impede us from considering its imperious necessity. To paraphrase a famous motto El cambio o la muerte! Not to adjust to the tremendous transformations of the world is and would be a deadly blow for the Institute both on the Academic and the Administrative side. I understand that we all like the comfort of the acquis and the security of certainty over the uncertain benefits of change. I also understand that nobody likes to change for the worse. But the preference for immobility is a call for crisis or decrepitude. Change is easier to swallow and digest if it is incremental and well-prepared. During all these years together, a lot of changes have been introduced and some might think that it is time for a rest. This would be a misleading conclusion in our ever-changing world and a mistaken view at a time a new President takes office. Any new person in charge comes with new ideas, new proposals, new style and I know that Josep Borrell will continue in that direction. He might not share some of the choices which have been made and it is rather natural that they be challenged: it is precisely the value of alternation to reconsider and re-assess the past, including the recent past.

The crucial point is to keep objectives in mind and be aware of the challenges. There are always several ways of addressing an issue. Changes might be limited by the present financial constraints but at the same time these constraints might trigger creative solutions and anyway should not prevent thoughts about the future. Let's imagine for one minute that we are richer than we presently are, and dream about the initiatives that we could take. You might remember the song from the famous musical Fiddler on the Roof – ‘If I were a rich man’; so let us imagine a brighter future.

If I were a rich man, I would strengthen the post-doc programmes by creating after the Jean Monnet and Max Weber programmes a new set of fellowships for the Global Governance Programme. The demand for post-doc fellowships is so huge and the supply so small that it is fundamental to initiate such a process.

If I were a rich man, I would considerably strengthen our offer in international relations and in international/European law in order to cover and/or strengthen areas such as climate
change and environmental issues, international trade, intellectual property, financial regulations, international standards and norms.

If I were a rich man, I would dream of additional chairs in the History and Economics department in order to create bridges between these disciplines and the other departments. These chairs should be different from the usual chairs by being joint chairs between two departments. Obviously I could go on and on but we cannot travel 'eyes wide shut'. The reality is not as bright as in the dream. But there is nothing to prevent us from taking the first step in one direction or another by mobilizing new energies and resources. The funding for research by the European Commission is increasing and should increase even further by 2013. We should not be taken by surprise.

Finally my last 'C' is for Community-building. [...]

One of the strengths and at the same time one of the weaknesses of the EUI derives from the fact that the academic body is made up of 'birds of passage'. It is not so much a problem when professors stay 8 or 10 years, but it is more difficult to retain junior professors if they receive an alternative offer after only a few years at the Institute.

The only way to compensate for this relatively high turnover is to create a community feeling among all those who contribute to Institute life. Jean Monnet used to say that nothing is possible without the contribution of individuals but that nothing is lasting without the Institutions.

We have no other alternative than, day after day, to strengthen our institution, our Alma Mater. My economist friends, who see the principle of self-interest as the central paradigm, would certainly tell me: 'what kind of incentives do you offer in order to attain this objective?'. I have no material objective to propose and I am sorry about this. But I will repeat what I said years ago: who is interested in being part of a mediocre institution?

Even if there was no altruistic motivation, even if the idea of institutional commitment was foreign to our minds, the mere and crude self-interest would justify giving—and giving a lot to the community. We are all individually better off if our community works together, goes in the same direction, increases its reputation and prestige. Building a community also means that the Member States and the European Union consider this Institute as their institute, an Institute which does not belong to anybody but is the common property of all. Dear High Council Members, do not consider yourselves only as shareholders but more like stakeholders who care for their unique child in common. In spite of being an intergovernmental institution in legal terms, it must be much more for each of you. It is a creature which is worthy of attention, dedication and love. I think it is a mistake to clip the wings of the bird; it should be given the possibility to be a high-flyer. The right strategy is rather to exploit the full potentiality of the Institute and the cost of your contribution, even if this means marginal additional expenses: economically speaking any country whose budgetary contribution is fixed, can only gain if it adds a few doctoral or post-doctoral fellowships, for instance.

Let me come to the conclusion, as you might have the impression that this sermon has been long enough!

I will only say, now it is time to leave this place, that in spite of the heavy work, in spite of the unavoidable hurdles of this position, I have experienced at the Institute the very best years of my life first as a scholar, and then as an academic manager. As I said at the beginning, there are very few places which offer so much satisfaction and this thanks to you all. Thanks to the professors who make the reputation of the place, to the administration—the backbone of this fragile creature, to the researchers and fellows who year after year bring the fresh and invigorating blood necessary to our continuous rejuvenation.

I am happy to pass the baton to Josep; he comes with a different professional experience which will add and complement those of past presidents, and I am sure that he will be an excellent captain of the rowing team. Let me wish you all well, but let me wish in particular a long and successful life to our beloved Institute.
Josep Borrell
Speech to the EUI High Council and Academic Council
16 December 2009

There is a saying in Spain that goes ‘May God deliver us from the day of praises’ (día de las alabanzas), when everyone recognises our merits and even our fiercest critics recognise in us virtues which they had previously denied we possessed.

This moment normally comes when we set off on our journey towards eternity, and in that case the praises are even more enthusiastic, or to embark on a new stage in our lives.

Today is, dear Professor Mény, your day of praises, not because you have died, but because your long and fruitful years at the helm of the European University Institute in Florence have come to an end. And the weighty responsibility of continuing your work falls to me, and it will not be easy if, at the end of it, I am judged by comparison with what Professor Mény did for this Institute.

The praise you receive today is well-earned. The distinguished participants at this meeting, the academic corps of the Institute and the representatives of the Member States know well that Professor Mény has devoted a significant part of his life to this institution and his achievements are impressive.

One thing is certain, the EUI owes a great deal to Yves Mény. Under his leadership, important major changes have been achieved. The broadening and consolidation of the Ph.D. programme, the development of the Robert Schuman Centre for Advanced Studies, the launching of the postdoctoral programme, and the buildings added to the Institute campus, are but a few of the achievements of this Presidency which has drawn to a close.

These are all great results, and I am convinced that following the lines set out during the Mény presidency will bring further success.

I will try to do this. I will try to continue the work carried out by Professor Mény and you can be sure of my strong commitment to this task. But it would be impossible for me to be Professor Mény the Second, because his experience and the long time working at the EUI are unrepeatable. And continuity does not mean a path which excludes any changes. But any change has to be framed in the search for excellence in teaching, excellence in supervision, excellence in infrastructure and in administrative services.

During the procedure which led to my being appointed as Professor Mény’s successor, I met some members of the EUI academic community and presented an outline of some ideas to strengthen the future of the Institute. There will be time and more suitable occasions to discuss these further, but here and now I would like to make it clear that some of the most important future developments of the Institute, such as the global governance programme, were conceived by Professor Mény.

That is why my gratitude to him is not only for what he has done, but also for the ideas that he has transferred to me on what we can do in the future, in line with what Max Weber said 90 years ago when he said that: ‘the very meaning of scientific work…Every scientific ‘fulfilment’ raises new ‘questions’; it asks to be ‘surpassed’ and outdated….We cannot work without hoping that others will advance further than we have. In principle, this progress goes on endlessly.’

However, the process of European integration, of which this Institute is one of the success stories, is faced with new questions and challenges. These are times of uncertainty and problems for the most ambitious historical project of pacification and integration of European peoples, and in the EUI, too, we need to devote a proportion of our intellectual efforts to this project. Scientific work is chained to the course of progress and much decision-making can benefit from the intellectual capacities present in this institution.

The tension and the dialogue between science as a vocation and science as ‘applicable knowledge’ should remain a central feature of the Institute’s activities.

We must be aware of the fact that climate change, growing competition from emerging economies, mass migration, energy and food crises, trade and financial liberalization, international terrorism and rising inequality are transforming the lifestyles of European citizens and opening windows of opportunity for us to tackle these global challenges successfully. The European Union can find therein a new core purpose, a new life force and a new stimulus to mobilize its intellectual resources, such as those within our European University Institute.

The complexity which is part and parcel of the current process of globalization is challenging prevalent paradigms and theories in social sciences, calling for additional intellectual efforts. New problems have arisen; for example the notion of civilization is being used to explain some of the emerging conflicts, and regulation at the international level being adopted as a strategy to resolve the current economic crisis.

In this context, I believe that the EUI should increasingly bind its European identity to the new questions and opportunities posed by a globalized world. After all, when the Institute was
created, Europe was not planning to be the global player it wants to become today as a condition for its survival.

In the same way, the EUI, which is simultaneously an international organization and a European university the strength of which lies in its multinational and multicultural environment, must preserve and further develop this important asset. We must be considered as the European University, where European and international issues are handled.

Today more than ever, the EUI must try to combine these two aspects: internationalization and Europe. In other words, without losing its European character, and even developing it further, the EUI should strive for more internationalization. This means that its membership, main research interests and affiliation should remain European, but in an ever more global perspective. And, at the same time, the EUI should be the top place for researchers of European issues worldwide. This means that we must continue to broaden the recruitment of Ph.D. researchers to non-European students.

As Professor Mény has said many times, the core business of the EUI is its doctoral programme and so it must continue to be. But we have also to be aware that when the EUI was created, there was very little competition from other universities in the field of doctoral programmes focusing on European affairs. Nowadays the picture has completely changed. The Institute is facing, and continues to face, tough competition from other universities. The Institute must develop further research and study activities which distinguish it as a particularly high-quality environment. In this sense, both the work of the Robert Schuman Centre for Advanced Studies and the postdoctoral Max Weber programme as well as the forthcoming global governance programme, are fundamental elements for the future of the Institute. In each one of them, Professor Mény will have left his own personal mark, and I undertake to continue to promote them.

The international dimension must be coupled with the European one. This is a very important aspect. This is exactly what I plan to do. Being a ‘European’ institution, giving priority to European affairs and strengthening ties with Brussels are essential from many points of view: institutional, academic, budgetary, not to mention that of the Historical Archives, which are managed by the Institute thanks to a financial contribution from the EU.

And I know that you consider me a President who has the potential to contribute to closer ties with the EU Institutions. I sincerely hope to do so.

Let me say a few words on the administration. One of the keys to excellence is an efficient infrastructure and a service-oriented administration. President Mény has worked a lot on this and the result, from what I understand, certainly seems satisfactory. My commitment will be to continue along this path, making sure that the administration maintains its high standards. I know that I will be able to count on very professional collaborators in this respect, and this gives me the tranquillity which is necessary to concentrate on strategic issues.

As regards facilities, a lot has been achieved under the Presidency of my predecessor and what we need now is consolidation. Tomorrow we will have the pleasure of inaugurating a new prestigious seat of the EUI. Let me take this opportunity to remind you all of the very substantial and concrete contribution by the Italian government to the EUI. These beautiful premises that host the Institute have been put at our disposal by the hosting state, and we are grateful for this endeavour.

And so to conclude, many thanks once again to President Mény for leaving me an efficient and world-class institution to lead. Thank you too to all those who have contributed with their daily work to the success of Professor Mény’s tenure and to those whom I am asking as of now to contribute to ensuring that when my day of praise comes, we can leave an equally good state of affairs.

Time flies and this day will come soon. In the words of the great Spanish poet Antonio Machado, ‘*todo pasa y todo queda, pero lo nuestro es pasar, pasar haciendo caminos*’—all things pass and all things remain, but our destiny is to pass on, to pass on opening new roads …

Roads that lead us to who knows where—we cannot even imagine where. When, almost ten years ago, Professor Mény welcomed me as a fellow to the Robert Schuman Centre, of which he was then the Director, neither he nor I could have imagined that on a day like today he would be handing over the Presidency of the Institute to me.

And yet here we are, and for me it is an honour and a responsibility, which I hope to live up to as worthily and with the same skill as Professor Mény has.

On behalf of all the members of this academic community, my thanks to Professor Mény and I hope to continue to develop the EUI through continuation of his good practices and innovations.
A Selection of EUI Books on the Lisbon Treaty from the EUI Institutional Repository

Anneli ALBI and Jacques ZILLER (eds), The European Constitution and National Constitutions: Ratification and Beyond, Alphen aan den Rijn (The Netherlands), Kluwer Law International, 2007

Giuliano AMATO, Hervé BRIBOSIA and Bruno DE WITTE (eds), Genèse et destinée de la Constitution européenne/Genesis and Destiny of the European Constitution, Bruxelles, Bruylant, 2007


Adrienne HÉRITIER, Explaining Institutional Change in Europe, Oxford, Oxford University Press, 2007


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