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EIPASCOPE dans les grandes lignes

EIPASCOPE est le Bulletin de l'Institut européen d'administration publique et est publié trois fois par an. Les articles publiés dans EIPASCOPE sont rédigés par les membres de la faculté de l'IEAP ou des membres associés et portent directement sur les domaines de travail de l'IEAP. A travers son Bulletin, l'Institut entend sensibiliser le public aux questions européennes d'actualité et lui fournir des informations sur les activités réalisées à l'Institut. La plupart des articles sont de nature générale et visent à rendre des questions d'intérêt commun accessibles pour le grand public. Leur objectif est de présenter, discuter et analyser des développements politiques et institutionnels, ainsi que des questions juridiques et administratives qui façonnent le processus d'intégration européenne.

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In Search of the Lost Constitution: The EU between Direct Democracy and the Permissive Consensus

By **Dr Edward Best,** Professor, Head of Unit "European Decision-Making" – EIPA Maastricht*

Following the negative results of the French and Dutch referendums on the Constitutional Treaty, the European Council has called for a "period of reflection" before reviewing the situation in 2006. This period may last several years, but steps should be taken now to respond to what has happened. The process by which a Convention would draft a Constitutional Treaty, which would then be ratified in many cases by referendum, was hoped to secure public consent to the basic rules and procedures of the European Union. The referendums highlighted different reasons why this has not worked: lack of information or understanding; contradicting or misplaced perceptions of what is at stake; perhaps an inherent unsuitability of referendums for issues of this scale and complexity. The next steps should aim to allow citizens to give their informed consent to the basic reasons, rules and procedures involved, and then to place their trust in representative democracy and other mechanisms of accountability. A new "permissive consensus" is more appropriate than pursuing "direct democracy" over details in a Union of half a billion people. Three lines of action suggest themselves. The first is to develop effective communications strategies and educational programmes. The second is to go ahead with a few changes foreseen as a demonstration exercise in the logic of European integration and a "model debate" to engage the public: these could be the transformation of the EU's provisions concerning Police and Judicial Cooperation in Criminal Matters, and the role of parliaments in the EU. Finally, the idea should be explored of seeking a reasoned popular mandate by some sort of European Declaration of Principles, adopted simultaneously in each Member State, which would serve as a mandate for detailed negotiations between governments and subsequent monitoring by national parliaments.

Introduction

To lose one ratification referendum is a misfortune which has occurred on two previous occasions in the European Union and has been reversed. To lose two, as has happened in 2005, starts to seem like carelessness, and may not be so easily dealt with.

The negative outcomes in France on 29 May 2005 and in The Netherlands on 1 June have frozen the process of ratification of the Treaty establishing a Constitution for Europe. The European Council on 16-17 June called for a period of reflection before reviewing the situation in the first half of 2006. There is already a widespread feeling, however, that the Constitutional Treaty is dead in its present form. The period of reflection will almost certainly last several years. What should be done in the meantime?

There will be voices urging a re-run of the failed referendums, although this would probably have to wait in all events until the current leaders have gone, which means 2007. Some may also try to use this to kill two birds with one stone. In August, Austrian Chancellor Schüssel – who will have to start formally picking up the pieces during the Austrian Presidency in the first half of 2006, and who has also, like President Chirac, promised that Turkish accession would be subject to a national referendum – seemed to suggest telling French and Dutch voters that the lesson has

been learnt and Turkey will not be let in, this being presumed to change enough minds to permit ratification.[1] This is not a good response. There is nothing in the Constitutional Treaty which concerns Turkish accession and, although negative attitudes to the possible accession of Turkey certainly affected public opinion, this was not the main reason for the No in either country.

What happens now matters greatly. What is done will have a strong impact on public opinion not only in France and The Netherlands but across the whole EU, especially in the several countries where planned referendums have been suspended. To put it bluntly, the credibility is at stake of the whole notion of citizens' participation in the decision-making processes of European integration. The first elections to the enlarged European Parliament in June 2004 saw a further drop in turnout to 45.7%. Now the populations of two founding members of the Union have said No to a major treaty change.

This article aims to contribute to reflection. It is argued that the EU needs to devise more effective campaigns to increase public understanding. In particular, one should select a few issues of high pan-European saliency where EU action can be demonstrated to provide "added value". Beyond this, more fundamental rethinking is called for regarding the possibility and desirability of direct participation by citizens in EU decisions. The article concludes that the main priority should rather be to consolidate a new "permissive consensus" by which citizens give their informed consent to the basic reasons and rules of the European game – and then place their trust (together with some reliable guarantees of accountability) in the mechanisms of representative democracy. A few recommendations are offered, finally, as to what this might mean in practice.

Table 1

Reasons Given for Voting No in the French and Dutch Referendums, 2005

(Percentages of respondents indicating this as one of their reasons for a negative vote)

Reason	France	Netherlands
Negative employment effects	31	7
Weak economic situation in country	26	5
Economically speaking, the draft is too liberal	19	5
I am against the Bolkestein directive	2	---
Not enough social Europe	16	2
Not democratic enough	3	5
Too complex	12	5
Too technocratic/juridical/too much regulation	2	6
I do not see what is positive in this text	4	6
Loss of national sovereignty	5	19
Loss of Dutch identity	---	3
I do not want a political union/federal State/"United States" of Europe	2	5
I am against Europe/European construction/European integration	4	8
The draft goes too far/ advances too quickly	3	6
This Constitution is imposed on us	---	5
Europe is evolving too fast	---	5
I do not trust Brussels	---	4
The draft does not go far enough	1	---
Opposition to further enlargement	3	6
Does not want Turkey in the European Union	6	3
Europe is too expensive	---	13
There is nothing on human rights or on animal rights	---	2
Lack of information	5	32
The "Yes" campaign was not convincing enough	---	5
Influenced by the "No" campaign	---	2
Opposes president/national government/certain political parties	18	14
The Netherlands must first settle its own problems	---	4
Other	21	7
[DK/NA]	3	2

Source: compiled from data in Flash Barometer EB 171, The European Constitution: Post-referendum survey in France. June 2005; and Flash Barometer EB 172, The European Constitution: Post-referendum survey in The Netherlands. June 2005.

Why did they vote No?

All sorts of reasons lay behind the negative votes (see Table 1). A few had nothing to do with Europe. Several had little to do directly with the Treaty but were certainly about Europe. Interestingly, the main concerns were quite different in the two countries.

Many Dutch objected to the process, merging a perception of inadequate information with sensitivities about national sovereignty and identity, as well as a feeling of being pushed around. The main issue was the felt lack of meaningful participation, in the referendum itself and in Europe generally.

Many French, on the other hand, were afraid of the outcome, seeing the Treaty as an excessively liberal threat to employment which would undermine the (French) social model. The main issue was, at least in the minds of the Non-sayers, one of policy choice.

The following sections reflect on these two dimensions of the problem, not in order to look more closely at specific circumstances in The Netherlands and France, but to contribute to thinking about how best one can reframe the issues next time round.

Information and interest

In The Netherlands a lack of information was the single reason most often given for voting against the Treaty. For many Dutch, this seems to have become a source of active resentment at not being taken seriously. People had not been consulted over the introduction of the Euro or the enlargement of the Union. They were now being asked to give their approval to a long and complex document without knowing either what this would change in the present situation or what the consequences would be of not adopting it. More material concerns, notably the fact (well-publicised in the coincident debates on the EU's Financial Perspective) that the Dutch are now the highest net contributors per capita to the EU budget, only made things worse by creating the feeling that they are also paying too much for whatever it is they don't know about.

Even where the referendum results were positive, there were grounds for concern. In Spain (as in France) the lack of information also seems to have been an important factor, especially among younger people, but more in shaping decisions whether or not to vote. There was indeed a low turnout (42%) in the Spanish referendum in February, while in Luxembourg, where voting is obligatory, the Yes vote was only 57% in the referendum held in July.

A common first response to this situation is to lament the failure of public campaigns in improving awareness and understanding. In other words, it is assumed that it is not only desirable but possible for most citizens to be able to make an informed decision about the content of a Constitutional Treaty. And it is also assumed, more of less explicitly, that if citizens did understand, they would be in favour. The main point in all events is that there has been a failure in communications.

It is obviously true that the importance of improving public interest and understanding regarding European integration – especially if one chooses to hold referendums about it – is not new. It has been high on the formal agenda ever since the Danish No in June 1992 first brought home the demise of the old "permissive consensus". Yet little seems to have been achieved. The Nice summit in December 2000 adopted a Declaration calling for

> "*a deeper and wider debate about the future of the European Union. In 2001, the Swedish and Belgian Presidencies, in cooperation with the Commission and involving the European Parliament, will encourage wide-ranging discussions with all interested parties: representatives of national parliaments and all those reflecting public opinion, namely political, economic and university circles, representatives of civil society, etc.*"

Each Member State and candidate country was encouraged to carry out a national campaign. Efforts were certainly made. Yet one year was inevitably too short a time – even if adequate resources and commitment had been devoted in all countries – to bring about any broad and deep change in popular understanding of the workings and rationale of the EU.

The European Convention which worked in 2002 and 2003 was an innovation in broadening the set of actors involved in preparing treaty changes. It should also, it was hoped, increase public interest. Yet the various efforts at consultation were described later even by one Convention official as "a 'gallant' failure, which pleased the lobbies but failed to get through to the general public".[2] Indeed, according to a Eurobarometer survey in June 2003, only 45% of respondents across Europe had even heard of the Convention.

All sorts of reasons lay behind the negative votes. A few had nothing to do with Europe. Several had little to do directly with the Treaty but were certainly about Europe.

Once the Intergovernmental Conference eventually agreed a text in 2004, referendums were promised in nearly half the Member States, even where they were not mandatory, thus hopefully putting a further seal of democratic approval on a text which would serve as the basic law of the enlarged Union in the coming decades. The first results have spoken for themselves.

There is certainly much more that could have been done to make the Treaty comprehensible. The last thing that needed to be done was again to hand out the whole text (even at football matches in the Spanish case). Eurobarometer in fact openly criticised the Spanish efforts.

> "*The Spanish experience appears to expose certain errors or erroneous campaign strategies. Information is, according to the data, a key element in mobilising voters, and in this case it has not been communicated in a valid or efficient manner by the parties and official institutions…[It] shows that in order to mobilise citizens there is a need for sustainable effort in informing and encouraging debate on the Constitution.*"[3]

It is easy to feel that there has been a lack of serious efforts to engage the public in anything resembling serious debate about European integration over the last few years, especially when one considers the importance of the changes taking place in Europe. It cannot be a matter of funding. It is sometimes suggested that national governments may have mixed incentives. They should have the duty as well as the interest to explain why they have negotiated (and parliaments agreed to) the present arrangements. "Brussels", however, is much too useful as a scapegoat for difficult policies to risk being lost through too much popular understanding as to how decisions are actually taken.

Yet things are not so simple. It is not obvious how governments could do better in short-term publicity campaigns. Greater public understanding of the nature and operation of the EU can only come about as a result of sustained efforts through educational systems, social and economic organisations and so on – and efforts which try to explain not just a particular Treaty, but the broader issues of European integration which may make it possible to understand roughly what is going on and why.

More broadly, information is simply not enough. There is a deeper challenge of provoking public interest. Indeed the European Council of June 2005 emphasised precisely this apparent lack of popular "interest", rather than of information, understanding or support.

> "*This period of reflection will be used to enable a broad debate to take place in each of our countries, involving citizens, civil society, social partners, national parliaments and political parties. This debate, designed to generate interest, which is already under way in many Member States, must be intensified and broadened.*" *(emphasis added)*

European affairs do seem to be specifically disadvantaged when it comes to public interest. It is not possible simply to argue that the low turnouts in European elections (or in the Spanish referendum) are part of a broader disillusion and apathy about politics. It is true that the lower levels of youth participation in all political processes compared to older citizens is a broader phenomenon. It is also true that there is necessarily a connection between European and national levels. Since people vote almost exclusively for national (or regional) political parties in European elections, turnout must partly reflect perceptions of the national political actors. Thus, in the Eurobarometer survey on the 2004 European elections, only 50% of respondents across EU 25 gave a positive response to the question "Do you feel close to any one of the political parties?" The fact that turnout was in general so much lower in the newer Member States seems to be reflected in the fact that the average positive response in EU 15 was 53% and in the ten new Member States only 33%.[4] Yet overall there is a notably higher level of non-participation in European voting. Turnout in the 2004 European elections was lower than turnout in the latest national elections in every single country of the 25 except Luxembourg.[5] Eurobarometer itself noted that the low 2004 participation reflected a conscious decision by citizens to abstain in the European elections as compared to national elections.[6] Why is this so? Some argue that

> "*... this is not – as the deliberative critique implies – because they believe that their participation is ineffective or that institutions like the EP are unimportant. Institutions are not the problem. One is forced to conclude that it is because they do not care. Why are they apathetic? The most plausible reason for such apathy is that the scope*

Table 2

Reasons Given for Failing to Vote in the 2004 European Elections

If you do not go to vote, this will be because:	% Yes
You believe your vote will not change anything	58
You believe the EP does not sufficiently deal with problems that concern you	55
You do not sufficiently know the role of the European Parliament	52
Your do not feel you are sufficiently represented by the Members of the EP	52
You believe that you are not sufficiently informed to go to vote	51
You are not interested in the European elections	42
You are not interested in politics, by elections in general	39
You are not interested in European affairs	34
You believe that the European Parliament does not have enough power	34
You believe that you will be held up, due to travelling, work, health etc.	31
You never vote	23
You are against Europe, the EU, the European construction	21
You are not registered on the electoral lists	20

Source: Flash Eurobarometer 161. European elections 2004 barometer. Vol.1

of EU regulatory activity tends to be inversely correlated with the importance of issues in the minds of European voters. Of the five most salient issues in European societies today – health care, education, law and order, pension and social security policy, and taxes – none is primarily an EU competence."[7]

It is true that only 30% of respondents in France and 26% in The Netherlands said that their non-participation in the 2005 referendums was due to a belief that their vote would not change anything. These, however, were rather specific procedures with visible results in which individual votes clearly would matter. At a broader level, it is not at all so clear (from the Eurobarometer data, at least) that this feeling is unimportant. The survey published in July 2005 indicates that an average of 53% feel that their voice "does not count" in the EU.[8] The main reason given for failing to vote in the 2004 European elections was precisely the belief that participation would be ineffective (see Table 2). This was, however, very closely followed by a feeling that the issues involved were not of primary concern and it remains true that Europe is not widely associated (rightly or wrongly) with the issues of most immediate concern to citizens.

There may be something of a dilemma in this respect. Unless there is interest, little effort will be made to understand what is at stake. Unless something important is felt to be at stake, there will be little interest. As Eurobarometer argued, "by insisting on the issues at stake in the European elections and their consequences on daily life, it should be possible to increase participation in elections."[9] Yet caution is required. As the French case has shown, the real issues at stake may not be clear, and there may be disagreements within and between countries about the very nature of the exercise.

Stakes and choices

In France, the main reasons for voting against the Constitutional Treaty concerned the economic situation, employment and social rights (see Table 1). Europe seemed to be moving further away from protection, social and commercial, at the same time that it was enlarging beyond the European horizon as seen from France. The "European social model", quite apart from the "Community preference", was at stake.

The first response here may be to lament the apparent lack of understanding among citizens as to the realities of the EU. If there were threats to French employment and social benefits in 2005 (and there certainly were), they had nothing to do with the Constitutional Treaty, which primarily proposed to change procedures. There is virtually nothing new in the text concerning substantive policies in economic or social affairs. If anything, the text goes further in the direction of social rights with its recognition of the Workers' right to information and consultation within the undertaking and the Right of collective bargaining and action, in the Charter of Fundamental Rights which became the second part of the Treaty.

The next reaction may be to point to the striking way in which national debates have highlighted different aspects of the Treaty. Not only would countries fasten on different parts of the text. A public message which would tend to increase support in some countries – such as to insist in Spain or Belgium that that the constitution was a major step towards political union – would produce completely the opposite reaction in more Eurosceptic countries such as the UK.[10] And what the French (and others) perceived as excessive liberalism could be seen in the UK (and elsewhere) as retaining too many aspects of old-style protection rather than looking to a more competitive future.

All this then became associated with wrangling over the EU's Financial Perspective. This had the negative effect of seeming to reduce the debate in public eyes to fights over national self-interest. It also had the potentially positive consequence of forcing open discussion as to what the European budget was actually supposed to achieve.

This leads to some serious reflections and concerns. Many French were voting about what they saw as the results of European integration (whether or not they were actually due to European action or inaction). This is quite understandable. Many of the recent public campaigns to "sell" Europe emphasise the material benefits which are promised to derive from European integration. Yet this is not what the referendum should have been about.

One of the main aims of the recent exercise has been to obtain broader consent among the peoples of Europe to the basic reasons for which the Union exists and the basic rules by which the Union does things. This is what constitutions are about, not substantive outcomes. Such settlements are necessary precisely because there are differences in preference as to outcomes. "[I]ndividuals may 'agree to disagree' on distributive issues, because they agree on some higher order choice rule."[11] That kind of genuine constitutional agreement still needs to be achieved.

Constitutions, as Helen Wallace has pointed out, "if they are to function successfully, need to be founded on some set of shared values and to express commitment to some form of collective identity."[12] And, as Fritz Scharpf has argued:

One of the main aims has been to obtain broader consent to the basic reasons for which the Union exists and the basic rules by which the Union does things. This is what constitutions are about, not substantive outcomes. Such settlements are necessary precisely because there are differences in preference as to outcomes. That kind of genuine constitutional agreement still needs to be achieved.

> *"it is only where solidarity on the basis of collective identity can be presumed to exist in principle among all concerned that a minority can be asked to respect majority decisions despite disagreement over important issues. These prerequisites for the unitary legitimation of majority decisions are not met at any level above that of the nation-state; they do not exist in the European Union, and it will become more and more difficult to create them as the expansion of the Union increases the ethnic, cultural and economic heterogeneity of its Member States and thus reduces the possibility of forming an identity."*[13]

A collective identity does not have to be ethno-culturally based – and it would be dangerous in the European context to pursue such a vision. A European "demos" could, as Weiler has proposed, be understood in civic terms as "a coming together on the basis of shared values, a shared understanding of rights and societal duties and shared rational, intellectual culture which transcend ethno-national differences".[14]

But how far is it realistic or appropriate to try to identify values which are uniquely European? A rather extreme example of such attempts was given in 2004 by Dominique Strauss-Kahn, Chairman of the Round Table "A sustainable project for the Europe of tomorrow" set up at the initiative of Romano Prodi. The report proclaims that "Political Europe is legitimate because Europeans have a common model of society". This model, based on human rights, culture, sustainable development and multilateralism, is said to be not only common but "specific to Europe".[15] This is surely pushing things a bit.

For many people, what has happened is simply further evidence where none was needed that referendums are inappropriate for issues of this scale and complexity.

Rather than relying on the discourse of shared *values*, the key may lie, as Stefan Collignon has recently suggested, in common *evaluations*:

> *"In order to make coherent collective choices, there has to be collective agreement on the values of potential pay-offs from a chosen policy. Without this epistemic dimension, policy options would be incommensurable…Full epistemic consensus does not necessarily imply agreement on the evaluative choices or the distribution of rewards, but simply that there is an accepted standard to evaluate them."*[16]

The recent arguments over Iraq, the Constitutional Treaty or the Financial Perspective can easily create the impression that such basic consensus is uneven, to say the least.

The French referendum focused primarily on concerns about employment and social policy. In this respect, it appears that groups of countries have rather different models reflecting deeply-rooted divergences in terms of social structure and national preferences. At least three different models are usually identified, based on Esping-Andersen's "three worlds of welfare capitalism".[17] These reflect structural differences which correspond to "fundamentally differing social philosophies which can be roughly equated with the social philosophies and the post-war dominance of 'liberal', 'Christian democratic' and 'social democratic' political parties."[18] They can be associated very roughly with different sets of countries – Anglo-Saxon, continental and Nordic. Some have argued that there is also a distinctive "southern" model, and others also that central and eastern Europe may present another distinct set of features.

Many therefore believe, like Fritz Scharpf, that "uniform European social policy is not politically feasible or even desirable". "[U]niform European solutions would mobilize fierce opposition in countries where they would require major changes in the structures and core functions of existing welfare state institutions".[19] We may try to cooperate, to learn from each other, and to promote some general convergence, through the kind of non-binding mechanisms known as the open method of coordination. We could make use of framework directives to provide appropriate counterparts to market regulation. We will not adopt uniform policies at European level.

This presents a real dilemma. As was made clear from the French case, social policies are among the issues of greatest immediate concern to citizens. They are also those which still respond to the kind of Left-Right cleavages underlying most political party systems, and could therefore seem likely candidates to be used to generate public interest along recognisable lines. Yet they may be precisely issues which are not the subject of meaningful choice at EU level. To present them – or let them be seen – as such, may create unnecessary frustration as well as confusion.

For many people, what has happened is simply further evidence where none was needed that referendums are inappropriate for issues of this scale and complexity. If it is unrealistic to assume that a reasonable number of people will be able to make informed yes/no choices about all significant elements in a text, quite apart from the challenge of aggregation of all these elements of evaluation, such a text is in this view unsuitable for approval by referendum.

This problem was indeed reflected, even if symbolically, in what happened this time in Portugal. The Portuguese Constitution states that "Each referendum shall deal with a single subject; the questions shall be formulated in objective terms, and clearly and precisely and so as to permit an answer of yes or no…".[20] The Government tried to come up with a compromise between asking for general approval of the whole text and looking for specific agreement to details, by proposing the following wording for the referendum initially scheduled for April 2005: "Do you agree with the Charter of Fundamental Rights, the rule of qualified majority voting and the new institutional framework of the EU, as defined by the European Constitution?" In December 2004, however, the Portuguese Constitutional Court ruled that this formulation did not respect the requirements of clarity and susceptibility to a Yes/No answer. That referendum was subsequently postponed.

Looking at the French referendum and surrounding debates, one could get the impression that there was no common understanding of the implications of the document to be approved; the issues concerning most of those who voted were not significantly altered by anything in that document; and many of those issues are not in fact real European choices at all.

What to do about it?

The negative referendum results and the low turnout in Spain, coming on top of the low turnout at the last European elections, are disheartening for all those who have hoped for a more participatory Union. There appears to be a very low level of information, interest and understanding. It is shocking to read in the Eurobarometer released in July 2005 that an average of 51% of people say that they know only a bit about the EU, and another 19% that they know little or nothing. In other words, a full 70% of the population feel that they are unable to make any informed choices about the European Union. This was the first referendum held in The Netherlands, the first chance for people to express their feelings about Europe – and feelings they were in most cases, more than informed judgements – and the majority reaction was "Nee".

Yet one should not exaggerate Europe's political legitimacy problem, nor try to make too clear a distinction between EU and national levels in this respect. As noted above, for example, non-participation in European elections is partly related to a feeling of distance from national political parties; and most citizens are aware that it is the national governments, parliaments and peoples who have agreed to the current system. Many citizens may not love the Union but, with the occasional exception of farmers, people do not protest in the streets nor threaten disobedience. On the contrary, they seem to obey rules of European origin just as much or as little as they do domestic ones. So long as the Member States are perceived by citizens as being ultimately in charge, the system as a whole is likely to receive more or less the same degree of loyalty as do national authorities. Conversely, if EU affairs are not felt to be of direct importance, then the EU institutions can get away with quite a lot of popular non-credibility.

Moreover, it is not necessary for a majority of citizens to understand the treaties and the decision-making processes in detail, nor for there to be direct participation by citizens in political processes, in order for the EU system to be considered reasonably democratic – if appropriate standards are applied. EU action is subject to exceptional checks and balances among multi-level institutions. Democratic oversight is provided directly by the European Parliament and indirectly by elected national officials in the Council. Non-majoritarian institutions exist in the EU in much the same areas as they do at national level, and are increasingly recognised as providing necessary and legitimate elements of democratic governance, including the role of redressing biases in national representative practices.[21] So, if it isn't broken, why set out to fix it?

In this kind of perspective, the referendums – and the whole idea of trying to involve citizens more directly in detailed decisions and deliberations at European level – have not only proved to be at best a partial success. They could even be a mistake with potentially dangerous consequences not only for ratification of treaties but also for the broader evolution of popular perceptions of the Union. By trying to achieve something which is not possible as well as not necessary – the informed *direct* participation of citizens in the *detail* of EU decision-making – while implying that European democracy depends on the result, the inevitable result may be to create an impression of illegitimacy even where this is not warranted.

Something should and can be done now as a sort of demonstration exercise in the logic of European integration.

This is in no way meant as an argument against promoting citizens' participation in EU affairs (and in all other public spheres). It is a plea to think about how one could *empower citizens to give their informed consent to the basic reasons, rules and procedures involved* – which is what I mean by a new kind of "permissive consensus" – instead of pursuing a dream of "direct democracy" over details in a Union of half a billion people.

What might this mean in practice? In order to think about possible next steps, one may use the following as starting points.

- The Constitutional Treaty in its present form is dead.
  There seems little prospect of successfully re-running the referendums in France or The Netherlands with the same text. Even if this were to happen, it currently seems probable that the treaty would be rejected in the UK and perhaps elsewhere too, since it seems unlikely that people would accept that the same treaty should now be ratified without referendums where referendums were promised this time. Something has to change.
- Referendums will take place again in the future.
  Whatever one's judgement about the suitability of referendums for such issues, it would be unrealistic to propose that no referendums should be held over EU reforms. Quite apart from national traditions, in a few Member States there is a constitutional obligation to hold a binding referendum if constitutional amendment is required. And politically, after all that has happened, there will be strong pressure in many countries to hold referendums on further changes.
- People expect responses to what has happened which convince them they are taken seriously.
  Something should and can be done now as a sort of demonstration exercise in the logic of European integration. Quite apart from the fact that referendums will not go away, people will not forget the failure or suspension of referendums in 2005. In order to create a new permissive consensus, some steps have to be taken at this stage to build that higher-order consensus, and to restore a minimum degree of *trust*.

This is important now in order to ease the so-called (and probably exaggerated) "constitutional crisis". Looking ahead, it may well seem appropriate in a few years to attempt again an overall simplification/constitutionalisation of the

Union's treaty bases, as well as of its institutions and procedures. The challenge is to ensure that – by that time – interested citizens will feel that they can support such a move, not necessarily on the basis of detailed understanding of the relevant text, but at least in terms of positive responses to two implicit questions: a) do you *trust* those who negotiated it and, above all, those who are to execute it? and b) do you give your general *consent* to the fundamental rules and procedures involved?

This also entails making clear not only that the referendum concerns rules and procedures rather than substantive outcomes, but also indicating the scope of the substantive spheres which are potentially subject to those rules. This does not necessarily mean presenting a simple "catalogue of competences" and it certainly does not mean trying to move towards any simple division of powers. On the contrary, it requires explaining the basic rationale of European multi-level governance, and trying to present as simple as possible a picture of what is and is not affected.

All this needs to be well prepared, starting now. Three lines of action suggest themselves.

In order to create a new permissive consensus, some steps have to be taken at this stage to build that higher-order consensus, and to restore a minimum degree of *trust*.

Communications strategies and educational programmes

The first, uncontroversial and also undervalued, is to invest much more time, resources and political attention in communications strategies and basic educational programmes about European integration. It will be worth it in the long run, not only to help ensure the stability and effectiveness of the Union and its policies, but also as a contribution to the overall development of democratic governance in Europe. Since it is through the national (and regional) prism that most people perceive Europe, the burden of this effort lies with national (and regional) actors.

Tangible changes and model debates

The second is to go ahead with a small number of the changes foreseen in the Constitutional Treaty. The idea here is emphatically not to engage in stealthy cherry-picking – that is, secretively slipping through a few favoured changes in the context of, say, an accession treaty with Croatia. On the contrary, the aim would be precisely the opposite, namely to use consideration of these changes as a sort of "model debate" intended deliberately to engage the public. Two candidates suggest themselves, each having the potential to illustrate a different side of the general question, and both having the advantage of depending much less on an overall "package" agreement than, say, the reduction of the number of Commissioners (even though such a reduction would in fact be technically possible on the basis of the Nice Protocol.)

One could demonstrate a logic of collective action in substantive policy areas. This would mean proposing treaty amendments in an area which is of high priority and salience, and where the amendments can most clearly be debated publicly as options for collective problem-solving in the spirit of subsidiarity. Proposals for change could clearly take the form of arguments to show that existing structures and practices are dysfunctional for the achievement of shared objectives, and are so to an extent that outweighs the sovereignty/subsidiarity costs of joint action. An obvious candidate is the possible transformation of the EU's current provisions concerning Police and Judicial Cooperation in Criminal Matters.[22] Another might concern the specific role of parliaments in European governance. This could take the form of a loose package including two main elements: on the one hand, the strengthened role foreseen for national parliaments in controlling respect for subsidiarity, through the right to give a subsidiarity-opinion on legislative proposals; and on the other, the change foreseen concerning the role of the European Parliament in overseeing, together with the Council, the Commission's powers of adapting and applying legislation. This issue would have the further benefit of involving an active participation in the debate on the part of all parliaments and political parties.

Basic principles and detailed agreements

The third line of action would in effect broaden this last idea, and responds to a basic Euro-constitutionalist question of today: how can one realistically reconcile the idea of European peoples' giving their consent to basic reasons and rules, with the continuing need for European states to reach formal agreements over detailed content and procedures? Could one not seek a reasoned popular mandate of appropriate level by some sort of pan-European Declaration of Principles, which would serve as a framework for subsequent changes?

This would essentially mean picking up the idea of separating a "Constitution", consisting of a short statement of principles, from the set of detailed rules contained in the treaties, but with some fundamental differences. The declaration of principles proposed as a first stage should not pose as a Constitution in anything resembling the national sense. It should be a declaration approved by non-binding referendum on the same day in every country which would, while not being legally binding under international law, provide mutually-agreed political guidelines within which negotiations should take place. The detailed rules would then be agreed in a second stage.

In contrast to recent proposals for a short text with this aim, which would be limited to most of the first Part of the Constitutional Treaty but include the main institutional innovations, such a Declaration would aim at higher-order principles, and try also to give reasons. And it would include an explicit recognition of the right of national governments to negotiate within the framework agreed, as well as the responsibility of national parliaments in particular to check

from the national perspective that the principles are respected.

There is no rush to re-run the referendums nor to rewrite the Treaties. The Union can survive without a President of the European Council or a new voting system. Time is required to settle down and move on. At the same time, however, a political response must be seen to be given fairly quickly after what has happened in the failed referendums, and serious proposals for the next stage need to be prepared now in order to prevent a really deep crisis from happening later. ::

NOTES

* The author would like to thank the other editors, Thomas Christiansen and Simon Duke for helpful comments.

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19 ibid. pp.666, 651.

20 Article 115(6).

21 Moravscik, "The European Constitutional Compromise" pp.371-373.

22 See Edward Best, "After the French and Dutch referendums: What is to be done?", *Intereconomics* 40:4 (2005) pp.180-185.

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The Constitutional Debacle and External Relations

By **Dr Simon Duke,** Associate Professor – EIPA Maastricht*

"The Constitutional Debacle and External Relations" argues that even with a ratified Constitutional Treaty, many of the innovations in the external relations area would have been difficult to introduce. In the absence of a Constitutional Treaty for the foreseeable future the author sees limited scope for major overhaul of EU external relations within the scope of the existing treaties and cautions against any temptation to cherry-pick the Constitutional Treaty. The current period of uncertainty calls for open, but structured, debate. In light of this the author argues strongly for the continuation of the deliberations of the working group on the European External Action Service, albeit in a slightly broader format, since their discussions could serve as a valuable platform for an open debate about the role of the EU on the world stage.

The Convention on the Future of Europe shared a common desire to make the external relations of the EU more effective and visible. It was thus unsurprising when attention focused at an early stage on the need for a European External Representative, combining the High Representative's functions with that of the Commissioner for External Relations, in what was to become known as the Union Minister for Foreign Affairs (UMFA).[1] Logically, the presence of a Foreign "Minister" called for some form of supporting ministry which became the European External Action Service (EEAS). Other modifications introduced into the Constitutional Treaty with potentially wide-ranging ramifications for the external relations field included the assumption by the Union of legal personality and the change of Commission delegations into EU delegations under the Union Minister.

The creation of the Minister's position was arguably the most significant innovation of the Constitutional Treaty and thus one of the main casualties of the French and Dutch referenda. Nostalgia for the constitution that might have been and hand-wringing over the results of the referenda should not preclude a much-needed debate about the future of EU external relations.

Creation of the Minister's position was arguably the most significant innovation of the Constitutional Treaty.

The European Council called on 16-17 June 2005 for a "period of reflection" which "will be used to enable a broad debate to take place in each of our countries, involving citizens, civil society, social partners, national parliaments and political parties". The "special role" of the Commission in contributing to this debate was noted.[2] The Luxembourg Presidency also called for "Plan D" or, in other words, a period of dialogue and debate. Jean-Claude Juncker was insistent that any "Plan D" shall not involve a renegotiation of the Constitutional Treaty.[3] This brief essay will consider a possible avenue ahead for the period of reflection and for Plan D.

The invitation for dialogue and debate begs many questions, amongst them being: Who is to conduct this dialogue and debate? What if some of those involved insist on renegotiating aspects of the Constitutional Treaty? Presumably, since it is difficult to move ahead with the constitution *in toto*, the dialogue might also include specific proposals pertaining to parts of the document? If, however, there is to be no renegotiation, what adaptations might sensibly be made to the existing treaties as modified at Nice? All of these are issues that the European Council has promised to elaborate upon at the beginning of 2006.

On the first issue, it is apparent that the dialogue and debate must be as broad as possible, especially bearing in mind the public criticism and even hostility towards what is

Javier Solana, Secretary-General of the Council of the European Union, High Representative for Common Foreign and Security Policy. Minister-in-waiting?

seen as an aloof bureaucracy in Brussels. Although there is a certain irony, given that the Convention was designed to be open and to consult with as many interested parties as possible, any attempt to fix the Constitutional Treaty behind closed doors would exacerbate existing public concerns regarding not only the constitution itself but the process by which it was drawn up.

The argument that the Constitutional Treaty needs "renegotiation" depends of course on what exactly is understood by that term. If renegotiation means scrapping the existing Constitutional Treaty and a new Convention in the next few years, the risk is apparent – it would lead to renewed and divisive debates amongst the Member States and any resultant document may well fail to reach EU-wide consensus. So, what options are there?

The Polish-backed idea of a "constitution lite", whereby Part I of the Constitutional Treaty should be extricated and co-exist alongside the existing treaties has some attraction. However, the concept of co-existence would still imply substantial adaptation and amendment, including solving awkward contradictions between the respective documents (on, for example, the pillar structures). Presumably such an exercise would also cause a few conniptions in the European Courts.

The next option is to adapt the existing treaties, not by merging as was suggested above, but by incorporating choice morsels from the Constitutional Treaty into the treaties. This approach is not without its risks since there are already warnings about the "secret cherry-pickers" and efforts to introduce the constitution, or at least parts of it, via the back door.[4] The prospective UMFA and the EEAS are often mentioned as parts of the Constitutional Treaty that are ripe for picking. But, aside from the concerns about the political astuteness of going down this road, how feasible is it?

"Cherry-picking" the Union Minister and the European External Action Service

In the first place the UMFA is linked to a whole series of reforms in the external relations area – where he is not only "double-hatted", as is commonly observed, but triple-hatted. In the first place the Minister's role is shaped by his relations with the President of the European Council who "in his or her level and in that capacity" ensure the external representation of the Union in matters concerning CFSP, "without prejudice to the powers of the Union Minister for Foreign Affairs" (Art.1-22 (2)).[5]

His role is also shaped by the Foreign Affairs Council, which he "presides over" (Art. 1-28 (3)). Even a seemingly innocent phrase like this immediately raises questions concerning the capacity (or hat) in which the Minister chairs the Foreign Affairs Council and who then represents the Commission's interests? The Foreign Affairs Council also implies major changes for the Presidency since the Presidency of Council configurations, "other than that of Foreign Affairs" shall be held by the Member States representative in the Council (Art. I-24 (7)). The arrangements for the chairing of the Foreign Affairs Council and his ability to make proposals are perhaps the most revolutionary in the sense that they imply a complete reversal of the current arrangements, under which the High Representative merely

assists the Presidency (see below). Not only would this significantly undermine the role of national Foreign Ministers regarding CFSP, it would also require enormous skill (and nerve) to ensure that this role is consistent with his Commission roles and procedures.

It is also unclear how smoothly the Political and Security Committee, addressing CFSP issues and chaired by the Minister's deputy, would have worked with Coreper, chaired by the rotating Presidency and responsible for other external relations issues, who refer matters to the Foreign Affairs Council, chaired by the Minister, for decision. Complex issues might also have emerged when it comes to the chairing and organisation of working groups.

However, in his third role, the language of the Constitutional Treaty is a good deal vaguer. The Minister shall also be a Vice-President of the Commission where, somewhat ineloquently, he "shall be responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action" (Art. I-28 (4)). In exercising these responsibilities within the Commission, the Minister shall be bound by Commission responsibilities "to the extent that they are consistent" with his duties and mandate *vis-à-vis* the Council – thus potentially setting the scene for numerous turf battles. This raises two immediate problems: first, the UMFA is appointed by the European Council and answers to the Foreign Affairs Council, which raises issues regarding his accountability towards the President of the Commission and; second, the question of consistency between the Commission and Council roles is bound to set up institutional friction and will thus require enormous, if not superhuman, tact and diplomacy from the Minister.

It would be difficult to appoint a nominally triple-hatted Solana as the Union's UMFA on an *ad hoc* basis without raising considerable difficulties for the existing treaties which state, quite clearly, that it is "the Presidency who shall represent the Union in matters coming within the common foreign and security policy" and that it is the Presidency who "shall be responsible for the implementation of decisions taken under this capacity and it shall in principle express the position of the Union in international organisations and international conferences". Furthermore, the Presidency "shall be assisted by the Secretary-General of the Council [Solana]" (Art. 18 TEU). Thus, if the UMFA were to have any teeth at all, it would entail amending the existing institutional roles of the European Council, the Council, the Council General Secretariat, the Presidency and the European Commission.

The fate of the EEAS is intimately linked to that of the UMFA since, according to the Constitutional Treaty, "the Union Minister for Foreign Affairs shall be assisted by a European External Action Service" (Art. III-296 (3)). The absence of the UMFA would immediately call into question the logic of having an EEAS and, if it were instituted on an *ad hoc* basis, the same contentious issues encountered by the Council-Commission working group on the EEAS during the last year of their discussions, would remain. On the Commission side it remains unclear what such a Service might incorporate beyond the current DG RELEX (what desks in DG Enlargement or DG Development might be incorporated?). On the Council side the Service would presumably incorporate DG-E and the Policy Unit, but the picture becomes more murky with the Military Staff or the Joint Situation Centre.[6] Even a minimalist Service, built around DG RELEX and the Council Secretariat's DG-E would cause considerable upheaval, especially since it would also imply the restructuring of the Commission's External Service.

Given these tensions, there may even be some interest in letting the EEAS quietly slip away – notably from the Commission side. This would be a pity though since the wider discussions provoked by the notion of the EEAS (such as the nature of European-level diplomacy, the problems encountered by the increasingly artificial division of responsibilities in external relations between the *communautaire* aspects and the CFSP ones, the role of diplomatic services of the Member States, the role of the delegations and so forth) are of immense value and should therefore continue. At a minimum, they may help to identify ways of working together more efficiently and to carry out structural improvements that do not necessitate changes to any legal texts. For instance, enhancing coherence between the Commission and the Council does not necessarily require treaty amendment, nor does the assumption by the Member States of an enhanced role in the external relations of the Union; nor, finally, does some adjustment of the delegations to include more national or even Council Secretariat officials.

Non treaty-based adjustments are certainly worth exploring but all will eventually run into the lack of a central coordinating figure (and Service) to hold it together.

There are, however, limits to how far adjustments can go without necessitating treaty adjustment. For instance, as was mentioned, it is quite possible to review seconding arrangements to and within the existing Commission delegations without treaty change but this would leave important issues, such as accountability and reporting, ambiguous in the absence of a central external relations coordinator such as the UMFA. The non treaty-based adjustments mentioned above are certainly worth exploring but all will eventually run into the lack of a central coordinating figure (and Service) to hold it together.

The Constitutional Treaty also continued the theme of flexibility, introduced in the Amsterdam Treaty and continued in the Nice version, by introducing a number of new types of flexibility – those permitting groups of Member States to be entrusted with a task to "protect the Union's values and serve its interests", enhanced cooperation and permanent structured cooperation. There is little to stop the Member States moving towards more flexible arrangements of cooperation, especially in the security and defence areas where it could be argued that they already exist, albeit in rather *ad hoc* forms. Arguably this has happened in the case of the role of the EU3 (France, Germany and the United Kingdom) in Iran but at the cost of sidelining the

High Representative. This raises the underlying concern of the extent to which the EU Member States, notably the three just mentioned, really wish for a strong Minister and how their own Foreign Ministers would relate to him. If history is any guide, there may be instances where delegation is preferred (such as the Western Balkans) but others where a group of Member States may prefer to take the initiative (Iran). This again suggests that any Minister would not only have to exercise enormous skill in manoeuvring within the EU institutions, but also with the Member States.

Dialogue and debate should build upon the current discussions taking place between the Council, the Commission and the Member States over the EEAS.

Between the devil and the deep blue sea ...

To conclude, the problem with "cherry-picking", quite aside from potential political objections, is that while it may be possible to have *a* UMFA with some sort of EEAS, it is not possible to have *the* UMFA and EEAS envisaged in the Constitutional Treaty. This does not get us around the awkward problem that many of the concerns about the current system of EU external relations – ineffectiveness, the lack of coherence in EU external relations, the growing artificiality of the divide between the *communautaire* and intergovernmental aspects of external relations, the cacophony in external representation of the Union and the growing importance of European-level diplomacy – still apply. The Constitutional Treaty should not be thought of as a panacea since it is far from clear that, had the Constitutional Treaty been ratified by all Member States, either the Minister or the EEAS would have proven workable in practice.

In spite of the negative referendum results in France and The Netherlands, any ensuing "broad debate" should build upon strong public support for a greater EU role in the foreign and security policy areas, as expressed in successive editions of the *Eurobarometer*, in a clear and transparent manner.[7] Traditionally these are the areas of that are the most opaque in the Member States, but the EU should not forsake the chance to lead a public discussion on the role that the Union should play on the international scene.

Dialogue and debate should build upon the current discussions taking place between the Council, the Commission and the Member States over the EEAS. Although it has been argued that the EEAS makes little sense without a Minister, the discussions have broader resonance and significance for EU external relations. Many of the themes discussed above – issues of coherence, inter-pillar tensions, the role of the delegations, the future of the Presidency and CFSP, relations and responsibilities of the external relations directorate-generals in the Commission and the Council and issues of legal identity – will need to be touched upon in this group. The work of the group is therefore far from irrelevant and could prove to be of central importance in outlining a way ahead for EU external relations.

Assuming the need for change is acknowledged, an expanded working group, building upon the original EEAS working group composed of a small number of senior Commission and Council Secretariat officials, should be constituted to include senior national representatives as well as senior MEPs. The discussions, which will be difficult and may well entail painful reform, should then form the basis for an open public debate since, as successive opinion polls and the referenda themselves show, sizeable majorities in the EU desire a more coherent and effective European voice on the international stage. The outcome of this debate (as well as appropriate ones in other areas of EU activity) will then suggest whether the Union can live within the parameters of the existing treaties, the extent to which they can be amended, or whether completely new arrangements are called for. Only when the EU that is desirable emerges will the question of whether the Constitutional Treaty has any future be answerable but, for the time being, this should not be the main focus of dialogue and debate. ::

NOTES

* The author would like to thank the editors of *Eipascope* for their helpful suggestions.

1 The position was originally referred to by the politically less jarring term European External Representative, but it lacked the weight and cachet of the "Union Minister" title.

2 Declaration of the Heads of State or Government of the Member States of the European Union on the Ratification of the Treaty Establishing a Constitution for Europe, D/05/3, Brussels, 18 June 2005.

3 See comments by Jean-Claude Juncker at the Luxembourg Presidency official website, http://www.eu2005.lu/fr/actualites/communiques/2005/06/16jclj-ratif/index.html

4 Liam Fox, 'Beware the secret cherry-pickers', *The Times*, 10 June 2005.

5 It was agreed by a Council decision that Javier Solana, the current CFSP High Representative, should become the Union's first Union Minister for Foreign Affairs 'on the day of entry into force of the constitution', see, 2595th Meeting of the Council of the European Union, *Press Release*, 29 June 2004, 10995/04 (Presse 214).

6 DG-E is responsible for many of the external relations aspects of the Council Secretariat's work, including defence and civilian crisis management aspects. Approximately 200 officials, some seconded, work in DG-E. The Policy Unit, or Policy Planning and Early Warning Unit, was established under the Amsterdam revisions to the treaties. It includes approximately 25 seconded diplomats, divided into Task Forces along geographical or thematic lines, who will monitor, give policy advice and recommendations to the CFSP High Representative.

7 There is strong support for a common defence and security policy amongst 77% of the recipients (the strongest support coming from the ten new Member States who average 85%), for details see *Standard Eurobarometer 63*, July 2005 (Brussels: European Commission), pp.30-35.

The Changing Dynamics of Sub-State Participation: The Commission's Proposals for Increasing Regional and Local Involvement in European Policy Processes

By **Gracia Vara Arribas***, Senior Lecturer – EIPA-ECR Barcelona**

Concern about the participation of the sub-state level of governance in European policy processes is not new. The European Commission's White Paper on European Governance introduced innovative proposals to address this issue, which have stirred up debate among the different actors involved. In this paper we analyse the progress made so far in developing two of those proposals: the so-called "permanent dialogue" between the Commission and Associations of regional and local authorities, and the tripartite agreements between the Commission, a territorial entity and the respective Member State. These ideas have not advanced and face several major problems (political, legal and technical) which will be difficult to resolve. This article analyses those problems, with the aim of contributing to the ongoing review process of these proposals.

Introduction

Debate over the participation of regions and local entities in EU policy processes has been growing since the 1980s. The basic issue is the following. In several countries the regional level of government has legislative competence to deal with matters which are shaped by decisions taken at European level, often without their direct involvement. Moreover, even though the practical responsibility for implementation may lie with the regions, it is the Member State, which is legally responsible for compliance under European law. This can pose challenges for national political systems. It may also have implications for the effectiveness of implementation.

Traditionally, this has been considered an internal question of the Member States. It has been up to them to establish a system of territorial participation in the formation of the position, which will be defended in the Council. Some Member States have managed to build a quite satisfactory system of representation of the regional interest in Brussels (for example Germany), while in others, central governments have until recently lacked the political will to satisfy regional aspirations (for example Spain and the UK).

Treaty reforms have brought some new possibilities of participation. The Maastricht Treaty recognised that Ministers who participate in the Council might be from the regional level, so long as they are authorised to speak for the Member State as a whole. It also created the Committee of

the Regions as an "advisory body". The major driving force was to channel 'common interests' among the sub-state levels of government. Yet interests have proven to be not so common, while the enormous number of other paths of access to Brussels that have developed have partially emptied its consultative functions. The non-binding nature of its opinions and the fact that many antagonistic types of interests boil in the same pot has made direct lobbying much more effective. The strongest regions in Europe were rapidly disappointed, seeing their "baby" working in favour of the "coffee for all" way of doing things. This consultative body has thus faced a lack of interest on the part of some of the strongest regional representatives, and has had to make efforts to try to keep its privileged position as official intermediary with the European institutions.

Informal ways of lobbying in Brussels by sub-state authorities have therefore been constantly growing. In particular, those sub-state actors who are unhappy with their domestic system for participation in European affairs have been active in seeking direct influence in the preparation, adoption and implementation of European decisions. At the same time, concern about non-compliance with EU rules has turned the attention of the EU institutions to the sub-state level, since it is there that problems in compliance with European law are often to be found, given that a great part of these rules are to be implemented completely at a sub-central level of governance.

In this context, a number of innovative proposals have been made to find new ways of involving sub-state actors. Notably, the European Commission in its "White Paper on European Governance" of July 2001 proposed the establishment of a "systematic dialogue" between the European institutions and sub-state actors, as well as the possible signature of "contracts" with those actors as more flexible means for implementation of EU rules. The White Paper was a response to concerns about both the effectiveness and legitimacy of European decision-making. In this perspective, the Commission proposed to restructure its contacts with the sub-state level, in order to achieve both better law making and proper law implementation. If regions and local entities were confronted with the obligation of complying with laws for which their participation had not been properly assured, the Commission would seek new means to improve this situation, both in the process of elaborating proposals ("bottom-up") and of implementation ("top-down"). This would mean two things: on the one hand, to involve the regions in a structured dialogue at an early stage of policy making; on the other hand, to offer regions flexible means of compliance with the laws, by signing contracts between the Commission, a region/local entity and the State. [1]

This article assesses these proposals. It first looks back to the origin of the proposals, highlighting the different interests involved on the part of the European Commission, the Committee of the Regions, associations of regional entities and the main sub-state actors. It then reviews the first steps, which have been taken as of 2005, and asks to what extent these proposals are viable and sufficient to address the continuing concerns.

The Commission proposed to restructure its contacts with the sub-state level, in order to achieve both better law making and proper law implementation.

The proposal for "permanent dialogue"

The Commission has always aimed to have an inclusive approach by which every individual, enterprise or association can provide the Commission with input.[2] Yet the fact that the enlarged Union would include 250 regions and 100,000 local authorities[3] made it necessary to look for ways to structure the dialogue, and to reduce the number of parties involved. It thus proposed a systematic dialogue with national and European associations of regional and local governments. In principle, this idea seemed to match regional and local claims.[4] Various associations thought that "the motivation behind the intended dialogue is good" and could help provide a new consultative mechanism, addressed specifically towards sub-state government.[5] The problems arose when describing how this systematic dialogue should actually function.

According to the Commission's proposal, the dialogue would take place at an early stage of the policy formulation, and would be between the Commission and the associations that are invited on a case-by-case basis. No mention was made to direct dialogue with individual regions. The criteria for selection of such associations[6] included the need for them to be representative bodies that are able to deliver a jointly agreed opinion from their members, and to pass on to those members Commission proposals and policy guidelines. Furthermore, the associations which should participate in the dialogue should be those concerned by and with a direct interest in the policy in question.

The question of how the selection of the associations to participate would be made was also controversial: A fair balance among associations representing different categories of regional and local authorities was to be kept; and the number of associations selected should remain manageable in order to guarantee the effectiveness of the dialogue. The list of associations to be invited, and the agenda for the meeting, would be decided by the Commission on the basis of a proposal from the Committee of the Regions. The stated purpose of the dialogue was both to give the parties an opportunity to express their views and help to strengthen the ties between the Committee and the Associations. It was not clear, however, whether the Commission's aims coincided with those pursued by the sub-state level, in particular by the regions with legislative powers.

The differing aims of the Commission and sub-state actors

Historically there has been a difference in perception between the European Commission and the sub-state level of governance regarding the objectives to be achieved

through the increased participation of the regions and local entities in European affairs.

The Commission has been seeking, through the involvement of the level closest to the citizens, to achieve both better law-making and proper law implementation, as part of its response to growing concerns about the efficiency and legitimacy of EU laws. Moreover, the need of the Commission to decentralise some tasks of the Union has been growing as its competences have increased. This has become more evident in view of enlargement.

The sub-state level and in particular the regions with legislative powers, on the other hand, have been looking for new opportunities for greater and more direct participation, as well as increased influence in European affairs generally, in order to reinforce their own competences and identity. The Commission has thus traditionally been an important ally for the European regional and local authorities, inasmuch as the alliance has contributed to fulfil its objectives. But whenever the claims of the sub-state level have been perceived by the Commission, or by some of its services, as having further political consequences, they have been reluctant to risk any sort of negative reaction from the Member States, which are always very cautious about the demands of the regions for more participation in Europe.

The result of the consultation

When preparing the White Paper, the Secretariat General of the Commission opened a period of public consultations. The regional and local actors and their associations were those who responded massively[7] but with different degrees of success: the associations managed to be the interlocutors in the proposed dialogue while the regions individually were denied that possibility.[8] As a result of the strong lobbying carried out by the associations, as well as the fact that the European Commission could not by this means formalise its existing informal contacts with sub-state authorities, the regions as such were not made a direct part of this structured dialogue. Once again the interest of the Commission to preserve the institutional architecture clashed with the objectives pursued by some European regions.

The Commission argues that for the selection of the parties, it is obliged to follow the principle of respect of the constitutional orders of the Member States.[9] On that basis, it affirmed that the Committee of the Regions "is the body best placed to identify the associations concerned by the different policies and to suggest the list of associations on a case by case basis" and explained why the parties to the dialogue "can only be" the national and European associations of local and regional government.[10]

The reactions of the Associations

The Commission presented its ideas in a working paper, and encouraged all parties, in particular the associations, to react to its ideas before May 2003.[11] All associations welcomed the initiative, although many had reservations concerning how the permanent dialogue would be conducted. The majority did not agree that the Committee of the Regions should draw up the list of participants and therefore the Commission reconsidered the role given to the Committee.[12] The Committee was moved from being considered "the best placed to identify what associations have an interest in which policies",[13] to "the best placed to help to identify" such associations. Moreover, the Committee would not suggest lists of associations for each policy area on a case by case basis, but an indicative list of European and national associations. The Commission maintained the right to invite whichever associations it sees fit to the various dialogue meetings. As a result, the dialogue procedure was defined as follows:

- The responsibility of organising and holding meetings rests with the Commission.
- There will be a fixed annual meeting between the President of the Commission and the representatives of the associations. This does not replace the annual meeting with the Committee of the Regions for the presentation of the Commission's annual work programme.
- There will also be meetings with the Commissioners responsible for policies that have an impact at territorial level.
- The agenda will be determined by the Commission's general work programme.
- The list of associations to be invited will be decided by the Commission for each meeting on the basis of proposals made by the Committee of the Regions.

The pilot meeting

The first permanent dialogue meeting was held in May 2004. Romano Prodi chaired it with the participation of Commission representatives, the President of the Committee of the Regions, and representatives from most European and national associations of regional and local authorities. The impressions expressed by different representatives present are quite negative. While the Committee of the Regions saw it as a positive first attempt from which some lessons can be learned, some of the representatives thought there was insufficient time and missed a clear agenda setting the objectives of the meeting. For future meetings the scope of the topics to be dealt with should be previously agreed with the associations themselves, since the first experience has been for some of the participants "an empty useless show".[14]

The expected added value of this new instrument for the sub-state level was to initiate a real dialogue with the Commission.

The consequences of the permanent dialogue proposal for the associations

The expected added value of this new instrument for the sub-state level was to initiate a real dialogue with the Commission. And for the regions with legislative powers ("Regleg"), a further added value would have been to be allowed to hold the structure dialogue directly, and not via the Associations. Neither expectation has been fulfilled.

Some regions with legislative powers now do not see this structured dialogue as a solution to the lack of direct participation in the pre-legislative phase, all the more so since this dialogue will only be held a couple of times per year and the meetings will be of a very short duration.

Another important outcome of the proposed dialogue could be the changing dynamics of the membership of these associations. The specialisation level of these associations has been growing, and with this growth, more and more regions have started to be selective in choosing the association to which they wanted to belong. Political dialogue will also mobilise and create a lot of associations among the regions and local entities of the new members of the European Union. The Commission will then have succeeded in mobilising a high number of sub-state actors.[15] The risk exists that the mobilisation effect could be reduced to the big rich territorial units, more than to the smaller, less powerful ones.[16] In fact, some associations cover different overlapping areas of interest, and we already see that some regions belong to many different organisations.[17] But membership to the associations is costly.[18] This means that the "belonging to all" way of working will be expensive and most likely we will see a grouping by areas of interest.[19]

In any case, the challenges arising from the permanent dialogue proposal are many, and not easy to be dealt with. Dialogue has been by definition a non systematic, non procedural way of having direct contact with the Commission by those who – in principle – are not legitimised to have it. Systematisation may have its pros and cons. Of course a systematic dialogue, if well organised, can provide openness and transparency regarding the preparation of legislative proposals of specific interest for the territories in Europe. But too much systematisation could turn the dialogue into a conflict between the associations or between them and the Committee of the Regions.

The consequences of these initiatives will be seen in the long run. If well developed, the permanent dialogue could signify the official introduction of the associations of the sub-State level in the pre-legislative decision making process. The creation of new sub-state nets of influence would be a consequence of this move. The Committee of the Regions would have a new role and the central position of the Commission would be reinforced. But for the ones claiming direct participation in the pre-legislative phase, the initiative will not fulfil its demands.

Tripartite agreements and contracts

The permanent dialogue was supposed to involve the territorial units at the earliest possible stage of the cycle (bottom-up), in order to help draft rules that would be in harmony with individual local peculiarities. In order to help decentralise and adapt implementation to territorial peculiarities (top-down), the White Paper also launched the idea of target-based tripartite contracts between the Commission, the Member State and regional/local authorities for implementation of Community rules. The driving force behind this proposal is that tripartite agreements and contracts can both boost effectiveness, as a result of greater flexibility, and increase legitimacy, through greater participation of regional and local authorities in the implementation of EU policies with a strong territorial impact.

This move derived in part from a sense of frustration in the Commission services responsible for monitoring the application of Community Law. In fact in federal (or strongly decentralised) States many competences lie at the regional or local level. In these cases, the State, when transposing Community law, makes a "framework general national law" that then goes through a "second" transposition phase at sub-state level. The responsibility for appropriate implementation of the law rests with the Member State, but in practice it is the regional/local level that is *de facto* (but not *de iure*) responsible for a correct or wrong implementation.

The initial proposal contemplated "bilateral" contracts between the Commission and the regional/local level. These would be new legally binding instruments.

According to the Commission Communication on these tripartite instruments,[20] Member States will keep the control of the development of the objectives agreed within the contract or agreement since they will have the final responsibility for compliance. Preparatory meetings between the State and the regional or local level should reveal the diverse situations in a specific territorial space, and trigger fruitful co-operation among the different levels of governance. As a result of these dynamics, maintains the Commission Communication, the regional and local level should be better involved in the policy implementation and the implementation process itself will become more open and transparent. In addition, the region or local authority party to the contract would take over more responsibility, and would become obliged to report on the developments of the objectives agreed and to comply with a specific timetable for obtaining the agreed results. It is therefore foreseeable, the Communication concludes, that better policies, regulation and delivery will arise.

The first proposal: bilateral contracts

The initial proposal in fact contemplated "bilateral" contracts between the Commission and the regional/local level.[21] These would be new legally binding instruments for direct cooperation with the decentralised territorial entities that have the responsibilities for implementing EU policies in the Member States. Once a contract was concluded, and for the period of its validity, the provisions in the framework Directive related to the implementation would be waived and replaced by the contract. These contracts would be in full respect of the Constitutional arrangements of the Member State and if necessary the state could become a partner. The idea was to develop tailor-made solutions taking the partnership within Structural Funds programming as a reference. But now the difference would be that, while in partnership there are no binding obligations, with this

contractual tool there would be legal certainty.

The College of Commissioners, however, did not endorse this proposal. The problems were both political and legal: the bilateral contract would mean the exclusion of the Member States, with the consequent loss of control. Furthermore, it would lower the position of the Commission vis-à-vis the sub-state entities, since in a contractual relation parties are equal in the terms of the contract. The guardian of the Treaties would become party and judge at the same time. The College converted the bilateral contracts into tripartite ones including the Member States. While for the Commission the implication of the State was a must for its interests, for the sub-state level, or more precisely, for the RegLeg, the introduction of the State meant the privileged placement of the State in relation to the Commission.

The final proposal: tripartite agreements and contracts

The Commission published a Communication in December 2002 in which it described two sorts of contractual tools: target-based tripartite contracts, in relation to the application of binding law; and target-based tripartite agreements, in relation to the application of soft law.[22] It proposed to develop these tools in two phases: an initial one with pilot agreements, and only afterwards, following the results of the agreements, sign tripartite contracts where appropriate.

The agreements and contracts have to be compatible with the Treaties; they must respect the constitutional systems of the States, and can not constitute a barrier to the sound operation of the single market. They have to be justified by providing some type of added value: simpler implementation, political benefits, efficiency gains resulting from the close involvement of regional and local authorities, or speedier performance.

The Commission described the general characteristics of target-based tripartite contracts and agreements, including the scope, duration, identification of actors, and the description of the objectives, as well as the obligation of information and advertising preceded by a period of consultation involving organisations representing local and regional life.

According to the final proposal an enabling clause could be included in Regulations, Directives or Decisions, to empower the Commission to implement the law via tripartite contracts.

Each tripartite contract must contain a provision referring to the exclusive responsibility of the Member State vis-à-vis the Commission for the correct execution of the contract. In this way the established architecture of the European legal system is assured: the EU institutions cannot contemplate infringement procedures at other levels than that of the Member States. The effects of non-compliance need to be included as well: in the case of a tripartite contract foreseen in a Regulation, Directive or Decision, the basic act will stipulate that, in case of non-execution of the contract, the rules of Community Law will immediately be applied. In the case of non-execution of an agreement, the consequences will have to be analysed on a case-by-case basis.

The fact that no funding was planned to support these contracts has made the realisation of the proposal even more difficult. Although the Commission will provide some start up funding in the trial stage, in general these agreements or contracts will not qualify for additional Community funding.

The reactions of the parties

The reservations of some Member States were made clear even though the White Paper on European Governance stressed the fact that the right of selection of the parties to the contract or agreement would be in their hands and that any contract would only be agreed upon while respecting national and constitutional arrangements.

The European Parliament reacted in December 2003[23] in the so-called McCormick Report. The Parliament agrees that the Commission should go ahead with pilot agreements, but the cases involved should be of sufficient number to serve as a test for this method and assess whether it achieves flexibility in implementing legislation. Monitoring and a flow of information were also requested. The Report stressed the fact that these instruments should only be used for exceptional cases and under very specific conditions. The final political responsibility must remain very clear for the citizens and should lie with the Member States. The report also pointed to the fact that the Communication only vaguely mentioned the possibility of specific financial provisions for the tripartite agreements and contracts, making clear that they would not be a means for extra community funding. However this has proven to be one of the main paralysing factors in the evolution of the pilot experiments.

The Committee of the Regions welcomed from the beginning the idea of tripartite contracts,[24] and has been following the proposal very closely.[25]

The Commission itself has suffered from the beginning from a lack of universal enthusiasm in the development of tripartite agreements. While officials in the Secretariat General are pushing for this experiment, other DGs seem to be rather sceptical.

The fact that no funding was planned to support these contracts has made the realisation of the proposal even more difficult.

As for reactions from the regional and local level, opinions differ. The Presidency of the Basque Parliament, for example, stated that tripartite contracts are one of the practical ideas that will most contribute towards European integration.[26] There may also be criticism, however, from some regions that see these ideas as interference by the State. Especially those regions with legislative competence in the area of environment showed disagreement with the proposals: if the competence is in the hands of the region, the presence of the state is not justified.[27] The only justification which this sceptical group of regions could see, in order to try to understand why the Commission was launching this proposal of tripartite agreements, would be the "offer" to delay compliance with the law under the appearance of acting according to the agreed terms of contract. These regions

have been wondering if flexibility would mean giving more time to a certain territory to comply with the law, or if would mean the postponement of initiating legal actions against the signatories of an agreement, complying late with the rules.[28]

As of July 2005, the Council had not given explicit support to the continuation of this initiative. The Netherlands, during its Presidency, organised a high-level meeting creating an informal European network on governance, in which EU Member States can exchange expertise and experiences. Among the themes that were discussed was the reduction of unnecessary administrative burdens of EU legislation on local and regional authorities, including the analysis of the new instrument on tripartite contracts. The British Presidency will most likely hold a second high-level meeting in London in November 2005. One of the points of the agenda will very likely be the technicalities of tripartite agreements.

In the plenary meeting of the Assembly of European regions of 10 April 2003, the Commission presented its proposals for the implementation of tripartite contracts. It encouraged the regions to address the Commission directly, explaining that there were no conditions to be satisfied in order for a project tripartite contract to be launched.[29] Two years later, only one agreement has been signed. The reasons for this being – among others – that the proposal has shortcomings in the eyes of some regions, both in the lack of financial support for this initiative, and in the impossibility to have bilateral contracts.

The first tripartite agreement

The purpose of the pilot experiments is to test the feasibility and usefulness of the tripartite arrangements. The Commission will then consider the possibility of launching target based tripartite contracts among the Member States, the regional and local authorities and the Commission itself in order to give direct binding application to secondary legislation.[30]

In the consultation process preceding the White Paper, the Commission had become aware of the need to take greater account of the local effect of Community policies in areas such as transport, energy, or the environment. It therefore aimed at signing three tripartite agreements with European cities: one project in Birmingham (UK) concerning urban mobility, one in Lille (France) relating to the management of new urban zones and one in Pescara (Italy) on urban mobility and air quality. Eurocities also proposed a series of tripartite agreements in a pilot phase in relation to the 6th Environment action programme, in the areas of sustainable public transportation and integrated management systems for the urban environment.

Later on, a fourth project was presented by the region of Lombardy (Italy) on sustainable urban planning and transport policy. This is the only project signed to date. It was signed on 15 October 2004 in Milan between the European Commission, the Italian State and the region of Lombardy. The aim of the agreement is to improve the implementation of policies adopted in the area of environment, transport and energy sectors. As of July 2005 the preparation phase has been completed by the regions, and the participation of the State is ready. The search for financial support for the initiative from the Commission is being discussed with the Commission services. In case of a negative from the Commission services to give economic support, the whole process could be paralysed.

Conclusions

The recognition by the Commission of the importance of the regions and local entities in the European integration process, and its stated desire to involve those actors at an early stage of the policy making is a remarkable step forward for the sub-state levels of governance. The fact that the Commission is looking for ways to involve the regions earlier, and to make the implementation of EU law more flexible, considering the territorial peculiarities of the areas where those laws have to be applied, has created strong expectations among some levels of governance.

It may be considered doubtful that the Commission has found the right mechanisms to achieve its aims. The structured dialogue will be with associations, leaving strong economic regions with legislative powers without the possibility of an official direct and structured dialogue with Brussels. The possibility opened by the Commission of direct contact through associations will not prevent those regions from going ahead with direct lobbying, which has proved to be expensive but fruitful. The result could be that direct lobbying will be preferred and that calls for a structured dialogue with the associations lack real political relevance.

On the other hand, the tripartite agreements still remain a mystery. The final outcome of the idea of tripartite contracts, as it stands today, is rather weak and its effectiveness remains to be seen. For the time being, we can only inform on some scepticism shown by several regions which have exclusive competence in the areas selected for this type of contracts. They see it as an intrusion of the State in areas where it should not play a role. The innovative proposal of the Commission Task Force for bilateral contracts was very soon watered-down. From bilateral contracts the proposal moved into the stage of tripartite agreements, abandoning the binding nature of the contracts and the "direct" relation of the Commission with the sub-state level. Moreover, further clarification is needed as to how these agreements and contracts may operate. Will they create exceptions for the signatories regarding time for compliance with the laws? How will legal questions such as hierarchy of legal acts, comitology procedures and others be solved? It could be a potentially valuable instrument, but requires further concretisation to become really attractive in the eyes of either regions or Member States.

The final outcome of the idea of tripartite contracts as it stands today, is rather weak and its effectiveness remains to be seen.

To conclude, all parties affected have broadly welcomed the White Paper proposals and their development. But for them to be useful and efficient, further thinking is needed. Would it be possible and convenient to invite individual

regions – under certain circumstances – to the dialogue? Would it be advisable to revise the objectives of the tripartite agreements and contracts to make them clearer, and as a consequence, more attractive? Would it be necessary to include financial provisions for this type of contracts? We are involved in an ongoing learning process. Revisions of these proposals are needed and we can certainly expect further changes. ::

NOTES

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** The author thanks the contributions and support given by Edward Best, Thomas Christiansen, and José Candela.

1 COM (2001) 428 final: European Governance, a White Paper.

2 COM (2002) 704 final: p.11.

3 Source, Committee of the Regions.

4 The Local Government International Bureau (LGIB) explains that it was as the result of their lobbying that Vice President Neil Kinnock inserted a commitment that the European Commission would establish a "systematic dialogue with European and national associations of local and regional government at an early stage of decision-making".

5 More information in http://www.lgib.gov.uk, meeting of the UK delegation, Committee of the Regions, Commission on Constitutional Affairs and European Governance (CONST) on 20th February 2004.

6 COM (2003) 811 final.

7 Consultations conducted for the preparation of the White Paper on Democratic European Governance, SG/8533/01-EN, page 6, to be found in: http://europa.eu.int/comm/governance/whats_new/consultation_report.pdf

8 As evidence of the well-established lobby performed by the Associations, the example of the role played by the Conference of Maritime and Peripheral Regions (CRPM) is significant. The Full summary can be found in the CRPM web page: www.crpm.org

9 In the Communication's chapter "Parties to the dialogue" where the basic reasoning behind the selection of the parties is presented

10 In the same line, an example of the opinion the CoR had on the role it should be playing in the structured dialogue can be found in its Opinion "new forms of Governance". In it, the Committee calls for new forms of European Governance, which would provide for involvement at a pre-legislative stage of the regional and local authorities in regular consultation – electronically and via meetings – on issues that affect them. Nonetheless, the words "formal dialogue" is reserved in that Opinion for the Commission, Council of Ministers, Parliament and the CoR itself "on behalf of regional and local government". It is clear from the published Opinion that the CoR wished to preserve its role as intermediate between the European Institutions and the regional and local governments.

11 Following the Communication on reinforced culture of dialogue, the Commission prepared a Working Paper (2003) entitled "Ongoing and systematic policy dialogue with local-government associations" in http://europa.eu.int/comm/regional_policy/consultation/territorial_en.htm

12 COM (2003) 811 final.

13 Commission working paper "Ongoing and systematic policy dialogue with local-government associations", page 5.

14 Comments expressed by several participants to the "First European Managers Forum", organised by EIPA-ECR in October 2004.

15 By requiring that the dialogue is performed with associations, the Commission has triggered collaboration and networking between the different territories.

16 No conditions of funding have been established. While all the dialogue is conceived as co-operation through the regions and local entities belonging to a certain association, interests will fluctuate and not always be satisfied within the same association.

17 For a detailed description of the associations and its members see the web pages:http://www.crpm.org; http://ccre.org; http://www.are-regions-europe.org

18 If we analyse the finances of the main associations, all of them are partially financed by the contributions of its members.

19 We have seen some examples of these developments in recent news articles. La Vanguardia (27 August 2004), a Catalan newspaper, reveals that some politicians have taken good note of the developments. Mr. Maragall, President of the Working Community of the Pyrennees (CTP according to its French name), declared the immediate objectives of the Community: the legal recognition of the CTP by the European authorities and the impulse to the public participation of these regions in European affairs. The CTP wants to be a recognised partner in Brussels.

20 COM (2002) 709 final.

21 Alessandro Giordani, "Contratti tripartitti come metodo alternativo per límplementazione del diritto comunitario" in the Conference organized in Trento (Italy) "Convegno Annnuale SISP Settembre 2003".

22 Communication "A framework for target-based tripartite contracts and agreements between the Community, the States and regional and local authorities" COM (2002) 709 final. While the White Paper only talks about contracts, the 2002 Communication introduces a new instrument named agreements.

23 Resolution by Parliament on the Commission Communication "A framework for target based tripartite contracts and agreements between the Community, the States and regional and local authorities".

24 Committee of the Regions, Opinion on the White book on European Governance, 13 March 2002 (CoR 103/2001 fin).

25 The Commission for Constitutional Affairs and European Governance organised on 13 May 2005 in Vitoria (Basque Country, Spain) a seminar on this topic. The Seminar was hosted by the presidency of the Basque Parliament on the occasion of the 25th anniversary of that Parliament. In the Final Declaration of the Seminar the Committee of the Regions invites the European Commission to restart the signing of tripartite agreements and contracts, to reinforce horizontal coordination by its Secretariat-General in the management of this experimental phase, and urge it to extend the use of this instrument to other community policy areas, particularly concerning major European Infrastructure projects.

26 Working document delivered by the presidency of the Basque Parliament, to be found in http://europa.eu.int/comm/governance/debat_en.htm

27 The European Constitution, Eduard Roig & Enoch Alberti 2004.

28 These doubts and ideas where discussed in the First European Managers Forum organised by the European Institute of Public Administration (EIPA) in Barcelona in October 2004, in an atmosphere of big scepticism towards the idea of tripartite contracts and/or agreements First European Public Managers Forum, Barcelona 7-8 October 2004, in www.eipa.nl

29 Plenary meeting, Committee A "institutional Affairs", Assembly of European regions, Brussels, 10th April 2003. Intervention of Mr. José Candela.

30 2004 Report on European Governance.

Open Activities October 2005

more details at: http://www.eipa.nl

MAASTRICHT	PROJECT NO.
3-4 October 2005	
Seminar: Planning & Implementing Effective Communications Campaigns	0520102
6-7 October 2005	
Seminar: EU Policy Coordination: The Role of Coordinators, The Workers behind the Scenes	0510503
6-7 October 2005	
Seminar: Europe on the Internet	0511002
6-7 October 2005	
Seminar: European Environmental Policy – The Making of Environmental Policies in Brussels: Working Groups, Negotiations, Current Agendas	0530902
10-12 October 2005	
Seminar: Surviving in European Negotiations: Techniques to Manage Procedures, Communication and Compromises in EU Negotiations	0510904
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Public Private Partnerships (PPP)-Practitioners' Seminar: Public-Private Partnerships – Making Best Use of Public Funds	0530803
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Seminar: Understanding Decision-Making in the European Union: Principles, Procedures and Practice	0512203
13-14 October 2005	
Seminar: You and European Negotiations: Techniques to Manage People, Your Personality and Culture in EU Negotiations	0511403
17-18 October 2005	
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20-21 October 2005	
Seminar: State Aid Policy and Practice in the European Community – An Integrative and Interactive Approach	0531203
24-26 October 2005	
Colloquium: Mutual Recognition of Diplomas and the New Directive	0531503
26-27 October 2005	
Advanced Seminar: Key Issues in Comitology Today	0510004
27-28 October 2005	
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Seminar: Structural/Cohesion Funds and the Environment: Rules and Practices	0533501
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Non-Discriminating Europe – Race, Ethnic Origin, Religion and Belief: Towards Effective Test Case Strategies	0510301
LUXEMBOURG	
6-7 October 2005	
Seminar: The Latest Developments in the field of Intellectual Property/ Séminaire: Les derniers développements en matière de propriété intellectuelle	0550401
7 October 2005-8 July 2006	
Master of European Legal Studies 2005-2006/Master en études juridiques européennes, en coopération avec plusiers institutions académiques de renommé et en particulier avec l'Université de Nancy II	0552501
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Seminar: The Increasing Role of the European Union in Private International Law	0551401
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EU Financial and Banking Law: Current Status and Future Prospects	0555201
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Financing the European Union: Options for Reform

By **Dr Phedon Nicolaides** and **Frank Talsma,** resp. Professor and Student Assistant – EIPA Maastricht*

This article reviews the budget of the Union, its size, sources of revenue, areas of expenditure and considers, first, how it may be reformed so that it can serve better the objectives of the Union and, second, how Member States can share more fairly the burden of financing it. The article argues that agricultural spending should be reduced, structural funds should be more concentrated and that any mechanism to correct budgetary imbalances should also take into account excessive surpluses as well as excessive deficits.

1. Introduction

In mid-June, just two weeks after the Constitutional Treaty was rejected by two founding Member States, EU leaders failed to reach agreement on the financing of the Union – the so-called Financial Perspective – for 2007-2013. This failure deepened the sense of crisis in the EU.[1] Money matters in the EU.

In this article we review the budget of the Union, its size, sources of revenue, areas of expenditure and consider, first, how it may be reformed so that it can serve better the objectives of the Union and, second, how Member States can share more fairly the burden of financing it.

Albeit small – just 1% of EU GNP – the budget is given particular importance by the Member States. Therefore, we examine the merits of the view that some Member States get a "raw deal" from EU expenditure.

Some of the options for budgetary reform we explore here are unlikely to be adopted. In fact, the Commissioner responsible for the budget, Dalia Grybauskaite, is reported to believe that extensive reform cannot be achieved any more because there is simply not enough time before the current Financial Perspective expires.[2] Our task is not to try to predict the outcome of the on going budgetary negotiations. Instead we offer some tentative answers to two supposedly simple questions, namely what and how? What policies should the EU finance and how should it finance them.

The following section puts things in perspective. It reviews the budget in terms of its aims, evolution and structure of revenue and expenditure. This is followed by an analysis of net budgetary balances showing the financial burden-sharing among the Member States. The fourth section considers which policies the EU should fund. Section five evaluates the Commission proposal for the Financial Perspective 2007-2013. In the last section, we outline our own ideas on how the EU budget can be reformed so that expenditure becomes more efficient and equitable.

Please note that due to space restrictions, the paper version of *Eipascope* does not contain all the relevant budgetary statistics. They are annexed to the internet version of *Eipascope* which can be accessed at www.eipa.nl.

2. Evolution and structure of the EU Budget

Apart from the fact that the EU budget is determined by EU institutions, it differs from national budgets in two fundamental respects.[3] First, it is very small – around 1% of EU GNP – compared to total public expenditure in all Member States of around 50% of EU GNP. It is also legally prevented from exceeding 1.27% of the EU GNP. Second, the EU budget is legally required to be in balance each year. Unlike its members, the EU cannot run deficits. The budget, therefore, cannot be used to affect in any significant way overall economic activity in the EU – a normal task of national budgets.

The budget has grown from an amount equivalent to € 7.3 million in 1958, which was denominated in Belgian francs and was used exclusively for administrative expenses, to € 100.1 billion in 2004.[4]

Typically, the budget during its first 30 years followed the development of the common agricultural policy. Starting in 1988, structural funds and internal policies such as R&D and, from 1993, external aid have gained importance.

While its absolute size has grown and will continue to do so, in relative terms, a peak was reached in 1993 with spending at 1.18% of EU GNP. Contrary to public opinion, relative expenditure has in fact decreased since then. It now stands at 0.98% of EU GNP.[5]

2.1. The revenue side

The EU budget is financed by the so-called "Own Resources". There are four income sources that cannot exceed 1.24% of EU GNI[6] (or 1.27% of GNP), which is the ceiling agreed by the European Council in Berlin in March 1999.

The first two sources of revenue – agricultural levies and customs duties are known as the "Traditional Own Resources" (TOR) of the EU. The TOR reflect the financial autonomy of the EU because they are regarded as resources that belong to the EU and are levied directly on economic agents. The VAT and GNI-based resources are financial contributions from the Member States' national treasuries to the EU. However, all payments into the EU budget are classified as "Own Resources of the EU".

2.2. The expenditure side

As shown in Table 2, the budget is divided in six main areas.

The common agricultural policy (CAP) and the structural funds are the main spending priorities. Together they make up around 75% of the total budget, with the CAP being the largest at more than 45%. Their share in appropriations for commitments is even larger, reaching 80% of the total budget.

Table 1: Sources of revenue, 2005

Type of revenue	million €	%
1. Agricultural duties and sugar levies	1,613.0	1.5
2. Customs duties	10,749.9	10.1
3. VAT	15,313.5	14.4
4. GNI-based	77,583.1	73.0
Total (including surplus)	106,300.0	100.0

Source: European Commission[7]

Table 2: Expenditure, 2005
(appropriations for payments)

Policy area	million €	%
Agriculture	49,115	46.23
Structural funds	32,396	30.49
Internal policies	7,924	7.46
External policies	5,476	5.15
Administration	6,293	5.92
Pre-accession aid	3,287	3.09
Total (with reserves)	106,241	100.00

Source: European Commission[8]

3. Budgetary imbalances

When the EU budget attracts public attention it is mostly for negative reasons: mismanagement and outright fraud. More recently, however, the issue of *juste retour* has entered public discourse. Politicians have been asking who pays for the EU and who benefits from EU spending? These are deceptively simple questions which, as explained below, cannot be given simple answers.

In the EU15, more than 50% of total CAP expenditure is absorbed by only three counties: France (24%), Spain (15%) and Germany (13%). Spending from structural funds is equally concentrated (as it should be): Spain, Italy and Germany take more than 50%. Spain alone accounts for a staggering 32%. As we explain later on, structural funds should be focused. But we will also question whether it makes sense to allocate such high shares to countries with incomes above the EU average.

With respect to the revenue, more than half comes from contributions from three countries alone: Germany (23%), France (18%) and Italy (14%).

The receipts of the Member States do not normally match their contributions to the budget. This creates deficits and surpluses or "imbalances". Germany is the largest contributor and Spain is the largest recipient in absolute terms. Indeed for many years, countries like Germany, The Netherlands and the UK have been net payers and countries like Spain, Greece, Portugal and Ireland have been net recipient.

The picture is slightly different when imbalances are expressed in per capita terms. Per capita positions are better indicators of the real effects of budgetary flows since they relate to the burden borne or gain obtained by each person. In per capita terms the Benelux is the highest net contributor, with Germany only in fifth place (This ranking excludes administrative expenditure by EU institutions. If it is included in the receipts of Member States, then the receipts of Luxembourg and Belgium increase considerably and Luxembourg becomes the largest net beneficiary per capita). Ireland, Portugal, Greece and Spain are the highest net recipients respectively. Ireland is an aberration here because it has grown to become the second most prosperous Member State in the EU25. We return later on to the Irish case because it reveals more starkly the problem of funding poor regions in rich countries.

3.1. The UK rebate

The UK has always had a considerable negative budgetary balance. This has been largely caused by two factors. First, on the spending side, the predominance of the CAP coupled with the relatively small size of the agricultural sector in the UK economy has meant that the UK obtains a relatively smaller proportion of EU expenditure. Second, on the revenue side, the UK's extensive trade links with the Commonwealth and North America have resulted in a larger amount of tariff revenue contributed to the EU budget.

In 1984, the then British Prime Minister, Margaret Thatcher, succeeded in getting her "money back" by securing an "abatement" or "rebate". On the basis of a complicated formula, each year the EU returns to the UK a certain amount of money. This corresponds to € 4.5 billion this year or 66% of what its net balance would otherwise be. All remaining 24 Member States contribute to this rebate – even the poorest of them. What is less well known is that since 2000, Austria, Germany, The Netherlands and

Table 3: Relative prosperity of Member States, 2004

	Per capita income as % of EU average		
LU	245.7	CY	89.6
IE	133.1	EL	88.3
AT	127.6	SI	83.2
DK	126.6	PT	77.2
UK	126.2	MT	75.1
BE	125.8	CZ	73.8
NL	125.3	HU	62.7
SE	119.5	SK	57.7
FI	118.6	EE	52.9
FR	117.7	PL	50.7
DE	112.2	LT	50.6
IT	111.8	LV	47.6
ES	100.6	EU25	100.0

Source: Eurostat

Sweden, because they too protested that they paid too much into the budget, contribute only a quarter of what they would otherwise bear for the UK abatement.

In section 6 we consider whether the UK, which is now one of the richest countries in the EU, should be subsidised by other Member States, some of which have per capita income as low as 40% of that of the UK (see Table 3).

3.2. Do net balances represent the net costs and benefits of EU membership?

The answer is no.[9] The derivation of net balances depends on what is included on the revenue and expenditure sides of the budget. The Commission, for example, does not include tariff revenue because it regards it as belonging to the EU. Indeed, had the EU not existed, some countries, notably The Netherlands, would not collect tariff revenue on goods offloaded in Rotterdam and destined, for example, for Germany or Denmark. These goods would have been in transit and tariffs would have been levied by the country of the final destination.

More fundamentally and aside from the problem of how to measure budgetary balances, these balances fail to capture to any significant degree the economic, let alone the political, benefits or costs of EU membership. Net balances cannot measure the effects of EU policies, increased trade, investment and regulatory harmonisation. It is also difficult to identify the ultimate beneficiaries of EU expenditure (e.g. research funds obtained by multinational consortia). It is said that 40% of capital investment supported by structural funds in cohesion countries eventually flows back to the main capital manufacturing countries which happen to be the net contributing Member States.

Net balances fail to capture to any significant degree the economic, let alone the political, benefits or costs of EU membership.

4. What should the EU support through its budget?

Public finance attributes three "classical" functions to public spending and budgets: allocation, (re)distribution and stabilisation.[10] We examine whether similar functions can be performed by the EU budget.

The allocation function of public finance involves the supply of public goods. A public good is different from a private good in that it cannot be provided through the free market because consumption by non-payers cannot be prevented. Due to this market failure, a political process is necessary for the supply of public goods (e.g. policing, defence, education, parks, clean air). In the context of the EU, collaborative R&D and environmental protection are examples of trans-national public goods that should be funded through the EU budget.[11] In addition, there are goods which are not strictly public but which cannot be achieved by any individual country such as strong bargaining in the WTO or with the US. We call these cooperative goods. Lastly, in this allocative function we would also include funding for EU institutions that ensure the EU system operates properly and EU rules are applied effectively.

The (re)distributive function of the public budget aims to create equity in the structure of national income and wealth. The extent of redistribution is a political choice. The EU budget plays a significant role in redistributing income among its Member States through structural and cohesion policies. As long as the EU Treaty retains such policy objectives, we regard their funding through the EU budget as unavoidable. But, even if these policy objectives were not in the Treaty, some redistribution would still make sense for the following reason. The prosperous countries are more likely to gain from EU membership through trade and investment. Therefore, it is in the interest of those countries to ensure that poorer Member States also support integration because they can also gain from cohesion policies which in this context can be seen as the necessary "side payments" to facilitate integration. The recently established solidarity fund can also be included here.

The stabilisation function of public finance smoothes out the inter-temporal, inter-sectoral and inter-regional impact of asymmetric shocks in the economy. It involves the use of fiscal policy – spending and taxes – as a means of maintaining high employment and a high rate of economic growth. But, as long as the EU budget remains small – its current ceiling is 1.24% of EU GNI – it will have virtually no stabilising power.

It follows that on the basis of public finance theory, in addition to outlays of Community institutions, the EU

budget should primarily finance trans-national public goods, cooperative goods and cohesion/solidarity instruments. As we have put it elsewhere, "the Union should support those policies or finance those actions that make it more cohesive, more competitive and give it a more effective voice in the world."[12] In their wide-ranging report on the future of the EU, Sapir et al. reach similar conclusions.[13] They support reform of the budget so that it funds economic growth (primarily research), convergence (primarily structural actions) and restructuring (primarily for industrial adjustment).

It is obvious that we have left out the CAP which accounts for almost 45% of EU spending. This is because agriculture is a declining sector representing no more than 3% of the EU economy and no more than 5% of EU labour force, even after enlargement. The CAP is an interventionist policy that distorts both domestic production and trade, although to a lesser degree now after a decade of reform. The important point to note here is that as the EU shifts away from production subsidies, trade restrictions and export subsidies and towards direct income support, there is less and less justification for funding through the EU budget. While production subsidies and trade restrictions require centralised management of prices and trade flows and thus EU intervention, direct income support can be delivered by each Member State without affecting farmers in other countries. There is no need for EU intervention.

Sapir et al. have called the EU budget an historical relic. They argue that "expenditures, revenues and procedures are all inconsistent with the present and future state of EU integration." We agree with them.

5. An appraisal of the Commission proposal for the next financial perspective

The Commission proposal for the FP 2007-2013 aspires to create a budgetary basis that can accommodate the present and future challenges facing the EU primarily due to enlargement and the Lisbon strategy. It also tries to take on board some of the recommendations in the Sapir report.

The FP 2007-2013, totalling € 1000 billion, is arranged in the following categories of expenditure [in brackets are the amounts per heading for the seven-year period][14]:

- Heading 1: ***Sustainable growth*** [€ 471 billion] is subdivided into:
  Competitiveness for growth and employment, this includes expenditure on R&D and innovation, education and training, trans-European networks, the internal market and associated policies [€ 133 billion].
  Cohesion for growth and employment, to promote convergence of the less developed Member States and regions, and to support territorial cooperation [€ 339 billion].
- Heading 2: ***Preservation and management of natural resources***, which encompass the common agricultural and fisheries policies, rural development and environmental measures [€ 405 billion of which € 301 billion for agriculture].
- Heading 3: ***Citizenship, freedom, security and justice***, is a heading for several new policies, mainly justice and home affairs, border protection, immigration and asylum policy, public health and consumer protection, culture, youth, information and dialogue with citizens. It also covers the EU's solidarity and rapid reaction fund [€ 25 billion].
- Heading 4: ***The European Union as a global partner***, this covers external action, including pre-accession aid, the European Development Fund (EDF) which will be integrated into the budget, and emergency aid and loan guarantees [€ 95 billion].
- Heading 5: ***Administration***, this covers institutional costs like salaries, pensions etc. [€ 29 billion].

Table 4: Estimated net budgetary balances (average 2008-2013) as % of GNI

Estimated net budgetary balances as % of GNI	Current UK correction	GCM with 0.35% threshold & cap at € 7.5 billion
BE	1.21%	1.26%
CZ	3.17%	3.20%
DK	-0.31%	-0.26%
DE	-0.54%	-0.48%
EE	3.76%	3.79%
EL	2.16%	2.19%
ES	0.23%	0.26%
FR	-0.37%	-0.33%
IE	0.47%	0.51%
IT	-0.41%	-0.35%
CY	-0.37%	-0.33%
LV	4.40%	4.45%
LT	4.41%	4.44%
LU	5.80%	5.83%
HU	3.06%	3.09%
MT	1.06%	1.10%
NL	-0.56%	-0.48%
AT	-0.38%	-0.41%
PL	3.76%	3.79%
PT	1.50%	1.54%
SI	1.31%	1.34%
SK	3.27%	3.30%
FI	-0.25%	-0.20%
SE	-0.50%	-0.45%
UK	-0.25%	-0.51%

Source: European Commission[15]

Despite the rhetoric on the need to reduce expenditure on agriculture, the EU still intends to allocate more than 40%

of its budget to farming and rural development. The scheduled accession of agriculturally more intensive countries such as Romania, where 40% of labour is employed in agriculture, will make future reform of the CAP an even more intractable problem. Perhaps the Commission decided that it is politically expedient to retain agricultural spending largely at current levels after it has seen that Eurosceptic farmers in central and eastern Europe have become markedly more pro-EU after they started receiving money from Brussels.

Curbing excessive budgetary burden is important, but a move towards a system where everyone gets back the same as they put in (recycling funds via Brussels) is pointless. Financial redistribution through the EU budget only makes economic sense if it aims to foster economic and social cohesion and efficient allocation of public goods.

In terms of the overall size of the budget, the Commission proposed that the current ceiling of 1.24% of EU GNI is retained. This is contrary to the demands by the five largest net contributing countries, lead by The Netherlands, that want expenditure capped at 1% of EU GNI.

The Commission also retains the current ceiling of 4% GNI of the recipient countries for structural support. This means that the poorest Member States will get less money per capita than more prosperous states of similar population size. This ceiling has been defended on the grounds that higher allocations of Community money cannot be easily absorbed by the recipients as they have to be matched with national money. However, we do not see any serious reason why the ratio of national contributions cannot be lowered so that the per capita receipts of beneficiary countries can be increased. Alternatively, the required national co-financing ratio can be proportional to the per capita income of the recipient country so that the richer counties contribute more.

The old Member States will still absorb about 50% of all structural funds. In fact, some of the old Member States will continue receiving structural funds by virtue of the fact that they receive them in the current FP. This is despite the fact that they have reached very high levels of prosperity, most strikingly in the case of Ireland. This is contrary to the objective of concentrating Community aid where it is most needed. By contrast, Cyprus with 30% less per capita income than Ireland will be receiving much less money simply because today it is not eligible for assistance as "Objective 1" region.

On the revenue side – and in response to the widespread critique of the UK rebate – the Commission proposes a generalised correction mechanism of budgetary imbalances. This mechanism seeks to compensate each Member State that experiences negative net balances above a certain threshold.

Even after the introduction of this corrective mechanism, the old Member States are mostly net contributors and all new Member States with the exception of Cyprus are net recipients. This is broadly in line with the cohesion goal of the EU. However, the corrective mechanism does not eliminate some awkward disparities between Member States. As can be seen in Table 4, Cyprus will have a deficit that is expected to reach 0.37% of its GNI. The Commission formula will reduce the Cypriot deficit to about 0.33% of its GNI. By contrast, Denmark which is almost 50% richer than Cyprus on a per capita basis will have a deficit of 0.26% of GNI.

These anomalies are the result of the choice of policies on which the EU spends money. Curbing excessive budgetary burden is important, but a move towards a system where everyone gets back the same as they put in (recycling funds

Table 5: Example of modulation of national contributions according to relative capacity to pay

	Country A	Country B	Country C	Union
Population (% of total)	50 million (70%)	20 million (28%)	1 million (1.4%)	71 million
GNI (% of total)	1250 billion (79%)	300 billion (19%)	35 billion (2.3%)	1585 billion
GNI/capita	25,000	15,000	35,000	22,324
Budget: 1.2% of Union GNI				19 billion = 268/person
Equal contributions at 268/person	13.4 billion 71%	5.4 billion 28%	0.27 billion 1.4%	
Contributions according to share in Union GNI	15.01 billion 79%	3.61 billion 19%	0.44 billion 2.3%	

via Brussels) is pointless. Financial redistribution through the EU budget only makes economic sense if it aims to foster economic and social cohesion and efficient allocation of public goods.

6. How should the budgetary burden and receipts be shared in an enlarged EU?

In section 4 we saw that public finance theory attributes certain roles to public budgets, only two of which appear to fit the EU. These are the allocative and redistributive roles. In this section we examine how Member States should share the budgetary burden or how their contributions should be determined and how EU spending should be divided among them. Our own thinking and therefore our proposals are based on the premise that contributions and cohesion-based receipts should be determined according to the national capacity to pay and national need, respectively, both of which are indicated by per capita income.[16]

6.1. The revenue side of the budget or national contributions

Not much can be changed on the revenue side of the budget because national contributions are broadly equitable. This is due to the large and rising share (70%) of the GNI-based payments. However, the remaining 30% should also be taken into account so that the overall amount should be directly linked to each country's prosperity.

The net financial position of each country is the natural outcome of the collective policy choices. It is unavoidable that some countries gain more than others.

At present the Commission excludes tariff revenue from the calculations of national deficits (or surpluses) because it regards it as belonging to the EU. This is broadly right for Belgium and The Netherlands which have two of the largest ports in Europe and which would not have collected as much tariff revenue in the absence of the EU. However, for other Member States and especially the new ones, tariffs are a significant source of public revenue which is now being turned over to the EU solely because they have become EU members.

The whole of the contributions of Member States should be determined according to relative capacity to pay. An example of a union with three hypothetical Member States is shown in Table 5 to clarify how contributions vary when they are shared equally and when they are shared according to the size of the economy which is equivalent to the relative wealth of each country or its capacity to pay.

6.2. The expenditure side of the budget or national receipts

Determining a formula for contributions is rather easy. The real problem is on the expenditure side precisely because national deficits or surpluses are caused by the Community spending pattern which in turn has very different impact on the various Member States.

A budget based on the principle of national need (which corresponds to the principle of capacity to pay on the expenditure side) would be reformed as follows.

First, cohesion receipts should be proportional to national income. At present, all Member States draw on Community structural funds because eligibility (for Objectives 1 and 2) is determined according to regional income. All Member States have regions that are relatively poor – even Luxembourg with per capita income over 200% of EU average.

However, a poor region in a rich country is not in a similar situation as a poor region in a poor country. There is much more capacity for regional redistribution within rich countries rather than poor countries. Therefore, it does make sense to restrict eligibility for regional aid to regions situated in Member States with per capita income less than the EU average or some other cut-off point. Politically, this will not be easy to achieve because some countries such as Spain, whose relative income has reached virtually 100% of the EU average, is the largest recipient of EU structural funds. But, there is not much logic to the current proposal for the 2007-2013 period, that still envisages 50% of structural funds going to the old Member States which, with the exception of Greece and Portugal, have per capita incomes above the EU average.

Second, a large part of the CAP should be re-nationalized. In fact, all agricultural spending that goes to direct income support need not be recycled through Brussels. That would reduce by 60-70% current CAP spending. Member States should be free to determine how much they want to boost the income of their farmers. There is no need for collective EU decisions on this issue. Nor will national income supplements create any negative externalities that can harm other countries (provided, of course, that such supplements are truly de-coupled from production). In fact, the present system of direct income support perpetuates a gross inequality as the amount that is paid to farmers is linked to the amount of production subsidies they used to receive under the old regime of market support. It is a mistake to believe that EU funding brings about equality of support of farmers across Europe.

6.3. And the correction mechanism for excessive net contributions?

The rebate for the UK has been justified on the grounds that its economy is different from that of the "typical" Member State. But on reflection, the reasons cited in section 3.1 why the rebate was introduced are feeble. Why should it matter that a Member State imports too much from third countries or that it has a relatively small farming sector? The EC Treaty, for example, does not attribute any particular importance to the source of imports or the size of the farming sector. The net financial position of each country is the natural outcome of the collective policy choices. It is unavoidable that some countries gain more than others.

A generalised correction mechanism can be justified in

Table 6: Modulation of net balances with a generalised correction mechanism

	Country A	Country B	Country C
Contributions (according to share of GNI)	15.01 billion	3.61 billion	0.44 billion
Assumed receipts without correction (% of budget)	10 billion (53%)	8 billion (42%)	1 billion (5%)
Net balance (% of own GNI)	-5.01 billion (-0.4%)	+4.39 billion (+1.5%)	+0.56 billion (+1.6%)
Correction thresholds as % of own GNI: deficit = 0.35; surplus = 1.0	-4.38 billion	+3.0 billion	+0.35 billion
Correction needed	+0.63 billion	-1.39 billion	-0.21 billion
Method of correction Option I: Increase receipts keeping budget at 19 bn			
Corrected receipts	11.6 billion	6.61 billion	0.79 billion
Corrected deficit/surplus	-3.41 (0.273%)	+3.00 (1%)	+0.35 (1%)
Option II: Receipts at max ceilings (budget falls to 17.4 bn)			
Corrected receipts	10 billion	6.61 billion	0.79 billion
Corrected contributions	13.35 billion	3.61 billion	0.44 billion
Corrected deficit/surplus	-3.35 (0.268%)	+3.0 (1%)	+0.35 (1%)

the present context because EU spending is not efficient. It supports policies, such as the CAP, for which it cannot be credibly argued that EU funding is necessary to support the production of some European public good. But, once this kind of inefficiency is removed from the budget, a correction mechanism is no longer needed.

As long as CAP spending is maintained at present levels, there is little hope that the budget will actually serve as a stimulant for growth and cohesion.

There is also another problem with any automatic correction mechanism. If it is unfair for any country to experience excessive deficit (however that may be defined), why is it not unfair for any country to experience excessive surplus? No one has so far considered whether there should also be a corresponding ceiling on net surpluses. At present there is only a ceiling with respect to structural funds and that is because of the difficulty of Member States to provide matching funds. The essence of fairness is its symmetric nature. If the EU wants to intervene to adjust the results of its own policy decisions, as far as deficits are concerned, then it should intervene to correct surpluses. But such intervention generates some surprising results.

Table 6 depicts the effects of a generalised correction mechanism for our three-country union. Our calculations are based on a double ceiling which is 0.35% of GNI for deficits and 1% of GNI for surpluses. The results demonstrate that such ceilings necessarily imply either an increase in the receipts of the net contributing country (shown as option I in the Table) or a limit on the overall amount of the union budget together with a decrease in the contributions of that country (shown as option II in the Table).

The usefulness of these calculations is that they demonstrate the consequences of any far-reaching reform of budgetary arrangements in the EU. The introduction of any generalized correction mechanism cannot work if EU expenditure is automatic or pre-fixed across all members. But this is precisely how CAP spending is currently determined. All farmers are automatically entitled to support from the EU budget. Member States only determine the overall budget and the level of support for each agricultural product, unit of land or head of animal. Once these amounts are set, then any farmer in any Member State is eligible to receive funding. It is clear that such automaticity is contrary to the logic of budgetary adjustments according to the paying capacity or need of Member States. It follows, therefore, that the CAP rules, not just the politics associated with it, are the biggest obstacle to budgetary reform.

7. Conclusions

In this article we examine the budget of the EU and consider how it can be reformed so that the Union can add more value at the European level as it enlarges further.

Our main criticism of the current budgetary arrangements and the FP 2007-2013 is that they are too entrenched in "old" policies – principally agriculture – and that structural funds are made available to any poor region regardless of the level of income of the country in which they are situated.

The UK abatement has lost its justification. Although, the current proposal of a generalised correction mechanism is not a panacea, the idea of a "juste retour" does not make economic sense and should be avoided.

Our main suggestions for reform are that, first, the EU budget should finance polices that strengthen cohesion, stimulate competitiveness and give the EU a more effective voice in the world. Second, the principle for determining contributions should be the same as that for receipts and it should be the paying capacity and needs, respectively, of each Member State. This is a robust and sustainable foundation for the future budget of the EU. However, it should be pointed out that it also limits the revenue received by Member States.

As long as CAP spending is maintained at present levels, there is little hope that the budget will actually serve as a stimulant for growth and cohesion. The financing of the EU will continue to require ad-hoc adjustments that will make future consensus on budgetary issues more difficult to achieve. In fact, given the little time left for any extensive reform, the next FP will not be very different from the present one. ::

NOTES

* We are grateful to Eipascope's editors for very useful comments on an earlier draft. We are solely responsible for the views expressed in this article.

1 For an analysis of the reasons for that failure see John Peet, *The EU Budget: A Way Forward*, Centre for European Reform, London, July 2005. For an account of the politics in the run up to the June European Council see Phedon Nicolaides, "National Red Lines Undermine European Budgetary Reform", Eipascope, 2005, no. 1.

2 See her interview on the Euractiv site at: "http://www.euractiv.com/Article?tcmuri=tcm:29-142912-16&type=Interview"

3 For more detailed explanations of the EU budget see I. Begg & N. Grimwade, *Paying for Europe*, (Sheffield Academic Press, 1998); T. Wynn, *The EU Budget: Public Perception and Fact*, Committee on Budgets of the European Parliament, 2005.

4 European Commission, *European Union Financial Report 2004*, Luxembourg, 2004.

5 T. Wynn, The EU Budget: Public Perception and Fact, Committee on Budgets of the European Parliament, 2005, p. 7.

6 The measure of Gross National Income is larger than that of the Gross National Product because the former contains all income from all sources worldwide that can be attributed to national beneficiaries.

7 European Commission, *Preliminary draft general budget of the European Commission for the financial year 2006, General Overview*, Brussels, Luxembourg, May 2005.

8 ibid

9 See European Commission, *Allocation of EU operating Expenditure by Member State*, September 2004.

10 For a more detailed explanation see R. Musgrave & P. Musgrave, *Public Finance in Theory and Practice*, (New York: McGraw-Hill, 3rd edition, 1980).

11 This is what the theory of economic federalism suggests. See W. Oates, "An Essay on Fiscal Federalism", *Journal of Economic Literature*, vol. 37, 1999.

12 See Nicolaides, 2005, op. cit.

13 A. Sapir et al., *An Agenda for a Growing Europe, The Sapir Report*, (Oxford: Oxford University Press, 2004).

14 European Commission, *Financial perspectives 2007-2013, Added value and delivery instruments*, Communication from the Commission to the Council and the European Parliament, COM(2004) 487 final

15 European Commission, *Proposal for a Council decision on the system of the European Communities' own resources*, COM(2004) 501 final/2, 3 August 2004.

16 There are many recent reports on how the EU budget should be reformed. See, for example, I. Begg, *Funding the European Union*, The Federal Trust, 2005; M. Buti & M. Nava, *Towards a European Budgetary System*, Robert Schuman Centre for Advanced Studies, European University Institute Working Paper 2003/08, 2003; D. Gros & S. Micossi, *A Better Budget for the European Union: More Value for Money, More Money for Value*, Centre for European Policy Studies, Policy Brief 66, February 2005; J. Le Cacheux, *European Budget: The Poisonous Budget Rebate Debate*, Notre Europe, Studies and Research 41, 2005; S. Richter, *Scenarios for the Financial Redistribution across Member States in the European Union in 2007-2013*, Research Report 317, Wiener Institut fuer Internationale Wirtschaftsvergleiche, April 2005.

Systèmes politiques nationaux et exercice de l'influence au niveau communautaire: une comparaison France-Allemagne



Par **Laure Aumont**, **Frank Lavadoux** et **Stéphane Desselas***

"Si elle veut remporter des succès au niveau européen, la République fédérale (allemande) doit agir comme un Etat unitaire décentralisé". Cette formule provocante tirée des travaux de la Commission chargée de moderniser le système fédéral allemand pose le lien entre système politique national et défense des intérêts au niveau communautaire. L'article analyse ce lien à la lumière d'une comparaison entre système fédéral coopératif allemand et système unitaire décentralisé français. Il apparaît que les systèmes politiques déterminent bien le cadre général dans lequel les deux pays pratiquent l'influence communautaire, leurs forces et leurs faiblesses respectives. Par contre, l'échec de la Commission allemande sur le fédéralisme tend à montrer que toute réforme devrait moins passer par une transformation en profondeur du système que par son optimisation.

"Si elle veut remporter des succès au niveau européen, la République fédérale (allemande) doit agir comme un Etat unitaire décentralisé"[1]. Cette formule provocante tirée des travaux de la Commission chargée de moderniser le système fédéral allemand pose le lien entre système politique national et défense des intérêts au niveau communautaire. Dans le cadre de ses travaux, la *Bundesstaatskommission*[2] s'est en effet vu confier la mission d'évaluer "l'eurocompatibilité" de la République fédérale[3]. En creux, la formule semble faire de la France un modèle inattendu de son voisin germanique. Inattendu, puisqu'en France, nombreuses sont les voix qui s'élèvent pour critiquer un système prétendument trop centralisé, archaïque, inadapté aux modes de gouvernance contemporains. Est-ce à dire que les défauts de l'un seraient les qualités de l'autre?

La comparaison est séduisante puisque les deux Etats présentent des systèmes politiques symétriques. La France est un Etat unitaire décentralisé, tandis que l'Allemagne est un Etat fédéral de type coopératif. En France, la concentration du pouvoir a été compensée depuis quelques décennies par un processus de décentralisation relativement poussé. En Allemagne, l'autonomie des *Länder* est encadrée par un système étroit de coopération et d'imbrication des compétences.

Séduisante, la comparaison semble aussi porter ses fruits. De même qu'il est possible, en matière de politique européenne, d'opposer le poids des *Länder* à la relative faiblesse des régions françaises, on peut renvoyer dos à dos la défense cohérente des intérêts français et la difficulté de coordination du côté allemand. **Néanmoins, une analyse plus fine montre que la réponse aux faiblesses respectives des deux Etats n'est sans doute pas à chercher dans une évolution de type constitutionnelle, impliquant une réforme du système politique lui-même**. L'échec de la Commission sur la modernisation du fédéralisme allemand a du reste mis en lumière les difficultés d'une telle entreprise[4]. Politiquement délicate, il n'est pas non plus certain qu'elle réponde pertinemment aux problèmes spécifiques que pose l'influence communautaire.

Nous verrons donc que si ces systèmes politiques symétriques (**1**) conditionnent l'exercice de l'influence par les deux Etats au niveau communautaire (**2**), leurs faiblesses respectives requièrent moins une réforme constitutionnelle qu'une évolution de type organisationnel et politique (**3**).

1. *La France et l'Allemagne: deux systèmes politiques symétriques*

a) La France: un Etat unitaire décentralisé

A priori, France et Allemagne présentent toutes les caractéristiques de deux systèmes politiques symétriques.

La théorie de l'Etat établit traditionnellement une typologie des systèmes politiques qui distingue entre un Etat unitaire dans lequel l'exercice du pouvoir juridique d'Etat est monopolisé par un seul centre politique ou Gouvernement central, et un Etat fédéral constitué par un groupement d'Etats fédérés disposant du pouvoir législatif, exécutif et judiciaire.

La France correspond clairement au premier de ces deux modèles, même si la notion d'unité ou d'unicité a aujourd'hui disparu du texte constitutionnel. Alors que le Préambule de la Constitution du 4 novembre 1848 disposait encore que "la République française est démocratique, une et indivisible", la Constitution de la IVe République (Constitution du 27 octobre 1946) ne parle plus que de "République indivisible". Cette évolution est entérinée par la Constitution de la Ve République actuellement en vigueur qui déclare, en son article premier, que "la France est une République indivisible, laïque, démocratique et sociale".

L'idée d'une République "une et indivisible" n'en reste pas moins le *leitmotiv* de toute définition de l'Etat français. Il s'agit d'une notion complexe qui recouvre différents aspects, à la fois distincts et connectés entre eux. L'un des plus importants concerne l'unité de la souveraineté nationale. En d'autres termes, l'Etat est le seul à disposer du pouvoir législatif et aucune autre entité ne peut s'en prévaloir. A la lecture de l'article premier de la Constitution, il convient ainsi d'adjoindre celle de l'article 3 qui dispose que "la souveraineté nationale appartient au peuple qui l'exerce par ses représentants et par la voie du référendum. Aucune section du peuple ni aucun individu ne peut s'en attribuer l'exercice". La Déclaration des droits de l'Homme et du citoyen de 1789 pose quant à elle que "le principe de toute Souveraineté réside essentiellement dans la Nation. Nul corps, nul individu ne peut exercer d'autorité qui n'en émane expressément" (art. 3)[5].

Par ailleurs, l'indivisibilité doit s'entendre non seulement comme l'affirmation de l'intégrité du territoire national, mais aussi comme l'indivisibilité du peuple français. Il n'existe pas en France de reconnaissance officielle des minorités nationales, comme l'a montré la décision du Conseil constitutionnel de 1999 concluant à l'inconstitutionnalité de la Charte des langues régionales[6]. La France tire donc sa légitimité d'un système politique reposant sur l'unité d'une nation, d'un peuple et d'un souverain.

Mais il ne faut pas s'y tromper: l'Etat unitaire français n'est pas resté hermétique aux besoins d'autonomie exprimés par les acteurs locaux. A la faveur d'une récente révision constitutionnelle, l'article premier de la Constitution reconnaît désormais que "[l'] organisation [de la République française] est décentralisée"[7]. Cet ajout au texte initial vient consacrer un processus initié plusieurs décennies auparavant. En effet, les Lois Deferre de 1982 et 1983 ont opéré un transfert de compétences qui relevaient jusque-là de l'Etat au bénéfice des collectivités territoriales – régions, départements et communes[8]. Ces compétences, qui concernent des domaines aussi importants que l'aménagement du territoire, les transports ou l'éducation et la formation, possèdent en outre un corollaire financier sous forme de dotations accordées par l'Etat aux collectivités.

Est-ce à dire pour autant que cette évolution a dénaturé l'Etat français? Il semble impossible de l'affirmer. Si les collectivités disposent de compétences désormais étendues, l'exercice de ces dernières demeure fortement encadré. En dernière instance, elles ne possèdent pas la compétence de leurs compétences, celles-ci leur étant conférées par la loi. La toute dernière étape de la décentralisation française jette néanmoins le doute puisqu'elle prévoit un droit d'expérimentation législative pour les collectivités territoriales. Au terme de la révision du 28 mars 2003, l'article 72 de la Constitution dispose en effet que "dans les conditions prévues par la loi organique, et sauf lorsque sont en cause les conditions essentielles d'exercice d'une liberté publique ou d'un droit constitutionnellement garanti, les collectivités territoriales ou leurs groupements peuvent, lorsque, selon le cas, la loi ou le règlement l'a prévu, déroger, à titre expérimental et pour un objet et une durée limités, aux dispositions législatives ou réglementaires qui régissent l'exercice de leurs compétences".

L'Etat français est un Etat unitaire décentralisé où les collectivités sont vouées à disposer de compétences de plus en plus importantes, sans pourtant exercer un droit à se gouverner de manière autonome.

Une lecture attentive de l'article permet néanmoins d'affirmer que la remise en cause du principe de l'unité de la souveraineté est minimale. Elle est de type expérimental, c'est-à-dire qu'elle s'achève nécessairement par une généralisation ou un abandon et demeure encadrée par le régime des grandes libertés.

En définitive, la décentralisation est donc bien de nature administrative et non politique. L'Etat français est un Etat unitaire décentralisé où les collectivités sont vouées à disposer de compétences de plus en plus importantes, sans pourtant exercer un droit à se gouverner de manière autonome.

b) L'Allemagne: un Etat fédéral coopératif

Du côté allemand, les choses sont à la fois aussi claires et aussi compliquées[9]. En effet, l'Etat allemand présente indubitablement les caractères d'un Etat fédéral, mais d'un Etat fédéral de type coopératif.

La Loi fondamentale de la République fédérale d'Allemagne a pris pour modèle le système politique qui constituait déjà la base de la Constitution de la Confédération de l'Allemagne du Nord de 1866 (*Norddeutscher Bund*)

ainsi que celle de la Constitution de l'Empire allemand de 1871. Ce système repose tout d'abord sur le regroupement d'Etats fédérés disposant d'une Constitution propre et jouissant du pouvoir exécutif, législatif et judiciaire. Le système politique fédéral se voit ainsi dupliqué au niveau des *Länder* qui disposent d'une Constitution, d'un gouvernement élu et dirigé par un Ministre-Président[10], d'un Parlement ou *Landtag* et de tribunaux propres. L'article 30 de la Loi fondamentale dispose que "l'exercice des pouvoirs étatiques et l'accomplissement des missions de l'Etat relèvent des Länder, à moins que la présente Loi fondamentale n'en dispose autrement ou n'admette un autre règlement"[11].

Cette règle générale de subsidiarité s'applique selon un système complexe de répartition des compétences. En matière législative, la Loi fondamentale établit la liste des matières dans lesquelles s'exerce une compétence exclusive de la Fédération. Le *Bund* est ainsi jugé compétent, à titre exclusif, pour toutes les matières dites régaliennes telles que les affaires étrangères et la défense, le droit de la nationalité, l'émission de monnaie mais aussi les postes et télécommunications et une partie du transport ferroviaire (art. 73). Par ailleurs, le respect du principe de subsidiarité implique que les matières qui ne relèvent pas explicitement de cette catégorie incombent automatiquement aux *Länder* (art. 70 § 1). Mais la répartition se complique puisqu'un certain nombre de matières donnent lieu à des compétences partagées, exercées de manière concurrente par l'Etat fédéral et les Etats fédérés (art. 74.) Il s'agit par exemple de l'état civil, du droit d'association et de réunion, du droit du travail ou encore de l'assistance sociale.

Parallèlement à cette imbrication des compétences entre Fédération et entités fédérées, le fédéralisme allemand se caractérise par l'existence d'un certain nombre de mécanismes unificateurs destinés à uniformiser les comportements économiques et juridiques, mais aussi à assurer une égalité des conditions de vie. Si la France est un Etat unitaire de plus en plus décentralisé, l'Allemagne est un Etat fédéral fortement "unifié".

Ces mécanismes sont présents à tous les niveaux. Ils se traduisent tout d'abord par l'existence d'instances de coordination au sein desquelles, dès les années 1950, la coopération entre *Länder* a été orchestrée. A côté de la conférence des Ministres-Présidents, la plus connue de ces conférences de coordination est certainement la *Kultusministerkonferenz* qui concerne les questions d'éducation et de culture. Pour les matières européennes, c'est l'*Europaministerkonferenz* qui est compétente. Ces instances ne doivent pas être confondues avec la Chambre des Länder, le *Bundesrat*, avec laquelle elles collaborent néanmoins étroitement. D'un point de vue constitutionnel, seul le *Bundesrat* participe au processus de prise de décision.

Par ailleurs, l'action de l'Etat fédéral joue un rôle centralisateur à travers des subventions financières visant à surmonter les déficits infrastructurels des *Länder* économiquement plus faibles. En 1969, ces subventions ont été transférées au profit des tâches communes et des financements communs, désormais régis par les articles 91a et b et 104 de la Loi fondamentale.

La coopération s'effectue enfin au niveau exécutif puisque l'administration comporte des structures mixtes. Cette administration partagée (*Mischverwaltung*) concerne notamment les directions générales au sein de l'administration des finances. Ces dernières relèvent à la fois de l'Etat fédéral et des *Länder*, qui coopèrent dans le choix du personnel, l'organisation interne ou encore la définition des méthodes de travail.

Faut-il pour autant aller jusqu'à voir dans la République fédérale allemande un Etat unitaire qui s'ignore?[12] Sans doute pas. Une telle thèse serait en tout cas démentie par les *Länder* économiquement les plus puissants qui plaident pour moins de redistribution et plus de concurrence au sein de la Fédération. Par contre, il faut reconnaître que le fédéralisme coopératif a donné lieu à une imbrication des compétences particulièrement peu lisible, qui a justifié la mise en place de la *Bundesstaatskommission*. Paradoxalement, l'unification a engendré la complexité.

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Cette présentation synthétique des deux systèmes politiques français et allemand nous permet de conclure à une symétrie réelle: Etat unitaire où les collectivités ont des compétences mais pas de pouvoir politique d'un côté, et Etat fédéral où Etats fédéral et fédérés coopèrent sans jamais que les derniers ne renoncent à leur autonomie.

Cette symétrie se reflète naturellement dans l'organisation des politiques européennes des deux Etats: alors que les collectivités territoriales françaises ne se voient reconnaître aucun rôle en la matière par la Constitution, la Loi fondamentale prévoit une participation des *Länder* au processus législatif communautaire. Il reste à examiner en quoi ces différences déterminent la pratique concrète de l'influence à Bruxelles.

2. Deux systèmes déterminants pour l'exercice de l'influence au niveau communautaire

Parce qu'elle détermine l'autonomie politique, mais aussi les moyens financiers et humains dont disposent les différents acteurs, la nature du système politique offre un cadre déterminant à l'influence communautaire, qu'il s'agisse de la préparer au niveau national ou de l'exercer à Bruxelles.

Jacques Chirac (à gauche) et Gerhard Schröder

a) Poids des Länder et difficulté de coordination du côté allemand

Les spécificités du fédéralisme coopératif allemand – autonomie des *Länder* et imbrication des compétences – conditionnent largement la manière dont l'*Europapolitik* allemande est conçue et dont la République fédérale défend ses intérêts sur la scène européenne[13].

Si les *Länder* peuvent être aujourd'hui considérés comme des acteurs déterminants de cette politique, cela n'a pas toujours été le cas. A partir de l'Acte unique européen (1987), les *Länder* ont en effet commencé à s'inquiéter des transferts de compétences au profit de "Bruxelles". La fin des années 1980 coïncide d'ailleurs avec le moment où ils ont installé des "bureaux de liaison" dans la capitale européenne. Jusqu'à cette date, ils ne disposaient que d'un "observateur" qui leur permettait de suivre les travaux des institutions et ceux du Conseil européen[14].

Ces premiers pas s'expliquaient par la crainte d'une nouvelle "centralisation" au profit d'un niveau supra-étatique. Par ailleurs, les avancées de la construction communautaire et la mise en place d'un nouveau type de pouvoir ne se sont pas nécessairement effectuées en coïncidence avec les systèmes politiques nationaux. En effet, le processus législatif donnait au seul Etat fédéral, par l'intermédiaire du Conseil des Ministres, la possibilité d'intervenir. L'extension du champ communautaire à des questions relevant au niveau national de la compétence des *Länder* ne pouvait donc que contribuer à affaiblir ces derniers.

Cette constatation a guidé l'action des *Länder* qui, en 1992, a abouti à une nouvelle rédaction de l'article 23 de la Loi Fondamentale. Celui-ci détermine désormais leurs modalités de participation, par l'intermédiaire du *Bundesrat*, au processus législatif communautaire. Il prévoit que l'action de l'Etat fédéral au sein du Conseil des Ministres suppose systématiquement une consultation de ce dernier. En outre, "lorsque des pouvoirs exclusifs de législation des *Länder* sont concernés de manière prépondérante, l'exercice des droits dont jouit la République fédérale d'Allemagne en tant qu'Etat membre de l'Union européenne doit normalement être transféré par la Fédération à un représentant des *Länder* désigné par le *Bundesrat*"[15]. L'Allemagne peut donc se voir diversement représentée au sein de l'institution intergouvernementale.

Parallèlement, les gouvernements locaux se sont adaptés à la nouvelle donne communautaire en nommant des responsables des questions européennes. La politique européenne est ainsi élaborée sous l'autorité de Secrétaires d'Etat (Berlin, Brême, Hambourg, Rheinland-Pfalz, Sarre), de Ministres (Bade-Wurtemberg, Bavière, Brandebourg, Hesse, Basse-Saxe, Rhénanie-du-Nord/Westphalie, Saxe, Saxe-Anhalt et Thuringe) ou bien du Ministre-Président lui-même (Schleswig-Holstein et Mecklembourg). Au sein des ministères régionaux ont en outre été créées des structures spécialisées. Le Ministère de l'Agriculture et de l'Environnement bavarois dispose ainsi de quelque sept départements qui travaillent sur les questions européennes dans leur domaine.

Les changements constitutionnels et organisationnels des années 1990 ne doivent certes pas masquer la prédominance persistante de l'Etat fédéral en matière communautaire. Une analyse empirique menée en 2002 sur les conséquences de l'intégration européenne sur le système politico-administratif allemand montre notamment que le *Bund* entretient avec la Commission et le Parlement européen des relations beaucoup plus étroites et fréquentes que les *Länder* et que les ressources humaines mises à la disposition des affaires européennes restent propor-

tionnellement bien plus importantes au niveau fédéral[16].

Pour autant, ces évolutions ont permis aux *Länder* de participer au processus de prise de décision communautaire au sein du Conseil des Ministres et de devenir des acteurs à part entière de l'*Europapolitik* allemande. Il faut par ailleurs noter que la voie institutionnelle n'est pas la seule qui s'offre aux *Länder* pour exercer leur influence à Bruxelles[17]. En raison de leurs compétences législatives, et grâce aux moyens financiers dont ils disposent, ils ne se privent pas de pratiquer directement à Bruxelles un lobbying connu pour sa puissance, sinon son efficacité.

Cette évolution n'est pas allée sans heurts, ni sans polémique. L'apparition de véritables "représentations", dont l'existence légale est pourtant garantie depuis 1992, a en effet été accueillie très froidement par les délégués bruxellois de l'Etat fédéral. Pour certains, ce changement de vocabulaire contredisait dangereusement l'exclusivité constitutionnelle dont dispose la Fédération en matière de politique étrangère. Méconnaissant ces critiques, ou peut-être précisément pour y répondre, le *Land* de Bavière a pris l'évolution constitutionnelle au mot en se portant acquéreur d'un bâtiment somptueux, l'Institut Pasteur du Brabant, situé à deux pas du Parlement européen et qui a tout d'un petit château.[18] De manière plus générale, les *Länder* allemands se sont donné les moyens d'exercer une politique d'influence informelle efficace à travers leurs bureaux de représentation. Ils s'appuient explicitement sur leurs eurodéputés en profitant du fait que l'Allemagne dispose, avec 99 membres, du plus gros contingent au sein du Parlement. Ce soutien politique s'avère particulièrement efficace dans le cas de la Bavière qui, en plus de pouvoir envoyer un grand nombre de députés à Bruxelles, bénéficie d'une cohésion politique inégalée et non encore démentie au profit de la CSU[19]. Dans ce cas spécifique, la coïncidence est donc absolue entre *Land* et parti politique, garantissant du même coup la cohérence de l'action.

Enfin, les représentations des *Länder* ne négligent pas certains aspects moins institutionnalisés du lobbying communautaire. Ils se montrent très actifs en termes d'organisation d'événements et comptent, avec les Fondations politiques (*Stiftungen*), parmi les plus importants animateurs allemands de réseaux informels à Bruxelles[20]. En juin 2005, la Représentation permanente du *Land* de Rhénanie du Nord Westphalie a ainsi accueilli une manifestation organisée à l'initiative du mouvement de jeunesse du SPD, les JUSOS, sur le thème des médias et rassemblant le chargé de communication du *Land* rhénan, l'eurodéputée socialiste Karin Jöns et divers représentants des médias allemands à Bruxelles.

Bien entendu, il convient de souligner que tous les *Länder* allemands ne se battent pas avec les mêmes armes à Bruxelles. L'action des *Länder* disposant d'une richesse économique importante et/ou d'une large assise géographique (Bavière, Bade-Wurtemberg, Rhénanie du Nord/Westphalie, Hesse) ne peut évidemment être comparée avec celle des *Länder* moins dotés économiquement de l'Est ou des villes- Etats (Berlin, Brême et dans une moindre mesure Hambourg). Il n'en reste pas moins que, pour une ville comme Berlin ou un *Land* comme la Saxe, l'existence d'un bureau de représentation constitue un atout considérable.

A Bruxelles, les préoccupations des Länder vont de la défense du principe de subsidiarité au soutien apporté à leurs secteurs économiques clés. Ainsi l'action des trois Etats fédéraux européens (Allemagne, Autriche et Belgique), et au premier chef des Länder allemands, n'est-elle pas pour rien dans la création du Comité des régions en 1994[21].

Plus récemment, le principe d'autogouvernance a fait l'objet d'un lobbying poussé de la part du *Land* de Bade-Wurtemberg dans le cadre de la Conférence intergouvernementale sur l'avenir de l'Europe (CIG) qui s'est tenue jusqu'en 2003. C'est le Ministre-Président de ce *Land*, Erwin Teufel, qui avait été désigné par le *Bundesrat* pour représenter ses intérêts lors des négociations sur le projet de Constitution européenne. Un des objectifs majeurs de la délégation allemande était l'inscription dans ce projet du droit des autorités régionales et locales à l'autogouvernance. Durant l'été 2002, Erwin Teufel a régulièrement rencontré des acteurs clés. Il a trouvé sur ce thème un allié de poids en la personne de M. Christophersen, membre danois du Praesidium de la Convention. Ces rencontres ont majoritairement été préparées par la Représentation bruxelloise du *Land* et ont permis l'inscription du principe de l'autogouvernance dans le projet constitutionnel (art. 5).

Mais les *Länder* ne se soucient pas que de défendre l'émergence d'une "Europe des régions". Ils peuvent également se montrer très déterminés lorsqu'il est porté atteinte à ce qu'ils considèrent comme leur pré carré. Dans le domaine des services dits d'intérêt économique général, ils ont largement contribué à l'abandon par la Commission européenne du projet de directive-cadre. En effet, ces services sont en Allemagne structurés au niveau régional, voire local, de sorte que toute action pouvant mettre en cause la subsidiarité au profit de normes communautaires est très mal acceptée. Les *Länder* n'hésitent pas non plus à mener directement des actions d'influence auprès des services de la Commission pour venir en aide à des secteurs économiques clés pour leur territoire et leur électorat. C'est notamment le cas de la Rhénanie du Nord/ Westphalie au sujet des aides d'Etat au charbon et de la restructuration de la Banque WestLB.

La République fédérale allemande dispose donc non pas d'une seule, mais de dix-sept voix susceptibles de défendre ses intérêts. Mais cette démultiplication des canaux d'influence possède aussi son revers: le fédéralisme coopératif est souvent tenu responsable du manque de coordination de la position allemande au niveau européen. Un Etat membre à plusieurs visages, ou encore l'absence d'un et d'un seul "Mr" ou "Mrs Germany" à Bruxelles sont parfois considérés comme un facteur de confusion et en définitive de perte d'efficacité[22].

Ces évolutions ont permis aux *Länder* de participer au processus de prise de décision communautaire au sein du Conseil des Ministres et de devenir des acteurs à part entière de l'*Europapolitik* allemande.

Ce relatif éclatement des positions allemandes est évidemment aggravé par la complexité des mécanismes de coordination qui caractérisent le fédéralisme de type coopératif. La démultiplication des enceintes responsables – gouvernement fédéral, *Bundestag*, *Bundesrat*, *Europaministerkonferenz*, Ministres des *Länder* – et la lourdeur des procédures ne favorisent pas l'émergence rapide d'une position unique.

Enfin, il arrive que *Bund* et *Länder* – voire les *Länder* entre eux – défendent des intérêts concurrents, de sorte que l'Allemagne court le risque de pratiquer un jeu à somme nulle. Les rivalités politiques entre *Länder* et Etat fédéral auxquelles se superpose la concurrence des partis politiques peuvent conduire la République fédérale à une véritable paralysie[23]. Au sein du Conseil, ces blocages s'avèrent particulièrement néfastes. Ainsi n'est-ce sans doute pas sans raison qu'en jargon bruxellois, on parle de "*German vote*" pour désigner l'abstention.

b) Cohérence des positions et faiblesse relative des régions du côté français

L'examen de la défense des intérêts nationaux au niveau communautaire nous permet de continuer à jouer le jeu de la symétrie: là où l'Etat allemand souffre de ses divisions, l'Etat français peut défendre une position unique et cohérente; là où les *Länder* ont les moyens de mener un lobbying actif et déterminé, les régions françaises brillent parfois par leur absence.

Du côté français, la cohérence des positions peut être attribuée à deux facteurs: la responsabilité unique de l'Etat central en matière de politique européenne et les instruments de coordination politico-administratifs dont a su se doter cet Etat pour pouvoir parler d'une seule voix.

Au sein du Conseil des Ministres, ce sont les membres du gouvernement concernés et eux seuls qui sont chargés de représenter la France. La France dispose en outre d'un Ministre délégué chargé des questions européennes placé sous l'autorité du Ministère des Affaires étrangères.

A côté des structures ministérielles, la France dispose d'un puissant appareil politico-administratif concentré autour de deux acteurs essentiels. A Paris, c'est le Secrétariat Général du Comité Interministériel pour les questions de coopération économique européenne (SGCI) qui est responsable de la coordination des questions de politique européenne, à l'exception des questions de politique étrangère. Secrétariat placé en 1948 par Robert Schuman sous l'autorité directe du Premier Ministre pour gérer les fonds provenant du Plan Marshall et plus tard de l'OCDE, le SGCI est une structure à la fois administrative et politique "garante de la cohérence et de l'unité de la position française "[24]. Il dispose du monopole des instructions à adresser à la Représentation permanente et est chargé de diffuser les informations issues des institutions communautaires dans les ministères nationaux. En relation étroite avec la Représentation permanente, il constitue un puissant instrument de coordination de la politique européenne française[25]. Mais réciproquement, la cohérence de la position française demeure conditionnée par la capacité du SGCI de constituer, au niveau national, un véritable consensus. L'existence de tensions entre ministères peut effectivement fragiliser l'édifice, à plus forte raison si celles-ci opposent des ministères inégaux par leur poids et leur influence.

A Bruxelles, la Représentation permanente est l'unique représentant officiel des intérêts nationaux. Que ce soit au sein du Conseil des Ministres ou au sein du COREPER qui prépare son travail, ou encore face aux institutions communautaires, la France est donc en mesure de s'exprimer d'une seule voix et de présenter aux décideurs européens une position cohérente.

La mise en place d'une nouvelle Agence européenne dédiée aux droits fondamentaux offre un bon exemple de cette cohérence. En juin 2005, la Commission a adopté une proposition de règlement portant création d'une Agence des droits fondamentaux de l'Union européenne, laquelle devrait voir le jour d'ici 2007[26]. Ce nouvel organe aura pour mission de collecter des informations sur les atteintes aux droits fondamentaux en Europe et de faire des recommandations aux organes législatifs européens pour y remédier. Etant donné son domaine de compétence, l'Agence relève de l'intergouvernemental et donne donc une place primordiale aux Etats membres dans la négociation. Au niveau français, le SGCI a pu coordonner le travail des différents ministères et arbitrer très en amont du début de la négociation entre leurs différentes positions, tout en tirant profit de leur expérience dans la mise en place d'agences européennes par le passé. C'est cette position qu'a pu ensuite défendre la Représentation permanente au cours des négociations communautaires.

Les collectivités territoriales françaises sont donc, à des degrés divers, concernées par la législation communautaire, que celle-ci implique une réglementation ou un soutien financier de leur action. Il n'est pas certain que leur action à Bruxelles soit à la mesure de cet impact.

Le travail de coordination de la Représentation permanente vis-à-vis des intérêts de l'Etat français se reflète dans la démarche récemment adoptée à l'égard des acteurs français présents à Bruxelles. Il lui a longtemps été reproché d'ignorer ces derniers, et donc de contribuer indirectement au "déclin de la France" en Europe. Il y a quelques années, la "RP" a mis sur pied un Cercle des Délégués Permanents à Bruxelles. Depuis peu, il rassemble autour de groupes de travail thématiques les principaux représentants d'entreprises, d'associations, mais aussi de régions. Il permet une véritable synergie entre la Représentation permanente et les acteurs de la société civile sur les questions d'intérêt commun. C'est notamment le cas concernant les services d'intérêt général, héritage de notre système administratif et du colbertisme économique d'après-guerre qui a vu l'émergence de grandes entreprises nationales sous tutelle étatique. Aujourd'hui, la donne a largement changé: l'Etat s'est désengagé, ces

entreprises intègrent la concurrence internationale. Mais une proximité demeure, faite de valeurs et d'objectifs communs, qui se manifeste lorsque la Commission lance de nouvelles mesures d'ouverture à la concurrence.
Cette cohérence communautaire est à la mesure de l'unité nationale française. Elle a pour corollaire la relative faiblesse des collectivités territoriales. D'un point de vue institutionnel, leur participation au processus de prise de décision se limite en effet à un rôle consultatif à travers le Comité des régions. Celle-ci s'effectue aisément grâce à la présence de bureaux de représentation.

L'ensemble des régions, à l'exception de l'Auvergne, disposent désormais d'un tel bureau, qu'elles agissent seules ou en se regroupant[27]. Dotés d'appellations diverses, ils sont chargés d'agir au profit de mandants tout aussi divers: Conseils régionaux, Conseils généraux, Communes, mais aussi Chambres de commerce et d'industrie ou Chambres régionales des métiers[28]. Quant au spectre de leurs missions, il est souvent flou et s'étend théoriquement de la transmission d'information au lobbying institutionnel, en passant par l'aide au montage de projets communautaires.

Mis à part certaines exceptions notables sur lesquelles nous reviendrons, les régions françaises sont restées des acteurs relativement mineurs sur la scène européenne. Leur rôle est souvent mal identifié par les acteurs bruxellois, voire par la Représentation permanente française elle-même. Les actions qui peuvent être mises à leur actif sont tout aussi indéfinies.

Il est évident que les régions françaises ne sont pas destinées à avoir le même rôle que les *Länder*, ou plus généralement que les régions de tout autre Etat fédéral européen. Pourtant, l'extension du champ de leurs compétences explique qu'elles soient de plus en plus concernées par une législation communautaire qu'elles seront bien souvent chargées de mettre en œuvre au niveau local. A titre d'exemple, les collectivités territoriales ne peuvent ignorer les initiatives concernant des domaines aussi cruciaux pour leur action que l'environnement[29], les transports[30] ou encore les procédures de passation de marchés publics[31] et les partenariats public-privé[32]. Par ailleurs, elles sont concernées au premier chef par les évolutions de la politique de cohésion dont elles seront à la fois les premiers acteurs et les premiers bénéficiaires[33]. Enfin, les collectivités territoriales sont intéressées par l'ensemble des programmes communautaires qui, sans faire partie de la politique de cohésion, donnent droit à des cofinancements émanant de la Commission européenne. Ces derniers touchent à des domaines tels que la culture (Culture 2000), l'éducation et la formation (Socrates et Leonardo) ou encore la recherche et le développement (Programme-cadre pour la recherche et le développement).

Les collectivités territoriales françaises sont donc, à des degrés divers, concernées par la législation communautaire, que celle-ci implique une réglementation ou un soutien financier de leur action. Il n'est pas certain que leur action à Bruxelles soit à la mesure de cet impact.

3. Des réformes à l'intérieur des systèmes politiques

Le type de système politique fournit indiscutablement le cadre général dans lequel peut s'exercer l'influence des deux Etats sur la scène européenne. Ces systèmes possèdent l'un et l'autre des forces et des faiblesses. Est-ce dans une réforme du système lui-même que gît la réponse aux difficultés rencontrées?

L'échec récent de la Commission destinée à moderniser le système fédéral allemand tend à prouver qu'une réforme constitutionnelle de grande ampleur est pour le moins délicate à mener. Certains des experts sollicités par la Commission ont d'ailleurs interrogé la nécessité d'une telle réforme pour résoudre la question de la coordination de la position allemande au niveau européen. Dans un document de travail rédigé pour la Fondation Bertelsmann en 1998, Josef Janning et Patrick Meyer formulent déjà un jugement sans appel. Pour les deux chercheurs, "la réforme du fédéralisme [allemand], pour consensuelle que soit sa nécessité, apparaît comme irréaliste au regard de la vitalité des loyautés régionales "[34]. La réforme du fameux article 23 de la Loi fondamentale est fréquemment réclamée, mais n'a pu, jusqu'à aujourd'hui, aboutir. Elle se heurte notamment à la volonté des *Länder* du Sud de l'Allemagne qui, loin d'accepter une limitation de leurs compétences en matière de politique extérieure, sont plutôt enclins à réclamer leur renforcement. C'est donc peut-être le fonctionnement même des mécanismes prévus par cet article qui devrait être amélioré.

Quant à la révision constitutionnelle intervenue en France en 2003, il est frappant de constater qu'elle n'a pas suscité de débat sur le rôle des collectivités locales au niveau européen. La décentralisation reste une question franco-française, déconnectée des enjeux communautaires. Politiquement, l'Europe est d'ailleurs souvent considérée par les élus locaux comme un sujet délicat, peu payant électoralement. Les résultats du référendum du 29 mai 2005 sur le projet de traité constitutionnel risquent fort de conforter cette situation.

a) Optimisation du fédéralisme allemand

La question de la coordination de la politique européenne allemande se joue à trois niveaux: la coordination interne des acteurs concernés (Etat fédéral et *Länder*), la coordination des différents *Länder* entre eux et la coordination entre l'Etat fédéral et les *Länder*. A chaque niveau, il est possible d'envisager une optimisation du système.

En amont, la coordination interne des acteurs concernés n'est pas à négliger puisque c'est elle qui conditionne la formulation d'une position allemande à Bruxelles. En tant qu'Etat fédéral, l'Allemagne ne disposera certes jamais d'interlocuteurs uniques, mais elle peut s'efforcer d'améliorer la coordination de leur travail respectif. A ce titre, l'existence en France d'un secrétariat central chargé de la coordination au plan national de la politique européenne peut constituer une source d'inspiration utile[35]. Au niveau des *Länder*, il serait en outre envisageable de renforcer la Commission chargée, au *Bundesrat*, des affaires européennes en accroissant les moyens dont elle dispose, mais aussi en augmentant la fréquence à laquelle elle siège (à l'heure actuelle, une à deux fois par mois).

Quant à l'amélioration de la coordination *Bund-Länder*, elle est nécessaire afin d'anticiper les mécanismes de consultation prévus par l'article 23. Pour ce faire, elle doit tenir compte du "temps communautaire", souvent beaucoup plus court que le temps national. Il n'existe pas d'enceinte spécifiquement chargée de cette coordination et il n'est sans doute pas souhaitable d'accroître le nombre de celles qui existent. On l'a vu, dans un Etat fédéral, l'unification engendre souvent la complexité. Les efforts doivent porter sur une amélioration de l'existant, notamment à travers le renforcement des liens informels existants entre fonctionnaires régionaux ou membres du *Bundesrat* et ministères fédéraux. En définitive, les réformes doivent certainement plus viser une optimisation du fédéralisme, et notamment de la participation des *Länder*, que sa transformation.

b) Clarification politique du rôle des régions françaises à Bruxelles

Au niveau français, une réforme de grande ampleur est encore moins à l'horizon et il n'est pas certain qu'elle soit nécessaire. Les faits sont là pour nous montrer que, lorsqu'elles disposent d'un mandat clair et qu'elles s'appuient sur des mandants et délégués déterminés, les collectivités sont tout à fait à même de pratiquer un travail d'influence utile.

On peut citer le cas de l'association Eurodom, structure hybride destinée à défendre les intérêts des secteurs économiques des Départements français d'outre-mer (DOM). Eurodom travaille étroitement avec trois autres organismes dont elle est à l'origine: l'Union des Entreprises des Régions ultrapériphériques de la Communauté (UPEC), l'Association des Producteurs de Bananes (APEB) et EUROCAN qui regroupe les forces économiques des Îles Canaries. Bénéficiant de la présence d'enjeux clairement identifiables, Eurodom s'est donné un mandat d'information de ses membres, mais surtout d'intervention auprès des instances communautaires. Ceci lui permet d'intervenir dans les domaines clés pour ses membres tels que le sucre, la banane ou encore la pêche.

C'est ainsi qu'Eurodom a largement contribué à la décision du Conseil de 2004[36] autorisant la France à maintenir un régime d'octroi de mer[37]. L'association sait également utiliser les ressorts complexes de la comitologie pour défendre les intérêts de ses membres. Dans le cadre des compétences déléguées par le Conseil et le Parlement Européen, la Commission européenne travaille en effet étroitement avec les représentants des Etats membres[38]. Cette coopération est particulièrement importante dans le domaine agricole où elle se traduit par l'existence de divers comités comitologie constitués de représentants des gouvernements placés auprès de la Commission et qui l'assistent dans son travail. Comités de gestion et comités de réglementation sont les lieux essentiels où peut s'exercer l'influence des acteurs du secteur agricole. En 2005, l'action d'Eurodom auprès du Comité de gestion de la banane s'est ainsi conclue par l'obtention d'un complément d'aide compensatoire de 24 millions d'euros pour le secteur de la banane antillaise au titre de 2004.

Les exemples allemand et français montrent donc que la nature du système politique des Etats membres joue un rôle déterminant dans la manière dont ces derniers exercent leur influence au niveau communautaire.

Autre exemple, celui de la Représentation de la région Ile-de-France, première région française par son poids économique. La région avait développé une coopération avec la ville de Hanoi au Vietnam et souhaitait mettre sur pied un projet en matière de transport dans le cadre du programme ASIA-URBS qui cofinance des actions entre collectivités locales et asiatiques. Pour que le projet aboutisse, la représentation a dû non seulement constituer le partenariat européen requis, mais convaincre les services de la Commission de sa pertinence. Cette démarche alliant recherche de financements européens et lobbying a été couronnée de succès puisque le projet a pu être déposé en temps voulu et a été cofinancé par la Commission pour un montant de 500 000 euros[40].

Que cela concerne la législation ou les financements communautaires, les régions françaises sont donc capables, si elles s'en donnent les moyens, de mettre en œuvre un lobbying efficace.

Si les représentations ne sont pas toujours aussi efficaces qu'on le souhaiterait, c'est qu'elles sont confrontées à un certain nombre de difficultés susceptibles de limiter sensiblement la portée de leur action. En premier lieu, le travail – essentiel – de diffusion d'information est en butte à un double problème: l'accessibilité d'un grand nombre d'informations via les nouvelles technologies, rendant plus

urgent un travail de retraitement, d'une part; l'incertitude qui pèse sur la capacité des acteurs locaux à utiliser l'information fournie, d'autre part. Il convient ici de noter que ce problème n'est propre ni à la France, ni aux régions. Il se pose généralement à tout acteur travaillant à Bruxelles au service d'intérêts nationaux. Néanmoins, il démontre qu'une présence "institutionnelle" à Bruxelles – participation aux travaux du Comité des régions et diffusion régulière d'information – ne suffit pas. Les acteurs locaux ne sont pas toujours en mesure de percevoir les enjeux communautaires qui leur paraissent lointains, surtout si ceux-ci ne se traduisent pas directement en termes de politique régionale. Il est donc besoin d'un véritable travail pédagogique, mais aussi de beaucoup d'énergie et d'audace pour voir son action reconnue et soutenue au niveau bruxellois. Du reste, la détermination des représentants bruxellois peut parfois être limitée, voire bloquée par les rivalités politiques existant au niveau national au sein des collectivités.

Par delà ces difficultés, il semble qu'il soit aujourd'hui nécessaire de s'interroger sur le rôle des collectivités territoriales françaises à Bruxelles. A l'heure où le débat sur l'influence française fait rage[41], il ne serait pas inutile de revenir sur la place qu'entendent jouer les régions au niveau communautaire. Leur rôle doit-il essentiellement consister en une représentation institutionnelle (Comité des régions), en une diffusion d'information auprès des publics concernés, ou doivent-elles avoir une véritable mission de conseil stratégique? On le voit, la réponse est avant tout d'ordre politique et humain: elle dépend de la détermination de nos décideurs et de leurs représentants sur place.

4. Conclusion

Les exemples allemand et français montrent donc que la nature du système politique des Etats membres joue un rôle déterminant dans la manière dont ces derniers exercent leur influence au niveau communautaire. Néanmoins, une observation plus fine laisse penser qu'il existe, au sein même de ces systèmes politiques, des marges de manœuvre importantes pour d'éventuelles réformes.

En Allemagne, la réforme des modes de coordination au sein des *Länder* et de l'Etat fédéral et entre ces acteurs ne suffirait pas à réduire l'ensemble des difficultés suscitées par la complexité du système fédéral coopératif. Mais elle offrirait une réponse politiquement acceptable, et néanmoins ambitieuse, aux difficultés de coordination de la politique européenne allemande. Il faut en outre s'interroger sur l'incidence d'un éventuel changement de majorité politique sur la pratique de l'influence allemande au sein de l'Union européenne. Avec l'arrivée éventuelle au pouvoir d'une nouvelle coalition et d'Angela Merkel au poste de Chancelier, la République fédérale bénéficierait en effet d'une forte convergence politique entre pouvoir fédéral et *Länder* susceptible d'atténuer les effets du fédéralisme.

Du côté français, la réponse semble être de nature essentiellement politique. A ce titre, on peut s'interroger sur le rôle que la Représentation permanente française aurait à jouer au sein d'un débat sur l'avenir des régions à Bruxelles. De même qu'elle a cherché à renforcer son rôle de coordinateur des réseaux français à Bruxelles, elle pourrait rassembler autour d'elle les régions pour leur permettre de formuler un nouveau projet. Cette approche serait-elle compatible avec le processus de décentralisation initié par les pouvoirs publics dans les années 80? ::

NOTES

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1 "*Daher muss die Bundesrepublik, will sie auf europäischer Ebene erfolgreich sein, wie ein dezentralisierter Einheitsstaat auftretten*", Hans-Peter Schneider, Stellungnahme zu Fragen der politischen Repräsentanz Deutschlands in Europa, Kommission von Bundestag und Bundesrat zur Modernisierung der Bundesstalichen Ordnung, Kommissionsdrucksache 0042, p. 4.

2 "*Kommission von Bundestag und Bundesrat zur Modernisierung der Bundesstaatlichen Ordnung*". Les 16 et 17 octobre 2003, une Commission sur la modernisation de l'Etat fédéral allemand a été mise en place par une double résolution du Bundesrat et du Bundestag. Le 17 décembre 2004, les travaux de la Commission ont pris fin sans que celle-ci soit parvenue à un accord. Voir par exemple BT-Drucksache 15/1685.

3 La question recouvrait également celle de la mise en oeuvre du droit européen au niveau national et régional. Cet aspect essentiel soulève des problèmes spécifiques et ne sera pas abordé dans le cadre de cet article.

4 Sur les travaux et l'échec de la *Bundesstaatskommission*, voir Stefan Brink, "Unreformierter Föderalismus", *Zeitschrift für Rechtspolitik*, 2005 Heft 2.

5 Rappelons que la Déclaration de 1789 fait désormais partie du "bloc de constitutionnalité" et possède, à ce titre, valeur constitutionnelle.

6 DC 15 juin 1999.

7 Loi constitutionnelle n° 2003-276 du 28 mars 2003 relative à l'organisation décentralisée de la République.

8 Loi n° 82-213 du 2 mars 1982 relative aux droits et libertés des communes, des départements et des régions; Loi n° 83-8 du 7 janvier 1983 relative à la répartition des compétences entre les communes, les départements, les régions et l'Etat; Loi n° 83-633 du 22 juillet 1983 complétant la loi n° 83-8 du 7 janvier 1983 relative à la répartition des compétences entre les communes, les départements, les régions et l'Etat.

9 Pour une réflexion sur l'ambiguïté du système politique allemand, voir par exemple l'ouvrage de Konrad Hesse, *Der unitarische Bundesstaat*, C.F. Müller, 1962. Pour une présentation générale du fédéralisme allemand, on se reportera avec profit à l'ouvrage de Roland Sturm, *Föderalismus in Deutschland*, Opladen, 2001.

10 L'appellation peut néanmoins varier pour les villes-Etats. Le chef du gouvernement de Brême porte ainsi le nom de Président du Sénat (*Präsident des Senats*), celui de Berlin de Maire dirigeant (*Regierender Bürgermeister*).

11 On se reporte ici à la version française de la Loi fondamentale

diffusée par le *Bundestag*.

12 Pour Heidrun Abromeit, la norme constitutionnelle du principe fédéral étatique dissimule un Etat unitaire déguisé. Voir Heidrun Abromeit, *Der verkappte Einheitsstaat*, Opladen, Westdeutscher Verlag, 1992.

13 Sur ce point, voir Werner Weidenfeld, *Deutsche Europapolitik, Optionen wirksamer Interessenvertretung*, Europa Union Verlag, 1998.

14 L'observateur des *Länder* auprès des Institutions européennes est une instance commune aux 16 *Länder*. Aujourd'hui, sa mission consiste à vérifier que la position du *Bundesrat* est prise en compte par l'Etat fédéral. Il assiste également aux réunions du Conseil européen et peut ainsi rendre compte de ses travaux aux *Länder*. Pour plus d'informations, on se reportera au site Internet de l'observateur: www.laenderbeobachter.de

15 Art. 23 § 6 Loi fondamentale.

16 Michael Felder, Dieter Grunow, Thomas Gering, Günther Wolfswinkler, D*ie Auswirkungen der europäischen Integration auf das politisch-administrativen System der Bundesrepublik Deutschland, Ergebnisse einer schriftlichen Befragung der Bundes- und Landesministerien im Rahmen eines DFG Forschungsprojektes "Bürokratisierung durch Europäisierung?*", SVP 2/2002, pp. 12-13.

17 A ce sujet, voir Rupert Scholz, "*Stellungnahme zur Thematik Reform der bundesstaatlichen Ordnung und Europäische Union*", Kommissionsdrucksache 0040, p. 3.

18 Aujourd'hui, les *Länder* sont en outre épaulés par les bureaux de représentation des communes qui les composent. Les communes de la Bavière, du Bade-Wurtemberg et de la Saxe ont ainsi uni leurs forces pour ouvrir un bureau commun dans la capitale européenne.

19 L'Union Chrétienne Sociale a été créée en Bavière en 1945 et ne connaît pas d'équivalent dans le reste de l'Allemagne. Au *Bundesrat*, elle est associée à l'Union Chrétienne Démocrate (CDU) avec qui elle constitue la droite conservatrice allemande symbolisée par la couleur noire.

20 Les partis politiques allemands disposent tous de leur fondation attitrée. Il s'agit de la Friedrich-Ebert-Stiftung pour le SPD, de la Konrad-Adenauer-Stiftung pour la CDU, de la Hanns-Seidel-Stiftung pour la CSU, de la Friedrich-Naumman-Stiftung pour le FDP, de la Heinrich-Böll-Stiftung pour les Verts et de la Rosa-Luxemburg-Stiftung pour le PDS. Les missions de ces fondations consistent à soutenir des écoliers, étudiants et doctorants sélectionnés par des bourses, à participer à "l'éducation politique" du peuple allemand à travers divers programmes et enfin à contribuer à la politique étrangère et de coopération allemande via des bureaux de représentation présents sur les cinq continents.

21 L'Allemagne dispose de 24 sièges au Comité des régions. 21 sont occupés par les *Länder*, soit 16 pour chacun des *Länder* et 5 sont répartis de manière alternative. Les autres sièges sont attribués respectivement au *Deutscher Städtetag*, au *Deutscher Landkreistag et au Deutscher Städte- und Gemeinbund*.

22 Sur ce point, voir Hans-Peter Schneider, pp. 3-5, et Ingolf Pernice, "*Die Europafähigkeit des föderalen Deutschland*", *Neue Gesellschaft/Frankfurter Hefte*, Heft 04/2004.

23 Sur la problématique des conflits d'intérêts, voir le texte d'Arthur Benz, "*Zur Europafähigkeit des deutschen Bundesstaats*", Vorlage für die Kommission von *Bundestag* und *Bundesrat* zur Modernisierung des Bundesstaatlichen Ordnung, Kommissionsdrucksache 0043, notamment p. 4.

24 Voir site du SGCI, www.sgci.gouv.fr

25 Voir Franz Mayer, *Nationale Regierungsstrukturen und europäische Integration*, WHI Paper 191/02, pp. 20-21.

26 Proposition de règlement du Conseil portant création d'une Agence des droits fondamentaux de l'Union européenne et proposition de décision du Conseil autorisant l'Agence des droits fondamentaux de l'Union européenne à exercer ses activités dans les domaines visés au titre VI du traité sur l'Union européenne, COM (2005) 280 final du 30 juin 2005.

27 C'est le cas des régions Bretagne et Pays de la Loire regroupées dans une association commune, ou encore des régions de l'Est français.

28 A titre d'exemple, le Port de Marseille est l'un des partenaires du Bureau de Représentation de Provence-Alpes-Côte d'Azur à Bruxelles.

29 Voir par exemple la directive 92/43/CE du Conseil du 21 mai 1992 concernant la conservation des habitats naturels ainsi que la faune et la flore sauvage et la directive 79/409/CE du Conseil du 2 avril 1979 concernant la conservation des oiseaux sauvages.

30 Proposition de règlement relatif aux services publics de transports de voyageurs du 20.07.05, COM (2005) 319.

31 Voir les récentes directives 2004/18/CE du Parlement et du Conseil du 31 mars 2004 relative à la coordination des procédures de passation des marchés publics de travaux, de fournitures et de services et 2004/17/CE du Parlement et du Conseil du 31 mars 2004 portant coordination des procédures de passation des marchés dans le secteur de l'eau, de l'énergie, des transports et des services postaux.

32 Voir le Livre vert sur les partenariats public-privé et le droit communautaire des marchés publics et des concessions, COM (2004) 327.

33 La politique régionale pour la période de programmation 2007-2013 est actuellement en cours de discussion. La Commission a présenté sa position sous forme d'un paquet rassemblant quatre propositions de règlements: Proposition de règlement du Conseil du 14 juillet 2004 portant dispositions générales sur le Fonds Européen de Développement Régional, le Fonds Social Européen et le Fonds de Cohésion, COM (2004) 492, Proposition de règlement du Parlement et du Conseil du 14 juillet 2004 relatif au Fonds Européen de Développement Régional COM (2004) 495, Proposition de Règlement du Conseil du 14 juillet 2004 relatif au Fonds de Cohésion COM (2004) 494, Proposition de règlement du Parlement et du Conseil du 14 juillet 2004 relatif à l'institution d'un Groupe Européen de Coopération Transfrontalière (GECT) COM (2004) 496.

34 Voir Josef Janning et Patrick Meyer, *Deutsche Europapolitik: Vorschläge zur Effektivierung*, Gütersloh, Verlag Bertelsmann Stiftung, 1998, p. 26.

35 Voir Franz Mayer, op. cit., pp. 20-21.

36 Décision du Conseil n° 2004/162/CE.

37 Loi n° 2004-639 du 2 juillet 2004, JO du 3 juillet 2004, p. 12114.

38 Sur la comitologie, voir la décision 99/468/CE du 28 juin 1999 dite "nouvelle décision comitologie".

39 Voir Projet de règlement de la Commission fixant le montant de l'aide compensatoire pour les bananes produites et commercialisées dans la Communauté au cours de l'année 2004 ainsi que le montant unitaire des avances pour 2005, AGRI/2005/60936, Comité de gestion de la banane du 19 avril 2005.

40 Voir Pascal Goergen, *Le lobbying des villes et des régions auprès de l'Union européenne*, pp. 175-176.

41 Sur les évolutions du lobbying français à Bruxelles, voir l'article de Stéphane Desselas rédigé dans le cadre de la conférence organisée par Athenora Consulting au Parlement européen le 31 mai 2005, "Les Français à Bruxelles: un lobbying professionnel à visage découvert?", www.athenora.com

The European System of Fiscal Statistics Needs Improvement

By **Dr Nancy Xenaki**, Seconded National Expert – EIPA Maastricht

The Eurozone needs reliable statistics. It is important to know whether the policies implemented by Member State produce the intended effects. Since statistics may reveal policy failure, it is also important for the integrity of the system that statistical institutes are protected from political interference. In the recently recommended measures, regarding the independence, integrity and accountability of the national and Community statistical authorities, the Commission should have spelled out the meaning of independence in terms of the needed functional or institutional independence rather than refer to a vague "professional" independence.

The problem

Monitoring the performance of the economic and monetary union (EMU) requires reliable statistics. However, the quality of European fiscal statistics has been repeatedly questioned because they are not always of the requisite accuracy and reliability. There has been under-reporting of the true size of government deficit and national public debt. This raises the spectre of potential conflicts of interest as governments may not be keen to release information that appears to demonstrate inability to achieve fiscal targets. Last year's allegations concerning misreporting of Greek statistics is a case in point. Portuguese and Italian fiscal statistics are also under re-assessment by Eurostat, although weaknesses in national statistical systems are widespread.

As early as November 2002, the European Commission anticipated this problem but it was not until recently, June 2005, that it proposed a code of practice and invited the European Council to consider the "professional independence" of the European statistical system.[1]

In December 2004 the Commission published measures to improve the governance of the European system of fiscal statistics. These measures outlined three main lines of action:

- Enabling Eurostat to monitor public accounts directly.
- Strengthening the operational capacities of Eurostat and the Directorate-General for Economic and Financial Affairs.
- Enhancing the independence, integrity and accountability of the national statistical institutes by establishing European standards based on a code of conduct.

Despite declarations at the highest political level in favour of improved statistical governance and notwithstanding the many and detailed ideas put forth by the Commission, national statistical institutes might not have the requisite independence to collect and disseminate information that may not provide support to the avowed policy objectives or public pronouncements of incumbent governments.

This short article examines what has been proposed and why it is not yet adequate to deal with the problem of potential political interference in the work of national statistical institutes.

The current framework

The compilation of official statistics in the EU is based on Article 285 of the European Community Treaty, which states:

> *"...The production of Community statistics shall conform to impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality; it shall not entail excessive burdens on economic operators".*

Furthermore, Council Regulation 322/97 on Community Statistics stipulates that:

> *"...Community statistics shall be governed by the principles of impartiality, reliability, relevance, cost-effectiveness, statistical confidentiality and transparency".*

Nonetheless, the national statistical offices world-wide are expected to comply with international standards, known as "the 10 fundamental principles", adopted by the United Nations Statistical Commission in April 1994.

A global review on the implementation of the fundamental principles conducted in 2003 by the United Nations Statistical Division (UNSD), showed that institutional weaknesses is indeed a problem for many national statistical institutes.[2]

Towards institutional benchmarking and independence ...

In June 2005 the Commission recommended the adoption of a code of Practice on the independence, integrity and accountability of the national and Community statistical authorities. The Code introduces the concept of "professional independence" meaning the independence of the statistical authorities from other policy, regulatory or administrative departments and bodies, as well as from private sector operators.

According to the Commission, the introduction of the concept of "professional independence", as the number one principle of the proposed code of Practice, goes beyond the current provision in Article 285 of the Treaty that requires the European statistics to be "scientifically independent". The Commission argues that the new concept of professional independence guarantees the quality of the produced statistics while at the same time respects the different legal and administrative arrangements in the Member States.

Furthermore, the Commission advocates a monitoring process that will be based on reports on implementation and peer reviews carried out with the assistance of a task force and an external advisory body. At the end of this lengthy and laborious procedure the Commission will present a report to the European Parliament and the Council.

Finally, after three years and on the basis of the results of the implementation procedure and if the Commission finds it necessary it might propose a legally binding instrument in the form of a directive. This is an ambitious programme with innovative features.

... But will they make any difference?

The Commission communication of June 2005 is the result of a long process that started in 1994 when it became apparent that budgetary statistics had to be improved to support the implementation, monitoring as well as the assessment of the monetary and fiscal European policies.

The uneven implementation of the stability and growth pact is partly the result of Member State inability to bring public budgets close to balance or in surplus. But it is abetted by the fact that statistics are not always of the requisite accuracy and reliability.

Unfortunately the Commission measures are not strong enough to remedy that problem. The two most innovative features of the proposed code are, first, the concept of "professional independence" that complements the concepts of "scientific independence" and "impartiality" provided in the EC Treaty and second, the implementing procedure based on specific indicators and peer review.

The Commission attempts a compromise between high quality statistics and respect for the national arrangements on collection and processing of official statistics. However, besides the different legal and administrative arrangements in the Member States, there are also important differences in aspects of governance such as transparency and confidentiality. Since most statistical institutes are public services, it is difficult for them to act independently even when statistical laws refer to such independence.

Apparently making national statistical institutes independent from direct government control is resisted both by politicians and by the staff of those institutes, but for different reasons. Governments want to maintain direct control on vital information, while staff fears loss of privileges such as permanent employment.

The Commission should have spelled out the meaning of independence in terms of the needed functional or institutional independence rather than refer to a vague "professional" independence.

It also remains to be seen whether peer reviews will add value or whether peers will not dare speak out against other peers as happened with the ECOFIN decision of 25 November 2003, when the Council stepped back from censuring Germany and France for repeated breaching of the stability and growth pact.

In conclusion, the Eurozone needs reliable statistics. It is important to know whether the policies implemented by Member State produce the intended effects. Since statistics may reveal policy failure, it is also important for the integrity of the system that statistical institutes are protected from political interference. The Commission proposals for strengthening the European and national statistical practices are necessary. The question is whether they are also sufficient. ::

The Commission proposals for strengthening the European and national statistical practices are necessary. The question is whether they are also sufficient.

NOTES

1 COM (2005) 217 final / 25.5.2005 "Communication from the Commission to the European Parliament and to the Council".

2 The survey was a self-assessment exercise. The results are based on 112 responses out of 194 distributed questionnaires.

Mid-Term Review of the Lisbon Strategy: Regional and Local Players Need to Step Up Their Involvement



By **Alexander Heichlinger**, **Seppo Määttä** and **Martin Unfried***

How should regional and local actors in Europe be involved in delivering the revised Lisbon strategy? This is a question of importance not only for the development of good multi-level governance in the European Union but also for the effective implementation of European policies. This report summarises some of the discussion of this question which took place at the International Conference[1] on the Lisbon strategy on growth and employment from the regional and local viewpoint. This conference, which brought together around 80 high-level civil servants and practitioners, politicians and academics, was jointly organised by EIPA and the European Centre for the Regions (EIPA-ECR) in April 2005 in Barcelona. The authors have summarised some "Key Messages" which were stated by speakers and participants. These are reproduced at the end of this article.

The conference was held in anticipation of the deadline which was agreed – 15 October 2005 – for designing the national reform programmes which are to be at the heart of the revised "Lisbon Strategy".[2] The Lisbon European Council of March 2000 adopted a ten-year strategy intended to make the European Union "the most dynamic and competitive knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion, and respect for the environment". Halfway to 2010 more and more ambitious intentions have been stated, but without an equal amount of achievements. Due to the strong expansion of objectives, targets and procedures, the Lisbon agenda somewhat lost its core focus during the first five years by becoming more like an "anything goes" strategy without clear ownership or accountable strategy-makers.

Following the Kok Report of November 2004, the emphasis has been placed on national capitals to deliver the necessary reform packages. One of the main proposals for more effective delivery was a renewed partnership among key stakeholders, allowing for the diversity of situations and policy priorities at national level. This means, among other things, that national administrations need to strengthen their capacity to identify, to develop and to implement innovative practices in policy-making, regulation, management and service delivery.[3] A good quality public administration is a critical catalyst, facilitator and partner for well-functioning society, competitive regulatory and innovative environment, good quality service provision and solid public finances. The role of regional and local actors has also been given particular emphasis.

The Role of Sub-State Actors in Delivering the Revised Lisbon Strategy[4]

The key mechanism proposed by the European Union to implement the Lisbon agenda was a "new and open method of coordination based on the benchmarking of national initiatives to reach the targets set out in the various policy areas and corresponding action plans". This implies a limited set of Community legal actions and an emphasis on the responsibility of Member States at national level. There are some references to other stakeholders (social and parliamentary partners, local and regional bodies) when outlining the governance structure in the new "Integrated guidelines for growth and jobs 2005-2008". Yet no concrete guideline or steering mechanism is put forward concerning the participation of the regional and local levels in preparing the national plans. This is all the more striking since many of the policy areas involved (such as employment, social policy, public health and education) are precisely spheres of regional competence in many countries.

The concern of sub-state actors goes even further. Many regional and local authorities are normally consulted in the national coordination process concerning EU decision-making, but only with regard to legislation. As the open method of coordination does not result in direct EU legislation, they suddenly faced a problem because the method short-cuts this process. In areas of strong regional and local responsibility, the normal consultation procedure with national governments disappeared. As a result, curious situations developed where action plans that affect the regional sphere of authority were being drawn up without consulting them at any moment.

To give an example, in Denmark in 2001 such a problem emerged during a meeting with the Committee on EU Affairs of the national parliament. As a direct result of this meeting, the Ministry of Foreign Affairs had set up a

contact committee on the Lisbon Strategy and the open method of coordination. The committee, which comprises representatives from the local and regional government associations, the social partners and other interest organisations, meets twice a year to discuss and coordinate questions related to the Lisbon Strategy. Minutes from these meetings are generally forwarded as official consultation notes to the national parliamentary EU committee, which then decides on the national mandates to be given in all matters related to the European Union. Danish regions are satisfied to be involved in the contact committee, which gives them a good opportunity to follow the overall work carried out in relation to the Lisbon Strategy. However, they would prefer to participate more directly in the work, and especially in the areas falling directly under their regional competences.

Another example is public health policy. European cooperation tends to concentrate on identifying and sharing the Member States' expertise and best practice on health. However, public health is not always only a national matter (in Spain, for example, a large area of competences lies within the responsibilities of the Autonomous Communities). And with the establishment of the single market and increased patient mobility, cooperation between European health-care systems at all levels (both national and territorial) will become increasingly important.

The open method of coordination could be a successful instrument for most of the policy areas covered in the Lisbon strategy. It may even be the only instrument available. Yet greater attention must be paid to the interaction between the various levels of government involved and to the development of administrative mechanisms that enable effective participation by local and regional authorities in applying the strategy.

Structured procedures are required for consultation on the National Lisbon Programmes. Since local and regional structures and competences vary from country to country it is impossible to set up standard procedures and prescriptions. It should nevertheless be compulsory for each national government to consult the authorities and/or organisations at local and regional level affected by actions before these actions are finally decided upon. Furthermore, a sufficient time frame to coordinate and/or to have a political dimension in the discussions of the regional and local members is required.

Of course, it is also up to the local and regional bodies to provide both human and financial resources in line with their aspirations and responsibilities. They should actively offer their extensive local and regional knowledge to support the drafting and implementing of National Action Plans.

Policies and Practices at Regional Level

Several cases were presented at the conference which illustrated the special contribution which can be made at regional level to achieving the Lisbon objectives. The following three examples relate respectively to three policy priorities which are carried out at the regional and local level and which are very closely related to the success of the strategy: environmental sustainability and the need for an integrated view on sustainable planning, the knowledge and information society and the catalyst role of *e*Governance, and education and employment policies for growth and jobs.[5]

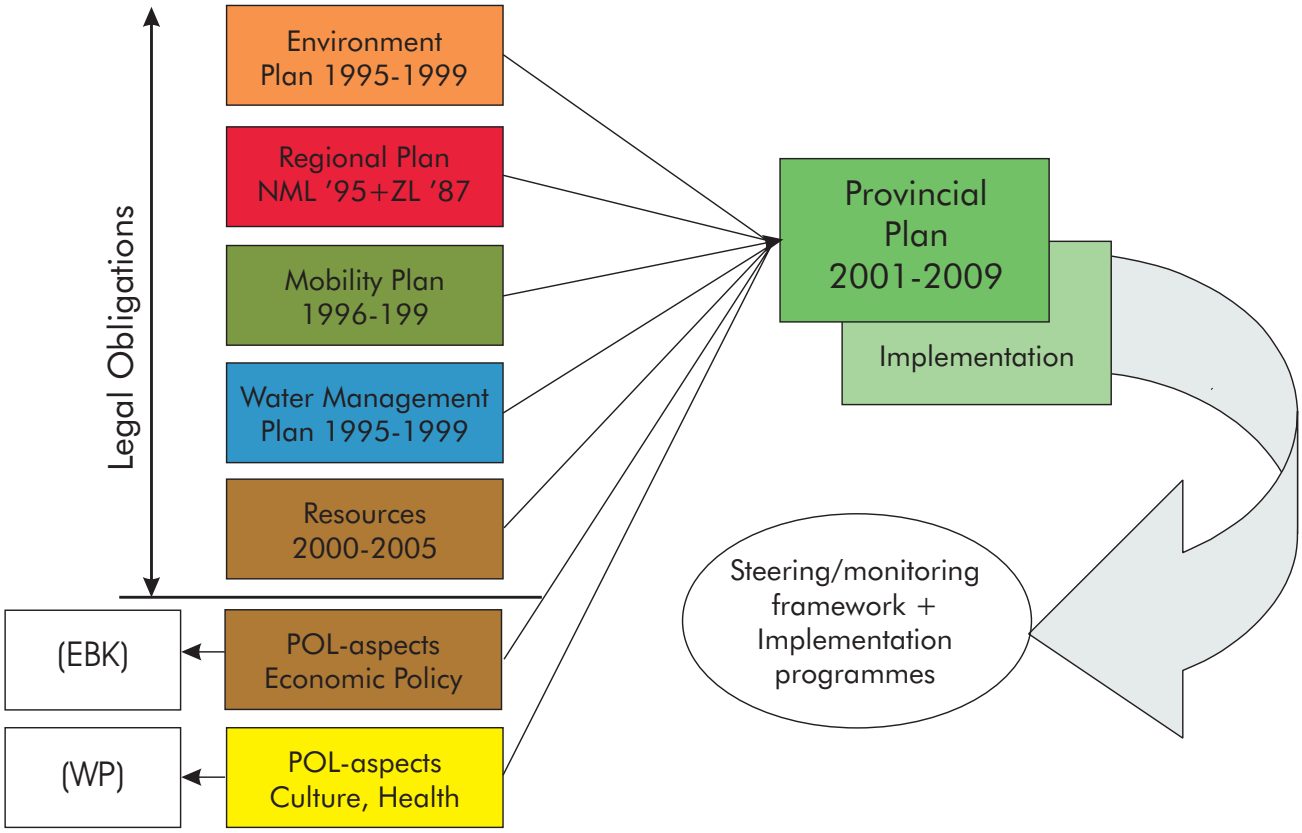

Figure 1:
The integrated plan of Limburg

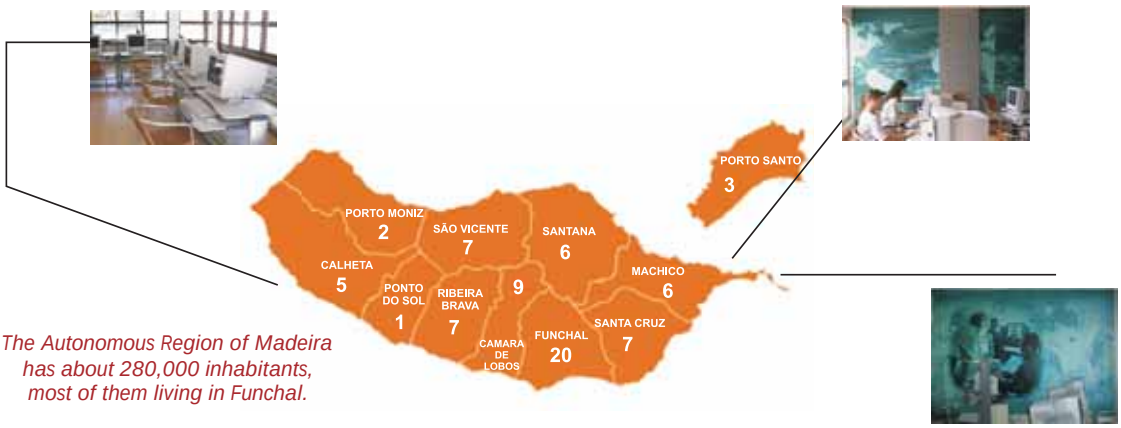

Figure 2:
Implementing the Lisbon strategy in the Region of Madeira (Caires Raul, Region of Madeira)

The environmental dimension of sustainable development: the case of integrative planning for sustainability in the Province of Limburg

Although it is widely lamented by representatives of the regions that the regional level has not been more extensively involved in the reshaping of the Lisbon strategy,[6] the regional level is increasingly perceived as having an important role to play in sustainability and its environmental dimension.[7] Several regional networks are currently working on the topic.[8] One example is the European Sustainable Regions Network that has been established under the "Innovative Action Programme" run by the European Commission's DG REGIO. The network released a report in 2004 on its two years work with workshops, case studies and field visits.[9] In the context of the network it has been shown that many regions have established their own strategies in the field of sustainable development. However, most strategies are barely linked to national or EU strategy, or to Lisbon.[10] They tend to be "add-on" strategies, that is, horizontal planning policy documents which do not substitute other planning schemes (economic development plans, transport plans, environment plans) in a legal sense. In this context, a rather unique example is found in the pilot scheme of the Dutch region of Limburg, where different previously-existing planning schemes were integrated into one new plan on sustainable development of the region. Limburg's integrative plan (POL) thus has a legal meaning and has triggered a process which urged the different sectors affected to find compromises on the different policies.

The innovative element of this plan is that there is no other sustainable development strategy, or employment or growth strategies. The big picture is covered by a single document. The reason for doing this has been the demand for more transparency by politicians of the province, since the multitude of plans had led to much complexity for politicians who had to judge the quality of hundreds of pages of different planning schemes.[11] A first revision of the plan in 2003/2004 has led to some first experiences on the method of integrative planning in Limburg. The making of the plan was a unique exercise in interdepartmental coordination and stakeholder involvement. This has triggered better internal communication in the regional administration.[12] It was, for instance, possible to agree on big projects where money was also invested. The projects in the field of environmental sustainability were very much dedicated to the broader theme of sustainability and businesses (energy efficiency in industry, a sustainability award for companies, an intensive search for renewable energy locations in the province). A rather weak point has been that implementation of other detailed sectoral policies has been done in similar ways as in previous years.[13] To improve this, the follow-up work for 2007 will concentrate on joint implementation of policies. A first step in this direction is a sustainable development programme for 2005-2007 that is described as an integrated action programme. It outlines practical implementation steps and direct allocation of tasks to the different departments.[14] There are some disadvantages of such a framework. The general objectives are relatively modest due to early interventions by some sectors.[15] Nevertheless, the rather clear meaning of the plan is an advantage and Limburg's example appears to be an attractive example of regional governance.

Knowledge and information society: eGovernance in Madeira

The Lisbon Strategy attributes central importance to the EU's becoming a knowledge-based economy and society.[16] Regional and local actors are closest to the citizen and therefore uniquely place to promote this goal.[17]

The initiative "A computer for all"[18] in Madeira is to stimulate an increase in the use of new technologies. The 80 information spaces established around all parishes also provide the opportunity to deliver basic training on the use of new technologies. All non-profit organisations considered of social interest were eligible to acquire such a status. In parallel, another project was carried out with a specific emphasis on Madeira's households, intended to increase, through financial support, the number of fully-fledged multimedia terminals in households with lesser resources and to promote their competences in its usage. 50% of the set target has been achieved so far. By 2006 all 10,000 computers will have been received by the family households

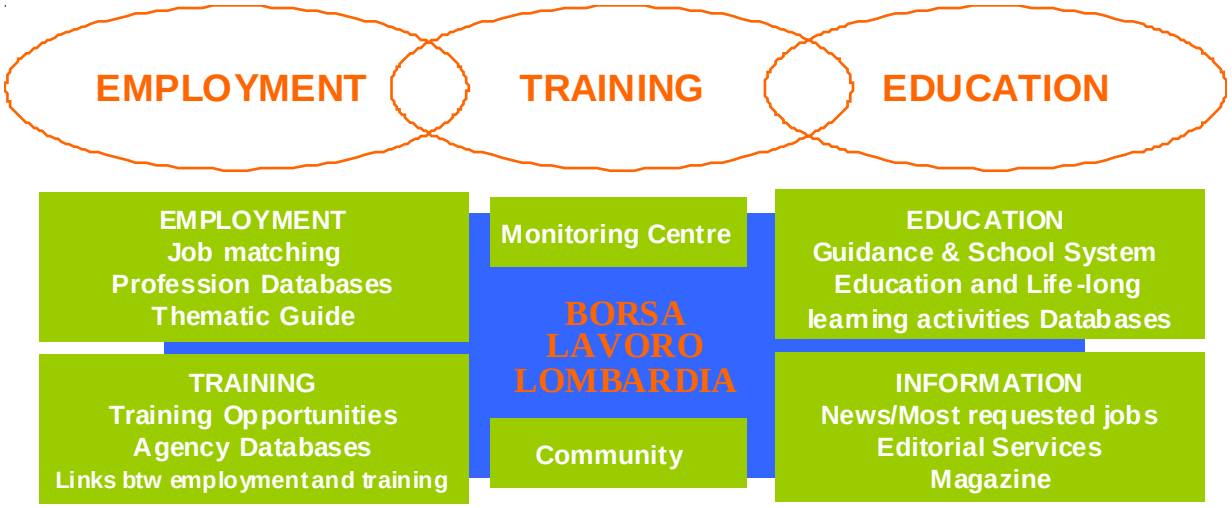

Figure 3:
The "Labour Stock Exchange" of the Lombardy Region (Renzo Ruffini, Region of Lombardy)

which also will have benefited from the accompanying training.

Education and employment: life-long learning and the Borsa Lavoro Lombardia

Within the framework of the European Employment Strategy, Member States are committed to foster the three overarching and interrelated objectives of full employment, quality and productivity at work, and social cohesion and inclusion. The 2010 objective of achieving a 12.5% rate of adult participation in lifelong learning is a part of the Lisbon strategy.[19] Life-long learning implies a new approach towards all learning systems: education, vocational training and employment. The core element of this approach is the people who wish to foster their knowledge and skills. To implement life-long learning strategies there is a need to improve, increase and moreover make every learning opportunity accessible to citizens.

The Lisbon strategy has been the key reference point for the action plan for the Lombardy region in Italy in this respect. The plan includes increasing quality and quantity of life-long learning activities (voucher, framework programme, elearning programme, individual courses, recognition of qualification, post-graduate and master's courses) and making all stake-holders involved in education, training and labour policies work together following common methods and standards within a shared system of accreditation. In order to implement the action plan, the region has created a network which is supported by technological tools, mainly by a web portal named *Borsa Lavoro Lombardia* (Labour Stock Exchange).[20] The network is based on integrated services for education, training and employment aiming to the development of human capital throughout life.

Carpe Diem *Regional and Local Players?*

The revised Lisbon strategy aims to step up the pace of agreed reforms by proposing a stronger partnership with the Member States and social partners to increase their involvement in and commitment to the process. The cases described in this report show the existing linkages between the overall Lisbon strategy and the concrete actions at the regional and local levels. However, it can be argued that these actions would have been taken also without the Lisbon strategy. Hence, as much as the regional actors need to prove their value-added to the Lisbon strategy, the strategy needs to prove its contribution and relevance to the regional actors. ::

KEY MESSAGES FROM THE REGIONAL AND LOCAL ACTORS
(Barcelona Conference Conclusions, 28-29 April 2005)

1. In addition to the various stakeholders, already the formulation of the national Lisbon strategies should directly involve regional and local authorities responsible for the implementation and the communication of the strategic objectives for
   - creating and exploiting regional and local partnerships for life-long learning, research and development;
   - bridging the gaps between people looking for a job and education and companies looking for skilled workforce;
   - facilitating and implementing the use of information and communication technology;
   - facilitating and implementing the principles and practices on the sustainable use of environmental resources;
   - improving the regional and the interregional infrastructure.
2. The revision of the EU Sustainable development strategy should be used to develop a common understanding of 'sustainable growth' as a leading principle of Lisbon.
3. The forthcoming European structural policy (incl. the structural funds) should be based on a genuine strategic approach accompanied with a more decentralised governance model and a truly strategy-based allocation of the available funds.
4. National, regions and local actors need to apply a more proactive approach for aligning and integrating the present priorities and resources with the Lisbon strategy. In particular, there is a need to strengthen the quality and the innovativeness of the national and regional policymaking.
5. The roles and the responsibilities of the public authorities in designing and delivering the Lisbon strategy on the national and regional levels should be emphasised (as a policymaker and a regulator, a service provider, a major purchaser, investor and employer).
6. European regions need the Lisbon strategy, but the Lisbon strategy also needs regions and local actors, who are continuously facing the everyday life of the citizens and the companies.

NOTES

* Senior Lecturers and Finnish National Secondee – EIPA Maastricht and Barcelona, respectively.

1 For further details on programme, objectives and speakers, please consult our website www.eipa.nl.

2 Council of the European Union. Presidency Conclusions, 22.-23.3.2005; See also Commission of the European Communities (2005), Working together for growth and jobs. Next steps in implementing the revised Lisbon strategy. Brussels, 29.4.2005, SEC (2005) 622/2.

3 See European Public Administration Network, Lisbon ad hoc group (2005), The EPAN Contribution to the success of the Lisbon Strategy. Final report, 10.5.2005. The structure of the European Public Administration Network (EPAN) is headed by the ministers responsible for public administrat ion and civil service. The core of the network consists of the directors general of public administration, four working groups on Innovative Public Services Group, Human Resources Working Group, eGovernment Working Group and Directors and Experts for Better Regulation. See more www.eupan.org/index.asp

4 The following paragraphs are largely based on the texts and presentations of Mrs Annelise Korreborg, Senior Expert at the Danish Regions, Copenhagen, and Mr Lauri Lamminmäki, Brussels Representative of the Association of Finnish Local and Regional Authorities, combined with the reflections and experiences of the authorsof this report.

5 For the discussion of the following cases, the authors summarised information that was presented in Barcelona by Martin Unfried (EIPA), Caires Raul (Region of Madeira) and Renzo Ruffini (Region of Lombardy).

6 See: Unfried, Martin (2003), European Governance and Sustainable Development: The C urrent Debate and the Challenges for the Regions, Policy Paper for the European Regional Sustainable Development Network, presented in Bologna 20 October 2003.The author took part in many regional conferences on the topic where this was very often stated.

7 See for instance: Lafferty, William M. and Michael Noradoslawsky,Regional Sustainable Development in Europe. Prosus, 2003.

8 Inter alia the ENCORE Network (The Environment Conference of the Regions), the Sustainable European Regions Network, ICLEI (International Council for Local Environmental Initatives. In a broader sense also the special Lisbon Regions Network launched in May 2010 is dealing with climate change and eco-efficent innovations (see Lisbon Action Plan, Framework analysis for regional and local authorities).

9 Cohesive Thinking – Towards a Sustainable Future, Report of the Sustainable European Regions Network, 2004.

10 Unfried, Martin,Sustainable Development at the Regional Level in the EU. A Structure to the Different Debates of the Network. Study written for the Sustainable European Regions Network, 2004.

[11] Given the different strategies and programmes at the EU level, the demand for more clarity of strategic documents seems to be also evident.

[12] See the presentation of Paul Levels, Province of Limburg: "General Approach and State of the Art on Integrated Planning of the Province of Limburg." Given at a Seminar of the Sustainable European Regions Network in Maastricht, 2-3 February 2004.

[13] Ibid.

[14] As a result of the review there is a Programme on Sustainable Development for 2005-2007 concentrating on implementation measures and responsibilities. See: Duurzaam duurt het langst. Prgramma Duurzaam Limburg 2005-2007, published by the Province of Limburg, 2005.

[15] See also the presentatio n of Paul Levels, Province of Limburg.

[16] See for further details eGovernment Communication, COM(2003)567, September 2003.

[17] See further, for instance, "eGovernment in Europe's Regions: Approaches and Progress in IST Strategy, Organisation and Sevices, and the Role of Regional Actors", Alexander Heichlinger, EIPA 2004.

[18] www.madeiratecnopolo.pt

[19] See Communication from the Commission. Education & Training 2010. The Success of the Lisbon Strategy Hinges on Urgent Reforms. COM(2003) 685 final. Brussels, 11.11.2003. See also Commission Staff Working paper. Progress Towards The Common Objectives in Education and Training. Indicators and benchmarks. SEC (2004) 73. Brussels 21.1.2004.

[20] See www.borsalavorolombardia.net (in Italian).

RELATED ACTIVITIES AT EIPA

3 November 2005, Brussels (BE)
EIPA-ECR 2005 Round Table "Sectoral Policies and European Territories: Moving from Strategic Guidelines to Programming".
Jointly organised by EIPA-ECR Barcelona, UNIONCAMERE (Italian Union of Chambers of Commerce, Industry, Crafts and Agriculture), and the Conference of the Presidents of the Italian Autonomous Regions and Provinces
0560901 No fee involved.
More information: *Alex Heichlinger, EIPA-ECR Barcelona*
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Website: http://www.eipa.nl

14-15 November 2005, Maastricht (NL)
Conference "Europe at Crossroads:
Deliverable Lisbon Strategy for Sustainable Growth".
0524201 Conference fee: € 695.
More information: *Seppo Määttä, EIPA Maastricht*
Tel.: +31 43 3296 287
Fax: +31 43 3296 296
E-mail: s.maatta@eipa-nl.com
Website: http://www.eipa.nl

8-9 December 2005, Maastricht (NL)
Seminar "EU Policy Coordination after Enlargement: Managing EU Dossiers at Regional Level".
Jointly organised by EIPA Maastricht and EIPA-ECR Barcelona.
0510501 Seminar fee: € 650.
More information: *Alex Heichlinger, EIPA-ECR Barcelona*

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The Lisbon strategy and the public administration, European Public Administration Network, Lisbon ad hoc group, 2004-2005.
EIPA acted as an expert member of the Lisbon ad hoc group in analysing the role of the public administration in the context of the Lisbon strategy. See more on the report "The European Public Administration Network (EPAN) Contribution to the success of the Lisbon Strategy.
Final report 10.5.2005, www.eupan.org/index.asp.
More information: *Seppo Määttä, EIPA Maastricht*

June 2005-June 2007, Maastricht (NL) and Barcelona (ES)
Project ALSO "Achievement of the Lisbon and Gothenburg Strategy Objectives by INTERREG",
financed by the Community Initiative Programme INTERACT and lead by the Region of Marche (IT), EIPA and the ULB – Université Libre de Bruxelles as scientific partners; other regional partners: Regional Council of Sothwest Finland (FI), Ita-Usima Region (FI), Klaipeda RDA (LT), Hiiumaa County Government (EE), Slivuppo Marche (IT), Emiligia Romagna RDA (IT), A Del-Alfoldi RHT (HU), Central European Initiative (IT), Lorraine Region (FR), Cambridgeshire County Council (UK), Arco Latino (ES) and the Bulgarian Ministry of Regional Development.
More information: *Seppo Määttä, EIPA Maastricht*
Alex Heichlinger, EIPA-ECR Barcelona

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7-11 November 2005 Seminar: Der politische Entscheidungs- und Umsetzungsprozess in der Europäischen Union und seine Bedeutung für die Bundesländer, for German Länder Officials (Maastricht, Brussels)	0530702
9-11 November 2005 Seminar: CAF Training Event: the Common Assessment Framework in Action	0520606
14-15 November 2005 Seminar: Europe at the Crossroads – Deliverable Lisbon Strategy for Sustainable Growth	0524201
16-17 November 2005 Internal Market Seminar: Part 1: Free Movement of Goods	0534202
17-18 November 2005 Internal Market Seminar: Part 2: Free Movement of Professionals and Services and the Protection of Consumers of Services	0534302
17-18 November 2005 Seminar: European Agencies Seminar: Fashion or Necessity? Comparing Experiences with EU Agencies.	0511201
21-22 November 2005 Seminar: Public Procurement (Working Title)	0530804
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5-6 December 2005 Seminar für Übersetzer mit Deutsch als Arbeitssprache: Neue Institutionelle Entwicklungen und Informationsquellen in der EU	**0513101**
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8-9 December 2005 Seminar: EU Policy Coordination after Enlargement: Managing EU Dossiers at the Regional level	**0510501**
12-13 December 2005 Seminar: Public Relations for Public Servants	**0522601**
12-13 December 2005 Seminar: Public-Private Partnerships (PPP) – Policy Seminar; Public-Private Partnerships – Future Directions	**0530805**

LUXEMBOURG	
1-2 December 2005 Seminar: Recent Trends in the Case Law of the European Courts	**0550201**
5-6 December 2005 Seminar: Towards the Completion of the Internal Market for Services	**0551201**

Administrations publiques et services d'intérêt général : quelle européanisation ?

more details at: http://www.eipa.nl/Publications/Indexes/Books_2005.htm

Sous la direction de Michel Mangenot
Avant-propos de Gérard Druesne, Directeur général de l'IEAP
Préface de Claude Wiseler, Ministre luxembourgeois de la Fonction publique et de la Réforme administrative

IEAP 2005/04, 200 pages, Disponible également en anglais et en allemand
ISBN 90-6779-197-0, € 41.00 (port et emballage compris)

La construction européenne affecte de plus en plus les politiques domestiques des Etats membres. Mais qu'en est-il précisément, en 2005, des administrations publiques et des services d'intérêt général (SIG) ? Ces deux domaines aux frontières fluctuantes sont traités ici au travers d'une approche comparée en termes d'européanisation.

Dans le cadre de la constitution d'un *espace administratif européen*, le droit communautaire affecte les principes, l'ouverture des carrières ainsi que les conditions de travail des fonctionnaires. La coopération administrative entre Etats, en dehors de toute compétence communautaire, provoque, elle, des effets en termes de socialisation, de développement d'approches communes et d'invention d'instruments (comme le CAF).

S'agissant des services d'intérêt général qui disposent d'une base juridique depuis 1957, la logique d'européanisation apparaît bien différente. S'il intervient au départ dans un contexte de forte divergence en matière de traditions nationales, le processus communautaire agit ici dans le sens d'une plus grande convergence. On observe, en application des règles de concurrence, une libéralisation des différents services d'intérêt économique général (SIEG) sans pour autant que ce mouvement soit directement lié aux processus de privatisation et de régulation.

Au moyen d'une méthodologie variée et innovante, mêlant une analyse des législations nationales et de la jurisprudence communautaire à une étude statistique qui compare six secteurs libéralisés (audiovisuel, électricité, gaz, poste, chemin de fer et télécommunications), cet ouvrage est le premier à présenter une vision d'ensemble de l'Union européenne élargie à Vingt-cinq.

Ont contribué à cet ouvrage : *Lucie Cluzel*, *Christoph Demmke*, *Gilles Dumont*, *Michel Mangenot*, *Spas Sodev*, *Michael Stassart*, *Frédéric Varone et Christian de Visscher*. Avec les conseils de *Pierre Bauby* et *Jean-Michel Eymeri*.

Public Administrations and Services of General Interest: What Kind of Europeanisation?

more details at: http://www.eipa.nl/Publications/Indexes/Books_2005.htm

Under the direction of Michel Mangenot
Preliminary Remarks by Gérard Druesne, Director-General of EIPA
Foreword by Claude Wiseler, Luxembourg Minister for the Civil Service and Administrative Reform

EIPA 2005/05, 186 pages, Also available in French and German
ISBN 90-6779-198-9, € 41.00 (including postage and packing)

The construction of Europe is having an increasing impact on the domestic policies of Member States. But what exactly is the situation with respect to public administrations and services of general interest (SGIs) in 2005? A comparative approach in terms of Europeanisation has been adopted in the discussion of these two areas whose boundaries fluctuate.

In the context of setting up a *European administrative space*, Community law affects basic principles, the process of opening up careers and working conditions for civil servants. Administrative co-operation between States outside the scope of Community competence has an impact in terms of social intercourse, the development of common methods and approaches and the invention of new instruments (e.g. the CAF).

There appears to be a very different approach to Europeanisation as regards services of general interest, which have had a legal basis since 1957. Although it initially crops up against a background of considerable divergence in national traditions, in this instance the Community process is moving in the direction of greater convergence. We can observe, in accordance with the rules on competition, a liberalisation of the various services of general economic interest (SGEI) without this movement being in any way directly linked to the processes of privatisation and regulation.

Employing a varied and innovative methodology, combining an analysis of national legislations and Community case law with a statistical study that compares six liberalised sectors (audiovisual, electricity, gas, post, railways and telecommunications), this book is the first to present an overall view of the enlarged European Union of Twenty-five.

The following have contributed to this book: *Lucie Cluzel*, *Christoph Demmke*, *Gilles Dumont*, *Michel Mangenot*, *Spas Sodev*, *Michael Stassart*, *Frédéric Varone* and *Christian de Visscher*. With advice from *Pierre Bauby* and *Jean-Michel Eymeri*.

Öffentliche Verwaltungen und Dienstleistungen von allgemeinem Interesse: welche Europäisierung?

more details at: http://www.eipa.nl/Publications/Indexes/Books_2005.htm

Herausgegeben von Michel Mangenot
Vorwort von Gérard Druesne, Generaldirektor des EIPA
Geleitwort von Claude Wiseler, Luxemburgischer Minister für den öffentlichen Dienst und die Verwaltungsreform

EIPA 2005/06, 210 Seiten, Auch in Englisch und Französisch erhältlich
ISBN 90-6779-199-7, € 41.00 (einschließlich Porto und Verpackung)

Das europäische Aufbauwerk wirkt sich immer stärker auf die Innenpolitik der Mitgliedstaaten aus. Wie aber sieht es im Jahre 2005 mit den öffentlichen Verwaltungen und den Dienstleistungen von allgemeinem Interesse im Einzelnen aus? In dieser Veröffentlichung werden diese beiden Bereiche einander mit einem vergleichenden Ansatz im Hinblick auf die Europäisierung gegenübergestellt.

Im Rahmen der Schaffung eines *europäischen Verwaltungsraums* wirkt sich das Gemeinschaftsrecht auf die für die Beamten geltenden Grundsätze, die Öffnung der Laufbahnen sowie die Arbeitsbedingungen aus. Die Verwaltungszusammenarbeit zwischen den Staaten ruft ihrerseits außerhalb jeder gemeinschaftlichen Zuständigkeit Wirkungen im Hinblick auf die Sozialisation, die Entwicklung gemeinsamer Ansätze und die Ausarbeitung von Instrumenten (wie dem CAF) hervor.

Bei den Dienstleistungen von allgemeinem Interesse, für die es seit 1957 eine Rechtsgrundlage gibt, stellt sich die Logik der Europäisierung ganz anders dar. Auch wenn der gemeinschaftliche Prozess zu Beginn von stark divergierenden nationalen Traditionen geprägt war, wirkt er sich hier doch im Sinne einer stärkeren Konvergenz aus. Bei der Anwendung der Wettbewerbsregeln ist eine Liberalisierung der verschiedenen Dienstleistungen von allgemeinem wirtschaftlichem Interesse zu verzeichnen, ohne dass diese Entwicklung unmittelbar mit den Privatisierungs- und Regulierungsprozessen verbunden wäre.

Mit Hilfe einer variablen und innovativen Methodik, die eine Analyse der einzelstaatlichen Gesetzgebungen und der gemeinschaftlichen Rechtsprechung mit einer vergleichenden statistischen Untersuchung von sechs liberalisierten Sektoren (Rundfunk, Elektrizität, Gas, Post, Eisenbahn und Telekommunikation) verbindet, legt dieses Werk erstmals eine Gesamtübersicht für die auf 25 Mitglieder erweiterte Europäische Union vor.

Autoren: *Lucie Cluzel*, *Christoph Demmke*, *Gilles Dumont*, *Michel Mangenot*, *Spas Sodev*, *Michael Stassart*, *Frédéric Varone* und *Christian de Visscher*. Beratung: *Pierre Bauby* und *Jean-Michel Eymeri*.

State Aid Policy in the European Community: A Guide for Practitioners

more details at: http://www.eipa.nl/Publications/Indexes/Books_2005.htm

Phedon Nicolaides, Mihalis Kekelekis and Philip Buyskes
Kluwer Law International/EIPA 2005/03, 136 pages
ISBN 90-411-2394-6, € 65.00*

As full market integration in the EC comes into clearer perspective, the danger of distortions of competition become more evident. Although state aid may be provided to undertakings for a variety of reasons that may be considered to be beneficial to the economy, effective liberalisation may be undermined by state interventions, which weaken competition and prevent the achievement of market integration. State aid is thus considered to be in principle incompatible with the common market, although the well-known qualifications in Article 87 EC imply that certain exceptions are possible.

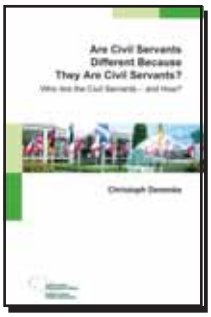
This guide, which has grown out of seminars conducted by the European Institute of Public Administration in Maastricht, provides a concise overview of the state aid policy of the European Community. It explains the principles on which this policy is based, and how it is applied in practice. It also identifies the primary and secondary sources of EC law on state aid and makes references to landmark Commission decisions and Court cases, both of which sources it cites extensively.

The presentation focuses on those issues that are of practical relevance to policymakers and practitioners managing state aid in the public administrations of the EC Member States and its partner countries. It offers the quickest and most reliable guide to applying Commission decisions and Court rulings on state aid, as well as to practice in the various Member States.

* € 45.00 for EIPA members and participants in the State Aid seminars.

Are Civil Servants Different Because They Are Civil Servants? Who Are the Civil Servants – and How?

more details at: http://www.eipa.nl/Publications/Indexes/Books_Forthcoming.htm



Christoph Demmke

EIPA 2005/07, approx. 160 pages, Only available in English
ISBN 90-6779-200-4, € 37.00 (including postage and packing)

For a lengthy period, all European societies believed that civil servants were linked to the authority of the state and could not be compared to employees in the private sector. This group of public employees were seen as agents intended to uphold the rule of law and to implement government policies. Consequently, civil servants had to have high standards of integrity and be entrusted with a single task: working for the common interest. In this conception, where the state was separated from society and citizens, it was inconceivable that civil servants should have the right to strike or the right to conclude collective working conditions agreements.

However, in the past years, many areas of the public sector have lost this uniqueness and have become quite similar to the general employment system. Does this mean that the idea of a civil service as a specific structure is outdated, at least in some countries?

Today, there are now as many different categories of public employees as there are different public functions and organisations, e.g. employees in a ministry differ from those in an agency, the police, the health service, border control, public-private partnerships, a school or a food inspectorate. Working conditions and working life have changed and – occasionally – differ from organisation to organisation. In some Member States senior civil servants differ very little from senior managers in private companies. Are these managers still different from those in the private sector?

Whatever the right answer is, one thing is sure: the term "civil servant" is more difficult to define than ever. He or she has very different tasks, positions, legal relationships and working conditions in the various Member States. The objective of this publication by Christoph Demmke is neither to defend a specific civil service model nor to abolish it. Instead, the interest in this study is to illustrate who these public employees actually are, how they perform and how they work. Naturally, another interest is also to examine the many existing clichés, images and perceptions about public servants (are they right or wrong?) and whether public servants differ at all from those working in the private sector. Do public employees, civil servants and private sector employees have a different work ethos and work motivation? Are they performing differently? Do they need different performance incentives? Are they more rule-oriented and job-security-minded?

These questions are of more than academic interest, they are in fact highly sensitive, political and more and more relevant. An increasing number of Member States find it increasingly difficult to argue why certain tasks should be given to civil servants, why civil servants should be treated differently to other employees and why civil servants should have working conditions different to those of other employees in the public or private sector.

ALEXIS DE TOCQUEVILLE PRIZE 2005

In 2005, the *tenth* Alexis de Tocqueville Prize of the European Institute of Public Administration (EIPA) has been awarded to a prominent representative of one of the new EU Member States: Mrs Maria GINTOWT-JANKOWICZ, co-founder and Director of the National School of Public Administration of Poland (KSAP). She played a major role in the creation of a non-university institution preparing young graduates of Poland's higher education establishments for work in the public service of their country, thus paving the way for the birth of a Polish civil service. Since 1990, she has also worked on the reform of the Polish administration, particularly as regards public procurement, the treasury and the process of decentralisation, as well as on successive drafts of the Civil Service Act. She is the Vice Chair of the Civil Service Council, a statutory body which comes directly under the Prime Minister.

The award ceremony will be held in Maastricht on 14 December 2005.

Every two years EIPA awards this prize, named after Count Alexis de Tocqueville (1805-1859), to one or more, or even to a group of persons, whose work and commitment have made a considerable contribution to improving public administration in Europe.

The first Alexis de Tocqueville Prize (introduced in 1987) was awarded on 24 February 1988 to Lord RAYNER. He received this distinction for having introduced a special method of modernizing the central government and Civil Service of the United Kingdom, but a method which could also be of use to public administrations within the European Community.

On 12 October 1989 the Prize was awarded for *the second time* to H.E. Otto VON DER GABLENTZ for his innovatory ideas and contributions, both in his published works and activities, to the modernization of the operations of the diplomatic corps within the framework of bilateral relations between EC Member States.

In 1991, *the third Alexis de Tocqueville Prize* went to a group of eight French officials, four of whom were charged with drafting the report of the Commission on the "*10ème Plan sur l'efficacité de l'Etat*", while the others exerted determining influence on the reorganization of the public service in France. This group consisted of the following people: Mr François DE CLOSETS; Mr Hubert PRÉVOT; Mr Robert FRAISSE; Mr Gérard METOUDI; Ms Sylvie FRANÇOIS; Mr Bernard PÊCHEUR; Mr Philippe BÉLAVAL and Mr Serge VALLEMONT.

In 1993, the Prize was awarded for *the fourth time* to Mr Hans A.P.M. PONT (Director-General for Management and Personnel Policies for the Civil Service at the Ministry for Home Affairs of The Netherlands) for his personal contribution to the modernization of industrial relations in the civil service in The Netherlands.This development which can be characterized as "standardization" entails the abolition of the special legal position of civil servants. An important step in the modernization process was made in February 1993 when a revised consultation system for the conditions of employment in the civil service was introduced.

In 1995, it was the wish of EIPA's Board of Governors and Scientific Council – in the light of the accession of Austria, Finland and Sweden to the European Union – to award *the fifth Alexis de Tocqueville Prize* to persons, one from each of the three new Member States, who have been active in the accession of their countries to the EU, this being for Austria: Dr Gerhart HOLZINGER, Head of the Constitutional Service Department in the Federal Chancellery. Mr Holzinger had distinguished himself by his committed work for Austria's accession to the EU and in particular by his extremelyvaluable contribution towards preparing Austria's public administration for EU membership. For Finland: Mr Juhani KIVELÄ, Permanent Under-Secretary of State at the Ministry of Finance. Mr Kivelä had been prominent in the modernization of the Finnish civil service and had been active in establishing relations with administrative development and research institutions in the Member States of the EU.

For Sweden: Mr Bo RIDDARSTRÖM in his former capacity as Under-Secretary for Public Administration in the Ministry of Finance. Mr Riddarström had been working since 1989 on reforms in the field of financial management as well as public management. This work has been important for the on-going renewal of Swedish public administration and the preparation for EU membership.

In 1997, *the sixth Alexis de Tocqueville Prize* was awarded to Professor Sabino CASSESE in view of the extremely high regard held overall for his scientific and professional capacities. He was considered to be one of the most highly respected scholars in the field of public administration and an outstanding scholar in public and administrative law. Furthermore, he had made important contributions in the field of European public administration and during the period that he was Minister (without portfolio) he was involved in the reform of public administration in Italy, carrying out sweeping changes. In short: he was considered to be a scientist and practitioner of European character who had, moreover, successfully carried out research in the United States on numerous occasions.

In 1999 there has been unanimous agreement to award *the seventh Alexis de Tocqueville Prize* to Professor Eduardo GARCÍA DE ENTERRÍA who is considered to be one of the most notable academics in Europe and one of the most outstanding experts in public law in the Spanish-speaking world since the adoption of the Spanish Constitution. In addition he is an outstanding scholar in public and administrative law who has made important contributions in the field of European public administration and European law and who has published extensively in all these fields. Furthermore, he is holding an honorary degree from several universities in Spain, Europe and South America, including those of Paris I – Panthéon Sorbonne and Bologna.

In 2001, EIPA's Board of Governors chose to award the *eighth* Alexis de Tocqueville Prize to Mr Jacob SÖDERMAN, European Ombudsman. A Finnish national, Mr Söderman has held this post since 1995 and has in particular worked tirelessly to improve the access of European Citizens to administrative documents as well as to increase transparency in the functioning of the EU institutions and – more generally – for greater consideration of people's rights in their relations with the European public administration. He has also contributed to improving the knowledge of this administration, and his reports now constitute a major element of European administrative science.

In 2003, the *ninth* Prize was awarded to two figures, one political, the other academic. Mr Neil KINNOCK, Vice-President of the European Commission, had been singled out for an honour by the Board of Governors for the important reform of the Commission's personnel policy that he had been carrying out since 2001 and that profoundly changed the career structure for officials as well as training measures, the rules relating to mobility, and evaluation and promotion mechanisms. Professor at the Catholic University of Leuven, Geert BOUCKAERT is a public management specialist of international renown and OECD expert who had been called upon to advise the Belgian public authorities, both at federal and regional level, on the modernisation of the public administration. His works were regarded as the authority on new public management. ::

NON-DISCRIMINATING EUROPE

Race, Ethnic Origin, Religion and Belief
Towards Effective Test Case Strategies

Maastricht (NL)
27-28 October 2005

organised by
the European Institute of Public Administration
in cooperation with
Maastricht University, Faculty of Law

This two-day intensive Seminar is a follow-up to a two-week Summer School which Maastricht University organised in cooperation with the European Institute of Public Administration (EIPA), Maastricht, and the Centre for European Policy Studies (CEPS) in Brussels.

The Summer School (13-22 June 2005) gave a general introduction to the framework and concepts of the Race Directive and the Framework Employment Directive in order to discuss national implementations, practical legal problems and litigation strategies with an audience of lawyers, legal advisers to NGOs, and law students.

Aim of the seminar

Provide the participants with a profound knowledge of the concepts and the working of the Race Directive and the Framework Employment Directive as regards grounds of discrimination related to race, ethnic origin, religion and belief. Possible case strategies before national courts in the different Member States and at the European level will be discussed intensively. Comparisons with other international instruments regarding race discrimination will be drawn. The seminar is thus designed to offer lawyers, legal advisers to NGOs, civil servants and judges who are already familiar with the content and concepts of the abovementioned Directives, direct insights into possible litigation strategies, national implementations and legal problems. The seminar will also address the most recent developments regarding the implementation of the Directives in Belgium, the Netherlands, Ireland, the UK, Germany and Hungary.

Participants will have the opportunity to present actual cases they are confronted with. Possible litigation strategies concerning these cases will be discussed at the Friday afternoon session.

For further information and programme, please contact:

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2005 Round Table/Table ronde 2005

Sectoral Policies and European Territories: Moving from Strategic Guidelines to Programming

Les politiques sectorielles et les collectivités territoriales européennes: passer des orientations stratégiques à la programmation

Brussels (BE), 3 November 2005/Bruxelles (BE), le 3 novembre 2005

For the eighth time, the European Centre for the Regions (EIPA-ECR) – the Antenna of the European Institute of Public Administration (EIPA) in Barcelona (ES) – in cooperation with the Italian Union of Chambers of Commerce, Industry, Crafts and Agriculture (Unioncamere) and the Conference of the Italian Regions and Autonomous Provinces, will bring together decision makers from local and regional authorities, this time to discuss the new challenges and opportunities faced by Europe after the latest enlargement.

At this event, recent trends and developments will be reviewed and the discussions will focus on the mid-term review of the Lisbon agenda and the need for local and regional actors to step up their involvement. The Round Table will also address the development of Trans-European Transport Networks and their optimal use of infrastructures, as well as the improvement of institutional and administrative capacities to increase the Union's overall efficiency.

The 2005 Round Table will be held on Thursday 3 November 2005 at the premises of the European Economic and Social Committee in Brussels (BE) and is organised with the support of the European Economic and Social Committee (EESC), the Committee of the Regions (CoR) and the Association of European Chambers of Commerce and Industry (Eurochambres).

Le Centre européen des régions (IEAP-CER) – l'Antenne de l'Institut européen d'administration publique (IEAP) à Barcelone (ES) – réunira pour la huitième fois, en coopération avec l'Union italienne des Chambres de commerce, industrie, artisanat et agriculture (Unioncamere) et la Conférence des régions italiennes et des provinces autonomes, des décideurs issus des autorités régionales et locales afin de débattre des nouveaux défis et opportunités qui se présenteront à l'Europe après l'élargissement.

Cette Table ronde examinera les dernières évolutions et tendances dans ce domaine et se penchera plus particulièrement sur l'examen à mi-parcours de l'agenda de Lisbonne et la nécessité d'accroître la participation des acteurs régionaux et locaux. Les discussions porteront également sur le développement des réseaux transeuropéens de transport et leur utilisation optimale des infrastructures, ainsi que l'amélioration des capacités institutionnelles et administratives de manière à renforcer l'efficacité globale de l'Union.

La Table ronde 2005 se déroulera le jeudi 3 novembre 2005 dans les locaux du Comité économique et social européen à Bruxelles (BE), avec le soutien du Comité économique et social européen (CESE), du Comité des régions (CdR) et de l'Association des Chambres de Commerce et d'Industrie d'Europe (Eurochambres).

For more information and registration forms, please contact:
Pour toute demande d'information ou inscription, adressez-vous à :

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Conference

New Challenges But Also New Opportunities: Ethics and Integrity in the Public Services of the Member States of the EU

Maastricht(NL)
3-4 November 2005

The European Institute is pleased to announce its conference on "*New Challenges But Also New Opportunities: Ethics and Integrity in the Public Services of the Member States of the EU. Conference*". This conference is designed as an interactive forum for both practitioners and academics. The only requirement for admission is a readiness to engage in fruitful discussions and to report on one's own experience. Experts are invited to give lectures on different topics, but the main objective is to engage in lively discussions and to exchange information and experience.

Content:
The world is changing and new forms of governance are emerging (e.g. globalisation and its consequences for the nation state, the rise of semi-public and semi-private organisations, the popularity of new public management strategies within the government sector, the changing role of the media and citizens etc.).

This conference will address innovative evolutions concerning these instruments, their effectiveness, comparative observations etc. Furthermore, it will discuss the consequences and impact of these (and other) new developments on the protection of the integrity and ethics of governance. Among the topics to be discussed are: leadership and management styles, codes, procedures and rules, training and education, general HRM reforms etc.

Management issues are among the topics that are extensively researched and debated in administrative ethics. However, there are still many uncertainties as regards the answers to the following questions: what strategies and instruments are available to protect the integrity of an organisation and its members? What institutions succeed in curbing corruption and other integrity violations? What is working in what context and in what culture? Do different administrative and political cultures produce different administrative ethics? What are the ethical dilemmas of administrators in the emerging democracies in Eastern Europe? These are just a few of the questions that will be addressed during this conference.

The conference will be held in English. Participants will receive documentation at the start of the event.

We would be most grateful if you could also distribute this information among other persons who may be interested in this conference.

For further information and programme, please contact:

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Quality Management in public administrations
Self-Assessment with CAF

CAF Training Event – The Common Assessment Framework in Action

Maastricht (NL), 9-11 November 2005

Target Group
Trainers as well as quality and change managers in public administration involved in introducing quality management techniques in the public sector (ministries, agencies, regional and local administrations, education, police, health care etc.).

Description
The Common Assessment Framework (CAF) is a total quality management tool based on the Excellence Model of the European Foundation for Quality Management and the model of the German University of Administrative Sciences in Speyer. It was specifically designed for the self-assessment of organisational performance in public sector organisations by the Innovative Public Services Group (IPSG), an expert group of the Directors-General in charge of the public services in the EU Member States.

Since the launching of the first version in 2000 and the reviewed version in 2002, more than 500 organisations in many European countries have implemented the model. Many lessons have been learned and will help other organisations to start the process of quality management. Building on the results of the Second European CAF Event for CAF users that will take place in Luxembourg on 1-2 June 2005, this CAF training will go more in depth on different aspects such as:

- the transferability of national strategies for disseminating the CAF;
- outlines of CAF training schemes;
- how to adapt the self-assessment process to your own organisation(s);
- the efficient use of e-tools for CAF;
- the development of action and improvement plans;
- the first CAF benchmarking experience;
- the EUPAN web site;
- the role of the CAF Resource Centre (RC) at EIPA.

Method
A mixture of presentations of national approaches, specific case studies, workshops and plenary sessions.

Objectives
At the end of the seminar the participants should have a clear understanding of

- the CAF quality model itself and the self-assessment process;
- how to set up training at national, regional or organisational level;
- launching improvement actions on a short, medium and long-term basis;
- the benefits of e-tools, databases and benchmarking; and
- the support they can get from EIPA's CAF Resource Centre.

They should be better prepared to implement the CAF in their countries and their own organisations or be able to assist other organisations in the implementation of the CAF.

For further information, please contact:

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Website: http://www.eipa.nl

Le management par la qualité dans l'administration publique l'auto-évaluation avec le CAF

Evénement de formation CAF Le cadre d'auto-évaluation des fonctions publiques (CAF) en pratique

Maastricht (NL), 9-11 novembre 2005

Public visé
Formateurs, responsables qualité et gestionnaires du changement dans l'administration publique qui ont pour tâche d'introduire des techniques de management par la qualité dans le secteur public (ministères, agences, administrations régionales et locales, éducation, police, soins de santé, etc.).

Description
Le cadre d'auto-évaluation des fonctions publiques (CAF) est un outil de management par la qualité totale inspiré du modèle d'excellence de la Fondation européenne pour le management par la qualité (EFQM) et du modèle de l'Université des Sciences administratives de Speyer. Il a été spécialement conçu pour l'auto-évaluation des performances des organisations du secteur public par le Groupe des services publics innovants (IPSG), un groupe d'experts constitué par les Directeurs généraux de la Fonction publique des Etats membres de l'UE. Depuis le lancement de la première version en 2000 et de la version révisée en 2002, plus de 500 organisations ont mis en œuvre ce modèle dans de nombreux pays européens. Cette expérience a permis de dégager un grand nombre d'enseignements qui aideront d'autres organisations à se lancer dans un processus de management par la qualité. S'appuyant sur les résultats du deuxième événement CAF européen qui sera organisé à Luxembourg les 1er et 2 juin 2005, cette formation CAF traitera plus en profondeur divers aspects tels que:

- la transférabilité des stratégies nationales pour la diffusion du CAF;
- la description de plans de formation CAF;
- comment adapter le processus d'auto-évaluation à votre organisation;
- l'utilisation efficace d'outils électroniques pour la mise en œuvre du CAF;
- le développement de plans d'action et d'amélioration;
- la première expérience de benchmarking concernant le CAF;
- le site Internet EUPAN;
- le rôle du Centre de ressources CAF de l'IEAP.

Méthode
Combinaison de présentations sur les approches nationales, d'études de cas spécifiques, d'ateliers et de séances plénières.

Objectifs:
A l'issue de la formation, les participants seront capables de mieux comprendre:

- le modèle qualité CAF et le processus d'auto-évaluation;
- comment mettre en place une formation au niveau régional, national ou organisationnel;
- comment lancer des actions d'amélioration à court, moyen ou long terme;
- les bénéfices des outils électroniques, des bases de données et du benchmarking;
- le soutien qu'ils peuvent recevoir du Centre de ressources CAF de l'IEAP.

Ils seront mieux préparés à mettre en œuvre le CAF dans leur pays et leur propre organisation, ou à assister d'autres organisations dans la mise en œuvre du CAF.

Pour de plus amples informations, veuillez contacter:

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European Agencies Seminar

Fashion or Necessity?

Comparing Experiences with EU Agencies

Maastricht (NL)
17-18 November 2005

This seminar is the first of a series of seminars on EU agencies organised by EIPA together with the Maastricht University Law Faculty.

The aim of the seminar is to offer a forum to exchange experiences with EU agencies and agency-type structures across the various policy fields in relation to their effectiveness and accountability. We will discuss the added value of EU agencies, explore trends in their design and discuss the experiences gained with the new EU policy-making instrument.

In different policy fields, national and European officials are now confronted by EU agencies or similar types of network structures. Despite their differences, there is a range of themes that run through these agency debates. EU agencies are one of the major innovations in EU governance and they are supposed to play a major role in ensuring the credibility of the EU's internal market policy and implementation. Debates about EU agencies have been going on in various policy fields and there has been a marked increase in the number of EU agencies and agency-type structures (including the European Central Bank and intergovernmental arrangements in specific policy fields). These agencies are very diverse and include tasks related to information gathering, inspection and implementation of policies. Yet, there are a number of commonalities in terms of design issues as well as of concerns about independence, effectiveness, efficiency and control.

The two-day programme will address the major trends in EU agencies. Acknowledging the ambitious nature of the programme, we hope to be able to arrive at an initial impression of the effectiveness and efficiency of this new EU instrument. This impression will be important, bearing in mind that while EU agencies are clearly a new fashion, there are also trends at national level that indicate a move away from such independent authorities.

The seminar is aimed at officials and experts from Member States and from EU Institutions working with or in EU agencies. Experts from NGOs working with EU agencies are also welcome to participate.

For further information and programme, please contact:

Ms Joyce Groneschild, Programme Organisation, EIPA
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E-mail: j.groneschild@eipa-nl.com

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EU SECURITY POLICIES

How Can Protection of Society Be Reconciled with Safeguarding Personal Liberties

LES POLITIQUES EUROPEENNES DE SECURITE

Comment concilier la protection de la société et la sauvegarde des libertés individuelles

Luxembourg(LU)
17-18 November 2005/17-18 novembre 2005

Target Group
This seminar is addressed to civil servants, legal professionals within the public and private sector, judicial professionals, law enforcement officers, persons working on issues of European law, academics, and others who are active, or interested, in EU legal issues.

Description
The recent terrorist attacks in London and Spain have brought the issue of fighting terrorism, and preventing future occurrences dramatically home to the European Union and its Member States. This seminar will provide a forum in which the recent developments with respect to the security framework of the EU will be addressed, considering that protection of society must be reconciled with the EC's free movement principles and personal liberties.

In the aftermath of the attacks in Europe, the United States and elsewhere, the EU Member States have to follow up their public statements condemning such attacks with concrete efforts directed at enhancing cross-border co-operation and improving exchange of information in order to combat terrorism, and the organised crime aspects related to it, more effectively.

Relevant examples of EU, unilateral or intergovernmental actions in this area will be addressed during the seminar and their efficiency will be assessed. In this context, considerations for ensuring that justice, freedom and security measures do not undermine civil liberties will be presented and analysed.

Method
This seminar will allow all those involved to exchange experiences and opinions.
Experts will give lectures on different topics and engage discussions with participants.

Objectives
This seminar will allow participants to better understand recent developments with respect to the security framework of the EU and concrete efforts directed at enhancing cross-border co-operation in order to combat terrorism and organised crime more effectively.

Language: E/F

Public visé
Ce séminaire s'adresse aux fonctionnaires, aux professionnels du droit dans le secteur public et le secteur privé, aux professionnels judiciaires, aux personnes travaillant sur certains aspects du droit européen, aux universitaires et à tous ceux qui s'intéressent aux questions de droit européen.

Description
Les récentes attaques terroristes à Londres et en Espagne ont cruellement fait ressortir la nécessité pour l'Union européenne et ses Etats membres de lutter contre le terrorisme et prévenir l'apparition de nouveaux actes terroristes. Ce séminaire propose un forum de discussion sur les derniers développements relatifs au cadre de sécurité dans l'Union européenne, tout en soulignant l'importance de concilier la protection de la société avec les principes communautaires de libre circulation et des libertés individuelles.

A la suite des attentats perpétrés en Europe, aux Etats-Unis et dans d'autres régions du monde, les déclarations officielles des Etats membres de l'Union européenne condamnant ces attaques doivent s'accompagner d'actions concrètes visant à renforcer la coopération transfrontalière et améliorer l'échange d'informations afin de lutter plus efficacement contre le terrorisme et le crime organisé.

Le séminaire présentera plusieurs exemples d'actions européennes, unilatérales ou intergouvernementales dans ce domaine, et en évaluera l'efficacité. La question de savoir comment s'assurer que les mesures prises en matière de justice, de liberté et de sécurité ne portent pas atteinte aux libertés civiles sera également abordée.

Méthode
Outre les présentations, le séminaire offre un forum de discussion entre experts et participants.

Objectifs
Permettre aux participants de mieux comprendre les derniers développements relatifs au cadre de sécurité dans l'Union européenne, de même que les actions concrètes visant à renforcer la coopération transfrontalière afin de lutter plus efficacement contre le terrorisme et le crime organisé.

***Langue(s)**: A/F*

Project leader/*Responsable de projet:* Lora BORISSOVA

For more information, please contact/*Pour de plus amples informations, veuillez contacter:*
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Website/Site web: http://www.eipa.nl

Pour une concurrence ou une harmonisation fiscale dans une Union à 25?

Luxembourg (LU)
21-22 novembre 2005

Public visé
Ce séminaire s'adresse à toute personne intéressée ou concernée par le droit fiscal; administrations nationales et européennes, entreprises, fédérations d'entreprises, avocats, particuliers, universitaires.

Description
Aujourd'hui l'absence de coordination de la fiscalité directe constitue l'un des derniers obstacles au bon fonctionnement du Marché intérieur: les difficultés administratives dues à l'existence de 25 régimes fiscaux différents, l'éventuelle double taxation ou la non taxation des revenus transfrontaliers, les frais fiscaux prohibitifs en cas de réorganisation d'entreprises ne sont que quelques exemples.

La disparité fiscale au sein de l'Union risque de créer des distorsions de concurrence au sein du Marché intérieur, ou au contraire s'avérer positive si elle dynamise la compétitivité fiscale.
Elle draine aussi sa dose de fantasmes plus ou moins fondés, tels que le "nivellement vers le bas" de la qualité des services publics ou des conditions sociales des travailleurs qui découlerait de l'absence de redistribution des ressources fiscales.
Par ailleurs, l'accession des 10 nouveaux Etats membres remet d'actualité le débat de l'harmonisation de la fiscalité directe, dans la mesure où certains d'entre eux peuvent apparaître comme des paradis fiscaux.

L'Union se retrouve du coup face à un dilemme simple en théorie: aller de l'avant pour satisfaire les ambitions affichées dans l'Agenda de Lisbonne et devenir un marché plus compétitif, alors une harmonisation ou à tout le moins une coordination de la fiscalité des entreprises semble inévitable, à la condition de maintenir une concurrence fiscale raisonnable en Etats membres.
Les experts invités à ce séminaire seront amenés à répondre aux multiples interrogations qui se cachent derrière cette simplicité de façade.

Méthode et Objectifs
Le séminaire sera organisé autour de deux thématiques principales: l'identification des risques de distorsions fiscales dans l'Union des 25 et les remèdes envisagés, puis les perspectives et progrès réalisés dans l'élimination ou du moins la surveillance des mesures fiscales anticoncurrentielles.

Langue(s): A/F

Responsable de projet: Véronique BERTOLI-CHAPPELART

Pour de plus amples informations, veuillez contacter:
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Workshop

State Aid Procedures and Enforcement

Maastricht (NL)
24-25 November 2005

The European Institute of Public Administration (EIPA) is organising a new workshop on "State Aid Procedures and Enforcement". The two-day workshop will take place in Maastricht, the Netherlands, on 24-25 November 2005.

The European Community has developed an elaborate system of procedures to control the granting of state aid by Member State authorities (Council Regulation No. 659/1999). In addition, block exemption regulations for SMEs, for training aid, for employment and for SMEs in the agricultural sector have been adopted with a view to reducing the administrative burden as regards specific types of aid. In order to further simplify and modernise its procedures in view of the enlargement, the Commission has adopted Implementing Regulation No. 794/2004 while draft Communications for the assessment of lesser amounts of aid (LASA) and limited effects on intra-Community trade (LET) have also been prepared, particularly to speed up the assessment of cases involving insignificant amounts of aid.

The purpose of the workshop is to examine in depth the interpretation and application of these procedural rules. Recovery of aid, which constitutes a weak spot in the enforcement, third parties' rights and the application of state aid rules by national courts are some of the topics that will be analysed in detail. The workshop will also provide a forum for comparing national experiences as regards administrative arrangements for notifying and registering aid and the enforcement of recovery decisions. There will also be a working group exercise dealing with the assessment of cases that combine state aid with structural funds. Speakers will include officials from EU institutions and Member State administrations, academics and practitioners.

The workshop aims to meet the needs of middle managers and senior officials from all levels of government and local authorities, officials from public enterprises, representatives of business and trade associations and lawyers and economists involved in state aid procedures.

EIPA, which is organising and hosting the workshop, has extensive experience and a well-established track record in professional training activities. The workshop is also a continuation of the Institute's research and seminars in the broader area of competition policy.

The working language of the workshop will be English.

Participants will receive a free copy of our new book on ***State Aid Policy of the European Community, A Guide for Practioners***, which is published in cooperation with Kluwer.

For further information and programme, please contact:

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European Information Managment

Conference

Keep Ahead with European Information in the Enlarged Europe

Information and Communication Strategies

Maastricht (NL)
28-29 November 2005

The European Institute of Public Administration (EIPA) is organising its annual conference "*Keep Ahead with European Information in the Enlarged Europe*" to be held at EIPA, Maastricht, on 28 and 29 November 2005

This conference is aimed at experienced European information and communication professionals. It will seek to discuss new and important issues, products and services of interest to those who work with European information and European affairs. Particular attention will be focussed on the information and communication policy and the implications of the evolving policy making process in the European Union.

The conference will bring together officials working in the EU and other European organisations, information professionals working in EU information relays as well as other related organisations, and anyone interested in the issues to be discussed.

The working language of the conference will be English.

For further information and programme, please contact:

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E-mail: j.groneschild@eipa-nl.com

Website: http://www.eipa.nl

Les tendances actuelles de la jurisprudence des juridictions communautaires: quelles orientations pour l'avenir?

Luxembourg (LU)
1-2 décembre 2005

Public visé
Ce séminaire s'adresse à toute personne intéressée ou concernée par le droit européen et communautaire, et notamment au monde juridique et judiciaire, aux universitaires, aux administrations nationales et européennes.

Description
L'objectif de ce séminaire annuel est d'offrir un aperçu sur l'orientation de la jurisprudence récente de la Cour de justice des Communautés européennes. Un passage en revue des tendances générales et de certaines affaires spécifiques revêtant un intérêt particulier permettra d'apprécier dans quelle mesure elles confirment ou modifient la jurisprudence antérieure.

Méthode et Objectifs
Les conférences seront assurées par des représentants de la Cour de justice des CE et du Tribunal de première instance des CE, et permettront de témoigner du dynamisme qui caractérise le fonctionnement du système judiciaire de l'Union européenne.

Langue(s): A/F

Responsable de projet: Véronique BERTOLI-CHAPPELART

Pour de plus amples informations, veuillez contacter:

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Workshop

Tools and Skills for Policy Makers and Regulators

Maastricht (NL)
5-7 December 2005

Objective
Successful policy formulation and implementation requires a combination of experience and theoretical insight. For this reason, the Workshop on Tools and Skills for Policy Makers and Regulators has a twofold purpose. Firstly, it aims to familiarise participants with policy-making tools, such as impact assessment, which is increasingly used in different policy fields. Secondly, it will help participants understand how they can apply such tools in the context of the European Union. At the Workshop, participants will be able to improve their skills of negotiating within EU policy committees.

Method
The Workshop on Tools and Skills for Policy Makers and Regulators takes an interactive and interdisciplinary approach. Lectures will be supplemented by case studies and simulations, thus enabling participants to gain a thorough understanding of how the various policy tools can be used to maximum effect. There will also be discussions where participants can learn from each other's experience.

Target audience
As its name indicates, the Workshop on Tools and Skills for Policy Makers and Regulators aims to attract middle and senior-level policy makers and managers from across the European Union and the candidate countries. Not only will they benefit by learning about policy problems and solutions in other countries, but they will also appreciate the difficulties in finding common solutions to policy problems.

Organisers and venue
The workshop will take place at the conference facilities of EIPA in Maastricht, The Netherlands.

The working language of the workshop will be English.

For further information and programme, please contact:

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Website: http://www.eipa.nl

Public-Private Partnerships (PPP) – Policy Seminar

Public-Private Partnerships – Future Directions

Maastricht (NL)
12-13 December 2005

Target Group
The seminar should be of particular interest to policy makers, lawyers, financiers, economists, public officials, academics and service providers within EU Member States, candidate countries and beyond who are engaged with PPP. It should also be of interest to officials within European institutions.

Description
This *policy seminar* aims to present and assess the current role of public-private partnerships in delivering public services and their potential future role in doing so. The aim will be to use experience to date as a means of developing a common assessment of the risks, challenges and opportunities arising from the use of PPP.

Method
The seminar will include presentations and discussion of experience of PPP both at European level and in different Member States. The style of the seminar will be interactive and will also use working groups to exchange experiences and perspectives.

Objectives
One of the intended outcomes of the seminar is the formation of a European PPP Forum under the auspices of EIPA with the aim of creating a medium for continuing multi-disciplinary assessment in this emerging field.

The two key issues for discussion at this seminar will be:

- Firstly, whether or not there is a need for a distinctive legal framework for PPP in addition to, or incorporated within, that for public procurement and the nature of any such framework. This is highly topical because of the forthcoming publication by the European Commission of a Communication on possible changes in the future legislative framework for PPP. The current expectation is that the Communication will have been published by the time of the seminar.
- Secondly, an assessment of the medium-term economic, financial and political impact of the wider use of PPP as a means of public service delivery. This is of particular relevance because of the increasing use of PPP and because there are currently relatively few examples of PPP schemes which have completed all of the design, construction and operational phases of their implementation, i.e. both the construction of facilities and their management throughout the envisaged contract period.

For further information and programme, please contact:

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EPAT*Network*

European Public Administration Trainers' Network

Based on research and contacts with trainers around Europe, it is proposed to establish a network for individual trainers working in the fields of European Integration and Public Administration. The new EPAT*Network* would provide demand driven activities and services to its members e.g. a web portal, seminars, challenging online discussion forums and perhaps an international accredited training qualification. It will be a matter for the founding members, who will gather together for the first time in early 2006 to determine EPAT*Network*'s role and activities!

The EPAT*Network* aims to establish a more structured framework for trainers with regular activities aimed at improving their knowledge and training skills in the fields they work in.

WHY?

Public administration trainers across Europe share many concerns and common interests. However, there is no one pan-European organisation or network that allows individual trainers from across Europe to share their collective experience and facilitate knowledge and skills transfer.

Therefore, as professional Public Administration and European Integration trainers, a number of colleagues from various training organisations across Europe are coming together to establish a new European Public Administration Training Network.

There are also significant benefits for organisations employing or supporting individuals participating in the EPAT*Network*. They will share the fruits of training, discussions and innovative ideas produced by the network.

WHAT?

The proposed draft mission for the EPAT*Network* is to:

- empower trainers, in the fields of European Integration and Public Administration;
- share training knowledge and skills;
- develop training competences; and
- contribute to implementation of the Lisbon strategy by enhancing continuous learning and social cohesion within the European Union.

WHO?

The EPAT*Network* is aimed at

- training managers,
- full and part-time trainers, and,
- public servants, who provide inputs to training activities or have an interest in training in the field of European Integration and Public Administration.

HOW?

By some, or all, of the following:

- creating a training web portal;
- publishing a regular e-newsletter;
- organising training related seminars for networkmembers;
- facilitating online discussions and special interest groups (SIGs);
- creating an international standard for trainers CPD (Continuous Professional Development);
- conducting regular comparative analyses of European Integration and Public Administration related training; and/or,
- other initiatives to be determined by the membership.

WHEN?

It is proposed to organise a founding conference based upon the results of this preliminary survey *on 26-27 January 2006.* The conference will feature presentations and workshops on some of the themes you regard as important. It will also be the founding meeting of the EPAT*Network* and it is hoped to establish an interim steering committee to further develop the EPAT*Network* concept.

INTERESTED?

There will be a survey to ascertain trainers' views and ideas. The survey will be sent to many trainers and will also be available via the EIPA website 'www.eipa.nl" in English and French. Results will be presented at the conference on *26-27 January 2006* and used in formulating the conference programme. It is envisaged that the results will help to identify the needs of trainers and the form and direction that the EPAT*Network* should take.

For further information, please contact:
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Institutional News

Board of Governors

At its meeting of 20-21 June 2005 held in Luxembourg, the Board of Governors approved the following appointments:

Chairman
Mr Henning Christophersen will continue as Chairman of the Board for another three years; this will then be his fourth term.

Estonia
Ms Airi ALAKIVI, Head of the Department of Public Service, State Chancellery, as full member, and Ms Annika ANTON, Head of the Civil Service Training Division within the Department of Public Service, State Chancellery, as substitute member.

Greece
Ms Dimitra FRAGGI, Director-General of Administrative Support within the Ministry of Interior, Public Administration and Decentralisation, as full member, replacing Ms Efstathia Bergele, and Ms Vissaria GRIVA, Director of Personnel Administration within the same Ministry, as substitute member, replacing Ms Thalia Katsioti-Fotinopoulou.

Spain
Ms Rut CARANDELL, Secretary of Public Administration and the Public Service of the *Generalidad de Cataluña* and Director of the Catalan School of Public Administration, as the second Spanish representative on EIPA's Board (full member), and Mr Juan PLANA SOLA, Director-General of the Public Service of the *Generalidad de Cataluña*, as substitute member.

Cyprus
Ms Kyriaki CHRISTODOULOU, Chief Public Administration and Personnel Officer of the Public Administration and Personnel Department within the Ministry of Finance, as substitute member.

The Netherlands
Mr Cor KATERBERG, Head of the Finance and Organisation Department within the Research and Science Policy Directorate of the Dutch Ministry of Education, Culture and Science, as full member, replacing Mr Emil A.A.M. Broesterhuizen, who on 1 June 2005 became the General Affairs Director of the Royal Netherlands Academy of Arts and Sciences.

Bulgaria
Mr Dimitar PENKOV, Executive Director of the Institute for Public Administration and European Integration (IPAEI), replacing Mr George Manliev, as full member.

Romania
Mr Viorel COIFAN, Director-General of the National Institute of Administration, replacing Prof. Pavel Nãstase, and Mr Bogdan DRĂGHICI, Deputy Director-General of NIA, replacing Dr Verginia Vedinaº , as substitute member.

EIPA's Scientific Advisory Committee
The terms of the members of EIPA's Scientific Advisory Committee were extended by another period of three years. The composition of the Scientific Advisory Committee is as follows:

- Professor Jacques PELKMANS (NL), Community Law and Policies;
- Professor Jolyon HOWORTH (UK), Foreign and Security Policy and European Defence Policy;
- Professor Carlo Curti GIALDINO (IT), Justice and Home Affairs;
- Mr Bjorn BECKMAN (SE), Public Management;
- Professor Gérard TIMSIT (FR), Comparative Public Administration.

Visitors at EIPA

Photograph taken on 9 March 2005 on the occasion of the visit to EIPA Maastricht of a delegation from the Autonomous Community of the Balearics: **Mr José Maria RODRÍGUEZ BARBERÀ**, Regional Minister of the Interior, (left) and EIPA's Director-General, Prof. Gérard Druesne (right).

Photograph taken on 15 April 2005 on the occasion of the visit to EIPA Maastricht of **Mr David WALKER**, Head of the European Administrative School (EAS).

Staff News

Maastricht

Michael Burnett (UK) joined EIPA on 1 May 2005 in the Unit on European Policies. Mike is a chartered accountant, a member of the Chartered Institute of Personnel and Development and a member of the Chartered Institute of Purchasing and Supply. He has 15 years practical experience of public procurement and partnering of procurement in the UK, EU and transition countries.

He has managed procurements for local and central government and for the EU, worked for a service provider to the public sector and is an experienced procurement trainer, working with government procurement officers, senior managers, politicians and auditors. He worked for the European Commission (DG Enterprise) as a seconded national expert on e-business projects and acted as adviser to MEPs in the recent revision of the EU Public Procurement Directives. He has also acted as expert adviser to state auditors on EU procurement issues. For three years, he was director of a government training agency, a partnership between the UK Department of Health and the private sector.

His recent experience includes EU-financed projects in Romania, where he trained more than 350 public procurement officers and auditors in the implementation of Romanian and EU public procurement law, in Serbia, as Team Leader for a project awarding 15 services/supplies contracts using EU public procurement procedures, and in FYR Macedonia, where he is currently acting as Key Training Expert for an EAR-financed public procurement capacity building project.

His fields of specialisation are public procurement, public-private partnerships and privatisation.

Pierpaolo Settembri (IT) joined EIPA on 1 September 2005 as a Researcher in the Unit on European Decision Making.

He has a degree in political science from Luiss Guido Carli University in Rome, spending the third academic year at the University of Uppsala (Sweden). After obtaining an MA from the College of Europe in Bruges, he worked in the Politics Department of the College as a Teaching Assistant until February 2004 and then did a traineeship at the Council of the EU in 2005. He is also a PhD candidate in political science at the University of Florence, under the co-supervision of the IEP of Paris. Being a member of the scientific board of "Europa da Vicino" and former co-editor of "Collegium", he wrote and published on the European Parliament and other EU-related topics. He speaks Italian, English, French and Spanish. His fields of specialisation include EU institutions, EU decision making and Europeanisation.

Forthcoming Publications

more details at:
http://www.eipa.nl/Publications/Indexes/Books_Forthcoming.htm

Are Civil Servants Different Because They Are Civil Servants? Who Are the Civil Servants – and How?
Christoph Demmke
EIPA 2005/07, approx. 160 pages, Only available in English
ISBN 90-6779-200-4, € 41.00*

Administrations publiques et services d'intérêt général : quelle européanisation ?
Sous la direction de Michel Mangenot
Avant-propos de Gérard Druesne, Directeur général de l'IEAP
Préface de Claude Wiseler, Ministre luxembourgeois de la Fonction publique et de la Réforme administrative
IEAP 2005/04, 200 pages, Disponible également en anglais et en allemand
ISBN 90-6779-197-0, € 41.00*

Public Administrations and Services of General Interest: What Kind of Europeanisation?
Under the direction of Michel Mangenot
Preliminary Remarks by Gérard Druesne, Director-General of EIPA
Foreword by Claude Wiseler, Luxembourg Minister for the Civil Service and Administrative Reform
EIPA 2005/05, 186 pages, Also available in French and German
ISBN 90-6779-198-9, € 41.00*

Öffentliche Verwaltungen und Dienstleistungen von allgemeinem Interesse: welche Europäisierung?
Herausgegeben von Michel Mangenot
Vorwort von Gérard Druesne, Generaldirektor des EIPA
Geleitwort von Claude Wiseler, Luxemburgischer Minister für den öffentlichen Dienst und die Verwaltungsreform
EIPA 2005/06, 210 Seiten, Auch in Englisch und Französisch erhältlich
ISBN 90-6779-199-7, € 37.00*

* These prices include postage and packing.

New Publications

more details at:
http://www.eipa.nl/Publications/Indexes/Books_2005.htm

State Aid Policy in the European Community: A Guide for Practitioners
Phedon Nicolaides, Mihalis Kekelekis and Philip Buyskes
EIPA/Kluwer Law International
June 2005
ISBN 90-411-2394-6, € 65.00**

Die europäischen öffentlichen Dienste zwischen Tradition und Reform
Christoph Demmke
EIPA 2005/02, 234 Seiten,
ISBN 90-6779-186-5, € 30.00
(Auch in Englisch erhältlich)

Main Challenges in the Field of Ethics and Integrity in the EU Member States
Danielle Bossaert and Christoph Demmke
EIPA 2005/01, 270 pages,
ISBN 90-6779-196-2, € 35.00
(Only available in English)

** € 45.00 for EIPA members and participants in the State Aid seminars.

Recent Publications

more details at:
http://www.eipa.nl/Publications/Indexes/Books_2004.htm

European Social Dialogue and Civil Services. Europeanisation by the back door?
Michel Mangenot and Robert Polet
EIPA 2004/09, 161 pages
ISBN 90-6779-195-4, € 27.00
(Also available in French)

Dialogue social européen et fonction publique. Une européanisation sans les Etats?
Michel Mangenot et Robert Polet
IEAP 2004/8, 161 pages
SBN 90-6779-194-6, € 27.00
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