

# **LEGITIMACY, ACCOUNTABILITY AND DEMOCRACY IN THE EUROPEAN UNION**



**A FEDERAL TRUST REPORT**



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*enlightening the debate on good governance*

## EXECUTIVE SUMMARY

The European Union was founded to promote democracy in Europe. Yet its institutions and procedures leave much to be desired by democratic standards. The Union's powers should be exercised in accordance with modern principles of democratic and accountable government. The purpose of this report is to show how this can be achieved.

### *Legitimacy, accountability and democracy in the European Union*

Although there are more opportunities to hold the institutions of the European Union to account than is generally recognised, it is, nevertheless, widely seen as remote and unpredictable. The prime reason for this is that the one democratic power which the citizens enjoy over its institutions, direct elections to the European Parliament, seem to have no demonstrable political consequences.

### *The Union's institutions*

European Elections do not at present bring the will of the people to bear on European matters and the European Parliament has only a circumscribed role within the European Union. The Council of national ministers is the most powerful institution of the European Union, but it does not act on any popular electoral mandate. The Commission also lacks any political or democratic mandate to mediate between the differing and legitimate conflicting interests in the European Union.

### *Can the Union be legitimate, accountable and democratic?*

It is sometimes claimed that the European Union cannot be a democratic polity because it lacks a "demos." We believe, however, that a European "demos" could emerge from reforming the institutions of the European Union.

### *Towards a democratic Europe*

**We believe that the Union would benefit from the application of British constitutional ideas, especially the idea of ministerial responsibility, both collective and individual responsibility. We believe that this can be achieved without treaty change.**

1. **We propose tying the nomination of the European Commission directly to the result of the European Elections.** This link would apply not only to the nomination of the President of the Commission, but to the Commission as a whole. This would encourage the evolution of genuine European political parties, and would be a major contribution to the emergence of an EU "demos."

2. **We propose giving the European Parliament the power to hold individual European Commissioners to account for mismanagement, and to secure, if necessary, their dismissal.**

3. The referendum is accepted in almost all democracies as a legitimate democratic weapon. Referendums on European matters are likely to increase in frequency over the coming years. **We believe that future referendums on treaty change should be held on a Europe-wide basis on a single Europe day.** A Europe-wide referendum with a double and qualified majority of states and population required in order to ratify any proposed treaty amendment would be more consonant with the concept of European democracy than a series of unrelated national referendums dependent on the discretion of national leaders.

### *Conclusion*

The institutional structures of the European Union reflect the era and political culture in which they were generated, an era of deference to political leaders. These structures need to be adapted to the modern world of participatory and assertive democracy. Britain can play a major part in the reform of the European Union through its long tradition of parliamentary government, provided that it is prepared to play a constructive role in building Europe.

## LEGITIMACY, ACCOUNTABILITY AND DEMOCRACY IN THE EUROPEAN UNION

### INTRODUCTION

The European Union was founded to promote democracy in Europe. Yet its institutions and procedures leave much to be desired by democratic standards of legitimacy and accountability. Critics point to the consistently poor turnout of voters for the European elections, to the rejection in France and the Netherlands of the European Constitutional Treaty and to opinion polls which regularly indicate widespread ignorance, indifference and sometimes hostility towards the institutions and policies of the Union. Supporters of the European Union do not always find it easy to respond to these criticisms. Indeed, critics and apologists often find themselves agreeing that the Union suffers from a “democratic deficit” which undermines its legitimacy and means that it does not meet modern standards of democratic accountability.

A country joining the European Union commits itself to a political system and a legal order in which laws binding upon all the member states are made by a common process of decision-making. It is vital, therefore, that the political system of the European Union meets democratic standards, and is accountable to Europe’s citizens. If it does not, the European Union will be in danger of losing legitimacy.

There has been much debate in recent years over what powers the European Union should enjoy. But, whatever its powers, it is vital that they be exercised in accordance with modern principles of democratic and accountable government. That ought, surely, to be common ground between Europhiles and Eurosceptics.

There are, of course, some who deny the very possibility of a democratic system not based on the nation state. There are also some who believe that the issues with which the European Union concerns itself are and will always remain essentially marginal and managerial. The first approach denies the possibility of resolving the democratic deficit of the European Union, while the second denies the very existence or importance of any such deficit. We reject both these viewpoints. Indeed, we believe that the reach and complexity of the Union’s legislation and policy outputs have important consequences for citizens in the member states, which go well beyond the primarily managerial and technical. Therefore, questions of democracy and accountability are absolutely fundamental to the success of the European Union.

## LEGITIMACY, ACCOUNTABILITY AND DEMOCRACY: THE CONCEPTS

This report considers how the European Union can be made more **legitimate**, more **accountable** and more **democratic**.

### *Legitimacy*

There is a sense in which perhaps the European Union does enjoy sufficient legitimacy for the tasks that it undertakes. Its two central decision-making bodies, the Council and the European Parliament (EP), both result from democratic elections. The Council of Ministers is composed of the governments of the member states, while the European Parliament is directly elected by voters in the member states.

The Commission, about which there is much public misunderstanding, is, admittedly, not elected. But it enjoys very little autonomous power of decision-making. The Commission proposes laws to the Council and carries out policies at the instruction of the Council and the European Parliament; in addition, the European Parliament can censure the Commission, in effect dismissing it, as it threatened to do in 1999.

In the member states, legitimacy is widely accepted as being conferred by democratic elections. On the face of it, therefore, the European Union is fully legitimate.

But however powerful this line of argument might appear in theory, it would be idle to claim that the European Union currently enjoys the sort of legitimacy in the minds of its citizens that is enjoyed in the democratic systems of the member states. For legitimacy depends ultimately on the individual citizen feeling that he or she is part of the polity under which he or she lives. It is most powerfully, if often unconsciously expressed by a voter whose favoured party has lost a General Election, but who takes it for granted that the government which has been elected is a legitimate one. The voter has, as it were, internalised the legitimacy of the political system, and perhaps indeed takes it for granted.

Moreover, even if citizens of the European Union could attribute significant legitimacy to the Union, because they elect its decision-makers, many are looking for more than this. They tend to judge it by results. It is no coincidence that a decade of economic underperformance in the European Union’s largest economies has led to strains in popular acceptance of the Union. Recent years suggest that even in the longest-standing member states, acceptance of the Union is closely bound up with ‘delivery’.

Perhaps in the years to come the European Union's economic performance will improve, through a better structure of economic governance for the Eurozone. That might ease some of the Union's current problems. But, of course, a polity which aspires to democratic values, as the European Union does, cannot indefinitely rely on delivery to legitimise itself. Citizens also need to feel that they *belong*. Otherwise, support for the Union will be undermined in bad times, or when the Union is implementing policies which, though necessary, may prove temporarily unpopular.

The current President of the European Commission, Mr. Barroso, is, with the support of the British government, currently devoting much time and energy in the search for economic benefits so that the European Union appears more effective. Mr. Barroso is right to the extent that, if the Union is clearly seen to deliver economic benefits, the indifference and disenchantment of wide sections of public opinion towards Europe might well be lessened. But, 'delivery' is unlikely to provide the whole answer. Lower call charges for mobile telephones will be welcome to the European consumer, but they will not of themselves greatly buttress the legitimacy of the Union as a democratic institution.

### *Accountability*

The accountability of those who make political decisions to those who choose them is a fundamental part of democratic government. Indeed, it is part of a broader process of citizen control. Those who make decisions in a democracy need to gain the confidence of electors and convince them that they and their party are the right team. The voters pass judgement on the government, endorsing what it has done, or rejecting it in favour of the opposition. It is in this sense that politicians are accountable to the public.

But, in addition, accountability is also exercised by directly elected representatives on behalf of the voters when they scrutinise the government of the day. For it is an important element of the democratic process that those who exercise power on the electorate's behalf do so in a rational and transparent manner, with mistakes being publicised, discussed and punished where necessary. That, of course, is the case for freedom of information. Parliament, the media, civil society and interest groups all have a part to play in this continuing process of political accountability, which culminates in, but is by no means limited to, general elections every four or five years.

Just as some might argue that the European Union is already legitimate because the Council of Ministers and the European Parliament are both directly elected, so also they might suggest that the Union is accountable since ministers of the member states are accountable to their national parliaments for the decisions they take in the Council of Ministers. The European Parliament, moreover, exercises oversight over the Commission, and it has been more vigorous in this regard in recent years. The Commission is in fact far from being the secretive organisation of popular myth. Indeed, interest groups in Brussels are often pleasantly surprised by the ease of access to civil servants and documents. The Council of Ministers has in the past met in private, with no official record of how member states vote on legislative proposals. But some member states regularly publicise their voting decisions and it has been rare for a government which is directly challenged about how it has voted on a particular issue to hide behind the veil of Council secrecy. Moreover, the Council has recently decided to hold its legislative sessions in public and this will certainly increase transparency for some aspects of its legislative work.

Yet despite these very real opportunities for the Union's institutions to be held to account, there are few among Europe's voters who are reassured by or even aware of these possibilities. Theoretically, no doubt, the Council of Ministers is accountable to national parliaments. But what does that accountability really mean when ministers from a particular member state can be outvoted, as is now frequently the case? For as long as the Luxembourg Compromise lasted, by which, in practice, any member state could veto a decision which it regarded as being against its national interest, the idea of accountability to national parliaments may have had some force. But, once majority voting became the rule, as has been the case since the Single European Act in 1986, a minister could always tell his or her national parliament that he or she did his or her best to secure a particular policy, but was outvoted by colleagues. Sometimes, of course, that is merely an excuse. But that is not always the case; and a minister cannot be made accountable to his or her national parliament for a decision that has been taken by others.

It is perhaps hardly surprising that the European Union is widely regarded as a remote organisation, from which unpredictable and sometimes arbitrary decisions periodically emerge, couched in impenetrable language that is comprehensible only to the initiated. The European Union has not yet found a way of offering its citizens the reassurance that those who make decisions are accountable to them.

## Democracy

The central feature of representative democracy is that the voters elect and remove those who govern them. In every modern democracy, there are competing political parties between which voters choose. But democracy also needs to exist between elections, and there must be mechanisms for outside voices to be heard during the process of policy-making. When formulating laws, ministers need to take account of public opinion and of the interests of those who might be affected by these laws. This means that both government and parliament need to be open, transparent and accountable.

One fundamental difficulty for the European Union's aspiration to present itself as a democratic polity is that elections do not determine or even substantially influence the development of the Union. In theory, elections to the European Parliament should be an inspirational exercise in multinational democracy. In practice, they do not fulfil the functions which are performed by elections in the member states.

At national level, elections normally perform three main functions. They allow electors to choose a government and to help determine the direction of public policy, and they also provide a recognizable human face for government in the form of a political leader – a president or prime minister. Indeed, this last function has come very much to the fore in an age dominated by the media, which have helped to personalise politics, and have made party leaders, even in non-presidential regimes, crucial figures in the creation of a rapport between governors and the governed.

European Elections, however, as they operate at present, can achieve none of these functions. They do not determine the political colour of the Union, how it is to be governed, for they do not affect the composition of the Commission, nor, of course, of the Council of Ministers. Therefore, they do little to help determine the policies followed by the Union; nor do they yield personalised and recognisable leadership for the Union.

The striking irrelevance in this sense of European elections was perhaps first shown in 1994 when there was a dispute amongst the member states as to who should be the next President of the Commission. Eventually, Jacques Santer was chosen, after the British Government vetoed the selection of Jean-Luc Dehaene. What is remarkable during this procedure was that the European Parliament was not consulted upon its view even though a new European Parliament had just been elected,

and the European Parliament might have been held to represent the views of European citizens. Despite this, however, the European Parliament, which contained a majority from the Left, endorsed Santer, a Christian Democrat. The European Parliament seemed perfectly prepared to endorse a President who did not represent the viewpoint of the majority of its members.

Similarly, in 1999, when the Santer Commission resigned *en bloc*, following allegations of corruption, a new President, Romano Prodi, was chosen just before the European Parliament elections. It did not seem to have occurred to the leaders of Europe, meeting in private conclave, to await the result of these elections before deciding upon Prodi as the next President. In 2004, also, the President was chosen as a result of negotiations, held behind closed doors, between the heads of governments of the member states. The European Parliament's role appeared entirely passive, restricted to ratifying a decision that had already been made. It is perhaps hardly surprising that turnout at the European elections was low and that there was growing dissent in Europe amongst the voters of the member states.

## THE SHORTCOMINGS OF THE UNION, REAL AND IMAGINARY

### *The European Parliament*

European Parliament elections are characterised by low turnout compared to national elections. Moreover, turnout has been steadily falling since the first elections in 1979 when it was 63%. In 2004, it was just under 46%. It is hardly possible for the European Parliament to claim a popular mandate when only around half of Europe's voters are prepared to vote for it. The European Parliament would enjoy more legitimacy if more people voted in European Parliament elections. Admittedly, turnout in Congressional elections is generally even lower than in European Parliament elections. That, however, does not affect the legitimacy of Congress which is over 200 years old. The European Parliament, by contrast, is a new institution and needs more popular support.

Moreover, the fall in turnout in elections for the European Parliament is remarkable at a time when its powers have been consistently expanding. In 1979, it was perhaps reasonable to suggest that the Parliament was little more than a talking shop, since under the Treaty of Rome, its powers were primarily 'advisory' and 'supervisory'. But that is hardly the case today. Indeed, it could be argued that the powers of the European Parliament are in practice greater than those of many domestic legislatures.

Elections to the European Parliament are often used by voters to punish the party in power in their particular member state. Sometimes they are used to cast a protest vote, and so anti-system and extremist parties tend to perform well in these elections. The campaigning is almost entirely dominated by national issues, and the transnational European Union parties play a very minor role in them. Electors vote on national rather than EU issues, and the political message that results from EP elections is often of more relevance to national than to European politics. There is rarely much debate on European issues during the election campaign, and the European political parties are noticeable mainly by their absence from the campaign. Direct elections to the European Parliament, although in form transnational, are, in reality a series of separate national test elections whose implications for the domestic politics of the member states seem far more important than any consequences they may have for the political direction or government of the European Union.

Moreover, there is no clear link between the EP vote and political outcomes. It is hard for European citizens to see how

their choices in the European Elections influence the policies coming out of Brussels. For these elections do not lead to the election of a government as in most parliamentary systems. Instead, the Commission is nominated through a complicated bargaining process which, although it involves the EP, is dominated by national governments.

But these are not the only problems which the European Parliament faces. For, although its powers have grown considerably over the past twenty years, it remains relatively weak in relation to the Council and the Commission, particularly when the Council and the Commission act together. The scope of the Parliament's activities is wide, but it tends in practice to devote much of its time to dealing with the more technical and detailed aspects of the European Union's legislative output. These matters can of course have considerable long-term significance, but the Parliament tends to become only indirectly and episodically involved in the broad themes which dominate national political debate, such as health, pensions, education, criminal law and taxation. Thus, not only are European Elections flawed as a means of bringing the people's will to bear on European matters, but Parliament seems to have a highly circumscribed role within the institutional framework of the European Union.

### *The Council of Ministers*

The role and functions of the European Parliament, then, are very different from those of a domestic legislature, and the European Parliament does not really fulfil all of the roles which we normally expect a legislature to fulfil. But there are even more serious problems with the institutions that are not directly elected by the people of Europe, the Council and the Commission.

The Council of Ministers is frequently accused of giving too much discretion to the governments of the member states and limiting their accountability to the parliaments and voters of the member states. Many critics believe that European activities are given insufficient scrutiny by national legislatures and that parliaments do not have sufficient opportunities to examine new directives and regulations and give their opinion on them. Decisions in the European Union are often the result of a negotiated compromise between different points of view expressed by the various governments of the member states. In consequence, national lines of accountability can become blurred, and a national government can claim that it was outvoted or outmanoeuvred in Brussels, even when that is not the case. It is sometimes highly convenient for national govern-

ments to blame 'Brussels' for reform, the necessity of which they themselves recognise but for which they are reluctant to accept responsibility. National governments are thus able to exploit the lack of accountability for their own short term political aims. But this works to the long term disadvantage of the public standing of the European Union.

Many argue also that unclarity and a lack of transparency characterise the working of the Council. Its day-to-day activities are conducted mainly by civil servants, and its meetings and decisions sometimes seem to be shrouded in secrecy until the announcement of the final political compromise between ministers which then forms part of European law. Thus, compared to national legislatures which debate in public and attract regular media attention, law-making in the Council does not seem to be characterised by a public exchange of views and it attracts little media coverage. Admittedly, the actions of the Council may not, in reality, be as opaque as is sometimes claimed, and major interested parties in Brussels and Strasbourg have gained access to papers and information which enables them to follow and sometimes influence the course of private debate within the Council. Nevertheless, the perception of the Council as inaccessible and secretive is an undoubted barrier to the confidence which European electors ought to have in the Union's legislative system.

One final point deserves to be mentioned in this context. The Council is the most powerful institution of the European Union's political structure. But it is drawn from the governments of the member states and is thus only indirectly elected. National governments are not in office because voters have endorsed their views on European integration. Instead, they are chosen in national elections dominated by domestic policy issues. General Elections, the most important political event in most democracies, only provide an occasional and passing forum for discussion on European integration. It is difficult to argue, therefore, that member state governments act on a popular electoral mandate in the Council. The consciousness of this reality has perhaps led increasing numbers of national governments in recent years to present issues on which they were isolated in the Council of Ministers as questions on which they were acting to protect national interests "against" the machinations of 'Brussels'. This phenomenon has contributed significantly to the delegitimisation of the European Union in the minds of many Europeans.

### *The Commission*

While most Europeans may well be unaware of the importance of the Council, the Commission is perhaps rather better known but suffers in the minds of some voters from a negative image. That negative image was strengthened when a number of members of the Santer Commission were accused of corruption and mismanagement in 1999, and the Commission was forced to resign *en bloc* in consequence. But the Commission is also commonly derided for its technocratic approach to policy-making and criticised for not taking sufficiently into account the preferences of Europeans. It is also, from a different angle, frequently taken to task for its supposedly ideological approach to the question of European integration, and many argue that it is continually and surreptitiously extending the scope of European integration. Much of this criticism is of course a caricature, but it cannot be denied that the poor public image of the Commission reinforces the image of the European Union as remote, unaccountable and self-interested.

In recent years, the Commission has shown itself sensitive to some at least of these reproaches. Mr. Barroso has been eager to stress the caution with which he and his colleagues now approach any suggestions for new European legislation. The German Commissioner, Mr. Verheugen, recently criticised some of his officials for failing to understand the new, more critical approach to their traditional tasks which the present political leadership of the Commission espouses. Mr. Barroso and his colleagues believe that in the past the Commission has sinned by favouring too much of the wrong kind of European legislation. He now seeks to right this balance.

Some European governments and independent commentators have welcomed the more restrictive approach of the present Commission. But critics still have a powerful rhetorical stick with which to beat Mr. Barroso and his colleagues. They point out that no member of the Commission has been elected, even indirectly. The outcome of the French referendum on the Constitutional Treaty in 2005 was at least in part shaped by widespread rejection among French voters of the supposedly economically "liberalising" direction in which the European Union is tending under Mr. Barroso's stewardship. As the Union becomes larger and more diverse, the Commission finds itself confronted with an irresolvable dilemma, whereby its actions will frequently prove uncongenial to at least some and perhaps many actors in the European legislative process. Yet the Commission lacks the political or democratic mandate to mediate between the differing and legitimate conflicting interests that characterise an enlarging European Union.

CAN THE UNION EVER BE  
LEGITIMATE, ACCOUNTABLE AND DEMOCRATIC?

The preceding section has highlighted a number of difficulties, some real and some imaginary, which tend to weaken the democratic credentials of the European Union. There is, however, a more radical critique of the European Union's democratic pretensions, suggesting that European democracy is an intrinsically unattainable goal. For, according to this argument, successful democratic government rests upon cultural presuppositions, in particular upon a common community feeling. It is this feeling which enables voters to accept the outcome of elections when the result goes against them. But, in Europe, by contrast, there is no real *demos*, no European people with joint interests and a collective identity. Nor is there any real European public sphere, and this means that issues pertaining to the EU cannot be discussed with the same citizen involvement as national issues. As a result, political life in the EU cannot but be elitist, removed from the everyday concerns of its citizens. No amount of extra television coverage, nor modifications of the Union's institutional procedures, however radical, could, so this line of argument suggests, ever overcome this fundamental difficulty.

This critique explains how it is that the apparently formidable democratic structure of the European Union, with its indirectly elected Council of Ministers and directly elected European Parliament, seems, in the perception of many European voters, to exist in an altogether different realm of political discourse from that which they regularly apply to their own familiar domestic and national systems. Issues of democratic rights are capable at the national level of sparking great controversy in the national arena. At the European level, by contrast, such questions of democratic governance are very much the preserve of the experts, the theorists and the professional politicians. Many of those who were most intimately involved in the drafting of the Constitutional Treaty saw it as preeminently a contribution to the democratisation of the European Union. But with its inaccessible vocabulary and carefully-weighted formulations the Constitutional Treaty was not a document particularly likely to command popular endorsement. The radical critique, however, would suggest that this was not merely a tactical failure of the Treaty's drafters, but that the overall aspiration to democratise the Union through the Constitutional Treaty was itself misconceived.

There is, however, another view that can be taken of the absence of anything that could until now reasonably be described as a European "demos." It is to ask whether it may

not be possible to encourage and facilitate the emergence of such a "demos" for the European Union by reforms which serve to renew and revitalize its political structure. For it would be far too dogmatic to conclude from the undoubted fact that there is *as yet* no European "demos", that democracy in Europe is inherently impossible. Instead, it is worth asking whether the absence of a demos is an unchangeable and permanent fact, and whether the European Union might be reformed to encourage the emergence and consolidation of such a demos. For, historically, the "demos" of the nation-state was normally a consequence of political structures which led individual citizens living within those political structures to think of themselves as comprising a polity. For good and understandable reasons, the European Union has remained until now strikingly short of political structures and practices which would enable the Union's citizens to think of themselves as a "demos." It may be that the process of establishing a European democracy will now need to focus, not merely on the exercise of "kratos" within the EU, but also upon encouraging the emergence of a genuine European demos.

*The EU Constitutional Treaty: Lessons from its failure*

It can be argued that the Constitutional Treaty, had it been ratified, would have achieved many of the things which this report sets out to do, and, in particular, that it would have made the European Union more efficient, more democratic and perhaps also a little more transparent. These merits were naturally easier to demonstrate to those already well informed about the present workings of the European Union and therefore more apt to accept that, for instance, a system of modified double majority voting in the Council is clearly preferable to the iniquitous system of triple majorities now obtaining under the Nice Treaty. But few European voters would be aware of this sort of argument!

It is doubtful, moreover, if voters in France or the Netherlands rejected the Treaty after reading it and deciding that they disagreed with its detailed provisions. In so far as specifically European issues weighed with voters, they were probably more concerned to voice their disquiet about the current state of the European Union and articulate their profound doubts about the capacity of the Constitutional Treaty to remedy its perceived deficiencies. To the Treaty's drafters and signatories, the document was an at least partial solution to the Union's ills. For many French and Dutch electors, by contrast, it was at best tangential to those ills, or even an unattractive symptom of them. It seemed to them to represent the problem rather than the solution.

This incongruity between the perspective of the Constitutional Treaty's advocates and that of the electors asked to vote on it was well illustrated by the almost total absence of debate in either France or the Netherlands during the referendum campaigns on the supposed contribution of the Treaty to "making the European Union more democratic." The democratic credentials of the European Union have long been a favoured topic of discussion among political theorists, and the Constitutional Treaty had much of interest to say about democracy in Europe. That is hardly surprising, given that the Constitutional Convention which produced the first draft of the Treaty was a largely parliamentary body. But the provisions, designed to confront the crucial question of the Union's democratic culture, found strikingly little resonance with either Dutch or French voters, who seemed largely indifferent to the new and very real powers which the Constitutional Treaty gave to MEPs.

It is clear that the concepts of "demos" and of "political identity" are closely related. One reason why the European Constitutional Treaty, in the minds of many voters, failed to present itself as a plausible reform, was that it failed to sketch out a clearer political identity for the European Union; and by failing to sharpen the contours of the European Union's political identity, the Treaty was condemned also to fail in any aspirations its drafters may have had to heighten the self-consciousness of the Union's citizens as being members of the same "demos."

It might be suggested that, for some voters in France and the Netherlands, the failure of the European Constitutional Treaty to consolidate the Union's political identity was not merely contingent. For it derived from the continuing geographic enlargement of the Union and the consequent "dilution" of its potential political cohesion. The larger the size of the European Union, the more difficult it is to secure a demos.

Survey evidence, however, suggests that, both in France and the Netherlands, only a minority of voters rejected the Constitutional Treaty because of what they saw as the uncontrolled enlargement of the European Union. It can, obviously, only be as yet a matter of speculation whether the recent and likely future enlargements of the Union will render more difficult or even impossible the formation of a "demos" for the European Union. The question of course is crucial for the future evolution of the Union. European institutions and the way in which they function can provide the context for but cannot guarantee the emergence of this "demos." There are certainly some preliminary indications that increasing geographic, economic

and cultural heterogeneity within an enlarged European Union may act as a barrier to the formation of an EU "demos." The greater the heterogeneity, the greater the barrier is likely to prove. There is in any polity, existing or emerging, an interplay between institutional structures and public opinion. Some analysts have hoped and others have feared that the enlargement of the European Union over the past twenty years would serve to retard the political integration of the Union by making more difficult the day to day operation of its institutions. Yet there is little sign so far of that happening after the most recent round of enlargement, which occurred in May, 2004.

Moreover, it is not the **unity** of Europe that is artificial, but its **division** over so many years as a result of the imposition of Communist dictatorship on the countries of Central and Eastern Europe. Before 1939, most of those living in western Europe regarded those living in Budapest, Prague or Warsaw, as belonging to the same civilization as themselves. Before 1914, it was common to speak of the Concert of Europe, the informal processes of diplomatic machinery which helped to secure peace in the Continent. After 1914, Europe was unnaturally divided by two totalitarian ideologies, National Socialism and Communism. It was that division that was unnatural, not the current unity which Europe at last enjoys. There is, we believe, a real European civilization and a natural unity in Europe which is at last, after so many years of division, being displayed.

The European Constitutional Treaty was rejected by the French and Dutch voters, and might well probably have been rejected by other voters as well, for a range of sometimes contradictory reasons. The very contradictory nature of those reasons suggests that no simple solution is to hand for the political impasse created by the Treaty's rejection. But nor is it clear that the Treaty's ratification would have marked so significant a step in the Union's evolution as some of its advocates (and critics) contended. The Treaty, appropriately for a Treaty, reflected quite different views of what the future direction of the European Union should be. A genuine Constitution would have demanded a much clearer set of goals and aspirations for the Union. It is not at all clear that the Union currently possesses a viable mechanism for discussing what those goals might be and how a choice is legitimately to be made between conflicting goals. For this reason, a European Constitution may be an unrealisable objective for many years to come. The Union will have had to make much more progress than it yet has towards an EU demos before it is able to reach a genuine constitutional settlement.

## THE WAY FORWARD

### 1. European Elections

Some have proposed the direct election of the President of the Commission, or even of the entire Commission as a step towards addressing the problems discussed above – in particular, perhaps, the lack of overall leadership that has been felt in the EU ever since the Delors years. Direct election of the President could well secure a strong candidate who could execute a politically legitimised mandate from electors across the European Union, thus enhancing the Commission's profile. But, whatever its merits in the abstract, the direct election of the President of the Commission would require an amendment to the Treaties, and this would at the present time be extremely difficult, if not impossible, to achieve. It is difficult to imagine that twenty-five or twenty-seven heads of state and government would all be willing to set up so clear an alternative source of democratic legitimacy to that which they themselves embody. Therefore, although we believe that this reform is worth further discussion, we are compelled, with some regret, to leave it aside on the grounds that it is not, for the present, politically practicable.

We believe, however, that, by increasing the importance of EP elections, some of the same effects can be achieved; and we believe that this is the best way forward. For if we can increase the importance of EP elections, voters may well be willing to alter their voting behaviour and take part in a truly European debate. If, however, voters are to become more interested in European elections, they need to feel that the contest's outcome will have an important effect on European policies. Since, at present, voters cannot see how their votes change anything at the European level, their motivation to participate in EP elections is bound to be limited.

An increase in the legislative powers of the EP has often been mooted as a way of increasing the relevance of the Parliament in the eyes of voters. If the EP had co-decision in all areas, it is argued, voters would soon take its elections more seriously. However, the Parliament **does** now enjoy the power of co-decision in many of the most important policy areas and it attracts a substantial amount of corporate lobbying – as well as street protests. The EP's powers are well recognised at elite level, and yet most voters remain largely uninterested in its activities. A proposal to increase the legislative powers of the EP would have had more force ten years ago when the EP was still the clear junior partner in its relationship with the Council, but recent increases in the Parliament's powers and

standing have so far had little impact upon public perception of the body's role and competencies.

**We believe that the best way of increasing the importance and impact of EP elections would be to tie the nomination of the Commission of the EU directly to the result of elections to the European Parliament.** This could be done without any treaty change.

Although the European Parliament has increasing influence over the legislative texts adopted by the Union, it is of course only one partner in the legislative triangle of Commission, Council and Parliament. The European Parliament is thereby compelled to a continuing process of negotiation and compromise, an unending "Grand Coalition" which prevents European election campaigns from containing the sharply-drawn legislative promises offered by competing political parties in national elections. The very general nature of European election manifestoes merely reflects this complex institutional reality.

But if the European Parliament has to tread carefully on legislative matters, it is far from clear that it also needs to avoid clear choices when it comes to selecting the President of the Commission. The national "demos" chooses political personalities for office as well as political programmes. The European Constitutional Treaty attempted to enhance the role of the European Parliament in the choice of President of the European Commission, enjoining the European Council to "take account" of the results of the most recent European Elections in their choice of next President. This was an unsatisfactory and ambiguous formula, which might have obscured the desired direct link between votes cast in the European Elections and success or failure for particular candidates who wished to be President of the European Commission. But the motivation behind the Treaty's proposal was an entirely comprehensible one. It is currently difficult to explain to Europe's voters just what is at stake in the European elections, since the causal link between the votes they cast and changes in policies or office-holders is at best an indirect one. A direct causal link between votes cast and the identity of the Commission President would add a new "demos-enhancing" dimension to the European Elections. The sense that the electors of the European Union voted corporately and directly for a central element of the European Union's governing structure would not merely conduce to the transparency and legitimacy of the Union: it would also represent a significant building-block for the creation of the European demos.

Such a reform can be achieved without any treaty change. Article 158 of the Treaty requires the President of the Commission to secure a vote of confidence before assuming office. So far, this vote has been something of a formality, but there is no reason why this should continue to be the case. It could be used, as of course it is in Britain, and other parliamentary states, to enforce responsible government.

Each of the EP groups or the party federations loosely associated with them could nominate a candidate for Commission President in the run-up to EP elections. Once the Parliament has been elected, a majority in the EP would then form to support one of these candidates. Since national parties will have endorsed a particular candidate in the European election campaign, they will have to defend their choice in Council bargaining as well.

Such a change to the nomination procedure would not be as fundamental as might at first sight be imagined. Instead, it would be a culmination of recent reforms that have politicised the process for the nomination of the Commission President. Thus, whereas the European Council used to name the president unanimously, merely consulting the EP, the head of the Commission is now nominated via a qualified majority in the Council and then ratified by the EP. Admittedly, in 2004, the European Council officially nominated Mr. Barroso unanimously. This unanimity may have been somewhat superficial as some governments - in particular France - were openly opposed to his candidacy. Barroso's appointment was, however, then ratified by the European Parliament.

One great advantage of the proposal to tie the nomination for the Commission President to the European Elections, is its simplicity. If campaigns centred on presidential candidates, voters could see more clearly what consequences their vote would have. This might also lead citizens (and indeed national parties) to see EP elections as important events in their own right. Moreover, such a reform would also increase the accountability of the Commission President, whose performance would be assessed by voters in the next election.

Critics of this reform, however, argue that it would do very little to attract the voters' attention. Would interest in the 2004 elections have been significantly higher if people had been able to choose between, say, José Barroso and Guy Verhofstadt, two political figures not widely known outside their own countries?

Under the proposal to tie only the election of the President of the Commission to elections to the European Parliament, Commissioners other than the President would still be nominated by member states and approved as a whole by the EP. This would retain the vital link between the Commission and the Council; many policy areas are, after all, still dominated by national governments, and the Commission needs the trust and support of the Council if it is to function effectively. The Commission would thus continue to reflect the political diversity of national governments and the centrist tendencies of the European Parliament.

**Therefore, we favour a more radical approach, embodying the British idea of responsible government.** In Britain, as in other parliamentary systems, a government's existence depends upon its ability to secure a majority in the legislature. If it fails to do so, it must resign. Why should not the same principle apply in the European Union? The European Parliament could, if it so wished, and without the need for any treaty amendment, simply insist that the political outlook of the President of the Commission, and indeed of the Commission as a whole, conform to that of the majority in the Parliament. Thus, a Left majority could insist that the President of the Commission and the Commission as a whole, were taken from the Left; a Right majority, conversely, could insist that the President and the Commission came from the Right.

If the Commission were to become dependent upon a majority in the European Parliament, this would entirely transform the role of the Parliament, for it would become an executive-generating body. There would then be an incentive for electors to turn out to vote in European Parliament elections since they would be helping to determine whether Europe was to be governed in a Leftward or Rightward direction, something which has become of much greater importance with the development of economic and monetary union, giving the Union basic economic competences; there are also, of course, important differences between the various transnational party groups on such issues as civil liberties, the environment and indeed the future role and direction of the European Union itself. Perhaps the most fundamental division, however, is between those who favour a more "social" Europe and those who favour a more "liberal" Europe.

Under our proposal, voters in elections to the European Parliament would be helping to determine the political leadership of Europe and the broad direction of public policy in Europe. The elections would then become a real analogue of domestic elections rather than, as they are at present, a series

of domestic elections conducted simultaneously. Elections to the European Parliament would fulfil the same three functions as domestic elections. They would be helping to determine the broad direction of public policy, choosing a government, - to the extent that the Commission can be regarded as a "government" - and helping to determine the political leadership of Europe.

This transformation in the role of the European Parliament would almost certainly lead to further consequential changes. For voters would seek to know who the different transnational parties would nominate as Commission President. The larger political groups would almost certainly nominate candidates for the Presidency before the European elections, thus making the process of choice of President more transparent. This would make the European Elections in effect direct elections of the European Commission. The analogy with domestic elections, which, in Britain, and many other democracies, have the function of directly electing the leader of the government, would be even more complete. Direct elections would then link voters to the Commission of the Union through the transnational parties.

In parallel, these transnational parties would become stronger, thus helping to create a clear system of party competition in the EP and a European demos. For, if there is one barrier to the development of a European 'demos', it is the absence of genuinely European political parties, which can focus and crystallize differing political interests and aims throughout the Union. Those European politicians genuinely committed to building a democratic and integrated Union have an obvious contribution to make to this construction by facilitating the emergence of genuine European political parties. So far, they have all too often failed even to attempt to do so. The sovereignty of national political parties is apparently even more resistant to power-sharing than that of national governments. When in opposition, national political leaders sometimes like to use the rudimentary structures of the European political party to which they are affiliated as a lever to increase their international profile and influence. Once elected to national office, however, this enthusiasm for trans-national politics is often, if understandably, supplanted by the preoccupations and opportunities of domestic political power.

It is hardly surprising that those countries of the Union unenthusiastic about deeper European integration, such as the United Kingdom, should regard with suspicion the prospect of genuinely trans-European political parties. More surprising has been the lack of warmth shown in such integration-minded

countries as Germany and Italy. Indeed, it would be difficult to name a single government of the European Union that has distinguished itself by its effective lobbying for a structure of genuinely competing political parties at the European level. National and European funds for the vestigial transnational parties that exist are extremely limited, in flagrant contrast to the substantial public and private funding assigned to national political formations, the role of which in sustaining national political life is universally recognised.

## *2. A Responsible Commission*

Currently there is no treaty provision giving the European Parliament the power to sack individual Commissioners, analogous to the British idea of individual ministerial responsibility; the Parliament can only sack the full body of Commissioners as a whole. In recent years, some improvements in accountability mechanisms have been developed informally - for example, MEPs can now hold hearings of individual Commissioner candidates. If the EP votes by majority to withdraw confidence in an individual Commissioner, the President will either ask that member to resign or has to justify before the EP his refusal to do so. This was what in effect occurred in the case of Mr. Buttiglione, who resigned before taking up his portfolio rather than waiting for a guerrilla campaign from the Parliament against him after becoming a Commissioner.

A number of problematic consequences derive from the complicated system of accountability and election at work with regard to the European Commission. In recent years, the political leadership of the Commission has been weak, as potentially strong candidates were either rejected by the member states or refused to take on the manifest ambiguities of a role which is half bureaucratic and half political. Member states can often blame unpopular domestic decisions on the Commission while taking the credit for policy results achieved at the Community level. While the Commission's actions increasingly generate uneven redistributive outcomes, citizens neither directly legitimise these results nor easily know who to blame or praise for them. Direct accountability of the Commission to European citizens through the European Parliament is, as we have seen, an obvious potential answer to at least some of these problems.

At the same time, citizens often criticise the Commission for being too bureaucratic and for producing complex legislation. The Eurobarometer survey of last May confirms that one in two Europeans consider the EU to be "technocratic" (49%)

and “inefficient” (43%). In addition, the fact that it is not always easy for the public to know what policy outcomes they should attribute to which political actors and to whom to assign responsibilities raises the issue of “blurred accountabilities”.

The essence of the notion of individual responsibility was well stated nearly 150 years ago by Gladstone in his *Gleanings from Past Years*, published in 1879. ‘In every free state’, Gladstone declared, ‘for every public act, some one must be responsible, and the question is, who shall it be?’. In a parliamentary system the answer is the minister. The concept of ministerial responsibility identifies who is under a duty to respond to questions by Parliament, but it can also be used to attribute blame. Thus, the principle of ministerial responsibility to Parliament prescribes, first, that a minister must **answer** to Parliament for every power conferred upon him or her; and second, that a minister is **answerable** to Parliament for the way in which he or she uses these powers. Parliament can, in the last resort, if it is unhappy about the way in which a minister exercises powers, compel the resignation of the minister.

There is a great contrast between the principle of ministerial responsibility as it operates in British government, and the absence of such responsibility in the European Union. When, in 1999, various commissioners were accused of mismanagement and corruption, the European parliament seemed to have no form of redress against the errant Commissioners. The only redress was to secure the resignation of the whole Commission *en bloc*, and that required a two-thirds majority in Parliament. At one time, it looked as if an overall majority, but not a two-thirds majority could be secured. This would have meant that the Commission, despite having lost the confidence of the European Parliament, could continue, broken-backed, until the end of its term. But, in any case, the resignation of the whole Commission would have punished the innocent along with the guilty. It was as if, in Britain, the only way to punish a minister who had made a mistake was to require the resignation of the government as a whole.

To introduce the principle of individual ministerial responsibility into the government of the European Union would not, it seems, require any constitutional amendment to the Treaty. It could be achieved if members of the European Parliament were prepared to use their powers to the full. In addition to a vote of no confidence in the Commission as a whole, it would be perfectly possible for the European Parliament to put down a motion of no confidence in a particular commissioner on the grounds of mismanagement, incompetence or corruption,

and to insist on securing access to all the documents relevant to the decisions being questioned, in order to debate the motion. This would force the Commissioner to defend his or her record, and it would act as a powerful incentive to better administration in the European Union. For, where there has been mismanagement, the Commissioner might well be required to demonstrate to the European Parliament that action had been taken to correct the mistake and to prevent any recurrence, and that, of course, could involve calling officials in the Commission to account for their mistakes, perhaps even subjecting them to disciplinary procedures. Certainly, the European Parliament would need to be assured that appropriate remedial measures had been taken. This, the principle of individual ministerial responsibility could be a powerful tool of accountability in the affairs of the European Union. It would, of course, always be open to the Commission to insist that a vote against a particular Commissioner is in fact a vote of confidence in the Commission as a whole. Then, if the vote were to be carried, the Commission as a whole would have to resign. That is a distinct analogue to what happens in domestic parliamentary systems. If, in the House of Commons, a motion is put to reduce the salary of a particular minister, in effect, a vote of no confidence in the particular minister, it is always open to the Prime Minister to regard it as a vote of confidence in the government as a whole, and to say that, if it is carried, the government will resign.

**We believe, therefore, that the British idea of responsible government, of a government responsible to parliament, and of ministers responsible to parliament, can be applied to the European Union, so as to help secure legitimacy, accountability and democracy to the European Union.**

### 3. *The Role of National Parliaments*

The European Constitutional Treaty suggested involving national parliaments more fully with the legislative procedures of the Union. It proposed an 'early warning mechanism' in the form of a protocol, whereby the Commission would have been obliged to reconsider a proposal if one third of national parliaments objected to it on the grounds that it violated the principle of subsidiarity. The Commission would then have been free to decide whether to maintain, amend or withdraw the proposal in question, but would have had to justify its decision. The protocol also stipulated that all Commission consultation documents, its annual legislative programme and the Council's minutes and decisions would have been forwarded to national parliaments. These changes the Commission has now pledged to implement despite the stalled ratification process of the Constitutional Treaty. Indeed, most changes affecting national parliaments in the Constitutional Treaty have now been agreed voluntarily, so that, in this area, very little seems to have been lost through the defeat of the Treaty. Of course, voluntary informal agreements lack treaty basis, but the Commission is unlikely to ignore the reasoned opinion of one third of the EU's parliaments. In the past, national parliaments have not scrutinised European legislation very well because they lacked any powers over it. National parliamentarians were asked to do a great deal of work for no real purpose.

These new institutional changes mark the first time that national parliaments are being directly associated with the European policy process. Nevertheless, their impact may remain limited. It needs, above all, to be asked whether national parliaments are in fact being granted a new and significant power through the 'early warning mechanism'. The power is not wholly new since national parliaments were already able to object informally to EU legislation through their scrutiny procedures if they wished to do so. Nor is this power as significant as it might seem, since it is a purely negative power. Parliaments are only able to express a dissenting view, which does not even amount to a veto. But national parliaments cannot be constructive actors by, for example, placing new legislation on the agenda. Furthermore, as we have seen, parliaments can object to legislation only on the specific ground of subsidiarity. Yet this seems to be a comparatively minor problem in EU policy-making, since current evidence indicates that only a small proportion of legislative proposals gives rise to genuine issues of subsidiarity.

Inevitably, national parliaments will take varying advantage of the new opportunity given to them. Some lack the resources

to be able to scrutinise in depth and in a short period of time the complicated legislative proposals made by the Commission. Proposals that are sent out during a recess period may not receive any significant scrutiny within the six-week period at all. In addition, detailed work on European issues is not always attractive to national MPs, who often prefer more prestigious work in high-profile committees to the unglamorous detailed consideration of European legislation, much of which appears highly technical. It is perhaps significant that in Britain it is the non-elected chamber, the House of Lords, that has proved more effective at scrutiny than the democratically elected House of Commons.

Beyond the proposed mechanism's practical limitations, it has to be remembered that the majority in any national parliament usually also forms the government of that country, which is of course represented in the Council. Thus, a national parliamentary majority is unlikely to oppose an EU proposal that its government is supporting in the Council. It is conceivable that more parliamentary criticism of proposed European legislation would occur in countries with coalition governments, where one partner could vote with the opposition to support a reasoned opinion against an EU proposal, but even this would probably be a rare occurrence.

It is difficult to see how national parliamentarians can be allocated any more significant role within the Union than that which they now enjoy without leading to complete paralysis of the Union's legislative and policy-making structures. Every major European treaty since the Single European Act has tended towards greater simplification of decision-making, particularly in the Council of Ministers. To give to national parliaments anything approaching a veto upon European legislation would be a reversal of this consistent tendency, at a time when the expansion of the Union seems to reinforce rather than refute the arguments for simplification. It is difficult to avoid the impression that certain national governments are sometimes content to encourage unrealistic demands by their national parliamentarians for a greater direct role in European law-making, in order to divert their attention from their more important function of exercising more vigorous scrutiny over what their national governments do in the Council of Ministers.

Therefore, while we of course welcome the improvements that have been made in recent years in associating national parliaments with European legislative proposals, we do not believe that this offers anything near to a complete solution to the problems of legitimacy, accountability and democracy that we have identified.

#### 4. *The Use of Referendums*

Referendums are used in almost all modern democracies as legitimate democratic devices to supplement elections. In Britain, referendums have been used to validate a transfer of sovereignty away from Westminster, either 'downwards' to devolved bodies such as the Scottish Parliament, or 'upwards' to the European Union. Our one national referendum, indeed, in 1975, was on the question of whether Britain should or should not remain in the European Community, which we had joined in 1973. Tony Blair has promised that Britain will neither enter the Eurozone nor ratify the Constitutional Treaty without a referendum. This is in accordance with fundamental liberal principles. For, while voters may reasonably be held to entrust to their representatives legislative power, they give them no authority to transfer that power. Such authority can be obtained only through a specific mandate, a referendum. The idea that power is entrusted to the nation's representatives for specific purpose only is an important theme of liberal constitutionalism, which has its origins in John Locke. 'The Legislative', Locke argues in paragraph 141 of his second *Treatise of Government* (1690) 'cannot transfer the power of making laws to any other hands. For it being but a delegated power from the people, they who have it cannot pass it to others'.

Thus, whatever reservations some may have about the value of referendums on European issues, it seems likely that member states will continue to have recourse to them. As the ratification procedure of the Constitutional Treaty unfolded, more and more governments became aware of political and public pressure in their countries for there to be a referendum on it. Any renegotiated Constitutional Treaty or even substantial changes to the existing European treaties are very likely to be the subject of not merely occasional referendums in countries such as Ireland and Denmark, where they are constitutionally required, but in many other member states also. It is worth asking, therefore, how the referendum might be used in European affairs.

It can be taken as given that no member state government or electorate would currently be willing to accept as binding on itself any European policy outcome at variance with that of its own national referendum. No French or Dutch politician has suggested that the French or Dutch electorates should simply reverse their decisions of 2005 because a majority of member states in the Union have ratified the Treaty, some by national referendums. But there is, nevertheless, some justice in the response of Spanish, Luxembourg and Romanian politi-

cians who argue that the suspension of the Constitutional Treaty's ratification as a result of the French and Dutch votes is an effective disavowal of the democratically established views of their own electorates. Luxembourgers in particular wonder whether the ratification procedure would have been suspended if theirs had been the only country voting against the Treaty. As so often in the debate about European democracy, there seems to be in the matter of referendums a deep contradiction between nationally established and European democratic legitimacy.

At the present stage of European integration, it seems unlikely that this contradiction can be entirely eliminated. It might, however, be possible to reduce this contradiction between two apparently clashing fundamental values by a recognised European procedure for national referendums, whereby for instance countries informed their partners before any future treaty was signed whether they would wish to hold, or would have to hold, a referendum on the text; whereby all those countries holding a referendum did so on the same day, probably after parliamentary ratification had taken place in all other countries; and above all whereby an agreement had been attained beforehand on the consequences following from a negative vote for the countries rejecting the new treaty. The standing of the European Union after the two negative votes in France and the Netherlands has been at least as much damaged by the inability of the Council to agree on what to do next as by the rejections themselves. In a pan-European arrangement for referendums, it might be that if a small minority of countries voted against a new treaty, then those countries would undertake to hold a fresh referendum, in which the alternative to joining the majority was withdrawal from the Union. Alternatively, the original treaty might itself have been drawn up in such a way that it was possible to implement it only between those countries which ratified it, whether in their own parliaments or through referendums.

It is possible, however, to argue for a more radical use of the referendum at European level. For it is clear from the referendums on the Constitutional Treaty that the decisions of parliaments do not necessarily correspond with those of the public. Constitutional theory, however, requires, as we have seen, that popular as well as parliamentary endorsement is secured in a democratic polity when sovereignty is transferred. That constitutional principle, whose origins lie with John Locke, was well understood by the founding father of European federalism, Altiero Spinelli, who hoped that the European Union constitution could be drawn up by a European Parliament which had been granted a constituent mandate for the purpose

through a referendum. Even de Gaulle, often regarded as hostile to European Union, believed that his Fouchet Plan, providing for a confederal Europe of states, should be validated by referendum.

**We believe, therefore, that future amendments to the Treaty should be validated by a Europe-wide referendum, to be held on a single Europe day.** Of course, a simple majority in a referendum would not be sufficient, for that would enable those in the larger member states to outvote voters in the smaller member states. Instead, the European Union should follow the procedure of such federal states as Australia and Switzerland where a double majority is required for the endorsement of a proposition – a majority both of the voters and of the member states. Moreover, two further requirements would be needed for the special circumstances of the European Union. First, there would need to be a qualified majority for amendments so that they were not approved on a low turnout. That qualifying majority might be perhaps 30% of the total electorate of the Union. Second, and even more important, much more than a bare majority of member states would be needed for amendments. Currently, unanimity is required, but this may appear increasingly unrealistic in a European Union of 27 member states. Perhaps some compromise between a bare majority and unanimity could be agreed.

## CONCLUSIONS

### *What kind of European democracy?*

Earlier in this report, we referred to the argument that a genuine European democracy is in the nature of things impossible. We do not accept this view, since we believe that the evolving political institutions of the European Union can help to create a political demos for the European Union, a demos which could both demand and make possible a genuinely democratic life for the Union. We believe, in particular, that European elections with clear political choices could help to facilitate the emergence of such a demos.

There are, of course, many who say that, even if a democratic European Union is an attainable goal, it would have to be a very different kind of democracy from that which obtains at national level. We do not accept this argument either. It cannot, of course, fail to strike even a casual observer that there is a considerable variation of democratic practice within the member states of the European Union. In some, the majoritarian principle is of much greater importance than it is in others. The United Kingdom is perhaps the European polity where the majoritarian principle holds the greatest sway, while Belgium and the Netherlands are examples of more consensual democracies. In democracies of this latter sort, government operates by elite agreement and it is elite agreement which holds the system together. The European Union bears greater resemblances to the system of government of Belgium and the Netherlands than it does to a majoritarian democracy. We believe, however, that there should be a greater element of majoritarianism in the European Union so as to increase democratic accountability.

In a heterogeneous and complex political arrangement such as the European Union, there are, of course, bound to be more minorities than in many of the member states, and it is at least as important that their rights are protected at European as at national level. The European Union, therefore, can never be wholly majoritarian. But it has suffered greatly in the past from the **technocratic delusion**.

### *The Technocratic Delusion*

The institutions of the European Union were set up in the 1950s, and they were based very much on the ethos, although not the specific institutions, of the Fourth Republic in France, where important political decisions were often made by unelected civil servants. The legacy of Jean Monnet was that of an apparently depoliticised and functionalist bureaucracy which could somehow lead the way towards a united Europe.

The truth is, however, that the European Union was founded in the 1950s on a conception of government that is outdated in the modern world of participatory and assertive democracy. The ethos of Fourth Republic France insulated technocratic leadership from effective parliamentary scrutiny. The ethos of consensual democracy legitimises decision-making by elites, with the role of the electors being confined to that of ratifying these decisions. This method did not work too badly in the early years of the European Community, when the leaders led and the followers followed. But the reaction in many member states to the Maastricht Treaty in 1992 and to the Constitutional Treaty in 2005 showed that, while the leaders continued to try to lead, the followers were no longer willing to follow. Thus, the institutional **forms** of the European Union have become increasingly incongruent with the popular **forces** behind modern democratic government. The central task for those concerned to make Europe more effective and more democratic is to bring the institutional forms into line with the democratic forces.

We believe that this can best be done by replacing the outdated conception of **technocratic government** with the British ethos of **responsible government**, which would entail both the collective responsibility of the Commission to the European Parliament, and the individual responsibility of individual Commissioners for mismanagement, incompetence or corruption. We believe that the European Union would benefit from the application of British constitutional ideas, and that this is one area in which Britain can play a truly constructive role in making Europe more effective and more democratic. We believe also that the European Union would welcome a constructive approach from Britain. It is perhaps worth recalling the words of Winston Churchill in his speech at the Albert Hall in 1947, when he said 'If Europe united is to be a living force, Britain will have to play her full part as a member of the European family'. These words are as true today as they were when first uttered sixty years ago.

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