

EU Constitution Project Newsletter

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In line with the Federal Trust's aim to enlighten the debate on good governance, this Newsletter reviews the current reform process of the EU from the standpoint of the work of the Federal Trust's project on Constitutionalism, Federalism and the Reform of the European Union (the 'EU Constitution Project'). The Newsletter looks at current developments in and outside the Convention and also covers the UK debate. Finally, it provides information about relevant events and publications.

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1. Guest Editorial

The Revival of the Pioneer Group Idea

When the Brussels summit of the IGC, in December 2003, failed to reach agreement on the text of a draft Constitutional Treaty, the French President immediately referred, when still at the summit, to the idea of a two-speed Europe led by a pioneer group with France and Germany as prominent members. That pioneer group could set out to achieve the ambitious objectives of the draft Constitutional Treaty proposed by the Convention, in the absence of an agreement by all twenty-five national governments.¹

The idea that some countries could form the vanguard of the European integration process, and would clear the path for others to follow, is as old as that process itself. The Schuman Plan of 9 May 1950 was specifically addressed only to France and Germany, but other European states were invited to join the proposed Coal and Steel Community which was designed to be, in Robert Schuman's words, the first basis of a European federation. The Treaty establishing the Coal and Steel Community, signed in 1951 between six states, contained an open-ended invitation to all European states to join the Six. The EEC Treaty, signed in Rome in 1957, was similarly designed to set in place a nucleus of economic integration that could be joined by others. This, of course, is also what has happened through the gradual extension of membership of the European Communities first, and the European Union later, from six to twenty-five member states.

As membership of the EU grew, the pioneer idea became gradually posed in the opposite way: it no longer referred to the vanguard role of the EU member states in relation to the rest of Europe, but rather referred to the core position of a

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smaller group of countries *among the member states* that would guide the 'laggard' member states. In view of the fact that many important policy decisions (including, of course, revisions of the founding Treaties) continued to be subject to the unanimous agreement of all member state governments, it was felt that those countries who were not willing to envisage a further deepening of European integration were taking the others hostage. The United Kingdom became the archetypical laggard, particularly under the long series of Conservative governments starting in 1979, but soon also other countries appeared to be consistently less keen than others to extend EU powers, or to make EU decision-making more supranational.

In the course of the 1990's, this different degree of willingness to move ahead ceased to be just a matter of political contention and came to be expressed in the Treaty text itself. In the Maastricht Treaty, experiments were made with consensual opt-outs, allowing some states not to participate in policy-making advances (in Economic and Monetary Union and in social policy) while allowing the others to go ahead. A very forceful political debate on 'multi-speed' and '*à la carte*' blueprints for Europe emerged in the Summer of 1994, marked by speeches of the then prime ministers Major and Balladur, and by the Lamers-Schäuble plan for a 'core Europe'. Agreement was eventually reached, in the Treaty of Amsterdam, on a very cautious general mechanism allowing a group of willing states to undertake closer cooperation among themselves while using the institutional mechanisms of the European Union, but only if the others would allow them to do so.

Only one year after this mechanism entered into force (May 1999), it was further fine-tuned by the Treaty of Nice and was now called enhanced cooperation. However, neither the Amsterdam nor the Nice version of enhanced cooperation has been used so far for specific policy initiatives, let alone as a vehicle allowing a determined pioneer group of member states to coalesce and forge ahead

together. In fact, the potentially available energy needed to exploit the enhanced cooperation mechanism for forming a 'pioneer group' was diverted, immediately after the signature of the Treaty of Nice, into the new constitutional reform process that culminated in the Convention on the Future of the Union.

So, the reference to the creation of a pioneer group following the December 2003 stalemate on the Constitutional Treaty could be interpreted as follows: in the absence of agreement on the Constitutional Treaty, those countries supporting the Draft could try to exploit the resources of enhanced cooperation, under the Nice Treaty, in order to achieve some of the policy objectives contained in the Draft. However, in doing so they would be constrained by the numerous rules and conditions set by the Nice Treaty. First, the Nice Treaty would not allow the 'pioneers' to select the members of the club, since enhanced cooperation regimes must be open to all states who wish to participate. Secondly, the Nice rules require enhanced cooperation initiatives to be taken by at least eight countries, so that for instance an initiative of the six original member states of the EC would not qualify. Thirdly, the Nice rules do not allow for enhanced cooperation in areas that are outside EU competences as defined by the Nice Treaty, and also expressly prohibit enhanced cooperation in the area of Common Foreign and Security Policy. This means, for instance, that the Nice mechanism could not be used for the ambitious new defence policy delineated in the draft Constitution.

Hence, in view of the restrictions imposed by the Nice regime for enhanced cooperation, the post-Convention reference to a pioneer group could also be understood as inviting forms of cooperation between smaller groups of member states *outside the EU institutional framework*, based on traditional mechanisms of international law (treaties, gentlemen's agreements, informal coordination). From the point of view of the EU legal order, such extra-EU closer cooperation is not prohibited; indeed, there have been numerous

examples of international agreements concluded between member states of the EU ever since the 1950's, in areas such as tax law, environmental protection, defence, culture and education. There have also been numerous forms of structured coordination of views between groups of states (e.g. the Benelux meetings, the Franco-German tandem). However, here as well there are limits to what is legally permissible. *Inter se* international agreements between two or more member states of the EU are only allowed within the limits set by EU law obligations. Briefly said, this means that such agreements may not be concluded in areas of exclusive EU competence (e.g. in the field of trade or monetary policy), that they may not include any provisions that conflict with EU law or undermine existing EU policies (e.g. by discriminating on grounds of nationality in favour of citizens of some member states only), and more broadly that they may not affect the normal operation of the EU institutions. So, specific forms of cooperation outside the core competences of the EU are perfectly possible, but the formation of a true core group, adopting binding laws in a large range of crucial policy areas, would not be admissible because it would unavoidably affect the rights which the other member states and their citizens have under current EU law. Unless, of course, the pioneers' plan would be to really 'break away' from the other states, and from the existing EU institutional structure, in order to create a wholly new organisation among a core group of states. These countries would be prepared to break the law and explode the long-established institutional arrangements on the ground that the un-reformed European Union no longer allows them to pursue their most cherished political goals and interests. It is clear, I think, that there is presently no core group of member states prepared to go to these lengths.

Professor Bruno de Witte
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1. For references to this aspect of the Brussels summit and some immediate reactions, see 'Support for two-speed Europe gathers momentum', *Financial Times*, 15 December

2003; 'Après le fiasco de Bruxelles, Paris relance l'idée d'une Europe à la carte', *Le Monde*, 16 December 2003; 'Dutch lead criticism of two-speed Europe plan', *Financial Times*, 16 December 2003; H. Grabbe, 'The siren song of a two-speed Europe', *Financial Times*, 16 December 2003; 'Who killed the constitution?', *The Economist*, 20 December 2003.

2. February: The 'Listening Phase'

Bertie Ahern has had a busy month. The Irish Presidency has followed through on its promise to conduct what Minister for Foreign Affairs Brian Cowen has called 'the listening phase'. Between 26 January and 11 February, Taoiseach Ahern met with Spanish President José María Aznar, Polish Prime Minister Leszek Miller, French Foreign Minister Dominique de Villepin, Portuguese Prime Minister José Manuel Durao Barroso, the Dutch Minister of Foreign Affairs Bernard Bot, the Maltese Minister of Foreign Affairs Joe Borg, the German Chancellor Gerhard Schröder and had a phone conversation with French President Jacques Chirac. With the exception of the discussions with Aznar in Spain, all meetings took place in Dublin.

The Irish Presidency is embracing its role as an 'honest broker'. The government buildings in Dublin are presented as a sort of open-house - where any concerned European leader can come to voice his or her opinions on the IGC and the future constitution. In reporting his discussions to the press, Ahern has carefully avoided the impolitic expressions of the Italian press releases and has given away little real information as to the state of affairs. For example, after his meeting with Miller on 29 January, Ahern reported that he had a 'useful and constructive exchange'. He and the Polish leader shared 'a strong commitment to finding an agreed way forward as quickly as possible'. Ahern also credited Miller with providing 'a valuable insight into Polish thinking on the issues involved.' Shortly thereafter, in his 9 February meeting with Gerhard Schröder, Ahern used almost identical language - again he said he had a 'useful and constructive' exchange of views. He also indicated that given Germany's large population and its

generous contribution to the EU, Germany's position on the issue of voting weights is understandable and 'sensible'.

Compare this delicate and positive language to that used by the Italian Presidency which risked portraying a Franco-German bias. Its website reported - in the increasingly tense days of early December - that 'Italy and Germany share the same views on all the constitution negotiations'. In addition, President Chirac felt entitled to declare after his meeting with Berlusconi that the Italian President's view was the 'same as ours'. (See [January Newsletter](#).)

It is perhaps, therefore, not surprising that Taoiseach Ahern did not rush to Rome to be briefed by the Italian Presidency. Ahern travelled to Rome on 12 February, after he had met with the Spanish, Poles, French and Germans. By distancing themselves from the Italians, the Irish are demonstrating to their European colleagues that they are running a different show. Thus far, there has been little criticism of the Irish. In fact, the Estonian Prime Minister, Juhan Parts, has expressed satisfaction at how the Irish Presidency has been conducting this 'listening phase'.

Ahern has stated that 'It is in the Union's best interest to conclude the IGC as soon as possible,' and clearly the Irish have a certain responsibility to lead in this effort. However, again unlike Berlusconi, Ahern is not staking his Presidency on success, nor will he allow Ireland to be blamed if restarting the IGC should prove too difficult. He continues to assert that 'we all have a collective responsibility for success here' and has recognised that although 'everybody would like to make early progress, [it] is not feasible unless the key players involved move.'

In an atmosphere of increased concern about 'directoires' and two-speed Europe (see following section), a productive discussion at 25 on the constitution is essential. Can a re-launch of the IGC achieve this aim? Valéry Giscard d'Estaing has called the current impasse a 'failure of method [rather] than a rejection of the constitution'. He may be right. This month's

Eurobarometer survey shows 77% of people in the EU25 are in favour of the EU's adopting a constitution - an increase of 10% since the opening of the IGC last October. (Although support is higher in acceding countries, even Sweden and the UK polled over 50% in favour.)

Ahern believes there are between 12 and 20 issues outstanding and will present his report on the IGC to the Spring European Council on 25-27 March. Even in the language of the draft agenda, the Irish demonstrate that they remain focused on consensus - one session is entitled 'Building Partnerships for Reform'.

[Euractiv](#)

[EU Observer](#)

[Irish Presidency Website](#)

[Irish Presidency Website](#)

[Eurobarometer](#)

3. The 'Big Three'

After the failure of the December IGC, Germany, France and the UK announced that they planned to meet in advance of the March Summit to discuss and co-ordinate their positions. The meeting was scheduled for 18 February. Even before the three leaders met, others were crying foul. The Dutch Foreign Minister warned the three not to 'sow discord and confusion' by advocating a multi-speed Europe. The Hungarian, Spanish and Italian foreign ministers echoed his concern. Benita Ferrero-Waldner, the Austrian Foreign Minister, raised an additional worry: 'If it is meant as an alternative to a Constitution - this is a bad sign.' However, the Irish Presidency maintained its neutrality, remarking that 'the more that understandings and relationships improve, the better.'

What was the 18 February meeting designed to achieve? Were the 'big three' pursuing European goals as a Directoire? Or were they more concerned with their individual national issues? Some commentators have suggested the latter statement is more likely. For example, a British official implied that Schröder's goals were to get British support to justify his domestic reform package and to mitigate the

Stability Pact fiasco. Chirac, on the other hand, may be trying to demonstrate that the European divide over Iraq is over - and Blair may want to show that he is capable of taking action separately from the US. However, national forces are always at play - and such domestic reasons for a meeting cannot obviate the possibility that the three really want to become a force for European action. Although Chirac has strongly denied that a threesome would supplant the Franco-German link, it has become increasingly clear (particularly regarding defence) that the Franco-German couple needs British support if it is to influence European events.

The results of the meeting did have the makings of a 'directorate' - the three announced that they would like to revamp the Commission by creating a 'super-commissioner' who would oversee existing internal market, environment, trade and industry commissioners. The resulting hierarchy of portfolios would give prominence to those responsible for improving EU competitiveness. This plan is clearly tied to the efforts to reinvigorate the Lisbon Agenda - however, it is also related to the ongoing discussions about the constitution. The proposal risks reopening the seemingly closed negotiations on the reform of the Commission, reflects the continuing desire of the big states to have a streamlined Commission and suggests a potential change in the role of the institution itself.

Germany and France have been particularly concerned about the suggestions for amending the draft Constitution in order to allow one Commissioner from each Member State, and the 'Big Three's' proposal is a departure from the reported 'accord' by EU leaders at the IGC last December. This proposed structure might be able to counter the workability concerns in a larger Commission; however, the focus on competitiveness and economics appears to be a British addition. *The Times* suggests that Britain has agreed to support France and Germany on the double majority voting weight issue, in return for their agreement to the super-commissioner. It is critical to point out

that the Commission itself does not see any need for such a position, and although they have not commented on the fledgling plans, the Irish have been traditionally against a stratified Commission.

Thus far, there has been little debate from the Member States on the merits of the plan for the super-commissioner - or a Commission Vice-President - focus has instead centred on the meaning of the joint actions of the big three. Berlusconi reacted strongly, saying that 'Europe doesn't need any directorate; it's just a big mess.' Spanish Foreign Minister Ana de Palacio declared that 'Nobody should be allowed to kidnap the general interest of Europe.' In fact, some appear to disagree with the idea of the super-commissioner precisely because of the way in which the position has been proposed. Berlusconi has said, 'we cannot accept proposals made at a meeting like the one in Berlin'. If the IGC should be restarted in March, the big three may find their actions have only served to strengthen the big-small polarisation that began last November.

Multi-speed Europe?

The 18 February meeting spawned a great deal of heated discussion. Beyond the concerns about a 'directoire', it also fuelled the debate over a multi-speed Europe. Delors expressed his support for the idea of an avant-garde group in specific policy fields - one which would promote 'real economic and monetary union' and a defence policy. Chirac has also continued to make the case for a two-speed Europe, pointing out that pioneer groups were 'nothing new'. However, his example of Schengen is substantially different from the new suggestions for increased co-operation. The Schengen Convention allowed the possibility of 'opting-out' - partly in order that the majority of countries who wanted to eradicate internal borders would not be held back by the few who decided not to join. New proposals for pioneer groups work on the opposite principle. The majority of countries may choose to stay out - leaving only a small core of states integrating further and 'opting-in'.

The danger of this latter approach is not a two-speed Europe, but a Europe of diverging interests. Michael Howard, the leader of the UK Conservative Party, expressed this point - as a positive factor - in a speech earlier in the month. He said, in support of enhanced co-operation: 'I am not talking about a two-speed Europe. That implies that we are all agreed on the destination and differ only about the speed of the journey. I don't want to reach the destination that some of our partners may aspire to. But I don't want to block their aspirations.' Most Europeans, however, appear to agree with the inverse of Mr Howard's point - it is ok to go at different speeds, as long as there is a common destination. In fact, 60% of the EU25 'rather agree' with the idea of countries having the option to move ahead. Of course, the make-up of the pioneer group may temper the enthusiasm - as the reactions to the 18 February meeting suggest.

[Michael Howard's Speech](#)

[EU Observer](#)

[Euractiv](#)

[International Herald Tribune](#)

[Financial Times](#)

[FAZ](#)

[The Times](#)

4. Parallel Developments

Opinion Piece: The Budget

On 10 February, with the publication of its proposals for the budget for the period 2007-2013, the Commission fired the first shots in what will be one of the key issues dominating the EU policy agenda over the next 2 years. The new financial provisions will cover an EU of 25 member states (and maybe 28 if a further enlargement to include Bulgaria, Romania, and possibly Turkey proceeds according to expectations) in which income and employment disparities within the EU will be considerably greater than in any previous era. Per capita income in the 8 central European accession countries is less than one-half of the current EU average with the result that the expenditure commitments potentially arising from enlargement considerably exceed the additional revenue enlargement will bring to that

budget. The overarching budgetary challenge of enlargement is self-evident: how to secure a sufficiently rapid rate of economic and social convergence between the new and existing member states, whilst at the same time observing the degree of financial prudence in total EU expenditure that is required by the countries who are the principal net contributors to the budget.

As in all financial perspectives previously presented by the Commission since 1988, the current set of proposals is couched in reasonably strong political rhetoric. The overarching 'big theme' on this occasion is the Lisbon agenda of competitiveness, growth and employment. Enlargement, the dominant theme of the Agenda 2000 deliberation, is less evident and has, in essence, been mainstreamed into ongoing discussions about specific spending programmes. The other big idea which has dominated the past 18 months - namely a European Constitution - is largely absent from the detail of the document, although the Commission does regard a Constitution as "...essential to Europe's future". In reality, however, it is difficult to see an immediate bridge linking the prospective financing of EU policies, even up to 2013, to the debate over a constitution for the EU. After all, the budget proposals presented here are a statement of spending projections, much of which is inherited from a series of past decisions rather than a statement of new aims and objectives that could readily be grounded in a European Constitution.

The Commission's proposal is for the EU budget to increase in total from euro 114.7 billion in 2006 (the final year of the current perspective) to euro 143.1 billion in 2013 - an increase of almost 25% over a 7-year period. Notwithstanding this increase in spending, the current own resources ceiling of 1.24% of EU Gross National Income will be retained (the Commission calculates that annual payments from the budget over the period will be on average 1.14% of GNI, comfortably within the ceiling). As in past budgets, CAP and Cohesion spending dominates the budget, but with some important

changes. In the light of the reforms to the CAP agreed upon in June 2003, spending on agricultural and related policies (i.e. rural development) will decline considerably in relative terms. As a percentage of total spending, allocation to measures of direct support to agriculture will decline from 38% in 2006 to 29.5% in 2013, with global support to the agricultural community (i.e. including rural development programmes) declining from 49% of total spending in 2006 to 40% by 2013. Cohesion policies, unsurprisingly, gain (marginally) in the proposals, with the budget allocation rising from 33.8% to 35.6% of the total. However, this is not the total of subventions designed to assist convergence, in that a new proposed budget line under the title 'competitiveness for growth and employment' will increase dramatically from euro 8.7 billion in 2006 to euro 25.8 billion by 2013 (18% of the budget).

Three concluding observations. First, the proposals retain the current limit of 4% of national GDP on EU budget transfers permitted under cohesion policy (including rural development and fishery instruments). This will limit the scale of total transfers to the new member states, possibly excessively so and further slow down the already weak prospects for economic and social convergence. Second, the Commission is clear that should the current expenditure ceiling be lowered from 1.24% of GNI to 1% of GNI, as some member states have suggested, then the EU budget will be unable to meet its current spending obligations. Third, by couching the proposals in the language and the aims of the currently-stalled Lisbon agenda, the Commission is maximising the likelihood that its proposals will be received with the greatest sympathy in the national capitals of the net contributing member states.

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[Commission Communication, Building our common Future, Policy challenges and Budgetary means of the Enlarged Union 2007-2013, 10.2.2004 \[COM\(2004\) 101 final\]](#)

Defence

In November, defence seemed one area in which agreement could be reached and momentum gained (see [December Newsletter](#)). However, cracks began to appear after the failure of the December Summit, and relations were strained between France and the UK over who would lead the European armaments agency. Yet in February, closer co-operation seemed to be back on course. Proposals are circulating in Brussels for a dramatic expansion of the EU's spending on defence and security. France and Britain have moved beyond personnel issues and have agreed to create joint rapid-response units. Germany also supports the plan, which will be discussed by EU defence ministers in April. Troops could be available by 2007. In the following analysis, Helene Sjursen asks what purpose a militarised EU could or should have in the international arena.

[Le Monde](#)
[EU Observer](#)

Opinion Piece: From civilian to military power: the European Union at a crossroads?

In the past decade the contention that the European Union (EU) is a relevant and important international actor has gained increasing acceptance. Whereas much attention was traditionally paid to the question of whether or not there *is* such a thing as a "European foreign policy" at all, analyses now tend to move in the direction of asking what characterises this European foreign policy as well as how we can account for its existence and its particular role. Recent events in EU security and defence strengthen the claim that we should focus our effort on examining what kind of an actor or what kind of role the EU plays in the international system, and spend less time questioning the very existence of a "European foreign policy." However, at the same time, initiatives such as that from the "big-three" on an EU battle force raise important challenges. As the EU strengthens its military capabilities, to what extent, and how, does this change our conception of the EU's

international role?

Recent research has stressed a putative normative dimension to EU foreign and security policy. The argument is that the EU is not only a *civilian* power (in the sense that it does not possess military capabilities) but that it is (also) a *civilising* power in the international system. This is so because of its emphasis on non-military instruments in international affairs, as well as its emphasis on multilateral solutions, human rights, etc. It has been easy to claim that it is only because the EU does not have the capability to do otherwise that it has so far emphasised the importance of non-military instruments and multilateral solutions. What do developments in the direction of increased military capability mean for the EU's putative particularity, i.e., its normative commitment? Will this automatically disappear? Are the two conceptions of the EU as "civilian power" and "civilising power" inextricably linked together?

One perspective considers actors in the international system to be by definition exclusively self-regarding and thus systematically pursuing policies aimed at maximising power and/or wealth for themselves. In this view, the EU as a military power would be a very different actor from the EU as a civilian power. With military means at its disposal, the EU would be able to make credible threats. It would be able to push for its own interests without paying too much attention to other actors' interests, perspectives, or arguments. The option of "going alone" and imposing its own interests would be a more realistic one than what it is today. "Military EU" would no longer *by necessity* have to emphasise diplomacy, economic carrots or sticks, or multilateral solutions. From such a perspective the conceptions of the EU as a civilian and civilising power would be inseparable.

However, this view is not the only possible one. An important challenge for research on EU foreign policy is to explore and strengthen the alternative theoretical tools to those inspired by the realist perspective that might lead us to different expectations of the impact of military capabilities on the EU's

international role. Although no longer a civilian power, is it possible to conceive of the EU as a civilising power? Arguably, it is only if we can theoretically conceive of this alternative (and then assess its empirical relevance) that we can also claim the opposite with credibility.

In order to assess the validity of expectations of "military" EU leading to the EU as a "civilising power", we need to develop analytical tools that make it possible to theoretically conceive of a security policy that has a normative dimension. This would entail a theoretical conception of an actor that would only use the threat of military intervention as a means to realise morally acceptable goals. Is it possible to conceive of an EU committed to use the threat of force only to ensure compliance with collective legal commitments and not to pursue exclusively self-interested policies? And finally, is the idea of a military EU defensible from a normative point of view?

Dr Helene Sjørnsen

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5. UK Debate

Scrutiny, scrutiny and scrutiny

On 11 February Jack Straw announced plans for enhancing the role of the UK Houses of Parliament in EU matters by involving Parliament more systematically in what should become a broader consultation and debate process for the formation of British positions.

To begin with, the Government is committing itself to introduce an annual White Paper to assess the EU's legislative and other activities for the year ahead. This exercise ties in with recent moves in the EU to establish annual and multi-annual programming, beyond the six-month presidency system. The standing of national parliaments in EU programming is however rather limited: in the terms of the Seville decisions concerning annual and multi-annual programming, national parliaments do not hold any powers on the adoption of these programmes. The UK Government nevertheless encourages evidence sessions with

Commission officials - for example, one was held in November last year which scrutinised the Commission Annual Policy Programme (see February Newsletter).

Secondly, perhaps stemming from the experiences of the Standing Committee on the Convention and the subsequent standing IGC Committee, the Foreign Office is proposing the creation of a Grand Committee, composed of MPs and peers, to examine EU matters, a proposal which had been floated by the Scrutiny Committee in previous reports.

Increasing the involvement of the UK Parliament in European affairs thus continues to be a focus of sustained attention in Britain, remaining perhaps the first and privileged issue amongst most all other items in the post-Nice reform agenda.

Conservative opposition to Straw's statement centred on the claim that the proposal did not go far enough and needed to be implemented now, not in the future. Conservative shadow foreign secretary Michael Ancram compared Straw's suggestions to the Danish scrutiny policy - to the British Government's detriment. In Denmark, the practice is to achieve parliamentary approval for the Danish Government's position - before decisions are made in Council meetings. This varied approach by different Member States highlights the potential discrepancies in scrutiny that may take place under the new Constitution procedure. A uniform level of national parliamentary scrutiny will be unlikely, especially taking into account differing attitudes towards the Union itself. It is no coincidence that the most euro-sceptic countries are taking such enthusiastic interest in the possibilities for Parliamentary scrutiny.

[e-politix](#)

[Parliament and the EU, Jack Straw's statement at House of Commons, 11 February 2004](#)

Opinion Piece: Parliamentary Scrutiny

Whatever happens to the draft Constitution for Europe, we have to start doing things differently here in the UK.

We need to change the nature of public debate about the European Union and Westminster has to change the way it debates and scrutinises Commission proposals and European regulations and directives.

For too long the battle of ideas about the European Union appears to have been between the Europhobes and the Europhiles. But this is phoney; the real division is between those who want the Union to work and those who don't. This means that those who really want to leave the Union can hide behind the label of Eurosceptics, whilst those who want it to work, but find fault with the current institutions are labelled as "non-believers". It really is time to grow up. Let those who want to leave make their case. I am sure as soon as they do we will find that they only have the support of a minority of the British people. But also let's stop pretending that all is well in the Union; that we only have to make small changes here and there to allow the Union to expand to 25 members and more and make the economies competitive in an age of globalisation.

The question whether we need more federalism or more intergovernmentalism is also a red herring. The real problem lies in the unique combination of the two, which has created a structure that has become too centralised and too bureaucratic. And above all it is not open and transparent enough for people to understand the processes and they can't work out whom to hold responsible for what.

And MPs at Westminster have to make changes too. I argued in a recent Fabian pamphlet that it really did not make sense that the House of Commons spends several days a year discussing the Queen's speech, which outlines the government's legislative programme for the forthcoming year without ever debating the Commission's Annual Programme, which gives rise to some 40% of our domestic legislation. Similarly our specialist Committees which scrutinise European legislation meet largely in private and do not draw on the extensive expertise of our MEPs. Let's be clear, these committees work extremely hard. But their work receives

scant attention from the press and the public, and too often takes place at a time when decisions have already been made. I can not think of a single example where as a result of parliamentary scrutiny, government or Commission plans were changed. Timing is all important if parliament wants to exert political influence in the decision making process.

The Foreign Secretary's statement in the House of Commons on 11th February was a step in the right direction. Of course it will be for the House itself to accept the suggestions he made, but if we do, then we can make significant progress. The government will be laying before parliament a White paper looking ahead for the EU's legislative programme and other activities.

He also suggested a Command Paper in July to provide an interim report and allow for a stock take of progress so far. This would allow the House to become forward looking and pro-active, rather than the current re-active approach.

We should also be able to build on the special committee first established during the Convention on the Future of Europe. Members from the Commons and the Lords can attend, and it will allow for ministers and others to be questioned. I hope that eventually we can involve MEPs in the process and also allow for Commissioners to be questioned by MPs and Lords.

Westminster has to embrace European law making, become more strategic in its work and adapt to the longer time span of decision making which is common in Brussels.

A change of the nature of the political debate in the UK and a Parliament that actively engages in decision making is an essential first step in the direction of - once and for all - bringing Europe into Britain.

Gisela Stuart
Member of Parliament, UK

Scrutinising scrutiny

The debate in UK Parliament on the reform of the role of national parliaments in the EU has been mostly conducted in

the language of scrutiny, notably the scrutiny undertaken by the Houses both directed at government and European institutions. The bottom line is that Parliaments face a dire situation: overload from domestic agendas compounded by new legislation coming from Brussels, an uninformed and misinformed public and political class, and ultimately the sense of being sidelined from political decision-making in Europe.

The emphasis on scrutiny and its strengthening has its limitations. Although scrutiny, or in other words, holding policy makers to account, is a key factor of democratic life, a skewed emphasis on Parliamentary scrutiny might overlook broader issues such as ensuring that the new system in place guarantees a plural and independent representation of interest at the European level. Regional parliaments will clearly have an interest in ensuring that beyond holding the executive to account, scrutiny amounts to plural representation of a state's interests. The fear is that the actual implementation of the provisions in the EU Constitution will receive less attention - with the risk of leaving behind some of the *potential* or spirit of the Convention's proposals. There are in the EU Draft Constitution opportunities to revise the perceived role of national executives as sole or privileged interlocutors in the EU arena.

In line with the traditional flexible and non-involvement approach, the Constitution leaves to the discretion of states the establishment of concrete mechanisms to allow the enhanced role for national parliaments. Thus for instance, it will be up for each Member State to decide whether early warnings (in the context of subsidiarity tests) can only be triggered on the basis of absolute majorities in the Parliament, or indeed, whether regional parliaments will be involved in the appraisals and how. Indeed, if the final Constitution is adopted, major questions, which point to issues beyond the consensus on enhancing scrutiny, remain: that is, how will the Houses participate in the formation of common parliamentary positions, and how will regional parliaments be associated when the

competences are incumbent on regions? The debate on the provisions in the EU Constitution relating to national parliaments has received a reasonable degree of publicity in the UK. However, how well these provisions will be implemented in practice remains an issue. There exists a danger that by focusing only on enhanced scrutiny, implementation measures may overlook the possibilities for opening EU decision-making processes beyond state executives and thus increasing pluralism.

6 Forthcoming

Spring Summit in Brussels

The Irish Presidency has already submitted its annotated draft agenda for the Spring European Council, which will take place on 25 and 26 March in Brussels. The Presidency has limited the agenda of the meeting to two main areas: prospects and progress on the IGC, and the review of the Lisbon process.

At the Lisbon European Council in March 2000, EU leaders launched a number of initiatives with the aim of making the EU economy the most competitive economy in the world by 2010. They also decided to review progress on an annual basis, which has fixed the Lisbon Strategy as an agenda item for spring summits.

EU leaders intend to reserve the morning session on 26 March for the annual consideration of the Lisbon strategy on economic, social and environmental renewal. Economic growth and full employment is likely to take prominence. Not only the Irish, but also the following presidencies (Dutch, Luxembourg, British) have declared their intentions of making the Lisbon strategy a top priority.

At the EcoFin Council meeting on 10 February, EcoFin President McCreevy voiced frank criticism about the inadequate efforts made by the Member States towards meeting the Lisbon targets. The growth performance and employment rates have not met Lisbon objectives - reform of health care systems has not even started, and the budgetary positions in the eurozone are deteriorating with wide inflation

differences between the EMU member states. The Irish Presidency will therefore try to do a small number of things and do them right, concentrating on implementing measures in the areas of research, innovation, employment and sustainable growth.

One cannot escape the feeling that the opportunity to discuss progress on the constitutional issues of economic governance linked to the Lisbon agenda will not be seized by the Irish. These issues will most probably be discussed at the second Summit in June 2004 together with the rest of the constitutional issues.

Mechanisms of macroeconomic policy co-ordination are related to the intricacies of inter-institutional balance, especially if one takes into account the Commission's (and the EP's) dissatisfaction with its role in the process of multilateral surveillance (Broad Economic Policy Guidelines) and Excessive Deficit Procedure. Furthermore, although formalised in the draft Constitution, the powers and decision-making procedures of the Eurogroup have been deemed unsatisfactory by some member states. Although decision-making is compartmentalised, links between simultaneous review processes are difficult to avoid. As one of the agenda items of the Spring Summit is structural reform and social cohesion, an opportunity will exist for discussion on budgetary matters, institutional powers of the EP and the Council in the budgetary process - especially in the light of the Commission's proposal on the new financial framework. (See Parallel Developments.) Yet, it has still not been made clear by the Irish if any formal or informal debate on the subject will take place in March.

[Economic and Financial Affairs Council](#)

[Irish Presidency Website-Annotated Agenda](#)

[Irish Presidency Website](#)

[Cordis](#)

[Euractiv](#)

Elections

Spain and Greece go to the polls for General Elections in March (7 and 14

March, respectively), with elections in Malta and Austria likely in April. Will these national elections greatly alter negotiations in a re-launched IGC? It looks likely that although the individual leaders will change, their political parties will remain in power. Nonetheless, the elections may provide an opportunity to re-assess two different aspects of politics on the European stage - how domestic (national) politics and preferences affect European decision-making, and how individual personalities may alter the course of negotiations.

[FAZ](#)

Is Cyprus reunification needed for the Constitution?

Despite a small grenade blast outside the home of Turkish Cypriot Prime Minister Mehmet Ali Talat just hours before a meeting, Greek Cypriot leader Tassos Papadopoulos and Turkish Cypriot leader Rauf Denktaş resumed reunification talks on 19 February with support of "guarantor nations" of Greece, Turkey and the United Kingdom under the auspices of the UN. If the plan is finalised by 22 or 29 March, there is a genuine prospect that a united Cyprus could join the EU on 1 May after conducting referendums on the settlement in the second part of April.

In the talks last year, Denktaş had rejected the reunification plan, but now even Denktaş has changed his mind under the current atmosphere favouring EU accession. If the two sides fail to reach an agreement by 22 March, Turkey and Greece would be brought into talks to resolve the outstanding issues by 29 March. But as Commission President Prodi has indicated, the peace-loving Union cannot face barbed wires, minefields and peacekeeping forces. The European Commission welcomed the launch of negotiations and offered its assistance.

If there is no agreement, the Greek Cypriot state will join the EU, since neither the UN nor any nation other than Turkey recognises the Turkish half of the island as an independent state. If Cyprus remains divided, the legality of *de jure* but not *de facto* accession of the northern part might cause headaches for

the legal authorities. The EU is planning to suspend application of *acquis communautaire* in the northern part and should reunification fail, a political dispute with Turkey on its chances to start accession negotiations is likely.

[Delegation of the European Commission to Cyprus](#)
[U.N. wire](#)

7 News from the Constitution Project



Federal Trust/UACES Conference: Towards a European Constitution

London 1-2 July 2004

With support from BIICL, the Foreign and Commonwealth Office and the European Commission.

This conference will explore the constitutional dimension of the current round of Treaty reform. A major two-day event, the conference will provide a platform for debate on the Convention and the IGC as well as more general themes about the EU as a constitutional project. Speakers include Prof Neil Walker, Prof Ingolf Pernice, Prof Deirdre Curtin, Andrew Duff MEP, Sir John Kerr, Advocate General Miguel Poiares Maduro, Dr Thomas Christiansen, and Prof Charlie Jeffery.

Registration opens on 1 March.
www.fedtrust.co.uk/Conference2004

New Constitutional Online Papers

David Phinnemore, 'The European Convention, the 2003 IGC and the Future of Enlargement', [Paper no. 04/04](#)

Lars Hoffman and Jo Shaw, 'Constitutionalism and Federalism in the 'Future of Europe' Debate: The German Dimension', [Paper no. 03/04](#)

European Law Abstracts

[European Law Abstracts](#) publishes abstracts of working papers, forthcoming articles, and recently published articles related to European law. Coverage includes the law of the European Union, European competition law, European administrative law, European private law, European public and constitutional law, European judicial systems, European legal procedure, and European legal philosophy and legal theory.

Graduate Student Essay Competition

With support from UACES Student Forum, the European Parliament Office in the UK, the Jean Monnet Centre at the University of Manchester, the Jean Monnet Centre at the University of Leeds and the Institute of German Studies at the University of Birmingham. Terms and conditions of the competition are available on our website.

www.fedtrust.co.uk/graduatecompetition

8. Web Corner

Web papers

Notre Europe:

Leading from Behind: Britain and the European Constitutional Treaty, Anand Menon, *Research and European Issues* n°31, January 2004, 76 pages. See: [www.notre-europe.asso.fr/fichiers/ Etud31-en.pdf](http://www.notre-europe.asso.fr/fichiers/Etud31-en.pdf)

UACES Reflection papers:

Please see www.uaces.org/E54.htm for a copy of "Visions of Republicanism and the Future of Europe", written by Dimitris N. Chysochoou.

IDEAS: European Community Studies Association Austria (ECSA-A) includes European Integration online Papers (EIoP). See: ideas.repec.org/s/erp/eiopxx.html

The SOSIG EuroStudies Gateway is a free Web-based descriptive database of high quality European information sources on the Internet. It offers targeted subject access to learning and research resources in the social sciences for the whole of Europe. See: www.sosig.ac.uk/eurostudies/

Books

Two new books on the Convention have appeared:

L'Europe en otage? See: www.notre-europe.asso.fr/convention/

Histoire secrète de la Convention européenne, Fondation Robert Schuman

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9. External Events

Lecture: 'Governance of Fundamental Rights in the EU' by Professor Olivier De Schutter, University of Louvain-La-Neuve. 8 March 6 p.m. King's College, London.

Contact: cel@kcl.ac.uk

Jean Monnet Café: 'Brussels Enlargement: what will happen?' with HE Stefan Füle, Ambassador of the Czech Republic and Dr. Kirsty Hughes, Centre for European Policy Studies. This event is co-organised with the Federal Trust for Education and Research, London. 18 March 6-7.30 p.m. Café Muse, Oxford Road, Manchester.

Contact: jan.dormann@man.ac.uk

Conference: 'Beyond the Euro: Democracy and the European Union Constitution: A Conference on the Future of the European Union', University of Hull, 25 March 11am - 3 pm.

Contact: euro-info-centre@hull.ac.uk

Conference: 'Britain between two continents? The UK, the EU, and the US'. Speakers include Prof Fritz Scharpf, Prof Alan Milward, and Prof Christopher Hill. This event is co-sponsored by the Federal Trust for Education and Research. London Metropolitan University, London, 26-27 March.

Contact: iset@londonmet.ac.uk

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