

# The European Union's Democratic and Other Deficits: Back to the First Principles

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# THE EUROPEAN UNION'S DEMOCRATIC AND OTHER DEFICITS: BACK TO FIRST PRINCIPLES

GIANDOMENICO MAJONE

*Es geht um nicht mehr und nicht weniger als dass wir der historischen  
Begründung der Europaeischen Union eine Neubegründung hinzufügen*

Angela Merkel (Erste europapolitische Regierungserklärung im Bundestag)

## 1.\*Introduction: A Middle Age Crisis?

Even for institutions, half a century is not a *quantité négligeable*, and this is a fortiori true for a new polity such as the EU. For many people, the fiftieth birthday is the occasion for a realistic assessment of their accomplishments and failures so far. Unfortunately, the official celebrations of the fiftieth anniversary of the signing of the Treaty of Rome showed few signs of realism. On March 25, 2007 in Berlin, Frau Angela Merkel as President of the EU Council repeated that “European integration has given us peace and prosperity. It has created a sense of community and overcome hostilities”. I say “repeated” because the opening lines of the European Commission White Paper on *European Governance* read: “European integration has delivered 50 years of economic prosperity, stability and peace. It has helped to raise standards of living, built an internal market and strengthened the Union’s voice in the world.” (Commission 2001:9). These or similarly optimistic assessments are propagated by EU leaders on every possible occasion. It can be shown, however, that the accomplishments celebrated by these leaders are more in the nature of legitimating myths than actual achievements of the integration process. This is not to deny that such Euro-myths, like all myths, contain a grain of truth. It is certainly true that since the end of World War II Europe

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has experienced unprecedented prosperity. The doubts raised by knowledgeable observers of the European scene concern, not the reality of economic progress, which gives the myth the necessary plausibility, but the causal influence of the integration process on the economic development of the continent. If that causation cannot be clearly established—and most careful quantitative studies indicate that the gains from the Common Market were very small in relation to the increases in income that the members of the Community enjoyed in the decades since the end of World War II—then it must be concluded that the myth of fifty years of prosperity made possible by European integration rests on the *post hoc, ergo propter hoc* fallacy: inferring a causal connection from a mere sequence in time. For the relevant evidence I refer the reader to my forthcoming book (Majone 2009).

What about the claim that European integration has also delivered fifty years of peace and stability, and strengthened the Union's voice in the world? Again, it is certainly true that since the end of World War II Western Europe has enjoyed more than half a century of uninterrupted peace. But once more the doubts concern the causal role of the integration process in the preservation of international peace in the old continent. A moment's reflection suggests that it is hardly believable that after the disastrous results of two world wars in fifty years, West European states had either the resources or the will to use again military means to resolve their conflicts. This is precisely the conclusion Albert Hirschman had reached almost thirty years ago: "[T]he European Community arrived a bit late in history for its widely proclaimed mission, which was to avert further wars *between* the major Western European nations; even without the Community the time for such wars was past after the two exhausting world wars of the first half of the twentieth century" (Hirschman 1981: 281, emphasis in the original). The present strength of the European peace movement proves that the public mood has not changed much, in this respect, since the end of the war. The aspiration to enduring peace and the "repudiation of war" expressed in the post-1945 constitutions of countries like Germany and Italy, explain the reluctance of the member states to engage in military actions—not only in distant theaters but even in Europe's backyard. When the Yugoslav crisis broke out in June 1991, Jacques Poos, the Luxembourg foreign minister and President of the European Council for the first six months of that year, declared: "This is the hour of Europe, not the hour of the Americans" (cited in Gordon and Shapiro 2004: 33). Unfortunately, the EU proved unable to enforce stability and peaceful coexistence among the peoples of the former federation, and had to appeal to the United States for help. The civil war in Bosnia was

ended only by the intervention of the American superpower which mediated and guaranteed the Dayton Agreement of November, 1995 between Serbs, Croats, and Moslems. Again in 1999, this time in Kosovo, the EU was forced to ask the military assistance of the United States—an assistance which President Clinton was reluctant to give, and which was finally provided only under the condition that the war should be conducted on American terms, i.e., only from the air—with the well-known disastrous consequences for the population and the civilian infrastructure of Serbia.

The official statements mentioned above, and many similar ones that could be cited, are expressions of a peculiar political culture which predisposes European leaders to make commitments which they are, in fact, unable to honor, see the following section. In March 2000 the European Council launched the “Lisbon Strategy” with the promise that by 2010 the EU would overtake the United States, becoming “the most advanced, knowledge-based economy in the world”. This boastful announcement was reminiscent of analogous announcements made routinely by Soviet planners—and was treated as such by some experts who knew that the productivity gap between the American and the European economies made the goal unachievable. In March 2005 the same European Council, finally aware of the problems, quietly shelved the deadline (while maintaining the open-ended commitment) amid the general indifference of the public, the media, and the vast majority of EU scholars. Now, empty promises and rhetorical commitments are in politics, everywhere. At the domestic level, however, opposition parties and the media set limits to what a politician can say without paying the consequences at the next elections. However, the very notion of opposition parties is meaningless at EU level—it is largely replaced by inter-institutional conflict, which is a very different thing (Majone 2005). This explains why at this level the accountability is arguably even more serious than the democratic deficits. For example, it has been rightly observed that the right of censure of the European Parliament over the Commission is more similar to the power of the US Congress to impeach the President than to the power of a parliamentary majority to withdraw the support of the government. In fact, to censure the Commission on a question of policy is extremely difficult given the absolute majority required—a much higher figure than can be achieved by any one party in the Parliament. When the Santer Commission resigned in 1999 in anticipation of a vote of censure, it did so not because of differences over policy, but as a result of charges of incompetence and corruption (Shackleton 2006: 119).

What about the media? The absence of a European public opinion is often mentioned when the limited role of the media in debating EU issues is under discussion, but I think that this problem is less serious than it is generally claimed, at least with reference to the question of public accountability: well-informed *national* media could in principle play a quite important role in enforcing accountability. The truth is that national media are typically neither well informed about, nor terribly interested in, European issues. Of course, in publications such as *Der Spiegel* one can read often enough criticisms of “Brussels”: the fat salaries of Eurocrats, the alleged lack of transparency, or cases of outright corruption, but such reporting tends to be too one-sided, and hence does not contribute to the enlightenment of public opinion. One gathers the impression that the correspondents from Brussels understand the system about which they are reporting much less than their colleagues posted in important national capitals. This is regrettable but understandable in light of the following factors. First, the institutional architecture of the EU is baroque, the methods of policymaking, confusing in their variety. To make matters worse, the observer’s understanding cannot be improved with the help of analogies drawn from the practice of contemporary democratic polities. Such analogies are misleading rather than helpful: as I have shown in some detail in a previous publication, the institutional architecture designed by the Treaty of Rome reveals striking similarities to a pre-modern model of governance known as “mixed government”. According to the philosophy of mixed government, the polity is composed, not of individual citizens but of corporate bodies (“estates” or “Staende”) balanced against each other and representing the main political and social interests in the polity; and it is governed by mutual agreement of the corporate bodies rather than by a political sovereign. In practice, the prime theme of the political process was the tug-of-war among autonomous power centers over the extent and security of their respective jurisdictional prerogatives and immunities—the maintenance of what in the EU is called “institutional balance”, one of the key elements of the Community Method (Majone 2005: 46-51). Among legal scholars the one who saw most clearly the pre-modern features of the institutional architecture designed by the drafters of the Rome Treaty was Jean-Paul Jacqué (1991) when he wrote that the organizing principle of the European Community is not the division of powers (as in modern constitutional democracies) but the representation of (corporate) interests.

Now, to understand how such a system works under contemporary conditions, one has to study it in great detail, but here we run into the second of the factors mentioned above:

namely, the non-specialist observer has little incentive to devote the necessary time to such study since the general public has traditionally shown very little interest for EU matters. A striking demonstration of the popular disinterest for such matters is the steadily declining turnout in European Parliament elections: from 63.0 per cent in 1979 to 61.0 in 1984, 58.5 in 1989, 56.8 in 1994, 49.4 in 1999, and 45.7 in 2004. In Germany, traditionally considered a strongly pro-integration country, the turnout in European elections declined from 65.7 per cent in 1979 to 43.0 in 2004; while in the member states from Central and Eastern Europe which in 2004 took part in European elections for the first time, the turnout varied between 28.3 per cent in the Czech Republic and in Slovenia, and 17.0 per cent in Slovakia. The main reason of such low turnouts is well-understood: European elections are not about European issues, but about national political issues, national political parties, and the fight for national political office. After half a century of elite-driven integration, the citizens of the Union continue to see in the nation state the natural (and only real) arena of democratic politics.

In the past, lack of interest in EU matters was also due to the highly technical nature of much European legislation, which appeared too remote from the everyday concerns of citizens. The centralization of monetary policy; the constraints on the fiscal autonomy of the national governments imposed by the Stability (and Growth) Pact; not least, the “big bang” enlargement of the Union, have changed popular perceptions dramatically. Nowadays, the decisions taken by the European Central Bank in Frankfurt, unlike most decisions taken in Brussels, are widely reported by the media, and have a direct impact on millions of consumers since they affect interest rates of residential mortgages, conditions of consumer credit, and also (via the Pact) the availability of social services. Also the consequences of enlargement—from unregulated immigration to petty and organized crime, and unemployment—appear to many Europeans to be both obvious and threatening. Such fears are quite widespread: in a 2006 survey by Eurobarometer on “The Future of Europe”, 63 per cent of respondents in the EU-15 (70 per cent in Austria and France) believed that enlargement would create unemployment, up from 43 per cent in 2003.

The greater salience of European decisions is likely to produce a stronger popular demand for greater effectiveness of EU policies, not just in the monetary field, but more generally—hence also a demand for more accountability by results. By the same token, poor economic performance will pose more of a threat to the credibility and legitimacy of EU institutions. Not by chance, the reasons given by French and Dutch voters for their rejection

of the Constitutional Treaty were mostly of a socioeconomic nature: a stagnating standard of living, unemployment, price increases allegedly caused by the introduction of the euro, and fears of immigration from the new, and much poorer, member states. It is difficult to overemphasize both the novelty and the significance of popular demands for results. Until recently, it did not matter greatly whether or not public opinion supported, or even knew much about, European integration. The elaborate compromises reached at the EU level were usually pushed through national parliaments, where the governments that had signed the deal dominated the agenda. However, the permissive consensus of the past was possible only as long as the Euro-elites managed to keep European issues out of the political debate. EMU, Eastern enlargement, and, not least, the French and Dutch rejections of the Constitutional Treaty, and the Irish rejection of the Lisbon Treaty, have contributed to the politicization of “Europe”, even in traditionally pro-integration countries. European leaders are becoming aware that their voters are no longer willing to take the benefits of integration on faith. At their summit of June 2005, EU leaders declared that “the citizens remain committed to the European project...[but]...expect the Union to prove its added value”. One year later, the same body promised that it would try to improve the delivery of concrete results from Union policies.

As the signs of crisis multiply, the question is how the EU can be made fit to face the challenges of the future. The political culture of total optimism has influenced also many students of European integration, who assume that the EU is, in the language of biology, “developmentally flexible”. For instance, a legal scholar writes of “the inherent ability of the EU integration process to constantly reinvent itself as part of an evolutionary process of political and economic survival” (Szyszczak 2006: 487). Another scholar argues that the approaches to integration that have been followed for half a century are still basically valid, and capable of evolving in response to changing pressures and new priorities (Dogan 2006). Most political scientists seem to share this optimism. Against such rosy views, I shall argue that in order to diagnose correctly the many signs of disillusionment, and then think of possible remedies, it is necessary to reexamine the basic assumptions, goals, and methods which have guided the integration process for half a century.



## **2. Top Down Europe: Making Europe without Europeans**

European unification—i.e., not only economic, but also political integration, albeit of the federal type---was and continues to be an elitist project. Unless this point is clearly understood and constantly kept in mind, the development of European integration, from the founding treaties in the 1950s to the constitutional debacle of 2005, and the Irish No to the Treaty of Lisbon—a text carefully drafted so as to minimize the probability of popular referendums in the member states--remains largely unintelligible. Of course all key ideas of modern history, from popular sovereignty to the ideas of nation, nation state, and citizenship, were initially advanced by intellectual and political elites—were “invented”, to borrow the terminology used by Edmund Morgan in his classic study of the rise of popular sovereignty in England and America. Thus James Madison’s “invention” of an American People distinct from, and superior to, the peoples of the thirteen former colonies turned out to be a decisive move in the struggle to replace the Articles of Confederation by a strong federal constitution. To quote Morgan: “As the English House of Commons in the 1640s had invented a sovereign people to overcome a sovereign king, Madison was inventing a sovereign American people to overcome the sovereign states. It was not one of those inventions for which the world was unprepared, but an invention crying out for realization” (Morgan 1988:267). Such timely conceptual inventions prove their vitality by their capacity to mobilize the people and push them to political action.

Also the idea of a politically and economically united continent has been propagated by some of the most distinguished intellectual and political leaders of twentieth century Europe. Names like Richard Coudenhove-Kalergi, Aristide Briand, Gustav Stresemann, Denis de Rougemont, the Spanish philosopher Ortega y Gasset, and two Nobel Prize winning economists—Maurice Allais and Lionel Robbins--come to mind. Determined to realize the ideas of these men, after World War II a new generation of federalists became convinced that only by appealing directly to the peoples of Europe would it be possible to build a federal state against the resistance of the national governments. Federalism was to be the new orthodoxy superseding the ideological cleavages of the past. Unfortunately, in spite of some promising signs in the years immediately following the end of the war, federalist ideas proved to be untimely, and thus unable to mobilize the people. In the course of half a century a certain Europeanization of intellectual, economic, and political elites has taken place, but this

process hardly touched the vast majority of citizens. All attempts to induce a transfer of loyalties from the national to the supranational level—by such measures as the direct election of the EP, various social-policy measures, the common agricultural policy (CAP), or the policies of regional aid and social cohesion—failed completely in this respect, when they did not increase the level of conflict among the member states, as in the case of the CAP.

Political symbolism—which had been so important in rallying mass movements in support of the cause of national unification in the nineteenth century—did not help. A European logo and flag, an EU anthem, a standardized European passport and driver license, EU citizenship, Brussels-sponsored games and sport events, an official “Europe Day” public holiday: these and other “cultural actions” meant to create a new kind of European consciousness, do not seem to have caused any transfer of loyalties to the European level. In an opinion survey conducted in March 2007 by the German network, ZDF, on the occasion of the 50<sup>th</sup> anniversary of the signing of the Treaty of Rome, 60 per cent of respondents even doubted the existence of a common European culture (*SPIEGEL ONLINE* of 19 March 2007). In fact, such culture-building initiatives seemed to echo many of the techniques and methods used in the past by nationalist elites to forge Europe’s existing nation states—precisely the model that EU leaders allegedly seek to transcend. In sum, no “Europeanization of the masses” has taken place even remotely comparable to that “nationalization of the masses” so perceptively analyzed by George Mosse in the case of Germany, but which occurred in all countries of West Europe during the nineteenth century. After the “war of liberation” against Napoleon in 1813-14, what was before an elite movement in favor of German unification became “a mass movement and as such embraced many different classes in propagating a fervid belief which became a major force of its own” (Mosse 1975: 15).

Surprisingly, the implications of the failed Europeanization of the masses have always been minimized, even completely ignored, by students of European integration. The explanation of this lack of sensitivity to such an important, and obvious, phenomenon can only be the elitist bias of traditional European studies. The authors of the first social-scientific analyses of the integration process—Ernst Haas and his neofunctionalist school—held that the bureaucratized nature of European states entailed that all important decisions are made by elites: public policymakers, but also economic elites, trade unions, professional associations, business lobbies, etc. Public opinion at large, on the other hand, was deemed to be unimportant (Haas 1958: 17). Andrew Moravcsik has aptly summarized this elitist stance:

“Elite groups most intensely concerned with an issue, Haas asserts, have the greatest impact on national decision-making, which is why a majority, in the strict sense, is not required to make policy” (Moravcsik 2005: 352). Like crypto-federalists à la Monnet, but unlike the post-war generation of federalists, Haas and his school thought that the basic problem was not how to “Europeanize the masses”, but rather how to make “Europe without Europeans” (Schmitter 2005). In the words of Pascal Lamy’s, former European Commissioner and erstwhile lieutenant of Commission President Jacques Delors: “Europe was built in a St.Simonian way from the beginning, this was Monnet’s approach: The people weren’t ready to agree to integration, so you had to get on without telling them too much about what was happening” (cited in Ross 1995: 194). Both neofunctionalists and cryptofederalists badly underestimated the importance of broad popular support for the long-term viability of the integrationist project. They also produced a political culture that is distinctly unique in the contemporary world of liberal democracies.

### **3. Integration and Democracy: The Big Trade-Off**

The EU’s “democratic deficit”—the absence or incomplete development of the institutions and practices of parliamentary democracy—is the most important consequence of the elitist nature of the integration process; that is to say, of the failure to convert a majority, or even a significant minority, of Europeans to the cause of political integration. The reason is fairly straightforward: in the absence of popular support for the political unification of the continent, the founding fathers of communitarian Europe, and all integrationist leaders after them, were faced with a fundamental trade-off between democracy and integration—which they consistently resolved in favor of integration. Pascal Lamy’s characterization of the Monnet approach, reported in the preceding section, gives a good idea of the atmosphere prevailing not only in Brussels, but also in most national capitals. The prime example of how the integration/democracy dilemma was resolved is provided by the so-called Community Method, which defines the role of the various European institutions and the modes of their interactions. From a normative point of view, the most striking feature of this method is the monopoly of agenda setting enjoyed by the non-elected European Commission: where the method applies—roughly, in all matters related to market integration, but with constant attempts by the Commission to extend it to most areas of EU competence—only the

Commission can make legislative and policy proposals. The Commission also proposes the legal basis for the measure under discussion, which basis determines the required majority in the Council.

This monopoly of legislative and policy initiative granted to a non-elected body represents such a striking violation of fundamental democratic principles as to be unique in modern constitutional history, and fairly rare even in ancient history. The model is not Athens but Sparta, where the popular assembly voted Yes or No to proposals advanced by the Council of Elders, but had no right of proposing measures on its own account. If one considers also non-democratic polities in modern Europe, then there is the illustrious precedent of the French Constitution of 1799, under which Napoleon, as First Consul, enjoyed a monopoly of legislative initiative. On the other hand, even the Constitution of the German Empire of 1871 granted no right (let alone a monopoly) of legislative initiative to the executive headed by Bismarck; only the two legislative branches, *Bundesrat* and *Reichstag*, could initiate legislation, at least formally.

It is of course true that in contemporary parliamentary systems most legislative proposals are introduced to parliament by the executive as draft legislation. Once legislators receive such proposals, however, they are free to change or reject them. This is not the case under the Community Method, where as a rule the member states represented in the Council of Ministers may modify Commission proposals only under the stringent requirement of unanimity. In parliamentary systems, moreover, the executive cannot preempt the right of initiative of parliamentary parties and of individual members of the legislature. In a separation-of-powers system like the United States, on the other hand, not only do legislators have the final word over the form and content of bills, but, further, only legislators can introduce bills. In the course of a typical congressional term, members of Congress will introduce several hundred bills on behalf of the President or of executive-branch agencies. During the same period, members of Congress will introduce on their own behalf as many as fifteen thousand or twenty thousand bills (McCubbins and Noble 1995).

Note, too, that the Community Method violates not only fundamental principles of parliamentary democracy, but also the constitutional principle of separation of powers. In addition to playing a key role in the legislative and policy process of the Union by virtue of its monopoly of agenda setting, the non-elected Commission also exercises considerable rule-

making powers in the implementation of Council decisions, and quasi judicial functions when it acts as the guardian of the treaties. That the framers of the 1957 Treaty of Rome, all good democrats, were willing to violate basic democratic and constitutional tenets for the sake of European integration, is something requiring more attention than is usually given in the literature. For the Founders, the Commission's monopoly of legislative and policy initiative was a means of credibly committing the member states to the process of European integration (Majone 2005). If also the Council had been granted an autonomous power of legislative initiative, then the integration process could be arrested, or even turned back, in response to changing national preferences, or for short-run political gains at the domestic level. Without the Commission's monopoly of agenda setting the whole idea of an *acquis communautaire*—the body of Community law built up over the years--becomes meaningless. But such functional justifications only underline the importance of limiting, rather than extending, the range of application of the Community Method. In the long run, the priority given to implicit integration aims over explicit policy objectives—a priority which is the essence of the Monnet approach, and which is made possible by the unique position of the Commission in the institutional architecture of the EU—is bound to further undermine the legitimacy of the European project. Perhaps even more indicative of the priority assigned to integration is the fact that the EP has never contested the legitimacy of the Commission's monopoly of legislative initiative. The reluctance of this body to claim the birthright of a true parliament—the power to initiate legislation--proves that half a century after ratification of the founding treaty, and in spite of all official declarations about the democratic nature of the EU, European institutions still consider integration a higher value than democracy.

Some years ago a sympathetic American observer wrote: “It is unimaginable that Americans would grant such political power as the Commission staff enjoys to a career bureaucracy. Not surprisingly, the people of Europe increasingly expect democratic accountability by Community political and bureaucratic leaders” (Rosenthal 1990:303). These words were written a few years after the Single European Act (SEA) greatly extended the European Community's competences. It is indeed significant that the issue of the democratic deficit was hardly ever raised before the SEA. The delegation of important policymaking powers to a non-elected body could be normatively justified as long as the Community's powers remained limited. Also at the national level certain technical tasks are delegated to non-elected bodies (“non-majoritarian institutions”) such as independent central banks and

regulatory authorities. Delegation of powers to non-majoritarian institutions may be reconciled with the theory and practice of representative democracy as long as the objectives of such institutions are clearly and narrowly defined, and policy discretion is strictly disciplined by means of efficient *ex ante* and *ex post* controls. Now, most EU policies are regulatory in nature, and in this respect the Commission may be considered a sort of super-agency (Majone 1996). However, it has been assigned a variety of other executive, legislative, and quasi-judicial functions. Moreover, the institution has become increasingly politicized over the years--albeit in the sense of bureaucratic, rather than democratic, politics. The multiplicity of functions and objectives assigned to the Commission expands the scope of this institution's discretionary choices, complicating the task of evaluating the overall quality of its performance. The collegial nature of the Commission compounds the difficulty. The European Parliament is understandably reluctant to dismiss the entire college in order to sanction a single Commissioner—in spite of this possibility having been offered by the Treaty of Amsterdam. Moreover, since the Commission has been assigned a large number of separate tasks, it is extremely costly to dismiss it even when there is intense dissatisfaction with how it carries out one particular task.

Thus the real normative issue is not so much the delegation of certain functions to the non-elected Commission, as the scope and open-ended nature of the delegation. Surprisingly, the limitation and more precise definition of the powers transferred to the European level are seldom, if ever, mentioned among the possible solutions to the EU's legitimacy problem. An extensive body of academic literature on the democratic deficit has suggested a variety of remedies--greater transparency, more participation, better communication, a deeper "social dimension", and especially, more powers to the European Parliament--which so far have failed to improve the situation. It is also important to note that the priority given to integration over democracy is not an exclusive feature of the early stages of integration process, as shown in the next section.

#### **4. Monetary Union and the Democratic Deficit**

The willingness of integrationist leaders to sacrifice democracy for the sake of deeper integration was again revealed at the time of the Maastricht Treaty, when it was decided to give quasi-constitutional status (i.e., a treaty basis) to the independence of the European

Central Bank. Before monetary union, the independence of the national central banks had only a statutory basis. This meant that in principle national parliaments could always change the rules if they thought that the national bank was using its independence in a manner with which they disagreed. This was true of the German *Bundesbank* and is still true of the Bank of England and of the US Federal Reserve. In contrast, to change the rules under which the ECB, and the national banks as members of the European System of Central Banks (ESCB), operate requires a treaty revision acceptable to all the member states—a complex and politically quite difficult procedure. The net result is that the national parliaments of the members of the eurozone have lost any control over monetary policy, while the European Parliament has no authority in this area. The ECB is free to operate in a political vacuum since there is no true European government to balance its powers, and even the institutions of economic governance are still poorly defined. In contrast, an independent central bank like the Federal Reserve operates within an established governmental structure where Congress, the President, and the Treasury can provide all the necessary political counterweights.

Unlike its American counterpart or the Bank of England, the ECB enjoys not only *instrument* independence, but also *goal* independence. When a central bank enjoys only instrument independence, it is the government which fixes the target—say, the acceptable level of inflation—leaving the central bank then free to decide how best to achieve the target. Because of the grant of both instrument and goal independence to the ECB, some scholars now complain about the democratic deficit of the European central bank, arguing that in order to reduce this deficit the Bank should move to a governance model excluding goal independence (Gormley and de Haan 1996). Unfortunately, also these analyses and the proposed solutions, evade the deeper issue. The ECB's exceptionally high level of independence was meant to compensate the shortcomings of macroeconomic governance at European level. Because of the decision to pursue monetary integration in the absence of political agreement on crucial institutional and policy issues, the formal and informal mechanisms used to temper the independence of national central banks are not available at EU level. For example, some economists have argued that the socially optimal delegation of monetary policy is not to a completely independent central bank. Rather, in order to maximize social welfare, governments should have the option of overriding the central bank's decisions under some particular circumstances. Thus, the "optimal" central bank should follow a non-linear decision rule: in case of small output shocks it determines the acceptable inflation level

independently, while in case of large disturbances, it follows the government's preferences. But at European level there is no economic government, no generally accepted political counterweight to the central bank, hence it is not clear how appropriate procedures for overriding ECB decisions could be designed and enforced.

Some EU leaders, in particular French President Sarkozy, think that the governments of the members of the eurozone should have a bigger say in the making of European monetary policy, particularly in decisions concerning exchange rates: an excessive appreciation of the euro, they point out, is damaging the national economies. In March 2008, when the euro reached new levels against the dollar, the Director General of the International Monetary Fund, Dominique Strauss-Kahn, joined the debate, saying that the excessive appreciation of the European currency was caused by the excessive power of the ECB. According to Strauss-Kahn, the ECB fulfils quite well its statutory duty of containing inflation, but the absence of a finance minister of the EU means that at European level concerns about inflation *de facto* prevail over concerns about growth. The ECB is overpowering precisely because it has no political counterweight. However, Germany, supported by other members of the former D-Mark block, is resolutely opposed to any significant change in the present framework of economic governance. The ECB itself strongly resists any external interference in its own decisions. For this reason, it does not wish to be considered a "European institution", as had been suggested during the debate on the now defunct Constitutional Treaty. The fear is that having the same legal status as the Council, the EP, the Commission, or the Court of Justice could entail some commitments—such as expectations of inter-institutional cooperation, and consultations before taking certain decisions—which could threaten the ECB's total independence. Under the EC Treaty the ECB is simply a "body"; hence, it is not stuck in the same "constitutional glue" that is supposed to hold together the European institutions listed as such in the Treaty.

It has been argued that because of the absence of an effective system of economic governance at European level, the complete political insulation of the ECB is necessary to the credibility of the new common currency. At any rate, this insulation was imposed by Germany on the other member states as a non-negotiable condition for giving up the Deutschmark in favor of the euro. This being the situation, it seems rather pointless to complain about the "democratic deficit" of the ECB without first questioning the wisdom of a monetary union introduced less for sound economic reasons than in order to advance the



integration process, or to favor particular national interests. The same critics often point to the US Federal Reserve as the better model, being politically more accountable, and not exclusively concerned with price stability, but they forget that the Fed operates within the framework of a fully fledged system of government

In sum, scholars who deplore the EU's "democratic deficit", in its different facets, tend to complain about epiphenomena, when they should go back to first principles in order to identify underlying causes and possible remedies. Without going back to first principles there is no hope of understanding, let alone resolving, the legitimacy problems of the EU. In case of the ECB, going back to first principles means recognizing that certain crucially important mechanisms of economic governance should have been agreed upon long before the creation of the eurozone. Until these holes in the policymaking machinery are filled, authority over the entire domain of monetary policy will continue to flow by default to the ECB; in which case responsibility for the deficit of political accountability should be attributed less to the central bank than to those who hoped to make monetary union the capstone of a European federal structure. In case of the Community Method, a basic reassessment of the situation should begin by asking whether the normative costs entailed by the Commission's monopoly of legislative and policy are still justified in terms of actual results. Commission executives are of course fully aware of the strategic importance of agenda control, and look for every possible occasion to expand its scope. But this can only aggravate the democratic deficit, and even in efficiency terms one can question the wisdom of extending the Commission's control of the policy agenda to areas, such as Justice and Home Affairs (JHA), where the national governments enjoy a significant comparative advantage in terms of expertise and material resources.

## **5. The Accountability Deficit**

The real problem—in the sense of a condition about which something could conceivably be done without a root-and-branch reform of the current approach to European integration—is not so much the democratic deficit as the accountability deficit: accountability, rather than an unattainable full democratic legitimacy, should thus be the main concern of those who wish to enhance the legitimacy of the Union. Democracy, as we know it at the national level, cannot be replicated at the European level—unless and until a majority of EU citizens are persuaded

to support a federal super-state. Under present conditions the democratic deficit could be reduced—for example, by giving a greater voice to national parliaments on matters related to the vertical division of competences; by making it easier for the European Parliament to censure the Commission on questions of policy; or by setting more precise limits on the powers of the European institutions—but not eliminated. On the other hand, the problem of establishing an effective system of accountability has become urgent, especially since the centralization of monetary policy. To repeat an important point, before monetary union it was difficult for ordinary citizens, and sometimes even for the experts, to allocate responsibility for poor policy outcomes as between “Brussels” and the national governments. The centralization of monetary policy, and the constraints on the fiscal autonomy of the national governments imposed by the Growth and Stability Pact, have changed the situation dramatically. For the first time the practical implications of a European policy are immediately perceived, not just by elites and special interest groups, but by the average citizen.

Under these conditions it will be necessary to pay more attention to issues of accountability than to the search for the elusive democratic legitimacy of an elitist integration process. The EU is an important special case of a general problem which has been clearly outlined by Ruth Grant and Robert Keohane in a path-breaking paper on “Accountability and Abuses of Power in World Politics” published in the *American Political Science Review* of February, 2005. The problem discussed by these authors is the same one that ought to concern students of the EU: how to enforce accountability in situations where the traditional standards of democratic accountability are either irrelevant or unenforceable. The first step toward a better understanding of the issue is to recognize that accountability to the voters, or to their elected representatives, is only one dimension of accountability, and not necessarily the most relevant one. Even in the context of democratic polities, accountability to courts of law, to one’s peers, to expert opinion, or to particular segments of public opinion, may be the most appropriate way of giving the reasons of one’s decision, and of activating other accountability mechanisms. Whatever the political and institutional context, accountability involves two processes: evaluating the outcome of a decision, and/or the decision making process, in terms of a given set of standards; and imposing sanctions in case the decision makers did not fulfill their responsibilities under those standards. Using these two parameters, we can see why the EU suffers from a serious accountability deficit.

To begin with, European policies are often initiated less to solve concrete problems than to drive forward the integration process, or to facilitate political deals between member states. It follows that there are few incentives to seriously evaluate actual policy outcomes, unless the budgetary costs of the policy become intolerable. This explains why ineffective policies can survive, unexamined and unchallenged, sometimes for decades. Policy evaluation is further complicated by the habit of pursuing several objectives with the same policy instrument. This characteristic feature of the Monnet method of integration by stealth (Majone 2005) not only tends to produce suboptimal results, but also complicates the evaluation process by allowing the policymakers to define their priorities as they see fit.

The independence of the European institutions, one of the distinctive features of the EU's institutional architecture, implies *inter alia* that many of the traditional mechanisms of democratic accountability are absent. In particular, all European treaties emphasize the apolitical character of the Commission, insisting on its complete independence 'from any government or from any other body.' Up to a point, this insulation from the political process makes sense if we think of the Commission as the guardian of the treaties, or as an independent regulatory authority. This was indeed what the institution was intended to resemble originally. In the meanwhile, this independent institution has become a highly politicized body, but the framework of political accountability remains quite weak. As already mentioned, the dismissal of the entire Commission is a measure which the European Parliament is understandably reluctant to use, while the large number of tasks assigned to the Brussels executive makes it very costly to force its resignation in response to even extreme dissatisfaction with the performance of one particular task. Under the Community Method, moreover, only the Commission may initiate policy while the EP—which has never challenged this monopoly—in practice cannot censure the Commission on a question of policy because of the absolute majority required for this. The conclusion is that also the accountability deficit, like the democratic deficit, is largely built into the institutional architecture of the EU. Still, greater concentration on the Commission's core competences would reduce both the strains on its narrow legitimacy basis, and the accountability deficit. As long as integrationist leaders in Brussels and in some of the national capitals keep thinking of the Commission as the kernel of the future government of Europe, rather than as a specialized institution with a well-defined mandate, it will be impossible to design suitable accountability

mechanisms. This ambiguity is evident, for example, in the relations between the Commission and the new European agencies.

The recent proliferation of semi-independent European regulatory agencies has become another, increasingly significant, source of the accountability deficit. The academic literature has not paid sufficient attention to this aspect of a potentially quite useful institutional innovation. The main problem is not the excessive discretion of the agencies but, on the contrary, the fact that agency heads are not allowed to take final decisions, and hence cannot be held responsible for the final outcome of the regulatory process. EU agencies do not have the powers granted to American regulatory bodies, and even lack the more limited competence enjoyed by most regulatory authorities of the member states of the Union. Even the European Medicines Agency (EMA), which comes closest to being a full-fledged regulatory body, does not take decisions concerning the safety and efficacy of new medical drugs, but submits opinions concerning the approval of such products to the European Commission, which then decides. Similarly, the European Food Safety Authority (EFSA) is only allowed to assess risk, not to manage it. Only the Commission can make final determinations concerning the safety of our food.

This politically motivated opposition to European agencies having actual regulatory powers finds some legal justification in a narrow reading of Article 7 of the EC Treaty, which lists the institutions—European Parliament, Council, Commission, Court of Justice, and Court of Auditors—which may carry out Community tasks. This has been interpreted as prohibiting the establishment of additional policymaking bodies, so that nothing short of treaty revision would permit the creation of truly independent agencies. As early as 1958, the European Court of Justice with its *Meroni* doctrine ruled that the Commission could delegate certain of its executive functions to bodies not named in the Treaty, but only subject to strict constraints. In particular, such bodies must not be given any discretionary powers, and the Commission must retain oversight over the delegated competence, and is responsible for the manner in which it is performed. This reasoning is reflected in the current status of the European agencies, most of which engage only in the preparation of regulatory decisions. Even admitting the continued relevance of this doctrine, which a number of legal scholars doubt, its conditions would be satisfied as long as the Commission retains certain control powers. For example, a system in which an agency such as EMA could autonomously adopt marketing authorizations for new medical drugs, would be in line with the doctrine as long as the

Commission retained the power to disallow decisions which it found contrary to European law or to the 'common interest'. In other words, other mechanisms of control, more respectful of agency autonomy, might have met the demands of the European Court.

Since the Single European Act, the delegation of implementing powers by the Council to the Commission has become the norm. 'Implementation', according to the ECJ, includes both rulemaking and adjudication. Hence, once the Council has decided to transfer executive authority to the Commission, it can be expected that the latter will exercise its implementing powers fully, and will especially oppose delegation of rulemaking powers to independent agencies. Any softening of this position, it fears, would entail the loss of treaty-based and judicially affirmed competences. The *Meroni* doctrine and the principle of institutional balance provide the crucial rationalization of the Commission's opposition to independent agencies. In order to defend this position, however, the Brussels executive is forced to ignore, not only theoretical arguments showing that agency independence and accountability are far from being conflicting values (Majone 1996), but also the best international practice. In the United States, for example, the 1946 Administrative Procedure Act and later statutes, such as the Freedom of Information and the Government in the Sunshine Acts, provide an effective accountability framework, without interfering with the legitimate exercise of agency independence. As a result, although American regulatory agencies are independent from direct political control, they are hardly free from strict requirements of public accountability (Freedman 1978).

In contrast, the present European agencies are in many ways beyond the scope of public scrutiny, without any generalized decision-making rules or standards laid down which they must observe, and the process by which they reach their conclusions are subject to limited external monitoring or review. What is more, as long as agencies like EMEA and the Food Safety Authority (EFSA) have no authority to take final and binding actions but must share responsibility with the Commission and a variety of committees of national experts, accountability is reduced to vanishing point. This lack of clear mechanisms of accountability is highly problematic in a polity like the EU, whose legitimacy is increasingly contested. Regulatory failures like the BSE ("mad cow" disease) disaster are always possible, and in such cases citizens want to know whom to blame. This legitimate demand cannot be satisfied under the present institutional arrangements.

## 6. A Federalist Deficit, Too?

A paradoxical consequence of the constitutional debacle of early summer 2005 has been to reinforce the elitist nature of the integration project, to the point that public opinion is increasingly perceived by integrationist elites as the main obstacle to the progress of the federalization process. Actually, doubts about the wisdom of consulting public opinion on European matters were voiced long before the French, Dutch, and Irish referendums, for example by Commission President Romano Prodi. In an interview given to the American journalist Alan Friedman, Mr. Prodi expressed deep skepticism about the usefulness of holding popular referendums on the European Constitution—especially, he stressed, at a moment when all opinion surveys indicate growing opposition to the EU (*The Wall Street Journal* of 30 April 2000). His skepticism was revealed even more clearly when Prodi rebuked the Commissioner for Enlargement—the same Guenther Verheugen who had once admitted that the euro had been introduced “behind the backs of the population”—when the latter suggested that Germany should hold a referendum on any future enlargement of the EU. In a similar vein, some scholars are now beginning to speak of a “referendum threat”, and of a “federalist deficit”—that is, a slowing down or reversal of the federalization process caused by popular referendums: not only those on the Constitutional and Lisbon Treaties, but also future ones, for example on Turkey’s accession to the EU, or on treaty amendments. The argument is that in an association of twenty-seven or more member states whose political, socioeconomic, religious and cultural heterogeneity is probably greater than in any association of states which ever came together to form a new federation, the probability of a negative popular vote is high. The risks of deadlock, the argument continues, are not significant at the level of the EU’s summit diplomacy—where Euro-elites are able to deliberate, bargain, trade votes, and coordinate their moves. The real threat to the federalist cause, it is said, comes from the direct expression of voters’ preferences.

The growing difficulty of treaty ratification by popular vote has made more evident the elitist ethos of pro-integration leaders, who increasingly perceive public opinion as the main obstacle to what they take to be an ongoing federalization process. As *The Economist* of June 28<sup>th</sup> 2008 put it, with reference to the Irish No to the Lisbon Treaty: “Devout federalists have their answer to the question [whether the machinery of Europe can cope if a no vote is allowed to stand]: unanimity is the enemy of progress in an EU of 27 countries”. One of the

favourite arguments against ratification of EU treaties by popular referendum is that voters cannot be expected to read and evaluate technically and legally complex texts running into hundreds of pages—346 pages in case of the Lisbon Treaty. This argument is flawed in several respects. First, it is not only the average voter who does not have the time, or the motivation, to peruse such documents. The Irish prime minister admitted he had not read the Lisbon Treaty, and Ireland’s EU Commissioner, Charlie McCreevy, added that “no sane person” would. Justice Iarhlaithe O’Neill, the High Court judge appointed by the Irish government to provide an impartial treaty analysis, admitted that parts of the text are difficult to understand. It is reasonable to assume that not only the average citizen but also the average member of a national parliament—the body which would have to ratify a new treaty in the absence of popular referendum—would find it hard to understand what was unclear to a High Court judge. The difference is that the average parliamentarian is likely to vote according to party discipline, while the average voter uses the referendum as a rare occasion to express his or her assessment of the European project—voters’ turnouts at referendums are typically higher than at elections for the European Parliament. In sum, it is far from clear why parliamentary ratification of European treaties should be preferable to ratification by popular vote: it is certainly not more democratic, nor is it somehow more rational, or better informed.

According to an influential theory of democracy, moreover, even in national elections it is rational for the average voter *not* to become fully knowledgeable about public affairs. Anthony Downs was the first scholar to give serious attention to the problem of political information in modern mass democracies. Downs’ argument is that the cost of becoming informed about the details of political issues generally outweighs the relative benefits to be derived from voting on an informed basis. The costs of becoming informed—the costs of gathering and selecting data; of undertaking a factual analysis of the data; and of evaluating specific goals in light of the factual analysis—are too high for most voters rationally to invest the time, attention, and resources needed to become politically informed. Rather, rational voters have strong incentives to develop methods of avoiding the high costs of information acquisition. They do so by developing a variety of principles of selection: rules employed to determine what to make use of and what not to. These rules allow voters to make political decisions and form political preferences without becoming fully informed about the content and details of political issues: they focus their attention upon only the most relevant data. This “will allow them to avoid the staggering difficulty of knowing everything the government has

done during the election period and everything its opponents would have done were they in office” (Downs 1957: 217).

In particular, “political entrepreneurs” can expend the resources needed to acquire information and then transmit to the voters. As a matter of fact, political entrepreneurs, such as Mr. Declan Ganley and his *Libertas* movement in Ireland, seem to have played an increasingly important role in recent referendums. Their importance is enhanced by the fact that the political and economic establishment generally support treaty ratification. All the major political parties—on the left and on the right, in government and in opposition--the vast majority of members of the national parliaments, economic leaders (in the Netherlands, also trade union leaders), major newspapers and other media, the European Parliament and Commission—all supported ratification of the Constitutional and of the Lisbon Treaties. In the Netherlands, for example, two thirds of members of parliament voted for the Constitution, almost exactly the same proportion of voters rejected it. Also the vast majority of the Irish establishment was on the side of the Yes campaign. According to polls, 22 per cent of No voters did so because they rejected the claim of the elites that the Lisbon Treaty was complicated, but in the best interest of the people. For many other No voters, their lack of understanding of the Treaty was a sufficient reason to reject it.

Be that as it may, after the rise of mass democracy no political leader has seriously proposed to use the “ignorance” of the voters as an excuse to restrict the right to vote at national and local elections. Also from the viewpoint of democratic theory, therefore, the arguments of integrationist leaders and their academic supporters, against treaty ratification by referendum are flawed. In refusing to meet the requirements of modern mass democracy, pro-integration leaders are conditioned by a political culture in many respects similar to that prevailing before the great reforms of the franchise in the 19<sup>th</sup> century, when policy was considered a virtual monopoly of cabinets, diplomats and top bureaucrats: the political culture of old-regime Europe still influences the supposedly post-modern system of governance of the EU.

In some countries referendums are mandatory in case of amendments to EU Treaties; in other countries it is the national government that takes an autonomous decision to hold a referendum--as was already announced by both the French and German governments in case of Turkey’s accession to the EU. In either case, today the risk is high that the popular vote may block the federalization process. Hence, “[r]educing or even fully overcoming the



federalist deficit might...become of the utmost importance to the future process of European integration” (Trechsler 2005: 410. To reduce this deficit, it is suggested, federalists should be prepared to accept even an increase of the democratic deficit of the Union. This idea of reducing the direct role of the voters in the ratification process is of course the exact opposite of what federalists had been preaching earlier. Thus, after the collapse of the plans for a European Political Community in 1954, Altiero Spinelli and his followers had concluded that instead of relying on cooperation with the national governments in the construction of a federal Europe, it was necessary to mobilize the peoples by means of a popularly elected constituent assembly with the task of drafting a European Constitution. The draft Constitution was to be ratified, not by the national parliaments, but by popular referendums in all the member states. Half a century later, the gulf separating elite from popular opinion has become so wide that neo-federalists are looking for ways of neutralizing the “referendum threat”. But how to do it in practice? The answer suggested by the history of other federations seems to be straightforward: by eliminating the requirement that all the member states must approve the constitution and its subsequent amendments.

A “federalist deficit” of this kind was precisely the problem facing American federalists in the summer of 1787, as they were attempting to amend the Articles of Confederation in the direction of a more centralized federation--something which would have required the assent of all the thirteen former colonies, now sovereign states. Unfortunately a few states opposed ratification of the text prepared by the federalists in the Constitutional Convention. The way to get around this obstacle was found by James Madison. The Preamble to the US Constitution of 1787 opens with the celebrated lines: ‘We the People of the United States, in Order to form a more perfect Union ... do ordain and establish this *Constitution* for the United States of America’. At that time the vast majority of the inhabitants of the former British colonies considered themselves, first and foremost, Virginians, Pennsylvanians, New Yorkers, New Englanders, etc. James Madison’s ‘invention’ of an American People, distinct from and superior to, the peoples of the thirteen separate states, was a conceptual innovation with far-reaching political consequences. The direct appeal to the sovereign people of America was meant to discredit the states’ pretensions of sovereignty—and hence their insistence on the unanimity rule for all decisions affecting their sovereignty--but the fact remains that the practical implications of Madison’s innovation violated an agreement freely accepted by all the states. In the words of Yale’s Bruce Ackerman:

Modern lawyers are perfectly prepared to admit that the Constitutional Convention was acting illegally in proposing its new document in the name of We the People. The Founding Federalists, after all, were not prepared to follow the ratification procedures set out in the Articles of Confederation that had been solemnly accepted by all thirteen states only a few years before. The Articles required the unanimous consent of all thirteen state legislatures before any new amendment could come into effect. In contrast, the Federalists blandly excluded state legislatures from *any* role in ratification, and went on to assert that the approval of special constitutional conventions meeting in only nine of the thirteen states would suffice to validate the Convention's effort to speak for the People (Ackerman 1991: 41; emphasis in the original).

To many of Madison's contemporaries, but also to later political leaders such as John Calhoun, the idea of an American People to whom belonged the constituent power, appeared a myth contrived for political purposes. Still, the myth had some plausibility: a common language; legal systems derived from, and still very much influenced by, English common law; similar political and administrative systems at state level; a fairly homogeneous population, largely of English, Scottish, or Irish stock; above all, a war fought together for eight years against the former colonial power. In sum, the thirteen states "were not forming an altogether unprecedented union, they were perpetuating and perfecting a union which had always existed since the plantation of the British colonies of North America" (Lippmann 1943:73). None of these conditions is even remotely approached in contemporary Europe, so that the Madisonian remedy for the "federalist deficit" is simply unavailable. The impossibility of replicating the strategy of the American federalists in the present European context, provides the most intuitive demonstration, *a contrario*, of the practical consequences entailed by the absence of a European *demos*.

Whether we like it or not, the EU remains, to speak with Madison (*Federalist* 20), a 'government over governments, a legislation for communities'. The democratic legitimacy of such a polity is necessarily limited, which means that the scope of its powers should be correspondingly narrow (see the following section). True, the national leaders in the European Council are democratically legitimated, and so are the governments represented in the Council of Ministers, while European treaties must be ratified by all the national parliaments, and in some cases by popular referendum. Hence, the role of the national political executives and parliaments in the institutional architecture of the Union provides some derived legitimacy. According to many students of the EU, more legitimacy is provided by the directly elected European Parliament, although it is doubtful that the normative capital available to the EP itself is sufficient to legitimate the entire integration process. At any rate, the often expressed

concerns about the EU's "democratic deficit" suggest that a serious legitimacy problem does indeed exist. Instead of economizing the limited legitimacy capital available to the European institutions, the strategy followed by the Euro-elites has always been to first expand the powers of the Union, and then try to find, *ex post*, the requisite normative resources. This is an application of the strategy of *fait accompli* so dear to "European saints" like Jean Monnet and Paul-Henry Spaak. Such an approach is perhaps understandable in light of the elitist character of the federalist project but in the long run it is unsustainable, as shown by the constitutional debacle of early summer 2005, and other recent events. The problem is that the EU's expanding policy commitments are, to use Walter Lippmann's language, insolvent because they are not supported by sufficient normative and material power.

## **7. Europa: Geht es nicht eine Nummer kleiner?**

"Europe: couldn't we have it one size smaller?". The title of an article that appeared in *Die Zeit* a few years ago, expresses well the feelings of many Europeans about the apparently unstoppable growth of the competences, and the indefinite geographical expansion, of the EU. While elite opinion prefers to ignore the accretion of supranational powers as a possible cause of the democratic deficit, public opinion tends, if anything, to exaggerate the extent of the phenomenon. For example, the same survey conducted by the German network ZDF, on the occasion of the fiftieth anniversary of the Rome Treaty, disclosed that 41 per cent of respondents thought that the EU had an excessive influence on decisions taken in Germany, while 46 per cent thought that the European integration process is moving ahead too fast. Large-scale eastern enlargement, on the other hand, is seen by many people in West Europe as a replication of globalization within the boundaries of the EU. The vehement opposition to the Bolkestein General Services Directive was a demonstration of widespread Angst (Majone 2009: chapter 4). Just as people no longer see any natural limits to the geographical expansion of the Union, regardless of socioeconomic problems and geopolitical risks, so they begin to realize that the open-ended commitment to "ever closer union among the peoples of Europe" may be used to justify the steady growth of European competences. Perhaps more than anything else, it is this conception of integration as an infinite process, with no finite goal in view, that seems to worry people. Hence the impression that there is no effective barrier to the continuous, if incremental, expansion of supranational powers. In 1990 a prominent legal scholar and member of the European Court of First Instance, could write that "there is no

nucleus of sovereignty that the Member States can invoke, as such, against the Community” (Lenaerts 1990: 220). When these words were written, few people seemed to object--or to pay attention. The rejection of the draft Constitutional Treaty and the serious concerns of EU leaders about ratification of the new Lisbon Treaty show how much the public mood has changed since 1990.

According to some scholars worries about “creeping competences” are unjustified because the powers of the EU remain quite limited by comparison with those of the national governments. This is a misleading argument. The appropriate standard of comparison is not the omniscient, but democratically legitimated, national welfare state, but the difference in the levels of material and normative resources available to national and to supranational policymakers. In the language of Walter Lippmann (1943), a policy is well-defined and solvent only when commitments and available resources have been brought into balance. In this sense many EU policy commitments are unbalanced and insolvent: taking material and normative constraints into account, one can see that in many areas the Union is overreaching itself. EMU provides the outstanding example of an ostensibly economic, but politically driven, European policy whose commitments and resources—political, institutional and normative--have not been brought into balance. In view of the growing doubts about the wisdom of forcing monetary union before reaching any agreement on political union, it is not surprising that the euro was cited by one-third of Dutch voters as one significant reason for their rejection of the Constitutional Treaty. Already a Danish referendum held in June 2000 had rejected the Maastricht Treaty and, in particular, the third and final stage of EMU, causing European Commissioner Guenther Verheugen to admit that the decision to proceed with monetary union had been taken “behind the backs of the population”, see section 6.

Large-scale enlargement is another example of a EU policy exhibiting a serious mismatch between commitments and available resources. Socioeconomic conditions in the EU-27 are so heterogeneous that income inequality is today greater in the Union than in the arch-capitalist USA. One of the consequences of such heterogeneity is that the model of a Social Europe strongly committed to furthering socioeconomic equality, or at least greater interstate cohesion, through income transfers is no longer credible. The financial resources of the Union are simply inadequate to the task on the scale which the new situation would require, while the richer member states refuse to increase the EU budget, and actually wish to decrease it as a percentage of Union GDP. Also the commitment to a Single European Market

has lost much of its credibility, since unprecedented differences in wages and social standards make it politically impossible to fully integrate the all-important services sector—as shown by the fate of the Bolkestein draft of the General Services Directive (Majone 2009). Experts tend to discount official expectations of a quick convergence of the new member states toward the average level of affluence of the older members. But even if the optimists were right, the underlying problem would not be resolved for the simple reason that the enlargement process is far from being concluded. All the Balkan countries, as well as Turkey, the Ukraine and Georgia are actual or potential candidates for EU membership. In addition, French President Sarkozy is pushing for a Mediterranean Union, open to all members of the European Union and to the countries of the Middle East and North Africa. Even integrationist leaders are now beginning to worry about the “absorption capacity” of the EU, so it is hardly surprising that European citizens demand a more precisely delimited EU.

## **8. Concluding Remarks**

In the quotation used as a motto at the beginning of this paper, Chancellor Angela Merkel suggested that the old justifications for the existence of the EU are no longer sufficient: new ones are needed. As a relative newcomer to the Brussels scene, she understood more clearly than other leaders the seriousness of the current crisis of the Union. More than a middle age crisis, what the EU is facing today is in fact a crisis of identity. A EU with 27, and in some years more than 30, members is not just a larger EU; it is what geneticists would call a *mutant* of the old EU-15, not to mention the original Community of Six. It is not, or not only, a question of the size of the membership. Much more important factors are the heterogeneity of socio-economic conditions, and the differences in policy and geopolitical priorities. Socio-economic heterogeneity implies exponentially rising welfare costs of harmonization but also serious problems for harmonization and mutual recognition.

The geopolitical problems are no less serious in their implications for European integration. The Iraq war revealed the existence of a serious cleavage between the majority of member states supporting Washington’s strategy— a group including Britain, Spain, Italy, Portugal, and all the new EU members from Central and Eastern Europe—and the governments of France, Germany, and Belgium, which made active efforts to oppose it. The position of the “Atlanticists” was clearly expressed by the British prime minister when he said

that his goal was to have a united Europe that was pro-American, but if that proved impossible, he would prefer a divided Europe that was partly pro-American to a united Europe lined up against the United States. (Gordon and Shapiro 2004: 131). EU leaders now pretend that the disagreement over Iraq was a momentary aberration, but there are strong reasons to believe that the special relation between the UK and the US, and the reliance of most new member states on the kind of protection against a resurgent Russia which only the US can provide, will both persist for the foreseeable future. Under such conditions, to speak of a common foreign and security policy is not only premature, but also damaging to the credibility of the EU as an international actor.

Against this background it is easy to understand Angela Merkel's invocation of a new rationale for the European integration project—although in reality “business as usual” seems to be the more appropriate slogan when the German chancellor and her colleagues meet to discuss European issues. The fact is that in order to make a fresh start one would have to re-examine critically the political culture and the operational code of the EC/EU. In our age of mass democracy a polity built on the preferences of political and economic elites is bound to generate a peculiar political culture, and a set of unusual operational principles. These principles—which taken together form what may be called the operational code of the EU—are not mentioned in official documents, nor discussed in the academic literature, but I submit that it is impossible to understand the current predicament of the European project without starting from them. Some principles have been mentioned in the preceding pages. The most important one says that integration has priority over all other competing values, including democracy. As we saw, the Community Method provides a striking illustration of how the principle has been applied to resolve the integration/democracy dilemma, but perhaps even more revealing of the primacy assigned to integration is the fact that the EP has never disputed the legitimacy of the Commission's monopoly of legislative initiative. The reluctance of this body to claim the basic right of true parliaments—half a century after ratification of the Rome Treaty, and in spite of all official declarations about the democratic nature of the EU—gives a fair idea of the gap separating the political culture of the EU from that of modern parliamentary systems.

Another important operational principle enjoins EU decision-makers to follow, wherever possible, the strategy of the *fait accompli*—the accomplished fact which makes opposition and public debate useless. According to insiders, this was Jean Monnet's favourite

strategy. An early application of this strategy, with its bias in favour of institution-building, is the establishment of the European Atomic Energy Community—the now almost forgotten though still surviving Euratom. Among the motives leading to Euratom was a conviction which Jean Monnet—paraphrasing Lenin’s aphorism: “Communism is Soviet power plus electrification” (Carr 1966: 370)—expressed in the following terms: “The United States of Europe means: a federal power linked to the peaceful exploitation of Atomic Energy” (*Les Echos*, special end-of-the-year issue, 1955, cited in Lucas 1977: 11). Initially, the French government had strongly sponsored Euratom, which seemed to offer an opportunity to share the enormous costs of atomic energy research and development while enjoying most of the benefits. However, when it became clear that the other member states, and especially Germany, disliked the idea of a common nuclear project, France was instrumental in placing Euratom in a permanent state of hibernation (Tsoukalis 1993).

A more important application of *fait accompli* was the decision to proceed with monetary union before there was agreement on political union, on close coordination of national fiscal policies, and even on basic issues of economic governance. The Maastricht Treaty provided a legal framework for monetary union, but left many basic institutional questions unresolved, especially in the design of the external monetary policymaking machinery. These holes in the policymaking machinery explain why the ECB responds so slowly and timidly to the current global crisis. The priority of the Delors Commission, and of federalist and crypto-federalist leaders, was to make the integration process irreversible, while different national governments accepted monetary union for different reasons. The various national objectives were largely incompatible, but what was important to the practitioners of *fait accompli* was the fact that with monetary union the integration process had reached a point of no return—or so it was hoped.

According to a third operational principle, ultimate ends are largely irrelevant: what counts are movement (the so-called bicycle theory of integration), procedures, the preservation of institutional balance, and the expansion of European competences. For “European saints” like Jean Monnet and Paul-Henri Spaak, the finality of European integration became increasingly unimportant; what mattered was the movement, the process—especially the creation of European institutions. Lack of a serious interest in the finality of European integration, and fascination with the process of institution-building, were particularly pronounced in the case of Spaak. In the words of historian Alan Milward: “Any

form of integration, any form of common authority in Western Europe, had become the indispensable guarantee for post-war security, and he [Spaak] became increasingly indifferent to what that authority might be or do” (Milward 1992: 324). The principle of irrelevance of ultimate ends explains the reluctance of pro-integration leaders to discuss the goal of the integration process, except as an open-ended commitment to “ever closer union”. It has been rightly remarked, however, that the conception of politics as an infinite process is in the long run uncongenial or incomprehensible to the human mind: the leader who wishes to mobilize the people and push them to political action is inevitably led to posit finite goals (Carr 1964: 89). As some European leaders begin to realize, the current Euro-fatigue has one of its deeper roots in the indeterminacy of the final destination.

Now, it is not difficult to deduce these and other operational principles from the record of fifty years of European integration. The question, therefore, is why scholars have been reluctant to discuss the operational code of European decision-makers, and the peculiar political culture of the EU. The reason, I believe, is that most students of the EU are less detached observers than convinced supporters of European integration. As such they are afraid that fundamental criticism would jeopardize the attainment of the goals they support by sowing the seeds of discontent towards the Union in the minds of ordinary citizens. Any serious attempt to reform the present system, however, must go back to first principles and hence cannot fail to examine critically the political culture and operational principles which have guided the integration process for half a century.

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