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Reforming the Union: questions, options and visions

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The EUISS held a seminar entitled '*Reforming the Union: Questions, Options and Visions*' in order to take stock of the debate on the future of Europe and address two central questions. First, how to achieve a sufficient degree of consensus among Member States on the next steps towards EU reform? Second, what is the relationship between the process of EU reform and the performance of the EU in the world? The purpose of the seminar was to assess how EU reform is relevant to the Union's global role and, conversely, how the external challenges of the Union affect the path and priorities of reform. In order to tackle these issues, the discussion started with a close look at the political context of EU reform and at the crisis of legitimacy that affects the EU.

The political context of EU reform

It was pointed out that the challenge posed by the rejection of the Constitutional Treaty (CT) could be tackled either as a 'technical' problem – how to achieve ratification – or as a deeper-running political problem – a crisis of confidence in the EU. Addressing the broader dimension was necessary to overcome the crisis and pave the way towards reform.

Two key messages came from the 'no' vote. First, the EU no longer represented, for a sizeable share of public opinion, the 'promise of a better future'. The social stratification of the 'no' vote was stressed, with opposition to the CT widespread among 'blue collar' workers and those with lower levels of education – those who felt more vulnerable. Second, there was strong dissatisfaction with the way in which the EU worked. People could no longer make sense of its *raison d'être* and felt that they could not influence its direction anyway.

The point was made that the two trends seemed intertwined, and mutually reinforcing, namely technocracy (or the pursuit of institutional reform) and populism (or the democratic destruction of the EU). The latter had entered EU policy-making through referenda and it would be difficult to do away with it. European integration was no longer a project of the elites, and not yet a project of the people.

These remarks raised two issues. First, there was a need to define the scope for constructive, transparent democratic debate at the European level to overcome both technocracy and populism. The question of how to enhance political debate at the EU level without fuelling populist trends and undermining integration was raised. Second, it was felt that there was a need to tackle again the bigger debate on the 'European project'. As Eneko Landaburu put it: '*l'Europe des projets n'est pas un projet pour l'Europe*'. In the absence of such a debate, it would be difficult to rally popular support for a project that remained ill-defined.

Citizens' concerns had to be taken as a point of departure to show the added value of the EU. The sense of economic, social and environmental insecurity affecting the European public needed to be addressed. It was noted that citizens had a pretty good idea of what the EU should do. Based on the results of Eurobarometer polls over 15 years, citizens consistently showed support for the attribution of further competences to the EU in fields ranging from development policy to foreign policy, and from global crime to the environment and R&D. The broad agreement on what to do together, however, did not necessarily translate into a consensus on substantial preferences: which way to go in policy terms. A high degree of heterogeneity could be detected when it came, for example, to economic policies.

The legitimacy problem of the EU and the faltering sense of direction had to be set in the wider perspective of economic globalisation. The economic integration of the EU went hand in hand with the integration of the EU in the world economy. As the integration of the Union in the world economy deepened, however, the EU did not define a distinctive political identity therein and its actual relevance in a globalised world was questioned. It was stressed that both the partisans and the opponents of globalisation regarded the EU as either redundant or threatening. The key issue was, therefore, to redefine the relevance of the EU level of governance in the era of globalisation. The question was put of how to sustain the living standards of European citizens while dealing with the transformation of the global economy. These issues should be tackled head-on and it was suggested that they should be included in the Berlin Declaration to be adopted in March.

It was also acknowledged that serious shortcomings remained in the implementation of the Single Market and that, while other policy problems were clearly defined, such as in the case of energy policy, it proved almost impossible to take significant decisions. Entering these 'no go' policy areas seemed to be becoming more and not less difficult. That posed a real problem because what Europe needed was not more of the same – the deepening of centralisation and the 'old *acquis*' – but the ambition to develop into new domains, from environment to defence. The debate on the revision of the financial perspectives in 2008 would be a key test and provide the opportunity to revise the priorities of the Union.

Options and questions for reform

Some spoke of a post-enlargement crisis, compounded by a crisis of leadership at the national level and a crisis of implementation. A number of speakers shared the view that the EU at 27 does not work properly on the basis of the current Treaties. It was felt that enlargement had had an adverse impact on the functioning of the institutions. The Council had lost its centrality as a political arena, with ministers not turning up at meetings and real deals struck elsewhere. The Commission did routine work but no longer fulfilled effectively its political function of initiative. It was restated that, given the inadequacy of the institutional framework for decision-making at 27, '*l'Europe des projets*' could not work because relevant decisions could simply not be taken. Against this background, two main alternative solutions were outlined to restart the reform process.

- Alain Lamassoure (MEP) felt that the CT could not be rescued and strongly argued for launching a new process to produce a new Treaty. This process could only succeed on two conditions. First, failure had to be ruled out from the start. That implied that Member States agreed to exclude referenda. The probability of a negative vote in at least one country across the EU remained very high, but the EU could not afford another such blow. That also meant that the new text could not be called a Constitution. Second, one should not jeopardise the delicate balance achieved in the CT or the deal would unravel. In producing the new text one needed to use the scissors, not the pen. Only those provisions that were truly innovative, from a legal standpoint, should be preserved. It was also necessary to proceed quickly: the longer the waiting time, the older the compromise would become, and the stronger the requirement for setting up a new Convention and starting all over again. Following the ongoing bilateral ‘confessionals’, the German Presidency should be in the position to launch a new IGC at the European Council in June, with a limited mandate to save the innovations of the CT without reopening the Pandora’s box on sensitive questions. The new Treaty could be drafted and signed under the Portuguese Presidency, and ratified by national parliaments in the following 18 months, before the European elections of June 2009.
- Andrew Duff (MEP) argued that the idea of a mini-Treaty was unworkable. First, from a tactical standpoint, it would be difficult for many, including the new British government, to support a sort of ‘Nice +’ document. A larger reform package would be needed to sell it domestically. Second, from a legal standpoint, it would be impossible to detach Part III from Parts I and II of the CT, as they are closely intertwined. Third, in political terms, attempting to pick and choose CT provisions would inevitably destroy the overall consensus on the text and force broader renegotiation. Also, timing should not be the overriding concern: it was not essential to have the CT in place by 2009 (the specific institutional questions raised by the accession of Croatia could be dealt with in the accession treaty itself). Also, the intertwined debates on the CT and on the revision of the financial perspectives in 2008 should be brought together, and not kept artificially separated. The solution would therefore lie in a ‘Constitution +’: the CT was to be improved and completed. Parts I and II of the CT should be ring-fenced. A clear hierarchy should be established between those and Part III by amending Article IV-445 on the revision procedure and making Part III easier to amend. In addition, four aspects of Part III should be considered for improvement, so as to meet citizens’ concerns, namely strengthening the economic governance of the Union and the autonomy of the Eurogroup, introducing a clear definition of the European social model and what it stands for in the context of globalisation, upgrading environmental policy and including the Copenhagen criteria and the steps of the accession process in the CT.
- According to Josef Janning and various other speakers, there was a need for pragmatism. One had to ‘clear the table’ from the ongoing constitutional debate and take a ‘courageously modest’ approach to reform. It was noted that there was a consensus on the need to reinvigorate the Union, but doing so required getting over this stage of reform. A mini-Treaty needed to be elaborated while accepting that some aspects of the CT would be lost. The new document, including only the most relevant innovations, should be adopted by the end of the year. This would only be a step further, and would not exclude another phase of grand reform a few years down the line, including the debate on the new Project for Europe. For the time being, however, there was a need to enter a phase of consolidation, and to close the rhetorical gap that had opened between the expectations and the reality of institutional reform.

These proposals were discussed at some length, including references to the political context of institutional reform. In particular, some felt that there was a contradiction between the imperative to listen to peoples' concerns and discontent with the Union, and the idea of simply 'cutting' the CT and safely pursuing parliamentary ratification. 'Democratic modesty' was invoked, arguing that it was impossible to bypass a renewed, far-reaching democratic debate on the reform package, as well as referenda in some countries, including France. It was retorted that parliamentary ratification was not less democratic than plebiscites on ratification, but others noted that referenda were required because of the weakness of national parliaments. Political parties had failed to embrace the European dimension of domestic politics and could not speak credibly on issues of European integration in the eyes of the public.

Different views were also expressed on whether it would be possible to 'sell' the new Treaty using different 'narratives' in different countries. On the one hand, the media made this option difficult and could undermine these tactics. On the other, national political debates had proved sufficiently insular and self-contained in the course of the referendum campaigns in France and the Netherlands to suggest that it should be possible to adopt suitable arguments for different publics.

Also, some questioned whether Part III could actually be cut or 'sliced', and stressed the need to focus on the revision clause to soften the requirement of 'double unanimity' for any future Treaty amendment. In response, the point was made that no part of the CT needed to be shed as such, but that only those articles that were legally innovative would find their place in the new Treaty. The latter could include as many as 130 articles, with one referring to the Charter of Fundamental Rights, which would not be a full part of it (there was some divergence on whether or not it should maintain the mandatory status it was granted under the CT). As opposed to calling the new text a mini-Treaty, it was branded as an 'essential' Treaty or a 'foreign policy' Treaty. The main innovations met the citizens' expectations on the role of the EU in the world and were directed to making the EU a global power.

The reform of the Union and the EU in the world

The coherence between the reform of the Union and its international strategy was a key issue of debate. There was consensus on the fact that the role of the EU in the world would be a defining element of the future of Europe itself. Many speakers noted that the world was changing faster than the EU and there was a widening gap between global transformations and the slow pace of EU reform. Also, the world is becoming a more challenging and dangerous place. The question of 'power' now occupies a central place again in international relations and some wondered whether the EU was equipped to play this game in a multipolar context: the failure of unilateralism did not necessarily amount to the success of multilateralism.

Eneko Landaburu stressed that the EU was already a major global actor in a number of domains, including development policy, trade and international financial relations. On the political front, the dense web of partnership agreements framed substantial relationships between the Union and its partners. European Neighbourhood Policy was an important tool to stabilise the countries surrounding the EU and enhance their partnership with the Union. In some respects, such as in supporting effective multilateralism, the EU was a global leader. In short, a lot had been achieved. That said, shortcomings remained on the foreign policy front, including little coherence between different pillars and a tendency to scale down EU ambitions to the minimum common denominator among Member States.

Nicole Gnesotto made the point that the last stage of institutional reform did not aim at equipping the Union to perform as a fully-fledged global actor, but at dealing with the impact of enlargement. She argued that the Union had to reform to confront tomorrow's challenges, and not those of yesterday. The European Security Strategy called upon the Union to be more active, more coherent and more capable. The institutional innovations included in the CT would help enhance coherence between institutions and pillars, but not between the EU and its Member States. It was also questionable whether the CT would boost the efficiency of the Union, since unanimity remained the rule in CFSP. There was an inherent tension between the ability of all Member States to veto decisions and their very different means and resources in this domain.

While unanimity could not be overcome in the foreseeable future, the question was how to enhance coherent and effective decision-making at the EU level. Some felt that it was a matter of adjusting some of the features of the Community method to fit CFSP decision-making. That would not undermine national control but would enhance the convergence of Member States' positions and promote joint, consistent action at EU level. The focus was therefore on tools that could act as a catalyst to promote a more effective foreign policy. All speakers agreed that the envisaged Foreign Minister (FM) and External Action Service (EAS) would represent a major step forward in this direction.

The rotating presidency would be scrapped and the external action of the Union would acquire more visibility and more coherence. Strategic political reflection would better translate into an effective policy mix, drawing on all available instruments. In the words of Nicole Gnesotto, the FM had the potential to become the 'Commission of the Council' in the area of CFSP. On the other hand, because of the substantial degree of innovation brought by the FM position, some uncertainty remained on how that would actually work. Guy Milton outlined some of the key points requiring clarification, including:

- How to reconcile the 'two hats' of the FM, notably on those occasions when he/she should present to the Council a position adopted by the College and, at the same time, broker a compromise in the meeting that he/she would chair.
- The rather blurred discipline of the right of proposal of the FM. The FM would have the right of initiative in CFSP matters, could submit joint proposals cutting across first and second pillar issues together with the Commission, but could also submit initiatives on CFSP with the Commission's support (see Articles III-293.2 and III-299.1).
- The relationship between the FM and the long-term President of the European Council, endowed with potentially overlapping powers.
- Some inconsistencies in the institutional framework, considering that the chair of the PSC is supposed to be held by a representative of the FM, whereas the chair of COREPER, responsible for overall coherence, would still undergo rotation.
- The question of the huge workload of the FM, which would most likely require the appointment of some deputies.

It was clear that seeking to establish an EAS in the absence of the FM was a non-starter. That said, there was a commitment on the part of the institutions to improve cooperation among different services at a working level. To this end, the Commission produced a concept paper last June – *Europe in the world* – envisaging among other suggestions more joint papers and strategy meetings involving the RELEX group of Commissioners and the High Representative. It was also suggested that more could be done under the current Treaties in enhancing exchanges of personnel between national diplomatic services, the Commission and the Council Secretariat. Also, there was scope for further rationalisation and pooling of national representations abroad, not least given the budgetary pressures to which foreign ministries were subject.

There was a broad agreement that introducing majority voting would not be suitable in the area of CFSP, but suggestions were made to enhance differentiation, for example mandating groups of Member States to take charge of specific issues. Institutions should be involved and collective decisions should be taken, on behalf of the Union, but flexible ways could be envisaged to carry out those decisions without the involvement of all countries.

In addition, it was felt that the development of a common strategic and security culture had to go hand in hand with broader awareness of relevant challenges among public opinion. National governments did very little to publicise the European Security Strategy. A sustained debate on common strategic priorities should be undertaken at the European level but should trickle down to the national level, if citizens were to be persuaded that their leaders had been listening and were reforming the EU to enhance security and prosperity within and beyond its borders.

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