

The Treaty of Nice, the presumed end of incrementalism and the future of the European Union

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I. Introduction

The current debate regarding the future of the European Union (EU) is underpinned by three fundamental assumptions. First, the time has now come, the argument goes, for the EU to define its 'final' institutional configuration. Second, this endeavour must not – indeed, cannot – be based on the logic of incrementalism that, by and large, has shaped the development of the European Communities/Union since the 1950s. Third, this endeavour must include the drafting of a 'proper' constitution on the basis of a federal logic. This paper takes issue with the first two assumptions and attempts to reconcile their antithesis with the third assumption. In essence, we argue that the politically motivated need to outline the institutional future of the EU cannot and must not ignore the incremental logic that has informed the development of the EC/EU since its inception. Rather, we argue that the Union – as well as the élites that operate therein – must develop a more sophisticated manner to utilise the incremental approach. After a short critical assessment of the Treaty of Nice, the paper (a) provides a brief outline of the origins and the utility of incrementalism and (b) identifies the Common Foreign and Security Policy as the policy area where the new sophisticated use of incrementalism can be tested.

II. Deciphering the Meaning of Nice

The political agreement that led to the new Treaty, the Treaty of Nice, was reached in the early hours of 11 December 2000 and officially signed on 26 February 2001. The Treaty is expected to enter into force by 2002 at the latest, after its ratification by all Member States and, in any case, before the accession of new members. Andrew Duff's catch-phrase: 'From left-overs to hangers' ((1)) expresses the essence of the new Treaty in a politically hostile manner. It grew out of the left-overs of the Amsterdam Treaty but has failed to resolve the issues that were added to the agenda of the Intergovernmental Conference (IGC) in the light of the forthcoming enlargement. Hence, the IGC has undoubtedly led to a 'hangover' which essentially relies on the perceived need to abandon the incremental logic that has until now informed the evolution of the Union (see *infra*).

The latest IGC was the fourth one in the last fifteen years (following the Single European Act of 1986, the Maastricht Treaty of 1991 and the Amsterdam Treaty of 1997). Both its agenda and its results can only be assessed (a) by reference to the previous IGCs and especially Amsterdam and (b) in relation to the current socio-political (national, European and global) context.

The process of integration has started and proceeded on the basis of the so-called Monnet method which essentially relies on

- a) The definition of medium-term and partial (i.e. open-ended) targets by means of which the wider objectives of Political Union are pursued,
- b) The incremental (i.e. step-wise) pursuit of these medium-term objectives through a loosely coupled and dynamic institutional framework and,
- c) The initial use of the Community method of government at the supranational level in

conjunction with the selective use of the intergovernmental method (initially in the area of the European Political Co-operation and then in pillars 2 and 3).

The latest IGC had a limited agenda⁽²⁾. Its objectives did not concern – at least not explicitly so – the advancement of the integration process per se. The only exception was the Common European Security and Defence Policy⁽³⁾ (the revised article 17 of the TEU) which was treated outside the formal IGC.

Rather, the IGC has been convened so as to deal with Amsterdam's 'leftovers', as defined in the Protocol on the institutions with the prospect of enlargement of the European Union attached to the Treaty. They were dominated by the issue of the composition and operation of the EU's institutions in view of the forthcoming (fifth) enlargement that, nonetheless, did not preclude the idea of further deepening.

Moreover, this IGC has highlighted the 'deepening versus widening dilemma'. Indeed, this presumed dilemma underpins the end product of the IGC, namely the Treaty itself. In other words, it is implied that enlargement is exogenous to the inherent properties of the EU. Rather, it appears to be subject to the re-design of the organisation and operation of the EU's institutional configuration. This approach has affected the shape of the new arrangements.

In particular, one can highlight a number of negative consequences, including the allocation of different numbers of seats in the European Parliament to equally populated candidate countries (namely, Hungary and the Czech Republic). The negotiations were probably more state-centred than ever. In addition, they were clearly underpinned by tensions and a sense of mistrust between small countries on the one hand and larger ones on the other.

One can also highlight the following significant procedural and substantive elements: the significant weakening of both the French Presidency and the French President J. Chirac personally; the increased complexity and lack of transparency that will characterise the operation of the Council of Ministers when the new Treaty enters into force; the potential enhancement of the role of larger states as well as the facilitation of the establishment of blocking minorities rather than the facilitation of taking decision⁽⁴⁾, thus enhancing the intergovernmental features of the Council. Under these circumstances it is not surprising that 'the whole package on the Council raises the spectre of the Union being run by a directory of Britain, France and Germany' as Andrew Duff has put it⁽⁵⁾.

Despite these weaknesses, one must not lose sight of the positive aspects of the new Treaty. Arguably, they include the following:

the extension of the scope for the use of qualified majority voting (QMV) even when it is not linked to the co-decision procedure (i.e. only in six of thirty-five cases); the relative enhancement of the role of the European Parliament; the reform of the judicial system and reorganisation of the Court of Auditors, the Economic and Social Committee and the Committee of the Regions.

One can further highlight, (a) the fact that the collegiate nature of the Commission was enhanced by means of the reinforcement of the role of the President⁽⁶⁾ and (b) the rationalisation of the system of enhanced co-operation despite the lack of a wider legitimising basis to the extent that the European Parliament plays a variable role⁽⁷⁾. Finally, the solemn proclamation of the Charter of Fundamental Rights of the European Union at Nice can also be highlighted as a positive element of the new Treaty despite the fact that it is not legally binding and is deprived of formal status.

Nevertheless, if one is meaningfully interested in the progress of the integration process, one's attention must quickly shift to the lessons that one can learn from the new Treaty with regard to the post-Nice era and its agenda.

III. The Uneasiness Regarding the Post-Nice Era: The Mandate for the Next IGC

The discussion of the essence of the new Treaty cannot be confined only to its content and quality. On the contrary, it encompasses the Declaration on the Future of the Union which is part of the Final Act of the Conference. The Declaration states that “[I]mportant reforms have been decided in Nice...[which]...will have completed the institutional changes necessary for the accession of new Member States’ and ‘calls for a deeper and wider debate about the future of the European Union’; It is also an attempt to outline the agenda of the next IGC by putting forward four issues to be examined (namely, the delimitation of powers between the European Union and the Member States, the status of the Charter of Fundamental Rights, the simplification of the Treaties and the role of national parliaments in the European architecture). Finally, the ‘steps’ and the timetable that will lead to the 2004 Intergovernmental Conference are also outlined((8)) whilst the Member States have reassured the applicant countries that the IGC ‘shall not constitute any form of obstacle or precondition to the enlargement process’((9)).

We argue that this Declaration reveals the limited scope of the new arrangements. This is so primarily for two reasons: The Declaration acknowledges and outlines the deficiency of the IGC as a process((10)) whilst it recognises the fact that the lack of vision (a ‘broad picture’) regarding the future of the Union means that although the outcome of the IGC is technically useful, it remains politically mediocre and, crucially, distant from the EU citizens.

This uneasiness stems partly from individual political leaders – namely, Joschka Fischer ((11)), Jacques Chirac ((12)), Tony Blair ((13)), Jacques Delors – who have already commenced a process of parallel monologues ((14)) whose content cannot be said to rest on common parameters. However, one notable exception needs to be highlighted, namely the need for a comprehensive dialogue with regard to Political Union as the fundamental end result of the process of integration. Although this view seems to be shared, the precise institutional form that it will – and ought to – take inevitably remains unclear.

This lack of clarity stems from (a) diverging preferences and objectives of the main actors as well as (b) the peculiar nature of the EU per se which relies both on a model of double legitimacy – i.e. legitimacy from the peoples expressed through the European Parliament and legitimacy from the states expressed through the Councils – and the role of the European Commission – an original political institution – as the promoter and guardian of the common interest. Indeed, the Commission is at the heart of the debate that concerns the future of the Union. This debate is characterised by diverging views with regard to the future role of the Commission ((15)).

Arguably, if the vision regarding the future of the European Union is inspired by the federal model, then it can neither be conceived of – nor can it be defined on – the basis of existing federal models, precisely because (a) the Union does not fit in the existing models and (b) ‘like federation, federalism is rooted in its context and meaning derives from context’ ((16)). The historically defined institutional configuration of the EU relies on novel properties that are expressed through innovative processes (e.g. the ‘Community method’). These processes re-construct and re-define the manner in which public authority is exercised. Arguably, trying to ‘squeeze’ this novel structure into an existing model, in an arbitrary fashion, would inevitably undermine its originality and, indeed, the basis of much of its success.

More importantly, it is doubtful, to say the least, whether the federal vision is indeed shared by even the key actors. This becomes more apparent if we consider (a) the very recent public

statements, on the future of Europe, made by Chancellor Gerhard Schröder ((17)), Prime Minister Lionel Jospin ((18)) and Prime Minister Costas Simitis ((19)) and (b) the relaunch of the debate about competing, politically unintelligible concepts (e.g. 'Federation d'Etats-nations') ((20)).

Arguably, we must agree both on the federal vision and its cardinal ideological, philosophical and organisational principles (e.g. unity in diversity, self-rule and shared rule) prior to identifying the institutional structures that will give practical meaning to it ((21)). These notions (institutions, functions and procedures) are unlikely to be defined through a top-down (i.e. élite-led) comprehensive constitutional process.

On the contrary, we argue that they shall be built incrementally by means of the step-wise pragmatic empirical resolution of concrete problems (bottom-up approach) which will inevitably rely on the Union's institutional, policy and wider political acquis ((22)). A word of caution is necessary here. We are not advocating the theory of the incremental method of political decision making sprung from a behavioural critique of models that were based on microeconomics.

The latter tended to emphasise the idea that political decision-makers are utility maximisers who seek to make the most of their resources and decision opportunities on the basis of pre-conceived exogenous preferences. This notion relies on the ideas that (a) perfect information exists and (b) decision-makers have the capacity to process clear demands stemming from their environment and to produce coherent and highly prioritised decisions. Clearly, one does not have to be a seasoned observer of political processes to reject this rational model of decision-making which places excessive emphasis on (a) decision makers' 'computational capacity' (that is their ability to absorb and process information); (b) the existence of perfect information and (c) the existence of clear, exogenous and stable priorities ('preferences'). Incrementalism is a much more realistic approach to political decision making that is underpinned by four cardinal characteristics ((23)). First, actors focus on moving away from known 'ills' instead of attempting to achieve a stable and clearly defined goal. Second, decision making is not concerned with comprehensive solutions to problems but, rather, focuses on the small increments by which the potential result of a decision differs from the status quo. Third, political decision making proceeds sequentially: decisions follow one upon the other in the quest for a solution to a problem until one that is 'good enough' is found. Fourth, objectives are adapted to means.

Incrementalism is particularly useful in complex political orders, like the European Union, for a number of reasons. First, it allows the creation of a sense of inclusivity because institutional development proceeds by means of small steps, usually the result of political compromises, which allow all participants to construe political outcomes in terms of their own ambiguous ((24)) (and dynamic) priorities and interests. This is a very significant asset in the EU which is composed of historically defined nation states. Secondly, by the same token, it is pragmatic because it takes into account the decision-makers' bounded rationality ((25)), that is their limited computational capacity and incomplete information. Political decision-makers are typically unable to foresee the complete (unwanted and welcome) consequences of their actions. Thus, incrementalism promotes realistic solutions because it relies on small, marginal changes that can be modified, undone or formalised to the extent that such action can be justified on the basis of previous concrete experience. Thirdly, incrementalism does not preclude change. Rather, it facilitates change by allowing the creation of the 'socialisation effect' that is an inherent part of repetitive processes including joint political decision making. The evolution of voting procedures in the Council (from unanimity to qualified majority voting via the so-called 'Luxembourg compromise') is a clear example of this phenomenon.

At the same time, the informal dynamics of political change remain equally unhindered as demonstrated by the continuing use of consensus in the Council. In the next section of the paper we identify the EU's CFSP as an area where the sophisticated use of incrementalism can yield useful results.

V. The EU' Common Foreign and Security Policy as a Testing Ground

The example of the Common Foreign and Security Policy (CFSP) is a useful testing ground because foreign policy is both a central component of the State as well as the aspect that will complete the European institutional edifice.

A closer look at it will help us illustrate our argument. The co-operation of the member states in the field of foreign policy provides a major example of the utility of the incremental approach. The decision of the six founding states – taken at the Hague Summit of December 1969 – to extend the remit of their co-operation to foreign policy matters grew functionally out of (a) the growing influence of the, then, EC in world trade((26)), (b) the growing demands of the international environment where they were operating and (c) their implicit recognition of their inability to provide adequate individual responses (Europe as 'an economic giant' and 'political dwarf'). This initial decision was subsequently followed throughout the 1970s and 1980s by a number of small seemingly procedural-but significant steps((27)) whereby the regular exchange of information and the attempts to co-ordinate the member states' views on foreign policy matters led to increasingly regular meetings of ministers of foreign affairs, the strengthening of the role of the presidency and the slow but evident enhancement of the bureaucratic dimension of the EPC machinery prior to the establishment of the Single European Act in 1986.

The SEA represents the first, Treaty-based, step of the formalisation institutionalisation of the EPC mechanism. Title III of the SEA has formalised the role of the Presidency in ensuring continuity (through the mechanism of the so-called 'troika') and coherence in the external action of the EC (e.g. EPC and Common Commercial Policy). Moreover, it has established for the first time a small EPC secretariat and has introduced the 'political and economic aspects of security' into the EPC framework.

The Treaty of Maastricht (TEU) has introduced – by means of the second pillar that was devoted to the so-called Common Foreign and Security Policy (CFSP) – a number of improvements. These improvements concerned both

a) The organisational and procedural framework (e.g. a non-exclusive right of initiative was attributed to the Commission, the introduction in principle of majority voting, the new instrument of 'joint actions') as well as

b) The substance (e.g. the explicit determination of the Member States to establish a CFSP which would lead, in time, to a common defence policy even to common defence, the re-definition of the WEU as the defence arm of the EU etc.), without altering the intergovernmental character of the framework by preserving the central role of the European Council and the Council of Ministers. The TEU entered into force in late 1993 it was reviewed in the 1996 IGC, i.e. before its fully-fledged implementation.

The new Treaty of Amsterdam introduced some significant elements in the CFSP system. Briefly, one could record the following new provisions: the introduction of the new instrument of 'common strategies' under the responsibility of the European Council; the new method used for financing the CFSP; the establishment of a Policy Planning Unit; the

appointment of a High Representative ('Mr CFSP') for the CFSP; the right of the Council to appoint special representatives with a mandate regarding particular policy issues; the introduction of broad provisions regarding 'flexibility'; the introduction of the so-called 'Petersberg tasks' etc.

The Treaty of Nice (a) brings about a degree of rationalisation of the enhanced co-operation (flexibility) in the CFSP with the exception of areas "having military or defence implications" and (b) consolidates previous developments (Franco-British Declaration of St Malo in 1998, Cologne, Helsinki, Feira European Councils in 1999-2000). This consolidation confirms the pattern of incremental development and entails the formalisation of the agreement on CESDP, the absorption of the WEU by European Union, the creation of the Rapid Reaction Force and the establishment of the Political and Security Committee((28)) that will oversee crisis management operations.

These step-wise, gradual developments, are a 'half-way house' between traditional national statehood and the quest for the enhancement of the EU's international 'actorness'. Indeed, they represent the very essence of the process of integration in Europe, not least because they are open-ended. The informal machinery of the EPC has facilitated the co-ordination of national foreign policies by developing a powerful-albeit not always evident-'socialisation effect'. The formalisation/institutionalisation of EPC/CFSP and the subsequent development of the organisational framework and procedural devices of the second pillar (in addition to the creation of 'bridges' to the first pillar) produced, to a certain extent, what we call the gradual 'de-nationalisation' of national foreign policy decision making systems. In other words, these systems grew more open to each other whilst policies and 'preferences' – including goals, arguments, mentalities and policy styles – became more predictable and, thus more intelligible to other Member States.

The subsequent gradual and increased 'Brusselsisation' of the CFSP/ESDP machinery further highlights the dual international identity of the Member States, namely as independent/sovereign nation states as well as member states (pooling of sovereignty) of the EU. This tension will not be 'settled' by a single constitutional act, as a certain 'federal orthodoxy' claims((29)). Neither, will it lead to the so-called 'communitarisation' (i.e. the incorporation into the Community pillar)((30)) of the CFSP/ESDP. Rather, there is an on-going process of latent and gradual transformation of the manner in which Member States exercise their powers in the field of foreign policy. Indeed, Member States exercise their powers in the field of foreign policy within an emerging institutional, political and historical context, i.e. under certain pre-requisites((31)) mainly of procedural nature (information, consultation, decision), which in conjunction with the Community's powers in external economic relations, create innovative forms of complex policy making((32)). In turn, these forms are of less than supranational but certainly more than intergovernmental nature. Moreover, in light of the fact that security and defence are key foreign policy instruments, how can we adopt federal 'solutions' set in stone when the cardinal question of the relations between the EU and NATO remains politically unanswered? Can an institutional solution alone really be the answer? Institutional arrangements cannot substitute for the lack of political will. Concrete results/outcomes, that embody, as well as generate and advance the political will of historically defined nations, are largely determined by institutions and their specific design.

Arguably, one must resort to other solutions that will rely on the creative combination of Monnet's method with the intergovernmental method. Flexible co-operation can be the vehicle that will carry this experiment forward.

This creative combination is likely to lead to the gradual establishment of novel structures at

the level of the EU. This process will gradually transform the exercise of powers in the field of foreign policy without negating the fact that the EU remains a union of states. Moreover, it will also allow the development of structures that legitimise policies and their outcomes⁽³³⁾ thus confirming the idea that the EU is a Union of peoples as well⁽³⁴⁾. It will not be long before we analyse not the achievement of the Treaty of Nice but what it has prevented from happening. This is by no means a new phenomenon. Scholars of European integration need only look back to the so-called Luxembourg compromise which has actually functioned as a mechanism for the gradual evolution of integration, although it has for over two decades, been depicted as a barrier to it. In fact, formal Treaty provisions were by-passed by means of a political agreement. Crucially, this agreement has allowed the gradual implementation of the essence of these provisions at a pace that corresponded directly to the democratic legitimacy of this endeavour, which at that time, had remained largely élitist. The Treaty of Nice is a complex, bureaucratic and largely unintelligible text that has prevented friction between the promoters of competing visions with regard to the future of the Union.

We contend that what is now needed is (a) an honest and ambitious public debate as to the kind of (federal) Union that we want as well as (b) the pragmatic and imaginative quest for areas where the pursuit of an ever closer Union is achievable, in line with the preamble of the Treaty of Rome.

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1) Andrew Duff, The Treaty of Nice: From left-overs to hang-overs, a briefing, <http://www.andrewduffmep.org/>.

2) About the agenda of the IGC see Edward Best, Mark Gray, Alexander Stubb (eds.), *Rethinking the European Union. IGC 2000 and Beyond*, Maastricht, European Institute of Public Administration, 2000 and Xenofon A. Yataganas, *The Treaty of Nice. The sharing of Power and the Institutional Balance in The European Union - A Continental Perspective*, Harvard Jean Monnet Working Paper 01/01.

3) Stelios Stavridis, *European Security and Defence after Nice*, Jean Monnet Working Papers in Comparative and International Politics, no 31, Department of Political Studies- University of Catania, March 2001.

4) Nevertheless, one must also note that decision making within the Council of Ministers relies more on consensus than formal voting.

5) Andrew Duff, *op. cit.*, p.7.

6) In simple terms, this constitutes a substantive enhancement of the standing of the European Commission within the context of the EU's institutional configuration (revised article 217 TEC).

7) This does not concern cases where the co-decision and assent processes apply, for further analysis about the provisions of the new Treaty of Nice see A. Duff, *op. cit.*, and X. Yataganas, *op. cit.*

8) A wide public debate, with all interested parties, will be encouraged under the responsibility of the Swedish and Belgian Presidencies and in co-operation with the Commission and the involvement of the European Parliament. In December, the European Council in Laeken 'will agree on a declaration containing appropriate initiatives for the continuation of this process'. There is talk already about a three-phase process: a) 'open discussion', which is practically under way, with the largest possible participation; b) a 'structured discussion', in which parliaments will have a central role alongside governments and the Commission, and would lead to the drawing up of a new treaty and c) a 'short and decision-taking IGC' that will conclude, rather than reopen, the debate. Ferdinando Riccardi, Agence Europe, 16 February 2001, p. 1 quoted in X.A. Yataganas, *op.cit.*, p. 55.

9) The applicant countries which will have concluded accession negotiations will participate in the IGC and, those which have not will be invited as observers.

10) In particular, one must highlight the issues of democratic legitimacy, transparency and the weak involvement of citizens.

11) J. Fischer, Vom Staatenverbund zur Föderation - Gedanken über die Finalität der europäischen Integration. Speech delivered at Humboldt-Universität, Berlin, 12 May 2000, http://www.auswaertiges-amt.de/2_aktuel/index.htm; J. Fischer, Rede des Bundesministers des Auswärtigen im belgischen Parlament, 14 November 2000, <http://www.auswaertiges-amt.de/www/de/infoservice/download/pdf/reden/2000/r001114f.pdf>.

12) Notre Europe, speech delivered by Jacques Chirac at the German Bundestag, Berlin, 27 June 2000, http://www.elysee.fr/cgibin/auracom/aurweb/search/file?aur_file=discours/2000/RFA0_006D.html.

13) Europe's Political Future, speech by the Prime Minister Tony Blair, to the Polish Stock Exchange, Warsaw, Friday 6 October 2000, <http://www.fco.gov.uk/news/speechtext.asp?4913>.

14) In its recent report on the Treaty of Nice (A5-0168/2001), the European Parliament terms this 'schizophrenia'.

15) See the speeches by Fischer, Chirac and Blair, *op. cit.*

16) Michael D. Burgess, 'Federalism and Federation: A Reappraisal', in M. D. Burgess and A. - G. Gagnon (eds.), *Comparative Federalism and Federation. Competing Traditions and Future Directions*, Hemel Hempstead, Harvester Wheatsheaf, p.9, 1993.

17) See the draft document entitled *Verantwortung für Europa* prepared for the SPD's forthcoming party conference that will take place in Nürnberg (19-23 November 2001)

<http://www.spd.de/politik/veranstaltungen/bundesparteitag/verantwortungfuereuropa.html>, that has subsequently won the endorsement of the German Chancellor.

18) Intervention sur L'avenir de l'Europe élargie, 28 May 2001, <http://www.premierministre.gouv.fr/fr/p.cfm?ref=24927&txt=1>.

19) Greece and the future of Europe, speech delivered at the conference organised by the Hellenic Centre for European Studies, Athens, 11 July 2001; <http://www.primeminister.gr/speeches/20020711.htm>.

20) Charles Leben, 'Federation d'Etats-nations ou Etat federal?', in C. Joerges, Y. Meny and J.H.H. Weiler (eds.), *What Kind of Constitution for What Kind of Polity-Responses to Joschka Fischer*, Florence, EUI, 2000, pp. 85-97. So far as the wider debate about the concepts of federation, confederation and what the author calls as 'new confederation', see Michael Burgess, "Federalism and European Union: The Building of Europe, 1950-200", Routledge 2000.

21) P. King notes that 'Federation might best be understood in terms of the problems to which it has constituted a set of historically varying answers. If we understand the problems, the understanding of structure more clearly follows', cited by M. Burgess, *op. cit.*, p.9.

22) We agree with X. Yataganas' argument, *op. cit.*, p.57, that 'European integration will be achieved by the Community method or not at all. Its final shape will be the product of a process of permanent constitutional development, in which the central factor in changing mentalities will be the sole obligation that all sides adhere to the pact concluded at each step of the way, leading onwards to increasingly advanced stages and to ever closer Union between the Member States'.

23) Charles E. Lindblom, "The Science of "Muddling Through", *Public Administration Review*, vol. 19, no. 2, pp. 79-88, 1959; David Braybrooke and Charles E. Lindblom, *A Strategy of Decision: Policy Evaluation as a Social Process*, New York, Free Press, 1963.

24) James G. March and Johan P. Olsen, *Ambiguity and Choice in Organizations*, Oslo, Universitetsforlaget, 1976.

25) Herbert A Simon, *Administrative Behavior*, New York, Macmillan, 1947.

26) The EU is the world's largest trading bloc.

27) A. Forster and W. Wallace, 'Common Foreign and Security Policy' in Helen Wallace and William Wallace (eds.) *Policy-Making in the European Union*, 4th edition, Oxford, Oxford University Press, pp. 468-9.

28) It will be assisted by two military bodies, namely the Military Committee and the Military Staff.

29) See, for instance, J. Fischer's speech, *op. cit.*

30) European Parliament Report on the Treaty of Nice, *op. cit.* p.41. These old claims overshadow its constitutional essence, given the fact that the 'communitarisation' and the application of the community method pre-supposes the transfer of powers from the states to the EU.

31) 'Membership matters' in Sandholtz's terms. See W. Sandholtz, 'Membership matters: Limits of the functional approach to European institutions', *Journal of Common Market Studies*, vol. 34, no. 3, pp. 403-429.

32) Michael Smith, 'The EU as an international actor', in Jeremy Richardson (ed.), *European Union. Power and Policy-Making*, 2nd edition, London, Routledge, 2001, pp. 283-301.

33) Renaud Dehousse notes that, '[t]he history of European integration is replete with examples that illustrate the comparative advantages of a project based approach' and 'projects are needed to give sense to the European venture, and its ability to reach positive results is a key element of its overall legitimacy'. See R. Dehousse, 'Rediscovering Functionalism', in C. Joerges, Y. Meny and J.H.H. Weiler (eds.), *What Kind of Constitution for What Kind of Polity-Responses to Joschka Fischer*, Florence, EUI, 2000, pp. 197, 201.

34) For example, the President of the Commission could be elected directly.