

## Democracy and Integration After Amsterdam\*

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### From Here to Where?

One of the paradoxes about the study of the European Union (EU) is that, although the latter virtually defies any authoritative definition, no other system of governance has been attributed so many different labels. The following neologisms drawn from the *acquis académique* capture the Union's ontological complexity: 'proto-federation', 'confederance', 'concordance system', 'quasi-state', 'mixed polity', '*Staatenverbund*', 'consortio', 'condominio', 'sympolity', 'regulatory state', 'regional regime', 'market polity', 'managed *Gesellschaft*', 'cognitive region', 'joint decision-system', 'multilevel republic', 'directly-deliberative polyarchy', 'stateless market', 'polycracy', 'confederal consociation', 'mixed commonwealth', 'international state', etc.<sup>1</sup> Whether or not these attributes are indeed 'trapped in a state-oriented mode of thinking',<sup>2</sup> they only capture part of a rather more complicated reality. An indication that the Union is, to borrow from a technocrat, an 'unidentified political object'?<sup>3</sup> Whatever the answer, integration scholarship is still in search of a reliable theory as the basis for the future of the EU.

But why so many prominent members of the profession - including theorists and empiricists alike (and often a combination of both) - have failed thus far to reach a 'conceptual consensus' in the study of integration, continuing instead to disagree on such fundamental issues as the Union's political and constitutional properties? The answer is that the process of conceptualising the Union rests on contending normative orders, accounting for different 'structures of meaning'.<sup>4</sup> It is thus difficult to reach a convergent conceptual understanding among competing theoretical perspectives. But this is why the study of the EU remains such a fascinating exercise in theory-building, new theory creation and, recently, metatheory.<sup>5</sup> All the above involve, albeit to a different extent, an exercise in concept-building both as part of a wider evolution of systematic explanation (or model-building), and as a platform from which, in Taylor's words,<sup>6</sup> a 'hierarchy of realities' might emerge. As Church rightly observes, '[w]e need to be aware of the conceptions we use since they determine our perception of things'.<sup>7</sup>

Part of the intellectual problem is rooted in the different perceptions and treatments, of such 'general concepts' as sovereignty and integration, autonomy and

interdependence, order and fragmentation, unity and diversity, management and control. But which of the many interpretations these concepts entail ought we to utilise in order to improve the reliability of our understanding of such macro-level phenomenon as European integration? All the more so, given its inherently dynamic nature. This latter property is of particular importance when employing different lines of (theoretical) inquiry to clarify thinking about integration and 'rise above [mere] observation of specific events'.<sup>8</sup> As Kuhn has suggested, absent a theoretical model, 'all facts are likely to remain equally relevant'.<sup>9</sup> Both normative and narrative interpretations of the EU project, purporting to explain the logic of a distinctive form of 'deep regionalism'<sup>10</sup> and its implications for the component parts, tend either to underestimate the role of central institutions or to exaggerate the influence of state-centric actors in setting the integrative agenda and then acting authoritatively upon it. This 'battle of theories' has often in the past led to a series of zero-sum notions of EU bargaining, coupled with unjustified confidence of how the EU system actually works and towards what it develops. The 'elephant', however, to recall Puchala's colourful description, is not easy to manipulate in theoretical terms: it often turns into a 'chameleon', adjusting itself to the very requirements of the day. Let us then pose the same question Puchala raised almost three decades ago: 'where do we go from here?'

### **Still an Obscure Object of Study?**

Any reliable theory of integration in the late 1990s should aim, first and foremost, at capturing the dynamics of two complementary objectives: strengthening the political viability of separate constitutional spheres through the institutionalisation of joint sovereignty. The point to make here is that we are currently witnessing the reversal of the Mitranian logic to international integration: instead of 'form follows function',<sup>11</sup> it is increasingly the case that the structural properties of the larger management system dictate the pace and range of European regionalism. Thus, an additional concern has become manifest, linked to the limits rather than the possibilities of European polity-formation: the extension of the 'scope' and 'level' of integration do not necessarily coincide. Since the 'policy-generating' Single European Act (SEA) and the 'polity-creating' Treaty on European Union (TEU) - the Union's *traité constitutif* - both the functional scope (policy arenas) and territorial scale (membership) of integration may well be extended, if not at the expense of its level (ways of management), without either altering the *locus* of sovereignty, or having any significant impact on the way in which the central institutions exercise political authority. The extension of qualified majority voting in the SEA on largely non conflict-prone areas (Article 100A EC) and the introduction of a complex co-decision procedure by the TEU (Article 189b EC) suffice to make the point. And so does the sensibly arranged Amsterdam reforms, resembling an exercise in system consolidation rather than polity transformation.

Another thorny problem immediately arises from the fact that we have not yet overcome the question of defining 'here'. In fact, the latter may be conceived in both theoretical and empirical terms, without however the two necessarily coinciding. Writing on the 'betweenness' of the EU, Laffan makes the point that it 'hovers between politics and diplomacy, between states and markets, and between government and governance'.<sup>12</sup> The following examples reveal no less. Although from a mainstream intergovernmentalist perspective the Union rests on the separate constitutional orders of states, the European Court of Justice (ECJ) has ruled that the Community's founding treaties already represent a 'Constitutional Charter'.<sup>13</sup> Further, consensus-seeking practices in the Council of Ministers are more often than not employed, even when the treaties formally require resort to qualified majority rule. Similarly, one may well claim that the European Parliament (EP) performs functions that even the member state legislatures would be jealous of, whilst another may easily determine that the lack of the EP's controlling and legislative powers is enough evidence to support the philology around the Union's 'democratic deficit'. In the same vein, the acquisition of member states nationals of Union citizenship has been hailed by some as a step towards the formation of a transnational demos, whilst others have argued that this new *status civitatis* has more to do with the free circulation of people within a single economic space, than with the construction of a common civic identity based on a substantive corpus of democratic rights. Moreover, whereas on the one hand the scope of integration may significantly be extended, bringing into the multi-sector system an ever increasing array of policy arenas, on the other, the *locus decidendi* of these functional areas remains closer to the domain of state agents. A final point is in order: enshrined in the TEU as a basic guideline for the (vertical) division of competences between the collectivity and the segments, the principle of subsidiarity has simultaneously opened the way for two separate lines of development: on the one hand, the protection of national democratic autonomy against excessive institutional centralisation and, on the other, the extension of transnational legislative authority.

It is no surprise, then, that for many of its students the EU remains, almost axiologically, an unresolved puzzle with an 'open *finalité politique*';<sup>14</sup> or a 'half-way house' between a federal polity and a 'union of states'; or even a regionalism that more than any other 'form of deep regionalism in the international system ... has displaced the potential to alter the relative congruence between territory, identity and function which characterised the nation state'.<sup>15</sup> Although the Union is often taken to imply something more than the sum of its parts, sovereignty *qua* 'ultimate responsibility' - i.e., 'the condition of the last say'<sup>16</sup> - has not yet moved towards a new regional centre with a single locus of decision-taking. Put differently, sovereignty is yet to become part of the Union's systemic properties. But as previously suggested, equally puzzling remains its legal/constitutional physiognomy: for some, resting on a dynamic system

of international treaty-rules, whilst for others on an incipient constitutional system - a constitutional order *in statu nascendi* - driven by aspirations similar to those found in traditional state-building. Likewise, although the present Union exceeds a Deutschian 'pluralistic security community', it fails to meet the 'socio-psychological' conditions of civic governance for any substantive, but not *tout entière*, transfer of public loyalties, or indeed those associated with a neofunctionalist-inspired 'political community'.<sup>17</sup>

Doubtless, different traditions of international relations theory, ranging from pluralist paradigms of interstate behaviour to neorealist interpretations of concerted state action, coupled with others drawn from the domain of comparative government - linking the domestic and international arenas of the Union - seem to have exhausted the analytical spectrum within which the study of European integration can bear fruits. Recently though, a preference for the comparativist school has been reported, suggesting that modified schemes of intergovernmental co-operation - in the form of consociationalism - have survived the tides of supranationalism. As de Areilza put it: 'The state unit is the fundamental normative in the legal and political process of integration'.<sup>18</sup> Another legitimate question is whether the core-theories of integration such as functionalism, neofunctionalism and federalism, offer any concrete sense of direction to the future of the EU as an 'emerging polity' or 'system of governance'.<sup>19</sup>

Whereas the first has focused on the role of international functional agencies as a means of establishing a 'working peace system' within a largely 'aterritorial' policy environment; the second on the dynamics of a pluralist society of organised interests and patterns of elite socialisation; and the third on large-scale constitution-making, they all tried to answer the question of 'who governs and how?' In particular, they aimed at shedding light on the relationship between national and international dynamics; how different policies are pursued at different levels of governance; whether the common system is capable of resolving internal crises, etc. In so doing, however, they have failed to ask perhaps the single most crucial question: 'who is governed?'. This metatheoretical shift in emphasis, at least from a methodological standpoint, may indeed prove capable of directing EU scholarship to the explanation *and* understanding of a striking paradox: although traditional notions of democratic government are losing their normative appeal when applied to the workings of the larger system, the latter exhibits a notable potential for democratic self-development: since the early 1990s, the EU is exhibiting a growing tendency to transcend issues of market integration and regulation, and touch upon 'sensitive areas of state authority', to the extent that European regionalism has been described as 'the only regionalism in the international system where there is an attempt to democratize politics above the level of the state, to mark a decisive shift from diplomacy to politics'.<sup>20</sup>

*Grosso modo*, the many different phases of the European integration process and subsequent theories devoted to their explanation suggest that the formation of a

Euro-polity, as distinct from the making of a new regional state or, conversely, the consolidation of an institutionalised 'regional regime', resembles an asymmetrical synthesis of different strands in the relevant literature, and even of different academic (sub)disciplines, resulting in a 'polygamous affair' that encompasses a wide range of theoretical possibilities.<sup>21</sup> What follows examines the emergence of a new phase of dynamic tension between the promise of democratising the Union and the process (or practice) of managing European regionalism during as well as after the conclusion of the negotiations that led to the signing of the new Treaty of Amsterdam (AMT).

### **Amsterdam By Night ...**

It was indeed during the small hours of June 17, 1997 that the Fifteen finally managed to sign the final draft presented by the Dutch Presidency. But the joy of eventually overcoming numerous obstacles (other were simply deferred to a later review conference) in the negotiating table gradually began to fade both among members of the academic community as well as policy-makers. The following reports, who saw the light of publicity soon after the conclusion of the Amsterdam Summit, illustrate its not so perfect outcome. Given the moderate reforms embedded in the AMT, it is fair to suggest that the European construction has been 'stirred' rather than 'shaken'. As *The Economist* put it, Amsterdam 'produced more of a mouse than a mountain'.<sup>22</sup> Or as *The Guardian* wrote: 'Europe is much the same this week as it was last week'.<sup>23</sup>

Hailed by some as a 'reasonable step', whilst criticised by others as 'lacking ambition', the AMT managed to consolidate state competences by preserving the EU's three-pillar structure, and with it its two separate legal mechanisms: the Community Method and intergovernmental co-operation. Contributing to the above has been, in Devuyt's analysis, that '[r]ather than focusing on pre-emptive institutional spillover in preparation for enlargement, the Amsterdam negotiation was characterized by a "maintaining national control"'.<sup>24</sup> The question that still remains to be addressed concerns the appropriate institutional structure to sustain successive waves of enlargement in the next century. In the end, it was only agreed that after the first enlargement the big states will lose their second Commissioner provided that they are compensated through a re-weighting of votes in Council. This points to yet another accommodationist-type arrangement between smaller and larger states, although a final decision will be taken at least one year before Union membership exceeds 20.

On the basis of this (largely incomplete) outcome of the 1996/7 IGC, there has clearly been a preference for a managerial type of reform to improve the effectiveness in policy output: 'flexibility' or 'enhanced co-operation' - both of which point towards differentiated patterns of integration - has been partially elevated to a *modus operandi* of the system, whereas the deepening of integration has been referred *ad calendas Graecas*. Still though, despite the institutionalisation of a 'flexibility clause' in the

new central arrangements, the Treaty itself precludes the creation of a Europe *à la carte* by introducing strict conditions for its application. Of which, the most important is that any objection by a member state on grounds of 'important and stated reasons' results in the whole matter being referred to the European Council for a decision by unanimity. This is a classical case of states wishing to retain ultimate political control on highly sensitive, if not non-barainable, issues. To borrow again from Devuyst: 'On controversial issues, the negotiators proved able to arrive at a unanimous compromise formula only as long as the reluctant governments were confident that they would be able to maintain control over the decision-making process in the policy areas in question (through veto-rights or general safeguards against a transfer of competence in the EU)'.<sup>25</sup> In fact, he goes even further arguing that for the first time in the history of European treaty reform, 'the French interpretation of the Luxembourg compromise was formalised in a number of Treaty sections [via the veto safeguard]'.<sup>26</sup>

Arguably, those who linked the outcome of the IGC with the construction of a democratic Euro-polity have no real grounds for celebration. Political pragmatism, at the end, seemed to have had its way, for the changes introduced by the new Treaty, if anything, failed to deliver the much needed clarification of the properties of the system toward a 'constitutive polity' based on the democratic functions of governance. Instead, the end-product of the revision process relates to the well-known French saying *plus ça change, plus c'est la meme chose*. The AMT may in fact go down as the 'uncourageous Treaty' since none of the major changes in its political agenda were really touched upon. Contrary to the two earlier treaty reforms in the mid-1980s and early 1990s, the AMT is characterised by a lack of vision about the future of the Union, as it does about the making of an ever more democratic 'union of citizens'. Although this issue will be revisited later on in this essay, it is worth noting that the Amsterdam process has offered a series of 'partial offsets' to the Union's 'democratic deficit', focusing more on its institutional rather than socio-psychological aspects. The latter are concerned with the construction of a European 'civic space' where citizens share among themselves a sense of public sphere and a regard for 'good governance'.

From early on, the review conference was greeted with mixed feelings: some members showed extreme caution, others thought it was too early after the TEU, and others were hesitant to disturb whatever balance was created by the latter. The IGC itself was part of a pre-reform process comprising 40 meetings of the representatives of Foreign Affairs Ministers (Reflection Group), 16 meetings of the Ministers themselves, and 5 Summits of the Heads of State and Government. Although this is a clear indication that important issues were at stake during the revision process, it is somewhat ironic that what was not explicitly discussed in its context was much more significant for the future of the EU system. For crucial issues concerning the making of a demos-oriented process of union have not been effectively tackled. Of which, the

most important was the granting to Union citizens of effective 'civic competence' to actively engage themselves in European governance. The point here is not so much on the crystallisation of liberal democratic norms in the political 'constitution' of Europe, but rather on the search for a transnational 'civic space' within which citizens mobilise their energies in the pursuit of a new democratic order - one capable of 'providing the ties that bind society'.<sup>27</sup> Underlying this normative assertion is a belief that democratic reform - the process of introducing new norms, rules and procedures - is not the cause but the consequence of popular aspirations to democratic governance.

With the benefit of *a posteriori* knowledge, mainly three (political) options for further constitutional change were feasible during the Amsterdam process. The initial dilemma was between a pragmatic versus a normative approach, although at the final stage of the negotiations, a 'mixed' approach - itself an ensemble *sui generis* of the previous two, along the lines of the model of Confederal Consociation<sup>28</sup> - ultimately prevailed. According to the first, the EU remains a 'union of states' that falls short of developing an independent basis from which a European sovereignty might emerge. The second option stresses the importance and desirability of a federalising regional process through which the larger public, in the form of a composite demos, directs its democratic claims to, and via, the central institutions. Finally, the third option means that the EU is *in limbo* between a 'regional regime' of co-ordinated interdependencies and the breaking of a new polity. The table below summarises the alternatives:<sup>29</sup>

**Table 1. Typology of European Treaty Reform**

APPROACHES	<i>Pragmatic</i>	<i>Normative</i>	<i>Mixed</i>
<b>PROPERTIES</b>			
<i>Form of Polity</i>	Confederation (union of states)	Federation (union of peoples)	Confederal Consociation
<i>Modus Operandi</i>	Flexibility/Efficiency (rationalisation)	Demos-Formation (legitimation)	Controlled Pluralism (accommodation)
<i>Locus of Sovereignty</i>	State Rule (treaty-constituted)	Civic Rule (demos-constituted)	Consensus Elite Government
<i>Central Arrangement</i>	Constitutions (national autonomy)	Constitution (new sovereignty)	Constitutional Engineering

The implications from the predominance of the 'mixed' approach are relevant to the continuing confusion surrounding the constitutional nature of the Union which still largely represents a sensibly arranged ensemble of *Gesellschaft* and *Gemeinschaft* elements that results in a fairly co-ordinated system of democracies: a compound polity in the sense of 'polycracy': 'a many turned into one without ceasing to be many'. Such an approach, arguably a hindrance to formal federation-building, has managed to preserve a delicate balance between state and regional organisation: a 'symbiotic consociation' allowing for a sophisticated system of mutual governance based on the principle of joint sovereignty and the practice of political co-determination, rather than on an outdated sovereignty paradigm as an 'indivisible national reality'. In a nutshell, the Union 'has no classic aspiration of its own ... [it] is too complex and too amorphous to be presented as emerging from a new abstract constituent power'.<sup>30</sup> Responsibility for the construction of such a non-state/non-unitary polity but with an increasingly 'state-like agenda', still rests with the partners to it. And so does the consolidation of the Union's legitimising self: the right to publicly binding decisions.

The Union's confederal/consociational nature is a key to understanding the outcome of the 1996/7 IGC, which confirmed the following: first, the Union is still to be considered a 'contractual union of states', a 'treaty-constituted political body' that is not 'the unilateral act of *one* people ... considered as a homogeneous entity';<sup>31</sup> second, the Union does not derive its authority directly from its citizens - i.e., Union citizenship is still tight to the nationality requirement - but rather from the legitimate governments of the component states, each representing a historically constituted demos; third, the Union has not resulted in a complete societal fusion where the many different 'pillars' composing the transnational society lose their respective identities; fourth, the states continue voluntarily to band together by way of 'mutual agreement' and are thus free to dissociate themselves from the regional association;<sup>32</sup> fifth, the constitutional identity of the Union, and with it its much disputed international legal personality, remains dependent upon the constituent polities in critical ways;<sup>33</sup> finally, the Union is composed of self-determining entities and does not, in any fundamental sense, challenge their respective capacity to determine their own fate, despite the fact that it may well represent a profound locking together of distinct culturally defined and politically organised units regarding the joint exercise of fundamental powers.

As in the case of Maastricht, so in Amsterdam, Lejeune's point that the states retain their sovereignty despite the creation of an 'integrated interstate area' remains valid.<sup>34</sup> And so does Laffan's point that '[t]he system rests on the member states but works on the basis of embedding the national in the European [and *vice versa*]'.<sup>35</sup> The polity of the EU, in other words, acts as a crucial link between national and regional dynamics: a point where two different incentives of governance are brought together. In this logic, European treaty reform in the early and late 1990s have made it clear



that, within a dynamic process of 'institutionalised compromise', preserving the 'constitutive autonomy' of states by means of engaging them - both as *Herren der Verträge* and as parts of a 'polity-creating process' (defined in however imprecise terms) - into further co-operative projects is part of the system's *acquis conferencielle*.

All said, the joining together of distinct culturally and historically constituted polities through a politics of accommodation and an informal culture of consensus-building at the highest level is part of a wider political evolution that poses no direct challenge to the constitutional conditions of sovereignty itself. The latter has simply acquired through intense formal and informal interaction a new co-operative dynamic of its own within highly institutionalised common frameworks: it is by no means subsumed either by a new political 'centre', or by 'a new "hierarchy", in which the dominant form of regulation is authoritative rule',<sup>36</sup> or even by a quasi-governmental structure 'that approximates a realistic image of a modern state'.<sup>37</sup> At the same time, however, this pragmatic review should not get in the way of attempting a normative reading in areas where an affective/identitive potential can be moderately recorded. After all, it is thanks to such normative exercises that the EU's ontological conundrum forms part of an open intellectual challenge than a studied case of empirical realities.

### **Some Normative Readings**

It has been suggested that 'to this date the [integration] process has not generated a new political consciousness that would demand and sustain further institutional and democratic transformations'.<sup>38</sup> This exemplifies the very inchoateness, if embryonic existence, of a transnational demos as a politically self-conscious 'body civic'. Despite the contrary rhetoric, the Amsterdam process and outcome did not pay any particular tribute to rectifying this gross democratic deficiency: the lack of a substantive 'social legitimacy' for the Union *qua* polity, conferred upon it by the parallel development of a shared civic identity at the grassroots. Rather, the EU project became even more technical, reflecting the dynamic tension between a new regulatory aetiology of 'post-parliamentary governance'<sup>39</sup> - based on 'expertology', 'professional managerialism' and 'technocratic elitism' - and the lack of strong accountability structures through the continuous scrutiny and control of European citizens.<sup>40</sup> Underlying this empirical pragmatism, rests the idea of 'management committee government',<sup>41</sup> evident in the existing comitology arrangements and, hence, their highly technocratic operations. Thus, the relationship between the Union and 'the civic' remains as problematic as ever. As with Maastricht's (top-down) polity-creation, the Amsterdam citizenship provisions, albeit loyal to the segments' tradition of 'civic statehood', failed to provide both an independent source of legitimacy as well as a sense of 'civic attachment' to the regional system: to create a particular normative order sustained by 'polity-ideas'.<sup>42</sup>

Before examining in greater detail the extent to which Amsterdam enhanced the civic properties of European governance, let us sketch a normative perspective on Union citizenship. The first point to make is that citizenship symbolises an 'internally-oriented relationship' which people have with the institutions of the polity to which they belong.<sup>43</sup> Despite its explicit treaty-based character and corollary constitutional shortcomings, Union citizenship carries an undisputed political weight, perhaps with the most far-reaching implications for the emergence of a stronger *Gemeinschaft* element at the popular level, by virtue of setting in train the conditions for the nurturing of a European civic 'we-ness': a prerequisite for the configuration of a common civic identity among the constituent demoi. Citizenship's most celebrated property is both the range and depth of participatory opportunities it offers to the members of a political community. It aims to fulfil the democratic (deliberative or other) potential of the demos in the exercise of political power through continuous avenues of civic involvement. This view accords with the idea of citizenship as 'substantive' or 'complete' public participation in the affairs of the polity. It entails a feature central to the democratic process which is called 'civic competence': the institutional capacity of citizens to have access to the realm of political influence.

The democratic potential of Union citizenship is based on a twofold assertion: first, that the establishment of a transnational system of political rights can further induce integrative popular sentiments, motivating greater democratic participation; and second, that it strengthens the bonds of belonging to an 'active polity', facilitating the process of positive EU awareness-formation at the grassroots. The question to ask is whether Union citizenship would simply entail a rearrangement of existing civic entitlements for the constituent demoi or attribute effective 'civic competence' based on the power of a new, multi-levelled *civic contract* between peoples, states and central authorities. This organic view implies that the distribution of civic competence passes through, rather than goes beyond, the capacity of citizens to determine the political functions of their polity. For, what remains vital to contemporary democratic politics is the existence, explicitly or not, of a 'civic contract' between governors and governed. Should an 'arrangement' of this type fail to materialise, then the legitimacy of publicly binding decisions is being challenged, and a state of 'illegitimacy' prevails.

Dual citizenship offers the opportunity to incorporate, but not amalgamate, the separate national 'civic contracts' of the component polities into a transnational 'public sphere', where the consent of citizens for EU decisions is organised 'from below', in a horizontally-structured political union. This, Neunreither notes, requires the evolution of the 'member-state citizen' from a 'functionalist' or 'fragmented citizen' to an 'indirect' or 'derived' one, and then to an 'interactive citizen'.<sup>44</sup> But the transition from one stage to another should come about as a conscious act of civic self-development; an exercise in 'political self-identification'.<sup>45</sup> As Herzog put it: 'European citizenship

must proceed from the desire and the capacity of the persons concerned to found an active community seeking to serve common goals ...'.<sup>46</sup> Of such measures to build on the occurrence of a transnational civic identity are the detachment of Union citizenship from the 'nationality requirement' and its placing on an independent sphere of civic entitlements; the institutionalisation of citizens' right to information on all EU issues; the creation of protective legal mechanisms against any potential infringement of fundamental liberties, individual or collective; the enrichment of the citizens' socio-economic rights relating to free movement, social welfare and working conditions; and the recognition of political rights to legally resident third-country nationals (this, however, requires a transcendence of liberal statist norms of civic inclusion and, by implication, the rejection of a 'dissociational-type democracy' at the Union level).<sup>47</sup>

Central to the above is the application of the principle of additionality, in that the present and future sets of common citizenship rights are established *in addition to* national citizenship, 'attached', in Close's words, 'to a novel ... citizenship status'.<sup>48</sup> It is only then that this array of treaty-based entitlements may institutionalise the bonds between an emerging 'body civic' and the larger polity. Like Maastricht, the AMT avoided the incorporation of any set of civic entitlements in a formal 'constitutional' document addressed directly to the citizen, reflecting the rationale behind the states' insistence on a mutually acceptable compromise: a codification of existing trends in both jurisprudence and legislation. But the prospects of EU-wide 'civic competence' depends as much upon legal requirements and judicial procedures, as it does upon public responses. In brief, the development of Union citizenship implies the fostering of horizontal ties among the individuals forming the 'constituent power' of the larger association and, hence, a 'consciousness-raising' process of union, as opposed to an elite-driven one. From this view, the relationship between Union citizenship and large-scale democratic governance becomes *synergetic*, involving the simultaneous building of higher levels of political co-determination at both popular and elite levels.

The triptych *symbiosis - synergy - osmosis* corresponds to the three stages in the making of a Euro-demos: the first, describing the current state of the relationship between the collectivity and the segments; the second, pointing to the development of horizontal links among the constituent publics and a strengthening of existing ones among their respective elites; and the third, representing a culmination of the two in a democratically organised 'sympolity'. The significance of tying the self-image of the elites to the dialectical relationship between transnational citizenship and EU demoformation is that no commonly shared civic identity may come into being unless all major actors engaged in Union governance see themselves as part of a polity-building exercise that has to evolve from reciprocal interactions at the lower level 'upwards'. Likewise, a transnational democratic order must be built up in the everyday networks of large-scale civic engagement, instead of being constructed from the top down.

Accordingly, the formation of a constitutive Euro-polity, and with it the making of a transnational 'civic space', should be determined by European citizens themselves. As the section below shows, Amsterdam leaves much to be desired on this front too: the transition of the Union's democratic orientation 'from paternalism to citizenship' or, alternatively, from top-down elitism to a participatory ethics of legitimate civic rule.<sup>49</sup> But before turning to the AMT itself, let us offer a typology of civic governance.

**Figure 1. Typology of Civic Governance**

*Civic Competence*

		Latent	Institutionalised
<i>Civic Identity</i>	Nascent	<b>Civil Society</b> (functionalist demos)	<b>Civic Space</b> (interactive demos)
	Formed	<b>Public Sphere</b> (deliberative demos)	<b>Civic Community</b> (organic demos)

### **A Not So Imaginative Treaty**

Regardless of one's pro/contra integrationist convictions, the phasing-in of questions of polity, accountability and civic governance in the Union's political agenda since the early 1990s did not replace the anxiety of states to safeguard their own prerogatives, even when these very issues became absolutely essential for the political viability of the regional arrangements. Instead, therefore, of enriching the IGC agenda with issues that constitute the essence of any well thought out process of substantive democratic reforms, the poor and unimaginative quality of proposals submitted to the negotiating table was from the outset a good enough indication of the absence of a clear democratic vision to take the Union dynamically into the next millennium. Shaw concurs: '... there is no strong evidence that the Treaty of Amsterdam has dealt with the fundamental legitimacy issues which emerged most clearly in the early 1990s'.<sup>50</sup> And so does Weiler, who takes the argument even further to suggest that '[w]hereas in its founding period Europe was positioned as a *response* to a crisis of confidence, fifty years later it has shifted to become one of the causes of that crisis'.<sup>51</sup>

Amsterdam failed on all these accounts, and particularly on questions relating to the locus of accountability for complex decision-making processes, for it lacked imagination and a kind of 'innovative reflection' on the possibilities rather than the

limits of constructing a European 'civic space' out of the segments' varied traditions. Instead, it focused on 'distributive compromises'<sup>52</sup> so as to embody the particularistic attitudes of self-interested actors, inviting yet again negotiators to sacrifice an increase in 'democracy in input' for greater efficiency in output.<sup>53</sup> As Shaw put it: 'Like much it is done apparently to enhance the legitimacy of the EU, ... [Amsterdam] is more about "managing" reactions to the EC/EU than it is about seeking to engage in citizen participation'.<sup>54</sup> In this respect, what the new Treaty lacked was not only a 'departure of substance' for the creation of 'norms of polity' centred on the specific constructions of (socially) legitimate forms of civic governance, but also to rediscover 'a sense of process' (and of purpose too) *vis-à-vis* normative orientations such as the qualitative transformation of *a plurality of demoi into a pluralistic demos* and thus the emergence of a new and/or genuinely European *pouvoir constituant* as 'the ultimate legitimising referent of the [Euro-] polity'.<sup>55</sup> This is linked to yet another crucial transformation that Union governance ought to undertake: 'from an ethics of integration to an ethics of participation': 'a deliberative process whereby citizens reach mutually acceptable agreements that balance their various communitarian commitments in ways that reflect a cosmopolitan regard for fairness'.<sup>56</sup> In the words of Mény: 'There is a need for a new civic culture ... which allows for multiple allegiances, which combines the "right to roots" with the "right to options", which links the village and the world'.<sup>57</sup>

But the areas upon which the IGC primarily focused concerned, *inter alia*, the rationalisation/simplification of central decision-making procedures (co-decision), decision-taking adjustments in view of next waves of enlargement (reweighting of votes), the Council's voting mechanisms (extension of qualified majority voting), the hierarchy of Community Acts and, in general, measures concerning the effectiveness of the Union's decision-making arrangements as an (operational) precondition for the future functioning, but not legitimation, of the common system. Ironically though, this elaborate exercise in rationalised institutionalism originally aimed at rectifying a long-standing criticism of the Community as a 'joint decision-system' producing sub-optimal policy outputs,<sup>58</sup> and at the level of negotiated package-deals an inequitable *status quo*. What follows is an attempt to map some of the major institutional changes embodied in the new central arrangements and, in the final section, to insinuate some primordial theoretical conclusions on Amsterdam's democratic qualities or lack of.

Dehousse has amply described one of the major reasons responsible for the Union's 'unstable equilibrium': 'although the parliamentary system remains by far the dominant paradigm in the discourse on the reform of European institutions, the last decade has witnessed a gradual emergence of issues and instruments which do not correspond to the parliamentary tradition'.<sup>59</sup> Arguably, the AMT has placed the EP closer to the *locus decidendi* of the system by extending the scope of co-decision (largely by replacing 'co-operation', save for EMU) and by simplifying the procedures

therein (changing the 'default condition' in the conciliation process). In so doing, it sought to address the Union's 'parliamentary deficit' and facilitate the emergence of a European bicameral system. Indeed, although co-decision 'applies to only 8 out of 36 new competences attributed to the [Community] by the Amsterdam Treaty ... there are 22 new issues under codecision which come in addition to the 15 set out in the Maastricht Treaty'.<sup>60</sup> But at the same time, the AMT failed to reach a correspondence between increased parliamentary co-decision and the use of greater majority voting in the Council,<sup>61</sup> and to extend Parliament's right of assent to legislation in the (now renamed) Justice and Home Affairs pillar - where the EP is still considered an institution *non grata* - to (budgetary) decisions over the Community's 'own resources' and, more crucially, to treaty amendments themselves (constitutional competence).<sup>62</sup>

Having had the chance to comment on the democratic impact of the principle of subsidiarity elsewhere,<sup>63</sup> it is appropriate to move on to the issue of transparency in some greater detail, for it tends to have overlapping consequences on the relationship between the Union and its citizens. This principle, inspired by notions of 'open government' and decisions taken *coram populo* rather than *in camera*, is vital if the Union wishes to eliminate the gap between the ever more perplexed functioning of its institutional machineries and the way in which its nascent demos can identify with its emerging governance structures. The term is linked to the granting of a right of information to Union citizens and the need for a more simplified and comprehensible Treaty. Although Amsterdam succeeded in meeting the first requirement by establishing a (conditional) right of public access to official EU documents - and in Dehousse's words by covering 'the practical modalities of access'<sup>64</sup> - did not achieve much on the latter: the simplification of some legislative procedures has been coupled by the institutionalisation (or even instrumentalisation) of other practices - i.e., the new flexibility arrangements, exemptions, reservations, safeguards, protocols, declarations, etc. - that may well be seen as an exercise in 'cognitive difficulty'.<sup>65</sup> On balance, there is a formalisation of procedures relating to transparency - i.e., their *de jure* incorporation into the Treaty framework - that were previously determined in the context of interinstitutional arrangements and rules of procedure. This allows the ECJ to monitor the process of their implementation. In any case, there is evidence to suggest that a 'norm' of legislative openness and thus of 'good governance' has been formally acknowledged as a general operational principle of the Union, despite the fact that it still needs to be tested in practice. For all their shortcomings - i.e., mainly that they conform to the regulatory rather than the parliamentary model<sup>66</sup> - the new transparency rules are henceforth to be considered part of the Union's 'primary law'.<sup>67</sup> Yet, as an MEP put it, contrary to the stated aims of the Amsterdam negotiators, the end-product deserved 'a first prize for complexity, lack of clarity and transparency'.<sup>68</sup>

Before turning to the concluding section, it worths pointing out that the largest deficiency of the Amsterdam process has been its failure to incorporate into its reform agenda issues concerning the development of a legitimate civic order patterned on the mutual constitution of normative structures. The emphasis has been on questions of policy rather than polity, on efficiency rather than democracy, on (distributive) inter-elite compromise rather than (integrative) accommodation, on functionalist structures rather than shared normative commitments, and crucially on the rationalist exercise of competences rather than symbiotic legitimation, as principles for organising European governance. The Amsterdam outcome emerges as yet another managerial type of reform in the long history of EU treaty-making, where the role of affective/identitive politics remains, for the time being, without reach. Its foundational core rests not on the need for cementing the constitutive (even dialectical) norms of a polycentric public sphere as a precondition for deliberative equity and substantive civic engagement, but rather on a *glidningspolitik* determined by sub-optimal exchanges in a complex negotiation system.<sup>69</sup> The final section summarises the limits of EU polity-building, offering a pragmatic, yet evolutionary, account of the current state of play.

### **Drawing a Conclusion**

Theorising the European condition has so far impelled many promising theoretical departures, but managed to achieve only a few concrete theoretical arrivals. At a time when the Union remains much of an unspecified entity with an open-ended political *telos*, its very dynamism is caught, on the one hand, between federalist aspirations of becoming a more congruent polity based on a bicameral legislature, mechanisms of competence allocation within a coherent order, a single currency linked to convergent macroeconomic expectations, and a social legitimacy of its own with corresponding feelings of belonging to a larger purposive whole and, on the other, a modified type of intergovernmentalism (in the form of consociationalism) confirming the centrality of the member nations in the process of managing the common regional arrangements. In the midst of this near-chaotic state of theorising - still influenced by what Bressand and Nicolaïdes called '*a diffusion of architectural power*'<sup>70</sup> - the normative agents of legitimate governance, 'postnational constitutionalism',<sup>71</sup> and the Europeanisation of civil society, clearly raised the expectations of the Amsterdam process in terms of bestowing the EU with a clearer civic physiognomy within a nascent pluralist order.

Yet, by consolidating national autonomy and diversity, not merely at the level of political rethoric, but also at a practical policy level, the new Treaty has revealed the limits of EU polity-building in the late 1990s. This is not an easy conclusion to reach, let alone one without serious repercussions for the democratic future of the regional process in general, and the relationship between the Union and its citizens in particular. Crucially, the Amsterdam reforms, far from representing a *cause célèbre*

on the road towards a transnational democracy, amount to yet another negotiated deal of 'partial offsets' to an ever growing chasm between the constituent demoi and those whose decisions commit the larger polity as a whole. Hence, a new cycle of dynamic tension between the promise of democratising the collectivity and the actual management of its complex governance structures became manifest, not only after Amsterdam, but more accurately perhaps, because of Amsterdam. For what the latter failed to produce in the end was not a common democratic vision *per se*, but rather a belief that such a vision remains without reach, at least in the foreseeable future.

The above criticism is justified even further if one perceives the endgame of the Amsterdam process as product of a predominantly utilitarian, cost-benefit calculus among divergent interests and 'polity-ideas', along the lines of a rationalist settlement. Such a dynamic tension between democracy and integration in the late 1990s has shown that it is hardly possible to introduce substantive democratic reforms without civic participation, now that the once unquestionable 'permissive consensus' of the 1970s and early 1980s, cannot generate the necessary public commitment to an EU politics heavily relying on economic policy outputs, where 'the provision of public welfare is best met by through the process of elite-led, regional integration'.<sup>72</sup> If anything, the exclusion of citizens from Union governance, compounded by the lack of an effective European 'civic competence', is ultimately at the expense of popular fragmentation itself. But it is also against the interests of better equipping citizens to become agents of civic change: a system-steering agency within an emerging polity.

It is lamentable that this normative trend was absent in Amsterdam. The result was exactly the opposite of what neofunctionalists had once hoped to achieve: instead of increased (and often uncontrolled) politicisation becoming an additional weapon in the strategic arsenal of pro-integrationist forces, it is effectively utilised by the more sceptical actors, thus making it difficult to achieve a 'complete equilibrium' between the Union and 'the civic': a more demos-oriented process of EU polity-building that is flexible enough to accommodate high levels of segmental diversity, yet solid enough to stand firm against a politics of consensus elite government. Anything less, in a normative theory perspective, would perpetuate a predominantly elitist operation that is detrimental to the development of legitimate governance, where issues of polity and democracy are not only placed at the top of the integrative agenda, but also navigate the normative orientations of society through a principled public discourse. In conclusion, like any other modern polity that aspires to democratic shared rule, the Union has to engage in a dynamic process of self-reinvention founded upon an ethics that in turn rests on a deliberative rather than aggregative model of civic governance.



## Notes

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<sup>1</sup> But the increasingly overwhelming literature on conceptualising the EU makes it almost impossible for a single study to analyse in any considerable depth and length the above definitional approaches.

<sup>2</sup> Markus Jachtenfuchs, Thomas Diez and Sabine Jung, 'Which Europe? Conflicting Models of a Legitimate European Political Order', *European Journal of International Relations*, Vol. 4, No. 4, 1998, p. 417.

<sup>3</sup> This quote is attributed to Jacques Delors, former President of the European Commission.

<sup>4</sup> Jachtenfuchs, Diez and Jung, p. 411.

<sup>5</sup> Dimitris N. Chrysochoou, 'A Normative Theory of the Euro-Polity', *Current Politics and Economics of Europe*, Vol. 8, No. 4, 1999, pp. 413-27. See also Knud Erik Jørgensen (ed), *Reflective Approaches to European Governance*, London: Macmillan, 1997, especially Chapters 1, 2 and 12.

<sup>6</sup> Paul Taylor, *International Co-operation Today: The European and the Universal Patterns*, London: Elek, 1971, p. 149.

<sup>7</sup> Clive H. Church, *European Integration Theory in the 1990s*, European Dossier Series, No. 33, University of North London, 1996, p. 8.

<sup>8</sup> Robert J. Lieber, *Theory and World Politics*, London: George Allen and Unwin, 1973, p. 4.

<sup>9</sup> Quoted in *ibid*, p. 9. For the original argument see Thomas S. Kuhn, *The Structure of Scientific Revolutions*, Chicago: The University of Chicago Press, 1962, p. 15.

<sup>10</sup> Brigid Laffan, 'The European Union: a distinctive model of internationalization', *Journal of European Public Policy*, Vol. 5, No. 2, 1998, p. 239.

<sup>11</sup> David Mitrany, *A Working Peace System*, London: Royal Institute of International Affairs, 1943.

<sup>12</sup> Laffan, p. 236.

<sup>13</sup> See particularly, '*Les Verts*' vs. *the European Parliament*, 1986, ECR 1339; and Opinion 1/91, *Draft Agreement on a European Economic Area*, 1991, ECR I-6079.

<sup>14</sup> Wolfgang Wessels, 'The Amsterdam Treaty in View of the Fusion Theory', paper presented at the British International Studies Association, University of Leeds, 15-17 December 1997, p. 12.

<sup>15</sup> Laffan, p. 238.

<sup>16</sup> Robert A. Dahl, *A Preface to Democratic Theory*, Chicago: The University of Chicago Press, 1957, p. 38.

<sup>17</sup> See respectively, Karl W. Deutsch *et al.*, *Political Community and the North Atlantic Area*, Princeton, NJ: Princeton University Press, 1957; and Ernst B. Haas, *The Uniting of Europe: Political, Social and Economic Forces 1950-1957*, London: Stevens, 1958.

<sup>18</sup> Jose de Areilza, *Sovereignty or Management? The Dual character of the EC's Supranationalism Revisited*, Jean Monnet Papers, Harvard Law School, 1995, p. 3.

- <sup>19</sup> For a detailed account of these among other theories of integration see Dimitris N. Chrysochoou, Michael J. Tsinisizelis, Stelios Stavridis and Kostas Ifantis, *Theory and reform in the European Union*, Manchester and New York: Manchester University Press, 1999, especially Chapters 1 and 2.
- <sup>20</sup> Laffan, p. 247 and p. 249
- <sup>21</sup> The analogy is borrowed from an argument developed by Tsoukalis on the polycemous nature of the term 'union'. See Loukas Tsoukalis, 'The European Agenda: Issues of Globalisation, Equity and Legitimacy', Jean Monnet Chair Papers RSC, No. 98/49, European University Institute, 1998, p. 12.
- <sup>22</sup> *The Economist*, 'Mountains still to climb', June 21, 1997, p. 37.
- <sup>23</sup> *The Guardian*, 'The real lesson of Amsterdam', June 18 1997.
- <sup>24</sup> Youri Devuyt, 'Treaty reform in the European Union: the Amsterdam process', *Journal of European Public Policy*, Vol. 5, No. 4, 1998, p. 615.
- <sup>25</sup> *Ibid*, 623.
- <sup>26</sup> *Ibid*, p. 629.
- <sup>27</sup> Percy B. Lehning, 'Towards a Multicultural Civil Society: The Role of Social Capital and Democratic Citizenship', *Government and Opposition*, Vol. 33, No. 2, 1998, p. 224.
- <sup>28</sup> See by Dimitris N. Chrysochoou, *Democracy in the European Union*, London and New York: Tauris Academic Studies, 1998, especially Chapter 7; and 'New Challenges to the Study of European Integration: Implications for Theory-Building', *Journal of Common market Studies*, Vol. 35, No. 4, pp. 521-44.
- <sup>29</sup> See also Michael J. Tsinisizelis and Dimitris N. Chrysochoou, 'The European Union: Trends in theory and reform', in Albert Weale and Michael Nentwich (eds), *Political Theory and the European Union: Legitimacy, constitutional choice and citizenship*, London: Routledge, 1998, pp. 83-97.
- <sup>30</sup> de Areizla, p. 9.
- <sup>31</sup> Murray Forsyth, 'Towards a New Concept of Confederation', in *The Modern: Concept of Confederation*, European Commission for Democracy Through Law, Council of Europe, 1995, p. 64.
- <sup>32</sup> Despite the controversy surrounding the legal consequences of such a possibility, it is politically safe to agree with the view that 'member governments may find themselves caught like Macbeth in a venture which, once begun, is too costly to abandon since such a step would sacrifice policy gains which have been accrued and remain important'. See Richard Bellamy and Alex Warleigh, 'From an Ethics of Integration to an Ethics of Participation: Citizenship and the Future of the European Union', *Millennium*, Vol. 27, No. 3, 1998, p. 452.
- <sup>33</sup> On this see Ramse A. Wessel, 'The International Legal Status of the European Union', *European Foreign Affairs*, Vol. 2, 1997, pp. 109-29.
- <sup>34</sup> Lejeune, p. 140
- <sup>35</sup> Laffan, p. 242.
- <sup>36</sup> Robert O. Keohane and Stanley Hoffmann, 'Conclusions: Community politics and institutional change', in William Wallace (ed), *The Dynamics of European Integration*, London: Royal Institute for International Affairs, 1990, p. 281.

<sup>37</sup> Ibid, p. 279.

<sup>38</sup> de Areizla, p. 9.

<sup>39</sup> See Svein S. Andersen and Tomas Burns, 'The European Union and the Erosion of Parliamentary Democracy: A Study of Post-parliamentary Governance', in Svein S. Andersen and Kjell A. Eliassen (eds), *The European Union: How Democratic Is It?*, London: Sage, 1996, pp. 227-52. On the inappropriateness of the parliamentary model for organising EU democracy see John Coultrap, 'From Parliamentarism to Pluralism: Models of Democracy and the European Union's "Democratic Deficit"', *Journal of Theoretical Politics*, January 1999, pp. 107-35.

<sup>40</sup> Hueglin adds: 'The delegation of governing authority to technocratic expertise not only "weakens the deliberative and participative dimensions of politics" ... , it moreover ... leads to serious social/spacial imbalances'. Thus, defenders of the regulatory model simply borrow from the market model the ideological-normative claim that growth promotion is distributively neutral. See Thomas O. Hueglin, 'Towards a Critical Theory of Governance in the EU: Can Federalism Help to Understand What is Going On?', Oslo ECPR Joint Sessions of Workshops, 29 March - 3 April 1996, p. 19.

<sup>41</sup> The vast majority of EU decisions, indeed no less than 85%, are taken *de facto* by working groups, often evading proper parliamentary controls. See M. P. C. M. van Schendelen, 'The Council Decides: Does the Council Decide?', *Journal of Common Market Studies*, Vol. 34, No. 4, 1996, pp. 531-48.

<sup>42</sup> Jachtenfuchs, Diez and Jung, *op. cit.*

<sup>43</sup> Paul Close, *Citizenship, Europe and Change*, London: Macmillan, 1995, pp. 2-3.

<sup>44</sup> Karlheinz Neureither, 'Citizens and the Exercise of Power in the European Union: Towards a New Social Contract?', in Allan Rosas and Esko Anttona (eds), *A Citizens' Europe: In Search of a New Order*, London: Sage, 1995, p. 10.

<sup>45</sup> Ibid, p. 13.

<sup>46</sup> European Parliament, 'Report on the functioning of the Treaty on European Union with a view to the 1996 Intergovernmental Conference', May 1995, p. 67.

<sup>47</sup> See, respectively, Charles Taylor, 'The Dynamics of Democratic Exclusion', *Journal of democracy*, Vol. 9, No. 4, 1998, pp. 143-56; and Andrew Geddes, 'Immigrant and Ethnic Minorities and the EU's "Democratic Deficit"', *Journal of Common Market Studies*, Vol. 33, No. 2, 1995, pp. 197-217.

<sup>48</sup> Close, p. 255.

<sup>49</sup> Bellamy and Warleigh, p. 456.

<sup>50</sup> Jo Shaw, 'The Emergence of Postnational Constitutionalism in the European Union', paper presented at the Exeter Political Theory Workshop, University of Exeter, 23 November 1998, pp. 3-4.

<sup>51</sup> Joseph H. H. Weiler, 'Bread and Circus: The State of European Union', *Columbia Journal of European Law*, Vol. 4, 1998, p. 230. Quoted in *ibid*, p. 17.

<sup>52</sup> For a distinction between 'distributive' and 'integrative' compromises see Richard Bellamy and Martin Hollis, 'Consensus, Neutrality and Compromise', *Critical Review of International Social and Political Philosophy*, Vol. 1, No. 3, p. 63.

- <sup>53</sup> On the distinction between 'input-oriented' and 'output-oriented democratic legitimacy' see Fritz W. Scharpf, 'Interdependence and Democratic Legitimation', Max Planck Institute for the Study of Societies Working Paper, No. 98/2, 1998.
- <sup>54</sup> Jo Shaw, 'The Treaty of Amsterdam': Challenges of Flexibility and Legitimacy', *European Law Journal*, Vol. 4, No. 1, 1998, p. 85.
- <sup>55</sup> J. H. H. Weiler, 'Legitimacy and Democracy of Union Governance', in Geoffrey Edwards and Alfred Pijpers (eds), *The Politics of European Treaty Reform: The 1996 Intergovernmental Conference and Beyond*, London: Pinter, 1997, p. 250. Quoted in Shaw, 'The Treaty of Amsterdam', *op. cit.*, p. 82.
- <sup>56</sup> Bellamy and Warleigh, pp. 448. See also Richard Bellamy and Dario Castiglione, 'Building the Union: The Nature of Sovereignty in the Political Architecture of Europe', *Law and Philosophy*, Vol. 16, No. 4, 1997, pp. 421-45.
- <sup>57</sup> Yves Mény, 'The People, the Elites and the Populist Challenge', Jean Monnet Chair Paper RSC, No. 98/47, European University Institute, 1998, p. 9.
- <sup>58</sup> Fritz W. Scharpf, 'The Joint-Decision Trap: Lessons from German Federalism and European Integration', *Public Administration*, Autumn 1988, pp. 239-78.
- <sup>59</sup> Renaud Dehousse, 'European Institutional Architecture after Amsterdam: Parliamentary System or Regulatory Structure?', Working Paper RSC, No. 98/11, European University Institute, 1998, p. 13.
- <sup>60</sup> Michael Nentwich and Gerda Falkner, 'The Treaty of Amsterdam: Towards a New Institutional Balance', *European Integration online Papers*, Vol. 1, No. 015, 1997, p. 4. Full text is to be found in the following electronic address: <http://eiop.or.at/eiop/texte/1997-015a.htm>.
- <sup>61</sup> The now simplified co-decision procedure applies also to citizens' rights, social security for migrant workers, rights of self-employed, cultural measures and, in five years time, to visa procedures and conditions, and visa uniformity rules, whilst the use of qualified majority has been extended in the fields of emergency immigration measures, employment (guidelines and incentive measures), customs co-operation, countering fraud, social exclusion, equality of opportunity and treatment of men and women, public health, transparency (general principles), fundamental rights sanctions, outermost regions, and statistics (data protection). See Andrew Duff (ed), *The Treaty of Amsterdam: Text and Commentary*, London: Sweet and Maxwell, 1997, p. 145 and pp. 152-3, respectively.
- <sup>62</sup> *Ibid*, p. xxxvi-ii and p. 143.
- <sup>63</sup> Chrysochoou, *Democracy in the European Union*, especially Chapter 8.
- <sup>64</sup> Dehousse, p. 10. He writes: '... Treaty status has been granted to the rule according to which, when the Council acts in a legislative capacity the rules of votes, explanations of vote and statements attached to the minutes are to be made public'.
- <sup>65</sup> For an account of this term see Robert O. Dahl, 'The Future of Democratic Theory', *Estudios Working Papers*, No. 1996/90, 1996, pp. 13-14.
- <sup>66</sup> Dehousse, p. 11.
- <sup>67</sup> Nentwich and Falkner, p. 11.

<sup>68</sup> L. J. Brinkhorst, 'Pillar III', in European Policy Centre, *Challenge Europe: Making Sense of the Amsterdam Treaty*, Brussels, 1997, p. 49. Quoted in Geoffrey Edwards and Georg Wiessala, 'Editorial: Flexibility, Legitimacy and Identity in Post-Amsterdam Europe', *Journal of Common Market Studies*, Vol. 36, Annual Review, 1998, p. 7.

<sup>69</sup> McDaniel translates *glidningspolitik* as the 'politics of smoothness'. See Gerald McDaniel, 'The Danish Unicameral Parliament', unpublished PhD dissertation, University of California, Berkeley, 1963. Quoted in Arend Lijphart, 'Consociational Democracy', *World Politics*, Vol. 21, No. 2, 1969, p. 225.

<sup>70</sup> Albert Bressand and Kalypso Nicolaïdes, 'Regional integration in a networked world economy', in Wallace (ed), *op. cit.*, p. 32.

<sup>71</sup> Shaw, 'The Emergence of Postnational Constitutionalism in the European Union', *op. cit.*

<sup>72</sup> Bellamy and Warleigh, p. 453.