CEPS COMMENTARY
Thinking ahead for Europe

Making the institutions work better and more effectively together:
Priorities for the New Commission

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The priorities of the European Union in the field of institutions are circumscribed by the premise that any new treaty negotiation would, at present, be a fruitless exercise, probably dangerous and condemned to failure. In the present state of public opinion, nobody believes that a substantial European treaty could be unanimously ratified, irrespective of its merits. Preoccupations lie elsewhere, in growth and unemployment, and a treaty negotiation on institutions would seem provocative to many. Doubts about the future participation of the United Kingdom in the European enterprise merely increase the risks of any treaty negotiation.

We have to accept that, as of now, institutional treaty change cannot be a priority.

This does not exclude that treaty change may become possible and desirable at a later time, in a period of economic growth and greater self-confidence in public opinion. In a best-case hypothesis, such a window of opportunity might open towards the end of the present legislature. Meanwhile, attention must concentrate on adapting institutions to make them work better and work more effectively together. Therein lie the priorities.

The European Council

For many years the European Council has *de facto* been the central decision-making body in the Union. That position was consolidated by the Lisbon Treaty which recognised it as a formal institution of the Union and gave it a permanent president. The euro crisis enhanced its power because it called for important and urgent decisions, with serious consequences in member states and frequently outside the scope of treaty provisions. Such decisions could only be taken at the top level.

The tenure of Herman Van Rompuy has established the role and functioning of the presidency of the European Council. He called meetings, largely determined the agenda and

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controlled the preparatory work through various channels, including sherpas and numerous personal contacts. He prepared draft documents, negotiated compromises, chaired the meetings and oversaw the implementation of decisions taken. He had a role of external representation in a variety of international meetings held at the top level. And he did all this with a relative low level of visibility in the media, in order not to detract from the visibility sought by national leaders.

It is reasonable to believe that Donald Tusk will seek to follow the same *modus operandi,* which has been generally considered as successful. He may be hampered, at first, by his linguistic abilities: difficult compromises are more difficult to secure when an interpreter is required. But his general approach to the task can be expected to be similar to that of Mr Van Rompuy.

Some consideration should be given to relations with the Commission and the Parliament. Although the European Council is, by treaty, a Union institution, it is still largely considered in the Parliament and the Commission, and at various levels, as a dangerous intergovernmental intruder, foreign to the 'Community method' and destabilising the traditional 'institutional triangle'. Conversely, quite a few members of the European Council look with suspicion at the increased power exercised by the Parliament and Commission. Such a level of mistrust is detrimental to the good working of the institutions.

- Presidents Van Rompuy and Barroso have managed, through regular weekly contacts and personal dedication, to avoid the clashes that many experts predicted as inevitable. Indications are that Van Rompuy, in his tenure, actively supported the position and executive role of the Commission and its President. Nevertheless the role of the Commission in the European Council has been, deliberately it seems, more passive than in former years. It is clear that, over time, political initiative in European affairs has largely moved from the Commission to the European Council. But that should be an argument for the Commission to play a proactive role in the deliberations of the European Council. Jean-Claude Juncker, until recently a respected member of the European Council, will have that in mind.
- The European Council is both a meeting of national leaders and an institution of the Union. In the first capacity, members are democratically accountable to their national electorate or parliament. In the second capacity, the treaty prescribes no accountability of the institution to the European Parliament. Nevertheless, the perceived democratic deficit in the functioning of the Union might argue for establishing closer and more regular relations between the European Council President and Parliament. Donald Tusk may want to consider this.

The Commission

Most observers agree that the Commission is too numerous to work effectively as a collegial institution. But any reduction in numbers would imply a treaty change and, importantly, a change of perception in most capitals. In the meanwhile, a number of practical modifications can be applied.

- When a group is too numerous, some element of centralisation of the decision-making process is needed. Many think tanks, including CEPS, have suggested organising 'clusters' in which several Commissioners deal with one main sector of activity, under the leadership of a Vice-President. President Juncker has introduced such a structure. Nobody believes that this system will be easy to implement, but a real effort should be made to ensure that it works.

- The tradition that each Commissioner must have a DG (and a director general!) answering to him or her, has swollen the administrative structure of the Commission, making it unmanageable. It is encouraging to note that Vice-Presidents will not have their own DG. But further streamlining the administrative structure of the Commission, as the Council Secretariat has done, would increase efficiency and transparency.
- To be effective, a body the size of the Commission must be able to vote. Constant pursuit of consensus becomes paralysing. The treaty says that it may decide by simple majority. In fact, it has not voted in ten years, presumably because a simple majority seems problematic in view of the imbalance in membership. The Commission might decide, informally, that a proposal supported by a strong (two-thirds? three-quarters? four-fifths?) majority becomes binding on the College.
- Proposals emerging from Commission services should always be submitted to a specific subsidiarity/proportionality control (including the *de minimis* principle), and to a detailed impact assessment, to be made by an independent service answering to the President or Vice-President heading a cluster.
- It can be argued that the activity, visibility and influence of the Union, as such, on the international scene are more modest today than in the past. This is due more to lack of political will than institutional defects. Nevertheless, cooperation and mutual trust between the external service and Commission services could well be enhanced under the leadership of the Vice President-High Representative.
- The Commission should be more present in national capitals. Important decisions should not simply be announced by a Commission spokesperson in Brussels. They should be explained, argued and defended in national capitals by members of the Commission, in political circles and before the media. Decisions would then seem less distant and less intrusive for public opinion.

The Parliament

Over time, Parliament has considerably increased its power and influence in European affairs: the process leading to the appointment of the President of the European Commission is a recent example. Parliament might reflect further on the exercise of its power and influence.

- Legislation and control of the executive is the core business. Parliament should refrain from adopting declaratory resolutions on matters, however important, that go beyond a strict interpretation of Union competences. Such actions contribute to the widespread impression that European institutions constantly desire to extend their field of action.
- Crucial decisions require democratic legitimacy and accountability both at the European and national level. The level of cooperation between the European Parliament and national parliaments should be increased. Up to now, practical efforts to that effect have not been convincing. Devising a new approach and imaginative solutions should be a priority.
- Differentiation is now a fact of life in European affairs: the eurozone is the most obvious example, with eurozone summits and finance ministers meeting in the Eurogroup. The Commission, through its collegiality, is finding its way in this new

environment. Parliament should, for its part, reflect on whether and how it should adapt to this fact of life. The problem will not go away by ignoring it.

The Council

The Council has been overshadowed by the increased impact and visibility of the European Council. To regain visibility, it might increase transparency in its ways of working. It might consider further reducing the number of Council formations, which can be a source of confusion. It might also reflect on the rotating presidency: is it still the optimal solution when the number of participants increases? Is it significant that the Eurogroup, which was free to choose because it is informal, opted for a permanent president?

Conclusion

At the beginning of a new legislature, the Union and its member states face institutional challenges to overcome the rising tide of euroscepticism, to accommodate increasing differentiation and to fix the British problem. Substantial treaty change is not a short-term option. But much can be done through practical modifications in the daily working of the institutions, and even more so by changing the spirit in which they operate. The underlying problem is lack of trust and confidence: trust between member states, between ins and outs, trust between national and Union institutions, trust between European institutions themselves, confidence of public opinion in the European process, confidence in political leadership and perhaps above all: self-confidence. As the polymath George Steiner once noted, "Europe is the continent of doubt". Institutional priorities must be crafted with that situation in mind. With time, they may lead to a situation where substantial treaty change becomes possible.