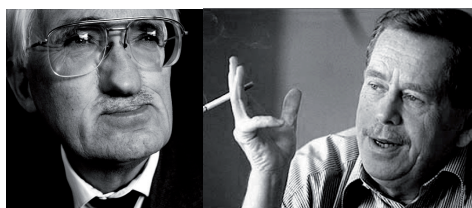


## Public intellectuals in Europe

How have intellectuals reacted to European integration and how do they conceive of their country's national identity and its position inside (or outside) the European Union? These questions are scrutinized by a group of researchers within the framework of WP 5 – *Civil Society and the Public Sphere*.



*Read more on p. 4*

## New partner in Madrid

The Spanish National Research Council (CSIC) joined the RECON consortium in autumn 2008. CSIC is the largest public research body in Spain and replaced the Center for Political and Constitutional Studies in Madrid. Former deputy director for research at CEPC, Prof. Carlos Closa, was appointed Senior Researcher at CSIC in June 2008 and has established a new team at the Institute of Public Goods and Policies at CSIC to continue the research on EU constitutionalisation and the Europeanisation of national constitutions within RECON.

*Read more on p. 2*

## Minding the gap



*The EU aims towards greater social cohesion and an inclusive labour market. This includes suppressing the barriers preventing women from participating and promoting more equal opportunities*  
© EC/Reporters, 2005

Yvonne Galligan and Sara Clavero examine how gender democracy is being supported in Europe. Their study of two gender-related directives illustrates the potential for enhancing gender democracy through attention to the principles of deliberative democracy. Their research is undertaken as part of WP 4 – *Justice, Democracy and Gender*.

*Read more on p. 3*

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#### RECON partners:

Academy of Sciences of the Czech Republic, Prague

ARENA - Centre for European Studies, University of Oslo (coordinator)

Austrian Academy of Sciences, Vienna  
Eötvös Loránd University, Budapest

European University Institute, Florence

Free University Berlin

Jagiellonian University, Krakow

Johann Wolfgang Goethe University, Frankfurt am Main

London School of Economics and Political Science

Mannheim Center for European

Social Research (affiliated partner)

Peace Research Institute Frankfurt

Queen's University Belfast

Riga Graduate School of Law

Sabancı University, Istanbul

Spanish National Research Council (CSIC), Madrid

Université Libre de Bruxelles

University of Auckland

University of Bath

University of Bremen

University of León

University of Reading

Vrije Universiteit Amsterdam



The *Consejo Superior de Investigaciones Científicas* is the largest public research body in Spain.

It is an autonomous organisation depending on the Spanish Ministry of Science and Innovation. CSIC is dedicated to research in all scientific fields and is organised in centres along eight scientific disciplines. One of them, the Centre for Humanities and Social Sciences (CCHS) is the largest research centre in Spain in its field with more than 700 employees. Minister of Science and Innovation **Cristina Garmendia** inaugurated the centre on 23 February 2009, marking the assembly of seven institutes at one location in Madrid. The CCHS' Institute of Public Goods and Policies is focused upon the interaction between public goods and policies and the research efforts are structured along four main themes: Research and innovation systems and policies; environmental economics; social policies and welfare state; and Europeanization, globalization and comparative analysis of political processes and policies.



From the start of the RECON project in January 2007, Prof. Closa has been a key partner in WP 2 – *The Constitutionalisation of the EU, the Europeanisation of National Constitutions, and Constitutionalism Compared*. Following his resignation at the Center for Political and Constitutional Studies (CEPC), the RECON project was transferred from CEPC to the new partner CSIC.

### Research tasks

Prof. Closa and his team have made important contributions to RECON's research at CEPC and the new team at CSIC will continue this work, most notably within WP 2. The team is particularly involved in the study of EU constitutionalisation in the post-Laeken period and the research on the Europeanisation of national constitutions. A workshop on this topic was organised in Madrid in January 2008, and a report with the conference proceeding is currently being revised and edited to appear in the RECON Report Series. CEPC moreover launched a website in 2007 on the Europeanisation of national constitutions: [www.europeconstitution.eu](http://www.europeconstitution.eu), which provides basic documentation about national constitutional adaptations to European integration. It is aimed at researchers, journalists and citizens interested in learning about the Europeanisation of member states' constitutions and constitutes a paramount source of information on these processes. The website includes information on EU member states, candidate countries and potential candidate countries,



**Prof. Carlos Closa Montero** is Senior Researcher at CSIC's Institute for Public Goods and Policies. He is former Deputy Director for Research at the Center for Political and Constitutional Studies in Madrid (2004-2008) and has held positions at the University of Zaragoza, College of Europe in Bruges, Complutense University of Madrid and the University of Hull. Prof. Closa is member of the Venice Commission for Democracy through Law of the Council of Europe and Associated Researcher at the Real Instituto Elcano in Madrid. He has also been associated Jean Monnet Fellow at the EUI, Florence and visiting fellow at the Centre for European Studies at Harvard University. The research expertise of Prof. Closa covers the fields of EU politics and law, in particular EU constitutional politics, European citizenship and the institutional architecture of the EU.

**Joanna Jasiewicz** is assistant researcher at the Institute for Public Goods and Policies at CSIC and PhD candidate at the University of Barcelona. Her PhD thesis explores the link between ethnic political mobilization in Poland, European integration and transnational networks. Jasiewicz was involved in the project 'Divergent reactions to globalization: Advanced economies and the NAFTA and EU enlargement projects' led by Prof. Juan Díez Medrano.



She was visiting researcher at the EUI, Florence in spring 2008. Her research interests cover regional integration, transnational activism, ethnic minorities, migration and social movements.



**Patricio Galella** is research assistant at the Institute of Public Goods and Policies at CSIC and PhD student in international law and international relations at the *Instituto Universitario Ortega y Gasset* in Madrid. He has work experience as a lawyer, as an intern at the UN Institute for Disarmament Research (Geneva) and the Embassy of Argentina (Paris), and as research assistant for a private project on new threats to international security. Galella holds a Master in International Affairs from the Institute of Political Studies (IEP) in Paris. His main research interests are the EU's foreign, security and defence policy and also the processes of constitutionalisation and democratisation of the EU.

**Dr. Julio Baquero Cruz** is Research Fellow at the Centre for Political and Constitutional Studies and Associate Professor at the Universidad Carlos III in Madrid. He works in close cooperation with CSIC in the RECON project. He has been Marie Curie Fellow at the Robert Schuman Centre at EUI, Florence, visiting professor at the *Instituto Ortega y Gasset* in Madrid and at the Academy of European Law in Florence. He holds a PhD from the European University Institute, Florence and an LL.M. from the College of Europe, Bruges. From 2000 to 2004 he was a *référéndaire* at the European Court of Justice. He has lectured and published extensively on EU law, including economic and constitutional issues.



national constitutional provisions related to the EU, links to texts of national constitutions, national parliamentary debates on the topic, case-law and selected bibliographies.



Spanish Minister of Science and Innovation, **Cristina Garmendia**, at the opening of the new CCHS in February 2009 © CSIC



# Minding the gap

Yvonne Galligan and Sara Clavero

Centre for Advancement of Women in Politics and Queen's University Belfast

**Yvonne Galligan and Sara Clavero examine how gender democracy is being supported in Europe. In this article, they present their study of two gender-related directives which illustrates the potential for enhancing gender democracy through attention to the principles of deliberative democracy. Their research is undertaken as part of WP 4 – Justice, Democracy and Gender of the RECON project.**

The European Union has clearly stated a commitment to equality between men and women in Articles 2, 3, 13 and 141 of the EC Treaty. These commitments have been given effect through directives, successive gender plans, European Court of Justice jurisprudence, and specific strategies such as gender mainstreaming and positive action. Thus, the equal opportunities agenda is a distinctive aspect of EU democratic decision-making.

Until now, though, relatively little attention has been paid to the democratic quality of decision-making on equal opportunities. In recent times, too, the issue of a 'democratic deficit' at the heart of European decision-making highlighted the relative weakness of the European Parliament and its elected members in relation to the power of member state governments in the Council. Recent changes in the relationship between the Parliament and Commission, including the introduction of the co-decision procedure, have been introduced to enhance the democratic legitimacy of the EU. This places the spotlight on the European decision-making process. Feminist scholars have taken issue with the debates on the nature of EU decision-making, expressing their discontent with the gender implications of the analyses. In our study of gender democracy in the European Union, we wish to assess the democratic quality of EU institutions and decision-making from a gender point of view. In doing so, we turn to deliberative models of democracy for two reasons. First, deliberative democracy allows us to consider issues of inclusion, recognition, and group difference that are central to any gender democracy assessment. Second, deliberative democracy provides a framework for a rigorous study of democratic decision-making in a setting that is not based on the nation-state. In other words, we are interested in the deliberative process as it relates to gender equality. We take account of the positions, arguments and influence of groups and institutions involved in the decision-making process on directives that seek to enhance equality between women and men.

Our focus, then, is on the discussions leading to the adoption of gender directives that take place in deliberative settings – the EP, the Commission, the Council, and related group or committee events. In assessing the extent to which these discussions are gender-sensitive, we employ indicators based on

four principles of deliberative democracy – inclusion and political equality, publicity, and reasonableness.<sup>1</sup> These principles capture the core features of a 'deliberative' and reflective democratic process:

- The issue in question is critically examined by qualified and affected members of the community;
- This process takes place in public;
- It is inclusive of all relevant interests; and
- Decisions are accepted by all in a free and non-coercive debate.

So, what does the application of these principles of deliberative democracy tell us about the real world of EU policy-making on gender issues? An analysis of two directives – the Goods and Services Directive and the Recast Gender Equality Directive – tell us much about gender democracy in the EU.

In general, we found that the quality of democracy revealed by the legislative process in each case varied across the EU institutions. It was influenced by the type of decision-making procedure followed and by the extent of involvement of women's interest representatives. The gender-sensitivity of the process was assisted by a strong coalition of women's advocates. In addition, the openness to gender perspectives was determined by the level of consensus on the issue among the key participants.

Exploring these points further, our analysis shows that the democratic quality of the deliberative processes taking place in the European Parliament is noticeably higher than that of the Council, with the Commission in between.

Second, the co-decision procedure enhanced overall inclusiveness. Thus, by giving decision-making powers to the European Parliament in the case of the Recast Directive on Gender Equality, it facilitated the involvement of a strong institutional advocate of women's interests, the EP Committee on Women's Rights and Gender Equality, from the beginning of the process. The consultation procedure followed in the case of the Goods and Services

Directive was less open to institutional and civil society advocates for gender equality. In addition, the level and quality of justification in support of a position is lower than in the co-decision process. In this event, the Council can choose to ignore the Parliament's opinion.

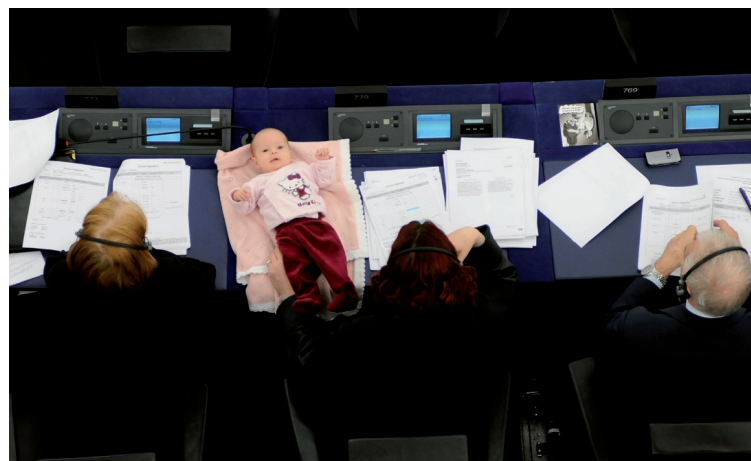
Third, an important contributor to making the pol-

icy process gender-sensitive was the involvement of women's interest representatives from the start. In particular, the early formation of a strong coalition between MEPs, women's organisations, femocrats and gender experts, acts to enhance the democratic quality of the process. This happened in the case of the Goods and Services Directive, where there was a considerable degree of inclusiveness of 'qualified and affected members of the community' in the process. In contrast, the Recast Directive was characterised by a very low involvement of women's interest advocates during the drafting of the commission proposal, resulting in a lesser inclusion of gender advocate voices.

Fourth, the level of disagreement among the participants, institutional and civil society, significantly affects the democratic quality of the process. The strong disagreement among actors involved in the Goods and Services Directive had an impact on the levels of inclusiveness, publicity and reasonableness. In this context, the European Parliament played an important role as a consensus-builder among different political groups and with the Council.

In summary then, what lessons can be learned from this brief review of two directives for deepening gender democracy in the EU? They can be summed up in five guidelines:

*'Co-decision facilitates inclusion of gender perspectives'*



Hanne Dahl, Danish Member of the European Parliament with her child at a session in March 2009 © EP

- Co-decision facilitates inclusion of gender perspectives;
- Involvement of civil society representatives of women's interests in the early stages onwards ensures both inclusion and assists political equality;
- Coalitions of women's interest advocates – MEPs, femocrats, EP committee on Women's Rights and Gender Equality, and gender experts – can play an important role in shaping the nature and quality of discussions;
- Political consensus-building on equality, among political groups and institutions can facilitate gender equality concerns;
- Transparency in documenting reasons for positions taken, with access for all involved in the process, assists in arriving at an outcome that all participants can accept.

The question of the EU's democratic legitimacy strikes at the heart of national and public acceptance of the European Union as a political arrange-

*'Coalitions of women's interest advocates can play an important role in shaping the nature and quality of discussions'*

ment. In pursuing and improving its deliberative decision-making processes, the EU can counter charges of elitism and absence of accountability. Our study of two gender related directives il-

lustrates the potential for revealing the EU's democratic process, and for enhancing gender democracy through attention to the principles of deliberative democracy.

## Notes

<sup>1</sup> Young, Iris Marion (2000) 'Democracy and Inclusion', Oxford: Oxford University Press, pp. 21-26.

The article was published in *Public Service Review, European Union* – Issue 17, March 2009.

# Public intellectuals in Europe

**How have intellectuals reacted to European integration and do they conceive of their country's national identity and its position inside (or outside) the European Union? These questions are scrutinized by a group of researchers within the framework of WP 5 – Civil Society and the Public Sphere of the RECON project.**

Justine Lacroix, Institute for European Studies at the Université Libre de Bruxelles and Deakin Visiting Fellow at Oxford University in 2008/2009, organized an interdisciplinary workshop on 'European Stories – The intellectual debates on Europe in national contexts' in Brussels in May 2008. Following this, she edited a RECON restricted report with the workshop proceedings entitled 'Public Intellectuals in Transnational Constitutionalism'. This report highlights various national debates on European integration and provides the reader with profound information about the different political cultural backgrounds, norms and values which influence the various debates. More or less consciously, participants in the debates influence the latter with their knowledge, stories, memories and world views.

*As of yet, no comparative study has been made on how European integration is dealt with by intellectuals in distinct national contexts*

identity. The report moreover asks how this self-conception of a national identity affects the way they estimate their own country's position inside (or outside) the EU. To which extent do the intellectuals and national debates reflect the dominant opinions of the citizens? How do other Europeans perceive of a country? Do the national debates influence the evolving relationships between European people?

In the Czech Republic, according to Muriel Blaive (Ludwig Boltzmann Institute, Vienna), the debate is dominated by the confrontation between 'the two Vaclavs'; Havel, the writer, who emphasizes the heritage of the European civilisation, and Klaus, the economist, who defends the idea of a simple free-trade area. In France, Justine Lacroix notes that two contrasting intellectual streams conceive of Europe either as a clearly defined territory or as an area accommodating to shifting borders. In Germany, according to Ulrike Liebert (University of Bremen), intellectuals are concerned with the nature of the prospective European political community, attributing great importance to constitutional principles, referring to the idea of a constitutional patriotism as proposed by Jürgen Habermas. The discreet nostalgia of the empire and the fidelity towards the 'special relations' with the USA continues to mark the British consciousness, as stated by Georgios Varouxakis (Queen Mary, London University). In Italy, Mario Telo (Université Libre de Bruxelles) claims that the weak nationalism rooted in cultural tradition as well as a reaction to fascism have worked in favour of the European project, which is conceived of as a symbol of modernity. However a eurosceptic right wing, personified by Silvio Berlusconi, has gradually emerged despite the parallel critics of Europe developing at the extreme left. In Romania, according to Daniel Barbu (University of Bucharest), the strong



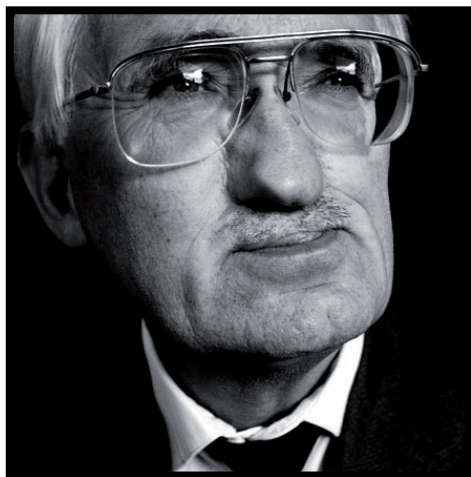
Václav Havel, Czech writer and former president, emphasizes the heritage of the European civilisation

position of the Orthodox Church has brought about a certain scepticism towards Europe, which is conceived of as being too materialistic. This diversity in national approaches makes the construction of a common European idea difficult.

This research will ultimately lead to a volume edited by Justine Lacroix and Kalypso Nicolaïdis, Director of the European Studies Centre at the University of Oxford. As part of the preparations for a collective volume, a follow-

up workshop on 'European stories – How national intellectuals debate Europe' is organised by Lacroix and Nicolaïdis in Oxford on 30 April and 1 May 2009 (see details on p. 10). The workshop will be dedicated to final discussions of the national case studies

and aim towards increased coherence between the studies. The scope of research will also be extended considerably by including additional countries and by incorporating a broader historical and empirical overview of the national debates. The workshop and edited volume will include analyses of the Belgian, British, Czech, French, German, Greek, Irish, Italian, Luxembourgian, Norwegian, Polish, Romanian, Spanish and Turkish public intellectual debates. This will be an important academic contribution since as of yet no comparative study has been made with regard to the way European integration has been dealt with by intellectuals in distinct national contexts.



Jürgen Habermas, one of Germany's foremost intellectual figures © Steve Pyke, 1991

The report identifies so-called 'public intellectuals' – political philosophers, scholars, editorialists or writers – as the major participants whose opinions contribute to the framing of public opinion attitudes. They seem to have a 'cultural authority' and are listened to by a broader public. The report investigates in which ways these intellectuals have reacted to European integration, and analyses their perception of their respective country's national

*In France, two contrasting intellectual streams conceive of Europe either as a clearly defined territory or as an area accommodating to shifting borders*



# Special issue on civil society and democracy in Europe

## New approaches to civil society in Europe

Ulrike Liebert and Hans-Jörg Trenz (eds)

Special issue of *Policy and Society*  
Vol. 28, No. 1, pp. 1-98, 2009

Ulrike Liebert and Hans-Jörg Trenz, coordinators of WP 5 – *Civil Society and the Public Sphere*, are editors of this recent special issue of *Policy and Society*. They map new developments in the interdisciplinary research field of European civil society and review recent contributions from political science, sociology and law, which are concerned with the pervading empowerment of the institutions of European multi-level governance. The question of the democratizing and legitimizing potential of civil society beyond the state is approached from different vantage points, indicating competing conceptions of European civil society that draw on deliberative, participatory or representative democratic norms. It is argued that the EU's constitutional experience has sharpened the ambivalence between top-down activating or 'partnership' approaches vs. bottom-up mobilizing or 'social constituency' approaches to the construction of European civil society.



Demonstration by environmental groups outside the European Parliament © EP 2008

This special issue brings together contributions aimed at mapping as well as further developing the current state of the art in civil society research in interdisciplinary conceptual, normative, and empirical terms. Placing post-1989 European 'real' and discursive developments of civil societies in a historical and global perspective, the contributors observe general trends but also a range of regional European specificities in the three strands of social science research that are represented.

A first group of articles is primarily concerned with grouping and evaluating existing conceptions of civil society as they are related to the EU. **Beate Kohler-Koch** and **Christine Quittkat** reveal that two independent conceptions of civil society exist. One sees civil society as composed of stakeholder organisations articulating and representing the interests of their constituents, the other locates civil society in the sphere of social interaction. **Klaus Eder** opens the horizon beyond normative debates on what should count as civil society and who is to be identified as being part of the civil society and relates civil society actors and performances to the social sites where normative claims are produced and multiplied. A similar approach is defended by **Hans-Jörg Trenz**, who brings in a novel notion of '(civil) society' as a discursive field for making claims of representation and legitimacy. He shifts the attention from 'civil society' as the intermediary realm of activated citizenship, voice and participation to the 'social constituency' as the latent structure, image and identity.

A second block of articles investigates the potential democratic virtues and roles of civil society in the EU. The EU-style of governance with civil society is scrutinized by **Beate Kohler-Koch**, who highlights the volatile use of civil society in the European reform debate and presents an analytical model of expanding EU-society relations. **Stijn Smismans** argues that the notion of European citizenship has often been conceived of in terms of rights and belonging rather than as a participatory status, whereas European civil society has been mainly conceived of through organised stakeholders but not through active citizens.

A third group of articles links role descriptions of European civil society to unfolding civil or uncivil practices within the wider process of transformation of the European order. **Ulrike Liebert** argues that contentious

civil society offers an opportunity structure for information and reasoned communication that provides citizens with alternatives to withdrawal and political leaders with feedback. Finally, **Carlo Ruzza** analyses the manifestations of 'uncivil society' in Europe and the reasons for its emergence. With particular reference to the extreme right, Ruzza examines the relationship between political systems and civil societies, identifying factors that have made civil society relevant for political actors.

As the contributions to this special issue demonstrate, European civil society studies proved new insights for unravelling the puzzles of civil societies and the dilemmas of institutionalisation they face in the context of globalisation, state transformation and governance beyond the nation state. Summarising the contributions, the editors argue that in the enlarged EU, the normative foundations and political functions of civil society have undergone profound changes that have generated new problems and questions, but that have also driven the search for conceptual and theoretical innovations.

Some of the articles in this special issue are revised and peer-reviewed versions of chapters published in RECON Report 5 (see box, bottom).

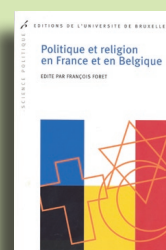
## New Book:

### Politique et religion en France et en Belgique

François Foret (ed.)

Editions de l'Université de Bruxelles, 2009  
(in French)

François Forêt is the editor of a new volume on politics and religion in France and Belgium. The book explores the question of the Christian heritage of Europe with a comparative look at two countries, and is the result of a workshop held in Brussels in January 2008.



France and Belgium have been the two most persistent countries in refusing any reference to the Christian heritage of Europe in the European constitutional treaty. However, this common position has its origin in two quite

distinct 'laïcités', each rooted in its own history and model defining the relations between politics and religion.

France demands a unifying 'laïcité' relegating religion to the private sphere. Belgium is characterised by a pillar 'laïcité', which interacts and competes to define the dominant world view with religious denominations in the public sphere. Based on insights from various disciplines (political science, religious sociology, history, law, philosophy), a bi-national research team suggests that reality is more conciliatory than principles, but that this convergence does not restrain the resistance of cultural traditions. The erosion of different belief systems and the loss of influence of political and religious institutions alter the logics of the relation between the church and state, the partisan and social mobilisation, and the use of the sacred in society. In the context of European integration, religion nevertheless remains a strong symbolic stake and a resource in the redefinition of national identities and the ways of European co-existence.

## RECON Report 5

*Reconstituting Democracy from Below: New approaches to civil society in the new Europe*

Ulrike Liebert and Hans-Jörg Trenz (eds)

This report brings together contributions aimed at mapping as well as further developing the current state-of-the-art research on civil society in theoretical and empirical terms. It reflects an interdisciplinary effort to develop a framework that brings together normative theory, legal analysis and empirical social scientific comparison. In addition to the editors, the report contains contributions by Petra Guasti, Mária Heller, Ákos Huszár, Borbála Kriza, Ágnes Rényi and Joanna Serdyska.



## RECON Events

### Identity as a Variable of Democracy in Europe: A Q-Methodology Approach Krakow, 17-18 April 2009

In cooperation with Jagiellonian University, Ulrike Liebert (University of Bremen) organised a workshop in Krakow in April. The workshop was a joint event of WP 5 – *Civil Society and the Public Sphere* and WP 8 – *Identity Formation and Enlargement*. It was taught by Rosemarie Sackmann (University of Würzburg/University of Bremen) and 15 participants from RECON partners in Budapest and Krakow attended. Over two days, participants discussed and developed the Q methodology as a tool for comparative research on European collective identities among students in Hungary, Poland, and Germany. The main objective of the workshop was to develop a research design for a comparative analysis of collective identity patterns. It dealt in particular with the transposition of the RECON models into sets of statements. The research design will be used by junior researchers to conduct a computer-based comparative analysis in May-June 2009 as part of a comparative identity project.



Wawel Cathedral, Cracow

### Joint Workshop on the RECON Models Oslo, 26-27 March 2009

A joint event of WP 1 – *Theoretical Framework* and WP 3 – *Representation and Institutional Make-up* was organised in Oslo in March. It served as an arena for the discussion of indicators related to the RECON models and EU democratic audit indicators in a comparative perspective. The first session of the workshop dealt with the potential contribution of WP 3 to RECON indices and models and was attended by most of the teams involved in this work package. The second session, 'RECON models operationalised', was dedicated to WP 1 and the operationalisation of the models to the different research fields of the project. The purpose of the event was to discuss draft chapters of a joint report to be published later this year, to be drafted by the work package leaders.

### Lessons from Europe's and Canada's Constitutional Experiences Oslo, 20-21 March 2009

This workshop was organised by ARENA, University of Oslo as part of WP 2 – *Constitutional Politics*. The purpose of the event was to compare the EU with Canada (a multinational and multicultural state), in an area that is of particular relevance to democracy and also to the present European situation: the representative and participatory character of constitution-making and their link to constitutional failure. The workshop discussed



Peter Russell, Ben Crum, Ian Cooper, Giulio Itzcovich and Hans-Jörg Trenz (from left) at Holmenkollen, Oslo

three aspects of the Canadian case, with direct bearing on the EU: constitutional refashioning of community as a gender empowering device; the effects of democratically inclusive participation in constitutional change processes on outcomes; and what constitutes constitutional failure. Here the focus was on the relation between failed reform efforts and how these can be understood in normative terms. All of these are clearly relevant to the contemporary European situation. The purpose of the workshop was thus twofold: to scrutinize these aspects for possible lessons and to reflect on the lessons for democracy and democratic theory. Sixteen Canadian and European scholars attended the workshop, contributing to inspiring and informed discussions. The workshop proceedings will be revised and published in RECON's Report Series.

### Empirical and Conceptual Challenges for the Theory of Deliberative Democracy Oslo, 4 December 2008

ARENA, University of Oslo, hosted a half-day workshop in Oslo in December as part of WP 1 – *Theoretical Framework*. The workshop revolved around the empirical and conceptual challenges for the theory of deliberative democracy. The participants discussed how to operationalize deliberative democratic theory in order to evaluate the democratic quality of European foreign policy as well as questions regarding the conceptual relations between statehood and democratic legitimacy. After an introduction by **Daniel Gaus** (ARENA), **Thomas Saretzki** (University of Lüneburg) considered theoretical perspectives, analytical distinctions and methodological problems in empirical studies of deliberative processes. This was followed by a comment on Jon Elster by **Erik O. Eriksen** (ARENA), investigating the practices of manipulation, bargaining and argumentation. **Anne Elizabeth Stie** (ARENA) then explored the conditions for democratic decision-making in the European Foreign and Security Policy from a deliberative perspective. Finally, **Rainer Schmalz-Bruns** (University of Hannover) examined the formal aspects of the idea of the state and transnational democracy.

### Beyond Intergovernmentalism and the Quest for Unity: Democracy or Efficiency? Istanbul, 13-14 November 2008

If a putative move beyond intergovernmentalism should be democratic, which of the RECON models of European democracy would be required? This is a key question for WP 6 – *The Foreign and Security Dimension*. However, in order to answer this question, it is necessary first to establish if the argument that the EU has moved 'beyond intergovernmentalism' holds up to empirical investigation. If such a move has taken place, what kind of competences and powers have been uploaded to the EU

level? These were the core questions discussed in the workshop: 'Beyond intergovernmentalism and the quest for unity: democracy or efficiency?'. The workshop was hosted by Sabanci University in Istanbul in cooperation with ARENA, University of Oslo. It allowed for a first comparison of findings across the different project partners. Representatives from other work packages as well as external contributors, representing both the academic and policy-making community also attended.

The workshop opened with a presentation of the RECON models and the rationale for the RECON project by coordinator **Erik O. Eriksen** (ARENA). This was followed by a paper discussing the translation of the models into the field of foreign and security policy, presented by co-WP coordinator **Helene Sjursen** (ARENA). On the basis of these two presentations, the models, their relevance for the foreign policy field as well as the development of the empirical indicators of the models were discussed. Subsequently, the participants presented ongoing research and preliminary results of studies on the legal and political elements of statehood in the EU's external identity (**Teija Tiilikainen**, Secretary of State, Finnish Ministry of Foreign Affairs/University of Helsinki), the Turkish perceptions of the EU as an international actor (**Meltem Muftuler-Bac** and **Yaprak Gursoy**, Sabanci University), the EU's policy towards the International Criminal Court (**Nicole Deitelhoff**, Peace Research Institute Frankfurt (PRIF)/University of Bremen), the construction of knowledge in EU foreign policy making (**Federica Bicchì**, LSE), the construction of the European External Action Service (**Kolja Raube**, ARENA), COREU and the circulation of information within EU foreign policy (**Caterina Carta**, LSE), the role of parliaments in European security policy (**Dirk Peters**, **Wolfgang Wagner** and **Nicole Deitelhoff**, PRIF), democratic oversight of CFSP (**Ben Tonra**, University College Dublin) and the public visibility of the EU as an international actor (**Cathleen Kantner**, **Amelie Kutter** and **Swantje Renfordt**, Free University Berlin).



Istanbul's Blue Mosque © Steve McCurry

As the workshop was the first collective stock-taking exercise of all partners, conclusions with regard to the predominance of the different models were necessarily tentative. However, overall the findings presented in the workshop suggest that a move beyond intergovernmentalism is actually taking place in this policy field. This argument was most strongly visible in the paper by Tiilikainen. The subsequent discussion thus centred on whether or not this means a state-like foreign policy is emerging or if the European foreign policy is more of a regional cosmopolitan actor in the making. Stimulating comments were provided by **Thomas Diez** (University of Birmingham), **Atila Eralp** (Middle Eastern Technical University), **Ahmet Evin**, **Isik Ozel** (both Sabanci University), **Christopher Lord** (ARENA), **Bahar Rumelili** (Koc University, Istanbul) and **Jan Zielonka** (University of Oxford).



# European Integration: Challenges and Visions from the Baltic Perspective

## RECON Baltic Expert Workshop Riga, 20-21 November 2008

The Baltic Expert Workshop was organized by Riga Graduate School of Law (RGSL) within the framework of WP 2 – *The Constitutionalisation of the EU, the Europeanisation of National Constitutions, and Constitutionalism Compared*. It brought together leading scholars from Estonia, Latvia and Lithuania who explored the EU's constitutional future and prospects for supranational democracy in the EU from multidisciplinary perspectives.

The main goal of the workshop was to map priorities, visions and discourses of various actors in three post-Soviet member states. Through analysing constitutional and legal-institutional adaptations at the national level as well as the role of intermediary organizations and mass media in each country, the workshop aimed at explaining and comparing the prospects for supranational democracy in Europe as conceptualized by the three RECON models in the Baltic countries.

The workshop opened with a keynote speech by co-WP coordinator **John Erik Fossum** (ARENA, University of Oslo). Building on the RECON models, Fossum addressed the topic of how democracy in Europe can be reconstituted considering recent phases of the re-constitutionalisation of the EU including the recent Eastern enlargements and Constitutional and Lisbon treaty reforms.



*Lesley Jane Smith (former RGSL Rector) and Irene Kalnina*

### Legal challenges of EU reforms

Panel 1 was chaired by **Thomas Schmitz** (University of Latvia) and explored the legal challenges and dilemmas in the process of EU reforms. **Irmantas Jarukaitis** (University of Vilnius) addressed the present and future situation of the EU's constitutional nature in the light of treaty reforms, addressing in particular the 'constitutional' character of the Treaty Establishing a Constitution for Europe. He moreover discussed the EU jurisprudence of the Lithuanian Constitutional Court. **Anneli Albi** (University of Kent) from Estonia introduced the concept and development of socio-legal research in the Baltic States with a focus on EU law. The panel concluded with a presentation by **Daiga Iljanova** (University of Latvia), who analysed how possible conflicts between EU legal norms and national general principles of law can be resolved in the Latvian legal system based on the Kelsen legal theory of 'basic norm'.

### Interest groups as intermediaries in the political process

Panel 2 was chaired by **Lesley Jane Smith** (RGSL Rector), and shifted the focus from the exclusively legal dimension to the intermediation of national economic interests and civil society organizations at the European level. **Irena Kalnina**, legal counsel with the Latvian Post Office and Telecommunications Worker's Trade Union discussed the role of trade unions in the economic and social Europe. She analysed the difficult balance between the economic and social aims of the Union in the context of enlargement, based on examples of the recent ECJ *Laval* and *Viking* judgments. **Peep Peterson**, Chairman of the Estonian Transport Workers Trade Union further developed the topic of a social Europe by looking at social trust among partners in 'old' and 'new' EU member states. He argued that after the recent enlargements there are divergent understandings between actors and countries on how to accommodate the free movement of workers across the EU while securing an adequate level of social protection, which cause uncertainty for workers, trade unions and employers across the Union. The trade union perspective was supplemented by the presentation by **Alda Ozola-Matule**, Chairwoman of the Latvian Green Movement, who addressed the role of national civil-society organizations in the process of EU governance by example of environmental policy. Finally, Hungarian scholar **Csaba Törő** elaborated on the legal aspects of the politically charged and economically complex project of the North Stream gas pipeline, which is to link Russia and the EU via the Baltic Sea. He argued that economic initiatives of such a scale not only have impact on country-specific interests but also affect regional and EU-wide security and environmental concerns.

### Eastern borders and the enlarging EU

Panel 3 was chaired by **Viktor Makarov** (Political Centre EuroCivitas) and analysed the EU's relationship with its Eastern neighbours and the EU Neighbourhood Policy. **Roman Petrov** (Donetsk University, Ukraine) discussed new developments and future perspectives in the cooperation between the EU, Ukraine and Russia. This theme was further developed to involve Belarus in the presentation by **Aliaksei Anishchanka** and **Maryia Yurieva** (Belarusian State University). The following two presentations by **Alena Babkina** and **Vadzim Samarin** (both Belarusian State University) presented how cooperation between Belarus and the EU works in practice. Babkina provided an extensive analysis of the mechanisms of conflict resolution of legal disputes in the commercial realm, arguing that Belarusian legislation regulating conflicts of law



*Christoph Schewe and audience*



*Irene Kalnina, John Erik Fossum (first row), Irmantas Jarukaitis and Anneli Albi listening to Peep Peterson*

generally corresponds to the EU's provisions in this area.

### The political dimension of integration from a Baltic perspective

Panel 4 was chaired by **Zaneta Ozolina** (University of Latvia) and was dedicated to the political dimension of European integration and the current challenges to democracy from a Baltic perspective. **Toms Rostoks** (University of Latvia) analysed the emerging patterns and challenges related to the EU's Eastern Partnership Initiative from a Latvian perspective. **Vytautas Sirojs Gira** (Lithuanian Centre for Eastern Geopolitical Studies) argued that Lithuania should attempt to increase its structural power in the decision-making process of the EU to respond to its democratic deficit. Lithuania is opposed to further federalization of the EU, he argued, whereas pure intergovernmentalism is against Lithuania's national interests. The panel concluded with a presentation by **Christoph Schewe** (Tartu University), who provided an interesting perspective on the possibilities for a regional Baltic cooperation on legal matters in EU law-making. He argued that legal cooperation among the Baltic countries is weak, and that the logic of competitiveness rather than cooperation, which prevailed in the stage of EU accession negotiations remains the dominating trend.

### Baltic mass media on EU affairs

Panel 5 was chaired by **Inta Brikse** (University of Latvia), and dealt with the role of Baltic mass media in the reporting of EU affairs. **Ausra Vinciuniene** (Vytautas Magnus University, Kaunas) presented her research findings on information management in Lithuania and Estonia. On the basis of findings from the AIM project and interviews with Lithuanian journalists, she argued that the Baltic media is characterized by a high level of commercial logic and low level of social responsibility by journalists. Journalist **Ansīs Bogustovs**, who has first-hand experience as a Latvian public TV journalist in Brussels, complemented these findings. He claimed that the Baltic media is weakly represented in Brussels and that coverage of EU events is still rather poor. Faced with constant change in personnel and financial restrictions, the coverage of EU news and events is incidental and incremental, and is often marked by a low level of professionalism.

The contributions from the workshop will be published as a RECON Report in 2009, coordinated by Tatjana Evas (RGSL).

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# The Social Embeddedness of Transnational Markets

## Joint RECON/CRC 597 Workshop Bremen, 5-7 February 2009

The Collaborative Research Centre 597 'Transformations of the State' organized a joint event of their Project A 1 – 'Trade Liberalisation and Social Regulation in Transnational Constellations'<sup>1</sup> and RECON's WP 9 – *Global Transnationalisation and Democratisation Compared*. The Bremen project is concerned with transformations of social regulation and the steadily growing importance of international and transnational regimes (WTO and EC respectively) whereas the RECON project examines primarily more normative issues, in particular the conditions and prospects of democratically legitimate transnational governance arrangements. Both projects need, however, to consider approaches which offer explanations and/or interpretations of transnational governance structures 'embedding' international trade. These research objectives were addressed in the conference title under the notion of 'social embeddedness' which indicates an attempt to understand the tensions generated by the efforts to promote free international trade on the one hand and the countermoves striving for social responsibility on the other. Although Karl Polanyi, to whom the notion of embeddedness can be ascribed, did not develop a comprehensive theory which would predict an outcome of disembedding and re-embedding countermoves, his work is inspirational and challenging for scholars trying to explain transnational governmental arrangements.

### The 'Polanyi problem'

In the first section, **Alexander Ebner** (SHSS, Jacobs University) introduced his interpretation of Polanyi, suggesting that partial embeddedness of the market in non-market affairs is necessary for sustainable market society. However, the conflict and change potentials remain in the actual relations between exchange, reciprocity and redistribution which constitute fundamental modes of social integration. In the light of current discussions about the future role of the national welfare state, a 'Polanyi problem' can be formulated as a reconciliation of disembedding movement of globalisation of markets with re-embedding movement for social security and cohesion. **Jens Steffek** (CRC 597/Jacobs University) applied the Polanyian perspective to embedded liberalism where internationally globalised markets are subject to domestic welfare regimes. He indicated the lack of international attempts for social embeddedness, but simultaneously highlighted the controversies of such arrangements. The contribution by **Poul Kjaer** (Frankfurt Cluster of Excellence 'The Formation of Normative Orders') examined the question of the transformation of the EU's economic constitution over time, seeking (fragments of) a global economic constitution. Finally, **Sabine Frerichs** (CoE in Foundations of European Law and Polity, University of Helsinki) introduced her ambitious theory on the sociology of transnational economic constitutions as a part of economic sociology of law.

### Social embeddedness in selected areas

The second section was dedicated to case studies from the domains of services liberalisation, labour market, role of professions, environment, investment law and financial markets. Draw-

ing upon Polanyi's theory and the notion of commodification, the scholars presented their interpretations of social embeddedness in these fields.

**Markus Krajewski** (University of Potsdam/CRC 597) presented his development of the commodification theory as taking place on three subsequent levels: rhetorical, legal and substantial. Against this theoretical background he examined the liberalisation of health-care services and its limits at the European and global level. **Olga Batura** (CRC 597) examined the level of liberalisation of telecommunication services in the EC and WTO frameworks and its link to the degree of legal and actual commodification of these services. **Jean-Christoph Graz** (IEPI, University of Lausanne) then explored the growing influence of international standards on economy and society. He argued that institutional developments of service standards are likely to face compromises between further socialisation and commodification of standards.

**Josef Falke** (CRC 597/ZERP, University of Bremen) presented an analysis of social responsibility regulation in international trade as lying in the regulatory interplay of several international organisations, first and foremost the ILO and the WTO, but also some civil society initiatives. **Claire O'Brien** (Danish Institute for Human Rights) examined an attempt of global re-embedding of liberalised markets with the example of the United Nations Special Representative on Business and Human Rights. She argued that, although inspired by Polanyi's double movement theory, the UNSR mandate in both performance and substance contributes to disembedding tendencies.

**Olaf Dilling** (CRC 597) used the notion of commons to analyse new developments in environmental law and intellectual property rights. **Martin Herberg** (CRC 597) showed the relevance of some findings from the sociology of occupations for the exploration of social embeddedness of markets. **Harm Schepel** (Brussels School of International Studies, University of Kent) then presented his observations on the transformation of investment law and the role of arbitration tribunals in this development, as well as the changing regulatory role of the tribunals themselves. He embedded these developments in a more general framework of theoretical debates on the changing relations between law, markets and politics.

Examining the regulation of global finance and transnational corporations, **Peer Zumbansen** (Osgoode Hall Law School, York University) applied the theory of 'double movement' by Polanyi and the theory of 'global assemblages' by Saskia Sassen, complemented with a legal perspective. He observed the emergence of supranational legislation in this field, aimed at increasing the efficiency of regional and global financial markets and regulating transnational corporations in an incentive-oriented manner. This new legislation is largely placed within the discretion of market actors and is, thus, disembedded.

A result of the increasing disembeddedness of financial markets and inability of the regulation to provide a countermovement is the latest financial crisis. Against this background, **Sol Picciotto** (Lancaster University Law School) critically analysed the main features of the present international financial regulation and

the institutions involved. He suggested an alternative, more sustainable and socially responsible approach to financial regulation, encompassing a separation of social savings and investment from financial market speculation, a shift to public-utilities-like treatment of banks and other savings-managing institutions and a prior approval of the instruments of financial trade used by such institutions.

### Transnational governance in light of Polanyi's theory

The third section started with a presentation by **Lars Viellechner** (Bremen International Graduate School of Social Sciences). Exploring the necessity and possibility of constitutionalising the transnational governance regime, he observed the Polanyian 'double movement' in the emergence of transnational governance regimes (disembedding) and horizontal expansion of constitutional rights to the transnational dimension (embedding). **Marc Amstutz** (University of Freiburg) identified two shortcomings in the Polanyian theory of 'double movement' when applied to transnational governance: the focus on the nation state and the institutionalisation of double movement through law. Amstutz suggested a reformulation of the theory on the model case of European regulation of corporate social responsibility. **Christian Joerges** (CRC 597/ZERP, University of Bremen) continued to explore the potential of legal arrangements in contributing to the social quality of governance from the conflict-of-laws perspective. Finally, **Karl-Heinz Ladeur** (Bremen International Graduate School of Social Sciences) analysed separate fields of international administrative regulations and identified some typical elements of administrative law, which, however, do not suffice to constitute global administrative law. They form a transnational legal order beyond the nation state where administrative power of the state cannot be neglected.

Helpful and inspiring comments, resulting in a number of lively discussions – also beyond the conference, were provided by **Florian Rödl** (ZERP, University of Bremen), **Waltraud Schelkle** (LSE), **Jürgen Neyer** (European University Viadrina), **Henning Deters** (CRC 597), **Ulrich Klüh** (German Council of Economic Experts), **Lars Klöhn** (Institut für Handels-, Wirtschafts- und Arbeitsrecht, University of Marburg), **Isabel Hensel** (ZERP, University of Bremen), **Gralf-Peter Calliess** and **Moritz Renner** (both CRC 597), and **Bogdan Iancu** (University of Bucharest/ZERP).

Discussions initiated at the conference will be continued in a series of seminars on the main topics of the conference during the upcoming summer term. On that basis the papers will be further elaborated. The objective of the whole exercise is the production of a coherent volume to be edited by Christian Joerges and Josef Falke.

For full programme and papers, please visit: [www.reconproject.eu/projectweb/portalproject/BremenFeb09.html](http://www.reconproject.eu/projectweb/portalproject/BremenFeb09.html)

### Notes

<sup>1</sup> See: <http://www.sfb597.uni-bremen.de/pages/for-ProjektBeschreibung.php?SPRACHE=en&ID=1>

See also RECON Report 4, *Transnational Standards of Social Protection*, Christian Joerges and Poul F. Kjaer (eds), October 2008.



# Political legitimacy and democracy in a transnational perspective

Heike List

Johann Wolfgang Goethe University

**At a workshop in Frankfurt in October, prominent scholars and experts from Europe and the US were gathered to critically explore some of the key issues of RECON's research within WP 1 – Theoretical Framework from an interdisciplinary perspective. This included discussing the procedural, epistemic and substantive dimensions of legitimacy as well as addressing questions of democracy beyond the state.**

RECON coordinator **Erik O. Eriksen** (ARENA, University of Oslo) held the first presentation on 'Democratic legitimacy beyond borders: on the possibility of government without a state'. He claimed that in contrast to a purely procedural conception of discourse theory, there is a need for some deeper, process-independent values in order to prevent a technocratic 'deliberation without democracy'. Taking the mechanism of the majority vote as an example for collective actions without consensus, he showed the necessity of process-independent normative standards for compliance. After analyzing the relationship between statehood and governance, he concluded that the EU being less than a state and more like a government-type entity, derives its compliance through 'parasitic legitimacy'. As a free-rider on the established and trusted political orders in Europe, the EU still faces a democratic deficit, unless conditions for popular authorization are established. 'Proper justification requires a shared notion of a delimited community' which gives reasons for observing the law. **Nicole Deitelhoff** (University of Bremen/Peace Research Institute Frankfurt) was commentator in this panel and opened the discussion by emphasizing the prospects of discursive reasoning to influence collective decision-making processes, legal norms and institutions.

In the second presentation, **Glyn Morgan** (Harvard University) followed up on the idea that the EU draws its legitimacy from a 'substantive conception of justice that trumps or outweighs its democratic deficiencies'. Morgan widened the scope of the discussion by addressing the normative implications of a cosmopolitan perspective on EU's legitimacy with regard to global justice and the 'cosmopolitan duties of assistance'. By drawing some lessons from the EU-enlargement, which he conceptualized as a successful recipe of voluntary 'Liberal Political Incorporation', he argued that the superiority of the EU rests on its capacity for enlargement. In a radical version of this approach, the EU could even encourage a competitive application bid for EU-membership between African countries. He concluded that even if democratically deficient, the EU derives its legitimacy from being an unique actor of global justice. Commentator of this panel was substitute RECON coordinator **John Erik Fossum** (ARENA, University of Oslo), who assessed the merits of Morgan's approach from the vantage-point of the three RECON models.

In the following panel, **Jürgen Neyer** (European University Viadrina) took a similar approach by arguing for a new normative agenda for the EU. His aim was not to lower, but to correct the normative demands on the EU, taking into account that the notion of justice can be ap-

plied to a transnational context. To overcome the 'methodological nationalism' of the democratic deficit discourse Neyer thus suggested to develop a 'supranationalism as the constitutionalisation of justificatory discourses'. This does not require leaving behind the former analytical focus on accountability. It is the specification of the concept of accountability by referring to justice that makes it more adequate to the justificatory requirements of the EU. As the 'EU embodies some significant elements of justificatory discourses' Neyer was optimistic about the legitimacy of the EU. Commentator of this panel was **Rainer Forst** (Johann Wolfgang Goethe University), who reacted to Neyer's interpretation of the 'right to justification' and stressed that democracy is a claim of justice. Hence the link between justice and democracy also in the EU context.

'Democratic Legitimacy, Supranationalism and International Organizations' was the title of **Stefan Kadelbach's** (Johann Wolfgang Goethe University) presentation. While Morgan and Neyer approached the concept of legitimacy from a cosmopolitan perspective, Kadelbach focused on the sub-national level and asked which criteria can be drawn from theories of federalism to evaluate the legitimacy of the EU as a multi-level system of governance. Thus, he argued that law-making in a federal system is not a genuine European problem. Kadelbach then reconsidered already existing mechanisms of legitimation in international organizations, where legitimacy is mainly conceptualized as the result of consensus. According to Kadelbach this is only a minimal requirement that has to be supplemented by administrative integration of good governance, by institutional elements of participation and by efficient, transparent and controlling procedures. Kadelbach indicated that the involvement of non-governmental stakeholders seems to be a particular incentive to deliberative reasoning in international organizations. Commentator of Kadelbach's presentation was **Christian Joerges** (ZERP, University of Bremen), who critically applied Kadelbach's findings about the adequacy of categories from federalism to the RECON models, by evaluating the prospects of transnational legal and democratic arrangements.

While in all RECON models institutional, discursive and further elements of democracy are interwoven, **Volker Röben** (Swansea University) suggested to take elements like the rule of law as contributions to legitimacy and not as democratic principles. Today the international model of state-consent as a central mechanism and basis of democratic legitimacy is increasingly challenged with regard to the complexity of international cooperation. For this reason Röben introduced what he called 'institutional-

ism writ large', e.g. the functional-institutional replication of state-like features and 'institutionalism writ small' with a 'repertoire of small-scale institutional devices' such as transparency. The more the international realm resembles national powers, the more effort has to be put into democratic legitimacy through 'institutionalism writ large'. Like Kadelbach, Röben did not understand the EU's issue of democratic legitimacy as a problem *sui generis*. Using the UN as an example, he showed the adequacy of this approach. **Tanja Hitzel-Cassagnes** (University of Hannover) opened the discussion with some thoughtful remarks about the correlation of law and democracy with regard to constitutionalization processes.

**William Scheuerman** (Indiana University) pointed to the normative problems of robust democratization beyond the nation-state without statehood. Sceptic about the possibility of realizing radical democracy in a postsovereign order, Scheuerman emphasized the role that the state's monopoly to legitimate violence has had to guarantee fairness of democratic procedures and



Frankfurt am Main

their effective enforcement. For Scheuerman the essential functions of sovereignty are necessary to fulfil the counterbalancing role of the EU in international politics. Therefore the classical idea of sovereignty must not be abandoned, but has to be revised taking into account the existing variety of federal arrangements. As to the rule of law, Scheuerman emphasized in particular that coercive statehood is essential to democracy. Asking whether we should try to reconstruct postnational states or even a democratic world state, Scheuerman concluded that in order to deepen self-government, there are many reforms which can be undertaken. Yet, far-reaching democratization will depend at least on state-like institutional prerequisites. Commentator **Peter Niesen** (Technische Universität Darmstadt) opened the discussion by reconsidering the core challenges to new forms of democratic governance and by asking under what conditions establishing discursive institutions on the transnational level is possible.

**Christopher Lord** (ARENA, University of Oslo) in 'Polecats, Lions and Foxes' reflected on attempts to use indirect legitimacy to justify the EU as a 'restrained yet capable' form of political power. With regard to the European Union, he critically examined whether the indirect legitimation by Member States is or should continue



to be the main justification of Union powers. Accountability by results is often regarded to be sufficiently legitimizing. In contrast, Lord warned against the risk of arbitrariness in the EU and therefore argued in favour of a normatively demanding conception of legitimacy. As an analytical tool, Lord introduced the Coase theorem with its criteria of consent and pareto improvement. When applying the Coasian framework to the EU, Lord revealed many difficulties inherent to it: In cases of multiple equilibria a wide range of possible outcomes and thus arbitrary choices can be produced. Lord concluded that EU policies have identifiable winners and losers and are thus by no means Pareto efficient. As a consequence they should be subjected to the democratic process, where ideological competition is the necessary tool against arbitrariness. Commentator of this panel was Heike List (Johann Wolfgang Goethe University), who discussed Lord's concept of arbitrariness and how it interrelates with other elements of legitimacy like legality, justifiability and consensus.

**Frank Nullmeier and Tanja Pritzlaff** (University of Bremen) offered a practice-based theory of legitimacy. According to their view, it is not the constitution of political rules but their functioning and political dynamic that matter when explaining legitimacy as collective bindingness. Thus it is the microlevel analysis of political interactions that offers an insight into the processes that establish and secure compliance. To find and understand 'the normative forces at work' Nullmeier and Pritzlaff offered

a 'sequence of interactions' scheme. Assuming that the renarration of a proposal by different agents establishes the possibility of consent, Nullmeier and Pritzlaff explained the normatively binding forces within these communicative acts. Through defining all sequences of political practices, they claimed to explore more precisely when, where and in how many parts the problem of legitimacy occurs. In the EU context one can therefore expect a 'very long chain of legitimization', where transparency, participation and accountability have to be realized in everyday practice and which do not solely derive from institutions like a democratic electorate. The discussion, which was opened by commentator **Rainer Schmalz-Bruns** (University of Hannover), centered around the differing conceptions of normativity, one dealing with the processes of acceptance and compliance to given norms and the other with normative justifications of their rightfulness.

As the workshop's main task was to give a broad account of democratic legitimacy in the European multilevel system, it was stimulating to consider the EU's issue of legitimacy not solely as a problem *sui generis* (Kadelbach, Röben, Lord). The doubts about the centrality of democracy to political legitimacy (Morgan,



Campus Westend, Johann Wolfgang Goethe University

Neyer) were also a refreshing step beyond more prominent paths of the RECON discourse. By reconsidering the classical role of sovereign statehood and its relation to democratic values (Scheuerman, Eriksen), particularly the cosmopolitan model of RECON's framework was critically reviewed. Finally the normative accounts of European legitimacy were complemented by more empirically oriented approaches on a practice-based level (Nullmeier, Pritzlaff). Altogether, the workshop participants delivered manifold contributions and promising tools to further develop RECON's aim to capture democratic legitimacy in a transnational context and to explore the conceptual relationship between democracy, statehood and legitimacy.

The papers and commentaries will be published in the RECON Report Series.

## Upcoming events

### European Stories How National Intellectuals Debate Europe Oxford, 30 April-1 May 2009

The European Studies Centre, University of Oxford will host a workshop on how national intellectuals debate Europe as part of WP 5 – *Civil Society and the Public Sphere*. Distinctly different national debates about the EU take place in Europe. This workshop deals with the constellation of different 'European stories' and ultimately what they might tell us about Europe itself. It also asks how national intellectuals have reacted to European integration and how their view of their country's national identity has affected their view of its position inside (or outside) the EU and vice versa. While the definition of intellectuals and their place in society vary greatly across the European countries, national debates among these intellectuals shape and reflect the dominant opinions of their fellow citizens. They also influence the way in which their country is perceived by other Europeans and therefore, ultimately, the evolving relationship between European peoples.



European Studies Centre, University of Oxford

For more information, please contact  
Justine Lacroix: Justine.Lacroix@ulb.ac.be

### With or Without Lisbon Continuous Institutional Change in the EU Amsterdam, 15-16 May 2009

This workshop will take place in the framework of WP 2 – *Constitutional Politics* and will be organized by Vrije Universiteit Amsterdam. After the demise of the Treaty establishing a Constitution for Europe and the rejection of the Lisbon Reform Treaty in the referendum in Ireland, the prospects for a formal EU reform by Treaty revision look rather gloomy. Even if the Lisbon Treaty will eventually be passed, new Treaty negotiations are unlikely to be anticipated for the first time in 25 years. This workshop will reflect upon the potential of institutional change that has emerged in the shadow of the attempts to move to a new Treaty. It does so by focusing on three sets of institutions: the European Parliament, the role of national parliaments in the EU architecture, and the European and national courts.

For more information, please contact  
Ben Crum: BJJ.Crum@fsw.vu.nl

### Workshop on Representative Theory Vienna, 22 May 2009

The Institute for European Integration at the Austrian Academy of Sciences will host a workshop on representative theory as part of WP 3 – *Representation and Institutional Make-up*. The aim is to critically discuss new theoretical developments in representative theory, explore the relations between deliberative and representative democracy approaches, and discuss the representative features of the three RECON models. The first part of the

workshop will discuss 'what representation is good for at all', with contributions by James Bohman (Saint Louis University), Christopher Lord (ARENA) and Dario Castiglione (University of Exeter). The second part will investigate the RECON models, with papers by Johannes Pollak/Peter Słominski (EIF, Vienna), Ben Crum and Eric Miklin (Vrije Universiteit Amsterdam) and Sandra Kröger (University of Bremen). Commentators will be John Erik Fossum (ARENA) and Berthold Rittberger (MZES, Mannheim).

For more information, please contact  
Johannes Pollak: johannes.pollak@oeaw.ac.at



Amsterdam: Arrival of Mayor Patijn on a bicycle together with European Commissioner van den Broek at the 1997 European Council © EC, 2007

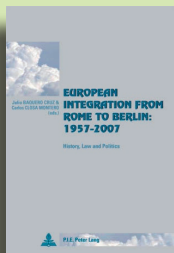
For more information and full programme of the RECON workshops, see the Events section on the project website. Participation is restricted at most events, but please consult the website or contact the organisers for further information.



## New Book: European Integration from Rome to Berlin: 1957-2007

Julio Baquero Cruz and  
Carlos Closa Montero (eds)

Peter Lang, 2009



In commemoration of the 50th anniversary of the Treaty of Rome, this volume addresses the lessons of EU history, its current chal-

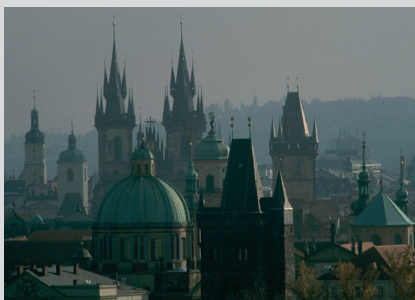
lenges and its future perspectives. Leading scholars from the disciplines of history, political science, political economy and law consider important aspects of European integration. Areas examined include the evolution of the law of integration, Europe's influence on political transitions, economic governance, social governance, the system of Treaty reform and its limits, the future role of the Court of Justice, enlargement and the vexed question of Turkish accession. Taking an interdisciplinary approach, this book seeks to draw on the lessons of history, while shedding new light on the current and future challenges that the European Union faces.

## RECON Midterm Conference

Prague, 9-10 October 2009

RECON's midterm conference in Prague will take stock of the research conducted halfway through the project, as well as aim at engaging participants in a constructive discussion on the theoretical models underlying the project.

The first day will be devoted to one keynote speech and one roundtable on each of the three RECON models to allow for in-depth discussions on the models and on preliminary findings. The broader academic community as well as policy makers, civil society actors and the wider public will be invited. Confirmed keynote speakers are *Giandomenico Majone*, *Rainer Schmalz-Bruns* and *Hauke Brunkhorst*.



The second day will be devoted to parallel work package sessions for the discussion of ongoing research, status of work and plans for the rest of the project.

The programme is available at:  
[www.reconproject.eu](http://www.reconproject.eu)

# Parliamentary control of foreign and security policy

How can parliaments contribute to the democratic control of European security policy? This question is the focus of the present report, which investigates parliamentary involvement on three different levels: the national, transnational and European levels. It highlights the complexities of establishing democratic and parliamentary control in a dynamic multilevel field in which parliamentary involvement has not always been regarded desirable.

## RECON Report 6

### *The Parliamentary Control of European Security Policy*

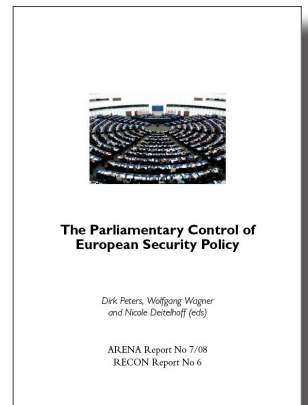
Edited by Dirk Peters, Wolfgang Wagner  
and Nicole Deitelhoff

The report explains why it is easy to argue for more parliamentary involvement in theory, but why it is more difficult to realize this in practice. Proponents of parliamentary control normally face the counter argument, that security policy as such is a field which requires secrecy and flexibility and could therefore not be treated in the same way as normal domestic politics. The evolving Europeanisation within this sphere raises even more questions. How is parliamentary control possible, when both executive and parliamentary decisions are made at two interconnected levels, the European and national?

The editors provide an analytical overview of the different levels using the concept of the 'parliamentary field' and present the characteristics and challenges of the field. Christopher Lord complements this by discussing why parliaments should play a role at all in the European security policy and argues in favour of matching security coordination between the member states with an inter-parliamentary cooperation between all national parliaments and the European Parliament. The ensuing contributions analyse in depth the possible roles for national parliaments, the European Parliament and transnational parliamentary assemblies. Suzana Anghel, Hans Born, Alex Dowling and Teodora Fuior analyse ESDP missions and propose that the democratic deficit at the national level could be reduced if parliaments strive for more authority and ability to debate and authorize decisions before these are made by the Council. Esther Barbé and Anna Herranz Surrallés examine the power and

practices of the European Parliament in the security policy field and claim that although the EP's competences are limited, there is a development towards more inclusion even in this intergovernmental area. Stefan Marschall focuses on the potential contributions of transnational parliamentary assemblies, such as those of the WEU and NATO. He argues that such assemblies could provide an additional channel for the democratic control of executive decision-making in the area of security and foreign policy. Finally, Michael Hilger reports 'from the inside' of the WEU Parliamentary Assembly.

Three general tendencies can be identified in all contributions. First, all conclude that parliamentary control has suffered as a consequence of European integration of security policy. Secondly, there is a consensus that control of the European security policy is flawed at all levels. Thus, the main inference is that control at only one level is not sufficient. Thirdly, all repeat the message that the activities at different parliamentary levels have to be combined and coordinated to become more efficient.



The RECON Report Series is part of the established ARENA Report Series. Download reports in electronic format at RECON's website: [www.reconproject.eu](http://www.reconproject.eu) or order a hard copy by e-mail to [admin@reconproject.eu](mailto:admin@reconproject.eu).

## Publications by RECON partners

**Collignon, Stefan** (with C. Paul): *Pour la République européenne*, Odile Jacob, 2008.

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contd.

# RECON Online Working Papers

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**Joerges, Christian and Rödl, Florian:** 'Informal politics, formalised law and the 'social deficit' of European integration: reflections after the judgments of the ECJ in *Viking* and *Laval*', *European Law Journal*, vol. 15, no. 1, pp. 1-19, 2009.

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**Lord, Christopher:** 'Two constitutionalisms? A comparison of British and French government attempts to justify the Constitutional Treaty', *Journal of European Public Policy*, vol. 15, no. 7, pp. 1001-18, 2008.

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## Appointments



**Patricio Galella** is research assistant at the Institute of Public Goods and Policies at the Spanish National Research Council (CSIC) from March 2009 and PhD student in international law and international relations at the Instituto Universitario Ortega y Gasset in Madrid. He holds a Master in International Affairs from IEP Paris. His main research interests are the EU's foreign, security and defence policy and also the process of constitutionalisation and democratisation of the EU. Galella will participate in WP 2.



**Joanna Jasiewicz** is assistant researcher at the Institute for Public Goods and Policies at the Spanish National Research Council (CSIC) from April 2009. She is a PhD candidate at the University of Barcelona with her project exploring the link between ethnic political mobilization in Poland, European integration and transnational networks. She has been visiting researcher at the European University Institute, Florence, and her research interests cover regional integration, transnational activism, ethnic minorities, migration and social movements. Jasiewicz will contribute to WP 2.



**Emmanuel Sigalas** is post-doctoral Research Fellow at the Institute for European Integration Research, Austrian Academy of Sciences from February 2009. He has been research assistant at the University of Reading. Sigalas' doctoral thesis analysed the effect of ERASMUS student mobility on European identity and EU support. His research interests include the theory and practice of representation, the EP, EU legitimacy, European identity and cross-border people mobility, and he will contribute to WP 3.



**Antje Wiener** is Chair in Political Science at the Institute for Political Science and Director at the Centre for Global Governance at the University of Hamburg from 1 April 2009. Prof. Wiener was Chair in Politics and International Relations at the University of Bath from 2007 to 2009. Following her move, the RECON project will be transferred from Bath to Hamburg, where Prof. Wiener and her team will continue a comparative analysis of democratic options for the EU's CFSP within the framework of WP 6 on Foreign and Security Policy.



**Zdenka Mansfeldová**, Institute of Sociology, Academy of Sciences of the Czech Republic and member of WP 5, was appointed member of the Scientific Advisory Committee of the Management of Social Transformations Programme (MOST) in January 2009. She represents Central and Eastern Europe in this Committee. MOST was established within UNESCO and aims to promote the development and use of social science knowledge that contributes to a better understanding and management of social transformations consistent with the universal values of justice, freedom, human dignity and sustainable development.



**David Mayes**, member of WP 7, became Director of the Europe Institute at the University of Auckland at the end of 2008. Mayes is Adjunct Professor and has a long career of research on European integration, and has held positions at the London South Bank University, the National Institute of Economic and Social Research (London) and the Centre for European Policy Studies (Brussels).

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### Contact:

**Prof. Erik O. Eriksen, ARENA**  
RECON Scientific Coordinator  
[e.o.eriksen@reconproject.eu](mailto:e.o.eriksen@reconproject.eu)

**Geir Kvaerk, ARENA**  
RECON Project Manager  
[g.o.kvaerk@reconproject.eu](mailto:g.o.kvaerk@reconproject.eu)

ARENA - Centre for European Studies, University of Oslo  
P.O.Box 1143 Blindern, 0318 Oslo, Norway

