

With or Without Lisbon: Continuous Institutional Change in the EU

RECON workshop

WP 2 – The Constitutionalisation of the EU, the Europeanisation of National Constitutions, and Constitutionalism Compared



Amsterdam, 15-16 May 2009

Venue: **Felix Meritis**, Amsterdam (<http://www.felix.meritis.nl/en/>)

Workshop convenor: **Ben Crum**, 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 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.

Still, it would be too quick to conclude that the EU's institutional evolution has come to a standstill. Scholarly analysis has pointed out how also in the absence of formal Treaty change, EU institutions and the norms governing them have been subject to 'informal change'. A classical case in point is the jurisprudence of the ECJ that on some rather momentous occasions rather sought to elaborate the spirit of the Treaties than to follow them by the letter. In more recent years, in particular the European Parliament but also some elements in the Council of Ministers have separately and in collaboration been remarkably active in developing new modes of operation where the Treaties remain silent.

This workshop is to 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 focussing on three sets of institutions: the European Parliament, the role of national parliaments in the EU architecture, and the European and national courts. The focus on these three institutions is motivated by a particular interest in the role that normative ideas may play in driving and justifying informal institutional change. Here we think in the first place of normative ideas like the idea of 'popular sovereignty' in the case of parliaments and the idea of 'basic rights' in the case of courts, but one might also think of the idea of 'national sovereignty'.

Among the questions to be pursued are thus:

- What institutional changes have taken place since the beginning of the Laeken process? And what potential for future changes has been opened up?
- How do these changes relate to the proposals that have been part of the formal Treaty re-negotiations? Do they, for instance, anticipate them or rather respond to them?
- What causes the opportunities for institutional change to arise and to be successfully carried through? And to what extent are normative ideas essential in providing them with a normative and practical justification?
- What do these findings bode for the prospects of future Treaty change or even a renewed attempt to constitutionalise the Union on the basis of popular engagement and consent?

The workshop takes place in the framework of Work Package 2 of the RECON project on the Constitutionalisation of the EU. RECON (www.reconproject.eu) is an Integrated Project supported by the European Commission's 6th Framework Programme for Research, with the aim to clarify whether democracy is possible under conditions of pluralism, diversity and complex multilevel governance.

The about 25 participants are invited both from within the RECON project as well as from outside of it on the basis of their expertise. They are also to include some practitioners. Paper presenters are expected to be able to draw on their on-going research. Depending on the outcome of the workshop and the interest expressed, the possibility of a joint publication will be considered.

Programme

Friday, 15 May 2009

- 11:00 **Welcome and Introduction**
Chair: Ben Crum
- RECON – an overview** **Erik O. Eriksen and John Erik Fossum**
 ARENA, University of Oslo
- Plan of the workshop** **Ben Crum**
 Vrije Universiteit Amsterdam
- 12:00 *Lunch*
- 13:30-15:00 **Session I: The European Parliament: Getting Closer to the People?**
- The continuous expansion of EP powers**
 Berthold Rittberger
 University of Mannheim
- Prospects and potential of the 2009 EP elections**
 Sarah Hageman
 European Policy Centre, Brussels
- Discussant:** **Gary Marks**
 Vrije Universiteit Amsterdam/UNC Chapel Hill
- 15:00 Coffee Break
- 15:30-18:00 **Session II: National Parliaments in EU Affairs**
- The evolution of national scrutiny of EU affairs in the shadow of the constitutional process**
 Tapio Raunio
 University of Tampere
- The rights of national parliaments in EU affairs**
 The (ir-)relevance of pan-EU provisions
 Johannes Pollak
 Austrian Academy of Sciences, Vienna
- Politicising EU issues in national parliaments: The case of the Services Directive**
 Eric Miklin
 Vrije Universiteit Amsterdam
- National parliaments in EU affairs: An East-European perspective**
 Petra Guasti and Zdenka Mansfeldová
 Academy of Sciences of the Czech Republic, Prague
- Discussant:** **Jan-Jacob van Dijk**
 Parliament of the Netherlands, Chair of the Joint Subsidiarity Committee
- 20:00 Conference Dinner

Saturday, 16 May 2009

09:30–10:30 **KEYNOTE SPEECH**

Continuous institutional reform in the EU

Adrienne Héritier

European University Institute, Florence

10:30 Coffee Break

11:00–13:00 **Session III: Legal Constitutionalisation Despite the Failure of the Lisbon Treaty?**

National courts and the ratification of EU Treaties

Carlos Closa

Consejo Superior de Investigaciones Científicas (CSIC), Madrid

Incorporating primacy in the Treaties: Would it make a difference?

Julio Baquero Cruz

Center for Political and Constitutional Studies, Madrid

The constitutionalisation of EU administrative law

Deirdre Curtin

University of Amsterdam

Discussant: **Michael Dougan**
University of Liverpool

13:00 Lunch

14:30–16:30 **Session IV: Is There a Future for EU Constitution-Making?**

EU constitution-making as a two-level game

Ben Crum

Vrije Universiteit Amsterdam

Can EU constitution-making be avoided?

Renaud Dehousse

Sciences Po, Paris

Lessons from Laeken and Lisbon

John Erik Fossum and Agustín José Menéndez

ARENA, University of Oslo and University of León

Discussant: **Thomas Christiansen**
EiPA/University of Maastricht

16:30 Drinks and buffet dinner (optional)

More information:

Ben Crum (organiser): BJJ.Crum@fsw.vu.nl

Danique Karamat-Ali (research assistant): DR.Karamat-Ali@fsw.vu.nl

