

Extract from:

Yves Bertoncini, Valentin Kreiling, "Seminar on the Community Method. Elements of Synthesis", Notre Europe/BEPA, May 2012.

## Annex 3

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### **Concluding remarks by the President of *Notre Europe* António Vitorino: “The Community Method: Historical Evolutions and Political Challenges”**

I would like to thank you all for the discussions that we have had in the course of this long day, allowing us to probe the “Community method” in detail. President Barroso’s opening speech and the dialogue that it prompted, the lunchtime debate with the Secretaries General of the Commission, of the European Parliament and of the Council, the speeches from the members of our two panels and the questions and comments from all of you: all of this has been extremely useful in fuelling and prolonging the debate<sup>10</sup> which *Notre Europe* has been endeavouring to foster since spring 2011, and of which this seminar is, of course, a salient moment.

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10. Debate on “[The European Union and its Methods](#)” on *Notre Europe*’s website.

Naturally, we are going to pursue this debate over the coming months because its outcome is crucial to the future of European construction. As you know, *Notre Europe* has already produced numerous publications on the topic, and indeed I am glad to be able to say that many of those publications have been quoted from here today. You may rest assured that further publications and possibly even further events are going to follow in the short and medium term.

It is, of course, difficult for me to summarise here in a comprehensive, in-depth fashion the lessons learned at this seminar, though we will be producing a written summary of them, in close conjunction with the BEPA, in the near future. So for the moment, I shall confine myself to making a few conclusive remarks on what I consider to be the most important points to have emerged from today's debates, while adding a few personal observations here and there.

### **1. A broad consensus leads us to highlight the benefits of the Community method in terms of flexibility.**

As we have seen, the application of the Community method has come a long way since the signing of the treaties that set up the ECSC and the Common Market. On each occasion, European construction has had to mediate between the imperatives of efficiency, of legitimacy and of necessity, and, more often than not, it is the Community method that has surfaced in the centre of this triangle.

And indeed the example of the recent announcement of a referendum in Ireland reminds us that a triangle is still unavoidable, even in the event of a treaty which is not yet a Community affair at this stage. The legitimacy of such a referendum is unquestioned, its effectiveness uncertain, and the need for it crucial inasmuch as while Irish approval may not be compulsory for the treaty to enter into force, it is crucial if the Irish wish to benefit from the "European Stability Mechanism's" financial aid...

## **2. At this juncture the European Council is part and parcel of the Community's institutional system.**

The European Council was first set up in the 1970s, since when, its role gradually became formalised, and it was sanctioned as a European institution by the Lisbon Treaty<sup>11</sup>: thus it is now part and parcel of the Community's institutional system, so that we should no longer be speaking of an “institutional triangle” but of an “institutional trapezium”.

The other consequence is that we should not confuse the European Council's intervention with the “intergovernmental method”, the latter term being reserved for cooperation forged outside of the Community framework (for instance, the Schengen agreement).

At this juncture, the European Council is an institution which is part of the Community method, a method that is sufficiently adaptable and flexible to acknowledge its role, primarily in terms of political input. There is absolutely no need to invent a new “method” for that!

## **3. The constant strengthening of the European Parliament's role has had a major impact on the functioning of the Community method.**

The development of the European Parliament's role is in singular contrast to that of the national parliaments' role: at the national level, political oversight has gradually but effectively replaced their traditional legislative function in the sphere of “European affairs”; while the gradual expansion and extension of the European Parliament's role has occurred above all in terms of legislative powers (and budgetary powers, thanks to the Lisbon Treaty), but rather less so in connection with powers of political oversight. Yet we should highlight the strong lack of symmetry in the oversight exercised with regard to the Council and the Commission, and the perverse effects triggered by the European Parliament's temptation to cause diffi-

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11. Alain Dauvergne, “[The Treaty of Lisbon: Assessment and Prospects as of Summer 2011](#)”, *Study No. 87*, *Notre Europe*, October 2011.

culties for the Commission over “micro-management” issues – a fact which has done nothing to boost Europe’s legitimacy. This situation is a result, in particular, of the “framework agreement” which the Commission and the European Parliament thrashed out after the fall of the Santer Commission when the Commission was in a position of major weakness, which is not the case today.

The increasingly frequent conclusion of “early agreements<sup>12</sup>” between the European Parliament and the Council has had another important consequence in terms of institutional balances: while extending co-decision procedure is extremely positive from the standpoint of legitimacy, in practical terms it leads the European Parliament and the Council to negotiate directly with each other and causes the Commission to show far greater hesitancy in the exercise of its right to withdraw its proposals. That is a practical consequence which needs to be underscored – without any moral judgment being implied one way or another.

#### **4. The joint empowerment of the European Parliament and of the European Council has had a major impact on the Commission’s exercise of its right of initiative.**

As highlighted in a recent study<sup>13</sup> published by *Notre Europe*, the Commission is coming under the increasing influence of these two players in its exercise of the monopoly that it holds in the field of legislative initiative.

This situation is understandable as long as we make a clear distinction between two aspects: the agenda setting of initiatives that require to be promoted at the European level, a register on which the European Council and the European Parliament play a far from negligible and a perfectly legitimate role; and the definition of the scope and substance of the ini-

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12. Olivier Costa, Renaud Dehousse and Aneta Trakalová, “Co-decision and ‘Early Agreements’: An Improvement or a Subversion of the Legislative Procedure?”, *Study No. 84, Notre Europe*, March 2011.

13. Daniela Corona, Costanza Hermanin and Paolo Ponzano, “The Power of Initiative of the European Commission: A Progressive Erosion?”, *Study No. 89, Notre Europe*, January 2012.

tatives proposed, which is extremely important in order to put the debate and the final decision in their proper context, and in connection with which the Commission always plays a crucial role, which it must maintain.

In view of this, a proposal on the table that aims to offer the European Parliament the right to initiate legislation demands close and careful examination. Such a proposal could help to strengthen the European Union's democratic legitimacy, but it would have a crucial impact both on the balance of powers among the various European institutions and on the Commission's influence – an aspect which I feel the need to stress, even at the risk of sounding unpopular. What is certain is that an innovation of this magnitude could not be implemented without there being a “price to pay”, in other words, without the need to mediate between the legitimacy and the efficiency of the Community method.

## **5. The organisation of “differentiation” within the EU is an acid test for the Community method, as shown by the adoption of the “Treaty on Stability, Coordination and Governance in the Economic and Monetary Union<sup>14</sup>” (“TSCG”).**

The reform of Economic and Monetary Union governance currently under way demands a response to the crucial issue of a differentiation compatible with the application of the Community method.

I would like to point out in this connection that the “enhanced cooperations” instituted by the Amsterdam Treaty are, in theory, an ideal formula because they allow willing member states to move forward while leaving the door open for those that may wish to join them at a later date. Yet I have no choice but to note that to date it has proven possible to launch only two cases of enhanced cooperation, in connection with the right to divorce and with the European patent – because even though the Schengen agreement harks back in spirit to such a step, it was in fact concluded outside the treaty framework.

14. Valentin Kreilinger, “[The Making of a New Treaty: Six Rounds of Political Bargaining](#)”, *Policy Brief No. 32*, *Notre Europe*, February 2012.

The reform of the governance of the EMU – which it is worthwhile stressing, is not an “enhanced cooperation” – is renewing the terms of the debate, in particular as far as the involvement of Community institutions is concerned. As the member states see it, it is only logical that the EMU should only concern the members of the “euro-group”, even though we have seen that a majority of non-eurozone member states were eager to sign the TSCG. But it is difficult to envisage a similar rationale being adopted in connection with the Commission or with the European Parliament, because it is hard to see why and how only their members from eurozone countries should take part in debates and decisions relating to the eurozone when the two institutions represent Europe’s general interests and the European citizens in the broader sense of the term.

This is a choice which I feel to be crucial for the future, and one which is pregnant with consequences. It is a matter of safeguarding the foundations of the Commission’s and the European Parliament’s political legitimacy while also safeguarding the EU’s institutional unity. At the same time, we need to envisage the prospect of an enhanced cooperation being subscribed to by only nine states yet which, in view of the issues in play, could well involve a majority of, or even exclusively, members of the Commission and of the European Parliament from the other eighteen EU member countries. That is a political challenge that we are going to have to probe well in advance.

## **6. The various institutions’ political representativeness affects the degree to which they participate in the Community method’s application.**

To describe the challenge of political representativeness, I could mention the European Council or the European Parliament, but I shall focus here on the Commission and its statute because they have been very much in the limelight today.

The Commission currently consists of a national from each member state, and at the same time it is vested with its authority by the political majority in the European Parliament. Should the President of the European Commission be directly nominated by the European Parliament rather than by the European Council, as happens today, in an effort to clearly reaffirm the Brussels college of commissioners' parliamentary legitimacy? Or on the contrary, should a dual legitimacy be preserved by maintaining the link with the European Council and avoiding forging an exclusive link with the European Parliament, which would help to impart a strong political connotation to the Commission?

I well remember that, during the Convention that elaborated the European constitutional Treaty, John Bruton suggested merging the posts of President of the Commission and President of the European Council, and to then proceed with the direct election of this new President. Michel Barnier, for his part, suggested adopting both national and transnational lists in the European elections, specifying that the number one candidates on those lists would be the natural candidates to the post of President of the Commission.

Be all of that as it may, it is incumbent upon me to specify that the Commission should continue to enjoy the backing of a broad political coalition, and that it would be dangerous for its internal functioning to be based on the co-existence of a majority and of an opposition. Nor should we lose sight of the goal involving a reduction in the size of the Commission, which would make it possible to strengthen both its collegial nature and the exercise of its responsibility towards the European Parliament and towards the European citizens.

## **7. The functioning of the Community method is finally facing a challenge in terms of democratic oversight<sup>15</sup>.**

In this connection, interaction between the European Commission and European Parliament appears to have found its level, while democratic oversight exercised over the Council is further from that goal due to the variety of national practices in the way parliaments monitor the work of their individual national governments.

There is a key issue here on which I would like to dwell for a moment, namely the joint strengthening of democratic legitimacy<sup>16</sup> and parliamentary legitimacy at the national and European levels. The strengthening of European legitimacy must not become synonymous with the weakening of national democracy, because the two levels must interact.

One of the most difficult obstacles that we encounter is that national elections only rarely focus on European issues, but that should not discourage us from seeking ways of involving national parliaments to a greater extent, not only with regard to their governments but also at the Community level.

This increased involvement is envisaged under the Lisbon Treaty, and it has become a necessity following the adoption of bail-out plans connected with the sovereign debt crisis. But it is obvious that the specific modalities of this involvement have yet to be defined, as do the ways in which the national parliaments and the European Parliament interact, because the “TSCG” has failed to dispel the ambiguities in that area.

In this connection, I would simply like to point out that the viability of the creation of a third chamber, a proposal which has occasionally been mooted, seems to me to be questionable. I fear that it would only make the institutional system more top-heavy and more complicated without necessarily making it much more democratic, particularly in view of the fragmented and varied nature of the oversight powers exercised by the national parliaments.

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15. Renaud Dehousse, “The ‘Fiscal Compact’: Legal Uncertainty and Political Ambiguity”, *Policy Brief No. 33, Notre Europe*, February 2012.

16. Yves Bertoncini, “The EU, Still Seeking Legitimacy”, *Tribune, Notre Europe*, November 2011.



That winds up my “concluding remarks”, which are of course mere pointers that beg future development. Thank you again for your attention, and I would also like to thank the BEPA and the European Commission for helping to make this day such a success.