EU RESEARCH ON
SOCIAL SCIENCES AND HUMANITIES

Citizenship and Democratic Legitimacy in the EU

CIDEL

Interested in European research?

*Research*eu* is our monthly magazine keeping you in touch with main developments (results, programmes, events, etc.). It is available in English, French, German and Spanish. A free sample copy or free subscription can be obtained from:

European Commission
Directorate-General for Research
Communication Unit
B-1049 Brussels
Fax (32-2) 29-58220
E-mail: research-eu@ec.europa.eu
Internet: http://ec.europa.eu/research/research-eu

EUROPEAN COMMISSION

Directorate-General for Research
Directorate L — Science, economy and society
B-1049 Brussels
Fax (32-2) 2994462

http://ec.europa.eu/research/social-sciences
http://cordis.europa.eu/fp7/cooperation/socio-economic_en.html

EU RESEARCH ON
SOCIAL SCIENCES AND HUMANITIES

Citizenship and Democratic Legitimacy
in the EU

CIDEL

Final report

HPSE-CT-2002-00144

Funded under the Key Action
'Improving the Socio-economic Knowledge Base' of FP5

DG Research
European Commission

Issued in
December 2005

Coordinator of project:
ARENA – Centre for European Studies, University of Oslo
Norway
Professor Erik O. Eriksen
www.arena.uio.no/cidel

Partners:
Robert Schuman Centre, European University Institute, Florence, IT, Prof. Christian Joerges
Departemento de Derecho Público, Universidad de Zaragoza, ES, Prof. Carlos Closa
SCORE – Stockholm Center for Organisational Research Stockholm University, SE, Dr Ulrika Mörth
Department of Political Science, University of Exeter, UK, Prof. Dario Castiglione
PSP - The Postgraduate Studies Programme National and Kapodistrian University of Athens, EL, Dr Susannah Verney
Department of Government, University of Uppsala, SE, Dr Åsa Lundgren
Department of Film and Media Studies SMRI – Stirling Media Research Institute, University of Stirling, UK, Prof. Philip Schlesinger
Birkbeck College, University of London, UK, Dr Michelle Everson
UNED - Universidad Nacional de Educación a Distancia, Madrid, ES, Prof. José I. Torreblanca

Preface

Within the Fifth Community RTD Framework Programme of the European Union (1998–2002), the Key Action 'Improving the Socio-economic Knowledge Base' had broad and ambitious objectives, namely: to improve our understanding of the structural changes taking place in European society, to identify ways of managing these changes and to promote the active involvement of European citizens in shaping their own futures. A further important aim was to mobilise the research communities in the social sciences and humanities at the European level and to provide scientific support to policies at various levels, with particular attention to EU policy fields.

This Key Action had a total budget of EUR 155 million and was implemented through three Calls for proposals. As a result, 185 projects involving more than 1 600 research teams from 38 countries have been selected for funding and have started their research between 1999 and 2002.

Most of these projects are now finalised and results are systematically published in the form of a Final Report.

The calls have addressed different but interrelated research themes which have contributed to the objectives outlined above. These themes can be grouped under a certain number of areas of policy relevance, each of which are addressed by a significant number of projects from a variety of perspectives.

These areas are the following:
- *Societal trends and structural change*
16 projects, total investment of EUR 14.6 million, 164 teams
- *Quality of life of European citizens*
5 projects, total investment of EUR 6.4 million, 36 teams
- *European socio-economic models and challenges*
9 projects, total investment of EUR 9.3 million, 91 teams
- *Social cohesion, migration and welfare*
30 projects, total investment of EUR 28 million, 249 teams
- *Employment and changes in work*
18 projects, total investment of EUR 17.5 million, 149 teams
- *Gender, participation and quality of life*
13 projects, total investment of EUR 12.3 million, 97 teams
- *Dynamics of knowledge, generation and use*
8 projects, total investment of EUR 6.1 million, 77 teams
- *Education, training and new forms of learning*
14 projects, total investment of EUR 12.9 million, 105 teams
- *Economic development and dynamics*
22 projects, total investment of EUR 15.3 million, 134 teams
- *Governance, democracy and citizenship*
28 projects; total investment of EUR 25.5 million, 233 teams
- *Challenges from European enlargement*
13 projects, total investment of EUR 12.8 million, 116 teams
- *Infrastructures to build the European research area*
9 projects, total investment of EUR 15.4 million, 74 teams

This publication contains the final report of the project 'Citizenship and Democratic Legitimacy in the EU', whose work has primarily contributed to the area 'Citizenship, governance and the dynamics of European integration and enlargement'.

The report contains information about the main scientific findings of CIDEL and their policy implications. The research was carried out by ten teams over a period of three years, starting in November 2002.

The abstract and executive summary presented in this edition offer the reader an overview of the main scientific and policy conclusions, before the main body of the research provided in the other chapters of this report.

As the results of the projects financed under the Key Action become available to the scientific and policy communities, Priority 7 'Citizens and Governance in a knowledge based society' of the Sixth Framework Programme is building on the progress already made and aims at making a further contribution to the development of a European Research Area in the social sciences and the humanities.

I hope readers find the information in this publication both interesting and useful as well as clear evidence of the importance attached by the European Union to fostering research in the field of social sciences and the humanities.

J.-M. BAER,

Director

Table of contents

Aknowledgements

This Final Report takes stock of the project results and methodology and presents the main findings from the different research areas. During the three-year long project period CIDEL partners have produced numerous publications, organised 8 conferences, many seminars and have undertaken several dissemination activities.

In this report we give an account of the original research objectives as well as of the results and findings from the different research fields of the project. We draw some conclusions on what kind of political entity the EU is in its present state, as well as providing some policy implications. The research has been organized through workpackages; on the constitutional development of the Union, the formation of a European communicative space, steps towards a common foreign and security policy, the rationale of EU enlargement, and steps towards a common social and tax policy within the Union. The basic question is whether the EU is developing into (a) an intergovernmental problem-solving entity, (b) a value-based polity premised on a common European identity or (c) a rights-based post-national union of a federal type.

Oslo, December 2005

Erik O. Eriksen   Geir Ove Kværk

Scientific Responsible   Administrative Project Manager

CIDEL   CIDEL

Abstract

What kind of order is emerging in Europe? CIDEL has analysed a range of issues such as the constitutional developments of the EU, the steps towards a common foreign and security policy, the rationale of enlargement in order to test whether the EU is moving towards a *value-based community* based on a set of common values, or towards a *rights-based post-national union*, based on a set of common civil and political rights.

The integration process has moved cooperation beyond intergovernmentalism and pragmatic problem-solving. Cooperation has turned political and constitutional, but there is no strong evidence of a common European identity of the kind presupposed by the value-based model. There is no unified people upon which statehood and political institutions can be built. But as European citizens have obtained a wider set of rights, and as the Union's competences have been expanded, there is arguably a movement in the direction of a rights-based notion of the Union. However, much more needs to be done for the citizens to be able to see themselves as the authors of the law they have to obey. The EU is not a federation and the member states control the most powerful body of the Union, the Council. Nevertheless, the EU is a supranational polity. It has got a legally binding, even if formally not incorporated, Charter of Fundamental Rights, a (not yet fully developed) competence catalogue delimiting the powers of the various branches and levels of government, a kind of bicameral system of legislation; as well as authoritative dispute-resolution mechanisms particularly embodied in the authority of the Court of Justice. The EU is, above all, a political system that makes extensive use of law to create order and purpose, but law-making and law enforcement take place within a structure that combines hierarchical and horizontal procedures. Through this process the citizens have achieved rights, but have not been able to give them to themselves. Hence, the democratic deficit prevails. Repairing this deficit requires not only institutional reforms, as the social preconditions for a full blown democratic (parliamentarian) system at the EU level are not in place. This is due to the fact that a distinct European collective identity is missing as are many of the intermediate associations and organizations of civil society, including a unifying public sphere for identity-formation of the European citizens.

The constitutionalization processes point to the fact that the EU is a system in transition and that the legitimacy of this project depends to a large degree on the open-ended and long-lasting discussion of its *finalité politique*. With every round of Treaty revision, constitutional reflexivity has increased. Through the entrenchment of the newly introduced Convention method there is now a model for constitutional politics that differs from normal politics, and one that also differs from Treaty changes conducted through

turf battles at Intergovernmental Conferences. The EU is a polity with no sole apex of authority, but with an organized capacity to act. It has no single and sovereign demos, but is involved in reflexive processes of constitutionalization. It is a polity in motion based on a thin notion of statehood *a supranational polity with a deliberative imprint*. The quality and direction of the integration process itself is crucial for the legitimacy of the Union. As it is easier to agree on procedures and norms for how to proceed than on common purposes and finalité, the EU is very much an organization in motion. It is the manner in which the changes are conducted, the quality of procedures and processes, which lend legitimacy to the whole experiment. The EU is a process of unfinished democratization. Consequently the European integration process testifies to a promising yet unaccomplished process of democratization that can only be carried through by a more encompassing and comprehensive constitutionalization process than we have witnessed thus far.

I. EXECUTIVE SUMMARY

Citizenship and Democratic Legitimacy in the European Union – CIDEL – is a research project involving ten partner institutions in six European countries. About twenty researchers within political theory, law, political science, media research and sociology have participated. The programme started in November 2002 and was concluded on 31 October 2005, financed by the European Commission's Fifth Framework Programme for Research Key Action 'Improving the Socio-economic Knowledge Base'.

1. Citizenship and Democratic Legitimacy in the EU

The main purpose of this research project has been to examine the prospects for a *citizens' Europe* through analysing what *kind of order* is emerging in Europe. Our particular concern was to take stock of the EU as a rights-based post-national union, based on a full-fledged *political* citizenship. Does the EU proceed along this developmental path, and if so, how far has it proceeded?

The EU is an entity 'in the making', and there is no assurance that it will replicate the notion of citizenship associated with the nation state. For analytical purposes we distinguished between three different conceptions of citizenship, which are reflective of different conceptions of the EU *qua polity*. The first is *economic* citizenship, based on rights associated with the four freedoms, where the citizens are seen as producers, consumers, users, and costumers and reflects the notion of the EU as a problem-solving entity. The second is *social and cultural* citizenship, based on a set of common values, aimed at establishing a material basis for societal membership, and reflects the notion of the EU as a value-based community. The third is *political* citizenship, based on a set of common civil and political rights, with the purpose of empowering the citizens to be 'co-authors' of the law, and reflects the notion of the EU as a rights-based post-national union. Is the EU an intergovernmental, *problem-solving entity* based on economic citizenship; is it moving towards a *value-based community* premised on social and cultural citizenship, or is it moving towards a *rights-based post-national union*, based on a full-fledged political citizenship? The hypothesis of this project was that the latter option was the most viable.

CIDEL has both an *empirical* and a *normative* dimension. The empirical dimension refers to the actual prevalence and viability of each of the options across different policy fields and levels of government. The normative dimension relates to the validity of the three options for governance.

The main purpose of the project encompasses the following *objectives*:

a) Specify *three different options* for forging a citizens' Europe and assess the normative basis of each of the options, including their attendant notions of citizenship. How robust are they from the point of view of democracy, solidarity, and justice?

b) *Test the empirical relevance* of each of the three options, with emphasis on the third one, and how they relate to each other – over time, across policy fields, across levels of governance and across member states.

c) Develop a third conception of integration, *integration through deliberation*, and assess it in relation to the dominant conceptions of integration which are based on functional adaptation and strategic bargaining, respectively.

An overall theoretical approach to the study of post-national integration has been developed which works across the different research activities. It contributed to an understanding of the nature of European integration and unification, forming a necessary backdrop for a deeper assessment of the democratic quality of the EU. Its salience has been tested within the realms of constitution-making, the establishment of a European public sphere, enlargement, social and tax policy, and foreign and security policy.

The research within the CIDEL project was divided into eight workpackages (WPs) constructed around the above themes. While WPs 1 and 7 were dedicated to the overall theoretical perspective and the synthesizing of findings, workpackages 2 to 6 concentrated on concrete policy areas. Workpackage 0 covered the overall administrative co-ordination of the project, including the establishing of a coherent and well-run research network and the creation of a dynamic web page for dissemination and intra-project communication. An important part of this workpackage has also been the development and enhancement of the project participants' skills in conducting research by means of computer-assisted text analysis, through production of text analysis training documents, the generation of software tools and a training course.

In the following the specific research questions that were addressed in each workpackage are addressed as are the main findings and the policy implications of these. In the last section we synthesise the findings and draw some conclusions as to the main characteristics of the European political order. We also address the question of how to explain its emergence and sustainability.

2. Prospects for a European Public Sphere?

Only with a European-wide public sphere in place can the requirement of democracy beyond the nation state be met. This is so because the public sphere is a precondition for the realization of popular sovereignty. It entitles, in principle, everybody to speak without any limitations on themes, participation, questions, time or resources. In its widest sense, the public sphere is the 'social room' that is created when individuals discuss common concerns in front of an audience. The notion of a public sphere is internally linked to normative political theory as it is a medium for political justification – for putting the decision-makers to account – as well as for political initiative, that is, the mobilizing of political support. It is the place where civil society is linked to the power-structure of the state. The public sphere, then, not only enables *autonomous opinion formation* but also empowers the citizens to *influence* the decision makers. It is a precondition for redeeming the claim to self government – that the citizens can govern themselves through politics and law.

The proceduralization of popular sovereignty in discourse theory makes conceptual space for transnational communicative spaces, that is, the emergence of civil society relations beyond the nation state. These are spheres above and among the nation states in which affected actors can reason about common affairs and exercise communicative pressure. There are, thus, many public spheres in the post-national configuration that are not confined to national borders. There are subaltern counter-publics and there are overarching publics transcending limitations of time and space made possible by new media technologies and audio-visual 'constituencies'. New forms of communication are evolving and citizens' involvement in public debate may be seen as spontaneous and elective rather than obligatory and native. Conceptually we may distinguish between:

- *overarching general publics*: communicative spaces of civil society in which all may participate on a free and equal basis and, due to proper rights entrenchment, can deliberate subjected to the constraints of reason only;

- *transnational segmented publics*: evolve around policy networks constituted by a selection of actors with a common interest in certain issues, problems and solutions;

- *strong publics*: legally institutionalized and regulated discourses specialized in collective will-formation at the polity centre.

Through the development of a theory of the public sphere that takes account of the characteristics of an emergent supranational polity, CIDEL has investigated the

development of transnational media and journalism in the wider context of EU communication and cultural policy; it has examined the public sphere generating/inhibiting effects of core components of the EU's institutional complex; and it has assessed the possible effects of a more visible and pronounced rights-based orientation of the EU on the nature, direction and salience of social movement activism in the EU. CIDEL has also developed a theoretical-methodological framework for the study of the EU's social constituency. The term 'social constituency' can be understood as people being involved in and being served by an organization (or system of governance) and that this relation has a social reference and social resonance of some sort. Developing such terms is an intrinsic part of clarifying the distinctive features of the EU, in relation to our established and highly nation-state-based conceptual apparatus.

In recognition of the fact that CIDEL's second, value-based model, has limited relevance to the analysis of the EU's public sphere and civil society (as the EU is an extremely complex multinational, multilingual and polyethnic entity), CIDEL has focused on two model conceptions of European public sphere. The first highlights a *regulatory* model characterized by a network of issue-related and segmented public spheres, which has little capacity to generate an overarching public sphere so as to rectify some of the EU's democratic shortcomings. The second is a *federalist* model with overlapping public spheres being supported by decision-making institutions in which opinion-formation also takes place (strong publics). This model could foster a European public sphere, although one with a complex set of interrelated communicative spaces rather than a uniform one. Rather than giving rise to one constellation, what appears to be emerging, is the gradual emergence of a system marked by *both* models. There is no unambiguous evidence to the effect of one model replacing the other; what we see is better considered as a difficult case of co-existence. The Union contains national, segmented and strong publics, the relations, among which, are complicated by the Union's complex institutional composition. To understand the systemic implications of this co-existence requires further elaboration. The Union is not only an extremely complex multi-level entity; it is also *polycentric* in character, with a complex mixture of transnational and supranational traits. Its poly-centricity could be said to reside in several distinct, yet overlapping institutional spheres or organizational fields.

The EU's unique and dynamic character raises the question of how best to develop a proper understanding of *how* and *under what conditions* institutions can help to foster a public sphere. CIDEL studies have revealed a failure on the part of the Commission to communicate effectively, either with its key mediators or with the key national publics whose support it so much requires. Within the Commission, there are warring tendencies about how best to relate to publics, and the role of an information strategy is given low

priority. There are also inadequacies in the Commission's commitment to a transparent information regime, which is shared – to an even greater extent – by the Council. Neither the Commission nor the Council operates effectively to foster wider democratic participation. The Council's complex role as both legislature and executive – and one that has obtained greater executive functions over time – encourages quite divergent expectations as to its public sphere promoting role. Calls for greater transparency and the CT's provisions for this within its capacity as a legislature require us to conceive of it as part and parcel of the second, federal, model. However, the growth of the Council's executive functions clearly pulls it into the transnational orbit and closer to our first, regulatory, model.

In relative contrast, the European Parliament – a gradually emerging *strong public* - its communicative practices, not least the focus it provides for networking across different levels of the EU, has indeed allowed it to function as a strong public that is in the process of building a wider general public, mainly along the lines of the second federal model.

European-wide social movements are present in large numbers at the EU level. They lobby the EU institutions, not least the Commission and the Parliament and furnish them with information, reality frames and normative considerations. The EU supports many of these organizations, precisely to foster debates and awareness on a European-wide level, and to use organizations as experts providing advice on policy matters. The two Conventions – the one drafting the Charter of Fundamental Rights, and the one drafting the Constitution – are unique in their greater involvement of civil society in EU constitutional processes. They received written contributions from hundreds of organizations, and they organized hearings and special sessions where civil society got the opportunity to speak. Nevertheless the civil society imprint on the overall processes was hampered by the way in which these were organised.

Truly *European* media channels are few and small, but national media are important places for exchange of arguments on European issues, not least the quality press, which is seen in some studies as an engine of integration. Elite newspapers are involved in creating a transnational political community, but the quality press is mainly read by elites. The claims and assertions in the press in general differ in the different member states. The national public spheres in France and the UK differ due to factors such as the history of integration and the approaches of the political elites. While debates on Europe are present in both countries, this does not produce identical results. Hence, the Union is still the site of *partial* rather than any semblance of an overarching public.

3. Constitution-Making and Democratic Legitimacy

CIDEL has placed particular emphasis on whether the Union's established manner of conducting changes of a constitutional character through IGCs can be seen to bridge the gap between on the one hand the structure in place and on the other the reasons for why it is there and what its normative basis is.

Have the processes of constitution-making in the EU changed over time in such a way as to narrow the gap? Recent events such as the introduction of the Charter of Fundamental Rights, the Convention and the draft Constitutional Treaty have been analysed in-depth in the search for answers. CIDEL has assessed these as possible instances wherein we find changes in the mode of legitimation and the conception of the EU's normative basis. It has analysed the direction of constitutionalisation with a view to establish if there is a clear shift in the direction of the rights-based mode and also whether there is an increased cross-national convergence in the manner in which constitution-making is legitimated. These developments reflect a clear change over time in the sense that European constitution-making has been made more reflexive. Whereas this was a gradually emerging trait also of IGCs, the Charter Convention and the Laeken process do represent important changes here. Laeken was the most explicit and symbolically visible case thus far of the infusion of constitutional grammar into the EU's constitutional language. An important lesson we can draw from the Laeken experience is that the close association between constitutionalism and democratic legitimacy also has to apply to the European level. A further lesson from Laeken is that the Union's approach to constitution-making, that of constitutionalisation of a community made up of already constitutionalised political communities, cannot but be depicted in procedural terms.

Viewed in this light, whereas the Convention came up with a draft Constitutional Treaty, an exercise that moved the Union somewhat closer to a rights-based polity, the process war far from a complete uplifting of the constitutional essentials of the democratic constitutional state. On the one hand, in terms of overarching principles, the EU draws on those traits that mark the *common* constitutional traditions of the member states, and then on already justified norms. On the other hand, the Convention continued the Union's unique mix of the common constitutional traditions of the member states and Treaty law with the effort to distil out a constitution from the *acquis*. The draft reduced the poly-centricity and enhanced the legal unity and democratic character of the Union, but the ensuing conception of the Union we can discern from the Constitutional Treaty is one of the EU as a poly-cephalous entity. Such a structure represents a blend of intergovernmental and supranational structures, and reflects the still-in-the-making EU.

Many observers of the process of drafting the Constitutional Treaty through the Constitutional Convention found that it had deliberative qualities. There was learning and changing of positions; hence testifying to the transformative value of deliberation. This process as noted has made clear that the EU has unequivocally and self-consciously entered the constitutional terrain. More stakeholders, in particular parliamentarians have been directly included in the process. The deliberations were conducted in public and thus also exposed the political tensions and the diverse constitutional traditions. It is important to note that the EU Constitutional Treaty is not written from scratch, *ex nihilo*, but is clearly based on the existing primary law of the Union and international law, and is grounded in the constitutional traditions common to the member states. An important part of the process of European constitution-making since the very beginning has been the slow but quite steady convergence and fusion of national constitutional traditions. This provides some of the 'constitutional hardware' but is not sufficient to ensure democratic constitution-making because this implies the *appropriation* of the constitution by its citizens; by citizens bound by reasons, not by the past, viz., not bound by tradition but by the self-reflexive will of the people(s). It is thus only through a democratic ratification process that it can achieve popular legitimacy and normative validity.

4. Justifying Enlargement – More than Expanding Markets

The EU has successfully completed six rounds of enlargement. It has expanded from its original six members to a total of 25 in 2004. The prospect of membership has encouraged states to advance with democratic reforms and ensure the rule of law. Further, enlargement has been an effective instrument to ensure stability and security in Europe at large. But where should the process stop? What are the borders of Europe?

It is quite clear that enlargement is costly and that it entails risks for the delicately balanced European construction. A number of interests and values are challenged. The internal cohesion of the Union may be jeopardized as a result of enlargement. Nevertheless, the EU has opted to include new members six times – in the latest round with as many as ten new states. And the process has not yet come to an end. Why has the EU – with the exception of the French veto of the British candidature in the early 1960s – systematically decided in favour of enlargement?

In CIDEL, the rationales of past as well as present enlargements have been analysed. Cases range from the Greek accession 25 years ago, to the large scale 2004 enlargement, and the controversy over Turkish membership. Through analysing the reasons for en-largement the authors have sought to establish the nature of the EU polity. Contrary to what is commonly argued it has been difficult to find documentation

suggesting that reasons pertaining to its utility were what mobilized member states to be strong supporters of enlargement. It is difficult to explain the EU's decision to enlarge to Central and Eastern Europe solely as the result of expectation of economic gain. For example, there was no effort made to establish concrete knowledge of the impact of enlargement on the Danish economy until well after the EU had committed itself to enlargement. Similar arguments were used in Germany in the late 1990s when the cost of enlargement came into focus. The argument was that enlargement was worthwhile pursuing despite of its costs.

It is, however, with regard to the so-called enlargement 'laggards', that the 'puzzle' of enlargement is particularly pertinent. Why did these states, who were expected to pay the highest price for enlargement – who considered that they had little to gain and more to lose – still agree to it? In the case of both France and Spain, the idea that they committed themselves to enlargement only because they were 'forced' to do so out of a concern for their reputation and due to the 'social cost' of refusing, is challenged. CIDEL has found arguments that speak to a conception of the EU as something more than a 'problem-solving entity', that is, more than a tool for enhancing profit and economic growth.

The existence of a common normative basis is important to account for enlargement. However, a distinction must be made between values – as cultural manifestations of identity – and moral norms pertaining to human rights, democracy and rule of law. This is important as different categories of norms have different functions in the enlargement process. In turn, the distinction corresponds to a value-based and a rights-based polity.

Moral norms played an important role in enlargement even as early as the debate in the 1970s on Greece's accession. The Greek case set the precedent that opened the road to accession first, for Spain and Portugal, then for Central and Eastern Europe and presently, for South-Eastern Europe. Once the issue of Greek accession had been turned into a question of democracy, rejecting its membership for economic or administrative reasons would have meant a major loss of Community credibility and legitimacy. At the same time, there seems to be a sometimes tacit sense of 'Europe' as something distinctive. This is particularly the case with regard to the Eastern enlargement. This event was repeatedly described as an opportunity to overcome the 'artificial' division of Europe as a result of the Cold War. The Central and East European applicants were systematically described as part of the 'European family', and the EU's representatives stressed their commitment to ensure that they would be able to 'rejoin Europe'. There are also numerous references to the importance of peace, security and stability in this context – referring, however, to the security of Europe as a whole, and not to that of

particular states. Furthermore, arguments reflect a need for Europe to overcome its own past, based on the experience of intra-European war, and a vision of Europe threatened by itself and not by external actors or factors. But although studies suggest that a sense of 'kinship' was important when the decision to enlarge to Central and Eastern Europe was taken, there is only scarce evidence of a 'thick' collective identity reflecting, for example, religious, ethnic or linguistic commonalities.

There is a distinct difference between how the EU addressed the former Communist countries in the accession negotiations and how it addressed Turkey. The former were held to be 'one of us', while with regard to Turkey questions have only concerned compliance with the criteria of democracy and human rights. The apparent difference in treatment of the Turkish candidature and that of the Central and East European countries may be explained quite simply by Turkey's poor record regarding respect for human rights and basic democratic principles. What is more, the decision to open negotiations with Turkey in October 2005 testifies to the fact that attempts to bind the EU to a 'thick' identity have not been considered acceptable. In a manner similar to that observed with regard to enlargement to Greece, once enlargement has become linked to prospects of successful democratization, it severely limits the scope for states willing to break ranks and reject candidate states. Even though there is a lack of a sense of 'kinship' towards Turkey, the EU has committed itself to enlarge to it. Hence the European identity does not seem to be contingent on pre-political categories, but is rather one that is malleable and shaped by public discourses. The success of EU enlargement is linked precisely to democratic transition. This could however, ultimately lead to its breakdown. Democracy gives no reason to stop the enlargement process, it provides no criteria for drawing borders. In order to solve this challenge the debate on borders would need to be uplifted to the global level, in which, according to a cosmopolitan logic, borders would be drawn based on the ability of other regional entities to function properly, and with the aim of avoiding a system of domination of one single (regional) entity.

5. The EU's Foreign and Security Policy

Foreign and security policy is perhaps the one dimension of EU policies where the expectations of 'mere problem-solving' are the strongest. The very nature of foreign and security policy is by many considered alien to supranationalism. However, the literature and debate about the normative dimensions of the EU's international role suggest that the EU might be value-based and/or rights-based rather than interest-based. CIDEL has investigated the salience of such conceptions of the EU's external policies.

Although the foreign and security policy of the EU is increasingly decided by institutions and structures located in Brussels, there is little evidence, so far, of democratic checks and balances or a European public debate that might ensure the legitimacy of a European foreign policy. One exception could have been the public response in Europe to the United States' war in Iraq. However, this was not translated into a common policy at the European level. With the 'brusselsisation' of foreign policy-making, there is a risk of increased executive dominance, with weakened Parliamentary control.

Neverhteless, many speak of the EU as a humanitarian power, committed to the spread of democracy and human rights externally. The EU is a major donor of humanitarian assis-tance and development aid. Protection of human rights is defined as a particularly important goal in the Union's external policy. The EU insists on the respect of minority rights in third countries (non-European Countries) and there is political conditionality on aid and trade agreements. The list of countries having abolished capital punishment as a result of EU pressure is impressive. The EU has stalled on deepening relations or has cut direct budgetary support due to breaches of basic human rights.

How can this apparent contradiction between weak democratic control internally, and promotion of democracy externally be accounted for? In spite of the move towards a Brussels-based bureaucratic working method, there is still no hierarchical structure with the ability to coerce member states in the EU's foreign policy. Instead, there is a requirement of consultation.

This constant process of consultation and deliberation may cause member states to moderate their interest claims. National positions have to be justified in a manner that makes them acceptable to others. Further, a certain consistency between member states' claims and the underlying constitutive principles of the EU would have to be sought. The EU and its member states subscribe to the principles of liberal constitutional democracies. An example of how this impacts on the EU's external policies is the process of writing the EU's Security Strategy (ESS 2003). Some of the more belligerent formulations regarding intervention disappeared from the first draft during the process of consultation between member states. However, developments in the direction of autonomous EU military capabilities have been considerable in recent years. Can such developments be reconciled with the idea of the EU as a humanitarian power?

Some are sceptical to the EU's ability to remain a 'humanitarian power', and contend that the Europeanization of defence policy weakens the prospects for 'humanitarian power' Europe. But the main issue is to find a criterion for what might be legitimate action in the international system (for both military and non-military action).

Can absence of coercive means be the defining characteristic of a normatively justifiable political entity? A policy based on good intentions may very well neglect others' interests or values or fail to give them due consideration. This is so both for military and non-military powers. Consequently, a robust criterion for a legitimate foreign policy can only be derived from the constraints set by 'international law', or rather the cosmopolitan law of the people. Only by subjecting its actions to a higher-ranking law – to human rights and criteria of justice – can the EU qualify in normative terms. The threat of force may be needed to ensure equal rights for all but can only find justification when exercised in accordance with a legitimate legal framework. Thus the criterion for a legitimate foreign policy can only be that it subscribes to the principles of human rights, democracy and rule of law, and seeks to strengthen the cosmopolitan law of the people in the international system. The EU binds itself to principles that are consistent with what we might expect in such a foreign policy. The question remains, however, if in future these will also be fully implemented in its internal structure.

6. Taxation and Social Policy in the EU

All the Member States of the European Union claim to be welfare states. This entails the fostering of a socio-economic structure characterised by public insurance against certain personal and economic risks, and a high degree of public provision of goods and services necessary to ensure the preconditions of individual autonomy. Welfare states are consequently characterised by a tax system which not only collects between one third and half the national income, but also aims at doing so in ways which reduce economic inequality, thus *doubly contributing* to social objectives.

The establishment of the European Communities played a key role in ensuring the conditions under which the social ambitions of European nation-states were transformed into institutional realities. European integration was the main instrumental cause of the achievement of peace and economic growth in the postwar period, thus ensuring the conditions for the maturing of European welfare states. Still, the very idea of a 'social European Union' remains at best an ambition. While some Union policies might be contributing to a further and more complete realisation of the goals and aspirations of Social states (i.e. enlarging social protection to non-nationals, or fostering gender equality), it is hard to deny that some policies (or non-policies) of the Union are among the causes of the crisis of national welfare states.The principle of non-discrimination on the basis of nationality, which has been instrumental to major social achievements (such as the computation of social security contributions made in other Member States when calculating the amount of old-age pensions at retirement), has been interpreted in ways which actually undermine the effectiveness of national social and tax laws; this is the

case when the principle is said to extend to corporations making use of the freedom of establishment to escape demanding national labour and tax laws.

CIDEL has explored the ambivalent and paradoxical relation between European integration and national welfare states. It has done so by means of a triple reconnection. First, it aims at reconnecting the analysis and assessment of the social dimensions of the European Union with the conceptions of what the European Union is, of what the process of integration leads to. The three basic conceptions of the Union – a problem-solving organisation, a state in the making or a rights-based union – imply three rather different conceptualisations of European social policy, of the aims and goals of social policy making at the European level. Second, it aims at reconnecting the most obvious aspects of social policy (labour standards, industrial relations, welfare laws) with budgetary and tax policies, which rendered it possible to *pay for social policies*. Third, it aims at reconnecting social policy with *democratic decision-making,* which will allow us to consider to what extent the lack of a European social dimension results from the lack of institutionalisation of law-making processes through which *the democratic will of European citizens* could be expressed.

At the *European level*, there is an imbalance between (1) the majoritarian law-making processes applicable when *single market legislation* is to be approved, where not only the European Parliament shares the final legislative word, but where national governments no longer can exercise an individual veto, and; (2) the unanimous law-making process applicable when *tax and most social legislation* are to be approved, where the European Parliament is merely heard, and there are as many veto points as there are national governments. This creates a *structural democratic deficit*, as it is conceivable that tax or social measures which would be favoured by a *wide majority of Europeans* do not have a chance of being passed; similarly, it creates *policy imbalances*, as it prevents the adoption of *market correcting measures* by the same majority which approves *market making measures*. This explains why it was possible to approve a Directive reinterpreting the contours of the free movement of capital in 1988, but the measures aimed at preventing that such freedom resulted in tax evasion were only (partially) adopted in 2003.

At the *national level*, the breadth and scope of the *economic freedoms* enshrined in the Treaties has cast the shadow of European unconstitutionality over (potentially) all national legal norms. The *unlimited horizontal effect of the economic freedoms* shifts the argumentative burden *against* legislative measures aimed at consolidating the basis of social policy.

The *constitutional principles of Union law* determine the constitutionality of *all* national tax laws, while Union laws affect close to fifty per cent of the tax base of the Member States. The taxing powers of the Union reflect the move of the Union towards a rights-based polity. There are clear indications that the *problem-solving* paradigm is not enough, and increasingly will not be so, to explain and ground the powers to tax in the hands of the Union. This is because: (1) the assignment of taxing powers to the Union, and its actual exercise, is increasingly justified by reference to conceptions of tax and economic justice; (2) even in those cases in which the assignment of new taxing powers is justified by reference to functional purposes, the solutions proposed imply a transcendence of a pure problem-solving paradigm, as they entail a *political spill-over*; (3) the affirmation of the principle of social and economic cohesion as part and parcel of European constitutional law might trigger a re-characterization of the purpose of EU taxing powers; and (4) the regulation of EU taxing powers by an increasingly constitutionalized Union legal order points to a sense of solidarity and commitment which transcends the mutual-gain basis of a problem-solving conception.

The transformations implicit in the establishment of the social market have lead to the *factual transcendence* of *national communities of risk* on which national welfare states were institutionalised and developed. The consolidation of a European community of economic risk calls for a wider European power to tax which can uphold the Europeanisation of programs of social insurance.

7. EU and Post-National Integration

The EU poses a theoretical puzzle: why has the EU succeeded in integrating so deeply without establishing a state-based hierarchical system with state-based sanctions? In this project we have pursued the idea that deliberation can provide a solution to this puzzle of how post-national integration is possible when the threat of sanctions and brute force is lacking, that is, when the polity does not possess the requisite means, such as monopoly of violence and taxation, a common identity and the majority vote to enforce its will. As the bargaining resources are quite slim the implementation of EU policies and further integration work efficiently only if the enforcement mechanisms resonate with a readiness on the part of the member states to accept its disciplining role. The many veto points, the lack of forceful compliance mechanisms, the presence of systems of representation as well as that of problem-solving through committees and networks together underscore the deliberative mode of decision-making. The infrequent use of majority vote – most decisions in the Council are unanimous – makes the EU into a kind of consensus democracy. Small countries are systematically overcompensated in the voting formula of the Council of Ministers and unanimity is required on a whole range of

issues, which in fact gives member states veto power and thus puts them on an equal footing (akin to the principle of equality of states). Vetoes are held to be a main barrier to supranationalism but represent a constraint on interaction that also induces reason giving: When parties can block outcomes, actors have an incentive to convince all the others. They can not solely apply arguments that convince some of the participants – a majority – but have to pick arguments convincing to all. Reason giving and critical scrutiny are further promoted through such mechanisms as public debate, institutionalized meeting places, peer and judicial review, complaint procedures. In such a non-majoritarian system as the EU, there are many reflexive mechanisms that establish critical opposition and induce communicative interaction conducive to transformation of opinions and preference formation.

A reflexive approach to integration based on discourse theory conceives of the EU as a law-based supranational polity lacking the identity of a people, as well as the coercive means of a state. This is sought compensated for through extensive processes of deliberation.

The EU is neither a value-based polity, nor a full-blown rights-based polity premised on the unity of law, but it is also more than a regime of transnational governance. It is a polity with no sole apex of authority, but with an organized (albeit limited) capacity to act. It has no single and sovereign demos, no people, but is involved in reflexive processes of constitutionalisation. It is a polity-in-motion based on a thin kind of statehood – a supranational polity with a deliberative imprint.

We find that the EU is, above all, a political system that makes extensive use of law to create order and purpose, but law-making and law enforcement take place within a structure that combines hierarchical and horizontal procedures. Whereas a central body with a wide revenue-basis is clearly absent, the system has developed a well-established legal hierarchy and consented authority relations buttressed by deliberative processes. Hence the concept of *deliberative supranationalism*, which depicts the painstaking quest for consensus within a binding legal structure.

In overall terms, the EU does not precisely mirror any of the three ideal typical polity models. Nevertheless, there has been a fairly clear discernible trend: The integration process has moved cooperation beyond intergovernmentalism and pragmatic problem-solving. Cooperation has turned more explicitly political and constitutional, but there is no strong evidence of a common European identity of the kind presupposed by the value-based model. There is no unified people – 'Staatsvolk' – upon which statehood and political institutions can be built. But as the European citizens have obtained more rights,

and as the Union's competences have been increased, there is on balance a certain movement in the direction of a rights-based Union. However, much more needs to be done at the Union level for the citizens to be able to see themselves as the authors of the law they have to obey.

The empirical studies of the CIDEL project have documented that the EU has increased its competences and capabilities in recent years. Even though it is not a federation and the member states control the most powerful body of the Union, the Council, the EU is a supranational polity. It has got a legally binding, even if formally not incorporated, Charter of Fundamental Rights, a (not yet fully developed) competence catalogue delimiting the powers of the various branches and levels of government, a kind of bicameral legislative system; as well as authoritative dispute-resolution mechanisms particularly embodied in the authority of the Court of justice. The Constitutional Treaty would, if eventually adopted, move the EU into a quasi-federal, supranational legal system based on the precepts of higher-law constitutionalism.

The EU's gradually emerging system of representation and accountability does give the citizens at least a minimal input into the process of framing and concretizing their rights. The EU has also organized mechanisms to obtain and implement collective goals, some of which have market redressing and redistributive effects.

Notwithstanding these hierarchical elements, the EU is not a state-federation as it has shared sovereignty within an unsettled territorial realm, unity of law is not there, and there is no established agreement about the demos -- on the criteria for inclusion/exclusion. The EU is more varied in organizational terms than the most diverse federal state. As long as it is not clear who are legitimate subjects of the polity, who the people is, observance of the principle of sovereignty – according to which all political authority emanates from the law laid down in the name of the people – is not ensured. However, the social preconditions for a full blown parliamentarian system at the EU level are not in place (yet) as a distinct European collective identity is missing as are many of the intermediate associations and organizations of civil society, including a unifying public sphere conducive to identity-formation.

Where then to look for explanations of the viability of the integration project? As mentioned, we have tried to explicate the rationale of such processes from the vantage point of deliberative theory. This theory sets out to explain why the actors of the Union can reach a common position on what to do when there is no clear-cut win-win situation, when side-payments are excluded, when there are no sanction-based rules – no Leviathan.

The protracted 'constitutionalization' processes point to the fact that the EU is a system in transition and that the legitimacy of this project depends to a large degree on the open-ended and long-lasting discussion of its *finalité politique*. Constitutional reflexivity has been increased with every round of Treaty revision. Moreover, the Convention method, which is the most reflexive thus far, seems to be de facto accepted as the proper procedure for constitutional amendment. Through the entrenchment of this method there is consolidation of a model of 'constitutional politics' that differs from 'normal politics', and one that also differs from Treaty changes conducted through turf battles at Intergovernmental conferences. This links in with the contention that the quality and direction of the integration process itself is crucial for the legitimacy of the Union. As it is easier to agree on procedures and norms for how to proceed than on common purposes and finalité, the EU is very much an organization in motion. It is the manner in which the changes are conducted, the quality of procedures and processes, which can lend legitimacy to this whole experiment.

II. BACKGROUND AND OBJECTIVES OF THE PROJECT

The EU is an entity 'in the making', and there is no assurance that it will replicate the notion of citizenship associated with the nation-state. For analytical purposes we may distinguish between three different conceptions of citizenship, which are reflective of different conceptions of the EU *qua polity*. The first is *economic citizenship*, based on rights associated with the four freedoms, where the citizens are seen as producers, consumers, users, and customers and reflects the notion of the EU as a problem-solving entity. The second is *social and cultural* citizenship, based on a set of common values, aimed at establishing a material basis for societal membership, and reflects the notion of the EU as a value-based community. The third is *political* citizenship, based on a set of common civil and political rights, with the purpose of empowering the citizens to be 'co-authors' of the law, and reflects the notion of the EU as a rights-based post-national union. Is the EU becoming a mere *problem-solving entity* based on economic citizenship; is it moving towards a *value-based community* premised on social and cultural citizenship, or is it moving towards a *rights-based post-national union*, based on a full-fledged political citizenship? The hypothesis of this project is that the latter option is the most viable both in normative and empirical terms.

The main purpose of this research project is to examine the prospects for *a citizens' Europe* through analysing what *kind of order* is emerging in Europe. Our particular concern is to take stock of the EU as a rights-based post-national union, based on a full-fledged *political* citizenship. Does the EU proceed along this developmental path, and if so, how far has it proceeded?

The main purpose of the project encompasses the following *objectives*:

(a) specify *three different options* for forging a citizens' Europe and assess the normative basis of each of the options, including their attendant notions of citizenship. How robust are they from the point of view of democracy, solidarity, and justice?

(b) *test the empirical relevance* of each of the three options, with emphasis on the third one, and how they relate to each other – over time, across policy fields, levels of governance and in a number of member states.

(c) develop a third conception of integration, *integration through deliberation*, and assess it in relation to the dominant conceptions of integration which are based on functional adaptation and strategic bargaining, respectively. Its salience will be

tested within the realms of constitution making, enlargement¸ social policy and foreign and security policy.

CIDEL has both an *empirical* and a *normative* dimension. The empirical dimension refers to the actual prevalence and viability of each of the options across different policy fields and levels of government. The normative dimension relates to the validity of the three options for governance.

III. SCIENTIFIC DESCRIPTION OF PROJECT RESULTS AND METHODOLOGY

1. Deliverables

The table with project deliverables hereunder contains all the deliverables that were agreed upon by the CIDEL consortium and the Commission in the Technical Annex 1 to the Contract.

There are two dissemination levels: public (PU) and restricted (RE). The last column ('state of delivery') indicates the work in progress ('+') and the deliverables that have been produced ('x').

Table 1. List of deliverables

Number	Deliverable	Delivery Date	Nature	Dissemi-nation level	State of Delivery
1	A coherent and well-run research network	0-36	N/A	N/A	X
2	A dynamic web page for dissemination and intra-project communication	2-4	N/A	PU	X
3	Production of computer-assisted text analysis	13-36	R	RE/PU	X
4	Policy-memos, reports, papers, and articles	4-36	R	PU	X
5	Conference: The EU and post-national integration	7-8 February 2003 (month 4)	C	RE	X
6	Workshop on European Public Space	5-6 February 2004 (month 16)	W	RE	X
7	Book: Europeanisation and the European Communicative Space	24-36 (to be published in 2006)	R	PU	+
8	Research Report on Europeanisation and Social Movements	24-36 (to be published spring 2006)	R	PU	+
9	2 workshops on Legitimacy, governance and constitution-making	1) 20-21 June 2003 (month 8) 2)12-13 November 2004 (month 25)	W	RE	X

10	Book: Constitution Making and Legitimacy	24-36	R	PU	X
11	Book: Privatisation of Citizen-ship? (New title 'Constitution Transfigured')	24-36 (to be published 2006/2007)	R	PU	+
12	Workshop on Justifying enlargement	7-8 May 2004 (month 19)	W	RE	X
13	Book: Democratic principles and enlargement: past and present experiences	24-36 (in print, will be published early 2006)	R	PU	X
14	Workshop: Security and conflict resolution in post-national Europe and a research report	22-23 October 2004 (month 24) JEPP Special Issue (in press, to be published 2006)	W	RE/PU	X
15	Workshop: Taxation and European Solidarity	10-11 June 2005 (month 32)	W	RE	X
16	Book: Taxation and social policy of the EU	30-36 (to be published 2006/2007)	R	PU	+
17	Concluding Conference on the EU and post-national democracy	22-24 September 2005 (month 35)	C	PU	X
18	Book on the nature of the EU, synthesising the findings of the research project. A report of 'Academic Responses'.	Book: month 34 Report: month 22	R	PU	X

2. Overall co-ordination (WP 0)

The main objectives of WP0 were to: administer and co-ordinate the activities of CIDEL; disseminate research results across all research projects of CIDEL to policy-makers, practitioners, the academic community, and as widely as possible to the general public in Europe; contribute to secure the scope and quality of the academic production throughout the projects and workpackages, and; establish computer-assisted text analysis proficiency for all researchers who are interested CIDEL has done this by establishing an adequate administrative capacity to ensure close communication,

coherence and co-ordination between and among all the participating institutions and workpackages.

Workpackage 0 covers the overall administrative co-ordination of the project, including the establishing of a coherent and well-run research network and the creation of a dynamic web page for dissemination and intra-project communication. This has mainly taken place through the coordinating partner ARENA, although with active involvement of other partners. In addition, the CIDEL Steering Committee has held meetings to provide overall guidance for the project. An important part of this workpackage has also been the development and enhancement of the project participants' skills in conducting research by means of computer-assisted text analysis, through production of text analysis training documents, the generation of software tools, and a training course.

There has been three main deliverables under workpackage 0, which are described in more detail in the following paragraphs:

- a coherent and well-run research network (Deliverable No. 1);

- a dynamic web page for dissemination and intra-project communication (Deliverable No. 2);

- production of computer-assisted text analysis manuals and training documents, as well as the generation of a high-quality domain-specific, small-scale corpus, an integrated set of software tools, and a tailor-made training course aimed at meeting the researchers' needs (Deliverable No.3).

2.1. The CIDEL network

A coherent and well-run research network (Deliverable No. 1) was established within the CIDEL framework, and an extended group of researchers was incorporated, in particular at workshops. Communication and direct interaction among all partners has been frequent – via e-mail, telephone and at various meetings and conferences all over Europe. The coordinating partner in Oslo has stayed in close contact with all partners, and ensured that all scientific progress evolved according to the planned schedule, and that all financial matters were dealt with according to the contract.

The CIDEL Steering Committee, which consisted of the responsible contact persons from partners 1, 2, 3, and 5, has had the overarching responsibility for project co-ordination. The Committee met approximately once a year to ensure research progress, coherence, and project co-ordination. On various other occasions, the members of the Steering

Committee has been in contact to discuss project matters, not least at the CIDEL workshops.

A full time administrative project manager, Geir Kværk, has been engaged, being the contact person for the CIDEL network on administrative and practical matters. He has also been in charge of updating the project website (www.arena.uio.no/cidel) and intranet. The latter medium, with access restricted to the researchers and research assistants of the project, has allowed the consortium to exchange information, and has been a valuable form of intra-partner communication. Apart from the intranet, the CIDEL partners have frequently been in touch via e-mail and telephone and met at different workshops, seminars and conferences. The Coordinating partner of CIDEL, ARENA has ensured that the contractual obligations from the CIDEL consortium have been fulfilled and that the deliverables have been produced in time. ARENA has coordinated the work within the different workpackages and supervised the different workshops by gathering working papers and contributions and distributing these papers to all participants, in electronic and paper version. The coordinator in Oslo has continued to keep close contact with the researches responsible for the workpackages. Therefore, the Oslo-based researchers, (co-) responsible for the different workpackages, has held regular meetings where matters of scientific and administrative nature have been discussed. In the third year of CIDEL activity, 5 such meetings took place (bringing the total number of these meetings to 29).

All administrative and contractual matters have been settled via ARENA, including: coordination and contact with the Commission in matters of intrapartner transfers and transfer between partners; ensuring that deadlines for delivery are respected; drawing up all progress reports, the eTIP and the final report and submitting these to the Commission.

As regards dissemination, in addition to the website described below, the cocordinator has produced eight newsletters on the CIDEL project, which have distributed via e-mail to a large number of interested researchers (300 recipients). The newsletter has also been available on the website. A brochure was produced during the final weeks of the project – informing on the contents of the project and summarizing main findings, as well as presenting major publications and deliverables of the project and listing the partners involved. The brochure has been distributed to all partners and widely to a broad public, to policy makers, stakeholders and the academic community throughout Europe.

2.2. The CIDEL website

The website www.arena.uio.no/cidel (Deliverable No. 2) was created at the start of the project and has been regularly updated and developed during the project period. It contains information on the progress of the project (announcements of workshops, distribution of the workshop papers via the website, etc). The website also provides information on publications and outreach activities of the project and has proved to be an effective tool for dissemination as well as for intra-project communication. Via the website the consortium has had access to the CIDEL intranet, allowing the researchers to exchange information by up- and downloading papers, reports and books, templates, guidelines and administrative documents, as well as providing links to official documents, newspaper articles and other relevant information. Thus, the website was designed both as a channel to the general public for disseminating research findings, and as an integrative tool among all the participating researchers (exchange of drafts, papers, programs for meetings, seminars, workshops, etc.). Most papers published has been made available on the website. All CIDEL reports, as well as the CIDEL outreach brochure has been made available in electronic format on the website, and has been frequently downloaded.

2.3. Computer-assisted text analysis

The production of computer-assisted text analysis manuals and training documents (Deliverable No. 3) has been produced, and several short training courses and presentations of the tools have been undertaken. A new software has also been developed under the project. In addition, a considerable amount of work has been done in producing a hypertextual version of the Constitutional Treaty (http://gandalf.aksis.uib.no/%7Ebrit/EU-CONST-EN-cc/index.html) by Brit Helle Aarskog (via the ARENA partner). The digital version has been prepared to make the texts more accessible to researchers and to the citizens, enabling easy cross reading of the text. The logical document structure of the Constitutional Treaty has been captured and refashioned in a hypertextual remediation of the textual content.

2.4. Text analysis, training manuals and new software tools

Text analysis covers a wide range of techniques for coding parts of text, for using/developing classification or categorisation schemes used in the coding process, for representing code structures and relationships between codes and coded text segments, and in general, techniques used for exploring textual data. The methodological approach advised blends quantitative and qualitative approaches in an iterative multileveled

strategy in which quantitative analyses end up with qualitative considerations, and results from qualitative analyses will require quantification.

WordSmith can be used for exploring the words, collocations, concordances, consistencies between texts (documents), plots displaying the scattering of occurrences, calculating 'keyness' (unusual high-frequent words in one document or document segment as compared to a larger corpus), sorting and filtering words and clusters, calculating statistics, exporting filtered word lists, etc. The software allows for the generation of stop-files (match files) that may be applied as filters in WordSmith supporting the analysis of frequency and distribution data for certain grammatical classes.

The tool set converts export files from WordSmith into categories or code lists to ATLAS.ti. ATLAS.ti supports coding in a highly flexible manner and the system manages the text enriched with codes (both grammar based codes and semantic codes). The semantic coding comprises an iterative manual – although computer-supported - coding process where text segments are assigned codes referring to the researchers' interpretations. Text, quotations, codes, search patterns and memos can be organised in families and cross-linked at all levels, assembled within a file system denoted as a 'Hermeneutical Unit' (HU). It supports collaborative work in that these units (HU) from various researchers can be exported to the INTERNET, so that researchers can comment on each other's work and interchange viewpoints and reflections.

The information that is available online has improved access to data in electronic form, and has made it easier to build a corpus for a particular purpose. However, it is important not to underestimate the workload involved in corpus construction and administration. The teaching material has been produced and will be made available in a web-application, including a question-and-answer service. The practical parts include the use of such software as WordSmith (quantitative analysis), ATLAS.ti (qualitative, with export facilities to SPSS) and MindManager (enabling the researchers to publish their material on the web).

New software and tools have been applied and developed under CIDEL, by Brit Helle Aarskog, and the research assistants Håkon Søgnen and Stefan Engelien. A rationale behind the development of the integrated tool set was to make grammatical information available to social science researchers by extracting a subset of grammatical information generated by grammar taggers (any language). The extracted information is made accessible through general-purpose software designed for text analysis and text exploration. When the social science researchers are given a facility for extracting

sentences based on lexical-semantic codes (derived via grammatical tags and TWS), they have a richer opportunity to study the language use in the texts.

The new tool has been given the preliminary name 'Words EtCetera'. The tools are available as web applications in which the researcher can transmit results (data files) obtained in WordSmith, and get a delivery in the form of data files which can be applied for autocoding facilities in ATLASti. The need for such conversion procedures is well known in the ATLASti user forum - users regularly express whishes for facilities that have the potential of'speeding up' the identification and automatic coding of particular phrases in their text sets. The tools produced in the CIDEL project give an important type of text analytical support, and this summary therefore aim at presenting the essence in the implemented conversion procedures.

The construction of the new tools is completed, however the performance of the grammar parser is not yet stable and robust when applied in the web services. The problems encountered are classified as related to software engineering cost drivers known as 'Product Factors', more specifically 'Software Product Complexity'in that the problem is located in the interaction procedures between the Tree Tagger and JavaCC procedures. The problem is also classified as related to the cost drivers known as 'Platform Experience', more specifically that the implementation task involved several new software components.

The reliability requirements for web services are high, and due to the mentioned difficulties related to the grammar tagger performance, the web applications are at this stage released only to a closed researchers' community in order to collect error reports which will form the basis for redesign of specifications and programmed solutions.

3. Theoretical Perspective (WP 1)

Today's Europe is marked by a remarkable pace of integration, but also by confusion and disagreements about the future design. This is reflected in the European Union. It is a novel type of entity whose principled and constitutional status is ambiguous and incomplete and whose underlying goals are not clear. The EU is saddled with legitimacy deficits.

It suffers from a democratic deficit, due to its weakly developed or inadequate democratic structures, including the lack of European political parties, a properly functioning public sphere, a cumbersome and executive-driven policy process, and an 'incomplete' constitutional arrangement. Further, the process of integration is widely criticised, although the critics often do not agree, nor do they emphasise the same

problems. For instance, some critics are concerned with costs and efficiency, others with technocracy and lack of popular participation and others with the absence of a sense of community and identity. Some critics will denounce the EU for its lack of ambitions, whereas other will denounce it for its overly strong ambitions.

The problem of legitimacy deficits of the EU raise the questions of what the Union is and whose interests it serves. These complex problems may be resolved through the development of quite different or even contrasting solutions. As such they involve making political choices and setting priorities. At a more general level one may ask if the Union is first and foremost:

a) a tool for enhancing profit and economic growth;

b) a collective project to define and promote a European identity, or;

c) a political effort yielding a citizen's Europe or a federal-type state.

On this background – and for analytical purposes – three explicit strategies for how the legitimacy deficit of the EU can be 'repaired' or mended may be spelled out. They are suggested paths of institutional development for increasing legitimacy. The strategies are based on three different conceptions of rationality – instrumental, contextual and communicative and their adherent warranting notions: efficiency, collective self-understanding and justice. These modes are connected to three notions of democracy: the economic variant, which holds democracy to be first and foremost a decision-making method or merely a method of preference aggregation; the republican-communitarian notion which conceives of democracy as a way of life; and the cosmopolitan conception that is based on a set of legal and argumentative presuppositions of a universalistic kind. As such they also provide us with a set of different conceptions of the EU: a problem-solving entity; a value-based community; or a rights-based union.

3.1. Three strategies for Handling the EU's Legitimacy Deficit[1]

The first strategy amounts to a scaling down of the ambitions of the polity-makers in the EU. It defines the EU as a problem-solving organisation. Here the EU's own legitimacy is held to be dependent on its performance and on the legitimacy of the member states. The second strategy emphasises the need to deepen the collective self-understanding, and thus defines the EU as a value-based community in a cultural sense. In this case legitimacy derives from a shared cultural identity. These first two modes of legitimation

---

[1] The following is based on Eriksen and Fossum (2002, 2004a, b).

have become increasingly problematic. The third strategy concentrates on the need to readjust and heighten the ambitions of the polity-makers so as to make the EU into a federal multicultural union founded on basic rights and democratic decision-making procedures. The EU has become a polity in its own right and is no longer a mere derivative of the member states. In this case legitimacy relies on a set of constitutional and communicative presuppositions which ensure public deliberation. How robust is such an alternative and how salient is it, as opposed to the other two strategies?

Table 2. Three logics of integration

Notion of democracy	Conception of rationality	Mode of legitimation	Type of entity
Economic-aggregative	Instrumental and strategic	Efficiency	Problem-solving entity
Republican-communitarian	Contextual	Collective self-understanding	Value based community
Cosmopolitan-discourse-theoretical	Communicative	Justice and norms of fairness	Rights-based union

The three strategies represent different answers to the question of the legitimacy of the EU and hence to the question of legitimate governance. That is not to say that they are equally valid from a normative point of view, nor that they are entirely optional, i.e. that they can be adopted entirely without constraints. We are concerned with devising a set of strategies, each of which refers to a set of basic principles and standards. These strategies will be applied to the EU in order to identify a set of explicit recommendations for how the legitimacy deficit of the EU may be remedied. Such knowledge is essential in particular at critical junctions, such as enlargement. This type of principled and strategic knowledge can also serve to open up windows of opportunity, in order for the normative potential in the EU and in the integration process to be better harnessed.

These strategies are not necessarily mutually exclusive as they may pertain to particular portions or sectors or segments of European co-operation. The purpose in developing and discussing them as distinct strategies is to make it easier to understand the different scenarios that the EU is faced with. This is important in order to clarify the nature of the choices that are involved, including the costs and benefits associated with each strategy. However, it is a way to substantiate the hypothesis of that the third strategy is the most viable. Does the EU move towards a post-national, federal union? To substantiate the hypothesis it is also necessary to examine to what extent the process does comply with

the standards of legitimacy embedded in the logic of integration based on communicative rationality. This is the main question.

3.2. Strategy one: The EU as a mere problem-solving regime

The instrumental logic designates the EU as an organisation whose purpose is to solve the perceived problems facing the nation states, associated with an increasingly globalised economy, and which are beyond the nation states to handle on their own. Legitimacy depends on the ability to solve problems effectively and the capacity to deliver the goods that people demand. There is little onus on collective tasks and obligations beyond the narrow interests and preferences of the member states.

This model need not be termed in strictly economic terms, as the EU recently has come to be seen as a regulatory entity made up of a wide range of politically independent institutions such as specialist agencies, Central Banks, judicial review, and delegation of policy-making powers to independent regulatory commissions. Governance is conducted by autonomous regulatory agencies. This entity is more comprehensive than a Single Market, in that its foremost role is to resolve the perceived problems of the member states in an increasingly globalised world. Globalisation entails a range of additional problems pertaining to environmental degradation, social dislocation, international crime, terrorism and migration. Boundary-crossing problems are addressed by cross-national regulatory agencies based on professional expertise. The member states bar the structure at the EU level from affecting core state interests and preferences, and this together with well-developed systems for accountability and surveillance suffice in ensuring legitimacy.

**Figure 1**. Europe as a problem-solving regime

There are obvious advantages associated with this strategy. For instance, there is no need to clarify what are common concerns and what are items to be handled separately by each member state. Efficiency in terms of the satisfaction of the members' interests lends legitimacy unto itself and there is at present a sufficient value basis in the EU to ensure this.

The obvious disadvantage is that whilst this strategy might have worked in the earlier EU (or more appropriately EEC or EC), it nevertheless represents a regression or step backwards from what has already been obtained and it is reasonable to anticipate further losses in legitimacy and motivation as a consequence of frustrated and stymied expectations. This problem is likely to be exacerbated with enlargement, as the weak democratic and market based traditions and institutions of many of the applicant countries will not lend ready support to this value basis. Explicit efforts to ensure a common value-basis and/or a set of supportive institutions with sanctioning ability seem required to sustain co-operation over time. Further, in a far more complex, diverse and value pluralist Europe we can not expect that the current consensus on economic values as the overarching goal can be sustained or will be accepted, at least not in its present form.

3.3. Strategy two: the EU as a value-based community

The contextual logic conceives of Europe as more of a community in which the different national modes of allegiance and identification are to be harmonised. The success of the EU depends upon developing a shared identity. This strategy is thus premised on the need to further clarify the value basis of the European community, through a collective process of self-interpretation: Who are the peoples of Europe and who do they want to be? In this perspective the EU is a geographically delimited entity but one which has not yet fully discovered a common identity which can serve as the basis for developing stable goals and visions. Further revitalising traditions, mores and memories of whatever common European values and affiliations there are may provide the EU with a more solid basis for further integration. Because of a common destiny, a common fate induced by common vulnerabilities people are turned into compatriots willing to take on new collective obligations to provide for each other's wellbeing. A common identity is needed for securing trust, that is, in order for subjects of collective decision-making to be committed. Every political order presupposes some kind of common identity to foster allegiance and respect for laws. Even if the EU is something less than a state, it requires identity due to its ability to make collective decisions. The ultimate objective of such a strategy is to establish a we-feeling, and a sense of brotherhood and sisterhood. Such a search for a common European identity can make the EU into a value-based community, which does provide a sound basis for citizenship. It is also a means of drawing bounds, by defining who are Europeans and who are not. Such a strategy may also contribute to consolidate the member states at the present level of institution building.

Figure 2. Europe as a value-based community
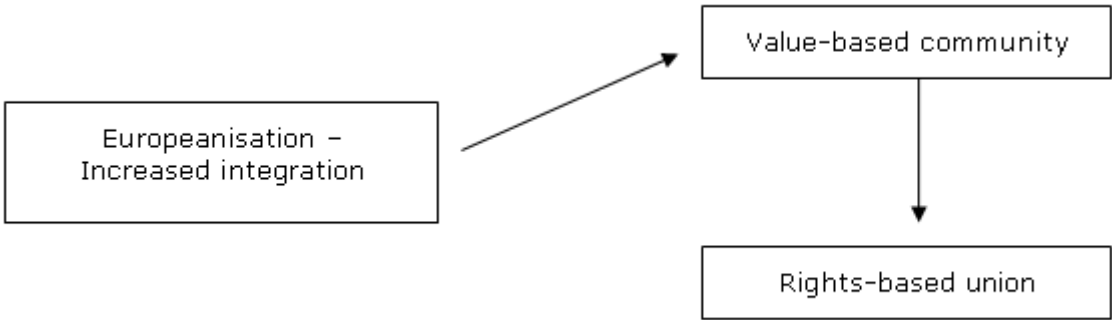
The advantages of this strategy pertain to the clarification of identity and self-esteem that make for collective action - solidarity and patriotism - among the members. It provides the EU with a more evident and solid basis for inclusion/exclusion, which in turn makes it possible to establish a set of clear territorial bounds for the further extension of the EU. In this strategy further democratisation is possible, as the people(s) of Europe must be able to come together to discuss whom they are and what their common goals are.

However, there are obvious disadvantages with this strategy. On the one hand are the normative problems associated with developing a cultural basis for inclusion/exclusion – for which countries that are to be included – because such a distinction may conflict with basic human rights. Further, it is far from clear what values and virtues that are uniquely European as opposed to universally shared or shared among smaller or more localised groups and collectives of people. For instance, there is little doubt that in value-terms as well as in institutional terms, there are significant differences in Western Europe in the amount of support for European integration and supranational structures. Historically it is possible to define a European 'core', which roughly corresponds with the six founding members of the EU. Further deepening and widening of the EU will easily exacerbate the tensions between the 'core' countries and those outside. If the EU is successful in establishing a value-based community, such a community will have a set of clearly demarcated bounds to the outside world, thus raising the prospect of a "Fortress Europe", which is based on neglect of the legitimate needs of bordering states. There are thus normative problems involved in this model that cannot be solved adequately by bringing 'the peoples' of Europe together in communal and public settings. These difficulties may be theoretically elaborated.

3.4. Forms of democratic governance

According to the economic view, democracy EU is merely a means for efficient decision-making or a method for the aggregation of preferences. It is the results that count in international organizations when they are conceived of as merely intergovernmental relations. The veto-power of all participants makes for legitimation in itself, as parties will not consent to decisions that are contrary to their interests. The notion of *instrumental rationality* becomes the requisite tool for assessing the performance of such organisations. Action is conceived of as motivated by preferences and anticipation of consequences. The question is whether the best means among alternatives are selected in order to realize given preferences. The standard of evaluation is the maximal well-being of the constituencies.

The theoretical problem with such a concept of legitimation is the inherent instability of the political order. Actors will shift their loyalty whenever they are faced with a better offer. The normative problem is that democracy is not only about satisfying pre-established preferences or producing goods and commodities for a society, but also way to find what problems need collective attention and what values deserve to be realized, and how hard choices between non-commensurable entities should be undertaken. It is a way to establish standards and set priorities.

This brings us to the second notion of legitimation, which we for sake of simplicity will name communitarian, as it focuses on the problem of social integration. Democracy is seen more as place to deliberate upon the common good and to establish bonds of solidarity. People are addressed as fellow citizens in communal settings and are called to take a stand on collective problems in democratic assemblies. Preferences are moulded and a clearer conception of the common good or the common interests are developed, which turn people into compatriots – brothers and sisters – capable of collective action. In this perspective legitimacy stems from primordial sources of belonging which constitute the identity of the group and provide the cultural substrate of collective decision-making. Identity is reproduced and changed due to a process of reflection and deliberation in which the members' interpretation of who they are and want to be are challenged by new experiences and exigencies. In this reading democracy is not one among several alternative principles of associated life that may be chosen at will: rather it designates the very idea of communal, civilised life itself.

The problem raised by this strategy is first that the EU is a post-communitarian entity where different value systems are to be integrated and a common will has to be articulated well beyond the basic commonalties of the existing collectives, i.e., the nation

states. Hence the problem of rights whose validity derive from the collective deliberations. What about (human) rights that are not enacted by democratic regimes as is the case in totalitarian states? Are they, then, not valid? The problem of this kind of republicanianism is that it pictures democracy as a process of collective self-discovery which only gives human rights a binding status as long as the correspond to the collective self-understanding of that society. In addition to complexity and deep interest cleavages, there is a pluralism of value within modern societies, conflicting views on the common good within different groups, local communities and cultures. When many members share certain values, minorities are threatened. The normative essence of the democratic constitutions is tied to the respect for the individual – its integrity and dignity. This is not solely expressed in a political culture based on tolerance for differences and on the principle that disagreements should be settled by argument, but also in the working principles of the polity. The politico-institutional nexus of the modern state entails rights both for protecting the integrity of the individual – negative freedom – and for making possible participation in the opinion- and willformation processes – political rights which makes for positive freedom. Democracy then should be conceived of as legitimation principle, i.e., as a system that sets the terms for reaching legitimate decisions; legitimacy meaning that people comply with norms because they find them right and worthy of respect.

Only deliberation can ensure democratic will-formation or legitimacy as it entails the act of justifying the results to the people who are affected by them. Public deliberation is the way to find out what is good, right and just in a democracy, because it entails the practice of justifying the results to the parties affected. It is only possible to test the quality of arguments in a debate in which all affected parties are involved. This is the task of the public sphere which is the realm outside of state-administration and the market in which people can gather and become a public and hold the decision makers accountable. A public sphere which generic set of conditions are freedom, inclusion, equality, participation and open agenda is then required for testing which norms are justified. This according to the criteria of discourse-theory saying that only a norm that has been approved in a free and open debate is valid. Then, the quest for a European public sphere is of utmost importance for democracy to thrive given that the EU has become a polity with considerable governing competencies, and whose decisions affects both the citizens and the Member States profoundly. For the people of Europe to become citizens who not only are the subjects of the law but also its authors they have to be equipped with political rights and resources necessary. Citizenship implies the ability to rule over one's equals and to be ruled in turn.

As has been mentioned previously, this conception of democracy compels us to conceive of democracy at a more fundamental level: it is not merely an organisational principle – e.g. representative or parliamentary democracy – but a legitimation principle which ensures the conditions that are necessary for justification. In other words, it is not identical with a particular organisational form, but is rather a principle, which sets down the conditions that are necessary for how to get things right in politics. Democracy is a way to form common opinions and collective wills about what to do but also to find out what is fair or just, and arguing is required for a norm to be seen as impartial.

What is more, making democracy more deliberative contributes to civility: citizens get a better chance of resolving some of their moral disagreements and tolerate those that will inevitably persist, on terms that all can accept. However, the deliberative process, which is necessary for justification of rights and entitlements, is in modern societies itself regulated by law securing the autonomy and participation of the individual. In contrast to communitarians and associationalists who do not distinguish appropriately between cultural and political integration, and republican deliberationists who would like to organise the whole society deliberately, Habermas maintains that "the procedure from which procedurally correct decisions draw their legitimacy as the core of a separate, constitutionally organised political system, but not as a model of social institutions as a whole (and even not all government institutions)" (Habermas 1996:305). Constitution and popular sovereignty presuppose each other and constitutes the normative foundation of the cosmopolitan model of democracy: it is the combination of rights, which ensure the dignity of each person, and deliberative procedures, which make political participation possible, that together warrant the presumption of democratic legitimacy.

The discourse theoretical concept of deliberative democracy sits very well with supranationalism as it decouples citizenship and nationhood and conceives of the constitution as a system for accommodating difference. Modern states allow for cultural diversity, as there is a right to non-participation. Thanks to the legal structure of the Rechtstaat and to the modern idea of citizenship, which means to rule over one's equals and to be ruled in turn by one's equals, the democratic constitutional state makes solidarity between strangers possible. What then about the EU?

3.5 Transcending the nation state

In legitimacy terms, the two preceding strategies conceive of the EU either as an organisation in the hands of the member states or as an entity that has superseded the member states, in that it can claim a uniform sense of belonging and attachment. Neither captures well the EU in its present form, nor provides a set of recommendations for the future development of the EU that appear to be overly consistent with current developments.

The EU was established as a type of interstate co-operation. But the EU has changed, and so has the international context, and which also deeply affects the future direction of the EU. A purely voluntary association of states does not give rise to collectively binding agreements: it is a fragile and unstable order. It is likely to run into problems such as those that faced the *League of Nations,* which failed to authorise anyone to defend the shared principles. The process of reaching collectively binding decisions is, ultimately, legally dependent: post-national law must be made binding on the member states. The EU has clearly progressed beyond the initial stage of a purely voluntary association. It is an entity with strong supranational elements, as evidenced in the character of the legal structure, and which is supported and enhanced in particular by the European Court of Justice. In its rulings, it has long asserted the principles of supremacy and direct effect, principles, which have informed the actual operations of the EU, albeit their precise status in relation to national constitutional orders remains unclear.

The EU has established an 'incomplete' constitutional arrangement - its principled status or *telos* is not clear. The EUs democratic deficit, it is generally held, is due to the lack of European political parties, a weakly developed system of representative accountability and the absence of a truly European public sphere. Cognisant of these shortcomings, many critics assert that the prospects for European democracy are weak, as there is no collective identity – akin to a people or a nation – and the prospects for establishing such are poor. Thus many critics allege that the sheer complexity of the EU will preclude it from ever becoming a legitimate entity - with a clearly defined *demos* and a clear *legal structure*.

These problems are lent urgency as the EU is actively engaged in further widening and deepening of the integration process. Enlargement to the East and the South is a daunting challenge, as the structure that was initially set up to accommodate six member states and found wanting then, will in the present situation with current needs have to accommodate up to twelve new and far more diverse member states. Many of these states lack traditions of a liberal political culture and have only recently adopted

democratic structures of governance. The EU is also actively involved in further deepening of the integration process, as it seeks to expand its competencies in justice and home affairs and not the least in the areas of common security and defence.

These recent developments combined with the democratic and constitutional problems further underline the need to clarify the nature and status of the EU. What kind of entity is it and what are its 'real' tasks?This problem is underlined by the elitist character of the European integration process. It is widely held that from the start this process was driven by an elite quite detached from popular sentiments and experiences. Professional lobbyists, diplomats, politicians, the European industrial and economic elite, and bureaucrats and public officials were the core actors in promoting integration. However correct or incorrect this may be, over time as the process expanded, it came to include a wider range of issues and policy fields, as well as an increased number and range of actors, and a wider range of perceptions as to what the EU was, is and should be. After a lengthy process of technocratically driven integration, which culminated in the Maastricht Treaty (TEU), the period since then has been marked by an increased awareness among analysts and EU officials alike of the lack of popular support and sanction. During the Maastricht Treaty process, the peoples of Europe struck back- in a series of hard won referenda on the ratification of the TEU. This event was the most important single incident to alert people to the EU's profound legitimacy deficit.

The TEU made clear that the EU no longer could draw its democratic legitimacy from the member states. Is the EU then a novel entity whose legitimacy has to be established and considered with reference to the EU itself? If so, the question as to in whose interest the EU is relates to a deeper and more profound concern, namely to whom the EU 'belongs' and what kind of entity it is and should be. Thus we are faced with profound questions of what the European Union's identity is based on, what its basis for allegiance rests on, and how its boundaries are determined. In the third strategy political identity based on normative principles are brought to the fore, rather than civic or cultural forms of identities as are put forward by the second, value-based strategy.

3.6. The EU as a post-national federation

According to the third logic the EU is conceived of as a polity *sui generis*. As such it has reached firmly beyond intergovernmentalism, and has established a polity that is sensitive to cultural difference. This model is premised on direct legitimacy: the citizens of Europe are included directly or via their representatives in the decision-making process of the EU. Here the integration process hinges on the ability to establish a fair system of co-operation founded on basic rights and democratic procedures for deliberation and decision-making.

This strategy is thus based on the recognition of the need to continue the process of institution building at the political level. Here a wider cosmopolitan conception of democracy will be in operation, because the decision makers will be forced to pay attention to a broad spectrum of popular opinions – because of broad public debate, transnational movements and supranational and international bodies of norm enforcement – in order to obtain legitimacy. The decision makers will be compelled to pay attention to popular opinion in order to obtain legitimacy also because they face a set of rights holders who are cognisant of their entitlements (and obligations). The strategy is premised on ongoing attention to constitution making to establish a set of principles that provide the entity with legitimacy. The motivation of public support will have to be based on a constitutional patriotism, which emanates from a set of legally entrenched fundamental rights and democratic procedures, but which also focuses political affect and identification. Constitution making is thus further carried on to establish an EU citizenship based on entrenched political rights, reformed decision-making procedures, clearer divisions of competencies along vertical and horizontal lines, i.e. between the institutions at the EU-level and the member states (vertical) and among the institutions at the EU-level (horizontal). The legitimacy deficit is 'mended' by involving the citizens of Europe directly or via their representatives in the EU system of deliberation and decision-making. In this manner a European *demos* or people is also shaped, but the approach is quite different from that pursued in the second strategy listed above. What is more, in this strategy the EU's foundation and its boundaries are justified within a cosmopolitan framework. The development of the EU is connected to and highly dependent on the support and further development of similar regional associations in the rest of the world and on a democratised and rights-enforcing UN.

This is an advantage as the EU is seen to build on the very principles and rights that are uniquely European and normatively uncontroversial, as every member state subscribes to them and also because these very moral norms are increasingly spread world wide. One may also see this as a way to reduce the normative problem of limiting the EU or

defining a set of acceptable bounds. Its bounds are set by the constraints embedded in the functionality of popular representative democracy in Europe as well as the viability of such in other similar regions. In this way both the problem of legitimacy and the problem of establishing a set of normatively acceptable borders are solved in a universalistic manner, i.e., based on the principles of popular sovereignty and human rights.

Figure 3. Europe as a democratic multicultural federation
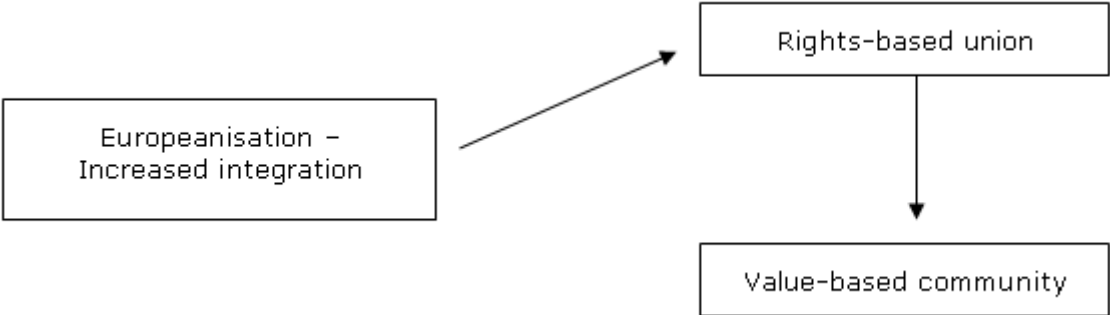
The challenge to this way of solving the legitimacy problems pertains to the sheer heterogeneity as well as the weakly developed common understanding of the European project, both of which are likely to become further exacerbated through enlargement. This is so because different developments, experiences, histories, traditions and languages put the political discourse – the communicative community - under strain. It may be difficult to obtain the kind of civic understanding, tolerance and respect for pluralism that are all necessary for integration through democratic deliberation to take place. The demos is to be shaped by political means, hence there can be no European demos without a European democracy.

The EU as an organisation may in fact be able to foster the required civicness and trust, because it is a dynamic entity. It is an 'organisation in motion' and marked by dynamism, polycentricity and flexibility and whose direction and underlying *telos* are still not clear. There is little consensus on what the EU is or should be. This may be problematic, as it can hamper the EU's ability to handle the new problems it is faced with. Enlargement, new collective measures regarding social policies and foreign and security policies require more willingness to pay and to form long-ranging commitments. These require a we-feeling - a sense of solidarity and trust. However, the unclear and ambiguous notion of the EU may also be a resource as it may make it easier for a wider range of different collective moods and interests to find reasons to comply. This process again may foster the required trust.

Reducing the ambitions of the EU, making it into a mere special purpose regime as a solution to the legitimation problems is highly questionable. When faced with today's challenges, as reflected in changes wrought by globalisation to both welfare and territorial borders such and entity may not be capable to handle the problems effectively.

The main reasons that supports strategy three – a constitutionally tamed and democratically enforced will power at the post-national level of integration - is that the EU has developed in such a manner as to seriously weaken or even undermine the manner in which it was legitimised in the past. The legitimacy of the EU has generally been related to its outcomes and seen as 'indirect' or 'derivative', i.e. conditioned on the legitimacy of the democratic nation states of which it is composed. Its own legitimacy has been foremost seen as based on its performance. This mode of legitimation has become problematic.

First, the EU has emerged into a polity in its own right, however defined, and is no longer a mere derivative of the member states. The indirect or derivative mode of legitimation is thus inadequate. This is not only because the EU has become a polity, but also because this process has affected or even transformed the Member States and their identity so be seen as separate from or independent of the EU. It is not the Member States' interests that determine European politics but rather the other way round it is the European institutions that have the capacity to organise and shape preference and will-formation processes and influence Member States' interaction in a way which is compatible with European interests. Second, there are many reports of the EU as something more than a special purpose organization. It undertakes functions beyond the actual interests and preferences of the member states. Not only does the EU reach well beyond the functional requirements of the Member States as is the case with undertakings in the fields of social policy, human rights, enlargement, citizenship, democratisation etc., but majority vote is increasingly legitimated as a way to facilitate collective decision making.Especially, the Commission and the enhanced role of the European Parliament, constitute supranational elements of the EU, but also the system of committees, negotiations in the IGC process and in policy-networks in general are conducive to the supranationality of the EU, because they challenge the wills of the Member States, facilitate reconciliation, mutual understanding and opinion-formation necessary for collective will-formation – a European 'bonum commune'. How can these options be tested? What are the indicators of the different strategies?

3.7. Research questions and indicators

Indicators of Strategy One pertain to the discernible and tangible material benefits associated with EU membership; co-operation and membership as premised on an ongoing calculation of costs and benefits; and the explicit recognition that the legitimacy of the EU is founded on its performance and as ultimately premised on the democratic legitimacy of the Member States. This implies that the EU will be marked by:

- significant formal and informal constraints on supranational institution-builing;

- very weak or non-existent supranational decision-making and sanctioning ability, at least in non-market matters;

- a very limited scope for redistribution;

- a weak and highly constrained fiscal and taxing ability;

- a limited scope and range of regulatory measures beyond the operation of the Common Market;

- a highly constrained and delimited process of democratic will-formation;

- the absence of a European *commune bonum* or we-feeling;

- no independent civil and political rights basis.

Indicators of Strategy Two refer to a set of identifiable values that permit an unambiguous determination of who are Europeans and what the bounds of the EU are; co-operation and membership are presented as informed by and as vital to the realisation of a set of identifable values; and the explicit recognition that the legitimacy of the EU is founded on a set of values that permit conception and sustenance of the EU as a value based community. This implies that the EU will be marked by:

- the active development of a European *commune bonum* or we-feeling, through measures to stimulate the emergence of a European common culture, and a sense of Europe as an 'imagined community';

- the identification of a set of values associated with traditions, mores and memories that can be deemed as truly characteristic of an as exclusively pertaining to 'Europe';

- socialisation of people into becoming 'Europeans', through schooling, symbolic measures and social redistributive means, all motivated by the development of a European identity;

- a set of clearly delineated criteria for who are Europeans and who are not, and these criteria reflect cultural aspects and the search for a common identity. The onus is on positively identifying Europe and distinguishing Europeans from others, rather than what Europeans have in common with others;

- a very open and comprehensive, multi-level process of democratic will-formation that places great onus on participation.

Indicators of the Strategy Three refer to the further delineation of a set of civil and political itical rights that permit Europeans to conceive of themselves as constitutional actors; an ongoing commitment to those legal and political institutional reforms that are conducive to the furtherance of post-national constitutional patriotism; extensive constitutional deliberation; and the explicit recognition that the legitimacy of the EU is founded on a constitutional structure that appeals to fundamental principles of justice.This implies that the EU will be marked by:

- the active development of a European constitutional structure with a firmly entrenched rights basis which includes civil, political, social and economic rights;

- a commitment to a constitutional patriotism founded on fundamental rights and democratic procedures, which also ensures that citizens are considered as and also consider themselves as rights holders;

- a delineation of powers and responsibilities along horizontal and vertical lines;

- a wide scope of redistributive measures, and an independent and significant fiscal capacity and taxing ability;

- a wide scope and range of regulatory measures.

Fora post-national democratic union to come about a constitutional order and collective will-formation at the European level must thus be envisaged. Indicators of such an order are:

- the collective undertakings of the EU, which pertain to the undertakings fashioned by the central EU institutions, as well as by the member states (and regions) operating under the aegis of the EU;

- its ability to define collective interests, i.e. its ability to form a coherent will and to make binding decisions – that apply internally as well as externally;

- a set of rights that ensure the citizens' (public and private) autonomy;

- the formation of European public opinions.

Wth regard to the internal structure and workings of the EU, the question of forming a coherent will is also related to the question of division of powers and competencies between levels of governance, as some policy areas are more conducive to and acknowledged as in need of concerted action. The questions listed above can not be assessed merely with reference to how much the EU has of each, because that would ignore the important 'federal' or 'subsidiarity' aspect of this process. The question also pertains to whether these policy areas can be justified as requiring collective EU action and a common EU position, in other words 'the will, the need and the ability to federalise'.

3.8. Conclusion

In modern societies, citizenship has taken a cognitive turn, which reflects the onus on basic equal rights: If compatriots are to regulate their common affairs by law, they must concede equal rights to each other. Modern states are, according to Kant, based on entitlements entrenched in constitutions as individual rights which turn human beings into a unified body of citizens capable of making the very laws they are to obey. Increasingly, nationality and citizenship have been disconnected in modern, Western societies. After the French Revolution, nation states have not 'existed in isolation as bounded geographical totalities, and they are better thought of as multiple overlapping networks of interaction' (Held 1995:225). This is a process very much speeded up by the EU, which has 'established the bold idea to disconnect nationality and citizenship and this idea may well evolve to general principle which ultimately transforms the ideal of cosmopolitan citizenship into reality' (Preuss 1998:149). In this respect the EU pursues the modern idea of statehood, as divorced from nationhood: the polity is not bound by pre-political bounds. It is not necessary for citizens to be each other's brother or sister, or neighbour, or native inhabitant, for political integration to come about.

4. Europe's Common Interest and Communicative Space (WP2)

The objectives of WP2 were to: assess the available evidence on the development of transnational media in the wider context of EU communication and cultural policy and evaluate its implications for cross-national public engagement; and to clarify what possible effects a more visible and pronounced rights-based orientation on the part of the EU will have on the nature, direction and salience of social movement activism in the EU. In order to meet this two-fold objective, CIDEL has, firstly, developed a theory of the public sphere that takes account of the characteristics of an emergent supranational polity

and apply this to the analysis of transnational media and journalism in the EU. The wider context includes policy developments in the fields of media regulation, the successive efforts to create a European audiovisual space and a European information area and an appraisal of the media relations of the European Commission. Secondly, CIDEL has developed a theoretical framework and methodological approach to the study of social mobilisation in the EU, with particular emphasis on factors that encourage and deter organised action, as well as the systemic factors that facilitate and stymie mobilising efforts, in an effort to take stock of the EU as a rights-oriented entity. In addition to journal articles, working papers and policy memos (Deliverable No 4), main deliverables have been the workshop 'European Public Sphere' held in Stirling in February 2004 (Deliverable No. 6); an edited book on Europeanisation and the European communicative space (Deliverable No. 7), forthcoming as *Europeanisation and the Public Sphere: a communicative space in the making?*; and a research report on Europeanisation and social movements, edited by Fossum, Schlesinger and Kværk, forthcoming in the ARENA Report Series in 2006.

4.1. Conceptualizing the public sphere

The deliberative democratic approach is an analytival perspective that is particularly onducive to the study of the role and salience of the public sphere in complex systems of action, due to the onus on the epistemic value of democracy (Eriksen and Fossum 2002: 402). This perspective portrays politics as governing by public discussion and posits that opinions are shaped and tested in public debate. Democratic politics entails giving reasons for government decision to the ones who are bound by them. Only norms and statutes that are justified to those affected and that are accepted by all in a free debate can claim to be truly legitimate.In the EU there is a multitude of public spheres: national, international and transnational (Eder 2000; Schlessinger and Kevin 2000; Zürn 2000). These may be separate, overlapping, or convergent. Furthermore, there are both formal

and informal publics in the EU ranging from popular and academic debate in media via epistemic communities to representative assemblies. To shed further light on the question of the public sphere in the EU, we distinguish between *strong* and *general* publics. Strong publics are spaces of institutionalised deliberation 'whose discourse encompasses both opinion formation and decision making', and weak – or what we will term 'general' – publics are spaces 'whose deliberative practice consists exclusively in opinion formation and does not also encompass decision making' (Fraser 1992: 134).

In institutional terms, strong publics encompass parliamentary assemblies and other deliberative entities: they are situated in formally organized institutions imbued with decision-making power and should be constrained by the logic of argument and impartial justification. General publics operate in the wider sphere of deliberation outside the formal political system. The idea of a general public is akin to that of civil society. In principle – although not always in fact – it is the interrelations between strong and general publics that make up the wider constitutional order associated with the democratic constitutional state.

The normative requirement of the public sphere to be both a forum for deliberation and opinion formation as well as a medium for collective action makes it necessary to distinguish between different levels of institutionalization of public debate. The notion of *strong publics* reflect the fact that the public sphere also comprises institutionalized deliberation close to the centre of the political system that is legally regulated, i.e. sites in which there is a requirement to provide justification and where there is a stronger regulation of discourses. A distinction can be made between *weak* and *strong* public spheres. The latter concept alludes to parliamentary assemblies and discursive bodies in formally organized institutions that have obtained decision-making power, while the concept of weak public spheres signifies deliberations outside the political system. For the latter, I prefer the term *general public sphere* because it entails free and open access to opinion formation processes. In many instances it has proven to be 'strong' and powerful as revolutionary situations, massdemonstrations, constitutional moments and the like testify to. This sphere is also powerful in the affairs of routine politics in mass-mediated societies because politicians in general are very vulnerable to the moral force of publicly conducted criticism.

Are there any traits of a general European public sphere where all can address the same issues at the same time, or are segmented transnational publics and institutionalized strong publics all we can report on? In assessing their democratic merits we should also take into consideration their role in the reform process of the EU.

4.2. A communicative space in the making?

This part of the project has focused on the prospects for a 'Citizens' Europe', with particular emphasis on the notion of a European public sphere. By this is meant a communicative space that might enable and engender the formation of a transnational or a supranational public. A viable public sphere is a central precondition for democracy because it enables the elaboration of widespread public debate. Analysts have consistently stressed that an important component of the European Union's democratic deficit (namely its deficiencies in representation and representativeness, transparency, accountability, and support) is the *absence* of a viable European public sphere. The deliberative democratic perspective of CIDEL rests on a theoretical conception of democracy particularly well suited to discuss the question of the public sphere and how it relates to democracy. From the vantage-point of a deliberative-democratic standpoint, the following questions have been addressed:

• What are the prospects for a European public sphere?

• Is such a sphere needed, or are overlapping public spheres a more viable option in normative and empirical terms?

• What do our findings tell us about the EU as polity or political entity?

The research findings presented in the following are forthcoming in the volume edited by John Erik Fossum and Philip Schlesinger (Deliverable No. 7) and are organized in terms of three main themes. First, how can we theorise a range of communicative practices and their relation to the public sphere? Secondly, the workings of specific institutions are addressed as well as what these tell us about the workings of strong publics; and finally, the workings of general publics, not least the role of media communication, are assessed.

4.3. Competing or converging conceptualizations?

Contestation over the Union's character compels us to discuss several different conceptions of public sphere. Under WP2, researchers have investigated which of these dominates the research on the European public sphere and whether they converge around one or a limited range of conceptualizations, or whether there are many competing ones. There is general consensus in the literature that in the EU, there is no single, general public that equates to that of a nation state. The current nature of the EU's formation means that while there is a transnational public sphere that is based in the workings of policy there is no corresponding general public, possessed of a common collective identity. At the public-sphere theoretical level, the research undertaken within the CIDEL framework bring out what has become widely accepted, namely that the EU

has helped foster or bring to light in more explicit shape new conceptions of the public sphere and new ways of configuring it. This has to be taken into account when assessing the prospects for a European public sphere.

The EU emanates from and many of the reforms are based on the member-state template. In other words, the EU *exploits* circumstances by adopting already known procedural and institutional arrangements in the states. But the EU is also based on an *exploration* of new arrangements and solutions. The perceived need for such exploration is probably heightened by the greatly altered international (and national) context in which the EU is being forged, a setting wherein the member states are themselves being transformed. The authors offer different takes here. For Erik O. Eriksen (2006), the prospects of an EU public sphere remain tied to greater public participation at the EU level, facilitated by transnational media and based in new modes of collective identification. Klaus Eder (2006), for his part, considers that the very process of questioning the present lack of democratic credentials of the EU has set in train a learning process that will result in greater democratisation, even though there may be various kinds of blockage along the way. Philip Schlesinger (2006) perceives contradictory tendencies in the EU's communicative spaces: on the one hand there are transnational networks and communicative flows and the steady rise of English as a lingua franca. On the other hand, media communication is still predominantly framed in national terms, despite the growth of news interest in the EU. Different positions here can be related to different underlying conceptions of the character of the EU. In other words, one important lesson from this is that public-sphere theorizing should be explicit with regard to its underlying polity presuppositions. Only when this is made explicit is it possible to establish with precision where there is agreement as well as where disagreement reigns.

4.4. Regulation or federation?

The EU raises questions pertaining to the character, status and salience of public sphere within a complex transnational-supranational context, and forces us to go beyond the nation state in our search for appropriate conceptual categories. Fossum and Schlesinger (2006) have developed a framework which conceives of the complex nature of the EU in two distinctive ways: The first model is labelled the *regulatory*, as it conceives of the EU largely as a framework of *transnational governance* made up of a range of specialist agencies and regulatory bodies. This kind of entity takes on board, and compensates for, the declining problem-solving ability of each 'sovereign' member state; the second model is labelled the *federalist*, as it conceives of the EU as a political community based on citizens' mutual acknowledgment of rights and duties. From this perspective, the Union

forms the *supranational level of government* in Europe and is a regional subset of a larger (potential and still incomplete) cosmopolitan order. Such an entity has a set of overlapping general publics, rooted in diverse legal-institutional arrangements and supported by a range of strong publics.

Neither model assumes that the EU will simply reproduce – on a larger scale – a public sphere like that of the nation state. If the EU continues to develop as a regulatory model, the prospects for the emergence of a general public sphere look slim indeed. If the EU takes a federalist turn, the development of a general public sphere is more likely. Within this framework, the workings of core political institutions and strong and general publics in the EU have been assessed.

4.5. Strong publics

CIDEL researchers have assessed the Commission, The Council of Ministers, the respective roles of the European Parliament (EP), and the interconnections between member state parliaments within the COSAC framework. The findings testify to the salience of one of the most widely held assumptions in EU research, namely that institutions are critical vehicles in the fostering of a European public sphere. The contributors show that the EU's own institutions constitute a weaker set of institutionalised strong publics than is commonly the case in democratic states, as the second, federal, model presumes. But it has also shown that it matters a lot to the emergence of a European public sphere whether the institutions go with the grain of promoting basic norms and essential features of a public sphere or whether they rather present an obstacle. Every viable public sphere depends on a workable institutional infrastructure, and CIDEL has demonstrated that the EU's has some significant deficits, however we conceive of public sphere.

With regard to more specific institutional arrangements, both Andy Smith (2006) and Deirdre Curtin (2006) agree on the relative failure of the Commission to communicate effectively, either with its key mediators (the Brussels press corps) or with the key national publics whose support it so much requires. Within the Commission, as Smith shows, there are warring tendencies about how best to relate to publics, and the role of an information strategy is given low priority. Curtin supplements this analysis by emphasising the inadequacies of the Commission's commitment to a transparent information regime, which is shared – to an even greater extent – by the Council. Our view must be that neither the Commission nor the Council operates effectively to foster wider democratic participation. The Council's complex role as both legislature and executive – and one that has obtained greater executive functions over time – places it in

between our two models, with divergent expectations about its public sphere promoting role. Calls for greater transparency and the Constitutional Treaty's (CT) provisions for this within its capacity as a legislature require us to conceive of it as part and parcel of the second, federal, model. However, the growth of the Council's executive functions clearly pulls it into the transnational orbit and closer to our first, regulatory, model.

So far as the EP – a gradually emerging *strong public* – is concerned, Ulrike Liebert's (2006) analysis suggests a rather different picture. She argues that its communicative practices, not least the focus it provides for networking across different levels of the EU, has indeed allowed it to function as a strong public that is in the process of building a wider general public, mainly along the lines of the second federal model.

A critical determinant for the Union's further institutional role and development is the question of its constitutional future. Habermas has argued that the making of a Constitution for Europe could play a vital catalytic role, as it represents 'a unique opportunity of transnational communication, with the potential for a self-fulfilling prophecy' (Habermas 2004: 28). John Erik Fossum (2006) argues that the Laeken process was less the manifestation of a unique constitutional moment and more the result of a gradual accumulation of a series of almost continuous instances of treaty change. As a case more of consolidation than of innovation, its catalytic effect was rather limited. Europe has been involved in constitution-making for a long period of time, and the Union has gradually developed a more open and democratic style of doing this. That said, it is still marked by deep flaws, notably the failure to organise the process in accordance with core deliberative tenets. This helps to account for why the CT was rejected in the French and Dutch referenda. Fossum also shows that the constitution-making process interlinks the regulatory and the federal models. The still open Laeken process appears to have taken the EU closer to the federal model but also contains significant constraints on regulatory lines. The Convention, after all, was injected into the IGC and not kept separate from it.

4.6. The workings of general publics

This part addresses how communicative processes related to general publics and what we might judge their impact to be. This relates directly to the question of what are the desirable effects of public spheres in democratic terms. Finally, with regard to the current state of an EU public sphere, the authors on the servicing of general publics, once again, offer an equivocal picture.

Hans-Jörg Trenz (2006) sees the quality press as an engine of integration and broadly speaking as giving most space and attention to a federal model of the EU. Elite

newspapers are therefore for the most part collectively involved in creating a transnational political community, even though they are operating at a national level. François Foret and Philip Schlesinger (2006) offer a more complex picture, without a clear line of development to greater democratization and a common 'community of fate'. The recent demarche of the churches during the constitutional debate has promoted a particular version of Europe's religious history and therefore has had the capacity to divide and exclude in terms of identity and community – both inside and outside the EU, rather than to promote a federal vision.

Statham and Giraudon's (2006) comparative analysis of 'claim-making' as reflected in press coverage, also suggests a more complex picture. On the one hand, there are distinct divergences between the structure of national public spheres in France and UK, given different histories of integration and quite different approaches among political elites. While 'Europeanised' claim-making is present in each of the public spheres, this does not produce identical results. Cross-national comparison of this kind tends to challenge Trenz's view that the elite press as a whole can be seen as kind of cross-national cheer-leader for the EU, since the contexts of reception differ so greatly.

Finally, the role of European intellectuals is perhaps too infrequently linked to that of the formation of a European civil society, or in the terms used by Fossum and Trenz (2005), the building of Europe's 'social constituency'. This is but one example of a process that is more commonly analysed in terms of social movements and NGOs and how they interact with the central institutions. To the extent that reflexive academic discourse is a contribution to the construction of a European imaginary, it may also be seen as in part constitutive of a new political society. It is not so in any unambiguous way as collective representations are actually sites of contention rather than uniform and their relation to collective identities (as manifest through diverse patterns of consumption) is rather complex.

4.7. Do we need a European public sphere?

Whereas all the contributors to this book project take the view that increased democratic deliberation is a desirable normative goal, there are some key differences as to how they evaluate the present state of the EU. For instance, de Swaan, Eriksen and Schlesinger all take the view that a common European public sphere is needed for an effective deliberative democracy to operate and that the present segmentation of the EU into national publics weakens its deliberative potential. Overlapping flows of information do not of themselves ensure that overlapping publics come into existence outside the most institutionalised areas of expertise.

Eder and Trenz disagree, as they think that sufficient communicative activity already exists at a national level to serve the wider European purpose and carry forward the learning process that will ultimately result in wider democratisation. For their part, Statham and Giraudon tend to emphasise the continuing importance of the national public sphere as a way of mediating European political action. They discount the view that some overarching EU public sphere will emerge and see the linkage between the national and the EU levels – via the mediation of political elites – as key to political communication. Schlesinger and Foret are also sensitive to the role of elites seeking the role of interlocutor with the EU institutions rather than the entry onto the stage of civil society. In this case, the churches – on the model of political elites – have secured a status as brokers between the institutions and general publics.

The evidence from other contributors takes two forms. Smith and Curtin underline the present shortcomings of the Commission and Council and point to the need, if not to create an overarching European public sphere, certainly to attend to how general publics might be fostered by the core political institutions. Liebert takes the view that partly through the European Parliament a 'sphere of publics' is in the process of formation, underpinned by the communication strategies of the EP, and that this is at least beginning to address the question of the democratic deficit and failings of legitimacy.

4.8. What do our findings tell us about the EU as a polity or political entity?

Our findings underline the well-known fact that the European Union is a highly complex formation, which it is presently difficult to characterise in any settled way. Its intergovernmentalism means that it operates as a key *regulator* of the political European space, based in treaties that have accreted the *acquis communautaire*, a unique constitutional construct, best thought of as a *material constitution*. The brusque check to the constitutional process that resulted from the French and Dutch refusals to ratify the Constitutional Treaty in May and June 2005, has meant that – at least temporarily – the drive towards *the federal model* has been stalled. In overall terms, the EU is poised somewhere between being a *regulator* and a *federation*, with its future course quite undecided and unpredictable. Perhaps too little has been made, to date, of how uncertainty complicates our thinking about what a public sphere at the EU level might actually look like.

4.9. Social Movements in Europe

The second part of WPE focused on the EU's social constituency, that is, the structure of demands and expectations that citizens and groups place on the EU. Drawing on a modified version of Axel Honneth's (1995a, 1995b, 2003) approach to recognition (*the what*) with the contentious politics approach (*the how*) associated with Charles Tilly (1978) and associates (see for instance McAdam et al., 2001), Fossum (2005) has developed a conceptual-methodological framework to help identify the EU's social constituency and spell out its specific traits.

The politics of recognition has entered centre political stage, not only nationally, but also, and increasingly so, *transnationally* (Fraser and Honneth, 2203; Fraser, 2003; Hobson, 2003). Given such a development, those that hold that the EU is a mere functional-type organisation, with a narrow social contingent of economic interest organisations, also claim that the EU and its social constituency are *exceptional*, in that they both have escaped entanglement with recognition politics. Those that claim that the EU is legitimate similarly imply that it is made up of a range of national recognition-oriented structures of demands and expectations and that these have not been transnationalised and (re)directed at the EU.

If however the EU makes up an important site for recognition politics, the question remains as to *how* — given its special non-state character — the struggle for recognition would unfold within the EU. What kind of a social constituency would emerge within an EU engulfed in recognition struggles? Would it be made up foremost of the new social movements, such as the women's movement, sexual liberation, ecologists, the peace movement, and ethnic and linguistic minorities? Would the concerns be mainly those of *cultural* recognition (cf. Taylor, 1994; Fraser, 2003)? Would the focus be on *post-material* values (cf. Inglehart, 1977, 1990)? Would instead *states* figure as the central actors so that the dominant demands would be those of recognition of *national difference and uniqueness?* These questions bring up the larger conceptual issue of what is meant by recognition. They also bring up the empirical issue of who the relevant actors are, what their claims are, and how the EU relates to these. And not the least, they bring up the methodological issue of *how* to properly map the EU's social constituency.

The framework developed by Fossum provides a tool for mapping and assessing the structure of claims-making in the EU. It takes a very major research effort to establish with precision the structure of demands and expectations that are directed at the EU, as the research undertaken so far within the CIDEL project has proved. The process of clarifying the EU's social constituency is made difficult by the complex nature of the EU,

which Fossum suggests might make up a new recognition order. This EU-based emerging post-national European recognition order draws foremost on self-confidence and self-respect and promises to elicit a greater degree of reflexivity than is found in the nation state. It challenges the national self-esteem based mode of recognition that has so long been taken for granted, in particular in interstate relations.

The framework is further developed and tested in a forthcoming report on Europeanisation and social movements (Deliverable No. 8), which addresses the role and character of social movements and the public sphere at the European level. It deals with organised movements and seeks to take stock of how social groups and movements encounter the EU and what types of social group and movement activism are sparked by recent developments such as the Charter and the Convention. To what extent does civil society engage in claims-making at the various policy levels: local, regional, national and European? Different aspects of the public sphere are also analysed, such as claims on European issues in the media, access to EU documents, and legal discourses in the Union.

5. Constitution-Making and Legitimacy (WP3)

The objectives of WP5 were to: clarify the normative basis of the emerging EU constitutional arrangement; examine whether the process of constitution-making has changed over time and whether recent events such as the Charter and the Convention will affect such; identify the nature and direction of changes over time with regard to mode of legitimation and with regard to the normative basis of the EU; clarify the salience of values as opposed to rights in terms of providing the EU with legitimacy.

Main deliverables have been, in addition to Deliverable No. 4, which comprises a range of books, reports, articles, working papers etc.:

- Two workshops on *Legitimacy, governance and constitution-making*. (Deliverable No 9), in Albarracin in June 2003, and in London in November 2004.

- A book on constitution-making and legitimacy: *Developing a Constitution for Europe*, Eriksen, Fossum and Menéndez (eds) Routledge 2004 (Deliverable No 10).

- A book onthe Privatisation of citizenship by Michelle Everson and Julia Eisner, forthcoming as *Constitution Transfigured*, in 2006 (Deliverable No 11).

- Academic responses to the draft constitutional treaty, 'Deliberative Constitutional Politics in the EU', Closa and Fossum (eds) ARENA Report 5/2004 (Deliverable No 18).

CIDEL has sought to: clarify how constitution-making is legitimated in the EU, i.e. establish how important legitimation through outcomes is as opposed to legitimation through values and as opposed to legitimation through rights: establish the direction of constitutionalisation in the EU, i.e. whether there is a clear shift in the direction of rights and also whether there is an increased convergence in the manner in which constitution-making is legitimated, and; establish a clearer conception of the relationship between what is said and what is done in the EU with regard to the constitutional process.

Some of the main themes and findings of CIDEL under WP3 are described in the below paragraphs.

5.1. Constitution-making and democratic legitimacy

Recent developments and challenges in the EU may serve to push the Union in one direction – towards more integration – or they may present it with a more complex and even contradictory set of impulses. In other words, we can not discern a single clear developmental path from these developments. These observations illustrate that there is no overarching logic that propels the integration process towards some preordained end-point.

The image of the Union standing at a crossroads evokes a recognised need to render clear what the EU is and what it should be: to clarify its constitution and its identity. The Union has evolved beyond the stage of a common market, but the question of the entity's foundation, mission or vision remains open.

The clarification of such questions would aid it in the setting of its borders and its priorities, and also aid it in the realisation of new collective goals. Three aspects of the EU and the integration process feed the need for clarification.

1. The first is the presence of widely divergent visions of what the EU is and what it should be. Until recently, this was coupled with reluctance on the part of those in charge of the integration process, notably the heads of governments in the European Council, to embark on an explicit effort to clarify the fundamentals of the Union. The contemporary context has demonstrated that this reluctance no longer holds sway and controls the process.

2. Second, the EU has developed into a unique type of entity that is neither a state nor an international organisation, and is often referred to as an entity *sui generis*. It has developed some sort of constitutional arrangement, but not one that is based on the nation-state template. Some of the momentum for this development stems from the fact that the EU has been fostered in a global

situation, where the Westphalian system and the near-global state-based framework that this system has upheld, is itself undergoing changes. The EU is the clearest departure from many of the central tenets of this framework, but the development of the EU has not fostered an explicit alternative doctrine.

3. Third, the question of the Union's basis of legitimacy has taken centre stage in the politico-academic as well as popular debate on the nature of the entity. In practical terms, at several instances popular referenda have failed to ratify Treaty changes (Denmark, Ireland), and at other instances specific integration projects have been rejected (Sweden, Denmark), and not least in the recent rejections of the Constitutional Treaty in France and the Netherlands. These cases provide ample evidence of public disenchantment with parts of or indeed the entire project (although very few of those rejecting treaties reject binding co-operation). Weak popular participation in EP elections can be seen in light of public opinion data which express dissatisfaction and lack of trust in EU institutions, both of which further nurture this perception of a legitimacy deficit. There are different perceptions as to the gravity of the Union's deficit. In formal terms, however, the Union has inadequate channels for popular participation and accountability and there are democratic limitations in the Union's institutional and procedural designs, all of which add arguments in support of a legitimacy deficit. Many of the contributions in this report shed light on the nature of the Union's legitimacy deficit. The integration process has also made a simple retreat to the Member State as the harbinger of democracy difficult. The EU affects the Member States so much and so directly that their legitimacy can no longer be assessed without taking the Union adequately into account.

Theoretical and methodological issues further complicate the response to these practical problems, as the novelty of the EU raises questions as to the applicability of a simple or mechanical transfer to the EU of those normative standards that are associated with and that arguably have been developed and modified to suit nation states. In other words, the open-endedness of the EU project renders it necessary to re-examine the nature of such terms as legitimacy, democracy, polity and constitution, as well as to establish how they can be, and should be, linked together in contemporary Europe, and within which institutional forms they can be embedded.

5.2. Constitutionalisation and its justification

The EU has been involved in a protracted process of 'constitutionalisation' for a long period of time, albeit it is only recently that they have been officially recognized as such.

By and large, over time, judges and, significantly, legal theorists have extracted a 'constitution' out of EU law elements, which has also been labeled the Union's 'material constitution'.

Without denying the 'constitutional' value of this process, this report examines in more depth what could be designated as 'constitutional-politics' (i.e. the explicit political practice of designing the fundamental and foundational rules of the polity). Particular emphasis is placed on the question of legitimation, i.e. how constitution-making is legitimated in the EU. Given the central normative and symbolic salience of constitution making to any polity, such an undertaking would have to be deemed an intrinsic part of any project that is concerned with the legitimacy of the EU, the project here being the CIDEL-project.

A critical question that informs our analysis is: What kind of justification is developed for the constitutional structure of the EU and is this acceptable? If so, according to what criteria? We can identify at least four different positions in the literature:

1. First there are those that refuse to acknowledge that the EU has anything vaguely resembling a constitution. Their preferred option is to revert the EU back to a narrow and functional-type organisation, whose core anchoring point in legitimacy terms is the Member State.

2. Second there are those that argue that the present system is defunct, because it lacks the core attributes and requirements of democracy, notably a *demos*; hence the structure in place cannot be rendered democratically legitimate.

3. Third there are those that argue that the present structure is the best that can be obtained, given the numerous constraints facing the EU. They also note that the EU's unique constitutional system has normative value. The most explicit position is that of Joseph H. H. Weiler who depicts the system as imbued with the notion of *constitutional tolerance*.

4. Fourth there are those that seek a democratic constitution, because it could have a catalytic effect on the EU – to forge it into a democratically legitimate state-based polity.

Given the open-endedness of the EU and the contested nature of its constitutional character, including the ever-present prospect of deconstitutionalisation, it is necessary to establish the core legitimation strategies that the EU can draw on, including their respective polity implications. This provides us with a set of analytical models and

normative yardsticks that we can use when examining the question of the EU's constitution-making process and its legitimation.

5.3. Legitimation strategies and polity options

The question of how to evaluate the EU's constitution-making process in legitimacy terms is itself a contested matter. This issue requires explicit attention to theory, as there are different visions of the EU, rooted in different theoretical conceptions of the EU and of the integration process. These draw on different normative conceptions of legitimacy.

Mainstream perspectives on the EU see it either as a bargaining game, holding that integration occurs through *strategic bargaining*, or as a gradually emerging state-based polity, which evolves through *functional adaptation*. However, integration can also occur through *deliberation*, which turns on the process of giving reasons and examining and evaluating the arguments that are put forward. This mode of integration is particularly suitable to the analysis of polity formation through constitutionalisation of essential citizenship rights. It can help explain why the EU holds together despite a diversity of interests and weakly developed coercive measures. Rights are central to this notion of allegiance, through our recognition of other persons, as holders of rights. Rights can ensure both an individual sense of self and a collective sense of membership to a community. The core of modern rights is their individual nature. Individual rights are based on a notion of reciprocal recognition that ensures personal autonomy, which is intrinsic to the medium of law. This is one source of constitutional patriotism, in which basic rights can ensure and uphold a system of mutual recognition that is particularly dependent on *reason giving and justification*.

The core hypothesis of the CIDEL project is that the EU is becoming a rights-based post-national union, with a full-fledged *political* citizenship. Further, to properly assess this hypothesis, the project takes two main considerations into account. The first is to further develop the theory of integration through deliberation, as an alternative theoretical perspective to the study of the integration process. The project then uses this theory to assess the prospects for the EU developing into a rights-based post-national union. As part of this it also examines what the theory of integration through deliberation might contribute to such a development. Here it should be added that the theory of integration through deliberation is also useful to the diagnosis of the present-day EU, as well as serving as an intake to the assessment of the subsequent direction of change. But there is a need to explicate the normative criteria and their polity implications, including the extent to which there is a match between a theoretical-normative perspective and a particular polity configuration.

The project uses the theory of integration through deliberation in two different respects: to *explain* the process of integration, and to *evaluate* the process and its outcome in normative terms.

The second, closely related, consideration is that today's Europe is marked by numerous developments, and its development is fuelled by widely different co-operative schemes and ambitions. Patterns of integration vary depending on function and territory, as well as on the constellation of political and economic interests. There is a need for analytical distinctions in order to *outline different pathways to integration* and to analyse the development of the EU. These draw on different conceptions of democracy, and also on different configurations of the three conceptions of integration spelled out above.

To take this latter consideration properly into account, a set of standards for analysing and assessing political integration with regard to both efficiency and democratic legitimacy is required. For analytical purposes, three relevant modes of democratic governance may be identified, which are based on three different conceptions of rationality – instrumental, contextual and communicative and their adherent warranting notions: efficiency, identity and justice.

The first option amounts to the scaling down or reduction of the ambitions of the polity-makers in the EU so as to turn it into a mere *problem-solving organisation*. Onus is on *efficient regulation* and the democratic legitimacy of the EU is seen to reside with the masters of the treaties, the Member States. The second option is based on the need to deepen the collective self-understanding so as to make the EU into a *value-based community*, i.e., one based on shared identity, in order to cope with the legitimacy problems.

The project participants share the assumption that, broadly speaking, the third option is the most viable in normative terms, as it involves the institutionalising of procedures for securing both efficiency and legitimacy. However, to embrace this assumption is not to deny that different developments may converge and mutually reinforce each other. For instance, insofar as the EU does move towards a *rights-based, post-national Union*, does this move have to rest on a common cultural value basis? Or can it develop into a full-fledged rights-based Union without relying on a common cultural value basis?

These three notions of democracy direct us to different governance (and government) options and, hence, they provide different answers to the question of the legitimacy deficit of the EU and to the question of efficiency and governing capability. They may also be seen as *different paths of institutional development* with distinctive answers to the question of how to handle the EU's legitimacy deficit. That is not to say that they are

equally valid from a normative point of view, nor that they are entirely optional, i.e. that they can be adopted entirely without constraints. These options will be applied to the EU in order to take stock of the prospects for a citizens' Europe - including attendant institutional arrangements and ways of remedying the legitimacy deficit. Such knowledge is essential at critical junctions or when standing at a crossroads, as the Laeken European Council meeting asserted the EU to be (enlargement is a particularly important critical choice). This type of principled and strategic knowledge can also serve to open up windows of opportunity in order for the normative potential in the EU and in the integration process to be better harnessed.

The polity options are analytically distinct and ideal typical. There is no assurance that they be mutually exclusive in an empirical sense. In actual cases, the options often appear together, but different systems exhibit different mixes. They may pertain to particular sectors, segments or periods of European co-operation and between the EU and international organisations. It is therefore important also to explore the particular nature of, the possible combinations of, as well as the actual sequencing of the options across time and space.

5.4. Deliberative constitution-making in the EU?

In analyses of constitution-making from a deliberative perspective, particularly relevant questions are:

- How has the process of *constitution-making* been conducted and justified over time, i.e., at major decisions such as IGCs, as well as in-between such events?

- Can this process bridge the gap between the structure in place and the – presently also clearly deficient – reasons for why it is there and what its normative basis is?

- Does integration hinge on a common identity, or are agreedupon rights and procedures sufficient to ensure legitimation?

To address these questions one must consider both the historical context of earlier stages of integration, so as to flesh out which strategies of legitimation dominated these, and contemporary instances. Given the weight and particular constitutional imprint of recent developments, the main focus will be on the current process, i.e., the one that was initiated by the Charter of Fundamental Rights of the EU and the post-Nice debate, and which was further channeled through the Convention and the IGC-process, up to and including the forthcoming anticipated ratification.

Thus far, constitution-making in the EU has been a lengthy and protracted process of constitution-making, through treaty-making and treaty changes at the IGCs, as well as through ongoing processes of follow-up activities, and it has been marked by the absence of a particular formative constitutional moment. This process and its results thus far have many sources. One such is the Treaties and the cumulative effect of treaty changes. Another is that the EU has become increasingly imbued with a European system of rights, again with many sources, such as the European Convention of Human Rights, the national constitutions, and the European Court of Justice's own embracing of constitutional principles and practices of the Member States. These developments have accumulated over time so as to amount to a veritable turning point in the history of European integration.

The Charter Convention established a procedural precedent for constitution-making. The relative success of the Charter Convention was simultaneous with the utter failure of the 2000 IGC. This triggered a reflection on the procedural qualities of IGCs and in some quarters an enthusiastic endorsement of the Convention model. The inclusiveness, representativeness and transparency of the process were rightly associated with its capacity to produce a coherent result. At the same time there were important changes taking place in the mode of constitution-making within the IGC system itself.

Post-Nice was intended as heralding a constitutional discourse in the EU. What is its nature and how does it matter to the development of the EU? Of particular interest is the extent to which the Convention really represents a break with the past here. Its objective, as expressed by its President Valéry Giscard d'Estaing, and endorsed by a large majority of convention members, was to forge a European Constitutional Treaty proposal and submit this to the ensuing Intergovernmental Conference. This it also succeeded in doing.

The establishment of the Convention is indicative of two main new developments. The first is the willingness to conduct a debate on the question of a European constitution. The second is the willingness to probe other and more *open* – deliberative - approaches to the fostering of a European Constitution. The success of this latter point in particular hinges on the fate of the Convention Draft in the subsequent stages of the process. While the IGC adopted the draft as basis for negotiations, it failed to reach agreement at the Brussels meeting in December 2003. Not until several changes had been made to the text, after a lengthy period of negotiations, was it adopted by the European Council in June 2004. Whether the text will be accepted at the subsequent ratification stage is yet to be seen. The result of this process will also have implications for subsequent

processes, as the Convention's Draft contained provisions for Conventions also to prepare subsequent constitutional proposals.

5.5. The Chartering of Europe

The Charter of Fundamental Rights is as of yet the most explicit commitment to a full-blown political union founded on democracy, rule of law and human rights - a rights-based citizens' Union. The European Council in Cologne in June 1999 decided to draft a Charter of Fundamental Rights for the EU. It stated that fundamental rights are one of the founding principles of the Union, and an indispensable prerequisite for the EU's legitimacy. The European Council wanted to 'establish a Charter of fundamental rights in order to make their overriding importance and relevance more visible to the Union's citizens'. In Tampere in October 1999, it was decided to establish a Convention that was given the task of drafting the Charter. This Convention was a novel experience in the EU. It consisted of members from EU institutions, the national parliaments and national governments. One of the most interesting features of the assembly was that it was made up of a majority (46/62) of parliamentarians. The Convention drafted a text which was solemnly proclaimed by the European Parliament, the Council and the Commission in December 2000. The Charter contains provisions on civil, political, social and economic rights. Put together, these are intended to ensure the dignity of the person, to safeguard essential freedoms, to pro vide for a European citizenship, to en sure equality, to foster solidarity, and to provide for justice. The number and range of rights that are listed are comprehensive. In addition to provisions which most charters and bills of rights hold and which pertain to such clauses as the right to life, security and dignity, there are numerous articles that seek to respond directly to contemporary issues and challenges (including the abolition of the death penalty, prohibition of cloning, and protection of intellectual property). The Charter enumerates several rights to solidarity, hence, the protection of social rights is now included as a basic commitment for the Union - even though the realization of these is not fully within the Union's actual competence. They nevertheless constitute vital reasons to except market freedoms in the pursuit of social and redistributive goals. Thus, the EU can no longer be seen merely as a market project, if it ever could.

5.6. The Constitutional Experiment

The Constitutional Treaty has already become the object of a large and rapidly growing number of commentaries in the European studies literature. Most of these tie the Treaty's relevance and importance to its actual ratification. However, the Laeken process may

also be seen as a major experiment in constitution-making, which holds important lessons.

During the Laeken constitutional process, Europeans not only engaged in a debate about the contents of the EU's substantive norms, but they also entered into a debate on the very idea of Constitution: What it is and how it can be written.

Many legal scholars claim that the EU already has a constitution. This is not a constitution in the conventional sense - a fundamental law authored by the people - but rather what may be termed a material constitution: a set of norms establishing the fundamental rights of European citizens and regulating the institutional and decision-making structure of the Union which have evolved over time.

But if this is so, is there then a need for drafting a written European Constitution? Some claim that the existing material constitution might not only be enough, but that it may also be the best we can get. A formal constitution might even endanger the unique achievements of the process of European integration. Why, then, do so many Europeans favour the drafting of an EU Constitution? CIDEL has come to the conclusion that there are two main reasons why this is so.

First, the democratic writing of a European constitution will allow European citizens to regard themselves as authors of EU law. Growing social discontent with European Union policies is in part due to the feeling of political disempowerment of citizens. A purely consequentialist justification of Union law – by reference to the outputs Europe provides – will be increasingly questioned as the political nature of the choices underlying European legislation becomes more evident.

Second, the writing of a European constitution is regarded by many as a chance to reaffirm the core values of the European social and democratic state. As global structures of finance, production, and trade break down national boundaries, they undermine the capacity of nation states to realize the fundamental rights of all citizens. This has been painfully realized by those European citizens who have become losers in the globalisation process. The enactment of a written European constitution is seen as an opportunity to reaffirm the normative commitment to solidarity as a value, to the indivisibility of civic, political and social rights, and to consider institutional means which will actually recreate at the European level the capacity to regulate social and economic life to ensure the welfare protection of all citizens. This entails that a constitution proper not only has to be written and effective, but it a so has to be democratically enacted. The people should be able to regard themselves as its author, and they should be empowered to amend it.

More-over, as European decisions affect the interests and values of European citizens very directly, such an order should be made to comply with democratic principles.

But can a constitution be made by a non-state entity such as the Union? Who is, after all, the European people that is supposed to govern itself autonomously through the mechanisms of law and politics?

We should distinguish between:

- A material constitution that speaks to the social practices that are actually regarded as the basic norms of a given society.

- A formal constitution that refers to the set of legal norms that are contained in a single written document.

- A democratic constitution in the sense that it entails and complies with certain procedural standards for law-making.

John Erik Fossum and Agustín José Menéndez (2005) have outlined a normative model of deliberative constitution-making. The democratic process of forging a legitimate Constitution must follow two central logics: deliberation and decision-making, and consists of five phases. These are (1) a signalling phase when an initiative is made to launch the constitution-making process; (2) an initial deliberative phase where the arguments put forth in favour of constitutional change are put to the test of public opinion and an agenda for reform starts to take shape; (3) a drafting phase in which a strong public (typically an assembly or convention) develops and agrees on a draft of the new or amended constitution; (4) an agenda-settled deliberative phase with further deliberation, involving civil society (general publics); and (5) an endorsement phase in which the draft constitution is subjected to a final vote by the people. Their assessment of the Convention reveals that it was able to tap the virtues of democratic deliberation to an unprecedented degree in EU constitution-making. The draft also moved the process of constitutionalization forward, as it does contain provisions that would have strengthened the EU's democratic quality. The Convention acted 'as if' it were a constitution-making body, as it had not been formally authorized to serve as such. It appropriated a democratic mandate, and thus greatly raised the stakes of the undertaking. But this appropriation could not be democratically authorized, as it had to carry out its deliberations under the shadow of the veto in the IGC. The Convention could deliberate but the heads of state and government had the deciding power. A process which the Convention thus sought to stage as a constitution-making exercise was reined in and made subject to significant intergovernmental constraints.

5.7. The Constitution Transfigured: The Making of Europe's Constitution

The volume – Deliverable No 11 - which is to be published in 2006, investigates the nature of an evolving European constitutionalism. It is argued that our conventional ideas of constitutions as settled documents not longer apply, neither at a European level, nor at a national level. Supranationalism and internationalisation entails a comprehensive assault on 'closed' national polities and their Constitutions. Accordingly, the EU is an exemplar of modern 'constitutionalist', rather than 'constitutional' processes. In this book, it is sought by means of empirical investigation to identify the contours of an evolving European constitutionalism through investigation of the attitudes and philosophies that drive Europe's (national and European) judges and lawyers when adjudicating upon Europe's constitutionally-relevant law. It identifies new procedural understandings of constitutions and constitutionalism, which locates constitutional authority in the ability of lawyers to observe and translate law external justice demands into authoritative norms of constitutional evolution, without reference to a mythical document of a closed (national) constitution. In a European setting, the lack of a conventional constitution must be compensated for by the ability of Europe's judges to translate facts of (contingent) European integration and polity-building into authoritative constitutional adjudication on a day-to-day basis.

Methodologically, the underlying approach entails a mixing of continental social and legal theory (largely Germanic) and Anglo-Saxon socio-legal techniques of empirical research. Information upon adjudication within Europe is gathered by means of structured interview and text-based analysis. The results of empirical research are then analysed in a framework of social and legal theory. Equally, since the volume is also about 'constitutions' and about 'Europe', it also intersects with constitutional theory and European interdisciplinary studies—arguing all the while, however, that whilst constitutional theory no longer provides an adequate framework within which to assess constitutionalism generally, European interdisciplinary studies have equally failed properly to assess the evolution of the European constitution, by virtue of their lack of grounding in 'national' social and legal theory.

5.8. The nature and articulation of European rights

What place is there for rights in the process of European integration? Research done by Miriam Aziz (2004) under CIDEL has focused on the way in which European rights are subjected to the interpretative device of the respective legal systems and administrative cultures of the member states. Although, it is often said that much may be lost in translation. It may also be the case, however, that much can be gained, given the rich

tapestry of constitutional traditions in the EU which may have much to offer in clothing the skeleton of European rights. Much depends on how qualitative benchmarks, such as, for example, clarity, coherence, consistency and constitutional stability are assessed. Care must be taken in ensuring that the analytical framework is in itself able to come to terms with the EU, an embryonic quasi-state and the way in which it interacts with the legal systems and cultures of the EU member states in the context of the move towards constitutionalization and the effects of the emergence of an EU 'documentary' constitutionalism (latterly portended in the Convention on the Future of Europe established by the Laeken Declaration).

The Laeken Convention has been an important 'constitutional moment' in the sense that it may provide a framework and be a catalyst for continuing constitutional development and adjustment rather than being *the* final constitutional word in Europe. Rights are at the heart of the process of constitutional engineering in the EU, constitutionalism as a whole and the EU Constitution. They are integral to the basic constitutive question of governmental institutions and the fundamental relationship between the citizen and the polity. So too is the issue of implementation by EU member states and the direct relationship between EU citizens and the public authorities of the member states in respecting European rights.

A key test of the EU constitutionalism is the issue of rights. The implementation of the Charter of the Fundamental Rights of the European Union is likely to be one of the centerpieces of the current constitutionalising drive, as well as one of the key areas of contestation, particularly as there is no uniform model of a Bill of Rights in the existing members states' constitutions, nor in those of the new member states. Issues such as the horizontal applicability of constitutional rights, the justiciability of socio-economic rights, the nature and grounds of justified statutory limits upon constitutional rights are of central importance, as is the greater prominence in the European context of freedom of expression and the fight against discrimination, and the challenge of promoting diversity *within* all European states in relation to sensitive issues such as minority rights.

It is argued that the impact of European rights on the legal cultures of EU member states occurs across multi-levels of government and governance, and that European rights are dependent on elite compliance. Further, that there is an inherent confusion regarding the conceptualisation of European rights resulting from both national and ideological divisions. Lastly, that the *sui generis* nature of European rights means that an appropriate analytical framework is needed so to overcome confusions in understanding. Besides these problems and tensions, there is a problem of implementation. This has partly been addressed by the Convention on the Future of Europe, which is shaping the

conditions for the implementation of rights. In particular, the deliberations concerning citizenship and loyal co-operation provide a useful case study of the resistance of some member states to cede rights which, as they perceive it, are integral to their sovereignty and their identity. Moreover, European rights are dependent on elite compliance. Both the knowledge and the motivation of legal and administrative elites are crucial elements of elite compliance, without which European rights remain rhetorical, an issue which the discussion concerning access to justice in the EU has tended to overlook.

5.9. The Convention on the EU Charter of Fundamental Rights

Justs Schönlau's (2005) study under CIDEL has been concerned with the Convention which drafted the EU Charter of Fundamental Rights in 1999/2000. This represented the first instance of the Convention method at EU level, which subsequently acquired great prominence with the process of drafting a Constitutional Treaty for the Union in 2002-2003. The Charter Convention acted in many ways as a laboratory of the new body and became an important reference point for members of the second Convention, while the Charter of Fundamental Rights itself was an important item on the agenda of the debates about the EU Constitution. Both Convention are part of the ongoing process of constitutional reform of the European Union in the quest for greater legitimacy. The present in-depth study of the Convention drafting the Charter of Fundamental Rights as a contribution to the EU's efforts to improve its legitimacy therefore provides valuable insights not only on the new process of a broad and open Convention, but also on the theoretical justifications of the ongoing reform-process of the European polity.

The Convention drafting the EU Charter of Fundamental Rights received some public interest during its operation in 2000 but the analytical focus quickly shifted to the legal substance of the document produced by the Charter and its future status as part of an EU Constitution. This study tries to provide a wider vision of the Charter by assessing its impact on the EU's ongoing legitimacy debate at the eve of the Union's biggest ever enlargement. By combining new empirical data from an in-depth participant study of the process by which the Charter was drafted in the Convention, with a focussed account of the specific legitimacy problems facing the European Union, and of past attempts by different institutional actors to react to these problems, CIDEL has thus made a contribution to the understanding of the EU's ongoing polity formation.

Schönlau's research has outlined a connection between concepts of rights and legitimacy, and the problems of instituting rights in a multi-cultural/pluri-national democratic system and concludes, following Jürgen Habermas, that only by linking rights and legitimacy in a democratic process can their role in supporting a political system be understood. It has

been investigated how the drafting of a Charter of Rights in 1999 can be understood as a corollary of past attempts at fostering or even creating a European identity, at devising a European citizenship, and, more recently, a European community of values. This approach highlights the way in which the Charter drafting-process acted as a deliberative forum in which debate on central questions of the normative foundations of integration (i.e its subjects, sphere, scope, and styles) acted to consolidate and develop the discourses underlying previous initiatives.

By critically reviewing the assumption of a self-evident link between the protection of fundamental rights, and the EU's legitimacy formulated in the Cologne mandate, and testing it against a large body of textual evidence and participant observation and interview data from the Charter drafting process, the study shows that the process itself was crucial in constructing a broader understanding of the value foundations of the EU because it went beyond the limited scope envisaged by its instigators. The analysis is therefore optimistic about the contribution the Charter can make through both its content, and through the process by which it was drafted, to broadening the debate about the future of European integration, and the following debates in the second Convention confirm this assessment.

5.10. The question of diversity in Europe

This part of the CIDEL research has been concerned with issues of toleration and multilingualism in diverse societies such as Europe is. On the former topic, in a number of edited volumes (reported in both the previous and the present reports) Dario Castiglione (2004) has explored a third phase in the toleration debate. This implies re-thinking the concept in the light of ideas such as reasonableness and recognition which, although distinct, both point to a more positive and appreciative way of looking at others' experience and perspective. In the same way, democratic citizenship has been recast in a pluralist and inclusive form, with more attention being paid to valuing difference over assimilation, which keeps democratic citizenship open in principle to the aspirations and sensibilies of all groups comprising the political community. Such new conceptions of citizenship and toleration are fundamental for the development of European citizenship itself, since this must develop in a context where cultural, national and other differences are deeply radicated, but need to be both accommodate and, depending on the circumstances, either recognised or overcome.

Language is one main issue where difference prevails in Europe. As part of our analysis of the Convention, Chris Longman (2006) has studied the language dynamics during its proceedings. But the question of language goes beyond the particular experience of the

Convention. The broader question of multilingualism in Europe are explored in a collection edited by Longman and Castiglione (in preparation for Hart), which is also intended to open up the question of the nature and the future of the language regime in the EU.

The question of multilingualism in the EU is generally recognised as an important, but perhaps intractable problem. The principle of linguistic diversity is upheld in theory, but its institutional conditions are left unexplored, while its policy implications undefined. The present (and partly implicit) 'language regime' of the EU regulates the formal and informal use of language in the EU institutions, and in the public interface between them and the citizens. It was set out in the very first Regulation of the Council of Ministers in 1958, and it has remained fundamentally unaltered, despite successive enlargements. Thus, a language regime designed for a relatively small international entity with limited competencies now applies to an extensive polity characterised by intensive interdependence.

Arguments on what is the best language regime for the EU are complicated by the different functions that language has within the political domain. Language is central to politics in terms of *communication* (its instrumental facet), *identity* (its expressive aspect) and *power* (relating to information access/transparency, and proficiency in representing interests). Thus language is a means of communication, of cultural identification, and of control. In modern politics, the assumption has been that a linguistically integrated public sphere (including the political élite) is necessary to provide both equality of opportunity and congruence between communication, identity and power relations. In the context of the emergence of the modern nation states, this congruence was accomplished (frequently by coercion) by adopting the policy of institutional monolingualism, and imposing a single (or a dominant version of the) language in both the national society and its political institutions, a position supported for instance by JS Mill.

However, the EU challenges this one polity-one language model by seeking to be a multilingual democratic polity, with communication and power being mediated through language services, and identity constructed through the recognition of diversity. In this it offers a sharp point of contrast with International Organisations such as the Council of Europe or the UN with their highly restrictive language regimes. The EU has established a highly ambitious language regime which emphasises its claim to be much more than just another international organisation. By including all member state languages as official and working languages, the EU is laying a claim to legitimacy by making collective decision-making accessible to all citizens on an equal footing.

The challenge for the EU today is that this regime which worked well with a small number of member states, with limited policy competencies, is now severely stretched. As the number of official languages has increased, so have the practical and normative challenges to this regime. The practice of political communication in the EU is increasingly diverging from the ideal as set out in Council Regulation 1/58 due to the difficulties and expense of accommodating so many language combinations. The temptation to cut through this Gordian knot of linguistic complexity with the increased use of a lingua franca such as English is clearly high, thus raising the question of whether there is an insuperable tension between the desire for equality between languages, fairness, respect for cultural diversity, and the avoidance of language disenfranchisement on the one hand, and efficiency, cost-cutting, equality of opportunity for individuals (as opposed to groups), and a desire to establish a communicatively unified public sphere on the other. This part of our research aims to illustrate some of these tensions and to discuss some of the possible solutions.

6. Justifying Enlargement (WP 4)

The purpose of WP 4 was to investigate how enlargement has been explained and justified within the EU and in the applicant countries. The objectives were to generate detailed knowledge of how the enlargement process is legitimized; to assess the extent of attention given to principles of democracy and human rights in previous and current enlargements of the EU; and to assess the evolution over time of the emphasis on rights and democratic principles in EU enlargements.

Focusing on the two main research questions as to why the EU enlarges as well as why the process of enlargement has emerged in the manner and time it has, the arguments and reasons presented in order to justify this policy have been examined. The policy is sought 'explained' by making intelligible the goals for which it is undertaken. The potential of a 'hidden agenda' – that actors say something different from what they mean – has been controlled for by comparing words and actions as well as by comparing what is said over time, and in different institutional and political settings.

The main deliverable from this WP, in addition to several journal articles, policy memos, working papers and reports, as well as lectures and conference presentations (Deliverable No. 4), is the forthcoming edited volume, Questioning EU Enlargement: Europe in search of identity (Deliverable No. 13). The book contains several of the contributions to the workshop on 'Justifying Enlargement', held in Avila in May 2004 (Deliverable No. 12). It presents the main findings from CIDEL's research on the enlargement processes, as described in the below paragraphs.

6.1. Questioning enlargement: the EU in search of identity

Can the enlargement processes help us to achieve a better understanding of the nature of the EU? What kind of understanding of the EU do the enlargement processes speak to? Do decisions to enlarge mainly suggest that the EU is a free market, focusing on potential economic gains? Do they indicate that there is a sense of common European identity, which guides the selection of candidates? Or is the focus primarily on securing respect for democratic principles and human rights?

In order for an organization to find criteria for inclusion (as well as exclusion) of members one would expect it to have, or to be forced to form, an idea of what its fundamental purposes are. New applications for membership and prospects of enlargement, inevitably raise questions such as who the Europeans are and what kind of values characterize Europe. Deciding where Europe stops, or should stop, is a particular challenge. What kinds of criteria are being used to determine this? Through an analysis of such questions, the research under WP4 has sought to contribute to a better understanding of the European political order: the EU qua polity.

Several possibilities arise in regard to the question of what kind of order is emerging in Europe. The three ideal types are taken as a starting point, depicting the EU according to integrationist modes – economic, cultural and political – and modes of rationality – instrumental, contextual and communicative. To which of these ideal types do EU enlargement speak? In order to assess this, CIDEL has asked two core questions. Firstly, why has the EU – with the exception of the French veto of the British candidature in the early 1960s – systematically decided in favour of enlargement? Given the costs and risks of enlargement, why has the European Union not simply chosen to remain as it is? And why have not individual member states, in particular those that expected to pay the highest price for enlargement, used their power to veto this process? If, for example, we consider that the EU is chiefly, as the first ideal type suggests, a problem-solving entity, where membership is derived from its discernable benefits, we would, at least at first sight, expect a veto from some of them. However, a much more detailed analysis is required in order to investigate the extent to which this means that enlargement speaks to the second or third ideal type of the EU.

The question is not only that of the basis on which the EU decides to enlarge; equally important is how and in what way the decision to enlarge has been implemented. How were the norms and rules of the European Union applied in the accession process? This is the second question raised by CIDEL. As enlargement can be defined as a process through which new members accept a set of common action norms, we have investigated

to what extent the norms and rules, the criteria for enlargement, were applied in a consistent and similar manner to all states. This question of consistency is relevant both with regard to a potential differential treatment of the various applicant states and with regard to a potential differentiation between requirements to the 'old' EU-15 and to the new member states.

6.2. Three conceptions of the EU

The conception of the EU as a problem-solving entity may be further specified as an entity whose purpose would be to promote and protect the interests of the member states. The EU is merely an international organization aimed at securing a free market. In this conception, integration would be limited to, in fact dependent on, the member states' perception of a clear advantage of committing to collective (European) rather than national solutions. Their right to veto further integrative steps or proposals would be taken for granted.

A value-based community depicts a geographically delimited entity seeking to revitalise traditions, mores and memories of whatever common European values and affiliations there are. A sense of common identity, a we-feeling, would function as a basis for integration. In such a polity, integration would not necessarily be limited to issues where member states would expect concrete benefits. As the polity would rest on a feeling of commonality this would facilitate expectations of solidarity across the borders of the member states and allow for an uneven distribution amongst members of the cost and benefits of integrative moves.

A third possibility is to conceive of the EU as a rights-based post-national union. The polity would constitute an extension of the democratic constitutional state to the European level. Hence, as in a value-based polity, it would have autonomous institutions whose legitimacy would be derived not from the member states but directly from a European demos. Contrary to the value-based polity, however, integration would not rest on a feeling of cultural cohesion and common traditions, but on a set of legally entrenched fundamental rights and democratic procedures. This would allow for cultural pluralism and the collective will would be shaped through processes aimed at reaching a common understanding across different identities as well as interests.

Cases range from the Greek accession twenty-five years ago, to the large scale 2004 enlargement, and the controversy over Turkish membership. The selection of cases was made with the aim of making analytical or theoretical generalizations, where these cases can tell us something about the utility of the approach chosen. In this regard we may not have been able to make broad empirical generalizations based on these selected cases,

however, we have been able to identify a central theme in the study of the EU, that is, how it is governed by ideal factors and not only interest calculations, and ultimately to draw some conclusions about the nature of the EU.

6.3. Value-based community or rights-based post-national union?

Normative arguments, the importance of respect for democratic principles and human rights, played an important role in mobilising for enlargement even as early as during the debate in the 1970s on Greece's application for membership. In fact, the democratic criterion for membership was first projected unto the European stage with the European Parliament's Birkelback report in response to Greece's potential membership candidature in the early 1960s.[2] Until then, the explicit normative reference had been to 'peace', whereas democracy had not been problematised. During enlargement to Greece, and later to Spain and Portugal, its importance was fortified. According to Susannah Verney (2006), once the issue of Greek accession had been turned into a question of democracy, rejecting its membership for economic or administrative reasons would have meant a major loss of Community credibility and legitimacy. With enlargement to Central and Eaestern Europe it was made an explicit condition for opening membership negotiation.

The emphasis on universal principles is also evident in the Turkish reform process in the context of enlargement. Describing developments in recent years as an unprecedented 'political avalanche' of democratisation, Gamze Avci (2006) has pointed to the EU as a crucial catalyst. In her view the domestic changes in Turkey have been possible due to the EU-related reform process, which has altered political bargaining positions, redefined interests and allowed for difficult political decisions to be made. She links the acceptance of reforms across party lines to the way in which they were justified – to their appeal to universality. Reforms were justified with arguments based on the idea that they represented the 'right thing to do' rather than on the basis of identity related arguments of 'who we are' as Turks, or pragmatic considerations of what Turkey might gain from enlargement. Although it may be argued that reforms were in the interest of the ruling Justice and Development Party, the interests were ultimately generalisable, which, according to Avci, explains their acceptance across party lines.

The EU is an entity that commits itself to the principles of modern constitutional democracy yet what emerges in the analysis of the arguments in favour of enlargement is that it does have something in addition to the commitment to these principles. This

---

[2] Assemblée Parlementaire Européenne (1962). Documents de Séance. Rapport fait au nom de la commission politique sur les aspects politiques et institutionnels de l'adhésion ou de l'association à la Communauté. 15 Janvier, Document 122.

does not amount to a 'thick' collective identity of the kind that we often assume exists in a nation state, or indeed that would fit with the conception of the EU as a value-based community. There is scarce evidence of arguments pointing to a sense of 'thick' European collective identity reflecting, for example, religious, ethnic or linguistic commonalities. However, the justifications for enlargement do point to a certain sense of collective 'us' that encompasses the rest of Europe but not the rest of the world. There seems to be 'more' to the EU than what is entailed not only in a 'problem-solving', but also in a 'rights-based' conception.

This sense of distinctiveness emerges in references made by representatives of EU institutions as well as member states. Referring to various aspects of Europe's distant as well as immediate past, they allude to a common European heritage. With regard to enlargement to Central and Eastern Europe (CEE), the systematic references to the 'artificial' division of Europe imposed as a result of the Cold War are particularly striking. Enlargement was repeatedly and consistently described as an opportunity to once and for all overcome this 'unnatural' division. Further, the process was considered one of re-uniting Europe, rather than 'only' uniting it. This is so even though it is debatable to what extent and in what sense Europe was 'united' prior to the Cold War (see, e.g., Piedrafita 2006).

There are also systematic references to the importance of peace, security and stability in the context of Eastern enlargement. Clearly, security arguments may be interpreted as indicators of interest based rather than normative justifications of enlargement. However, such arguments take the shape of concerns for the security of Europe as a whole, and not for the security of particular states. Further, the desire for 'security' is linked to 'peace' and 'stability' and articulated as a common good that addresses the EU as a whole. Hence: 'The historic task of our generation will be to extend the existing zone of stability to the rest of Europe. It will not be easy. But History will not forgive us if we fail'.[3] These references to peace and security have a particular meaning in the European context. In the same way as the arguments regarding the division of Europe, they are implicitly, or sometimes explicitly, linked to a collective experience of intra-European conflict and war. Thus, it is a matter of Europe being threatened by itself, and of Europe overcoming its own past, rather than of Europe being threatened by actors or factors outside of itself.

At the level of individual member states a particular 'national flavour' is added to the arguments referred to above. With regard to France, for example, in addition to the

---

[3] Niels Helvig Petersen, Speech at the Institute of European Affairs, Dublin, 28 October 1994.

emphasis on the historic dimensions to enlargement, there is a strong accent on the need to live up to the commitments made in the treaties (REF). Furthermore, a core characteristic of the French position was the emphasis on 'political Europe' as opposed to a mere common European market or free trade area (Sjursen and Romsloe 2006). The intrinsic value of the EU is linked to this 'political Europe', which gives it its distinctiveness. Hence, French policy-makers spoke not only of a duty to enlarge but a duty to ensure that the enlarged Europe – for the good of all – remain a political Europe. As to German policy-makers, they added to the overall argument of the importance of reuniting Europe with an emphasis on multilateralism and the need for reconciliation (Zaborowski 2006). Furthermore, while recognising the need to enlarge to the entire group of CEEC, member states appear to have had particular attachments to some of the applicant states. This may be linked to a stronger sense of commonality with regard to these states. Denmark, for example, was concerned that the Baltic States were treated on an equal footing with the CEE applicants. This may best be understood as due to a particular sense of solidarity with these states (Riddervold and Sjursen 2006). Likewise, with regard to France, value based arguments in favour of Romania's entry into the Union were often present.

6.4. Enlargement and the future of integration

Enlargement may be seen not only as a process that reinforces the applicants' European nature but also the Union's own 'Europeanness'. The prospects of enlargement have been an important factor in shaping the idea of what the Community, and later the Union, is or should be. They have been important in the process of constructing a 'common Europe'. The justifications of enlargement to CEE suggest that the EU is a polity built on a negation rather than a celebration of its past experiences. The examples of Turkey and Greece are reminders that its parallel commitment to universal principles is an integral part of its identity. This universalistic self-understanding leads to a constant need to reassess and redefine the particularistic elements as new members enter the Union.

Yet, how far can the collective (European) self-understanding be reconfigured and redefined and remain 'particular' to Europe? And is this sense of Europeanness that has mobilised the EU and the governments of its member states to commit to costly enlargements, strong enough to mobilise for even further enlargements? Finally, the arguments and reasons referred to in this article are those of governmental elites. Will arguments in favour of enlargement be even more strongly questioned by public opinion in the next round?

The success of EU enlargement is linked precisely democratic transition. Therein lies also a risk. It remains to be seen if the particular blend of universal principles and European particularities that are found in the justifications for enlargement are robust enough to withstand further expansions. The pull of these principles may however ultimately be stronger than its particularistic elements. The moral appeal of the universalist dimension makes it difficult to draw a line where enlargement should stop. Universalist, moral, principles by definition do not contain any elements allowing the EU to distinguish between different applicants for membership, beyond their respect, or lack of such, for basic rights. They give no guidance in terms of drawing borders.

If this is so, the EU will, in the very long run will be faced with a situation where its potential for commanding loyalty or establishing the kind of solidarity that is necessary in order to provide a basis for collective action, may disappear. In order to solve this challenge the debate on borders would need to be uplifted to the global level, in which, according to a cosmopolitan logic, borders would be drawn based on the ability of other regional entities to function properly, and with the aim of avoiding a system of domination of one single (regional) entity.

7. The EU's Foreign and Security Policy (WP 5)

The objectives of WP5 were to: generate detailed knowledge of how the building of the common European foreign, security and defence policy is legitimized; assess the extent of attention given to principles of democracy and human rights in the EU's foreign, security and defence policy; clarify the potential differences between foreign policy as we traditionally understand it, and the foreign policy of a rights-based post-national union.

CIDEL has undertaken to meet these objectives by comparing the reasons for building a common external policy encompassing security and defence and the reasons for undertaking selected policy-initiatives. The methodology employed has been 'explanation through interpretation' in the Weberian sense. CIDEL has done this through trying to 'explain' external policy by making intelligible the goals for which it is undertaken. The credibility of such findings might be questioned on the grounds that there is often a gap between what policy-makers say and what they actually mean. This risk has been controlled for by comparing what is said with what is actually done, as well as by comparison of different actors' arguments in different contexts and at different times. The project has fostered insights into the relationship among democratic principles, human rights and security policy on a European scale, and improved knowledge of the role of the EU as a forum for collective action in security and defence.

Main deliverables have been, in addition to Deliverable No. 4, which comprises a number of articles, working papers etc.: The workshop on 'Security and conflict resolution in post-national Europe: the question of legitimisation' held in Oslo in October 2004 (Deliverable No. 14); and the Special Issue of the Journal of European Public Policy, 'What kind of power? European foreign policy in perspective', edited by Helene Sjursen, (Deliverable No. 14).

Some of the main findings of CIDEL under WP5 are described in the below paragraphs.

7.1. What kind of foreign policy?

The hypothesis that the EU is an emerging rights-based post-national union implies that international relations between the EU's member states have been 'domesticated' in the sense that military force is not a policy-instrument in relations within the EU. This raises the question of the EU's own, as well as its member states', relations with third countries. To what extent is such an effort to 'domesticate' relations between member states also reflected in relations with third countries? Or to put it differently, to what extent and in what ways might the foreign and security policy of a rights-based post-national union differ from foreign and security policy as we traditionally understand it?

It is increasingly argued that there is something particular about European security policy, but the agreement about its novelty might mask different understandings about exactly what it means and about what has changed. It might also mask implicit normative claims about the advantages of such changes. What, if anything, is new in European security and, most importantly in this chapter, how can we theoretically account for these (potential) changes?

There is a general consensus that traditional state-centric approaches to the study of security and defence are inadequate if we are to understand the changes to European security. Alternative understandings of security in international relations have gained ground and contend that security is linked to something other than, or something in addition to, military force. Building on this idea that the security concept should be 'enlarged', concepts such as 'comprehensive security', 'human security', 'desecuritization', 'soft power' and 'soft security' flourish in studies of both European and international security. However, do these concepts satisfactorily capture and provide an understanding of the central features of the changes to European security? And do they always entail the same understanding of what has actually changed?

Based on a communicative perspective, CIDEL has argued: first, that one can observe a change in the referent object of security away from an exclusive focus on state

sovereignty towards a focus on the rights of the individual citizen; second, that there may be a change in the understanding and practice of the best means towards achieving security. Here, the change is away from military balances of power towards collective institutions and legally binding agreements applicable to all states in an equal manner.

7.2. Changes to European foreign policy

There has been a significant change in the understanding of what constitutes central threats to European security. Since the end of the Cold War there has been a move away from the almost exclusive focus on military threats from territorial states towards a focus on a number of highly diverse issues. These range from social and economic inequalities to terrorism, the spread of weapons of mass destruction, ethnic conflict, international crime or even migration. Such issues are now often defined as security issues of equal importance to military issues.

The changes to the understanding of what constitute central threats to security are not 'exclusive' to Europe. They represent a general trend in the international system, although the emphasis on the different types of threat varies. The Petersberg declaration (1992) of the West European Union (WEU), later incorporated in the European Union's (EU) definition of its responsibilities in security and defence, is a further example of how the 'new' security agenda is reflected in the formulation of security policy in Europe. The declaration points to 'soft security' as an important security task in addition to military matters. 'Soft security' is defined in terms of social and economic inequality, environmental risks and crime. These are identified as the 'new' security issues that the European Union and its member states face in the post-Cold War world (WEU 1992).

Another trend that indicates a need for an additional theoretical approach is related to the conception of how to handle security threats and challenges. Here there has been a move away from military alliances and the search for balances of military force and towards institutionalization and legally binding agreements. European security is now increasingly sought through multilateral institutions. We can observe an increasing institutionalization of relations between European states and a European order is no longer guaranteed (if it ever was) by a balance of power between military forces. Increasingly, European states are bound together by legal agreements that constrain and condition policy choices.

Inside the EU this trend is even stronger as member states have long since moved from a balance of power to 'cooperative security' with regard to problems arising. The EU has successfully domesticated security within the Union in the sense that it is extremely unlikely that member states would use military force to resolve disputes with fellow

members. What characterizes the European situation is the high degree of institutionalization at the supranational level. Here states have moved further than most states elsewhere in terms of establishing international institutions that are based on a commitment to common rules and norms. What is more, within its field of competence, community law is supreme.

As an implication of the first two trends, a third trend would be a change in the standards for conflict resolution. By this is meant that the position of the individual as a rights holder within international law has been strengthened, and there is no longer an exclusive focus on the sovereign state. Traditionally, international law was not seen as an instrument that should protect individuals from abuses of power but as an instrument that would guarantee the sovereign control of the state over a specific territory. As a result, inter alia, of the EU's Charter of Fundamental Rights and the European Convention on Human Rights, there are now agents outside the nation state that can sanction illegitimate abuses of power and to whom citizens can appeal if national decisions seem unacceptable (Menéndez 2002). Hence human rights are not merely moral categories, but are also becoming positive legal rights with the capacity to be reinforced in Europe. European states today are expected to respect human rights and basic civil and political rights (Zürn 2000). In other words, when we ask 'security for whom' the answer is no longer self-evidently the state. What is developing in Europe is something 'more' or qualitatively different from a situation of interdependence as described in much of the literature on international relations. Increasingly, it is also argued that this implies that the EU will be, and is, faithful to these norms in its external action (Manners 2002: Rosencrance 1998).

7.3. A twofold change in European security?

Based on a communicative perspective we have worked out the theoretical possibility of a twofold change in European security: firstly, a change in the referent object of security, away from an exclusive focus on state sovereignty and towards a focus on the rights of the individual citizen. Secondly, a change in the understanding and practice of the best means to achieve security.

Studies of the integration process in the European Union increasingly suggest that analyses might benefit from the insights provided by the theory of communicative action. Hence, the argument here corresponds to a broader trend in European studies, but takes the analysis a step further by suggesting that it would make sense to talk about deliberation and actors seeking agreement through arguments also in the issue area of European security. Increasingly, EU member states are linked together in a network of 'domesticated' relations. A growing number of policy fields are coordinated at the central level in Brussels. Even though there is no clear centre of authority above the member states, it is evident that the EU represents a radical (peaceful) challenge to our traditional understanding of international relations. Consequently, one should expect that European integration also has affected the conditions under which security policy is made, as well as the meaning of security in Europe.

The value added of this approach to the study of European security is twofold: firstly, it allows for a better theoretical account for the (potential) existence and binding force of norms in European security; secondly it helps us understand how a (potential) change in norms comes about in a rational way.

Whereas the 'widening' literature on security often highlights the importance of norms, the validity of norms is undertheorized in this literature and this is where the communicative perspective is important. According to the communicative approach norms are held to be autonomous sources of motivation owing their validity to their impartial justification. It is through a communicative process in which norms are rationally assessed that their relevance and binding character are established. Furthermore, the emphasis on a communicative process also allows for a change in norms, as these are rationally assessed rather than considered 'given' for example as part of a particular cultural identity. The understanding of what is considered to be the relevant and appropriate norm may change through a communicative process. Hence it becomes possible to theoretically account for the above hypotheses in a better way than if one relies only on concepts such as 'comprehensive security', 'human security' or 'soft security'.

CIDEL's analytical tools, in turn, might also allow us to look at the history of European security through different lenses. The idea that security and defence issues should be dealt with through common institutions was certainly present before the end of the Cold War and found expression in concepts such as 'common security' and processes such as the Conference for Security and Co-operation in Europe (now OSCE). Likewise, the strengthening of human rights has been part of the activities of the Council of Europe since the early 1960s. Hence, the analytical tools highlighted in this chapter might allow us to investigate more systematically such historical developments in European international relations.

In the past decade the view of the European Union (EU) as a relevant and important international actor has gained increasing acceptance. The EU is the world's largest trading power as well as a major donor of humanitarian assistance and development aid. This, together with the fact that it is gradually building capabilities in security and defence does indeed make it difficult to neglect the EU's international role. Consequently, whereas much attention was traditionally paid to the question of whether or not there is such a thing as a European foreign policy (Bull 1982; Hoffmann 2000), analysis now tends to ask what characterises this European foreign policy. In this context, a number of authors have stressed the 'particularity' of the EU. In developing their argument, they often build on Francois Duchêne's (1972) conception of the European Union as a 'civilian' power. According to Duchêne, the particularity of the EU's international role is linked to the 'nature' of the polity itself. In his view, the EU's strength and novelty as an international actor is based on its ability to extend its own model of ensuring stability and security through economic and political rather than military means. A number of authors have picked up on this idea and developed it further. What they have in common is an interest in a putative normative dimension to the EU's foreign and security policy (Rosencrance 1998; Whitman 1998; Stavridis 2001; Manners 2002; Smith 2000; Delcourt 2003; Aggestam 2004; Diez 2004; Lightfoot and Burchell 2005)

7.4. What kind of order?

A number of authors have stressed the 'particularity' of the European foreign policy The argument in this literature tends to be that the EU is distinguished from other actors because it is not only a civilian power (in the sense that it does not have military instruments at its disposal) but (also) a normative, civilising or ethical power within the international system.

The conception of the EU as a 'normative', 'ethical' and particularly a 'civilising', power is contested – not the least because this conception is very similar to that used by EU

officials when describing the EU's international role. This leaves researchers vulnerable to the charge of being unable to distinguish between their own sympathy for the European project and their academic role as critical analysts. In order to assess if such conceptualizations of the EU are simply co-optations of the agenda of those in power, it is important to investigate whether these claims fit with the empirical record or are merely based on anecdotal evidence. More fundamentally, however, analyses should contribute to a better grasp of the nature of the EU's external policies as well as the 'nature of the beast' itself (Risse-Kappen 1996).

In order to contribute to such an endeavour, CIDEL has sought to address the following questions: what would be the criteria for identifying a 'normative/civilian/civilising' power; how can we theoretically account for the putative existence of the EU as such a power; does the argument that the EU is a 'normative/civilian/civilising' power hold up to systematic empirical investigation? These questions are central to the edited volume in WP5, Deliverable No. 14.

It is even more pertinent to ask such questions against the backdrop of recent developments in European security and defence. These are not only relevant with regard to the development of EU military capabilities. It is also important to ask if the EU is, or has been, a 'normative' power in other fields. Examples include international trade, issues of global economic justice, the environment and the EU stance when defending the interests of its agricultural producers. However, the prospect of military power dramatizes the question. It also raises the issue of the extent to which the putative particularity of EU foreign policy is linked to the instruments at its disposal or is due to other factors as well. For example, the establishment of military capabilities is often seen as signaling the EU developing towards a state-like entity and as a result, possibly losing some of the particularities that are assumed to make it a 'normative' power. Recent developments raise questions about whether the EU can be considered a 'normative' or 'civilising' power.

Foreign policy makers face normative dilemmas every day. Thus, it is a paradox that most of the theorizing about foreign policy is focused on tools that from the very outset of the analysis exclude the possibility that normative considerations have influenced decisions and processes. It is not at all clear that the need for parsimony or simplicity is a satisfactory reason for doing so. When it comes to claims about the EU as a 'normative', 'civilian' or 'civilising' power, it would seem that the very nature of the argument calls for theories that take the normative dimension in international affairs and foreign policy seriously. This is so even if one doubts from the outset the reality as well as the validity of norms. If we do not have a conceptual apparatus that allows us to at

least theoretically account for their possible relevance, such doubts will simply turn into self-fulfilling prophecies.

Under WP5, Ian Manners (2006) has re-stated his argument about the EU as a 'normative' power and discussed its continued relevance against the backdrop of developments in security and defence, still sceptical about the EU's ability to remain a 'normative power', due to the increasing militarization of its external policies. Similarly, Wolfgang Wagner (2006) has considered that the Europeanisation of defence policy weakens the prospects for 'civilian power' Europe. Identifying Parliamentary control as an important element of a civilian power, he showed that little room is left for Parliamentary deliberation as defence policy is increasingly made at the transnational and supranational level. Adrian Hyde-Price (2006) has considered that 'normative' or 'civilian' power are not viable ways to conceptualise the Union, instead, he argued, the evolving international role of the EU can best be understood by utilising a structuralist approach rooted in neorealist theory. From this perspective, he claims, it becomes clear that the EU acts as a collective hegemon, shaping its external milieu by utilising both hard and soft power.

Helene Sjursen (2006) has argued that the existing literature lacks the necessary criteria and assessment standards to qualify or substantiate the claims that the EU is a 'normative' or 'civilian' power. Following thus she has suggested that the main issue is to find a criterion for what might be legitimate action in the international system (for both military and non-military action). In line with this, Erik O. Eriksen (2006) has arguesdfor an analytical approach that does not rule out the development of a form of 'civilian' power as a logical possibility when analysing the EU's foreign policy. Further he has suggestsed a cosmopolitan order, defined as one where actors subject their actions to the constraints of a higher ranking law, as a normative standard for assessing such dimensions. Jennifer Mitzen (2006) has turned her attention to the Union's internal dynamics and the way in which they may contribute to sustain its 'civilian' identity. She has suggested that the publicity and deliberation inherent in the routines of inter-state interaction within the CFSP has helped stabilize healthy security relations both among EU member states and in Europe's external relations, thus strengthening the EU's role as a normative power.

8. Taxation and Social Policy (WP 6)

Workpackage 6 aimed at answering six main questions, namely:

- Which are the *cases for welfare* across the European nation-states? Are the entitlements based on residence or nationality? Is there a major divergence in the 'social risks' (unemployment, age, sickness) protected by European welfare states?

- What *forms* of regulation and co-ordination are emerging in the field of welfare and tax policy and how do they affect the way of argumentation and behaviour of the actors involved?

- What are the basic *logics* behind the voluntary process of convergence in employment, social and tax policy? What is the relative significance of functional, value-based and rights-based (justice) modes of justification and how can this be explained?

- What is the actual *empirical corroboration of the (optimistic) view that soft-law co-ordination* (i.e. the open method of coordination) may provide a strategy of social and tax policy making at the European level, avoiding the inertia of the formal structures of legal competencies between nation states and European institutions?

- Can a European welfare and employment policy obtain legitimacy without proceeding to a formal institutionalisation of social rights at Community level, and the development of European distributive welfare programs? To what extent can lessons be drawn from the manner in which the comprehensive and interventionist state power of the nation-welfare-state managed to enjoy such unprecedented levels of legitimacy and popular allegiance?

- Which are the likely budgetary implications of the development of a European social policy? Would there be a need for granting the European Communities the power to tax? Which should be the tax bases and rates assigned to the Union?

The first three questions focused on the European context of the evolution of national welfare states, while the following two questions concerned the development of social policy at the European level, and the last one considered the interrelation between tax and social policy.

8.1. Reorientation of research objectives

During the first year of the project, and especially in view of the opening workshop in Florence, in which the general theoretical framework of CIDEL was elaborated, it was found necessary to reorient the research focus of the workpackage. In particular, it was found that it was necessary to ensure the proper contextualisation of the description, reconstruction and assessment of European social policy put forward in WP6.

First, theoretical coherence with the rest of the project required reconnecting the description and the assessment of the social dimensions of the European Union with the conceptions of what the European Union is, of what the process of integration leads to. The three basic paradigms of the Union spelt out in WP1 (a problem-solving organisation, a state in the making or a rights-based community) imply three rather different conceptualisations of European social policy, of the aims and goals of social policy making at the European level. Such implications should be worked out and rendered explicit. This furthermore allows the research conducted under this workpackage to contribute *inductively* to the findings in WP1.

Second, it was found necessary to further strengthen the link between distributive and redistributive social policy (labour standards, industrial relations, welfare laws) with budgetary and tax policies, which render possible to *pay for social policies*. This called for (1) the reconstruction of the *present taxing powers of the European Union*, and (2) the analysis of the 'social policy' rationales for expanding or restraining such powers.

Third, the overall concern of the project with the *legitimacy basis* of the European Union required considering the extent to which the shape of European social policy is related to the shape of the law-making processes through which *the democratic will of European citizens* is said to be expressed. This implied analysing the democratic roots of European social policy, and more specifically, questioning whether the underdevelopment of European social policy does not result from the democratic shortcomings of European law-making.

This implied reformulating the basic research questions of the project. While the *substantive concerns* remain unaltered, it was found convenient to shift the emphasis, and to integrate the 'European dimension' more explicitly. This resulted in streamlined research questions:

- How are Union policies affecting social and democratic states?

- Are all national social states equally affected by European decisions? Can the European social model be reaffirmed?

- Can social objectives be achieved in the present institutional and macro-economic setting?

- Which budgetary and tax policy is required for the reaffirmation of the European social model?

- Which are the proper means to establish a European social policy? Harmonised laws? The open method of coordination? European social dialogue? Fundamental rights standards?

- Can constitutional principles foster social protection?

8.2. European social policy

The description and the assessment of European social policy Union in accordance with the three theoretical conceptions of what the EU is, developed in WP1, were undertaken in several steps. The first attempt resulted in the theoretical framework of the chapter 'The Purse of the Polity' (Menéndez 2005a), where three conceptions of European taxing powers were discussed. A second and more comprehensive attempt can be found in the *framing paper* circulated in preparation of the Stockholm workshop (Menéndez 2005b), in which the implications of each of the three conceptions were studied in *both* social and tax policy domains. Finally, the opening chapter of the forthcoming edited book (Menéndez 2007) will further consider the *interlinks* between the three conceptions in each policy domain.

The *application* of the general theoretical framework to the specific policy domain of WP6 has contributed to the theoretical coherence of the contributions both to the workshop and to the edited book. It further provides *case studies* which allow testing the basic conclusions of WP1. In particular, it has been found that the European Union seems to have transcended the *problem-solving paradigm* also in social and tax policy, and that there are some indications of a transition towards a *right-based paradigm*. However, this is not true in all concrete domains (e.g. it is not the case on what concerns employment policy) and there is not firm or unidirectional pattern: There is evidence of a transition towards a rights-based conception in corporate income taxation, but there are also some *reverse trends* to be accounted for.

8.3. Linking social and tax policies

The link between social and tax policies was researched in two steps. First, the present taxing powers of the European Union were described and analysed. This entailed developing a theoretical framework capable of capturing the different dimensions of tax power in a multi-level political community (Menéndez 2005a). This was done by means of distinguishing three dimensions of the power to tax: the setting of constitutional tax standards, the definition of tax figures, and the actual collection of taxes. This resulted in revealing the depth and breadth of the taxing powers of the Union, and provided a theoretical basis for the (until then) undertheorised intuition that *weak collecting tax powers* were however deeply affecting the national power to design tax figures, and consequently, was constraining the room of manoeuvre in designing the means of financing social policy. Second, the rationales for reinforcing the power to tax of the European Union were systematically considered, and in particular, an attempt was made to figure out which taxing powers will be required by a more explicit social policy at the European level. This was basically reflected in 'Taxing Europe' (Menéndez 2005c) where two cases for granting further legislative and collecting tax powers to the Union was analyzed.

8.4. Linking social and tax policies

Finally, the extent to which the *present shape of European social policy* could be explained by reference to the structure of European law-making processes was considered. This established a clear link between the concerns of WP3 on constitution-making and WP6. It was found that there is a double and structural democratic deficit in social policy-making. At the European level, the division of labour between majoritarian and unanimous law-making procedures creates a structural bias *against* distributive and redistributive measures, and in favour of *market-making* ones; while at the national level, the *jurisprudential development* of the economic freedoms has shifted the argumentative burden *against* distributive and redistributive measures. This was first spelt out in the article 'Between Laeken and the Deep Blue Sea' (Menéndez 2005d) and will be now further developed in chapter 10 of *A Social and Democratic Europe* (Deliverable No. 16).

8.5. *A social and Democratic Europe*: **The Book Project (Deliverable No. 16)**

All the Member States of the European Union claim to be welfare states. This entails the fostering of a socio-economic structure characterised by public insurance against certain personal and economic risks, and a high degree of public provision of goods and services necessary to ensure the preconditions of individual autonomy. Welfare states are consequently characterised by a tax system which not only collects between one third and half the national income, but also aims at doing so in ways which reduce economic inequality, thus *doubly contributing* to social objectives.

The establishment of the European Communities played a key role in ensuring the conditions under which the social ambitions of European nation-states were transformed into institutional realities. European integration was the main instrumental cause of the achievement of peace and economic growth in the postwar period, thus ensuring the conditions for the maturing of European welfare states. Still, the very idea of a 'social European Union' remains at best a rather incomplete ambition, in a good deal of cases the expression of a failure, and at worst denotes what is impossible to achieve. While some Union policies might be contributing to a more complete realisation of the goals and aspirations of welfare states (i.e. enlarging social protection to non-nationals, or fostering sex equality), it is hard to deny that some policies (or non-policies) of the Union are among the causes of the crisis of national welfare states.The principle of non-discrimination on the basis of nationality, which has been instrumental to major social achievements (such as the computation of social security contributions made in other Member States when calculating the amount of old-age pensions at retirement), has been interpreted in ways which actually undermine the effectiveness of national social and tax laws; this is the case when the principle is said to extend to corporations making use of the freedom of establishment to escape demanding national labour and tax laws.

The book *A Social and Democratic Europe* aims at exploring the ambivalent and paradoxical relation between European integration and national social states. It does so by means of a triple *reconnection*. First, it aims at reconnecting the analysis and assessment of the social dimensions of the European Union with the conceptions of what the European Union is, of what the process of integration leads to. The three basic conceptions of the Union (a problem-solving organisation, a state in the making or a rights-based community) imply three rather different conceptualisations of European social policy, of the aims and goals of social policy making at the European level. Second, it aims at reconnecting the most obvious sides of social policy (labour standards, industrial relations, welfare laws) with budgetary and tax policies, which rendered

possible to *pay for social policies*. Third, it aims at reconnecting social policy with *democratic decision-making,* which will allow us to consider to which extent the lack of a European social dimension results from the lack of institutionalisation of law-making processes through which *the democratic will of European citizens* could be expressed.

The book is divided in five sections.

The first section spells out the theoretical framework common to all contributions. **Agustín José Menéndez** describes the three conceptions of the European Union and applies them to social and tax policy, it reconstructs the basic phases of European social policy-making and it sets the research questions of the book (which correspond to the *reformulated research questions of the WP after year 1)*

The second section describes and assesses the impact that European policies have on public insurance against personal and economic risks and on the provision of public services.**Anne Gray** claims that European social policy basically corresponds to the characterisation of the Union as a mere problem-solving organisation, in which social goals have been undermined by neoliberal economic policies whose effect is to favour 'capital-oriented flexibility' as a regulation model. She claims that there is a need for different macro-economic management and a radical re-writing of the European treaties to secure a more trade-union friendly environment and a commitment to service planning for social need rather than for profit-making growth. **Kare Hagen** offers a rather different assessment; he characterises European Union policy as reflecting the inconvenience of turning the European Union into a state. Member states have come to regard the combination of supranational market regimes and national social policy competences as a desirable matrix of competences in the European political space. The non-binding soft character of EU social policy should neither be regarded as a threat to territorially defined welfare states nor should it be dismissed as insignificant. It provides for the Member States an important arena for addressing concerns they have in common, not as EU-members, but as national, democratic nation-welfare states. **Viçenc Navarro** shows the empirical limits of the advocacy of a problem-solving European social policy. He argues that the (usual) choice of the United States as *role model* for European economic policy is based on a selective description of US economic policy. The US is said to be an example of economic efficiency achieved by tolerating high levels of social inequality; this is said to entail that the best European policy will be the dismantling of national welfare states to increase competitiveness. This misses the fact that the US federal government has a much bigger and deeper control over resources, and that it actively manages the economy.

The third section considers the *financial* aspects of social policy.**Stefan Collignon** maps the three classical functions of public finance (allocation, stabilisation and redistribution) into the three conceptions of a European social Union. He observes that fiscal policy remains under the authority of national governments, while monetary policy is in the hands of the European Central Bank in Euroland. This arrangement is not only the source of suboptimal macroeconomic results, but is also part and parcel of the democratic deficit of the Union. In both accounts such state of affairs is detrimental to the affirmation of a social Europe. Only by means of transcending the problem-solving conception of the Union can we achieve both democratic legitimacy and economic efficiency. **Carlos Closa and Violeta Ruiz** reconstruct the European experience with a procedural review of national budgetary policies (the Growth and Stability Pact) and assess the extent to which the pact has influenced the development of social policy at the national and the European level. **Agustín José Menéndez** describes the (failed) attempts at harmonising and/or coordinating national corporate income taxes, which have resulted in the limitation of Union action to (fragmentary and incomplete) problem-solving. He finds that the jurisprudence of the ECJ which has given bite to the principle of non discrimination on the basis of nationality in the area of corporate income taxation has revealed the perils of the present mismatch between European markets and national taxes. There is a risk of the slow implosion of national tax systems *case by case*, so to say. This creates an enormeous pressure to the Europeanisation of corporate income taxation, which would contribute to the creation of conditions for the furthering of social ambitions at the European and/or national levels.

The fourth section considers the means through which social protection could be effectively Europeanized. The Open Method of Coordination has been hailed as a pathbreaking innovation which held the promise of bringing social Europe closer to realisation. In this chapter, we consider the structural reasons why the *soft law approach* is structurally unsuited for such a purpose. **Brian Bercusson** reconstructs the two decades of experimentation with the European social dialogue. He spells out not only the reasons why it has failed to succeed, but also the preconditions for its success. **Florian Rödl** considers fundamental rights as a means for realising social objectives, and very particularly, explores the role to be played by *collective social rights*. **Agustín José Menéndez** considers why harmonisation has come to be seen as inadequate in social matters, and claims that there is a *democratic deficit* structurally embedded in the division of law-making procedures enshrined in the Treaties.

The *fifth* section analyses the constitutional dimension of European social policy. **Christian Joerges** reconstructs the relationship between market integration and social protection, paying special attention to ordoliberalism, and providing an interpretation of

the *constitutional implications* of the Treaty of Maastricht and of the eventual writing of a European constitution.

The sixth section holds the conclusion.

Box 1. *A social and Democratic Europe*, Table of contents

<div style="border:1px solid black; padding:1em;">

I. Introduction

1. Which social and tax policy for which European Union? *Agustín José Menéndez*

II. A Social and Democratic Union?

2. The European Social Model in the face of globalisation *Anne Gray*

3. EU soft law social policy *Kåre Hagen*

4. Is the US real a role model? The economic viability of social Europe *Viçenc Navarro*

III. A social power of the purse?

5. European fiscal policy *Stephan Collignon*

6. Which growth and stability pact for which Social Europe? *Carlos Closa and Violeta Ruiz*

7. Tax powers to further social Europe: The Europeanisation of Corporate Tax Law *Agustín José Menéndez*

IV. Building European social laws

8. The Open Method of Coordination? Why it will not work *[Under negotiations]*

9. Social Dialogue? What can we learn of two decades of experience *Brian Bercusson*

10. Harmonisation? The structural democratic deficit of European law-making *Agustín José Menéndez*

11. Fundamental Rights? Individual autonomy and collective social rights *Florian Rodl*

</div>

8.6. Findings

The main reason why European integration threatens to undermine the economic and social basis of national social states is the fact of a *double democratic deficit*.

At the *European level*, there is an imbalance between (1) the majoritarian law-making processes applicable when *single market legislation* is to be approved, where not only the European Parliament shares the final legislative world, but where national governments no longer can exercise an individual veto and (2) the unanimous law-making process applicable when *tax and most social legislation* are to be approved, where the European Parliament is merely heard, and there are as many veto points as national governments. This creates a *structural democratic deficit*, as it is conceivable that tax or social measures which would be favoured by a *wide majority of Europeans* do not have a single chance of being passed; similarly, it creates *policy imbalances*, as it prevents the adoption of *market-correcting measures* by the same majority which approves *market-making measures*. This explains why it was possible to approve a Directive reinterpreting the contours of the free movement of capital in 1988, but the measures aimed at preventing that such freedom resulted in tax evasion were only (partially) adopted in 2003.

At the *national level*, the breadth and scope of the *economic freedoms* enshrined in the Treaties have cast the shadow of European unconstitutionality over (potentially) all national legal norms. The *unlimited horizontal effect of the economic freedoms* shifts the argumentative burden *against* legislative measures aimed at consolidating the basis of social policy.

If we decouple the power to tax in its three main components (namely, the *constitutional* power to define the principles which structure the tax system, the *legislative* power to define taxes, and the power to *collect* taxes) we realise that the power to tax of the European Union is far wider than is usually assumed. The *constitutional principles of Union law* determine the constitutionality of *all* national tax laws, while Union laws affect more close to fifty per cent of the tax base of the Member States. The power of the Union

is only weak on what concerns the collection of taxes, as European taxes only amount to less than 2% of the total amount of taxes collected in the Member States.

The tax powers of the Union reflect the move of the Union towards a rights-based polity. There are clear indications that the *problem-solving* paradigm is not enough, and increasingly will not be so, to explain and ground the powers to tax in the hands of the Union. This is because: (1) the assignment of tax powers to the Union, and its actual exercise, is increasingly justified by reference to conceptions of tax and economic justice; (2) even in those cases in which the assignment of new taxing powers is justified by reference to functional purposes, the solutions proposed imply a transcendence of a pure problem-solving paradigm, as they entail a *political spillover*; (3) the affirmation of the principle of social and economic cohesion as part and parcel of European constitutional law might trigger a recharacterization of the purpose of EU taxing powers; (4) the regulation of EU taxing powers by an increasingly constitutionalized Union legal order points to a sense of solidarity and commitment which transcends the mutual-gain basis of a problem-solving conception.

The democratic principle requires that public expenditure is matched by taxation, because this ensures the accountability of spending authorities to the democratic representatives of citizens. *No expenditure without taxation* calls in the European context to the establishment of genuine European taxes to finance the present level of expenditure contained in the European budget.

The actual transformations implicit in the establishment of the social market have lead to the *factual transcendence* of *national communities of risk* on which national welfare states were institutionalised and developed. The consolidation of a European community of economic risk calls for a wider European power to tax which can uphold the Europeanisation of programs of social insurance.

In their contribution to CIDEL, Kerstin Jacobsson and Åsa Vifell (2005) has examined the Open Method of Coordination, and found that this is a form of soft governance which has allowed for expansion of cooperation into new – and sensitive – policy fields. The authors also claim that the OMC has contributed to agreement-formation and thus the consensual underpinning necessary for the EU to develop as a legitimate polity in its own right. While it would be premature to speak of a post-national perspective being developed, the OMC has fostered an Europeanization of outlooks and perspectives in the new areas.

The power to tax is one major indicator of a state-like polity, but the EU has very limited legislative tax competences. However, on the basis of a proper unpacking of the Treaty provisions, seeing that it both has to do with 'ordinary' and constitutional politics,

findings show that the legislative power to tax is shared between the Union and the member states. The EU has power to tax, although limited, and has obtained a tax base of its own. In order to establish what this tells us concerning the political nature of the Union three models of a taxing EU have been tested. There are clear indications that the problem-solving conception of the Union is insufficient to explain the powers to tax in the hands of the EU, and a dynamic reconstruction of its constitutional and legislative tax powers indicates that the Union is moving towards a rights-based polity. The analysis of the actual powers of the Union with regard to taxation has contributed to a better understanding of the conditions for institution-building at the European level.

9. EU and Post-National Integration (WP 7)

This final workpackage took up the thread of WP 1 on the conception of post-national integration, supported by the empirical findings from the research undertaken across policy fields. The objectives of WP2 were to: contribute to a theoretically informed and empirically based conception of post-national integration; synthesise the findings of the project from all the workpackages; and to contribute to an enhanced notion and understanding of the EU as polity.

One of the main deliverables of this final workpackage was the organizing of the CIDEL concluding conference, 'Law and Democracy in Europe's Post-National Constellation', held in Florence on 22 - 24 September 2005 (Deliverable No. 17). The conference included more than fifty participants, comprising project partners and affiliated researchers as well as external scholars, and was organized in three sections. The first part, 'What kind of order is emerging in Europe?', focused on the overall findings of the project. The workpackage leaders presented the main findings from the research undertaken in their respective fields. Sections II, 'Europe's Unfinished Agenda', and III, 'Post-national Democracy?', were dedicated to discussing and commenting on these findings as well as reflecting upon their implications and future directions of the research. The event engaged researchers and spurred reflection and discussions on the analytical tools developed by CIDEL, on the project's research findings and on the direction of future research.

Another important deliverable was a large edited volume: *Making the European Polity: Reflexive integration in the EU* on the nature of the EU (Deliverable No. 18), which synthesizes some of the findings from the project. This is described more in detail below. In addition to this, an outreach brochure was produced during the final weeks of the project. It contains updated information on some of the findings on the research topics dealt with in the project and has been distributed widely to a broad public, to policy

makers, journalists and stakeholders as well as to the academic community throughout Europe.

Reflexive integration

A reflexive approach to integration based on the theory of communicative action is set out in the volume *Making the European Polity: Reflexive integration in the EU* (edited by Erik O. Eriksen). This approach conceives of the EU as a law-based supranational polity lacking the identity of a people as well as the coercive means of a state. This is sought compensated for through extensive processes of deliberation, or reflexive integration. The EU is neither a value-based polity nor a full-blown rights-based polity premised on the unity of law, but is more than a regime of transnational governance. It is a polity with no sole apex of authority, but with an organized (limited) capacity to act. It has no single and sovereign demos, no people, but is involved in reflexive processes of constitutionalizing itself. It is a polity in motion based on a thin kind of statehood – a supranational polity with a deliberative imprint.

The findings have been assessed in relation to the three ideal type models of the EU in order to identify the nature of the creature. The EU has moved beyond intergovernmentalism but in what direction is it developing? Is it developing into (a) a regulatory entity based on transnational structures of governance, (b) a value-based polity premised on a common European identity or (c) a rights-based post-national union of a federal type? The salience of these models varies across levels and policy fields.

We find that the EU is, above all, a political system that extensively makes use of law to create order and purpose, but law-making and law enforcement take place within a structure that combines hierarchical and horizontal procedures. Whereas a central body with a wide revenue basis is clearly absent, the system has developed a well-established legal hierarchy and consented authority relations buttressed by deliberative processes. Hence the concept of *deliberative supranationalism*, which depicts the painstaking quest for consensus within a binding legal structure.

We do not find that the EU mirrors any of the three ideal typical polity models. Even though regulation is a conspicuous feature of the EU, the integration process has moved cooperation beyond intergovernmentalism and pragmatic problem-solving. Cooperation has turned more political and constitutional, but there is not strong evidence of a common European identity of the kind presupposed by the value-based model. There is no unified people – 'Staatsvolk' – upon which statehood and political institutions can be built. But as the European citizens have obtained more rights, and as the competences have been amended, one may say that there is a movement in the direction of a rights-

based Union. However, much more needs to be done for the citizens to be able to see themselves as the authors of the law they have to obey. We have tried to explicate the rationale of such processes from the vantage point of deliberative theory. This theory sets out to explain why the actors of the Union can reach a common position on what to do when there is no clear-cut win-win situation, when side-payments are excluded, when there are no sanction-based rules – no Leviathan.

The empirical studies of the CIDEL project have documented that the EU has increased its competences and capabilities in recent years. Even though it is not a federation and the member states control the most powerful body of the Union, the Council, the EU is a supranational polity. It has got a legally binding, even if formally not incorporated, Charter of Fundamental Rights, a (not yet fully developed) competence catalogue delimiting the powers of the various branches and levels of government, a two-chamber system of legislation; as well as authoritative dispute-resolution mechanisms particularly embodied in the authority of the Court of justice. The Constitutional Treaty moves the EU into a quasi-federal, supranational legal system based on the precepts of higher-law constitutionalism. This system of representation and accountability gives the citizens at least a minimal input into the process of framing and concretizing their rights. The EU also has organized mechanisms to obtain and implement collective goals, which have market redressing and redistributive effects.

Notwithstanding these hierarchical elements, the EU is not a state-federation as it has shared sovereignty within an unfixed territory, the unity of law is lacking, and there is no established agreement about the demos -- on the criteria for inclusion/exclusion. The EU is more varied in organizational terms than the most diverse federal state. As long as it is not clear who are legitimate subjects of the polity, who the people is, observance of the principle of sovereignty – according to which all political authority emanates from the law laid down in the name of the people – is not ensured. However, the social preconditions for a full blown parliamentarian system at the EU level are not in place (yet) as a distinct European collective identity is missing as are many of the intermediate associations and organizations of civil society, including a unifying public sphere conducive to identity-formation on the basis of the public autonomy of the European citizens. Where then to look for explanations of the viability of the integration project?

The protracted 'constitutionalization' processes point to the fact that the EU is a system in transition and that the legitimacy of this project depends to a large degree on the open-ended and long-lasting discussion of its *finalité politique*. Constitutional reflexivity has been increased by every round of Treaty revision. Moreover, the Convention method, which is the most reflexive of all, seems now to be accepted as the proper procedure for

constitutional amendment. Through the entrenchment of this method there is consolidation of a model for 'constitutional politics' that differs from 'normal politics', and one that also differs from Treaty changes conducted through turf battles at Intergovernmental conferences. This links in with the contention that the quality and direction of the integration process itself is crucial for the legitimacy of the Union. As it is easier to agree on procedures and norms for how to proceed than on common purposes and finalité, the EU is very much an organization in motion. It is the manner in which the changes are conducted, the quality of procedures and processes, which lend legitimacy to the whole experiment.

IV. CONCLUSIONS AND POLICY IMPLICATIONS

CIDEL has established a third logic of integration, *integration through deliberation*. This supplements the mainstream perspectives on the EU, which typically claim that integration occurs through strategic bargaining or through functional adaptation. The process of polity formation has to be explained by something more than member-state interests, preferences and power resources.

The EU does not possess the means of the nation-state, such as monopoly of violence and taxation, a common identity and the majority vote to enforce its will. The EU pools sovereignties; it compounds different modes of representation and shares competencies with the member states. It depends on the national administrations for implementation. The EU has no military capability but it is aspiring to be more than a civilian power. It shares the competence to tax with the member states, but the tax base is very limited. The EU is not equipped with a fully organized capacity to act.

As the bargaining resources are rather slim the implementation of EU policies and further integration works efficiently only if the enforcement mechanisms resonate with a readiness on the part of the member states to accept its disciplining role. The many veto points, the lack of forceful compliance mechanisms, representation and problem-solving through committees and networks underscore the deliberative mode of decision-making. The infrequent use of majority vote – most decisions in the Council are unanimous – makes the EU into a kind of consensus democracy. Small countries are systematically overcompensated in the voting formula of the Council and unanimity is required on a whole range of issues, which in fact gives member states veto power and thus puts them on an equal footing.

Vetoes are held to be a main barrier to supranationalism but represent a constraint on interaction that induces reason giving: when parties can block outcomes, actors have an incentive to convince all the others. They can not solely apply arguments that convince some of the participants – a majority – but have to pick arguments convincing to all. Reason giving and critical scrutiny are further promoted through such mechanisms as public debate, institutionalized meeting places, judicial review and complaint procedures such as the European Ombudsman. A non-majoritarian system such as the EU has many mechanisms that establish critical opposition and which are conducive to transformation of opinions and preference formation.

For the first time in human history, we are now witnessing the development of a democratic system that is not based on a conception of a culturally homogenized people,

or brought about through war or brute force, but one that has emerged through voluntary cooperation, through bargaining and deliberation and other trust inducing mechanisms. Through this the EU has progressed beyond the initial stage of a purely voluntary association and moved into a supranational legal system based on the precepts of higher law-constitutionalism endowed with an authoritative dispute mechanism. It is an entity equipped with an organized capacity to act and it has now undertaken steps to reduce the democratic deficit. All legal persons and not just states have judicially enforceable rights and legitimacy established through domestic channels, through national democracy, has been supplemented with direct chains of influence. The European Parliament has obtained more power and majority vote has replaced unanimity as a decision rule in several policy fields. Consequently, the EU is both *a Union of states and of citizens*.

The EU is a *large scale experiment* searching for binding constitutional principles and institutional arrangements beyond the mode of rule entrenched in the nation state. State power is being domesticated by supranational law, and the only legitimacy basis for this law is the constitutional developments in Europe that emerged in the wake of the French revolution, and which for more than 200 years now has contributed massively to the stabilization of nation states. In this tradition constitutions are seen as arrangements for respecting the equality and the autonomy of the individual in the realization of the idea of popular self-government. The European integration process testify to a promising yet unaccomplished process of democratization that can only be carried through by a more encompassing and comprehensive constitutionalizing process than we have witnessed so far.

Policy Implications

The EU is a large scale experiment searching for binding constitutional principles and institutional arrangements beyond the mode of rule entrenched in the nation state. State power is being domesticated by supranational law, and the only legitimacy basis for this law is the constitutional developments in Europe that emerged in the wake of the French revolution, which for more than 200 years now have contributed massively to the stabilization of nation states. In this tradition constitutions are seen as arrangements for respecting the equality and autonomy of the individual in the realization of the idea of popular self-government. The European integration process testifies to a promising yet unaccomplished process of democratization that can only be carried through by a more encompassing and comprehensive constitutionalizing process than we have witnessed so far. This speaks to model three of the CIDEL project – a rights-based post-national union. In order to realize such an idea of post-national integration the EU should seek to mould

a European constitutional structure with a clearer delineation of powers and responsibilities along horizontal and vertical lines and with firmly entrenched rights, which ensure that citizens are considered as and also consider themselves as rights holders. However, for rights to be real means of interest protection there is need for the Union to increase its ability of redistributive measures including enhanced fiscal capacity and taxing competence. However, democracy beyond the nation state also entails a post-national public space where the citizens can confront the power holders and put them to account. A general public sphere is located in civil society and depends on resources beyond governmental control. The EU should actively stimulate the embryonic forms we see of transnational publics inside as well as outside of the governmental complex. For the EU to be able to reduce its democratic deficit a very open, comprehensive, multi-level process of opinion and will-formation that places great onus on participation is required. Further, a post-national organization should subject its actions to higher-ranking principles also when it comes to external relations. The criterion of a legitimate foreign policy can only be that it subscribes to the principles of human rights, democracy and rule of law, and seeks to strengthen the cosmopolitan law of the people in the international system. That the EU binds itself to such principles is consistent with what we might expect from such a foreign policy. The Union should not be aspiring to be a world power but a regional political order that pushes for and binds itself to cosmopolitan principles. Accordingly, the borders of the Union should not be justified with regard to essentialist categories of who are truly Europeans. Rather the borders should be drawn both with regard to what is required for the Union itself in order to be a self-sustainable and well-functioning democratic entity and with regard to the support and further development of similar regional associations in the rest of the world.

V. DISSEMINATION AND EXPLOITATION OF RESULTS

In addition to the books, articles, reports and papers published during the third and last year of the CIDEL project, many activities have taken place in order to reach a wide range of relevant user groups.

The CIDEL researchers have arranged and participated in seminars and conferences, of interest both for academics and the broader public, such as the open seminar arranged by ARENA at the University of Oslo on 11 May 2005. This was a 2-hour session on the EU's Constitutional Treaty entitled 'the European Constitution: a Europe of citizens or of states?', that attracted people from a variety of milieus. The main purpose of the seminar was to give a better understanding of the content as well as the possible consequences of the Constitutional Treaty (http://www.arena.uio.no/news/news2005/konstitusjonsseminar.xml).

CIDEL researchers have held various lectures and speeches, like i.e. 'Justifying the Second Enlargement: Promoting Interests, Supporting Democracy or Returning to the Roots?', public lecture by Susannah Verney at the University of Athens, 19 October 2005; and 'The Babel of Europe?', invited inaugural lecture by Philip Schlesinger at the Mudra Institute of Communication, Ahmedabad, India, 5 March 2005.

Results have been distributed to academics and students, but also to civil servants, officials from national administrations and journalists. The CIDEL researchers have written articles in newspapers and have organized and participated in events with press and other media coverage. Two examples are Carlos Closa which participated in numerous discussion rounds for TV during the Spanish referendum campaign, and John Erik Fossum who was interviewed on national TV in Canada on the European constitution-making process.

The website www.arena.uio.no/cidel was created at the start of the project and has been regularly updated and developed during the project period. It contains information on the progress of the project (announcements of workshops, distribution of the workshop papers via the website, etc). The website also provides information on publications and outreach activities of the project and has proved to be an effective tool for dissemination as well as for intra-project communication. Via the website the consortium has had access to the CIDEL intranet, allowing the researchers to exchange information by up- and downloading papers, reports and books, templates, guidelines and administrative documents, as well as providing links to official documents, newspaper articles and other relevant information. Thus, the website was designed both as a channel to the general

public for disseminating research findings, and as an integrative tool among all the participating researchers (exchange of drafts, papers, programs for meetings, seminars, workshops, etc.). Most papers published have been made available on the website. All CIDEL reports, as well as the CIDEL outreach brochure have been made available in electronic format on the website, and have been frequently downloaded.

Feed-back indicates that the website reaches a relevant and interested public. Several other projects refer to the CIDEL website, among others are the European Public Space Observatory EUROPUB (www.iccr-international.org/europub/links-index.html), the University College Dublin (www.ucd.ie/dempart/relevantprojects.htm), the Wissenschaftszentrum Berlin (coordinating institute for the project on The Transformation of Political Mobilisation and Communication in European Public Spheres; http://europub.wz-berlin.de/Default.htm), the University of Aarhus research program 'Leadership in the EU's Constitution Negotiations' (http://www.ps.au.dk/derek/Links%20leadership%20project.htm) and the Universia.net portal (http://www1.universia.net/CatalogaXXI/C10052PPESII1/E158056/index.html). Individual CIDEL partners also have established websites, most notably perhaps the team at Zaragoza University: http://www.unizar.es/euroconstitucion/Home.htm. This website is aimed for researchers, journalists and citizens interested in learning about the 50-year process culminating in the elaboration of a Constitution for the European Union. During 2005 the number of visits increased considerably, around 125,000 visitors searched the site from March 2004 to October 2005.

Furthermore, a hypertextual version of the Constitutional Treaty has been produced by Brit Helle Aarskog (via the ARENA partner): http://gandalf.aksis.uib.no/%7Ebrit/EU-CONST-EN-cc/index.html. The digital version has been prepared to make the texts more accessible to researchers and to the citizens, enabling easy cross-reading of the text.

A newsletter, distributed in electronic form, has appeared three times this year. The mailing list consists of many academics, researchers, civil servants, think-tanks on European affairs, journalists and students of European integration. This list was constantly updated also during year three and contains close to 300 contact persons.

A CIDEL outreach brochure was also produced, meant to present the main findings and research questions of CIDEL to a wider audience of journalists, policy makers and stakeholders, as well as the academic milieu. The brochure contains updated information on main findings on the research topics dealt with in the project. It also contains information on the various websites generated by the project, and on major publications, on the partner institutions and on where to get more information on the project and its

results. The brochure was printed in 3500 copies, most of which have been distributed widely across Europe, via the project partners. The brochure has been distributed to policy makers, political parties, organisations and associations, official bodies and embassies, as well as the research community, media and stakeholders. It has also been made available electronically on the CIDEL website.

The annual ARENA conference 2005 'What now? The EU at a crossroads' was organised so as to mark the conclusion of the CIDEL project. It was held in Oslo on 25 November 2005, after the end of the project period, and served as an outreach event that attracted more than 100 participants from ministries, organisations, political parties, media and research institutions. In addition to the ARENA-CIDEL researchers, who presented some of the main findings, invited speakers were Thorbjørn Jagland (president of the Norwegian Parliament), Steen Gade (member of the Danish Parliament), Jo Leinen (MEP), Laura Finne-Elonen (President of the European Centre of the International Council of Women), Hans Petter Graver (Professor of Law, University of Oslo) and Ben Crum (Lecturer, Vrije Universiteit Amsterdam). The outreach brochure was also widely distributed in relation to this occasion.

As CIDEL addresses several of the key questions currently on the European agenda, the researchers constantly produce direct responses to actual debates and events, and will continue to do so also after the completion of the project. Further research will be conducted both by former CIDEL researchers and the wider research community on the basis of the findings from the project.

Table 3. results (eTIP)

Result title	Partners involved	Exploitation intention
A coherent and well-run research network	All partners	Dissemination of results and further research
Theoretical framework	All partners	Dissemination of results and further research
Prospects for a European public sphere	University of Stirling ARENA, University of Oslo	Dissemination of results and further research
Constitution-making and legitimacy	Zaragoza University Birkbeck College University of London University of Exeter ARENA, University of Oslo	Dissemination of results and further research
Justifying enlargement	ARENA, University of Oslo University of Athens UNED, Madrid Uppsala University	Dissemination of results and further research
External security	SCORE, Stockholm University ARENA, University of Oslo	Dissemination of results and further research
Taxation and social policy…	ARENA, University of Oslo SCORE, Stockholm University	Dissemination of results and further research
A theory of post-national integration	All partners	Dissemination of results and further research

VI. REFERENCES AND BIBLIOGRAPHY

1.1. WP 1

Eriksen, E. O. and J. E. Fossum (2004a) 'At a Cross-Roads – The EU closing its legitimacy gap?' Paper prepared for

Europe: Politics, Institutions and Diversity 24-26 June 2004, Bologna, Italy. ksen, E. O. and J. E. Fossum (2004b) 'Europe in Search of Legitimacy: Strategies of Legitimation Assessed', *International Political Science Review*, 25(4): 435-45

Habermas, J. (1996) *Between Facts and Norms. Contributions to a Discourse Theory of Law and Democracy*, Cambridge, Mass.: The MIT Press.

Held, D. (1995) *Democracy and the Global Order*, Cambridge: Polity Press.

Preuss, U. (1998) 'Citizenship in the European union: a paradigm for tdemocracy', in D. Archibugi, D. Held and M. Köhler (eds) *Re-imaging Community*, Cambridge: Polity Press.

1.2. WP 2

Curtin, D. (2006) 'The Evolving Legal and Institutional Practices of the Council of Ministers, Public Access to (Digital) Information and the Publich Sphere', in Fossum, J. E. and Schlesinger, P. (eds) (2006) *The European Union and the Public Sphercommunicative space in the making?* London: Routledge, forthcoming.

Ederr, K. (2000) 'Zur Transformation nationalstaatlicher Öffentlichkeit in Europa', *Berl. Soziol. Heft* 2: 167-84.

Eder, K. (2006) 'Public sphere and democracy – mechanisms of democratization in thtransnational situation', in Fossum, J. E. and Schlessinger, P (eds.) (2006), *The European Union and the Public Sphere: a communicative space in the making?* London: Routledge, forthcoming.

Erikksen, E. O. (2006) 'Conceptualising European public spheres – general, segmented and strong publics in the EU', in Fossum, J. E. and Schlessinger, P (eds.) (2006), *The European Union and the Public Sphere: a communicative space in the making?* London: Routledge, forthcoming.

Erikksen, E. O. and Fossum, J. E. (2002) 'Democracy through strong publics in the *Journal of Common Market Studies* 40(3): 401-23.

Foret, F. and Schlesinger, P. (2006) 'From spirituality to governance? Religion, identity and the European public sphere', in Fossum, J. E. and Schlessinger, P (eds.) (2006), *The The European Union and the Public Sphere: a communicative space in the making?* London: Routledge, forthcoming.

Fossum, J. E. (2005) 'Conceptualizing the EU's Social Constituency', *European Journal of Social Theory* 8(2): 123-47.

Fossum, J. E. and Schlesinger, P. (2006) 'Introduction: One EU, many publics?', in Fossum, J. E. and Schlesinger, P. (eds.) (2006), *The The European Union and the Public Sphere: a communicative space in the making?* London: Routledge, forthcoming

Fossum, J. E. and Schlesinger, P. (eds) (2006) *The European Union and the Pulic bSphere: a communicative space in the making?* London: Routledge, forthcoming.

Fossum, J. E. and Trenz, H.-J. (2005) 'The EU's Fledgling Society: from deafening silence to critical voice in European Constitution-making', ARENA Working Paper 19/05.

Fossum, J. E., Kværk, G. O. and Schlesinger, P. (eds) (2006) *Europeanisation and Social Movemements,* Oslo/Stirling, ARENA Report, forthcoming.

Fraser, N. (1992) 'Rethinking the public sphere. A contribution to the critique of actually existing democracy', in C. Calhoun (ed.) *Habermas and the Public Sphere*, Cambridge: MIT Press.

Fraser, N. (2003) 'Social Justice in the Age of Identity Politics: Redistribution, Recognition and Participation', in N. Fraser and A. Honneth, *Redistribution or Recognition?* London: Verso.

Fraser, N. and A. Honneth (2003) *Redistribution or Recognition? A Political-philosophical Exchange,* London: Verso.

Hobson, B. (ed.) (2003) *Recognition Struggles and Social Movements,* Cambridge: Cambridge University Press.

Honneth, A. (1995a) *The Struggle for Recognition: The Moral Grammar of Social Conflicts,* Cambridge: Polity Press.

Honneth, A. (1995b) *The Fragmented World of the Social: Essays in Social and PoPhilosophy*, Albany, NY: State University of New York Press.

Honneth, A. (2003) 'Redistribution as Recognition: A Response to Nancy Fraser', in N. Fraser and A. Honneth, *Redistribution or Recognition?* London: Verso.

Inglehart, R. (1977) *The Silent Revolution: Changing Values and Political Styles Among Western Publics*, Princeton: Princeton University Press.

Inglehart, R. (1990) *Culture Shift in Advanced Industrial Societies*, Princeton: Princeton University Press.

Liebert, U. (2006) 'The European Parliament – a forger of European democracy?', in Fossum, J. E. and Schlesinger, P. (eds) (2006) *The European Union and the Pulic bSphere: a communicative space in the making?* London: Routledge, forthcoming.

McAdam, D. et al., (2001) *Dynamics of Contention*, Cambridge: Cambridge University Press.

Schlesinger, P. (2006) 'The Babel of Europe? An essay on networks and communicative spaces', in Fossum, J. E. and Schlesinger, P. (eds) (2006) *The European Union and the Pulic bSphere: a communicative space in the making?* London: Routledge, forthcoming.

Schlesinger, P. and D. Kevin (2000) 'Can the European Union become a sphere of publics?', in E.O. Erikssen and J.E. Fossum (eds) *Democracy in the European Union. Integration through Deliberation?* London: Routledge.

Smith, A. (2006) 'European Commissioners and the prospects for a European publicsphere: information, representation and legitimation', in Fossum, J. E. and Schlesinger, P. (eds) (2006) *The European Union and the Pulic bSphere: a communicative space in the making?* London: Routledge, forthcoming.

Statham, P. and Giraudon, G. (2006) ' Different Paths of 'Europeanisation'? Evidence from the Public Debates over Europe in Britain and France ', in Fossum, J. E. and Schlesinger, P. (eds) (2006) *The European Union and the Public Sphere: a communicative space in the making?* London: Routledge, forthcoming.

Taylor, C. (1994) 'The Politics of Recognition', in C. Taylor and A. Gutm*Multiculturalism*, Princeton: Princeton University Press.

Tilly, C. (1978) *From Mobilization to Revolution*, New York: Random House. nz, H.-J. (2006) '"Quo vadis Europe" Quality newspapers struggling for European unity', in Fossum, J. E. and Schlesinger, P. (eds) (2006) *The European Union and the Public Sphere: a communicative space in the making?* London: Routledge, forthcoming.

Zürn, M. (2000) 'Democratic Governance beyond the Nation State: The EU and other International Institutions,' *European Journ al of International Relations* 6(2): 183-221.

1.3. WP 3

Aziz, M. (2004) The Impact of European Rights on National Legal Cultures, Oxford: Hart Publishing.

Castiglione, D. (2004) 'Reflections on Europe's constitutional future', Constellations 11(3): 393-411.

Closa, C. and Fossum, J. E. C. (eds) (2005) 'Deliberative Constitutional Politics', European Law Journal Symposium, Vol. 11, No. 4.

Eriksen, E. O.; Fossum, J. E. and Menéndez, A. J. (2004) (eds) Developing a Constitution for Europe, London: Routledge, 1st book in the series Routledge Studies on Democratizing Europe.

Fossum, J. E. and A. J. Menéndez (2005) 'The Constitution's Gift? A Deliberative Democratic Analysis of Constitution Making in the European Union', European Law Journal 11(4): 380-410.

Longman, C. (2006) 'Deliberating in many tongues. The Convention's Language regime', in D. Castiglione et al., The Convention Moment: An Experiment in EU Constitutional Politics. Basingstoke: Palgrave-MacMillan, forthcoming 2006.

Schönlau, J. (2005) Drafting the EU Charter: Rights, Legitimacy and Process, Houndmills: Palgrave-Macmillan.

1.4. WP 4

Avci, G. (2006) 'Turkey's EU Politics: Consolidating democracy through enlargement?', in H. Sjursen (ed.) Questioning EU Enlargement: Europe in search of identity, London: Routledge, forthcoming 2006.

Piedrafita, S. (2006) 'In spite of the costs? Moral constraints on Spain's enlargement policy', in H. Sjursen (ed.) Questioning EU Enlargement: Europe in search of identity, London: Routledge, forthcoming 2006.

Riddervold, M. and H. Sjursen (2006) 'The importance of solidarity: Denmark as a promoter of enlargement', in H. Sjursen (ed.) Questioning EU Enlargement: Europe in search of identity, London: Routledge, forthcoming 2006.

Sjursen, H. and B. Romsloe (2006) 'Protecting the idea of Europe: France and enlargement', in H. Sjursen (ed.) Questioning EU Enlargement: Europe in search of identity, London: Routledge, forthcoming 2006.

Verney, S. (2006) 'Justifying the second enlargement: promoting interests, consolidating democracy or returning to the roots?', in H. Sjursen (ed.) Questioning EU Enlargement: Europe in search of identity, London: Routledge, forthcoming 2006.

Zaborowski, M. (2006) 'Germany and EU Enlargement: A Self-interested Idealist', in H. Sjursen (ed.) Questioning EU Enlargement: Europe in search of identity, London: Routledge, forthcoming 2006.

1.5. WP 5

Aggestam, L. (2004) 'A European Foreign Policy? Role Conceptions and the Politics of Identity in Britain, France and Germany', Doctoral Dissertation, Department of Political Science, Stockholm University.

Bull, H. (1982) 'Civilian Power Europe: a Contradiction in Terms?' Journal of Common Market Studies 21: 149–64.

Delcourt, B. (2003) Droit et souverainetés. Analyse critique du discours européen sur la Yougoslavie, Brussels: Peter Lang.

Diez, T. (2004) 'Constructing the Self and Changing Others: Problematising the Concept of "Normative Power Europe"', paper presented at the Millennium Conference 'Facets of Power in International Relations', London School of Economics and Political Science, London, 30-31 October.

Duchêne, F. (1972) 'Europe's Role in World Peace', in Richard Mayne (ed.) Europe Tomorrow: Sixteen Europeans Look Ahead, London: Fontana.

Eriksen, E. O. (2006) 'The EU – A Cosmopolitan Polity?', Journal of European Public Policy Special Issue 13(2): 252-69.

Hoffmann, S. (2000) 'Towards a Common European Foreign and Security Policy?' Journal of Common Market Studies 38(2): 189-98.

Hyde-Price, A. (2006) '"Normative" Power Europe: A Realist Critique', Journal of European Public Policy Special Issue 13(2): 217-34.

Lightfoot, S. and Burchell, J. (2005) 'The EU and the World Summit on Sustainable Development' Journal of Common Market Studies 43(1): 75-95.

Manners, I. (2006) 'Normative Power Europe Reconsidered: Beyond the Crossroads', Journal of European Public Policy Special Issue 13(2): 182-99.

Manners, I. (2002) 'Normative Power Europe: A Contradiction in Terms?', Journal of Common Market Studies 40: 235–58.

Menéndez, A. J. (2002) 'Chartering Europe', Journal of Common Market Studies 40: 471–90.

Mitzen, J. (2006) 'Ontological Security: Implications for the EU', Journal of European Public Policy Special Issue 13(2): 270-85.

Risse-Kappen, T. (1996) 'Exploring the Nature of the Beast: International Relations Theory and Comparative Policy Analysis Meet the European Union', Journal of Common Market Studies 34: 53–79.

Rosencrance, R. (1998) 'The European Union: A New Type of International Actor', in J. Zielonka (ed.) Paradoxes of European Foreign Policy, The Hague: Kluwer Law International.

Sjursen, H. (2006) 'The EU as a "Normative Power": How Can This Be?, Journal of European Public Policy Special Issue 13(2): 235-51.

Smith, S. (2000) 'The Increasing Insecurity of Security Studies: Conceptualising Security in the Last Twenty Years', in S. Croft and T. Terriff (eds) Critical Reflections on Security and Change, Portland, OR: Frank Cass.

Stavridis, S. (2001) 'Militarizing the EU: The Concept of Civilian Power Europe Revisited', International Spectator 36(4): 43-50.

Wagner, W. (2006) 'The Democratic Control of Military Power Europe', Journal of European Public Policy Special Issue 13(2): 200-16.

West European Union (1992) Council of Ministers. Petersberg Declaration.

Whitman, R. (1998) From Civilian Power to Superpower? The International Identity of the European Union, Basingstoke: Macmillan.

Zürn, M. (2000) 'Democratic Governance Beyond the Nation-State: the EU and Other International Institutions', European Journal of International Relations 6: 183–221.

1.6. WP 6

Jacobsson, K. and Å. Vifell (2005) 'Soft governance, employment policy and committee deliberation', in E. O. Eriksen (ed.) *Making the European Polity: Reflexive Integartion in the EU*, London: Routledge.

Menéndez, A. J. (2005a) 'The purse of the polity', in E. O. Eriksen (ed.) *Making the European Polity: Reflexive Integration in the EU*, London: Routledge.

Menéndez, A. J. (2005d) 'Between Laeken and the Deep Blue Sea: An Assessment of the Draft Constitutional Treaty from a Deliberative-Democratic Standpoint', *European Public Law* 11(1): 105-44.

Menéndez, A. J. (2007) *A Social and Democratic Europe*, forthcoming, 2007.

Menénedez, A. J. (2005b) 'Which social and tax policy for which European Union?', framework paper for the CIDEL workshop 'Which social and tax policy for which European Union?', Stockholm 10-11 June 2005.

Menénedez, A. J. (2005c) 'Taxing Europe: Two Cases for a European Power to Tax (with some comparative observations)', *Columbia Journal of European Law* 10(2) (Spring 2004): 298-338.

1.7. WP 7

Eriksen, E. O. (ed.) (2005) *Making the European Polity: reflexive integration in the EU*, London: Routledge.

VII. ANNEXES

1. List of Events

Conference: 'The Forging of Deliberative Supranationalism in Europe', Florence, 7-8 February 2003.

Workshop: 'Deliberative Constitutional Politics in the EU', Albarracín, 20-21 June 2003.

Workshop: 'Towards a European Constitution?', University of Exeter, November 2003.

Workshop: 'One EU – Many Publics?', Stirling, 5-6 February 2004.

Workshop: 'Justifying Enlargement', Avila, 7-8 May 2004.

Workshop: 'European Union Enlargement: facing the challenges', University of Exeter, May 2004.

Workshop: 'From Civilian to Military Power: the European Union at a Crossroads?', Oslo, 22-23 October 2004.

Workshop: 'The Constitution of the European Union', University of Exeter, October 2004.

Workshop: 'Constitution Making and Democratic Legitimacy in the European Union', London, 12-13 November 2004.

Seminar: 'The European Constitution: a Europe of Citizens or of States?', Oslo, 11 May 2005.

Workshop: 'Which Social and Tax Policy for which European Union?', Stockholm, 10-11 June 2005.

Workshop: 'European Constitution-Making and the Public Sphere', Bergen, 2-3 September 2005 (jointly between CIDEL and University of Bergen).

Conference: 'Law and Democracy in Europe's Post-National Constellation', Florence, 22-24 September 2005.

Conference: 'What now? The EU at a crossroads', ARENA Conference Series, Oslo, 25 November 2005.

2. Books and Special Issue

Aziz, M. (2004) *The Impact of European Rights on National Legal Cultures*, Oxford: Hart Publishing.

Castiglione, D. et al. (2006) *The Convention Moment: An Experiment in European Constitutional Politics.* Basingstoke: Palgrave-MacMillan, forthcoming.

Castiglione. D., Bellamy, R. and Santoro, E. (eds) (2004) *Lineages of European Citizenship: Rights, Belonging and Participation in Eleven Nation-States*. Basingstoke: Palgrave Macmillan.

Castiglione, D., Bellamy R. and Shaw, J. (eds) (2006) *Making European Citizens: civic inclusion in a transnational context*, Basingstoke: Palgrave-MacMillan, forthcoming.

Castiglione, D. and Longman, C. (eds) (2006) *The Language Question in Europe and Diverse Societies: Political, legal and social perspectives*. Oxford: Hart Publishing (in press).

Closa, C. and Fernández, N. (eds) (2005) *La constitución de la UE,* Madrid: Centro de Estudios Políticos y Constitucionales.

Closa, C. and Fossum, J. E. (eds) (2005) 'Deliberative Constitutional Politics', *European Law Journal* Symposium, Vol. 11, No. 4.

Eriksen, E. O. (2005) (ed.) *Making the European Polity: Reflexive Integration in the EU,* London: Routledge, 2nd book in the series 'Routledge Studies on Democratizing Europe'.

Eriksen, E. O.; Fossum, J. E. and Menéndez, A. J. (2003) (eds) *En Författning för Europa?,* Göteborg: Daidalos.

Eriksen, E. O.; Fossum, J. E. and Menéndez, A. J. (2003) (eds) *The Chartering of Europe. The European Charter of Fundamental Rights and its Constitutional Implications*, Baden-Baden: Nomos.

Eriksen, E. O.; Fossum, J. E. and Menéndez, A. J. (2004) (eds) *Developing a Constitution for Europe,* London: Routledge, 1st book in the series *Routledge Studies on Democratizing Europe.*

Everson, M. (ed.) (2006/2007) *Law's Contested Citizen: the making of the European Citizen*, forthcoming.

Everson, M. and Eisner, J. (2006/2007) *The Constitution Transfigured: judges and the making of the EU Constitution*, forthcoming.

Fossum, J. E. and Schlesinger, P. (2006) (eds) *Europeanisation and the Public Sphere: a communicative space in the making?* London: Routledge, forthcoming in the series 'Routledge Studies on Democratizing Europe'.

Joerges, C. and Blokker, P. (eds) (2005) Confronting Memoires: European "Bitter Experiences" and the Constitutionalization Process, *German Law Journal* special issue, Vol. 6, No. 2.

Joerges, C. and Zürn, M (eds) (2005) *Law and Governance in Postnational Europe. Compliance Beyond the Nation-State*. Cambridge: Cambridge University Press.

Joerges, C., Stråth, B. and Wagner, P. (eds) (2005) *The Economy as Polity: The Political Constitution of Contemporary Capitalism*. London: UCL Press.

Menéndez, A. J. (2006/2007) (ed.) *A Social and Democratic Europe*. Forthcoming, 2007.

Schönlau, J. (2005): *Drafting the EU-Charter: Rights, Legitimacy and Process*, Basingstoke: Palgrave-Macmillan.

Sjursen, H. (2006) (ed.) *Questioning EU enlargement: Europe in search of identity*, London: Routledge, 3rd book in the series *Routledge Studies on Democratizing Europe.*

Sjursen, H. (2006) (ed.) 'What kind of power? European foreign policy in perspective', *Journal of European Public Policy*, Special Issue, Vol. 13, No. 2. Forthcoming in the series 'Routledge Studies on Democratizing Europe'.

3. Reports

Blæss, G.-M. (2004) 'EU og Habermas' diskursteoretiske demokratimodell. Et prosedyremessig rammeverk for et postnasjonalt demokrati?', ARENA Report 8/04.

Closa, C and Fossum, J. E. (eds) (2004) 'Deliberative Constitutional Politics in the EU', ARENA Report 5/04, Oslo/Zaragoza: ARENA.

Eriksen, E. O.; Fossum, J. E.; Kumm, M. and Menéndez, A. J. (2005) 'The European Constitution: the Rubicon Crossed?', ARENA Report 3/05, Oslo: ARENA.

Eriksen, E. O.; Joerges, C. and Neyer, J. (2003) (eds) 'European Governance, Deliberation and the Quest for Democratisation', ARENA Report 2/03, Oslo/Florence: ARENA.

Fossum, J. E.; Kværk, G. O. and Schlesinger, P. (eds) (2006) 'Europeanisation and Social movements', ARENA Report, Oslo/Stirling: ARENA, forthcoming.

Kværk, G. O. (2003) 'Legitimering gjennom rettigheter. En studie av arbeidet med EUs Charter om grunnleggende rettigheter, og sivilsamfunnets bidrag til dette', ARENA Report 6/03, Oslo: ARENA.

Pinholt, K. (2004) 'Influence through Arguments?', ARENA Report 3/04, Oslo: ARENA.

Romsloe, B. O. (2004) 'Mellom makt og argumentasjon: En analyse av småstater i EUs felles utenriks- og sikkerhetspolitikk', ARENA Report 2/04, Oslo: ARENA.

Sjursen, H. (2005) (ed.) 'Enlargement in Perspective', ARENA Report 2/05, Oslo: ARENA.

Stie, A. E. (2002) 'Preconditions for Democracy: National Identity versus Constitutional Patriotism. A Theoretical Analysis of the German Federal Constitutional Court's Maastricht Judgement', ARENA Report 9/02, Oslo: ARENA.

Witnes Karlson, V. (2004) 'EU - en normativ internasjonal aktør? En analyse av Russland i EUs utenrikspolitikk', ARENA Report 7/04, Oslo: ARENA.

4. Journal articles and book chapters

Aziz, M (2006) 'Chinese whispers: the citizen, the law and the constitution', Chapter 10 in D. Castiglione et al.: The Convention Moment: An Experiment in European Constitutional Politics, Basingstoke: Palgrave-MacMillan, forthcoming.

Aziz, M. (2004) 'Mainstreaming the Duty of clarity and Transparency as part of Good Administrative Practice in the EU', European Law Journal, Vol. 10, No. 3, pp. 282-95.

Bicchi, F. (2006) '"Our size fits all": normative power Europe and the Mediterranean, Journal of European Public Policy, Vol. 13, No. 2, 2006, pp. 286-303.

Castiglione, D. (2004) 'Reflections on Europe's constitutional future', Constellations, Vol. 11, No. 3, pp. 393-411.

Castiglione, D. (2005) Review Article: 'Did Europe need a Constitution? Between Facts and Theories', European Political Science, Vol. 4, No. 4, 2005, pp. 374-83.

Castiglione, D. (2006) 'Introduction: Negotiating language regimers', Chapter 1 in D. Castiglione and C. Longman (eds) The Language Question in Europe and Diverse Societies: Political, legal and social perspectives. Oxford: Hart Publishing, forthcoming.

Castiglione, D. (2006) 'The Convention in context', Chapter 1 in D. Castiglione et al.: The Convention Moment: An Experiment in European Constitutional Politics, Basingstoke: Palgrave-MacMillan, forthcoming.

Castiglione, D. (2006) 'Was there a constitutional moment, or did we miss it?', Chapter 2 in D. Castiglione et al.: The Convention Moment: An Experiment in European Constitutional Politics, Basingstoke: Palgrave-MacMillan, forthcoming.

Castiglione, D. (2006) 'We the citizens? Representation and participation in EU constitutional politics', Chapter 4 in D. Castiglione, R. Bellamy and J. Shaw (eds) Making European Citizens: civic inclusion in a transnational context, Basingstoke: Palgrave-MacMillan, forthcoming.

Castiglione, D. and Bellamy, R. (2003) 'Beyond Community and Rights: European Citizenship and the Virtues of Participation', Quaderni Fiorentini, Vol. 31, No. 1, pp. 349-80.

Castiglione, D. and Bellamy, R. (2004) 'Normative Theory and the European Union', in L. Trägårdh (ed.) After National Democracy: Rights, Law and Power in America and the New Europe, Oxford: Hart Publishing.

Castiglione, C., Bellamy, R. and Shaw, J. (2006) 'Introductory essay: from national to transnational citizenship', Chapter 1 in D. Castiglione, R. Bellamy and J. Shaw (eds) Making European Citizens: civic inclusion in a transnational context, Basingstoke: Palgrave-MacMillan, forthcoming.

Castiglione, D. and Schönlau, J. (2006) Entry on 'Constitutional Politics' in the SAGE Handbook of the European Union, Sage Publications, London, forthcoming.

Closa, C. (2003) 'The Finality Debate in Spain: Explaining Absences, revealing Presences', in S. Serfaty (ed) The Finality Debate and its Transatlantic Dimension, Washington: CSIS, pp. 180-210.

Closa, C. (2004) 'Spanish citizenship: democracy building and plural nationhood in the European context', in R. Bellamy, D. Castiglione and E. Santoro (eds) Lineages of European Citizenship. National and Historical Perspectives, London: Palgrave, pp. 130-47.

Closa, C. (2004) 'The Convention method and the transformation of EU constitutional politics', in E. O. Eriksen, J. E. Fossum and A. J. Menéndez (eds) Developing a Constitution for Europe, London: Routledge, pp. 183-206.

Closa, C. (2004) 'The Formation of Domestic Preferences on the EU Constitution in Spain', Comparative European Politics, No. 2, pp. 320–38.

Closa, C. (2004) 'The Spanish intellectual debate on the future of the EU: Who was mobilized and with what effects?' South European Society and Politics, Vol. 9, No. 1, pp. 82-96.

Closa, C. (2004) 'The value of the institutions. Mandate and self-mandate in the Convention process', Politique Européenne, No. 13, 2004 (Special issue: 'The European Convention: Anatomy of a "consensus"'). Spanish version in Cuadernos Europeos de Deusto, 30, pp. 39-56.

Closa, C. (2005) 'Constitution and Democracy in the Treaty establishing a Constitution for Europe', European Public Law, Vol. 11, No. 1, pp. 145-64.

Closa, C. (2005) 'Deliberative Constitutional Politics and the Turn Towards a Norms-Based Legitimacy of the EU Constitution', European Law Journal, Vol. 11, No. 4, pp. 411-31.

Eriksen, E. O. (2003) 'Why a Charter of Fundamental Human Rights in the EU?', Ratio Juris, Vol. 16, No. 3, pp. 352-73.

Eriksen, E. O. (2003) 'Why a Constitutionalised Bill of Rights', in E. O. Eriksen, J. E. Fossum and A. J. Menéndez (eds) The Chartering of Europe. The European Charter of Fundamental Rights and its Constitutional Implications, Baden-Baden: Nomos, pp. 48-70.

Eriksen, E. O. (2003) 'Från rättighetsstadga till författning', in E. O. Eriksen, J. E. Fossum and A. J. Menéndez (eds) En författning för Europa? Göteborg: Daidalos, pp. 225-56.

Eriksen, E. O. (2004) 'The EU and the right to self-government', in E. O. Eriksen, J. E. Fossum and A. J. Menéndez (eds) Developing a Constitution for Europe, London: Routledge, pp. 35-58.

Eriksen, E. O. (2005) 'Introduction', in E. O. Eriksen (ed.) Making the European Polity: reflexive integration in the EU, London: Routledge, pp. 1-6.

Eriksen, E. O. (2005) 'Conclusion: from reflexive integration to deliberative supranationalism', in E. O. Eriksen (ed.) Making the European Polity: reflexive integration in the EU, London: Routledge, pp. 253-70.

Eriksen, E. O. (2005) 'Reflexive integration in Europe', in E. O. Eriksen (ed.) Making the European Polity: reflexive integration in the EU, London: Routledge, pp. 9-29.

Eriksen, E. O. (2005) 'An Emerging European Public Sphere', European Journal of Social Theory, Vol. 8, No. 3, pp. 341-363.

Eriksen, E. O. (2006) 'The EU - a cosmopolitan polity?', by Erik Oddvar Eriksen, Journal of European Public Policy, Vol. 13, No. 2, pp. 252-69.

Eriksen, E. O. and Fossum, J. E. (2004) 'Europe at a Crossroads: Government or Transnational Governance?', in C. Joerges, I.-J. Sand and G. Teubner (eds) Transnational Governance and Constitutionalism, Oxford: Hart Publishing.

Eriksen, E. O. and Fossum, J. E. (2004) 'Europe in Search of Legitimacy: Strategies of Legitimation Assessed', International Political Science Review, Vol. 25 No. 4, pp. 435-59.

Eriksen, E. O., Fossum, J. E. and Menéndez, A. J. (2003) 'Inledning', in E. O. Eriksen, J. E. Fossum and A. J. Menéndez (eds) En författning för Europa? Göteborg: Daidalos, pp. 7-17.

Eriksen, E. O., Fossum, J. E. and Menéndez, A. J. (2003) 'The Charter in Context', in E. O. Eriksen, J. E. Fossum and A. J. Menéndez (eds) The Chartering of Europe. The European Charter of Fundamental Rights and its Constitutional Implications, Baden-Baden: Nomos, pp. 17-29.

Eriksen, E. O., Fossum, J. E. and Menéndez, A. J. (2004) 'Introduction: a constitution in the making?' in E. O. Eriksen, J. E. Fossum and A. J. Menéndez (eds) Developing a Constitution for Europe, London: Routledge, pp. 1-16.

Eriksen, E. O., Fossum, J. E. and Sjursen, H. (2005) 'Widening or reconstituting the EU?', in E. O. Eriksen (ed.) Making the European Polity: reflexive integration in the EU, London: Routledge, pp. 237-52.

Everson, M. (2003) '"Subjects" or "Citizens" of "Erewhon?" Law and Non-Law in the Development of a "British Citizenship"', Citizenship Studies, Vol. 7, No. 1, pp. 57-84.

Everson, M. (2003) 'Social Pluralism and the European Court of Justice. A Court between a Rock and a Hard Place', The Journal of Legislative Studies, Vol. 8, No. 4, pp. 98-116.

Everson, M. (2004) 'Accountability and Law in Europe: Towards a New Public Legal Order?', Modern Law Review, Vol. 67, No. 1, pp. 124-38.

Everson, M. (2004) 'Law and Non-law in the Constitutionalisation of Europe: Comments on Eriksen and Fossum', in C. Joerges, I.-J. Sand and G. Teubner (eds) Transnational Governance and Constitutionalism, Oxford: Hart Publishing, pp. 147-60.

Everson, M. (2005) 'Control of Executive Acts: The Procedural Solution. Proportionality, State of the Art Decision-Making and Relevant Interests', in D. Curtin, A. E. Kellermann and S. Blockmans (eds) EU Constitution: the Best Way Forward (Proceedings of the Asser Colloqium 2004). The Hague: Asser Press, pp. 181-200.

Everson, M. (2005) 'Good Governance and European Agencies: the Balance', in D. Geradin (ed.) Regulation Through Agencies In The EU. Cheltenham: Edward Elgar.

Everson, M. (2005) 'Legal Constructions of the Consumer', in G. Haupt and F. Trentmann (eds) Knowing Consumers: Actors, Images, Identities in Modern Consumption. Berg Publishing: Oxford.

Everson, M. (2006) 'Majone's Europe: REVIEW Article', European Political Science, Vol. 5, No. 1.

Everson, M. and Eisner, J. (2004) 'Forgetting Law in the European Convention? Europe's "hidden" Constitution-building and its Legitimiation', in D. O'Keefe and T. Tridimas (eds) Proceedings of the Hart Workshop on European Constitutionalism (2003), Oxford: Hart Publishing, pp. 198-208.

Everson, M. and Joerges, C. (2005) 'The European Turn to Governance and Unanswered Questions of Legitimacy', in C. Joerges, B. Stråth and P.Wagner (eds) The Economy as a Polity. London: UCL Press, pp. 159-82.

Everson, M. and Joerges, C. (2006) 'Re-Conceptualising Europeanisation as a Public Law of Collisions: Comitology, Agencies and an Interactive Public Adjudication', in H. C. H. Hofmann and A. H. Türk (eds) EU Administrative Governance. Cheltenham: Edward Elgar, pp. 594-628.

Foret, F. (2006) 'Constitution européenne et présupposés de la démocratie', Politique européenne, forthcoming.

Foret, F. and Costa, O. (2005) 'A consociative exportable European model? Institutional design and relations between politics and religion', European Foreign Affairs Review, Vol. 10, No. 4.

Fossum, J. E. (2003) 'Konstitutionsbyggande och demokratisk legitimitet i Europeiska unionen', in E. O. Eriksen, J. E. Fossum and A. J. Menéndez (eds) En författning för Europa? Göteborg: Daidalos, pp. 173-97.

Fossum, J. E. (2003) 'The European Charter: Between Deep Diversity and Constitutional Patriotism', in E. O. Eriksen, J. E. Fossum and A. J. Menéndez (eds) The Chartering of

Europe. The European Charter of Fundamental Rights and its Constitutional Implications, Baden-Baden: Nomos, pp. 228-55.

Fossum, J. E. (2003) 'The European Union In Search of an Identity', European Journal of Political Theory, Vol. 2, No. 3, pp. 319-40.

Fossum, J. E. (2004) 'Still a Union of deep diversity?', in E. O. Eriksen, J. E. Fossum and A. J. Menéndez (eds) Developing a Constitution for Europe, London: Routledge, pp. 226-247.

Fossum, J. E. (2004) 'Why Compare Canada and the European Union - and How?', in P.M. Crowley (ed.) Crossing the Atlantic, Comparing the European Union and Canada, Aldershot: Ashgate.

Fossum, J. E. (2005) 'Charters and Constitution Making: Comparing the Canadian Charter of Rights and Freedoms and the European Charter of Fundamental Rights', in G. Kernerman and P. Resnick (eds) Insiders and Oustiders. Alan Cairns and the Reshaping of Canadian Citizenship, Vancouver: UBC Press, pp. 148-62.

Fossum, J. E. (2005) 'Contemporary European constitution-making: constrained or reflexive?', in E. O. Eriksen (ed.) Making the European Polity; reflexive integration in the EU, London, Routledge, pp. 143-66.

Fossum, J. E. (2005): 'Conceptualizing the EU's Social Constituency', European Journal of Social Theory, Vol. 8 No. 2, pp. 123-47.

Fossum, J. E. and Menéndez, A. J. (2005) 'Democratic constitution-making - Reflections on the European experiment', Austrian Journal of Political Science, Vol. 34, No. 3, pp. 249-62.

Fossum, J. E. and Menéndez, A. J. (2005) 'The Constitution's Gift? A Deliberative Democratic Analysis of Constitution Making in the European Union', European Law Journal, Vol. 11, No. 4, pp. 380-410.

Jacobsson, K. and Vifell, Å. (2005) 'Soft Governance, Employment Policy and Committee Deliberation', in E. O. Eriksen (ed.) Making The European Polity: Reflexive integration in the EU London: Routledge, pp. 214-36.

Joerges, C. (2003) 'Legitimität der Europäisierung des Privatrechts. Überlegungen zu einem Rechts-Fertigungs-Recht für das Mehrebenensystem der EU', in C. Joerges and G. Teubner (eds) Rechtsverfassungsrecht – Recht-Fertigung zwischen Privatrechtdogmatik

und Gesellschaftstheorie. Internationale Studien zur Privatrechtstheorie, Bd 4, Baden-Baden: Nomos, pp. 183-212.

Joerges, C. (2004) 'Law, economic and politics in the constitutionalisation of Europe', in 5 (2002-2003) The Cambridge Yearbook of European Legal Studies, Oxford-Portland.

Joerges, C. (2005) 'Compliance research in legal perspectives', in C. Joerges and M. Zürn (eds) Law and Governance in Postnational Europe.Compliance Beyond the Nation-State, Cambridge: Cambridge University Press.

Joerges, C. (2005) 'Confronting Memories: European "Bitter Experiences" and the Constitutionalization Process, German Law Journal, Vol. 6, No. 2, pp. 245-54.

Joerges, C. (2005) 'Europeanization as Process: Thoughts on the Europeanization of Private Law', European Public Law, Vol. 11, No. 1, pp. 63-84.

Joerges, C. (2005) Cosa resta della Costituzione economica europea?', Rivista Critica Del Diritto Privato, Vol. 23, No. 1, pp. 35-73.

Joerges, C. (2005) 'What is left of the European Economic Constitution? A Melancholic Eulogy', European Law Review, Vol. 30, No. 4, pp. 461-89.

Joerges, C. and Everson, M. (2004) 'Law, economics and politics in the constitutionalization of Europe', in E. O. Eriksen, J. E. Fossum and A. J. Menéndez (eds) Developing a Constitution for Europe, London: Routledge, pp. 162-180.

Joerges, C. and Neyer, J. (2003) 'Risk Management and Governance in the WTO', Science and Public Policy, Vol. 30, No. 3, pp. 219-225.

Joerges, C. and Rödl, F. (2004) 'Social Market Economy as Europe's Social Model?', in L. Magnusson and B. Stråth (eds) A European Social Citizenship? Preconditions for Future Policies from a Historical Perspective, Brussels: Peter Lang.

Longman, C. (2006) 'Deliberating in many tongues. The Convention's language regime', Chapter 5 in D. Castiglione et al.: The Convention Moment: An Experiment in European Constitutional Politics, Basingstoke: Palgrave-MacMillan, forthcoming.

Longman, C. (2006) 'English as Lingua Franca: a challenge to the doctrine of multilingualism', Chapter 9 in D. Castiglione and C. Longman (eds) The Language Question in Europe and Diverse Societies: Political, legal and social perspectives. Oxford: Hart Publishing, forthcoming.

Longman, C. and Péres-Solórzano Borragán, N. (2006) 'The constitutional construction of European values', Chapter 9 in D. Castiglione et al.: The Convention Moment: An Experiment in European Constitutional Politics, Basingstoke: Palgrave-MacMillan, forthcoming.

Lundgren, Å. (2006) 'The case of Turkey: are some candidates more 'European' than others?', chapter 7 in H. Sjursen (ed.) Questioning EU Enlargement: Europe in search of identity, London: Routledge, forthcoming.

Menéndez, A. J. (2003) '"Rights to Solidarity"': Balancing Solidarity and Economic Freedoms', in E. O. Eriksen, J. E. Fossum and A. J. Menéndez (eds) The Chartering of Europe. The European Charter of Fundamental Rights and its Constitutional Implications, Baden-Baden: Nomos, pp. 179-98.

Menéndez, A. J. (2003) 'Finalité Through Rights', in E. O. Eriksen, J. E. Fossum and A. J. Menéndez (eds) The Chartering of Europe. The European Charter of Fundamental Rights and its Constitutional Implications, Baden-Baden: Nomos, pp. 30-47.

Menéndez, A. J. (2003) 'The Sinews of Peace: Rights to Solidarity in the Charter of Fundamental Rights in the European Union', Ratio Juris, Vol. 16, No. 3, pp. 374-98.

Menéndez, A. J. (2003) 'Tillbaka till där det hela började. Europeiska unionens stadga om grundläggande rättigheter', in E. O. Eriksen, J. E. Fossum and A. J. Menéndez (eds) En författning för Europa? Göteborg: Daidalos, pp. 199-223.

Menéndez, A. J. (2004) 'Human Rights: The Charter of Fundamental Rights' in W. Carlsnaes, H. Sjursen and B. White (eds) Contemporary European Foreign Policy, London: Sage, pp. 239-51.

Menéndez, A. J. (2004) 'No Legitimacy without Politics: Comments on Jens Steffek', in C. Joerges, I. J. Sand and G. Teubner (eds) Transnational Governance and Constitutionalism, pp. 103-14.

Menéndez, A. J. (2004) 'Taxing Europe: Two Cases for a European Power to Tax (with some comparative observations)', The Columbia Journal of European Law, Vol. 10, No. 2, pp. 298-338.

Menéndez, A. J. (2004) 'Three conceptions of the European constitution,' in E. O. Eriksen, J. E. Fossum and A. J. Menéndez (eds) Developing a Constitution for Europe, London: Routledge, pp. 109-28.

Menéndez, A. J. (2005) 'A pious Europe? Why Europe should not define itself as Christian', European Law Review, Vol. 30, pp. 133-48.

Menéndez, A. J.(2005) 'A Christian or a Laïc Europe? Christian Values and European Identity', Ratio Juris, Vol. 18, No. 2, pp. 179-205.

Menéndez, A. J. (2005) 'Between Laeken and the Deep Blue Sea: An Assessment of the Draft Constitutional Treaty from a Deliberative-Democratic Standpoint', European Public Law, Vol. 11, No. 1, pp. 105-44.

Menéndez, A. J. (2005) 'Esperando a la Constitución Europea', Revista Española de Derecho Constitucional, Vol., 24, No. 72, pp. 87-120.

Menéndez, A. J. (2005) 'La linfa della pace: I diritti di solidarietà nella Carta dei Diritti dell'Unione Europea', Diritto e Questioni Pubbliche, Vol. 4, pp. 95-115.

Menéndez, A. J. (2005) 'The Purse of the Polity', in E. O. Eriksen (ed.) *Making the European Polity: Reflexive integration in the EU*, London: Routledge.

Neyer, J. (2003) 'Discourse and Order in the EU. A Deliberative Approach to Multi-Level Governance', *Journal of Common Market Studies*, Vol. 41, No. 3, pp. 687-706.

Neyer, J. (2003) 'Recht, Wirtschaft und Politik im Prozess der Konstitutionalisierung Europas', in M. Jachtenfuchs and B. Kohler-Koch (eds) *Europäische Integration*, Opladen: Leske & Budrich, pp. 183-218.

Neyer, J. (2004) 'Efficiency and Effectiveness in European Decision-Making: Explaining the unexpected', Journal of European Public Policy, Vol. 11, No. 1.

Neyer, J. (2005) 'Die Krise der EU und die Stärke einer deliberativen Integrationstheorie', *Zeitschrift für Internationale Beziehungen*, Vol. 12, No. 2, pp. 117-22.

Neyer, J. and Schröter, M. (2006) 'The Deliberative Turn in Integration Theory', *Journal of European Public Policy*, forthcoming.

Piedrafita, (2006) 'In spite of the costs? Moral constraints on Spain's enlargement policy', chapter 3 in H. Sjursen (ed.) Questioning EU Enlargement: Europe in search of identity, London: Routledge, forthcoming.

Piedrafita, S. and Torreblanca, J. I. (2005) 'The Three Logics of EU enlargement: Interests, Identities and Arguments', *Politique Européenne*, No. 15, pp. 29-59.

Riddervold, M. and Sjursen, H. (2006) 'The importance of solidarity: Denmark as a promoter of enlargement', chapter 5 in H. Sjursen (ed.) Questioning EU Enlargement: Europe in search of identity, London: Routledge, forthcoming.

Rödl, F. (2005) 'Europäisches Verfassungsziel "Soziale Marktwirtschaft" - kritische Anmerkungen zu einem populären Modell', *Integration*, Vol. 28, No. 2, pp. 150-61.

Romsloe, B. (2005) 'EUs utenriks- og sikkerhetspolitikk – teori og praksis', *Internasjonal politikk*, No 1, pp. 89-108.

Schlesinger, P. (2004) '"The Babel of Europe"? Essai sur les réseaux et espaces de communication", *Questions de communication*, No. 5, pp. 315-36.

Schlesinger, P. (2006) 'The Babel of Europe? Networks and communicative spaces', Chapter 11 in D. Castiglione and C. Longman (eds) *The Language Question in Europe and Diverse Societies: Political, legal and social perspectives*. Oxford: Hart Publishing, forthcoming.

Schlesinger, P. (2006) 'Is there a crisis in British journalism?', Media, Culture & Society, Vol. 28, No. 2.

Schlesinger, P. and Foret, F. (2006) 'Political Roof and Sacred Canopy: Religion and the EU Constitution', by. European Journal of Social Theory, Vol. 9, No. 1.

Schönlau, J. (2003) 'New Values for Europe? Deliberation, Compromise, and Coercion in Drafting the Preamble to the EU Charter of Fundamental Rights', in E. O. Eriksen, J. E. Fossum and A. J. Menéndez (eds) *The Chartering of Europe. The European Charter of Fundamental Rights and its Constitutional Implications*, Baden-Baden: Nomos, pp. 112-32.

Schönlau, J. (2006) 'Courts, Charters and Conventions: the Institutionalisation of Human Rights Protection in the European Union', in M. Brosig (ed.) *Human Rights in Europe – A Fragmented Regime?* Brussels: Peter Lang, forthcoming.

Schönlau, J. (2006) 'Legitimacy, membership and representation in the Convention', Chapter 3 in D. Castiglione et al.: *The Convention Moment: An Experiment in European Constitutional Politics*, Basingstoke: Palgrave-MacMillan, forthcoming.

Schönlau, J. (2006) 'The Convention method: controlled spontaneity and predictable surprises', Chapter 4 in D. Castiglione et al.: *The Convention Moment: An Experiment in European Constitutional Politics*, Basingstoke: Palgrave-MacMillan, forthcoming.

Schönlau, J. and Bellamy, R. (2004) 'The Good, the Bad and the Ugly: the Need for Constitutional Compromise and the Drafting of the EU Constitution', in L. Dobson and A. Føllesdal (eds) *Political Theory and the European Constitution*, London: Routledge, pp. 57-71.

Schönlau, J. and Bellamy, R. (2004) 'The Normality of Constitutional Politics: an Analysis of the Drafting of the EU Charter of Fundamental Rights', *Constellations*, Vol. 11, No. 3, pp. 412-33.

Sjursen, H. (2003) 'Understanding the Common Foreign and Security Policy: Analytical Building Blocs', in M. Knodt and S. Princen (eds) *Understanding the European Union's External Relations*, London: Routledge.

Sjursen, H. (2004) 'Changes to European Security in a Communicative Perspective', *Cooperation and Conflict*, Vol. 39, No. 3, pp. 107-28.

Sjursen, H. (2004) 'Security and Defence', in W. Carlsnaes, H. Sjursen and B. White (eds) *Contemporary European Foreign Policy,* London: Sage, pp. 59-75.

Sjursen, H. (2005) 'Towards a Post-national Foreign and Security Policy?', by Helene Sjursen, in E. O. Eriksen (ed.) Making the European Polity: Reflexive Integration in the EU, London: Routledge, pp. 167-86.

Sjursen, H. (2006) 'The EU as a "normative" power: how can this be?', *Journal of European Public Policy*, Vol. 13, No. 2, pp. 235-51.

Sjursen, H. (2006) 'Conclusion: the European Union between values and rights', by Helene Sjursen, chapter 11 in H. Sjursen (ed.) Questioning EU Enlargement: Europe in search of identity, London: Routledge, forthcoming.

Sjursen, H. (2006) 'Enlargement and the nature of the EU polity', chapter 1 in H. Sjursen (ed.) Questioning EU Enlargement: Europe in search of identity, London: Routledge, forthcoming.

Sjursen, H. (2006) 'What kind of power?', *Journal of European Public Policy*, Vol. 13, No. 2, pp. 169-81.

Sjursen, H. and Romsloe, B. (2006) 'Protecting the idea of Europe: France and enlargement', chapter 8 in H. Sjursen (ed.) Questioning EU Enlargement: Europe in search of identity, London: Routledge, forthcoming.

Sjursen, H. and Smith, K. (2004) 'Justifying EU Foreign Policy: the Logics Underpinning EU Enlargement', in T. Christiansen and B. Tonra (eds) *Rethinking EU Foreign Policy: Beyond the Common Foreign and Security Policy*, Manchester: Manchester University Press, pp. 126-40.

Trenz, H.-J. (2004) 'Media coverage on European governance. Testing the performance of national newspapers', *European Journal of Communication*, Vol. 19, No. 3, pp. 291-319.

Trenz, H.-J. (2005) 'Review Essay: The European public sphere: contradictory findings in a diverse research field', *European Political Science*, No. 4, pp. 407-20.

Verney, S. (2005) 'Political Conditionality and the Quality of Democracy: The Case of Greek Association and Accession to the European Community', in H. Kabaalioðlu, M. Dartan, M. Sait Akman, Ç. Nas (eds) The Europeanisation of South Eastern Europe: Domestic Impacts of the Accession Process to the EU, Istanbul: Marmara University/Turkish Universities Association for EC Studies YEAR, pp. 69-93.

Verney, S. (2006) 'Justifying the second enlargement: promoting interests, consolidating democracy or returning to the roots?', chapter 2 in H. Sjursen (ed.) Questioning EU Enlargement: Europe in search of identity, London: Routledge, forthcoming.

5. Working papers and policy memos

Aziz, M (2003) 'Some Comments on the Draft Constitutional Treaty Provisions Concerning Citizenship', *Federal Trust*, April 2003.

Bicchi, F. (2003) 'Defining European Interests in Foreign Policy: Insights from the Mediterranean Case', ARENA Working Paper 13/03.

Brunkhorst, H (2003) ' A Polity without a State? European Constitutionalism between Evolution and Revolution', ARENA Working Paper 14/03.

Castiglione, D. (2002) 'From the Charter to the Constitution of Europe? Notes on the Constitutionalisation process in the EU', *Queen's Papers on Europeanisation*, 5.

Castiglione, D. (2005) 'Are those that forget the past doomed to repeat its mistakes? A Comment on Christian Joerges', EUI Working Paper Law, No. 2005/14.

Closa, C. (2002) 'Sisyphus Revisited: Options for the EU's Constitutional Future, ConWeb Papers, 1/2003, University of Manchester and Federal Trust.

Closa, C. (2003) ' Improving EU Constitutional Politics? A Preliminary Assessment of the Convention ', *ConWeb Papers*, No 1/2003, University of Manchester and Federal Trust.

Closa, C. (2004) 'El fracaso del Consejo Europeo de Bruselas y el futuro de la constitución', (ARI) ARI No. 14/2004 (29.1.2004)

Closa, C. (2004) 'La ratificación de la Constitución de la UE: un campo de minas', (ARI) ARI No. 120/2004.

Closa, C. (2004) 'Ratifying the EU Constitution: Referendums and their Implications', The Brookings Institution, U.S.-Europe Analysis Series, Center on the United States and Europe, November 2004.

Closa, C. (2005) 'Quo vadis, Europa? Seis opciones para una crisis constitucional', ARI No. 76/2005, 13 june 2005.

Closa, C. (2005) 'Sisyphus Revisited: Options for the EU's Constitutional Future', The Brookings Institution, U.S.-Europe Analysis Series, July 2005.

Crum, B. (2003) ' Towards Finality? A Preliminary Assessment of the Achievements of the European Convention ', ARENA Working Paper 4/03.

Devrim, D. (2005) 'One enlargement: competing rationales. Enlargement justifications in Germany, France, the UK and the Netherlands', Research Report. CPA Estudios/Working Papers. Department of Political Science, UNED, Madrid.

Eriksen, E. O. (2003) 'The EU and the Right to Self Government', ARENA Working Paper 17/03.

Eriksen, E. O. (2004) 'A Cosmopolitan Europe in the Making?', Instituto Universitario de Investigación, Ortega y Gasset, Working paper 3/04.??

Eriksen, E. O. (2004) 'Conceptualizing European Public Spheres. General, Segmented and Strong Publics', ARENA Working Paper 3/04.

Eriksen, E. O. (2004) 'Democratic or Jurist Made Law? On the Claim to Correctness', ARENA Working Paper 7/04.

Eriksen, E. O. (2005) 'Towards a Cosmopolitan EU?' ARENA Working Paper 9/05.

Eriksen, E. O., Fossum, J. E. and Menéndez, A. J. (2004) 'Crossing the Political Rubicon', *The Federalist Debate*, Year 17, No 2.

Eriksen, E. O., Menéndez, A. J., Stie., A. E. and Trenz, H.-J. (2005) 'The troubled re-politicization of Europe', Federal Trust Constitution Newsletter July 2005.

Eriksen, E.O. (2004) 'A Cosmopolitan Europe in the Making?', Instituto Universitario de Investigación, Ortega y Gasset, Working paper 3/04.

Foret, F. (2004) 'Europe: la culture en politique(s): entretien avec Vivian Reding', *Médiamorphoses*, September 2004, pp. 74-7.

Foret, F. (2005) 'From spirituality to governance? Religion, identity and the European Public sphere', epsnet Kiosk Plus: *THE NET Journal of Political Science*, Vol. 3, No. 1, June 2005, pp. 59-65.

Foret, F. and Soulez, G. (2004) 'L'Europe comme espace politique et médiatique', *Médiamorphoses*, September 2004, pp. 21-3.

Fossum, J. E. (2003) 'Still a Union of Deep Diversity? The Convention and the Constitution for Europe', ARENA Working Paper 21/03.

Fossum, J. E. (2003) 'The European Charter - Between deep Diversity and Constitutional Patriotism?', ARENA Working Paper 5/03.

Fossum, J. E. (2004) 'De-configuring the European Union - A Comparative Approach', ARENA Working Paper 14/04.

Fossum, J. E. (2005) 'Contemporary European Constitution-making: Constrained or Reflexive?', ARENA Working Paper 4/05.

Fossum, J. E. and Menéndez, A. J. (2004) 'The Constitution's Gift: From Treaty to Constitution', Instituto Universitario de Investigación Ortega y Gasset, Departamento de Estudios Europeos, Working Paper 1/04.

Fossum, J. E. and Menéndez, A. J. (2005) 'Democratic Constitution-making - Reflections on the European experiment', ARENA Working Paper 18/05.

Fossum, J. E. and Menéndez, A. J. (2005) 'The Constitution's gift? A Deliberative Democratic Analysis of Constitution-making in the European Union', ARENA Working Paper 13/05.

Fossum, J. E. and Menéndez, A. J. (2005) 'The Draft Constitutional Treaty: Between Problem-Solving Treaty and Rights-Based Constitution', EIPA Working Paper 2005/W/04, Maastricht: European Institute of Public Administration.

Fossum, J. E. and Trenz, H.-J. (2005) 'The EU's fledgling society: From deafening silence to critical voice in European constitution making', ARENA Working Paper 19/05.

Joerges, C. (2005) 'Rethinking European Law's Supremacy: A Plea for a Supranational Conflict of Laws' (with comments by Damian Chalmers, Rainer Nickel, Florian Rödl, Robert Wai), EUI Working Paper Law 12/2005, forthcoming in B. Kohler-Koch and B. Rittberger (eds) *Debating the Democratic Legitimacy of the European Union*, Lanham MD: Rowman.

Joerges, C. (2005) 'What is Left of the European Economic Constitution?', EUI Working Paper Law 13/04. Spanish version: '¿Qué tiene de social-demócrata la Constitución Económica Europea?, 73 *Revista Española de Derecho Constitucional* 2005, 9-53. German version: 'Macht Europa seiner Wirtschaftsverfassung den Prozess? – Ein melancholischer Rückblick', in G. Brüggemeier (ed.) *Liber Amicorum Eike Schmidt*, Heidelberg: C.F.Müller 2005. Italian version: 'Cosa resta della Costituzione economica europea?', XXIII:1 2005 *Rivista Critica Del Diritto Privato*. French version: 'Que reste-t-il de la Constitution économique européenne après la constitutionnalisation de l'Europe? – Une rétrospective mélancolique' *Cahier Européen* 1/2005.

Joerges, C. (2005) 'Working through "Bitter Experiences" towards Constitutionalisation: A Critique of the Disregard for History in European Constitutional Theory', with a comment by Dario Castiglione, EUI Working Paper Law 2005.

Joerges, C. and Rödl, F. (2004) 'The "Social Market Economy" as Europe's Social Model?', EUI Working Paper Law 8/04.

Koelling, M. (2005) 'La Posición y estrategia alemana en las negociaciones sobre el nuevo marco financiero de la Unión Europea, Real Instituo Elcano, DT 27/2005.

Kölling, M. (2005) 'On the Spanish parliamentary debate about the ratification of the European Constitution', Working paper, University of Zaragoza, 3 March 2005.

Kölling, M. (2005) 'The Ratification Process of the EU Constitution in Poland: Situation and Perspective', working paper, University of Zaragoza, 10 August 2005.

Kölling, M. (2005) Working paper on the German parliamentary debate about the ratification of the European Constitution, University of Zaragoza, 19 May 2005.

Koopmans, R. and Pfetsch, B. (2003) 'Towards an Europeanised Public Sphere? Comparing Political Actors and the Media in Germany', ARENA Working Paper 23/03.

Menéndez, A. J. (2003) 'Taxing Europe. Two Cases for a European Power to Tax', ARENA Working Paper 3/03.

Menéndez, A. J. (2003) 'The Rights' Foundations of Solidarity: Social and Economic Rights in the Charter of Fundamental Rights of the European Union', ARENA Working Paper 1/03.

Menéndez, A. J. (2003) 'Three Conceptions of the European Constitution', ARENA Working Paper 12/03.

Menéndez, A. J. (2004) 'A pious Europe? Why Europe should not define itself as Christian', ARENA Working Paper 10/04.

Menéndez, A. J. (2004) 'Between Laeken and the Deep Blue Sea: a Deliberative-democratic Assessment of the Draft Constitutional Treaty', Instituto Universitario de Investigación Ortega y Gasset, Departamento de Estudios Europeos, Working Paper 4/04.

Menéndez, A. J. (2005) 'Neither Constitution, Nor Treaty. A Deliberative-Democratic Analysis of the Constitutional Treaty of the European Union', ARENA Working Paper 8/05.

Menéndez, A. J. (2005) 'No Representation without Taxation, or how a European Savings Income Tax could be the way out of the financial deadlock', Elcano Royal Institute for International Affairs ARI 84/2005.

Menéndez, A. J. (2005) 'The Purse of the Polity. Tax Power in the European Union', ARENA Working Paper 7/05.

Menéndez, A. J. (2005) 'Una solución al estancamiento financiero: un impuesto europeo sobre el ahorro', Elcano Royal Institute for International Affairs ARI 24/2005, Madrid.

Mörth, U. (2004) 'The EU as Normative Power in the WTO (?)', SCORE Working Paper 10/04.

Neyer, J. (2002) 'Das Recht im Prozess der Konstitutionalisierung Europas', *Arbeitspapiere* - Mannheimer Zentrum für Europäische Sozialforschung 52.

Piedrafita, S. (2005) 'The EU Eastern enlargement: policy choices of the Spanish government', European Integration online Papers, Vol. 9, No. 3.

Rigo, A. (2005) 'The ratification of the European Constitution in Belgium: five months of negotiation concerning the question of convening a referendum', Working paper, Faculté

de Science politique, Département des Relations Internationales, Université Catholique de Louvain la Neuve, March 2005.

Rigo, A. (2005) 'Why the Netherlands will convoke a referendum in order to ratify the European Constitution? - On a way towards more direct democracy', Faculté de Science politique, Département des Relations Internationales, Université Catholique de Louvain la Neuve, March 2005.

Rödl, F. (2005) 'There is no Legitmacy beyond Democracy!' - and its Consequences, Comment on Ch. Joerges, 'Rethinking European Law's Supremacy', EUI Law Working Paper 12/2005.

Romsloe, B. O. (2004) 'EU's External Policy: Are the Lilliputians Impotent or Potent? The Case of Crisis Management in the Amsterdam Treaty', ARENA Working Paper 23/04.

Ruiz, A. (2004) 'La identidad europea de los españoles (I): Sentido pasado y presente de la identificación con Europa en España' ['The European identity of Spanish citizens (I): meaning, past and present, of European identification in Spain'], Elcano Royal Institute Working Papers 61/2004.

Ruiz, A. (2005) 'Identidad europea y lealtad a la nación: un compromiso posible' ['European identity and national loyalty: a workable compromise'], Revista Española de Ciencia Política, No. 12, 2005, pp. 99-127.

Ruiz, A. (with J. Noya) (2004) 'Los españoles ante el Tratado Constitucional y el proyecto de integración europea' ['Spaniards, the Constitutional Treaty and the project of European integration'], Elcano Royal Institute Working Papers 62/2004.

Schlesinger, P. (2003) ' The Babel of Europe? An essay on Networks and Communicative Spaces ', ARENA Working Paper 22/03.

Schlesinger, P. (2004) 'Des État-nations à l'Europe, des espaces de communications aux réseaux?', *Médiamorphoses*, No. 12, pp. 32-8.

Schönlau, J. (2005) 'Spielräume für die EU Außenpolitik zwischen Europäischer Verfassung und finanzieller Vorausschau', working paper, Friedrich Ebert Stiftung Brüssel, 2005.

Schönlau, J. (with M. Incerti and S. Kurpas) (2005) 'What Prospects for the European Constitutional Treaty? – Monitoring the Ratification Debates', EPIN Working Paper 13/05, May 2005.

Schönlau, J. and Bellamy, R. (2003) 'The Normality of Constitutional Politics: an Analysis of the Drafting of the EU Charter of Fundamental Rights', ConWeb Papers 6/2003.

Schönlau, J., Torreblanca, J. I. et al. (2005) '"A Citizens Compact: Reaching out to the Citizens of Europe" – An initiative proposed by members of the European Policy Institute Network (EPIN)', EPIN Working Paper 14/05, September 2005.

Sjursen, H. (2003) ' Security and Defence ', ARENA Working Paper 10/03.

Sjursen, H. (2003) 'Understanding the Common Foreign and Security Policy: Analytical Building Blocs', ARENA Working Paper 9/03.

Sjursen, H. (2004) 'Changes to European Security in a Communicative Perspective', ARENA Working Paper 1/04.

Sjursen, H. (2004) 'From Civilian to Military Power: the European Union at a Crossroads?', EU Constitution Project Newsletter 2(3): 5-6.

Sjursen, H. (2004) 'Staying close yet keeping a distance: Norway and the CFSP', CFSP Forum, Vol. 2, No. 4, pp. 7-9.

Sjursen, H: (2004) 'Towards a Post-national Foreign and Security Policy?', ARENA Working Paper 12/04.

Torreblanca, J. I. (2004) 'La ampliación de la Unión Europea: éxito olective, peligro de autocomplacencia', Elcano Royal Institute for International Affairs ARI 85/2004.

Torreblanca, J. I. (2004) 'La ampliación: ¿big bang o pólvora mojada?', *Foreign Policy en Español*, 2/2004, pp. 10-14.

Torreblanca, J. I. (2005) 'A Plan "B" for the European Constitution: looking aside?', Elcano Royal Institute for International Affairs 77/2005, July 2005.

Torreblanca, J. I. (2005) 'Europe's Reason and Turkey's accession', Elcano Royal Institute for International Affairs 199/2004, January 2005.

Torreblanca, J. I. (2005) 'Farewell to funds? Keys to Understanding Spain's Position When Negotiating the 2007-13 EU Budget', Elcano Royal Institute Working Papers 21/2005.

Torreblanca, J. I. (2005) 'La marea egoísta' ['The selfish tide'], Foreign Policy en español, No. 12, 2005, pp. 38-41.

Torreblanca, J. I. (2005) 'Spain's referendum on the European Constitution: A Double Disappointment', Elcano Royal Institute for International Affairs 27/2005, February 2005.

Torreblanca, J. I. (2005) 'The Three Points of Dissensus on the European Constitution', Elcano Royal Institute for International Affairs 22/2005, February 2005.

Torreblanca, J. I. and Piedrafita, S. (2004) 'The Three Logics of EU enlargement: Interests, Identities and Arguments', Royal Insituto Elcano Institute Working Papers 51/2004.

Trenz, H.-J. (2005) 'Language Minorities in Europe: Dying species or forerunner of a transnational civil society?', ARENA Working Paper 20/05.

6. Conference papers

Aarskog, B. H. (2004) 'The European Convention: a Pilot Study, using Computer-assisted Text Analysis', paper presented at the CIDEL workshop: 'A European Public Sphere', University of Stirling, 5-6 February 2004.

Avci, G. (2004) 'Turkey: a Critical case in European Union Enlargement', paper presented at the CIDEL workshop: 'Justifying Enlargement', UNED, 7-8 May 2004.

Aziz, M. (2004) ' The Chinese Whispers of Constitution-Making in the EU ', paper presented at the CIDEL workshop: 'Legitimacy, Governance and Constitution-Making', Birkbeck College – University of London, 12-13 November 2004.

Bercusson, B. (2005) ' Labour Law', paper presented at the CIDEL workshop: 'Which Social and Tax Policy for Which European Union?', SCORE – Stockholm, 10-11 June 2005.

Bicchi, F. (2004) 'Legitimate Foreign Policy? The EU and the Mediterranean Countries', paper presented at the CIDEL workshop: 'From Civilian to Military Power: The European Union at a Crossroads?', Oslo, ARENA, 22-23 October 2004.

Blichner, L. (2004) ' Political Integration in Europe and the Need for a Common Political Language ', paper presented at the CIDEL workshop: 'A European Public Sphere', University of Stirling, 5-6 February 2004.

Borragán, N. P.-S. (2004) ' A Constitution for Europe. What Role for Organised Interests? ', paper presented at the CIDEL workshop: 'Legitimacy, Governance and Constitution-Making', Birkbeck College – University of London, 12-13 November 2004.

Brunkhorst, H. (2005) 'Post-national Democracy in the EU and the Failure of the Constitutional Treaty', paper presented at the CIDEL conference: 'The EU and Post-National Integration', European University Institute, Florence, 22-24 September 2005.

Castiglione, D (2003) 'Europe's Constitutional Moment? Treaties, Contracts and Constitutions', paper presented at the CIDEL workshop: 'Deliberative Constitutional Politics in the European Union', University of Zaragoza, 20-21 June 2003.

Chalmers, D. (2005) 'The Turn to Governance and the Rule of Law', paper presented at the CIDEL conference: 'The EU and Post-National Integration', European University Institute, Florence, 22-24 September 2005.

Chiti, E. (2003) 'On European Agencies', paper presented at the CIDEL conference: 'The Forging of Deliberative Supranationalism in the EU?', European University Institute, Florence, 7-8 February 2003.

Closa, C. (2003) 'Forging European Constitutional Patriotism: Deliberation on the Constitution within the Convention', paper presented at the CIDEL workshop: 'Deliberative Constitutional Politics in the European Union, University of Zaragoza, 20-21 June 2003.

Closa, C. (2005) 'Monitoring Ratification: state of play in the member states', paper presented at the conference 'The Ratification Process of the European Constitution - Prospects for Democracy?', Brussels, 27 January 2005.

Closa, C. (2005) 'The European Constitution as a Framework for Promotion of European Values', paper presented at the conference 'The large Europe of the 21st Century: Common challenges? Common values?', Riga, 27-28 May 2005.

Closa, C. and Almendral, V. R. (2005) ' The Procedural Aspects of the Growth and Stability Pact ', paper presented at the CIDEL workshop: 'Which Social and Tax Policy for Which European Union?', SCORE – Stockholm, 10-11 June 2005.

Closa, C. and Fossum, J. E. (2005) 'Lessons from the European Constitutional Experiment', paper presented at the CIDEL conference: 'The EU and Post-National Integration', European University Institute, Florence, 22-24 September 2005.

Collignon, S. (2005) ' The Three Sources of Legitimacy for European Fiscal Policy ', paper presented at the CIDEL workshop: 'Which Social and Tax Policy for Which European Union?', SCORE – Stockholm, 10-11 June 2005.

Crum, B. (2003) 'Throwing the Rascals out. The European Convention and the Prospects for Representative Democracy', paper presented at the CIDEL workshop: 'Deliberative Constitutional Politics in the European Union', University of Zaragoza, 20-21 June 2003.

Curtin, D (2004) ' The Evolving Legal and Institutional Practices of the Council of Ministers, Public Access to (Digital) Information and the Public Sphere ', paper presented at the CIDEL workshop: 'A European Public Sphere', University of Stirling, 5-6 February 2004.

Dahlgren, P (2004) ' Civic Cultures and Net Activism: Modest Hopes for the EU Public Sphere ', paper presented at the CIDEL workshop: 'A European Public Sphere', University of Stirling, 5-6 February 2004.

de Swaan, A. (2004) ' The European Void: the Democratic Deficit as a Cultural Deficiency', paper presented at the CIDEL workshop: 'A European Public Sphere', University of Stirling, 5-6 February 2004.

Drulák, P. (2004) 'Constructing Europe: European Integration in the Czech and Slovak Political Discourse', paper presented at the CIDEL workshop: 'Justifying Enlargement', UNED, 7-8 May 2004.

Eriksen, E. O. (2003) 'The Quest for Consensus. On the Micro-foundation of Supranationalism', paper presented at the CIDEL conference: 'The Forging of Deliberative Supranationalism in the EU?', European University Institute, Florence, 7-8 February 2003.

Eriksen, E. O. (2004) ' Conceptualising European Public Spheres - General, Segmented and Strong Publics in the EU ', paper presented at the CIDEL workshop: 'A European Public Sphere', University of Stirling, 5-6 February 2004.

Eriksen, E. O. (2004) 'Towards a Cosmopolitan Europe?', paper presented at the CIDEL workshop: 'From Civilian to Military Power: The European Union at a Crossroads?', Oslo, ARENA, 22-23 October 2004.

Eriksen, E. O. (2005) 'Deliberation and the Problem of Democratic Legitimacy in the EU', paper presented at the conference 'Intersubjektivität und internationale Politik: Motive aus dem Werk von Jürgen Habermas in Internationalen Beziehungen und Politischer Theorie' at the Johann Wolfgang Goethe-Universität Frankfurt, Germany, 16-18 June 2005.

Eriksen, E. O and Fossum, J. E. (2003) 'Europe in Search of its Legitimacy', paper presented at the CIDEL conference: 'The Forging of Deliberative Supranationalism in the EU?', European University Institute, Florence, 7-8 February 2003.

Eriksen, E. O. and Fossum, J. E. (2004) ' The EU in Motion. From Poly-centric Governance to Poly-cephalous Government in the European Union ', paper presented at the CIDEL workshop: 'Legitimacy, Governance and Constitution-Making', Birkbeck College – University of London, 12-13 November 2004.

Eriksen, E. O. and Fossum, J. E. (2005) 'The Prospects for a Post-National Citizens' Europe: Synthesizing CIDEL Findings', paper presented at the CIDEL conference: 'The EU and Post-National Integration', European University Institute, Florence, 22-24 September 2005.

Eriksen, E. O., Fossum, J. E. and Sjursen, H. (2004) 'Widening or Reconstituting the EU? Enlargement and Democratic Governance in Europe', paper presented at the CIDEL workshop: 'Justifying Enlargement', UNED, 7-8 May 2004.

Eriksen, E. O., Fossum, J. E. and Sjursen, H. (2003) 'Widening or reconstituting the EU? Enlargement and Democratic Governance in Europe', paper presented at the ARENA research conference on 'Institutional Dynamics and Democracy in the EU', 3-4 October 2003, Oslo.

Eriksen, E. O. (2005) 'A Cosmopolitan Europe in the Making?', paper presented at the EUSA Ninth Biennial International Conference, Austin, Texas (USA), 31 March-2 April 2005.

Everson, M. (2003) 'The Legal Versus the Political Constitution: Law and Non-law in the Convention Process', paper presented at the CIDEL workshop: 'Deliberative Constitutional Politics in the European Union, University of Zaragoza, 20-21 June 2003.

Everson, M. (2005) 'The Principled Machines of Judicial Interpretation', paper presented at the CIDEL conference: 'The EU and Post-National Integration', European University Institute, Florence, 22-24 September 2005.

Everson, M. and Eisner, J. (2004) ' Constitutional Mo(u)rning? ', paper presented at the CIDEL workshop: 'Legitimacy, Governance and Constitution-Making', Birkbeck College – University of London, 12-13 November 2004.

Foret, F. (2004) 'Des groupes d'intérêt pas comme les autres? Eglises, intégration européenne et démocratie', Colloque 'Les groupes d'intérêt au XXIème siècle.

Renouveau, croissance et démocratie', Institut d'Etudes Politiques de Paris, 24-25 September 2004.

Foret, F. (2005) 'Quel "sacré" constitutionnel pour l'Europe?', presentation at Journée d'étude du groupe Europe de l'Association Française de Science Politique, Institut d'Etudes Politiques de Paris, 28 January 2005.

Foret, F. (2005) 'Institutions, traditions, innovations. Which religious identity for Europe?', Epsnet 2005 Plenary Conference, Institut d'Etudes Politiques de Paris, 17-18 June 2005.

Foret, F. (2005) 'Religion and politics: a challenge for the EU?', paper presented at 3rd ECPR Conference, Budapest, Hungary, 8-11 September 2005.

Foret, F. (2005) 'Dieu est-il soluble dans la gouvernance multi-niveaux? L'émergence d'une politique publique religieuse européenne', paper presented at Congrès national de l'Association Française de Science Politique, Lyon, 14-16 September 2005.

Foret, F. and Schlesinger, P (2004) '" From Spirituality to Governance?" - Religion, Identity and the European Public Sphere ', paper presented at the CIDEL workshop: 'A European Public Sphere', University of Stirling, 5-6 February 2004.

Fossum, J. E. (2004) ' Conceptualising the EU's Social Constituency ', paper presented at the CIDEL workshop: 'A European Public Sphere', University of Stirling, 5-6 February 2004.

Fossum, J. E. (2005) 'The Transformation of the Nation-State', paper presented at the EUSA Ninth Biennial International Conference, Austin, Texas (USA), 31 March-2 April, 2005.

Fossum, J. E. (2004) 'The Constitution's Gift? A deliberative democratic analysis of constitution-making in the European Union', presentation at the conference 'Repräsentation und Verfassung. Zur Legitimität und Effektivität der Reformkonvente in Österreich und in der Europäischen Union', Institut für Höhere Studien, Vienna, 10 December 2004.

Fossum, J. E. and Menéndez, A. J. (2003) 'The Constitution's Gift: a Deliberative Democratic Analysis of Constitution-making in the European Union', paper presented at the CIDEL workshop: 'Deliberative Constitutional Politics in the European Union, University of Zaragoza, 20-21 June 2003.

Fossum, J. E. and Menéndez, A. J. (2004) 'Between problem-solving Treaty and rights-based constitution', presentation at the workshop 'Making the Constitution Work', organised by EIPA, Maastricht, 20 November 2004.

Fossum, J. E. and Menéndez, A. J. (2004) ' A Normative Assessment of the Draft Constitution ', paper presented at the CIDEL workshop, 'Legitimacy, Governance and Constitution-Making', Birkbeck College – University of London, 12-13 November 2004.

Gehring, T. (2003) 'Communicative Rationality in European Governance? Interests and Communicative Action in Functionally Differentiated Single Market Regulation', paper presented at the CIDEL conference: 'The Forging of Deliberative Supranationalism in the EU?', European University Institute, Florence, 7-8 February 2003.

Gheciu, A. (2004) 'Securing the "New Europe": Security Norms and the Redefinition of Political Community in the Context of Enlargement', paper presented at the CIDEL workshop: 'Justifying Enlargement', UNED, 7-8 May 2004.

Graser, A. (2005) 'Approaching the "Social Union"?', paper presented at the CIDEL conference: 'The EU and Post-National Integration', European University Institute, Florence, 22-24 September 2005.

Gray, A. (2005) '"Unsocial Europe"; The Future of the European Model in the Face of Globalisation', paper presented at the CIDEL workshop: 'Which Social and Tax Policy for Which European Union?', SCORE – Stockholm, 10-11 June 2005.

Hagen, K. (2005) ' EU "Soft Law" Social Policy: Sustainable State or Institutional Deficiency? ', paper presented at the CIDEL workshop: 'Which Social and Tax Policy for Which European Union?', SCORE – Stockholm, 10-11 June 2005.

Heller, M. (2004) ' Enlargement of the European Union, Citizenship, Identity and the Hungarian Public Sphere ', paper presented at the CIDEL workshop: 'A European Public Sphere', University of Stirling, 5-6 February 2004.

Hofmann, H. (2005) 'Constitutionalising Governance? The Case of Europe's Integrated Administration', paper presented at the CIDEL conference, 'The EU and Post-National Integration', European University Institute, Florence, 22-24 September 2005.

Hyde-Price, A. (2004) 'The EU and Coercive Diplomacy: From "Civilian" to "Civilising" Power', paper presented at the CIDEL workshop: 'From Civilian to Military Power: The European Union at a Crossroads?', Oslo, ARENA, 22-23 October 2004.

Jacobsson, K. (2003) 'Integration by Deliberation? On the Role of Committees in the Open Method of Coordination', paper presented at the CIDEL conference: 'The Forging of Deliberative Supranationalism in the EU?', European University Institute, Florence, 7-8 February 2003.

Joerges, C. (2003) 'Comitology and the European Model? Towards a *Recht-Fertigungs-Recht* in the European Process', paper presented at the CIDEL conference: 'The Forging of Deliberative Supranationalism in the EU?', European University Institute, Florence, 7-8 February 2003.

Joerges, C. (2004) presentation at roundtable on 'Mehr Schein als Sein? Europäisches Recht in der Praxis', Institut für Höhere Studien, Vienna, 4 December 2004.

Joerges, C. (2005) 'Confronting "Bitter Experiences": The Shadows of the Past over the Construction of Europe', paper presented at conference on '60 years to the end of WW2 and its impact on the law', Haifa, 1 June 2005.

Joerges, C. (2005) 'Constitutional dimensions on the Europeanisation of Private Law Symposium on Comparative Visions of Global Public Order' Roundtable on 'New Governance, Private Law and Expertise', Cambridge, MA, 5 March 2005.

Joerges, C. (2005) 'Free Trade and the WTO: The Erosion of National and the Birth of Transnational Governance', presentation at the Escola de Direito da Fundação Getulio Vargas, Sao Paolo, 18 April 2005.

Joerges, C. (2005) 'Ist Europa dabei, seiner Wirtschaftsverfassung den Prozess zu machen?', presentation at the Fundação Getulio Vargas, Sao Paolo, 19 April 2005.

Joerges, C. (2005) 'Rethinking European Law's Supremacy in the Realm of Private Law', paper presented at ZERP, University of Bremen, Bremen, 13 October 2005.

Joerges, C. (2005) 'Rethinking European Law's Supremacy: A Plea for a Supranational Conflict of Laws', paper presented at the workshop '"Judicial Governance" im europäischen Privatrecht - Die Anforderungen an die europäische Judikative als Überforderung?', Universität Luzern, Lucerne, 9 April 2005.

Joerges, C. (2005) 'The Legitimacy Problematics of the European Turn to Governance: Two Examples and Counter-Intuitive Suggestions', presentation at the Pontifícia Universidade Católica do Rio de Janeiro (PUC-Rio), Rio de Janeiro, 20 April 2005.

Joerges, C. (2005) ' What is Left of the European Economic Constitution? ', paper presented at the CIDEL workshop: 'Which Social and Tax Policy for Which European Union?', SCORE – Stockholm, 10-11 June 2005.

Joerges, C. (2005) 'Working Through "Bitter Experiences" Towards Constitutionalisation: A Critique on the Disregard for History in European Constitutional Theory', paper presented at the CIDEL conference: 'The EU and Post-National Integration', European University Institute, Florence, 22-24 September 2005.

Jørgensen, K. E. (2004) 'Bound to Lead the EU in World Politics', paper presented at the CIDEL workshop: 'From Civilian to Military Power: The European Union at a Crossroads?', Oslo, ARENA, 22-23 October 2004.

Kölling, M. (2005) 'Explaining Financial Negotiations: Actors and Institutions in the Case of Agenda 2007', paper presented at the EUSA Ninth Biennial International Conference, Austin, Texas, 31 March-2 April 2005.

Koopmans, R. (2004) 'Europeanisation of the Media Agenda - and the Extent to which Social Movements and other Civil Society Groups can gain access to European Media Agendas', paper presented at the CIDEL workshop: 'A European Public Sphere', University of Stirling, 5-6 February 2004.

Kubicek, P. (2004) 'European Union Expansion and the Spread of Democratic Norms: A Comparative Analysis', paper presented at the CIDEL workshop: 'Justifying Enlargement', UNED, 7-8 May 2004.

Kumm, M. (2004) 'Thick Constitutional Patriotism and the Treaty Establishing a Constitution for Europe', paper presented at the CIDEL workshop: 'Legitimacy, Governance and Constitution-Making', Birkbeck College – University of London, 12-13 November 2004.

Landfried, C. (2004) 'Comitology and the Question of European Public Sphere(s)', paper presented at the CIDEL workshop: 'A European Public Sphere', University of Stirling, 5-6 February 2004.

Lombardo, E. (2004) ' The Participation of Civil Society in the European Constitution-making Process ', paper presented at the CIDEL workshop: 'Legitimacy, Governance and Constitution-Making', Birkbeck College – University of London, 12-13 November 2004.

Longman, C. (2004) ' The Convention as Communicative Environment: The Challenge of Multilingual Deliberation ', paper presented at the CIDEL workshop: 'A European Public Sphere', University of Stirling, 5-6 February 2004.

Longman, C. (2005) 'United in Diversity: the political challenge of Turkish accession', paper presented at the workshop 'Turkey and the EU: a reciprocal challenge', University of Exeter, 2005.

Longman, C. (2005) 'The Constitutional Construction of European Values', paper presented at the international symposium 'The Re-/Constructions of Europe/EU: On Social, Political and Cultural Dimensions of Reforming and Enlarging the European Union', Lancaster University, 2005.

Longman, C. (2004) 'Language and Politics in the European Convention: The challenge of multilingual deliberation', paper presented at the conference 'Language and the Future of Europe', Southampton, 2004.

Lord, C. (2003) 'Legitimising a Contested Polity. The Case of the European Union', paper presented at the CIDEL workshop: 'Deliberative Constitutional Politics in the European Union', University of Zaragoza, 20-21 June 2003.

Lundgren, Å. (2004) 'Prioritisations in the Enlargement Process: Are some Candidates more "European" than Others?', paper presented at the CIDEL workshop: 'Justifying Enlargement', UNED, 7-8 May 2004.

Magnette, P. (2003) 'What does Simplification Mean? Rhetoric and Consensus-making in the European Convention', paper presented at the CIDEL workshop: 'Deliberative Constitutional Politics in the European Union', University of Zaragoza, 20-21 June 2003.

Manners, I. (2004) 'Normative Power Europe Reconsidered', paper presented at the CIDEL workshop: 'From Civilian to Military Power: The European Union at a Crossroads?', Oslo, ARENA, 22-23 October 2004.

Maurer, A. (2003) 'Committees in the EU system. A Deliberative Perspective', paper presented at the CIDEL conference: 'The Forging of Deliberative Supranationalism in the EU?', European University Institute, Florence, 7-8 February 2003.

Maurer, A. (2003) 'Less Bargaining – More Deliberation. The Convention Method for Enhancing EU Democracy', paper presented at the CIDEL workshop, 'Deliberative Constitutional Politics in the European Union, University of Zaragoza, 20-21 June 2003.

Maurer, A (2004) ' COSAC, National Parliaments, and their Contribution to a European Strong Public ', paper presented at the CIDEL workshop: 'A European Public Sphere', University of Stirling, 5-6 February 2004.

Menéndez, A. J. (2004) 'The constitutional soul of the Draft Constitutional Treaty', presentation at the workshop on the Draft Constitutional Treaty organised by the Centro de Estudios Políticos y Constitucionales, Madrid, 6 November 2004.

Menéndez, A. J. (2004) 'The Charter after the Constitution', presentation at the workshop on the Spanish and the European Constitution, organised by the Aragon Regional Government and the Universidad de Zaragoza, 15 December 2004.

Menéndez, A. J. (2005) ' The Taxation of Corporate Income in the European Union ', paper presented at the CIDEL workshop: 'Which Social and Tax Policy for Which European Union?', SCORE – Stockholm, 10-11 June 2005.

Mitzen, J. (2004) 'Ontological Security in World Politics. Implications for the Study of European Security', paper presented at the CIDEL workshop: 'From Civilian to Military Power: The European Union at a Crossroads?', Oslo, ARENA, 22-23 October 2004.

Mörth, U. (2004) 'The EU as an Ethical Power in the WTO?', paper presented at the CIDEL workshop: 'From Civilian to Military Power: The European Union at a Crossroads?', Oslo, ARENA, 22-23 October 2004.

Müller, J.-W. (2005) 'A "Thick" Constitutional Patriotism for Europe? On Morality, Memory and Militancy', paper presented at the CIDEL conference: 'The EU and Post-National Integration', European University Institute, Florence, 22-24 September 2005.

Nanz, P. (2003) 'OMC – a Deliberative and Democratic Mode of Governance?', paper presented at the CIDEL conference: 'The Forging of Deliberative Supranationalism in the EU?', European University Institute, Florence, 7-8 February 2003.

Navarro, V. (2005) ' Is Social Europe Viable Economically? ', paper presented at the CIDEL workshop: 'Which Social and Tax Policy for Which European Union?', SCORE – Stockholm, 10-11 June 2005.

Neyer, J. (2003) 'Discourse and Order in the EU – a Deliberative Approach to Multi-level Governance', paper presented at the CIDEL conference: 'The Forging of Deliberative Supranationalism in the EU?', European University Institute, Florence, 7-8 February 2003.

Neyer, J. and Schröter, M. (2005) 'Deliberative Europe and the Rejected Constitution', paper presented at the CIDEL conference: 'The EU and Post-National Integration', European University Institute, Florence, 22-24 September 2005.

Nicolaïdis, K. (2004) 'Our European Demoi-cracy: Is the Constitution a Third Way for Europe?', paper presented at the CIDEL workshop: 'Legitimacy, Governance and Constitution-Making', Birkbeck College – University of London, 12-13 November 2004.

Piedrafita, S. (2004) '"Ifs and Buts" of Spain's Enlargement Policy', paper presented at the CIDEL workshop: 'Justifying Enlargement', UNED, 7-8 May 2004.

Poiares, M. (2003) 'Europe: a Constitutional Past or a Constitutional Present', paper presented at the CIDEL workshop: 'Deliberative Constitutional Politics in the European Union, University of Zaragoza, 20-21 June 2003.

Pollack, J. (2004) ' The Convention Hype: Visions of Representation ', paper presented at the CIDEL workshop: 'Legitimacy, Governance and Constitution-Making', Birkbeck College – University of London, 12-13 November 2004.

Riddervold, M. and Sjursen, H. (2004) 'Denmark: Between Security and Human Rights', paper presented at the CIDEL workshop: 'Justifying Enlargement', UNED, 7-8 May 2004.

Rödl, F. (2005) 'Towards a Reflexive Labour Constitution', paper presented at the CIDEL conference: 'The EU and Post-National Integration', European University Institute, Florence, 22-24 September 2005.

Schelkle, W. (2005) 'Can there be a European Social Model?', paper presented at the CIDEL conference: 'The EU and Post-National Integration', European University Institute, Florence, 22-24 September 2005.

Schlesinger, P. (2005) 'The Babel of Europe?', invited paper and session chair on 'Rethinking the European Public Sphere', inaugural international conference on 'Changing European Public Spheres', European Social and Cultural Studies Centre, Sheffield University, 23-24 September 2004.

Schlesinger, P. (2005) 'Introduction and Overview', 'Scotland and the Media: A Question of Trust', conference at the Royal Society of Edinburgh, 9 March 2005.

Schlesinger, P. (2005) 'The Babel of Europe?', invited inaugural lecture, II International Conference on Postmodernism, Mudra Institute of Communication, Ahmedabad, India, 5 March 2005.

Schlesinger, P. (2005) Invited keynote 'Hay una crisis del periodismo británico?', seminar on 'Medios de comunicación y control ciudadano', Ponteficia Universidad Católica de Santiago de Chile, 21 July 2005.

Schlesinger, P. (2005) 'Hay una crisis del periodismo británico?', seminar at Universidad Católica, Montevideo, Uruguay, 27 July 2005.

Schlesinger, P. (2004) ' The Babel of Europe? An Essay on Networks and Communicative Spaces ', paper presented at the CIDEL workshop: 'A European Public Sphere', University of Stirling, 5-6 February 2004.

Schlesinger, P. (2005) 'The European Union and Public Sphere: A Communicative Space in the Making?', paper presented at the CIDEL conference, 'The EU and Post-National Integration', European University Institute, Florence, 22-24 September 2005.

Schlesinger, P. and Fossum, J. E. (2004) 'One EU - Many Publics?', paper presented at the CIDEL workshop: 'A European Public Sphere', University of Stirling, 5-6 February 2004.

Schmid, C. (2005) 'Judicial Governance in the European Union: State and Perspectives', paper presented at the CIDEL conference: 'The EU and Post-National Integration', European University Institute, Florence, 22-24 September 2005.

Schönlau, J. (2003) 'Conventional Wisdom? Comparing the Working Methods of the European Convention's mark I and II', paper presented at the CIDEL workshop: 'Deliberative Constitutional Politics in the European Union, University of Zaragoza, 20-21 June 2003.

Schönlau, J. (2005) 'Legitimacy and Accountability in Europe's Constitutional Process', paper presented at the ECPR Annual Conference, Budapest, 2005.

Schönlau, J. (2004) ' Membership of the Convention: Issues of Representation and Legitimacy ', paper presented at the CIDEL workshop: 'Legitimacy, Governance and Constitution-Making', Birkbeck College – University of London, 12-13 November 2004.

Sedelmeier, U. (2004) 'The EU's Role in the International Promotion of Human Rights and Democracy: Enlargement Policy Practice, Identity Formation and European Foreign Policy', paper presented at the CIDEL workshop: 'Justifying Enlargement', UNED, 7-8 May 2004.

Sjursen, H. (2004) 'From Civilian to Military Power', paper presented at the CIDEL workshop: 'From Civilian to Military Power: The European Union at a Crossroads?', Oslo, ARENA, 22-23 October 2004.

Sjursen, H. (2004) 'Beyond Westphalia? Conceptualising the Security Policy of a Post-national Union', paper presented at the CIDEL workshop: 'From Civilian to Military Power: The European Union at a Crossroads?', Oslo, ARENA, 22-23 October 2004.

Sjursen, H. (2005) 'How Do We Define the Security Policy of a Post-National union?', presentation and discussant at the International Workshop Conference 'Crisis Management in Europe: What Role for the European Union?', 17-18 February 2005, Stockholm.

Sjursen, H. (2005) 'Beyond Westphalia? Conceptualising the security policy of a post-national Union', paper presented at the EUSA Ninth Biennial International Conference, 31 March-2 April 2005, Austin, Texas (USA).

Sjursen, H. (2005) 'Post-national Domestication of External Affairs?', paper presented at the CIDEL conference: 'The EU and Post-National Integration', European University Institute, Florence, 22-24 September 2005.

Smith, A. (2004) ' European Commissioners and the Prospects for a European Public Sphere: Information, Representation and Legitimation ', paper presented at the CIDEL workshop: 'A European Public Sphere', University of Stirling, 5-6 February 2004.

Smith, H. (2004) 'Consolidating EU Foreign Policy: the Development of Military Security as a Geo-issue Area', paper presented at the CIDEL workshop: 'From Civilian to Military Power: The European Union at a Crossroads?', Oslo, ARENA, 22-23 October 2004.

Smith, K. (2004) 'Conceptualising the EU as an International Actor: A Plea for Definitional Clarity', paper presented at the CIDEL workshop: 'From Civilian to Military Power: The European Union at a Crossroads?', Oslo, ARENA, 22-23 October 2004.

Somek, A. (2005) 'Concluding Oberservations', paper presented at the CIDEL conference: 'The EU and Post-National Integration', European University Institute, Florence, 22-24 September 2005.

Statham, P. (2004) ' Different Paths of "Europeanisation"? Evidence from the Public Debates over Europe in Britain and France ', paper presented at the CIDEL workshop: 'A European Public Sphere', University of Stirling, 5-6 February 2004.

Torreblanca, J. I. (2003) 'The Enlargement Acquis and External strategy: a Prelude to Deliberative foreign Policy', paper presented at the ECPR Conference: 'The International Role of the EU', Marburg 20 September 2003.

Torreblanca, J. I. (2004) 'Eastern Enlargement: a Matter of Principles?', paper presented at the CIDEL workshop: 'Justifying Enlargement', UNED, 7-8 May 2004.

Torreblanca, J. I. (2003): 'The Enlargement Acquis and External Strategy: a prelude to deliberative foreign policy?', paper presented at the ECPR Conference on 'The International Role of the EU, Marburg, 20 September 2003.

Torreblanca, J. I. and Sjursen, H. (2004) 'Conclusions: Towards a Rights-based Union?', paper presented at the CIDEL workshop: 'Justifying Enlargement', UNED, 7-8 May 2004.

Trenz, H.-J. (2004) '" Quo vadis Europe" Quality Newspapers Struggling for European Unity ', paper presented at the CIDEL workshop: 'A European Public Sphere', University of Stirling, 5-6 February 2004.

Ungureanu, C. (2005) 'The Symbiosis of Law and Democracy in the Legal Theory of Jürgen Habermas', paper presented at the CIDEL conference: 'The EU and Post-National Integration', European University Institute, Florence, 22-24 September 2005.

Verney, S. (2005) 'The Problematic of Enlargement: Lessons from the Greek Case', presentation of the Greek case study to students at the University of Cyprus, event organized by the Jean Monnet Chair in European Political Integration, Department of Social and Political Sciences, University of Cyprus, 4 November 2005.

Verney, S. (2005) 'Justifying the Second Enlargement: Promoting Interests, Supporting Democracy or a Return to the Roots?', paper presented at the UACES (University Association for Contemporary European Studies) 35th Annual Conference and 10th Research Conference 'The European Union: Past and Future Enlargements', Zagreb, Croatia, 5-7 September 2005.

Verney, S. (2005) 'Justifying the Second Enlargement: Promoting Interests, Supporting Democracy or Returning to the Roots?', paper presented at the ELIAMEP Comparative Politics Seminar Cycle, ELIAMEP (Hellenic Foundation for European and Foreign Policy), Athens, 2 June 2005.

Verney, S. (2005) 'Justifying Enlargement', paper presented at the CIDEL conference: 'The EU and Post-National Integration', European University Institute, Florence, 22-24 September 2005.

Vifell, Å. (2005) ' The Substantive Aspects of the OMC: Employment Policy ', paper presented at the CIDEL workshop: 'Which Social and Tax Policy for Which European Union?', SCORE – Stockholm, 10-11 June 2005.

Wagner, W. (2004) 'What Legitimacy for the European Security and Defence Policy', paper presented at the CIDEL workshop: 'From Civilian to Military Power: The European Union at a Crossroads?', Oslo, ARENA, 22-23 October 2004.

Whitman, R. (2004) 'Roadmap for a Route-march? (De-)civilianising through the EU's Security Strategy', paper presented at the CIDEL workshop: 'From Civilian to Military Power: The European Union at a Crossroads?', Oslo, ARENA, 22-23 October 2004.

Zaborowski, M. (2004) 'Germany and EU Enlargement: From Rapprochement to "Reproachment?"', paper presented at the CIDEL workshop: 'Justifying Enlargement', UNED, 7-8 May 2004.

How to obtain EU publications

Our priced publications are available from EU Bookshop (http://bookshop.europa.eu/), where you can place an order with the sales agent of your choice.

The Publications Office has a worldwide network of sales agents. You can obtain their contact details by sending a fax to (352) 29 29-42758.

Publications Office

Publications.europa.eu