

# The Other Strasbourg

## **Britain's Division of Competences Review: A View from the Council of Europe**

The United Kingdom Government is currently engaged in an audit of the competences of the European Union, reviewing the impact of the EU treaties.

We are parliamentary delegates to the Council of Europe, with a vantage point reaching out across our shared continent. As such we have experience in models of international democratic cooperation.

It is not the first time members of the Assembly have offered their views to the debates and reviews on European integration involving the Treaty of Rome and its successors. During the Convention on the Future of Europe, several of our colleagues submitted a paper reflecting on the view from Strasbourg.<sup>1</sup> We follow in that tradition today.

### **A Tale of Two Europes**

The Council of Europe predates the EU, predates the EC, and predates the EEC. It was founded in 1949 as a mechanism for intergovernmental cooperation across the continent. Delegates are selected from national parliaments, enjoying a more direct link with the electorate. There is no large civil service. There is no powerful community of Commissioners. Decisions are made collectively, rather than through qualified and complex weighted voting. The Council's budget is comparatively modest, rather than equivalent to that of a country in its own right.

As such, it operates on an entirely different model from that of the European Union.

We would suggest that in terms of simple cost efficiency and democratic accountability, the intergovernmental approach is better. A study of the attitudes of Britain's founding fathers of European Cooperation, especially Churchill and Bevin who both appreciated the long term direction of events, certainly underlines that view.

### **A History of Subversion**

The European Union has long been assuming the mantle of the Council of Europe through assimilating its identity. It has seen it as a fight for sole legitimacy. The concept of a European anthem was first adopted by the Council, and picked Beethoven's Ode to Joy before it was subsequently adopted by the institutions of the Community. The current EU flag was created for the Council of Europe, and again hijacked by Brussels. An end symptom is that our institution has since had to design a new stand-alone European flag to distinguish our work from the cuckoo's.

This might be a minor annoyance except that the principle is symbolic. For an organisation that is so involved in fighting over intellectual property rights and copyright theft, the EU's approach is rather paradoxical. Yet the mentality is repeatedly one of the EU being the 'true' European cause which rides roughshod over the interests of members of the Council. Time and time again colleagues find MEPs who consider themselves as the sole democratic representatives of the continent of Europe on

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<sup>1</sup> *The EU Convention, the Council of Europe and the Future of Europe*. Paper prepared by: David Atkinson, MP; Baroness Hooper; Sir Sydney Chapman, MP; John Wilkinson, MP; Sir Teddy Taylor, MP

the international stage, mandated to draw more powers to themselves from member states and to represent the broader continent internationally. This, it has to be said, is largely because of the significant budgets that they already have such control over.

But we would encourage those studying the division of EU competences to delve into the historical archives held across government departments, and the discussions that were taking place over the decades on the relative roles of the two institutions. Indeed, we would recommend compiling these archives and putting them into the public domain.

The result will be to better appreciate the long term ambitions of those establishing the two types of institutions, where they led, the temporary nature of their setbacks and blocks, and how from today they will continue to expand in years to come. In the story of European cooperation versus integration, context is everything, and timelines explain the dangers of the future.

In that context, the Council of Europe provides a useful safeguard as the international forum of choice. We would encourage you to reflect upon the parallel of the role of the constitutional monarch in your democracy, or of the constitutional president in other systems. Such an individual fills a position without the ability to usurp power. Restoring the Council of Europe closer to a central role in continental cooperation similarly reduces the enduring threat of powers being taken away by a growing federal entity.

### **The Democratic Deficit**

The Laeken Mandate was agreed by the EU's heads of government, as a response to a series of referenda in which those supporting further integration had been badly mauled. As a result of these votes, even the most ardent federalist had to admit that there was a clear disconnect between voters and their elected representatives.

That gap has continued and indeed got wider, as the reactions to the EU Constitution and the Lisbon Treaty showed. Meanwhile, a failure by a number of governments to address citizens' concerns over such issues as immigration, exacerbated in some cases by movement rights under the EU treaties, has contributed to an atmosphere in which extremist groups can more readily find support.

The Council of Europe was set up to avoid such tyrannies and extremisms from arising again. Our work in consequence is being undermined by the activities of the European Union.

Those speaking for European integration as a political project, aiming for full geostrategic integration, are often those least capable of claiming a mandate. European Commissioners are nominees to what amounts to a quango, typically appointed after completing a career in politics (meaning paradoxically that to qualify they have to have lost an election). MEPs are appointed on the basis of a party nomination, through a list system and a form of proportional vote, across a region or nation: this is problematic in that it does not generate a sense of ownership of the politician amongst "his" voters.

Meanwhile, the EU's Council of Ministers operates under a system that the Commission now estimates is 80% Qualified Majority Voting. Ministers may have to report back to their parliament to say that they wanted something but were forced to do something else by other countries, and there is nothing they can do about it. This palpable failure is consequently masked by a voting abstention.

Quite why anyone should be surprised that ordinary voters should feel outraged at their own impotence is a mystery. Once again, it encourages them to turn to anyone who can provide an answer, however extreme, because the EU system itself makes dishonest people out of those entering its politics.

By contrast, representatives from the Council of Europe are representatives of national parliaments and bear a far greater appreciation of grassroots concerns, public opinions and mood, and carry direct responsibility to a closer electorate.

### **Ever Closer Union**

The EEC/EC/EU approach is based on the principle of countries gradually merging. Participating member states sign up to a political direction that simply does not exist in the Council of Europe model.

This means that for countries that do not wish to become part of a federal superstate down the line, or surrender more powers to central control and QMV, the EU model is a poor choice.

The Council of Europe demonstrates that this approach is not the only one on offer. Other economic groupings, particularly the EEA, EFTA and other bilateral deals between the EU and non-member states, show the economic alternatives also already available that do not carry so great a political burden. In particular, we would encourage revisiting the example of CEFTA and the Visegrad experience as a case study.

The EU treaties specifically cater for the existence of states and groups of states existing beyond its increasingly communal borders. Thanks to the 'Good Neighbour Clause' in the Lisbon Treaty, the EU for the first time recognises that over the long term it has a finite reach for expansion and that there is room for cooperating on a different, non-integrationist, level with countries it has not absorbed. This new development should be grasped with both hands.

### **Budgetary Blues**

The budget of the EU is larger than the GDP of eleven of its member states; and larger than the government budgets of all but nine EU members, that is to say two thirds of them.

By contrast, the Council of Europe achieves what it does on a budget a tiny fraction of that. In practical terms, the entire spending of the CoE is the equivalent of *one half of one day's spending* by the European Union. The *total* figure runs to just the MEPs' admin costs for Strasbourg, including their (symptomatic) Brussels commute.

But management of this huge sum by the EU has been notoriously bad. For approaching two decades the EU's own Court of Auditors has consistently refused to sign off the vast majority of the accounts. OLAF, the in-house criminal investigation agency, is openly running a triage system because it can only handle a portion of the cases it itself gets pointed to. Parts of the budget have levels of misspending on a par with state social security spending, notorious as the worst part of national budget loss.

A key problem is one of propriety and property. To those dealing with “EU money” it has not come from any taxpayer, but been magicked out of thin air. There is no sense of ownership, nor guilt at any waste or loss.

We would encourage those undertaking the Review to consider the relative efficiencies that go with taking an intergovernmental approach, especially for a net EU budget contributor such as the UK. Duplication should be abandoned, and where it exists the preference should be away from a federal institution. Some fairly challenge the value for money generated by having a Congress of Regional and Local Authorities, costing the CoE €6 million a year. Yet even that sum is less than just the tax revenue from salaries and pension contributions for staff at its EU counterpart that fulfils the same job. So the wider question is why €89 million should be spent on maintaining a Committee of the Regions for the EU as well, which is *itself* duplicating the work done by MEPs. This is not the only down side. To quote one recent rapporteur, “reinventing existing norms and setting up parallel [EU] structures creates double standards and opportunities for “forum shopping”, which leads to new dividing lines in Europe.”<sup>2</sup>

### **A Bigger, Truer Europe**

“Europe” does not end on the EU’s borders. There is no “Swiss Sea” in the middle of the continent. The Urals have not been excised from de Gaulle’s famous dictum at the other extreme from the Atlantic. Nor for that matter do we now bin the continent’s spiritual and physical offshoots in the New World and Southern oceans, whose young men travelled to their forefathers’ homes to support the democracies in their times of trouble.

“Europe” is bigger than the EU – geographically, spiritually, economically, psychologically. The truth is easy to forget, but only half of the Council’s members are EU countries. Only roughly half again of those have merged their currencies. The Euro, and economic assimilation, is a minority activity.

Over the coming years, many EU opinion leaders will be put on the spot as the prospect of treaty changes loom through the fog. The “EU within the EU”, the Eurozone, will cause many to reflect on what it means to be part of the political experiment of federal integration. The United Kingdom’s activities merely place it at the vanguard of these debates, having identified the problems and issues first.

We simply recommend to those undertaking such critically important studies to look at the history of the project to date and reflect whether the direction is truly the one they want to travel in, or whether an intergovernmental approach is better. They should consider that that the alternative to being part of a federal Europe is not to be alone. It is to have a different and equally valid working relationship with our broader European family.

**Brian Binley, MP**  
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<sup>2</sup> *European Union and Council of Europe human rights agendas: synergies not duplication!* Michael McNamara, October 2013 (doc 13321).