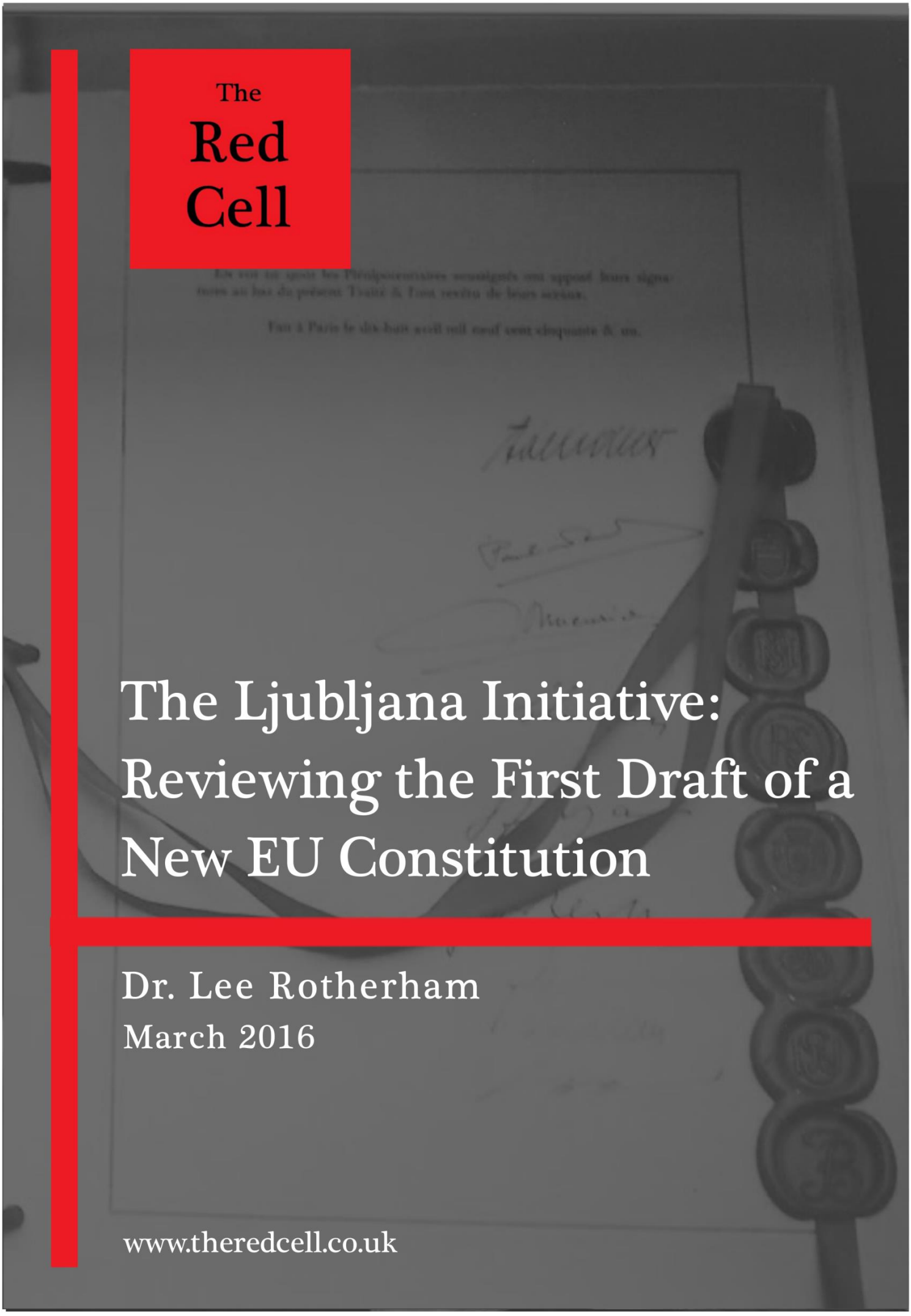

The Red Cell

The Ljubljana Initiative: Reviewing the First Draft of a New EU Constitution

Dr. Lee Rotherham

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www.theredcell.co.uk

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Reviewing the First Draft of a New EU Constitution

Executive Summary

The United Kingdom is not the only EU state to have been engaged in revolutionary reassessments of the Meaning of Brussels. In 2016, unreported in the international media, a conference took place that may retrospectively mark the genesis moment of the next phase of EU development.

The event took place to discuss the direction on EU integration. At its core was a draft EU Constitution, even more stridently integrationist than the model rejected by Dutch and French referenda before.

In early 2017, the Slovenian President, Mr Borut Pahor, shifted from being a backer of the drafting process to becoming a patron of the text. That means there is now a formal draft officially on the table for member states to review, discuss, and debate.

They may come to reject it as well. However, the EU is a well-known salami-slicer of sovereignty. Compromise to prevent a major loss in national powers and sweeping reforms ends in merely a reduction of the end loss, but to be revisited at a later date.

So a review of these proposals is highly informative for key reasons. In the first instance, it provides an example of the importance of pro-EU and EU-engaged academics to the system of political integration. This is a process explained in our paper *Research Interests: EU Funding and British Academia*, and need not be explored again here (though it is useful to note the precedent set by the European Public Prosecutor, subsequently included in the EU treaties, first emerging in a similar way).

More importantly, a review of what is being proposed by one EU Member State Government gives us some useful pointers as to what potential agenda is in the pipeline for the years to come.[1]

It would appear, consequently, that the United Kingdom was quite prudent to vote to leave the EU, because the EU is set along a long term path that is incompatible with UK perceptions of democracy, functionality, and strategic interest.

These changes, and consequently this paper, fall into three main sections.

[1] The reference text, in English in the original, is from the document presented at the conference. Our information is that this does not materially differ from the launch version, though we have not been in a position to conduct a line-by-line audit ourselves. The original can be found on line now at http://g8fip1kplyr33r3krz5b97d1.wpengine.netdna-cdn.com/wp-content/uploads/2017/01/The-new-draft-treaty.pdf though this does lack a number of additional contextual pages that were subsequently added.

The first set are institutional. These relate to the centrality of a single President, with executive powers taken from the Council of Ministers. This generates a much more powerful Brussels Cabinet at the cost of national governments. To assist in the generation of a European ethos and provide democratic accountability, this is further accompanied by changes to make this office directly accountable to a beefed-up European Parliament.

The second set of changes relate to competences. More sovereign powers are handed to the President to make him a global statesman. This is particularly the case with relation to issues pertaining to Common Foreign and Security Policy(CFSP).

The third set of provisions relate to changes in the treaties themselves and how the EU legally functions, particularly in transitioning.

Some of the most controversial elements amount to the following, spread over eight chapters;

Controversial institutional changes

- **Centralising power over international affairs, including defence, in the hands of an elected President**
- **The President assumes law drafting powers held by the Commission**
- **The President appoints his own Cabinet**
- **The President gains primacy in wartime**
- **MEPs to gain the right to declare war**
- **The President gains the right to grant Presidential pardons**
- **The European Commission becomes the agency of the President**
- **Replacing the Council and MEPs with a bicameral federal parliament (Assembly), with two senators sent by parliaments**
- **A likely default to trans-EU political parties**
- **Court of Justice to become an overtly Supreme Court**
- **Generation of a "Security Council" during crises**
- **A bigger, formalised role for lobby groups**

Controversial policies

- **Generation of a European army, European navy, and European air force**
- **Asylum to become a federal policy, rights to be given to bogus asylum seekers, and refugees may be redistributed to other EU states at a time of surge**
- **Creation of a "territorial police force"**
- **Open door to the Assembly for the generation of federal policing system/FBI model**
- **Generation of an EU CIA**
- **More powers over managing finance and banking**
- **The expansion of the Disaster Clause (already proven to be flawed) removing a brake on uninvited military intervention … in European countries themselves**
- **EU to gain exclusive competence over space exploration ('an EU Mars')**

Controversial functional changes

- **New 'passerelle' removes vetoes: MEPs can grab more powers by a majority vote**

- **New treaty renegotiation rules mean MEPs to gain an open ended right to award themselves more powers, and less likelihood of being blocked by a minority of states**

Perhaps this move towards federalism can be explained by the experience of both authors, whose careers as lawyers were developed within the federal system of Yugoslavia under a dictatorship (Josip Broz Tito).

The end result has at least been tempered with a different federal insight. It is hard not to see certain parallels with the United States system. This should not be surprising, as the authors themselves contend that a US-style federal model is a useful example to bear in mind when setting out how checks and balances will work once you reduce the input of the Council of Ministers (and thus by extension the indirect power of national parliaments).

From the perspective of a UK that has resolved to leave the EU, it is now important to assess and anticipate what long term changes to the EU systems may emerge over the coming years. Negotiators now need to plan to accommodate this evolution when considering the nature of new institutional relationships. Otherwise, the new structures facilitating post-Brexit cooperation will embed gravitational threats that will replicate many of the problems that voters resolved to leave the EU to escape in the first place.

The Making of a Constitution

The story of the making of the new draft EU Constitution can be broken down into three parts. First came the inception. It transpires - from what we learned of the project from its official, government-sponsored press launch in January 2017 -that the idea first came to two old associates while out walking. One of these was Professor Ernest Petrič, a former member of the Slovene Government's Executive Council in Tito days. After 1989, he became ambassador to the UN at New York, before returning to a senior home posting. In 2008, he became a judge in the Constitutional Court, becoming its President for three years after 2010.

The actual text itself was generated by a colleague with more hands-on judicio-constitutional experience. Peter Jambrek is a professor of constitutional and human rights law - and like Petrič on the staff at Slovenia's European Faculty of Law, an institution which has been described as an 11-year old joint private venture involving prominent legal academics and figures. Jambrek was a member of the Scientific Committee of the European Union Agency for Fundamental Rights and a member of the European Commission for Democracy through Law. He served as Judge and President of the Constitutional Court of Slovenia, and as a Judge of the European Court of Human Rights. He also appears to have track record in drafting constitutions, having served on the drafting committee of his own countries after the break up of Yugoslavia.[2]

There has been controversial media reporting about his supposed past relationship with the Yugoslavian Intelligence Services, on which we are not in a position to pass comment over its accuracy or make any analysis. We might separately and generally note that unlike in some of the former Warsaw Pact countries, in ex-Yugoslavian states the newly formed countries generally did

[2] These biographical notes are taken from their online cvs.

not perform any major process of review ("lustration") of those associated with the former regime. Critics say this is an important fact that still sets a tone for everyday politics.

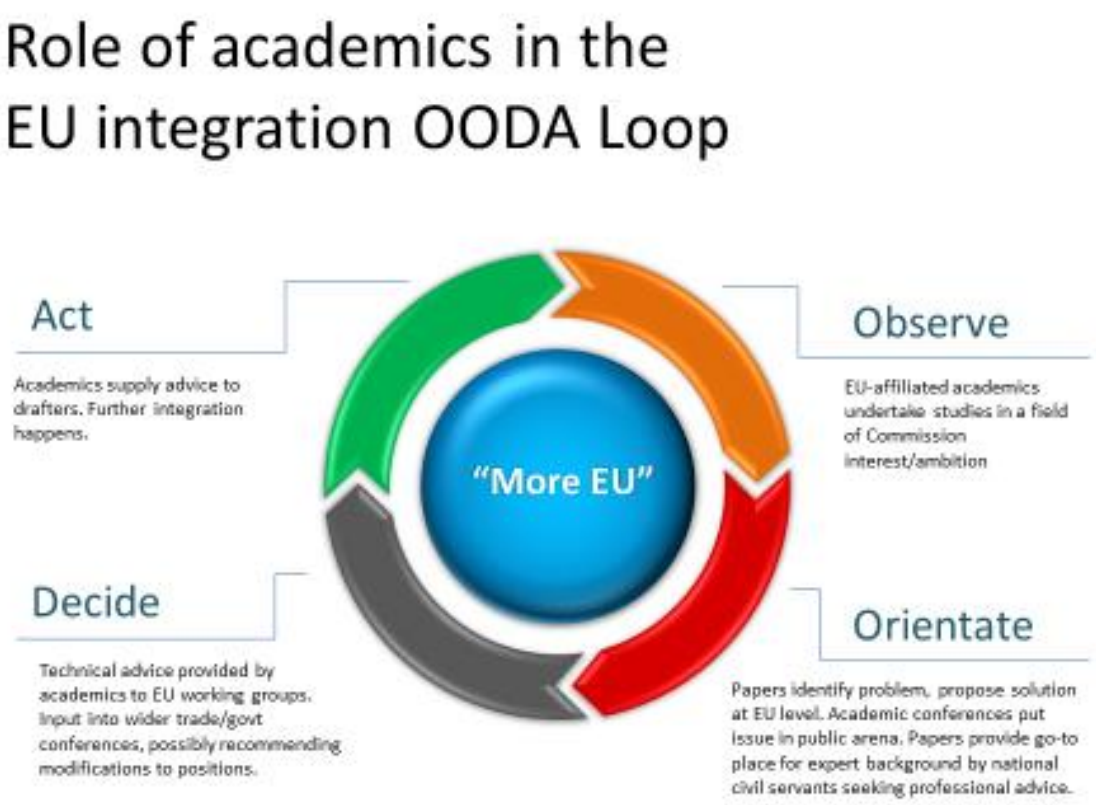
In any event, Professor Jambrek went on to present his draft constitution to a conference in Slovenia in April 2016. Already, the President was taking a keen interest and acting as a sponsor to the research. However, on 6 January 2017, President Borut Pahor went further and signed with several other figures a document endorsing what they styled the "Ljubljana Initiative." This was a push for a new burst of EU integration, of which the draft constitution was the core document. Professor Jambrek's text had now been given official standing by one of the EU 28's heads of state.[3]

Phase three, selling the project to other governments and EU institutions, has since begun. The Slovenian President was already claiming the support of the new Austrian President following a bilateral on 10 January. A puzzle then emerges over the visit to the Slovenian Foreign Ministry the following day by Boris Johnson.[4] The Draft of the Initiative is not mentioned as having been raised in the official press releases.[5] This may not be too surprising given the emphasis of the visit was on celebrating 25 years of bilateral diplomatic ties, and given that the UK would be a predictable opponent of such a constitutional programme if raised in discussions. But it obviously raises the question over whose radars the development is currently on while the attempt is made to build up a head of steam.

The likely next steps will be lobbying at Brussels and in further intergovernmentals, for example the trilateral with Austria and Croatia set to take place in May.

This is unlikely to be a swift process: to recall the OODA Loop mapping of how this process works that we saw in the Red Cell paper on EU Funding of UK academics, the process works as follows;

[3] See for example "President signs Ljubljana Initiative for a new EU constitution," STA, 6 January 2017; plus Slovene-language media coverage of that date.
[4]https://english.sta.si/2344509/close-slovenian-british-ties-to-continue-after-brexit-fms-say
[5]http://www.mzz.gov.si/en/newsroom/news/article/141/37936/; https://www.gov.uk/government/world-location-news/foreign-secretary-visits-slovenia



The result is as swift or lingering as opportunities exist to pursue the agenda. The turnaround time for the European Public Prosecutor to pass from being the subject of an academic conference to being included in a treaty was around five years (nearer ten if one includes ratification delays). By contrast, the contributions generated by Professor Dashwood into the UK Government's output, which happened during the Convention on the Future of Europe, were extremely limited in take up but more swiftly assessed as the redrafting process was already well under way. The push for constitutional change is driven by many variables, with others acting as brakes. Brexit has generated a crisis which fosters major spurts of integration; but the ratification process requires referenda in certain countries, generating risk.

So it is impossible at this stage to judge how long it will take for the current phase of the cycle to go on for. What is clear, however, is that an agenda for integration and massive structural change is now being put on the table, and is entering into the collective reflection and analysis circuitry of the EU institutions. The authors see the paper as a "contribution" only, but this set in a context where integration is the underlying and attainable objective.[6]

It is now a matter of time before this agenda drives constitutional change in Brussels. Even if the end result is something less marked than this draft, whatever changes emerge from a compromise deal will have a marked impact on the nature of the constitutional relationship between the UK and the

[6] *"je osnutekprispevek k temu, da začutimoEvropokotnašo in z zgodovinskegavidikakotedinomožnost, pričemerpodpisnikiupajo, da bonjihovapobuda v EU-junaletelanaposluh"*: (tr.) "the Draft is a contribution, so we can feel Europe as ours and historically the only possibility, while the undersigned hope that their Initiative will be well-received in the EU." Comment by poet Niko Grafenauer, launch event, 6 January 2017.

EU collective in the years ahead. It is correspondingly prudent to plan around that prospect now, while the terms of the new link ups are being planned.

The Underlying Ethos of the New Constitution

The depth of the constitutional revolution contained in the Ljubljana Initiative cannot be understated. We might consider to begin with the underlying motives driving the process. One of those who appeared on the platform in the January launch was Professor Matej Avbelj. In his blog looking back at the event, he had this to say;

> *For those who care about the project of European integration, these are no easy moments. By looking back we are reminded about the chain of crises that has been strangling the Union. By looking forward we cannot help ourselves but to wring hands at what is yet to follow. It is high time that this self-destructive European (indeed Western) narrative and, unfortunately, praxis were put to a halt. It is high time to present a positive alternative to the present status quo and to the populist decay. It is high time to re-launch the process of European integration*.[7]

He continued,

> *With or without Brexit, an intense transnational debate cutting across the Member States and the supranational level needs to be launched to determine whether and to what an extent the peoples of Europe want to engage constitutionally: to do things together for the holistic common good. Only after arriving at this answer, it will be possible to start devising more concrete institutional solutions for the EU's functioning in the years and decades to come. In the rich repository of the federal idea, there is a plethora of options for also very flexible and differentiated institutional framings, but none of them can function in the absence of the thinnest constitutional desire to do things together, to conceive of oneself as journeying in the same boat, being part of the same polity.*

And concluded with a seasonal metaphor;

> *The time is ripe for a snowball effect. It is winter after all. We must not permit that the EU remains permanently stuck in it.*

At the conference itself, Avbelj explained that this meant not creating a new federation based on the United States, and not (for obvious reasons) that of the old Yugoslavia. Rather the preferred terminology in play was that the EU would become a *nedržavnafederacija* – a 'non-state federation'. Petrič described it as "Europe secure and united on the outside, and as much autonomous and relaxed on the inside."[8]

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[7]http://verfassungsblog.de/the-ljubljana-initiative-for-re-launching-the-european-integration/

[8] "Evropavarna in enotnanavzventerčimboljavtonomna in sproščenanavznoter." Quotes from this section are taken from RTV SLO coverage.

Context and Content: An Overview of the Initiative

There are several reasons given by the authors for pushing the new constitution. One, which was in fact used with regard to the last Constitution that became the Lisbon Treaty, is that of simplification. Currently, the EU operates on the core basis of two treaties combining 420 pages and 467 articles (with protocols). The new version, its drafters point out, runs to a single text with 78pages and 205 articles.

However, there is a considerably wider range of motives for providing the text. The list of key motives provided is informative not only on their motives, but also on failures even pro-EU intellectuals associate with the current terms of EU membership;

- Editing provisions in which the legal meaning is unclear, the content seems programmatic, political, or ideological, or they are *lex imperfecta* due to a lack of provisions for implementation. Examples include the preambles to both current treaties, parts of the Charter of Fundamental Rights, provisions on coordinating and complementary powers, and parts of these powers on various Union policies;
- Deleting, rephrasing, or editing provisions that are too detailed, specific, and technical and therefore do not fit within a constitutional text;
- Merging the three instruments—the Treaty on the European Union, the Treaty on the Functioning of the EU, and the Charter of Fundamental Rights—into one unified treaty;
- Generating a radically shorter text, whose structure is made transparent, and its table of contents is comprehensible to common EU citizens rather than mainly to Union staff, analytical services and experts, the academic world, and politicians;
- *Materia constitutionis* is reduced to exclusive and shared powers only, whereby a number of policy areas pertaining to coordinating and complementary powers are omitted. The Union's regulatory authority is reduced, allowing for more voluntary exchange among participants in business and civil society. (Thus, while some powers are massively centralised, others where the Commission's output can legally be ignored are redefined to make lobbies engage more directly with Brussels on policy making);
- A new area of exclusive power is added: that of the control of external borders of the Union's internal area of freedom and security. Powers in foreign affairs, security, and defence are elevated to the level of explicit shared powers in which the Union exerts sovereign rights conferred at a federal level;
- The EU is constitutionally reorganised into a division of the three powers—legislative, executive, and judicial;
- Union powers in finance are summarized in a separate section of the constitution that regulates the Union's budget and banking system. Powers of the legislative and executive branches related to finance and banking are determined;
- A bicameral parliament takes over the duties of the current European Council, the Council of the European Union, and the European Parliament;
- The current European Commission becomes the executive branch, represented by the "monocratic body of the president", to be elected by either direct vote of EU citizens or, alternatively, by member state parliaments. "Thus the powers of the barely effective commission, composed of twenty-eight members representing each member state, are conferred on the president following the US example."

- Constitutional provisions on the Union's court system are largely left intact. Some changes do give the present Court of Justice the explicit character of the Union's Supreme Court and Constitutional Court.

So this is far more than a simple tidying-up exercise, and to give them credit, the authors do not pretend that this is just what it is about. There is a 'vision thing' at play, as we can see by a simple glance at the headings in the first appendix

> *APPENDIX 1 THE NEW DRAFT CONSTITUTIONAL PROCESS: NOTES ON THE HISTORIC MOMENT*
> *1. History of European civilization: three hundred years of war and order*
> *2. History of the European Union: sixty years of crises and progress*
> *3. Greece-induced monetary and fiscal crisis*
> *4. UK demands for less central regulation and bureaucracy*
> *5. The terrorist challenge to citizens' security and way of life*
> *6. The tide of illegal immigration across external and internal borders*
> *7. Lack of power and instruments of power in security, intelligence, defense*[sic]*, and foreign affairs*
> *8. The problem of good governance: democratic legitimacy of key decision-makers and accountability of the central administration*
> *9. The undefined constitutional status of the Union as a federal state*
> *10. The Versailles trap of reliance upon soft power and lack of a geopolitical strategy in view of regionalization of the world order*
> *11. The new constitutional process in view of the 2015/16 accumulation of crises*

So what exactly is on offer with this radical set of proposals? We begin with the prosed revolution that overturns the current intergovernmental approach to how the EU works.

Part 1 – Functionality

A New (Federal) Status

The text is absolutely unambiguous about the constitutional model being adopted. The 'f word' (federalism) is openly embraced as being what is being delivered. Article 142 of the draft explains,

> *1. European Union is*[sic] *federation of Member States. In the Union, sovereignty is divided between Member States and the federal level of the Union. By ratifying this Treaty in conformity with their constitutional orders, Member States have transfered* [sic] *some of their sovereign powers in certain areas to the federal level of the Union. 2. Sovereign powers of Member States not conferred upon the Union in the Treaty remain with the Member States. Federal level of the Union disposes only with conferred sovereign rights enumerated in this Treaty.*

Article 143 defines the principle of competency again using the terminology of federalism;

> *A Union's competence is the area within which an authority on the federal level of the Union is entitled to exercise its power. This Treaty determines the areas of, delimitation of, and arrangements for exercising competencies*

This change is clear from the very start of the document. Its recitals begin

> *THE HIGH CONTRACTING PARTIES establish by this Treaty among themselves and for the welfare of future generations the European Union as a sovereign subject of the world order based upon international law:*

And the following text removes an element still retained in the Lisbon version, acknowledging that 'ever closer union' has finally attained its objective;

> *RESOLVED to continue the process of creating an ever closer union among the peoples of Europe*

The terminology of 'sovereignty' begins to be applied to the EU as a corporate entity, as here in Article 9.4;

> *Division of powers among the legislative, executive and judicial branches of the Union shall be founded upon the principle of democratic legitimacy of each branch, in order to serve best the aims of the Union as the sovereign subject of the world order and international law.*

Subsidiarity is retained in the text (even if reduced from the Recitals, perhaps if we are charitable on simplification grounds). Article 5.1 expresses that powers are held at federal level because the component states have conferred them, but in return they are expected to be managed by the principles of subsidiarity and proportionality. In one sense this is a positive, as it reduces the likelihood of further power grabs over competences by the centre as there is no longer a rolling boulder accruing power.

It is also set out with the default for competences lying with member states and not with the federal government. This, however, is little comfort given that the federalisation of power is so extreme as

to remove the effect of sovereign independence from member states; rather, it merely secures at least the medium-long term direction of the EU as a federal rather than a unitary entity (which, given its size, would be a nonsense anyway: consider the constitution of every other country with a population of over 200 million or a disparate population).

The deposition of sovereignty, long denied in debate, is finally stated in plan terms in Article 1;

> *By this Treaty, the high contracting parties establish among themselves a European Union, hereinafter called 'the Union', on which the Member States confer some of their sovereign competences. The Union shall be founded on the present Treaty, which thereby assumes a constitutional value.*

Management of the federal structures is left to the component elements, if we are to judge by Article 76. The Assembly, the Council and the President are mandated to "consult each other and by common agreement make arrangements for their cooperation." That includes the right to conclude interinstitutional agreements "which may be of a binding nature".

Welcome to Washington on the Maalbeek.[9]

A Neutered Council

It transpires that Jacques Delors may get his way after all. The idea that prompted Margaret Thatcher to declare "No, no, no" is core to the transfer of power, as ministers assume the role of an upper chamber.

The principle of QMV is accepted as standard, unless the treaty expressly states otherwise (Article 70 1). It is to meet not only at its own volition, when summoned by the President (Article 71. 1). And its core role as the tiller on legislation is to be weakened. As Article 73 explains,

> *1. The ordinary legislative procedure shall consist in the joint adoption by the European Parliament of a regulation, directive or decision on a proposal from the President.*
> *2. Legal acts adopted by legislative procedure shall constitute legislative acts.*
> *3. In the specific cases provided for by the Treaty, legislative acts may be adopted on the initiative of a group of Member States or of the European Parliament, on a recommendation from the European Central Bank or at the request of the Court of Justice or the European Investment Bank.*

A Strengthened European Parliament

As the supposed democratic element in the system, MEPs by contrast see their own role extended.[10] Their status is more directly linked with government ministers, as Article 9.1 sets out;

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[9] Not as impressive as the Potomac, and largely hidden.

[10] Also a useful development, of course, for those pushing a constitution and seeking allies to get more of it past the more recalcitrant government minsters.

> *Citizens and Member States are directly represented at Union level in the bicameral European Parliament, composed of the Council of European Nations, hereinafter called , 'the Council', and the Assembly of European Citizens, hereinafter called, 'the Assembly'*

What does this mean in combined terms? Article 65 defines this;

> *1. Legislative powers of the Union shall be vested in the bicameral European Parliament wich*[sic]*shall consist of the Council of European Nations and the Assembly of European Citizens. 2. Member States are directly represented at Union level in the Council of European Nations, composed of two Council members from each Member State, chosen by the legislature thereof for four years.*
> *3. Citizens of the Union are directly represented at the Union level in the Assembly of European citizens, composed of Assembly members elected by the voters in the Member States for four years by direct universal suffrage in a free and secret ballot.*

This generates some very striking comparisons with the US system of Congress, particularly with respect to the appointment of two senators from each state. Strikingly, they are appointed by national parliaments rather than governments so the process remains ambiguous. It may even encourage the absurdity of representatives from two parties being sent to replace government minister. At the very least it creates problems for a system of devolved representation, since ministers in certain areas may effectively cede their place to a devolved minister (for instance in UK terms, in fisheries discussions to the relevant MSP). It also raises the prospect of a bun fight over whether the upper house is reserved one of the two slots (the underlying principle in assigning slots in such EU plans tends to be 'one representative per Chamber'). However, Article 67 grants MEPs the authority to resolve such matters by generating a uniform system across the EU, so any dispute is unlikely to reach a settlement suitable to national tastes (despite a caveat to try).

Since the article also authorises MEPs to "lay down the provisions necessary to governing political parties at European level," we can predict the mechanism will be one that encourages the generation of single political parties across the EU. The shape and flavour of the political system will correspondingly also change.

Articles 66, 68 and 75 lay out Assembly Members' role in law making. Both MEPs and Senators need to sign off legislative, budgetary, policy-making and coordinating functions. Laws, unless the treaty provides otherwise, are proposed though by the President, who assumes the responsibility of the Commission in this regard – a peculiarly imperial twist to the process. Both chambers need to consent and the President to sign; if he refuses to sign, then a two thirds majority in both houses can override his veto. From experience in Brussels, that sort of coalition is unlikely. Either Chamber can ask the President to generate a draft law.

However, a difference is that MEPs are placed higher up the drafting process. Under Article 75, the President submits a proposal; MEPs express their view; and the 'senators' in the Council express their own. If the Council signs off the MEPs' text, it is adopted. If there are differences, then the conciliation process begins which is settled by a majority. Thus the rise in power of MEPs is confirmed.

However, the Council has to act unanimously to be able to overturn any MEP amendments which the President has said he doesn't approve of. So the true balance of power really lies shared between the President and MEPs.

An additional evolution lies in the generation of Oversight Committees. Under Article 72.3,

> *The Assembly may set up a temporary Committee of Inquiry to investigate, without prejudice to the powers conferred by the Treaty on other institutions or bodies, alleged contraventions or maladministration in the implementation of Union law, except where the alleged facts are being examined before a court and while the case is still subject to legal proceedings*.

At least this appears to generate a role for members of both chambers. By contrast, financial affairs appear to fall more into the domain of MEPs. Under Article 79.2, it falls to them – on the basis of a proposal from the President, and after consulting with the Court of Auditors – to manage the revenues raised directly by EU Own Resources that are to be "made available to the President", but also to "determine the measures to be applied, if need be, to meet cash requirements."

All told, these constitute major gains for MEPs in what will now constitute the most important elected body for its member states. We can perhaps expect the attraction of the institution and, though the standing and profile of its incumbents, the importance of the legislature to further increase over time (it already attracts former premiers and Cabinet members as a sort of sinecure).

Federalising the Euroquangocracy

A brief reference confirms the legal standing of the quasi-governmental agencies that are unendingly being generated to service the management of EU competences. Again, it is the European Parliament, seen as the obvious source of oversight, that gains the most compared to now.

Article 77 states,

> *The European Parliament may establish or abolish any institution, body, administration, office or agency within the legislative branch of the Union. Parliament's proposals for their establishment or abolishment, including financial means needed for their functioning, must receive consent of the President. Any such administrative body acts under the direction of the President.*

Equally as we see, the President here assumes the former role of the Commission. As an individual rather than as a consortium of perhaps differing Commissioners, that also means that the position also gains an important lever of influence with less limitations than currently (by a multiplicity of personalities and national interests) might currently be in play.

Article 87 makes the chain of control abundantly clear, and gives him a major opportunity to expand his remit by proxy and by cultivating an administrative empire;

> *The President may establish or abolish any institution, body, administration, office or agency within the executive branch of the Union. President's proposals for their establishment or abolishment, including financial means needed for their functioning, must receive consent of*

the European Parliament. Any such administrative body acts under the direction of the President.

As anyone who has observed the expanding tangle of EU institutions will confirm, the ability to throw a budget and personnel at an area is a proven mechanism for expanding the role and importance of the EU institutionally over time.

Article 88 authorises the President to propose Staff Regulations and the Conditions of Employment (especially, one assumes, pay) for employees in the administration of the executive and the legislative branch to the European Parliament.[11]

The Court of Justice

The Luxembourg judges obviously have an important role to play as the new Supreme Court. Article 9.3 makes this expressly clear;

Judicial Power shall be executed by the Court of Justice, acting in the capacity of supreme and constitutional court of the Union

And this is reiterated in Article 95.1;

Judicial Power shall be executed by the Court of Justice, acting in the capacity of supreme and constitutional court of the Union.

Under Article 97.1, the process of appointment is adjusted which effectively reverses the nomination and approvals process. Now, the President appoints the judge, and the Council endorses by a vote of consent. This, notably, now follows a set of public hearings.

In accordance with the additional importance laid on including more control over financial elements within the treaties, Article 111 also sets out that the Court shall have jurisdiction in disputes concerning the European Investment Bank and – critically – national central banks. This effectively ends the vestige of independence of national central banks.

Article 116 does maintain the existing provisions stopping the CJEU reviewing the validity or proportionality of operations carried out by the police or other law-enforcement services of a Member State over the maintenance of law and order and the safeguarding of internal security. But a new provision appears to be the extension of the CJEU's remit to how the EU itself manages "law and order in the safeguarding of external borders of the Union."

MEPs are again a winner in providing oversight. Article 120 sets out that it is they who will draft a Protocol on the composition, competence and procedures relating to the execution of Judicial Power of the Union. This is an open ended gift. Previously, arrangements were set out under (current) Article 281, where the Court's Statute could be amended (with exceptions) on the proposal of either the Commission or the Court and only in conjunction with the Council.

[11] The definition and distinction of the three branches as being part of the constitutional system is openly expressed in the document. The engagement of the President in setting pay grades beyond his own staff can be ascribed to maintaining parity across the system.

The Presidency

If the new constitution gets through, it will be because political leaders can see themselves sitting in the chair of the supercharged and high-powered role of President. If Tony Blair was whispered to have his eye on the job of Council President after the EU Constitution was signed, then this job will have every career politician salivating.

As Article 9.2 plainly puts it,

> *Executive power shall be vested in the President of the Union, assisted by members of his Cabinet*

The detail emerges in Articles 80 and 82. There is also a Vice President to assist him, and a Cabinet. The President and Vice President hold their offices for four years, and are either directly elected or elected by national parliaments (this point was left open ended as the Constitution progresses). Every Member State is apportioned a number of electoral votes based on its population, but "degressively proportional" (thus it is not a plain US copy, where votes for its Electoral College are based on the census). There is a two term limit, a citizenship requirement of ten years' standing, and a minimum age threshold of 35.

The President is the person who appoints his Cabinet. The portfolios are all High Representatives, covering;

- Foreign affairs
- Security and defense [sic]
- Internal market
- Finance and budget
- Social cohesion

The President also appoints ambassadors, and judges of the Court of Justice. These are subject to a vote of consent by the Council after a public hearing. Other senior appointments are not subject to Council's consent, but they still face a public hearing and an advisory recommendation. A further limitation (Article 86) requires him to appoint in a manner that reflects the "demographic and geographical range of all the Member States," so they can't all come from Berlin. The President can fire these appointees at will.

Article 84 sets out unambiguously that the President is the one who is responsible (with his Cabinet) for the application of the treaties and for the output and activities of the EU institutions. He oversees the application of Union law under the control of the Court of Justice. He executes the budget and manages programmes. He is also responsible for the Union's external representation.

This is where, as in the US Constitution, much of the power flows from. There is no nuance, as Article 178 proclaims;

> *1. The President shall represent the Union in matters of its external action. He shall take executive action assisted by the Cabinet, particularly by the High Representatives in the fields*

of foreign affairs, security and defense. He shall express the Union's position in the dialogue with third parties, in international organisations and at international conferences.
2. The President shall regularly consult the European Parliament on the main aspects and the basic choices of the common foreign, security and defense policy and inform it of how those policies evolve.
3. The President and High Representatives shall be supported by administrative agencies at their disposal for enforcing the law.

So this means there is now someone to pick up the single telephone in Europe, to recall Kissinger's famous (and it seems apocryphal, indeed contrarian) question.

Article 83 is particularly striking and is where the power of the new post is most evident. It states

1. The President exerts representative and executive authority in Union's foreign affairs and defense in war and peacetime.
2. He exerts law enforcement function of laws passed by the Parliament.
3. He is subject to impeachment by the Parliament in case of abuse of power.
4. He shall have power to grant retrieves [sic] *and pardons for offenses.*[12]

This latter is extraordinary. The concept is directly comparable to the Presidential pardon within the US Constitution – but those are limited to offences committed against the United States (not civil or state cases). Those are contentious enough. To this one might add a concerning level of ambiguity in Article 89;

The President may, within the limits and under conditions laid down by the Parliament acting by a simple majority, collect any information and carry out any checks required for the performance of the tasks entrusted to him.

Should he require additional powers, the Constitution provides for a mechanism for them to be granted with a measure of singular elasticity. For in Article 74 we encounter,

1. A legislative act may delegate to the President the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act.
2. The objectives, content, scope and duration of the delegation of power shall be explicitly defined in the legislative acts.

Again, in such oversight terms that are amended to try to keep up, MEPs are the winners (if sometimes by default). The reduction of the centrality of the Council means that the old Article 291, new Article 138, sees government ministers removed from scripting the rules and general principles for how mechanisms are created for Member States to control how the President (formerly: the Commission) exercises its powers. MEPs retain their formerly shared role, meaning they gain control

[12] Article 2, Section 2, Sc. "reprieves" - this unusual language suggests, however, from its potential online origin a shallow accessing of comparative source documentation on the internet.

over the modality of much of how ministers and national parliaments maintain oversight of what the President is up to.

It is entirely within the bonds of credibility that MEPs will thus assume for themselves an increasing monopoly in not only supplying power to, but overseeing, the activities of the President. As power accrued to Brussels is thus shared, this creates natural difficulties for those seeking to maintain an established status quo, even with a set federal system. This element is particularly ill drafted (such things being comparative). One might for reference consider how Article 94 confirms the centrality of MEPs in oversight of the EU budget. The President is required to forward an annual assessment of assets and liabilities (potentially a novelty if developed to its physical limit), but also to submit "an evaluation report on the Union's finances based on the results achieved, in particular in relation to the indications given by the European Parliament."

If the President is the person to be in this new arrangement, MEPs are also clear winners as the preferred partner institution.

Creation of a "Security Council"

The new EU system may not be flexible enough to deal with a crisis. So a new framework mechanism is to be generated to create a 'Security Council' as situations require. Membership of the *Council for Security, Defense and Foreign Affairs* (to give it its long title) comprises the President, the High Representatives in the fields of foreign affairs and of security and defence, the President of the Assembly, and the President of the Council.

Under Article 180, MEPs trigger its establishment where an international crisis is happening, MEPs have not already made a decision, and the Executive needs to be able to respond rapidly. MEPs retain oversight rights on whether particular decisions made by this Executive body are legal.

In this context, the retention of the Solidarity or Disaster Clause (current Article 222) is of high significance. This, readers may recall, was the article intended to facilitate disaster relief in a member state, whose terminology was abused to try to saddle UK taxpayers with bailing out failed Eurozone states, so the prospect for a repeat expansion of activity remains of interest.

Under Article 181, the clause remains in place. The old version required (222.1) for a request from the political authorities of a country in response to a terrorist attack, or a natural disaster.[13]

However, and remarkably, the trigger requirement that the national authorities first ask for assistance has been removed. This was twice specified in the original.

Now, the President proposes; MEPs endorse involvement; and a Security Council is set up. This has potentially immense consequences, given the application of military resources to an (undefined) crisis situation within an EU – or indeed a non-EU state like the UK will be – without the government in question inviting these foreign troops in…

[13] Not so far-fetched a precaution as it might appear, given pandemics and tectonics. Eg Lisbon 1755, Messina 1783 and 1908, Naples…

The Adoption of the Process of Lobbying

It is in the text in passing, but its inclusion confirms a trend considered to be one of the least attractive of the EU's method of governance. It is that the system by its nature, distance, and comitological processes, encourages mega-lobbying.

Those institutionally or collectively less able to lobby, whether small businesses, entrepreneurial start ups, or threats to corporates and sectorally dominant interests, can obviously suffer significantly as a result.

Article 9.4 of the new draft constitution reads

> *Separation of powers shall be balanced and coordinated in order to ensure rights of Member States, citizens, and associations of civil society*

The reference to "associations of civil society," on a par with the rights held by member states, is a particular concern once one begins to consider, firstly, the millions of Euros disbursed annually to such lobby groups; and secondly, their historic centrality in encouraging EU institutions to pursue centralising powers, to enact legislation and undertake programmes that they themselves are individually proposing.

The concept of such outreach is so core to the programme it even featured on the front cover of the working draft presented to the conference, under the byline

> *The Balanced Union of Nations,*
> *Civil Societies, and Market Economies*

Civil society in Brussels operates as an endorsement factory, and not as a guarantor of any particular rights. Definitions of rights, after all, are as variably defined and prioritised as the lobby you are funding and allowing privileged access to brief you.

Part 2 - Powers

In part 1 we looked at the institutions, and the shift to a more binary system of a Presidency and a form of Congress. Now let's turn to what competences are going to be run by these new, openly federal system of government.

Common Foreign and Security Policy (CFSP)

As we have seen, the Presidency is to have a core role in representing the EU federal state internationally. Under Article 177, it is set out how this is to operate. It relates,

> *1. The Union shall pursue the set values and aims of its external action by entrusting its legislative and executive powers to identity the strategic interests and objectives of the Union and to bring them into effect by the respective legal acts of the President and the Parliament.*
>
> *2. In this respect both Chambers separately and the Parliament by coordinated action of its Chambers shall take legislative action. General guidelines, actions, positions and arrangements for the implementation of decisions will also be taken. In matters of external action of the Union Council shall act by qualified majority.*
>
> *3.If international developments so require, the President of the Council shall convene an extraordinary meeting of the Council in order to define the strategic lines of the Union's policy in the face of such developments.*

Thus both chambers get a role. The current situation, with countries getting a veto unless they agree first to cede it on a narrow issue, is gone entirely.

Article 173 continues to explain that in international affairs, the issues of "external border control, security, defence and foreign affairs are interdependent; they all pertain to the Union's external action. They call for coordinated and consistent treatment." They thus merit similar pooling. But there are distinctions in how they are to be managed. Under Article 174, only external border control is to be an exclusive federal competence. There is a new distinction between external borders, and competencies in the areas of foreign affairs, security and defence which "are in the service of territorial identity and inner liberty of the Union."Consequently, the latter competences are shared between the Union and Member States. This is still a significant step away from present affairs. Under Article 175, the EU is mandated to

> *define and pursue common policies and actions in all the above fields in order to: safeguard its own values, fundamental interests, security, independence and integrity; preserve peace, prevent conflicts and strengthen international security, including aims relating to external borders; encourage progressive abolition of restrictions on international trade; help to preserve and improve the quality of the environment and the sustainable management of global natural resources; assist populations, countries and regions confronting natural or man-made disasters; and promote an international system based on good global governance.*

In practical terms, under Article 183, the new Common Foreign Policy is to be put into effect by the President, assisted by the High Representative of the Union for Foreign Affairs and by Member States, and supported by the common European External Action Service.

So it is not a 'clean sweep' by the centre of representation; and it is for that very reason that we can foresee considerable legacy power struggles ongoing in future decades over where primacy lies. This is one area where the federal settlement leaves long term centralisation wide open.

Defence

From the starting Recitals, we learn of the core nature of military integration in this federal structure, with signatories declaring themselves

> *RESOLVED to implement a common foreign, security and defense policy, thereby reinforcing the European identity in the regionalized world*

Contrast that with the existing text, which tentatively says that member states are

> *RESOLVED to implement a common foreign and security policy including the progressive framing of a common defence policy, which might lead to a common defence in accordance with the provisions of Article 42, thereby reinforcing the European identity and its independence in order to promote peace, security and progress in Europe and in the world*

Naturally, defence operationally needs agencies; these are expressly identified as elements associated with the core budget in Article 179;

> *1. Administrative and operative expenditure of the agencies competent to enforce law in the area of Union's external action shall be charged to the Union budget, including foreign and security affairs, military, defense and intelligence operations.*

Intelligence assets we will return to subsequently. Under Article 184, Parliament are to make the decisions on strategic interest and objectives of the Union, which may be country-based or thematic (ie they can cover anything). The Parliament is also to decide how long these policies should last, and "the means to be made available by the Union and the Member States," which rather suggests – disconcertingly - where the last line in mobilising troops and declaring war will sit. This is not too surprising given Congress has that power in the United States.

MEPs also have a key role in establishing federal defence structures, including a common EU military. Article 184 crucially continues,

> *In particular, the Parliament shall establish the European Defense Agency and the common European Defense Forces composed of the European Army, European Navy and the European Air Force.*

These forces appear to be intended to be set up in addition to national forces. Article 188.3 requires that "European Defense forces shall work in cooperation with defense forces of the Member States." Realistically, we can predict federal forces gaining primacy; and national budgets being cut in

expectation that federal forces will pick up the slack. This obviously has massive implications both for NATO, and for the safety of Europe.

The Mutual Defence Clause is beefed up to mimic the NATO commitment. Article 186.1 states,

> *If the Union or a Member State is the victim of armed aggression on its territory, European Union defense forces and those of the other Member States shall be engaged by all the means in their power*

Note the reference to a mutual commitment to defend the EU corporately. A saving grace is that a caveat requires consistency with NATO obligations, though we can also foresee the effectiveness of that caveat being weakened over the long term.

Another welcome caveat lies in Article 187. This states that member states do not have to disclose intelligence "the disclosure of which it considers contrary to the essential interests of its security". Member states can also take protectionist measures to secure their national arms industries and security of supply. These are useful safeguards but suggest of themselves, given their intrinsic contrariness to other elements of the federal treaty, that they are provisional and transitory arrangements.

Police

One might assume that policing is largely a domestic affair, but that would be forgetting the role of Europol and *Corpus Juris* in developing the concept of federal crimes and federal pursuit of criminals.

Thus in Article 152, the Federal Assembly take the lead in establishing rules over the "definition and prevention of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension." This in effect generates a federal criminal law system, opens the door to concepts mooted under the European Public Prosecutor, and even permits the prospect of EU jails.

These crimes are defined as the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.

Security

A natural corollary for setting out where competences lies is that of internal security. Although these may fall naturally within the remit of individual states, the cross-border element justifies a level of federal involvement. Thus Article 150.2 authorises the EU to

> *endeavour to ensure a high level of Union's internal security and Member States' national security through measures to prevent crime and terrorism from crossing the external borders of the Union*.

Article 151.1 states that the federal government has exclusive rights in four areas: ensuring the absence of any controls on persons when crossing internal borders; carrying out checks on persons; securing efficient monitoring of the crossing of external borders; and enforcing and administering an integrated management system for external borders. The second element, which is badly drafted, is a concern as it is ambiguous over granting the EU total power over internal security surveillance and analysis powers.

To achieve these ends, the EU gains an entity to be known as the Union's territorial border police force. This will work in cooperation with the maritime and coast guard agency. Article 149 puts the establishment of the European External Border Police and of the European Coast Guard on a legal footing.

EU CIA

If the groundwork for an FBI can be anticipated from these measures, the establishment of an EU CIA is quite clearly directed.

The relevant clauses lie in Article 182;

> 1. *The common European Intelligence Agency shall be established by the decision of the European Parliament in order to provide for intelligence services needed to support external action of the Union in the areas of external border control, foreign affairs, security and defense. The common European Intelligence Agency Service shall also be entrusted with gathering intelligence needed to combat particularly serious crime with a cross-border dimension such as, inter alia, organised crime and terrorist attacks are.*
>
> 2. *European Intelligence Agency* [sic]*will report directly to the President and to the High Representatives for foreign affairs and for security and defense.*
>
> 3. *It shall also report and be regularly supervised by the Council for Security, Defense and Foreign Affairs.*

Article 188 further states that this agency is to work "in cooperation with intelligence services of the Member States."

The consequences, risks, complications, and implications arising from these plans should be self-evident.

Free Movement

A major element of the UK referendum was the focus on how the EU's policies and handling of migration had been such a disaster. What changes under the new model?

Nothing that would provide any motivation to regret the Brexit vote. Article 15 reiterates the principle of Citizenship of the EU (in addition to national citizenship), generating rights: the first of these rights is the right to move and reside freely within the territory of the Member States. Article

16 explains this in familiar terms, but then adds a new prerogative that allows the considerable expansion in the future;

> 2. *If action by the Union should prove necessary to attain this objective and the Treaty has not provided the necessary powers, the European Parliament, acting in accordance with the ordinary legislative procedure, may adopt provisions with a view to facilitating the exercise of these rights*.

This blank cheque comes in the context of the default of membership of Schengen without exception. Article 149 clarifies that maintaining the absence of internal border controls is a federal matter.

Inevitably, this is also linked to the creation of a Common European Asylum System. Article 151 sets out that this comprises a uniform status of asylum for nationals of third countries; a uniform status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of international protection; a common system of temporary protection for displaced persons in the event of a massive inflow; common procedures for the granting and withdrawing of uniform status; legal powers and institutions to achieve this; "conditions" for the reception of applicants for asylum or subsidiary protection; and powers to reach deals with third countries.

Particularly notable elements here are the establishment of rights for people who are fake asylum seekers, the inherent option to share out migrant numbers in case of large influx (ie requiring other states to accept a proportion), and a level of engagement that may even extend to the right to set up and manage housing and camps.

Nuclear

Powers over nuclear energy are maintained, as part of the new core constitution. The federal role however becomes central.

Article 154 provides for a number of aspects of nuclear power to be a federal power. These include research and sharing research; health and safety standards; research spending (phrased ambiguously that it may mean all reactor production); managed provision of fuels (a critical power in any shortage); non-proliferation; and international cooperation on nuclear energy.

This will be governed by a protocol to replace the existing Euratom treaty. There is no explicit reference to military deterrence, but the prospect for longer term expansion of competence is likely increased by these new terms.

Space

The EU's competence in Space is a relatively recent development, arising as a surprise inclusion in the original EU Constitution thanks to Valéry Giscard d'Estaing. In the new version, Article 153 sets out that the EU is to have an exclusive competence in the area of exploration of space. To achieve

this, it has to develop a European Space Policy, and an EU Space Programme. MEPs will take the lead, though without harmonising any national laws in this instance.

The Constitution authorises the EU, "by the act of the European Parliament", to establish a European Space Agency, which shall operate under the remit of the President.

There is a minor problem with this proposal. The European Space Agency already exists; and it is an intergovernmental and not an EU entity. Presumably the authors are aware of this, and are merely encouraging a major diplomatic tussle as existing treaties, arrangements and billion dollar programmes are ripped up.

Fishing

The Common Fisheries Policy is a longstanding and unremitting disaster.

Under new Article 155, it is to remain so. Fisheries is to stay an exclusive competence of the EU. There is not even the contextualisation of the need for a complete overhaul. The authors of this document hailing from Slovenia, a non-North Sea state (to say the least) this should not surprise us, but does demonstrate how inherent weaknesses can arise from narrow perspectives when drafting such texts.

Environment

Under Article 161, the Environment remains a shared competence.

However, the European Parliament's role (Article 161.4) is expanded as the body that is now responsible for deciding what EU action needs to be taken.

Part 3 - Functionality

Finally, we turn briefly to three elements that add a new dimension to the operational workings of the system.

A Sweeping New *Passerelle*

A *passerelle* clause is a treaty element that allows further powers to accrue to an institution, subject to certain provisions (generally, unanimity - at least amongst participating states).[14] The concept was already inferred in previous treaties thanks to the 'rubber' articles 94, 95 and 308. These had been introduced to allow legal cover for the EU to engage on activities everyone (especially ministers) agreed needed to be done, especially to ensure the Single Market was enacted, but where there was some uncertainty over whether the treaties authorised it.

The new version confirms the existence of the *passerelle*. This is critically important, as this determines how fixed the constitution is intended to be, and whether the authors envisage more powers being transferred to the centre over time.

Article 199 answers this by granting MEPs an exceptionally wide remit, without hindrance of veto

> *If action by the Union should prove necessary, within the framework of the policies defined in the Treaty, to attain one of the objectives set out in the Treaty, and the Treaty has not provided the necessary powers, the Parliament, acting by a qualified majority on a proposal from the President, shall adopt the appropriate measures.*

Consequently, there is no legitimate democratic reason why any supporter of constitutional government, of subsidiarity, let alone of national sovereignty, could possibly endorse this constitution.

New Article 50

No-one in the United Kingdom probably now needs Article 50 explained to them. It was created to generate a legal right that was inferred under international law, but not expressly stated within the European treaties. By including it within the Convention Constitution that became the Lisbon Treaty, it clarified the key issue of how long the transition process was set to take.

The new Article 50 is Article 201. The two year timetable remains. The key change is that it becomes a matter for the European Parliament to negotiate on behalf of the EU. The negotiating period can be extended but this has to be done by the European Parliament acting unanimously, which seems

[14] *Passerelle* being the French word for a connecting bridge such as one may find above street level between connecting buildings. The Bridge of Sighs is a *passerelle*. The word in French also has the nautical connotation of 'gangplank'. (Both these observations were naturally pointed out by the author to delegates when the term was first introduced during the Convention on the Future of Europe.)

like an extremely unlikely turn of events (it may be again that the sense of the Slovenian original has been lost, and in this case should be read as that representatives in the Council from any one country can, where they agree, veto it: but this is stretching the interpretation).

New Treaty Renegotiation Trigger

The clearest indication that even this constitution does not constitute the end of ever-closer union lies in the development of the renegotiation trigger. While of course it may be decided that powers could be restored to member states, this has never happened in practice (even with the threat of Brexit).

Article 202 determines the processes here. Any government (a low threshold), the President, or the European Parliament itself (!) may submit proposals to the European Parliament. National parliaments are then notified. If the European Parliament accepts the validity of the proposals by a simple majority, and the Council concurs by QMV, a constitutional convention is called.

Membership is limited to MEPs and Council members. Changes are agreed in this Convention by a two thirds majority.

In other words, European Parliamentarians can decide to assume more powers; vote themselves more powers; and then it is down to national parliaments and referenda to block it. However, recognising this may not generate unanimous assent, clause 5 provides that after two years if four fifths of Member States have ratified the new settlement but “one or more Member States have encountered difficulties in proceeding with ratification,” the Constitutional Convention is reconvened to review the matter. In effect this generates a mechanism to negotiate opt outs and transition periods.

What this constitutes is the biggest, unbottomed, power grab by MEPs and the future quasi-senators that could ever possibly be imagined by the wildest dreaming of European integrationists, federalist or otherwise.

Conclusion

The new draft constitution provides us with a timely reminder of the long term direction of the European Union, and a warning of the form of changes which will now be placed on the table. Whether all those changes are adopted or not is moot; integration happens by a gradual process of motion only partially inhibited by the application of any brake.

Correspondingly, ministers in planning for the UK's relationship with the EU after Brexit need to consider the long term development of the European Union as they map out our long term inter-institutional structures. The nature of these proposals, which have already gained the support of the President at least one member state – enough to put them on the table, and to generate proposals from others – demonstrates that the loosest form of association is the best.

In the interim, continental Eurosceptics merit the support of campaigners in the UK, and especially in Parliament, in helping to apply those brakes for as long as the United Kingdom remains a member of the EU. If the rush to a federal Europe is seen as a knee jerk reaction to Brexit and to the rising tide of anti-establishment groups, then it behoves us to warn certain partners that their policies will now fuel the very fires they seek by their rampant federal plans to quell.

About the Author

Dr Lee Rotherham has been an adviser to John Major's whipless rebels, Eurosceptic MEPs, three Shadow Foreign Secretaries, the Conservative delegate to the Convention on the Future of Europe, a delegate to the Council of Europe, and government ministers.

He was Head of Opposition Research for the No Campaign in the AV Referendum, and Director of Special Projects at Vote Leave, the designated pro-withdrawal campaign during the 2016 referendum.

He has twice been a Conservative candidate in General Elections, in 2001 in St Helens South (the "butler campaign"), and in 2005 in Rotherham standing against the then-Europe Minister. Outside of Westminster he has worked in publishing, teaching, heritage, and in Defence.

He has been very extensively published in academia and across think tanks. His publications as author or co-author include *The EU in a Nutshell*; *Ten Years On - Britain Without the European Union*; *Change or Go*; *Plan B for Europe*; *Controversies from Brussels and Closer to Home*; *Manning the Pumps*; *Hard Bargains or Weak Compromises*; *The Hard Sell*; *Bloc Tory*; *Common Ground*; *A Spotter's Guide to Sound Government Policies*; and the award-winning *Bumper Book of Government Waste* and *Brown's Wasted Billions*.

His historical works include *A Fate Worse Than Debt – A History of Britain's National Debt from Boadicea to Cameron*; *The Sassenach's Escape Manual*; and tour guides to Roman Britain, colonial North America, the Hundred Years War, and the Apocalypse.

Lee is a reservist in the British army, and has served on three overseas deployments.

This research was possible thanks to the work of **BlažBabič**. He has been campaigning against the EU in Slovenia for twenty years, including translating key English language material for wider awareness. He struggles in the cause of free speech against censorship along with the political party he is now active in (Zedinjena Slovenija – Unified Slovenia).

He was Secretary General of Nova Stranka (the New Party) over 1996-2004, and Secretary General of TEAM (The European Alliance of EU-critical Movements) for 2007-2010.

Blaž is a researcher and critic of the decline of direct democracy within the EU as well as a writer on law, politics and history. He contributes to Calgacus (http://calgacus.co.uk) and can be reached at https://www.facebook.com/blaz.babic

www.theredcell.co.uk