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From the ‘community method’ to the ‘union method’: a transition towards enhanced efficiency of the European Union or towards intergovernmental decision making by its member states?

The pressure on the capacity to act of the European Union, especially of its Eurozone, has risen continuously, since the global financial crisis has begun to focus on the debtor credibility of its member states. This has triggered – alongside with new debates on the contents of a new debt regime within the Union, which is approaching its end phase in December 2011 – a new debate on the procedures of decision making within the E.U.: under the heading of introducing a new “union method” of decision making, especially chancellor Angela Merkel is building pressure in the public European debate for the introduction of a new procedure of decision making. i.e. of new relations between the participating institutions – especially, between the Council, the Commission and the European Parliament - to by-pass the cumbersome procedures of the established “community method”.

This is no mere formal detail – it pertains to the core of the institutional characteristics of the European Union: So far the two methods reigning decision making had been the “community method” in which the European Commission is playing a central role, and the “intergovernmental method” which lies in the hands of member states’ governments meeting in the European Council, the “union method” postulated (and put into practice) by Angela Merkel realizes an important shift of controlling power towards the leading group among the member states’ heads of state and of government – not only by combining the two established methods of the EU, but by complementing them by an inter-governmental dimension of agreements outside of the framework of the EU treaties which is *legally* only accessible to the member states heads of state and government and *de facto* only to the leading group among them.

As the creation and management of money is often considered either as an attribute of modern states’ sovereignty, relating to other sovereign nation states on global markets or as a merely technical task of central banks, relating to banking systems operating on the global financial market, these issues are especially urgent for the EU’s Eurozone: Is it possible to envisage a kind of political institutionalization on the EU level that will neither tend to produce a problematic deadlock in critical situations by relying too much on political consensus building between the EU institutions or the member states – and thereby endanger the credibility of the political set-up behind the Euro as a trans-national currency – nor simply override democratic decisions taken at member state level, thereby reinforcing existing situations of hierarchy and dependency between member states and pushing the existing ‘democratic deficit’ of EU policies to a new level.

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In order to further an informed debate on this issue, we shall first look at what this established “community method” prescribes; then have a look at the proposals for a new “union method”, as far as they have been articulated so far, and at the first criticisms which have been formulated. Finally we shall sketch a theoretical frame of reference which will make it easier to come to an evaluation of the positions taken in this debate – trying to gauge whether (or how far) the new method of decision making in the EU will enhance the real efficiency of the Union or whether (or how far) it will lead to a steady or definitive reinforcement of intergovernmental decision making as the ‘lead method’ within the EU. This cannot be done without addressing some issues of the theory of the modern state which need to be clarified in order to avoid the false alternative between the creation of a unified European Union state, and the relapsing of the EU member states into something like a mere collection of sovereign nation states.

Appendix: key documents for the debate

- A. The “explanatory note” provided by the EU Commission (2002)
- B. The Framework Agreement between Parliament and Commission contested by the Council (October 2010)
- C. Chancellor Merkel’s remarks (November 11th, 2010)
- D. Jacques Delors’ speech (January 28th, 2011)
- E. Other reactions

A. The “explanatory note” provided by the EU Commission (2002)

I. What is the Community Method (can we name it differently)?

The Community method is a decision-making procedure that allows for a transparent, effective and democratic functioning of the European Union. It is based on the interplay between three autonomous institutions: the European Commission, the European Parliament, and the Council of Ministers (also called the ‘institutional triangle’).

The key features of the Community method are:

- The European Commission has the monopoly to introduce legislative initiatives. It does so in the general European interest;
- The Council of Ministers, representing Member States, decides by qualified majority in most cases;
- The European Parliament, directly elected by European citizens, co-legislates, or is at least consulted;
- The Council of Ministers can only amend Commission proposals by unanimity;
- Member States implement EU policy in principle;
- EU institutions can play a role in implementation, in particular where a harmonised approach is needed. The Commission receives delegated

powers from the Council of Ministers for implementation, often assisted by committees of national civil servants;

- The EU Institutions, Member States and interested parties can take a case to the European Court of Justice. The European Commission plays a key role in taking Member States to the Court for implementation failures ('guardian of the Treaty').

A key above feature is the exclusive capacity of the Commission to introduce legislative initiatives. The Commission has a multinational and independent administration, and decides by political consensus. This is the best guarantee to express the general European interest and not national or partisan interests. In turn, this is crucial for creating trust between the Member States.

The Community Method currently applies to issues related to the 'first pillar' (largely economic, social and environmental matters, including international affairs such as trade). It does not apply to the Common Foreign and Security Policy and to Justice and Home Affairs, which were introduced as separate 'pillars' in the Maastricht Treaty of 1992. There, the right of initiative is mostly shared by all Member States and the European Commission, and unanimity mostly applies as a decision rule.

II. What is the added value compared to intergovernmental method?

The Community method allows Member States to share sovereignty in a democratic way and to work in the general interest of the European Union. Compared to the way in which a 'classical' international organisation works, the method offers the following advantages:

- Actions by decision-makers are more strongly guided by *clear legal rules* (rule of law) ;
- Decision-making is transparent and includes a *public debate* in the European Parliament.
- It offers the possibility of a *single representation* of 15 countries to the outside world, allowing for *rapid and effective action*.
- The institutional interplay allows for a search for the *general European interest*, including protection of minority interests (e.g. smaller Member States). It offers better chances to have a debate on policy ideas next to a debate on national interests.
- Its transparency and legal procedures guarantee *accountability*.
- The key role of the Commission, balancing the interests of different policy sectors, ensures *better policy coherence*.
- It produces decisions that guarantee *legal certainty* for economic operators and citizens, given the role of the Commission as the guardian of the Treaty and the role of the Court of Justice.

What would happen without the Community method is that:

- The right of initiative from various sides would choke the decision-making system, in particular in an enlarged Union, as can already be seen in some sectors now.
- Sharing the right of initiative would allow a limited number of Member States to dominate the decision-making process.

- National executives would be able to exert public powers through intergovernmental ways, less embedded in the rule of law. This would diminish the democratic quality of the EU.
- The 'checks-and-balances' aspect of the current interplay between the three institutions, which is a characteristic of our democracies, would diminish.
- Judicial control on the use of public powers would be less stringent, as is already the case in the current Common Foreign and Security Policy and aspects of Justice and Home Affairs.
- Trust between the Member States would diminish over time, given the absence of a relatively neutral broker in the system.

III. How has the Community method been renewed over time?

The Community method is not static. It has been adjusted and renewed over time with, inter alia:

- The extension of the role of the European Parliament in the legislative and budgetary process, although it is still largely excluded from important powers of the EU.
- The extension of qualified majority voting. Nevertheless, more than fifty legal bases in the current Treaty still foresee unanimity.

History shows the importance of qualified majority voting. The Single Market programme was only realised after the Single European Act of 1987 changed the decision rule from unanimity to qualified majority for many issues. The EU environment policy got a boost from the Maastricht Treaty, which introduced qualified majority voting for many environmental issues.

Unanimity often leads to policy failure. It applies, for instance, to fiscal matters related to the functioning of the single market. This entails blockages in the Council and, subsequently, a proliferation of co-operation between Member States outside of the EU framework. This can complicate doing business in the internal market.

One important institutional change over time has been the role of the European Council. The increased involvement of the European Council in deciding on specific matters has damaged the quality of the interplay between the institutional triangle. The European Council should reinforce the authority of the Council of Ministers and not erode it ; it should define broad policy orientations but leave actual decisions to the institutional triangle.

B. The Framework Agreement between Parliament and Commission contested by the Council

[The EU Council of Ministers has warned the European Commission and the European Parliament that the framework agreement signed by the two institutions on 20 October, 2010, does not conform to EU treaties. The Council stated that the agreement gives powers to the Parliament that the treaties do not (Europolitics, 22 October, 2010, p. 4)]

Explanatory Statement of the EP resolution

(EP, Committee on Constitutional Affairs, October 2010)

Until the Lisbon Treaty and the new legal basis of Article 295 TFEU, the Treaties did not explicitly encourage the EU institutions to conclude interinstitutional agreements. Interinstitutional agreements are not allowed to alter primary law stipulations; nevertheless, they do often clarify them. The draft revised framework agreement on relations between Parliament and Commission, which the Conference of Presidents has forwarded to the Committee on Constitutional Affairs with a view to having it approved in plenary, is actually the fifth agreement of this type between the two institutions. It strictly reflects the institutional balance set up by the Lisbon Treaty.

The new agreement represents a clear and significant improvement on the relations with the Commission. As all the agreements, the final text tends to be a compromise between the two parts; but this final compromise presents a balanced judgement and a reasoned and coherent implementation of the Treaty of Lisbon.

Bearing in mind the main pillars of parliamentary architecture that are pointed out in the report – legislative competences, parliamentary scrutiny of the executive (including the international relations dimension), information duties and executive presence in Parliament –, the remarks of the explanatory statement shall be restricted to the items that are not mentioned in the report.

Concerning the **legislative procedure and planning**, two issues, that are not expressly addressed, must be highlighted. Firstly, the amendments on better law-making and the announcement of a revision of the Interinstitutional agreement on Better Law-Making, which is a most significant political position. Secondly, the new rules on the procedure of impact assessment conducted by the Commission. A procedure that shall be transparent, taking into consideration different scenarios, including a ‘do nothing’ option, and that shall in principle be presented to the relevant parliamentary committee during the consultation period with national parliaments under the Lisbon Treaty.

Concerning the **Parliamentary scrutiny**, the most relevant items are exposed in the report. In what respects the **interinstitutional dimension of EU international relations**, it must be remembered that this matter became the most difficult negotiation item. The aim of Parliament is to be fully informed in order to serve the purpose of facilitating Parliament’s consent, to give more predictability to the procedure and to avoid non-conclusion of international agreements when the negotiation has already been completed.

In what concerns **information duties**, the confidential information issues and the office holders who can request information were deeply discussed and the technical details on how and when the information shall be forward took a substantial amount of time. The early cooperation with the Parliament on any legislative initiative requests emanating from citizens’ initiatives becomes a significant measure to assure Parliament’s liaison with citizens.

The new rules for better monitoring the transposition and application of Union law are an accomplishment of the new parliamentary competences.

Regarding the Commission's presence in Parliament, the main provisions are explained in the Report. Even though, it must be underlined that these provisions concern all Commissioners, including the President and the Vice-President for External Relations / High Representative of the Union for Foreign Affairs and Security Policy.

According to its last point, this framework agreement shall be reviewed in light of practical experience by the end of 2011.

In conclusion, the new framework agreement submitted to Parliament for approval consolidates the achievements of the Treaty of Lisbon and adds a number of provisions, in full respect of the treaties, which represent a major step forward in the process of strengthening political relations between the two institutions.

The Agreement

The European Parliament and the **European** Commission (hereinafter referred to as "the two Institutions"),

- having regard to the Treaty on European Union (**TEU**), the Treaty **on the Functioning of the European Union (TFEU)**, in particular **Article 295 thereof**, and the Treaty establishing the European Atomic Energy Community (hereinafter referred to as "the Treaties"),
 - having regard to the Inter-institutional Agreements and texts governing relations between the two Institutions,
 - having regard to Parliament's Rules of Procedure⁽¹⁾, and in particular Rules **105, 106 and 127 thereof and Annexes VIII and XIV thereto**,
 - **having regard to the political guidelines issued, and the relevant statements made, by the President-elect of the Commission on 15 September 2009 and 9 February 2010 and the statements made by each of the candidate Members of the Commission in the course of their hearings by parliamentary committees**,
- A. whereas the **Lisbon Treaty strengthens** the democratic legitimacy of the Union's decision-making process,
- B. whereas the two Institutions attach the utmost importance to the effective transposition and implementation of **Union** law,
- C. whereas this Framework Agreement does not affect the powers and prerogatives of Parliament, the Commission or any other institution or organ of the Union but seeks to ensure that those powers and

prerogatives are exercised as effectively **and transparently** as possible,

- D. whereas this Framework Agreement should be interpreted in conformity with the institutional framework as organised by the Treaties,**
- E. whereas the Commission will take due account of the respective roles conferred by the Treaties on Parliament and the Council, in particular with reference to the basic principle of equal treatment laid down under point 9,**
- F. whereas it is appropriate to update the Framework Agreement concluded in *May 2005*[\(2\)](#) and to replace it by the following text,**

agree as follows:

I. SCOPE

1. To better reflect the new "special partnership" between Parliament and the Commission, the two Institutions agree on the following measures to strengthen the political responsibility and legitimacy of the Commission, extend constructive dialogue, improve the flow of information between the two Institutions and improve **cooperation on** procedures and planning.

They also agree on specific **provisions**:

- **on Commission meetings with national experts, as set out in Annex 1;**
- **on the forwarding of confidential information to Parliament, as set out in Annex 2;**
- **on the negotiation and conclusion of international agreements, as set out in Annex 3; and**
- on the timetable for the Commission's **Work Programme**, as set out in Annex 4.

II. POLITICAL RESPONSIBILITY

2. After being nominated by the European Council, the President-designate of the Commission will submit to Parliament political guidelines for his/her term of office in order to enable an informed exchange of views to take place with Parliament before its election vote.

3. In conformity with Rule 106 of its Rules of Procedure, Parliament shall communicate with the President-elect of the Commission in good time before the opening of the procedures relating to giving its consent to the new Commission. Parliament shall take into account the remarks expressed by the President-elect.

The designated Members of the Commission shall ensure full disclosure of all relevant information, in conformity with the obligation of independence laid down in Article 245 TFEU.

The procedures shall be designed in such a way as to ensure that the entire Commission-designate is assessed in an open, fair and consistent manner.

4. Each Member of the Commission shall take political responsibility for action in the field of which he or she is in charge, without prejudice to the principle of Commission collegiality.

The President of the Commission shall be fully responsible for identifying any conflict of interest which renders a Member of the Commission unable to perform his or her duties.

The President of the Commission shall likewise be responsible for any subsequent action taken in such circumstances **and** shall inform the President of Parliament thereof immediately and in writing.

The participation of Members of the Commission in electoral campaigns is governed by the Code of Conduct for Commissioners.

Members of the Commission participating actively in electoral campaigns as candidates in elections to the European Parliament should take unpaid electoral leave with effect from the end of the last part-session before the elections.

The President of the Commission shall inform Parliament in due time of his/her decision to grant such leave, indicating which Member of the Commission will take over the relevant responsibilities for that period of leave.

5. If Parliament ***asks the President of the Commission to withdraw confidence in an individual Member of the Commission, he/she will seriously consider whether to request that Member to resign, in accordance with Article 17(6) TEU. The President shall either require the resignation of that Member or explain his/her refusal to do so before Parliament in the following part-session.***

6. Where it becomes necessary to arrange for the replacement of a Member of the Commission during his or her term of office pursuant to ***the second paragraph of Article 246 TFEU***, the President of the Commission ***will seriously consider the result of Parliament's consultation before giving accord to the decision of the Council.***

Parliament shall ensure that its procedures are conducted with the utmost dispatch, in order to enable the President of the Commission to ***seriously consider*** Parliament's ***opinion*** before the new Member is ***appointed***.

Similarly, pursuant to the third paragraph of Article 246 TFEU, when the remainder of the Commission's term of office is short, the President of the Commission will seriously consider Parliament's position.

7. ***If the President of the Commission intends to reshuffle the allocation of responsibilities amongst the Members of the Commission during its term of office pursuant to Article 248 TFEU he/she shall inform Parliament in due time for the relevant parliamentary consultation with regard to those changes. The President's decision to reshuffle the portfolios can take effect immediately.***

8. ***When the Commission comes forward with a revision of the Code of Conduct for Commissioners relating to conflict of interest or ethical behaviour, it will seek Parliament's opinion.***

III. CONSTRUCTIVE DIALOGUE AND FLOW OF INFORMATION

(i) General provisions

9. The Commission ***guarantees that it will apply the basic principle of equal treatment for Parliament and the Council, especially as regards access to meetings and the provision of contributions or other information, in particular on legislative and budgetary matters.***

10. ***Within its competences, the Commission shall take measures to better involve Parliament in such a way as to take Parliament's views into account as far as possible in the area of the Common Foreign and Security Policy.***

11. ***A number of arrangements are made to implement the "special partnership" between Parliament and the Commission, as follows:***

- ***the President of the Commission will at Parliament's request meet the Conference of Presidents at least twice a year to discuss issues of common interest;***
- ***the President of the Commission will have a regular dialogue with the President of Parliament on key horizontal issues and major legislative proposals. This dialogue should also include invitations to the President of Parliament to attend meetings of the College of Commissioners;***
- ***the President of the Commission or the Vice-President responsible for inter-institutional relations is to be invited to attend meetings of the Conference of Presidents and the Conference of Committee Chairs when specific issues relating to plenary agenda-setting, inter-institutional relations between Parliament and the Commission and legislative and budgetary matters are to be discussed;***
- ***meetings shall take place annually between the Conference of Presidents and the Conference of Committee Chairs and the College of Commissioners, to discuss relevant issues including the preparation and implementation of the Commission Work Programme;***

- ***the Conference of Presidents and the Conference of Committee Chairs shall inform the Commission in due time of the results of their discussions having an inter-institutional dimension. Parliament shall also keep the Commission fully and regularly informed of the outcome of its meetings dealing with the preparation of the part-sessions, taking into account the Commission's views. This is without prejudice to point 45;***
- ***to ensure a regular flow of relevant information between the two Institutions, the Secretaries-General of Parliament and of the Commission shall meet on a regular basis.***

12. Each Member of the Commission shall make sure that there is a regular and direct flow of information between the Member of the Commission and the ***chair*** of the relevant parliamentary committee.

13. The Commission shall not make public any legislative proposal or any significant initiative or decision before notifying Parliament thereof in writing.

On the basis of the Commission's ***Work Programme***, the two Institutions shall identify in advance, by common agreement, ***key initiatives to be presented in plenary. In principle, the Commission will present these initiatives first in plenary and only afterwards to the public.***

Similarly, they shall identify those proposals and initiatives for which information is to be provided before the Conference of Presidents or conveyed, in an appropriate manner, to the relevant parliamentary committee or its ***chair***.

These decisions shall be taken ***within*** the framework of the regular dialogue between the two Institutions, as provided for in ***point 11***, and shall be updated on a regular basis, taking due account of any political developments.

14. If an internal Commission document – of which Parliament has not been informed pursuant to ***this Framework Agreement*** – is circulated outside the Institutions, the President of Parliament may request that the document concerned be forwarded to Parliament without delay, in order to communicate it to any Member of Parliament who may request it.

15. The Commission will provide full information and documentation on its meetings with national experts within the framework of its work on the preparation and implementation of Union legislation, including soft law and delegated acts. If so requested by Parliament, the Commission may also invite Parliament's experts to attend those meetings.

The relevant provisions are laid down in Annex 1.

16. ***Within three months after the adoption of a parliamentary resolution***, the Commission shall provide ***information to Parliament*** in writing on action taken in response to specific requests addressed to it in Parliament's resolutions, including in cases where it has not been able to

follow Parliament's views. ***That period may be shortened where a request is urgent. It may be extended by one month where a request calls for more exhaustive work and this is duly substantiated. Parliament will make sure that this information is widely distributed within the institution.***

Parliament will endeavour to avoid asking oral or written questions concerning issues in respect of which the Commission has already informed Parliament of its position through a written follow-up communication.

The Commission shall ***commit itself to report on the concrete follow-up of any request to submit a proposal pursuant to Article 225 TFEU (legislative initiative report) within three months following adoption of the corresponding resolution in plenary. The Commission shall come forward with a legislative proposal at the latest after one year or shall include the proposal in its next year's Work Programme. If the Commission does not submit a proposal, it shall give Parliament detailed explanations of the reasons.***

The Commission shall also commit itself to a close and early cooperation with Parliament on any legislative initiative requests emanating from citizens' initiatives.

As regards the discharge procedure, the specific provisions laid down in point 31 shall apply.

17. Where ***initiatives, recommendations or requests for legislative acts are made*** pursuant to Article ***289(4) TFEU***, the Commission shall inform Parliament, if so requested, of its position on ***those proposals*** before the relevant parliamentary committee.

18. The two Institutions agree to cooperate in the area of relations with national Parliaments.

Parliament and the Commission shall cooperate on the implementation of TFEU Protocol No 2 on the application of the principles of subsidiarity and proportionality. Such cooperation shall include arrangements related to any necessary translation of reasoned opinions presented by national Parliaments.

When the thresholds mentioned in Article 7 of TFEU Protocol No 2 are met, the Commission shall provide the translations of all the reasoned opinions presented by national Parliaments together with its position thereon.

19. The Commission shall inform Parliament of the list of its expert groups set up in order to assist the Commission in the exercise of its right of initiative. That list shall be updated on a regular basis and made public.

Within this framework, the Commission shall, in an appropriate manner, inform the competent parliamentary committee, at the specific and reasoned request of its ***chair***, on the activities and composition of such groups.

20. The two Institutions shall hold, through the appropriate mechanisms, a constructive dialogue on questions concerning important administrative matters, notably on issues having direct implications for Parliament's own administration.

21. Parliament will seek the opinion of the Commission when it comes forward with a revision of its Rules of Procedures concerning relations with the Commission.

22. Where confidentiality is invoked as regards any of the information forwarded pursuant to this Framework Agreement, the provisions laid down in Annex 2 shall be applied.

(ii) International agreements and enlargement

23. Parliament shall be immediately and fully informed at all stages of the negotiation and conclusion of international agreements, including the definition of negotiating directives. The Commission shall act in a manner to give full effect to its obligations under Article 218 TFEU, while respecting each Institution's role in accordance with Article 13(2) TEU.

The Commission shall apply the arrangements set out in Annex 3.

24. The information referred to in **point 23** shall be provided to Parliament in sufficient time for it to be able to express its point of view if appropriate, and for the Commission to be able to take Parliament's views as far as possible into account. This information shall, **as a general rule**, be provided **to Parliament** through the **responsible** parliamentary committee and, where appropriate, at a plenary sitting. **In duly justified cases, it shall be provided to more than one parliamentary committee.**

Parliament **and the Commission undertake** to establish appropriate procedures and safeguards **for the forwarding of confidential information from the Commission to Parliament**, in accordance with the provisions of Annex 2.

25. The two Institutions acknowledge that, due to their different institutional roles, the Commission is to represent the European Union in international negotiations, with the exception of those concerning the Common Foreign and Security Policy and other cases as provided for in the Treaties.

Where the Commission represents the **Union in international conferences**, it shall, at Parliament's request, facilitate the inclusion of a **delegation of** Members of the European Parliament as observers in **Union delegations**, **so that it may be immediately and fully informed about the conference proceedings**. The Commission undertakes, **where applicable, to systematically inform the Parliament delegation about the outcome of negotiations.**

Members of the European Parliament may not **participate** directly in **these negotiations**. **Subject to the legal, technical and diplomatic possibilities, they may be granted observer status by the Commission.**

In the event of refusal, the Commission will inform Parliament of the reasons therefor.

In addition, the Commission shall facilitate the participation of Members of the European Parliament as observers in all relevant meetings under its responsibility before and after negotiation sessions.

26. Under the same conditions, the Commission shall keep Parliament systematically informed about, and facilitate access as observers for Members of the European Parliament forming part of Union delegations to, meetings of bodies set up by multilateral international agreements involving the Union, whenever such bodies are called upon to take decisions which require the consent of Parliament or the implementation of which may require the adoption of legal acts in accordance with the ordinary legislative procedure.

27. The Commission shall also give Parliament's delegation included in Union delegations to international conferences access to use all Union delegation facilities on these occasions, in line with the general principle of good cooperation between the institutions and taking into account the available logistics.

The President of Parliament shall send to the President of the Commission a proposal for the inclusion of a Parliament delegation in the Union delegation no later than 4 weeks before the start of the conference, specifying the head of the Parliament delegation and the number of Members of the European Parliament to be included. In duly justified cases, this deadline can exceptionally be shortened.

The number of Members of the European Parliament included in the Parliament delegation and of supporting staff shall be proportionate to the overall size of the Union delegation.

28. The Commission shall keep Parliament fully informed of the progress of accession negotiations and in particular on major aspects and developments, so as to enable it to express its views in good time through the appropriate parliamentary procedures.

29. When Parliament adopts a recommendation on matters referred to in **point 28**, pursuant to **Rule 90(5)** of its Rules of Procedure, and when, for important reasons, the Commission decides that it cannot support such a recommendation, it shall explain the reasons before Parliament, at a plenary sitting or at the next meeting of the relevant parliamentary committee.

(iii) Budgetary implementation

30. Before making, at donors' conferences, financial pledges which involve new financial undertakings and require the agreement of the budgetary authority, the Commission shall inform the budgetary authority and examine its remarks.

31. In connection with the annual discharge governed by Article **319 TFEU**, the Commission shall forward all information necessary for

supervising the implementation of the budget for the year in question, which the **chair** of the parliamentary committee responsible for the discharge procedure pursuant to Annex **VII** of Parliament's Rules of Procedure requests from it for that purpose.

If new aspects come to light concerning previous years for which discharge has already been given, the Commission shall forward all the necessary information on the matter with a view to arriving at a solution acceptable to both sides.

(iv) Relationship with regulatory agencies

32. Nominees for the post of Executive Director of regulatory agencies should come to parliamentary committee hearings.

In addition, in the context of the discussions of the inter-institutional Working Group on Agencies set up in March 2009, the Commission and Parliament will aim at a common approach on the role and position of decentralised agencies in the Union's institutional landscape, accompanied by common guidelines for the creation, structure and operation of those agencies, together with funding, budgetary, supervision and management issues.

IV. COOPERATION AS REGARDS LEGISLATIVE

PROCEDURES AND PLANNING

(i) Commission *Work Programme* and the European Union's programming

33. The Commission shall **initiate** the Union's **annual and** multi-annual programming, with a view to achieving inter-institutional **agreements**.

34. **Every year, the** Commission shall present its **Work Programme**.

35. **The** two Institutions shall cooperate in accordance with the timetable set out in Annex **4**.

The Commission shall take into account the priorities expressed by Parliament.

The Commission shall provide sufficient detail as to what is envisaged under each point in **its Work Programme**.

36. **The Commission shall explain when it cannot deliver individual proposals in its Work Programme for the year in question or when it departs from it.** The Vice-President of the Commission responsible for inter-institutional relations undertakes to report to the Conference of Committee Chairs **regularly**, outlining the political implementation of the **Commission Work Programme** for the year in question.

(ii) Procedures for the adoption of acts

37. The Commission undertakes to carefully examine amendments to its legislative proposals adopted by Parliament, with a view to taking them into account in any amended proposal.

When delivering its opinion on Parliament's amendments under Article **294 TFEU**, the Commission undertakes to take the utmost account of amendments adopted at second reading; should it decide, for important reasons and after consideration by the College, not to adopt or support such amendments, it shall explain its decision before Parliament, and in any event in its opinion on Parliament's amendments by virtue of point (c) of Article **294(7) TFEU**.

38. Parliament undertakes, when dealing with an initiative submitted by at least a quarter of Member States, in conformity with Article 76 TFEU, not to adopt any report in the relevant committee before receiving the Commission's opinion on the initiative.

The Commission undertakes to issue its opinion on such an initiative no later than 10 weeks after it has been submitted.

39. The Commission shall **provide a detailed explanation in due time** before withdrawing **any proposals on which Parliament has already expressed a position at first reading.**

The Commission shall proceed with a review of all pending proposals at the beginning of the new Commission's term of office, in order to politically confirm or withdraw them, taking due account of the views expressed by Parliament.

40. For **special** legislative procedures **on which Parliament is to be consulted, including other procedures such as that laid down in Article 148 TFEU**, the Commission:

- (i) **shall take measures to better involve Parliament in such a way as to take Parliament's views into account as far as possible, in particular to ensure that Parliament has the necessary time to consider the Commission's proposal;**
- (ii) shall ensure that Council bodies are reminded in good time not to reach a political agreement on its proposals before Parliament has adopted its opinion. It shall ask for discussion to be concluded at ministerial level after a reasonable period has been given to the members of the Council to examine Parliament's opinion;
- (iii) shall ensure that the Council adheres to the rules developed by the Court of Justice of the European **Union** requiring Parliament to be re-consulted if the Council substantially amends a Commission proposal. The Commission shall inform Parliament of any reminder to the Council of the need for re-consultation;
- (iv) undertakes, if appropriate, to withdraw a legislative proposal that Parliament has rejected. If, for important reasons and

after consideration by the College, the Commission decides to maintain its proposal, it shall explain the reasons for that decision in a statement before Parliament.

41. For its part, in order to improve legislative planning, Parliament undertakes:

- (i) to plan the legislative sections of its agendas, bringing them into line with the current **Commission Work Programme** and with the resolutions it has adopted on that programme, **in particular with a view to the improved planning of the priority debates**;
- (ii) to meet reasonable deadlines, in so far as is useful for the procedure, when adopting its **position** at first reading under the **ordinary legislative procedure or its opinion** under the consultation procedure;
- (iii) as far as possible to appoint rapporteurs on future proposals as soon as the **Commission Work Programme** is adopted;
- (iv) to consider requests for re-consultation as a matter of absolute priority provided that all the necessary information has been forwarded to it.

(iii) Issues linked to better law-making

42. The Commission shall ensure that its impact assessments are conducted under its responsibility by means of a transparent procedure which guarantees an independent assessment. Impact assessments shall be published in due time, taking into consideration a number of different scenarios, including a "do nothing" option, and shall in principle be presented to the relevant parliamentary committee during the phase of the provision of information to national Parliaments under TFEU Protocols No 1 and 2.

43. In areas where Parliament is usually involved in the legislative process, the Commission shall use soft law, where appropriate and on a duly justified basis after having given Parliament the opportunity to express its views. The Commission shall provide a detailed explanation to Parliament on how its views have been taken into account when it adopts its proposal.

44. In order to ensure better monitoring of the transposition and application of Union law, the Commission and Parliament shall endeavour to include compulsory correlation tables and a binding time-limit for transposition, which in directives should not normally exceed a period of two years.

In addition to specific reports and the annual report on the application of Union law, the Commission shall make available to Parliament summary information concerning all infringement procedures from the letter of formal notice, including, if so requested by Parliament, on a case-by-case basis and respecting the confidentiality rules, in

particular those acknowledged by the Court of Justice of the European Union, on the issues to which the infringement procedure relates.

V. THE COMMISSION'S PARTICIPATION IN PARLIAMENTARY PROCEEDINGS

45. *The Commission shall give priority to its presence, if requested, at the plenary sittings or meetings of other bodies of Parliament, as compared to other competing events or invitations.*

In particular, the Commission shall ensure that, as a general rule, Members of the Commission are present at plenary sittings for agenda items falling under their responsibility, whenever Parliament so requests. This is applicable to the preliminary draft agendas approved by the Conference of Presidents during the previous part-session.

Parliament shall seek to ensure that, as a general rule, **agenda items of the part-sessions** falling under the responsibility of a Member of the Commission are grouped together.

46. *At the request of Parliament, provision will be made for a regular Question Hour with the President of the Commission. This Question Hour will comprise two parts: the first with leaders of political group or their representatives, conducted on an entirely spontaneous basis; the second devoted to a policy theme agreed upon in advance, at the latest on the Thursday before the relevant part-session, but without prepared questions.*

Furthermore, a Question Hour with Members of the Commission, including the Vice-President for External Relations/High Representative of the Union for Foreign Affairs and Security Policy shall be introduced, following the model of the Question Hour with the President of the Commission, with the aim of reforming the existing Question Time. This Question Hour shall relate to the portfolio of the respective Members of the Commission.

47. *Members of the Commission shall be heard at their request.*

Without prejudice to Article 230 TFEU, the two Institutions shall agree on general rules relating to the allocation of speaking time between the Institutions.

The two Institutions agree that their indicative allocation of speaking time should be respected.

48. With a view to ensuring the presence of Members of the Commission, Parliament undertakes to do its best to maintain its final draft agendas.

Where Parliament amends its final draft agenda, or where it moves items within the agenda within a part-session, Parliament shall immediately inform the Commission. The Commission shall use its best endeavours to ensure the presence of the Member of the Commission responsible.

49. The Commission may propose the inclusion of items on the agenda not later than the meeting of the Conference of Presidents that decides on the final draft agenda of a part-session. Parliament shall take the fullest account of such proposals.

50. Parliamentary committees shall seek to maintain their draft agendas and agendas.

Whenever a parliamentary committee amends its draft agenda or its agenda, the Commission shall be immediately informed thereof. ***In particular, parliamentary committees shall endeavour to respect a reasonable deadline so as to allow for the presence of Members of the Commission at their meetings.***

Where the presence of a Member of the Commission is not explicitly required at a parliamentary committee meeting, the Commission shall ensure that it is represented by a competent official at an appropriate level.

Parliamentary committees will endeavour to coordinate their work, including avoiding parallel meetings on the same issue, and will endeavour not to deviate from the draft agenda, so that the Commission can ensure an appropriate level of representation.

If the presence of a high-level official (Director-General or Director) has been requested at a committee meeting dealing with a Commission proposal, the representative of the Commission shall be allowed to intervene.

VI. FINAL PROVISIONS

51. ***The Commission confirms its commitment to examine as soon as possible the legislative acts which were not adapted to the regulatory procedure with scrutiny before the entry into force of the Lisbon Treaty, in order to assess whether those instruments need to be adapted to the regime of delegated acts introduced by Article 290 TFEU.***

As a final goal, a coherent system of delegated and implementing acts, fully consistent with the Treaty, should be achieved through a progressive assessment of the nature and contents of measures currently subject to the regulatory procedure with scrutiny, in order to adapt them in due course to the regime laid down by Article 290 TFEU.

52. ***The provisions of this Framework Agreement complement the Inter-institutional Agreement on better law-making⁽³⁾ without affecting it and do not prejudice any further revision thereof. Without prejudice to forthcoming negotiations between Parliament, the Commission and the Council, the two Institutions commit to agree on key changes in***

preparation of future negotiations on adaptation of the Interinstitutional Agreement on better law-making to the new provisions introduced by the Lisbon Treaty, taking into account current practices and this Framework Agreement.

They also agree on the need to reinforce the existing inter-institutional contact mechanism, at political and at technical level, in relation to better law-making, so as to ensure effective inter-institutional cooperation between Parliament, the Commission and the Council.

53. The Commission commits to initiate rapidly the Union's annual and multiannual programming with a view to achieving inter-institutional agreements, in accordance with Article 17 TEU.

The Commission Work Programme is the Commission's contribution to the Union's annual and multiannual programming. Following its adoption by the Commission, a trilogue between Parliament, the Council and the Commission should take place with a view to reaching an agreement on the Union's programming.

In this context and as soon as Parliament, the Council and the Commission have reached a common understanding on the Union's programming, the two Institutions shall review the provisions of this Framework Agreement related to programming.

Parliament and the Commission call on the Council to engage as soon as possible in discussions on the Union's programming as provided for in Article 17 TEU.

54. The **practical** implementation of this Framework Agreement and its Annexes shall be assessed periodically by the two Institutions. **A review shall be carried out by the end of 2011**, in the light of practical experience

C. Chancellor Merkel's remarks (Bruges, November 2010)

«The architects of the economic and monetary union were unable to predict the crisis this spring. But today we know: we can only have a strong European Union if we use this crisis as an onus and an opportunity. That's why I have spent the past few weeks advocating that we not merely put this crisis behind us, but rather take forceful preventive measures so that the crisis does not recur.

Of course there is always tremendous public debate when Europe is seeking the right way forward. It is my personal opinion that problems must not be swept under the rug.

Harmony alone is not an end in itself for Europe. The key issue is that Europe must be built on a strong foundation. That's why we need a culture of stability and that's why we need shared values. That's why on Friday in the European Council we agreed on crucial new avenues, which also

include sanctions in conjunction with the Stability Pact, and which will coordinate economic policy much more closely, and with which the member states cannot simply run up debts but rather must strive for economic strength and financial stability.

As important as all of this is, we nonetheless need a mechanism to ensure that we do not face an emergency again. That's why we have said that in case such a crisis recurs, in case the euro and the monetary union as a whole are someday in danger again, we need a mechanism that can manage crises and that is anchored in the Treaty. That's why we have decided on a limited Treaty amendment which we intend to discuss in December.

Ladies and gentlemen, it took us years to adopt the Lisbon Treaty. As the Federal Republic of Germany held the Presidency at the time, I myself dealt extensively with this issue. None of us would take the decision to reopen treaties lightly. But I believe the European Union must be able to act and able to respond to the demands of a particular time. We cannot say that because a treaty took us ten years to amend, because it was so much work, the possibility of amending it again in the future is ruled out. Such a Europe would not be viewed as capable of action – neither by the world markets nor by the countries of the world. That's why we need a crisis mechanism and that's why we want to include private investors, so that they can contribute their share. Because what we are talking about is an understanding of policy in which policy is neither driven nor dragged along by the economy, but rather aspires to shape our shared existence. Because such a mechanism requires a legal foundation, we also need a limited amendment to the Treaty.

Ladies and gentlemen, Jean Monnet, the first honorary citizen of Europe, knew that “nothing can be achieved without people and nothing can endure without institutions.”

This means that on the one hand we must seek people's support and try to ensure that this Europe is what they want. On the other hand this Europe needs institutions which render it capable of acting. The Lisbon Treaty has placed the institutional structure on a new foundation. Now, roughly a year after the entry into force of the Lisbon Treaty, we face the question of how we can better shape the interplay of institutions.

The economic and financial crisis once again revealed how closely interlinked our European economies and societies already are. It also showed that the division of labour between the Union and the member states largely worked. But a familiar old pattern of reasoning has crept back into the debate, one which evokes the so-called community method. If you look into the history of the European Union you will find that this is a term familiar to many; it's a translation of the unwieldy German word “Gemeinschaftsmethode”, which is cited frequently and in many languages. I suspect you're familiar with the term from your studies. It describes the Commission's sole right of initiative as well as the role of the European Parliament and Council in European legislation.

As a representative of a member state I would like to say now that it sometimes

seems to me that the representatives in the European Parliament and in the

European Commission sees themselves as the sole true champions of the community method. They sometimes define themselves in opposition to the supporters of the intergovernmental method, who by that mean the Council, the European Council and the member states. Those are the intergovernmentalists, as it were, while the preservers and protectors of the community method stand on the other side.

I have to tell you I am rather sceptical about this argument and whenever I hear it, I want to refute it, since I believe it fails to do justice to the way we cooperate in Europe. The community method is of course a way of describing the European legislative process – as I said, the Commission takes the initiative here.

For one thing, it is not just the Parliament that deliberates on legislation but of course the Council as well. The Council is part of the European legislative process and is composed of representatives of the member states; representatives of the

Commission participate in its deliberations.

Secondly, it should not be overlooked that the European Council, too, is part of the European Union; it is a European Union institution. The member states are

constitutive elements of the Union, they are not its adversaries. In my speech today I would really like to take the opportunity to invite us to see ourselves as all belonging to Europe – the member states just as much as those who represent the European Parliament – who are also, by the way, from the member states – and those who represent the Commission. For only together we can be a Europe of the citizens.

Thirdly, a particular solution is not, after all, automatically better simply because it has been put in place or implemented by EU institutions. Right from the start of the European Union in fact the subsidiarity principle has consistently played a crucial role.

What does this concept mean? It means for me as a politician making sure problems are always dealt with at a level as close as possible to the citizen. What can be better dealt with at municipal or local level need be no concern of Europe. What Europe should be concerned with are the problems that are better dealt with by us all together; the member states should be concerned with the problems they can better deal with alone. Otherwise the business of politics becomes very remote from ordinary people.

Fourthly, the community method can of course only be applied in those areas where the European Union actually has competence. The Treaty of Lisbon lays down that the member states are the guardians of the treaties. This means it is the member states which decide that the Union has competence for something, if they believe the problem can be better dealt with at European level. Consequently, the community method does not serve to transfer competences to European level, it is rather a method of ensuring that competences which have been transferred are exercised well, properly and efficiently. Where there is no community competence, the community method can clearly not be applied.

What this all adds up to is that no one of us is more European than another

–

depending on our place in the overall scheme – but that all of us together are Europe.

As Herman Van Rompuy, our Council President, recently commented, “Often the choice is not between the community method and the intergovernmental method, but between a coordinated European position and nothing at all.” In other words, a coordinated European position can be arrived at not just by applying the community method; sometimes a coordinated European position can be arrived at by applying the intergovernmental method. The crucial thing is that on important issues we have common positions.

So let me expand on this and show how it can work in a positive way. If all the major stakeholders – the Union institutions, the member states and their parliaments – complement each other by acting in a coordinated manner in the areas for which they are responsible, the immense challenges facing Europe can be tackled successfully.

Who is responsible for what is very clearly defined. We wanted a self-assured

European Parliament, which under the Treaty of Lisbon now legislates on a par with the Council. We wanted a European Commission that is a fertile source of ideas and retains its monopoly to initiate legislation. It remains the guardian of the Treaties; that is absolutely as it should be. And we wanted the European Council to be an institution with a permanent President. That means the Heads of State and Government of the 27 member states and the President of the European Commission lay down jointly with the President of the European Council guidelines on how the Union should develop.

Given this new division of competences, I believe we must put old rivalries behind us, we must set common goals and adopt common strategies.

Perhaps we can agree on the following description of this approach: coordinated action in a spirit of solidarity – each of us in the area for which we are responsible but all working towards the same goal. That for me is the new “Union method”. I think this is the kind of approach we need. Let me explain why with the help of one example.

One area that has become increasingly important recently is energy policy. In early February, for instance, the Heads of State and Government plan to hold a special meeting to discuss energy policy. As I see it, in this area especially the Union method can help us move ahead in a new and more positive direction. If we look back at the history of the European Union, we note that the European Union began in the area of energy. At that time energy meant coal and steel, clearly what the European Coal and Steel Community was all about. Nowadays the importance of coal and steel in our European endeavours has declined somewhat. Yet in the same way as energy was once one of the reasons for establishing the European Community, so it is now again right at the top of our agenda.

We can all still remember the gas crises of recent years. The shortages they caused in a number of European countries have forcefully reminded us how crucial supply security is and what disadvantages are attached to our dependence on energy imports. In recent years we have seen considerable price swings in energy markets.

They have caused severe problems for the European economy as well as millions of people. And finally there is the whole complex of climate change and environmental degradation. These generate enormous costs and threaten livelihoods on a massive scale.

In a nutshell, reliable, affordable and environmentally sustainable energy supplies are fundamental to our way of life. That is why we in Europe would be well advised to set energy policy on a new course. The member states decided with good reason that energy policy should be an integral part of the Treaty of Lisbon. Accordingly, responsibility for energy policy is now shared between the Union and the member states. In this area both the Commission and the member states have competence.

In my view the European Union's main role should be to promote a functioning

internal market in energy – which at the moment we do not yet have – as well as interconnected European energy networks, supply security, energy efficiency, and new and renewable sources of energy.

If we are to realize the goals that must always guide energy policy – namely, environmental sustainability, efficiency and supply security – we need not only better coordination of what we do at national level, we also need to do more at European level. Let me expand on two points to illustrate what I mean.

Firstly, we must act at national level to implement agreed European targets. It is up to the member states themselves to frame their national energy policies – to decide to extend the operating life of nuclear power stations, for example, as we have done in Germany, to decide to phase out nuclear power or phase it in again. During Germany's EU Council Presidency in 2007, however, we agreed on a set of ambitious European targets to be achieved by 2020. These are an at least 20% cut in greenhouse gas emissions over 1990 levels, a 20% cut in energy consumption and a 20% increase in the share of renewables in the total energy mix. To achieve this goal, every country has to do its share – this has all been spelled out in detail. If we concentrate in our national energy policies on what must be done to deliver our share, we will together achieve our European goal as well.

Commissioner Oettinger, who is responsible for energy at the European Commission, has plans here that have my support. In the new so-called Energy Strategy 2020 he will present a meticulous analysis of the challenges we face and ambitious proposals for addressing them. For however wonderful our European targets are, they will of course only serve their purpose if our nations take appropriate action. Obviously the member states must demonstrate – and this is the true essence of the Union method – that they are serious about reaching these targets. In other words, first there must be a European consensus on the targets to be achieved, then action to deliver them.

Clearly we therefore need national energy concepts. That is exactly what the Federal Government has been working on in recent months. Germany now has an ambitious national Energy Concept. By 2050 we want to see renewable energies accounting for some 60% of Germany's final energy consumption and to cut greenhouse gas emissions by at least 80%. That is an extremely ambitious plan. We spell out exactly what we want to achieve and how we plan to do it – from reducing consumption to increasing competition in electricity and gas markets.

Whatever progress we make at national level obviously benefits Europe as well. But thought also needs to be given to what additional contribution only Europe can make here. We need to think, for example, about how we can better coordinate member states' efforts to expand the use of renewable energies. We need to work together to ensure Europe takes the technological lead in areas such as energy efficiency, power plant systems and renewable energies. Obviously we need to bring research and industry on board, too, we need healthy competition for the best brains and the best ideas. Here the right incentives must be created at European level.

Secondly, we must complete the internal market in energy and develop energy

infrastructure. The internal market is – as I am sure we all agree – one of Europe's biggest success stories. Germany in particular has benefited from it hugely. If the internal market is to be truly completed, new power lines are of vital importance. Here we need above all more cross-border agreement on and European coordination of national efforts. For in future national and European energy networks will have to cope with far more than they did only a decade ago. They will need to transmit huge volumes of energy across great distances, for renewable energy is not consumed where it is produced.

In Germany, for example, in future far more energy will be produced in the north in the form of wind power than is the case today. Nuclear power on the other hand, which in Germany is mostly produced in the south, is a bridge technology that will be progressively phased out. During this period we will therefore have to build entirely new transmission infrastructure. The networks must also be able to respond flexibly to the different volumes of energy being fed in, since as you know, wind force and solar radiation are not constant. We need energy reservoirs and smart grids throughout Europe.

This means we have to get the message across above all to our citizens that new infrastructure is needed. It must be clear that without new energy networks, there will be no competition gains, without new energy infrastructure, no expansion of renewable energies. That is why I think Commissioner Oettinger is onto a good idea when he suggests that we should together prepare a map of Europe's priority energy infrastructure projects. That way, every member state is then responsible for ensuring these projects are implemented. However, if one country fails to deliver, the whole European system of coordination will collapse. That is why it is so important, on the one hand, that there is a commitment to European cooperation and, on the other that the member states are responsible for action to deliver. It is just not good enough if one member state – Germany tends to take a very long time here – needs 15 or more years to complete authorization and planning procedures, while other member states may manage this much quicker. That means it is crucial now that we all act in a coordinated fashion and let our citizens know this is what we are doing. We need to tell them that if they stop certain projects going ahead, they are not just stopping something in Germany, they are also undermining the whole process of coordinated European action. What is important now is to implement in full the third internal energy market package.

This contains a host of regulatory tools that will enable us at European level to act in a coordinated manner and which must now be transposed into domestic law.

I have attempted to explain, taking energy policy as my example, what I mean by the Union method, which is really a combination of the community method and coordinated action by the member states, and to demonstrate that the success we strive for depends on whether each of us – wherever we are placed – lives up to our responsibility for Europe. In this context I believe energy policy serves as a good and highly topical example. But of course we will have to adopt a similar approach in many other cases. I took this just as an example to illustrate what this whole exercise is about. »

D. Jacques Delors's Speech (Berlin, January, 28th, 2011)

“Enfin, comment ne pas terminer ce trop rapide tour d'horizon par le problème du ‘comment faire’ au niveau de l'Union. Notre efficacité et notre influence dépendent aussi de la manière dont sont préparées, puis adoptées les décisions. Un regard vers les expériences passées démontre que l'Europe a été plus rapide et plus efficace lorsqu'elle a mis en oeuvre la méthode communautaire. Alors que la nostalgie pour la méthode intergouvernementale a souvent causé des crises internes ou ralenti le processus de décision.

Le débat n'est pas clos, d'autant qu'est mise en avant la méthode dite ‘de l'Union’ que la Chancelière Merkel a défendue et illustré lors d'un récent discours au Collège de Bruges. Le moment est donc venu pour moi de rappeler les fondements et les avantages de la méthode communautaire.”

[“There is an imbalance between the economic and monetary spheres because of the lack of any co-ordination of national economic policies,” Mr Delors said last week in Berlin. There was also a failure, Mr Delors argued, to recognise that the 17 countries using the single currency had much greater “rights and responsibilities” than the European Union's remaining 10.]

[The Independent, November 25th, 2011

“The debt crisis which most Western countries are facing is forcing the EU and its member states to address a fearful dilemma: they need to adopt budgetary adjustment and structural reform while making sure, at the same time, that they hang on to prospects for growth to be able to offer their people hope for the future.

The EU cannot be seen as a community that simply bans deficits by force, be that force legal or political. It must contribute to tackling unemployment and the global slowdown. The EU must be seen to be fulfilling its primary role as a force for growth.

Thus, the EU must achieve the completion of the single market, to make the most of its potential for growth and employment. As Mario Monti's report stressed in 2010, there remains a great deal to be done, particularly in

services, the digital economy and public contracts. In its Single Market Act, the European Commission estimated that a growth rate of at least 4 per cent of GDP could be achieved over the next 10 years, and it has recently proposed stepping up the pace.

The EU must also take advantage of its new multiannual budget. It must help to develop European research programmes, and deepen the single market by financing transport, energy and communication infrastructures of common European interest. It is crucial for the €50bn budget the Commission has proposed for 2014-2020 to be approved in 2012, and for this sum then to be put to work in partnership with private funding. After approving the anticipated and more flexible use of the funds earmarked for countries in difficulty, the EU must mobilise an equivalent sum for common European infrastructure projects.

And lastly, the EU, and especially the European Investment Bank, must take the lead in issuing bonds designed to fund future spending, primarily on infrastructure and the environment. This would be a way of responding to massive investment requirements even as the axe is set to fall on such spending in many member states. The EIB is well placed to issue such bonds, and raise its annual funding capability to €200bn (as opposed to the figure of €80bn today) by bolstering the capital and the securities provided by the member states.

These three tools would trigger an almost immediate increase in economic activity and offer medium-term growth. This "growth package" is crucial to ward off the negative economic and social consequences of a continuing flat growth rate, and boost the EU's legitimacy in the eyes of its member states, and the man in the street."

(Jacques Delors in cooperation with Antonio Vitorino)]

[Jacques Delors interviewed by Charels Moore in FT, December 2nd, 2011:

Deciding not to beat about the bush, I ask the man who prides himself on being an architect of European Union whether he got it all wrong. Unhesitatingly, he denies it. It is a fault in the execution, not of the architects, which he claimed to have pointed out in 1997 when the plans for introducing the euro finally came together. At the time, he says, the best of the eurosceptic economists, whom he refers to as "the Anglo-Saxons", raised the simple objection that if you have an independent central bank, you must also have a state.

Mr Delors thinks "they had a point", but the way round this problem was to insist on the economic bit of the union as much as the monetary. As well as creating a single currency, you also had to create common economic policies "founded on the co-operation of the member states".

I get the impression from Mr Delors that he thinks Mrs Thatcher would have agreed with this view. She certainly would not have agreed, however, on the Delors version of what that co-operation should produce — the harmonisation of most taxes, plans to deal with youth and long-term

unemployment, and that social dimension for which he always called because “it is not just a question of money. I said all these things, but I was not heard. I was beaten.”

There was also a problem of “surveillance”. The Council of Ministers should have made it its business to police the Eurozone economies and make sure that the member states really were following the criteria of economic convergence. This did not happen.

For a long time, the euro did remarkably well, Mr Delors argues, bringing growth, reform and price stability to the weaker members as well as the stronger. But there was a reluctance to address any of the problems. “The finance ministers did not want to see anything disagreeable which they would be forced to deal with.” Then the global credit crisis struck, and all the defects were exposed.

Whom does he blame most for this? He thinks that “everyone must examine their consciences”. He identifies “a combination of the stubbornness of the Germanic idea of monetary control and the absence of a clear vision from all the other countries”.

What of his own country’s role? Mr Delors patriotically declined to be drawn on this point, though I detect some dissatisfaction. He reminds me that he is, after all, speaking to an English not a French newspaper.

By way of a friendly aside, Mr Delors adds that Britain, though not in the euro and therefore not “sharing the burden”, is “just as embarrassed” as the Europeans by the financial crisis.

“I can see Mr Cameron’s worries,” he goes on, “It is a big worry for the British if we can create and trade Eurobonds in Paris and Frankfurt.’

In general, says Mr Delors, among all the 17 member states of the Eurozone, the reaction to problems from 2008 to today has been “too little, too late”.

Surely, I say, that is exactly what you would expect from such a system faced with such difficulties. No, he replies sharply: look at what happened at the end of the 1980s with the fall of the Berlin Wall. Helmut Kohl, François Mitterrand, George Bush senior and Mikhail Gorbachev (Mrs Thatcher is not included in his gallery) “could all have spoken and acted too little, too late”. But in fact “they reacted quickly to this revolution, thanks to the intelligence of these men. There was an aspect of sangfroid and political vision”.

He clearly sees the fall of the Wall as the high-water mark of Western strength. He equally clearly sees no such political vision today.

So will the euro survive? Mr Delors does not, of course, deviate from his belief in the European single currency. He is also very conscious of the danger of someone in his position saying anything that might help to destabilise the situation. I am struck, however, by his downbeat interpretation of events.

“Jean Monnet [the founding father of the European Union] used to say that when Europe has a crisis it comes out of the crisis stronger ... but there are some, like me, who think that Monnet was being very optimistic. You must be very vigilant to make sure that you do come out of a crisis in a better state ... I am like Gramsci [the Italian Marxist philosopher]: I have pessimism of the intellect, optimism of the will.”

Right now, Mr Delors judges, “even Germany” will have great difficulty in sorting out the mess. “Markets are markets. They are now bedevilled by uncertainty. If you put yourself in the position of investment funds, insurance companies and pension funds, you will understand they are looking for a clear signal.”

All the heads of government need to give this signal together. Instead, there has been, at least until the end of October, “a cacophony of statements”.

The euro can emerge from this crisis only if two conditions are met. “The first is that the firemen must put out the fire. The second is that there must be a new architecture. If you have one of these things without the other, the markets will be sceptical.”

The choice is “either to accept a greater transfer of sovereignty or to submit to a common discipline”.]

[Ariana Ferentinou, Hürriyet Daily News, December 4th, 2011:

During press and TV interviews last week, Delors expressed his great concern over the crisis, which he blamed on mistakes committed by weak politicians lacking solidarity and turning a blind eye on the rising private debt of member countries.

Talking to Euronews, he accused the leaders of Germany and France: “If Sarkozy and Merkel supported the community method, if they did not spend their time trying to marginalize the Commission [...] Cooperation is the missing link. But if the euro project ends and Europe simply becomes a “loose confederation” as the British say, or if they decide to make a new treaty with more federalism at the top,” said Mr. Delors, without completing the sentence.

While to the Daily Telegraph he criticized Germany for insisting that the ECB must not support debt-stricken members of the Eurozone for fear of fueling inflation. The euro’s troubles, according to Socialist Delors, spring from “a combination of the stubbornness of the Germanic idea of monetary control and the absence of a clear vision from all the other countries.

A “make or break” period begins today for the Eurozone. Germany is preparing a new plan to announce it during the Eurosummit this Friday. Merkel, in constant consultation with Sarkozy, accepts that this is a “sovereign debt crisis” which may take years to resolve. She may push a plan of a new fiscal union with more discipline and central control. Will that mean also further loss of sovereignty for the members?]

E. Further Reactions

Herman van Rompuy, President of the European Council
at the 10th anniversary of the Association of Former Members of the
European Parliament
"European economic governance and the new institutional balance"
(Brussels, 4 May 2011)

"The Lisbon Treaty has introduced two dozen or more reforms to the EU institutional framework. It is more a case of evolution than revolution - but the changes are significant.

As former MEPs, you will of course be struck first and foremost by the changes affecting your own institution. The European Parliament is now incontournable: virtually no legislation can be adopted without the approval of Parliament, nor any budget, no financial framework, no international agreement, no delegation of powers to the Commission, no appointment of a Commission, no choice of a President of the Commission! (only I am chosen without Parliament's approval!)

These powers have already been used effectively. Sometimes in spectacular ways, as with the rejection of the SWIFT agreement more than a year ago, sometimes more subtly, as with the many amendments brought to legislative proposals before they are adopted.

Together with the extension of the scope of majority voting in the Council, and the confirmation of the central role of the Commission, many have seen the Lisbon Treaty has a huge step forward for what is traditionally described as the *méthode communautaire*.

At the same time, however, others are saying that there has been a huge advance in what they describe as an intergovernmental Europe. They point in particular to the role of the European Council, defined in the treaty as the strategic body of the European Union, charged with defining its "general political direction and priorities". Bringing together, as it does, the most powerful political figures of all our Member States and the President of the Commission, it inevitably plays a key role on the major political questions and at times of crisis. Some say that its role has grown, and that this is to the detriment of the Union.

In my view, it is wrong to portray our Union as riven down the middle between a "good" decision taking system and a "bad" one. We have always had a range of decision taking procedures, tailored according to the subject matter being dealt with. Take the difference between competition policy on the one end, and defence policy on the other, with matters like environmental legislation or agricultural policy in between. It is not white and black, but mostly a matter of degree, of several shades of grey -- albeit more colourful! Moreover, methods have evolved over time, mostly in the "community" direction. Levels of result can be different, sometimes unexpectedly. Who would have thought ten years ago that in the field of security, the most "intergovernmental" one, the Union would be able to launch 23 civil and military crisis missions?

We in fact have a spectrum ranging from the nearly federal to nearly intergovernmental -- and I say "nearly" intergovernmental because even when acting by unanimity, the Council and European Council are not

summits of sovereign states in the manner of the G8 or the G20, but institutions, acting in the legal framework of the Union with its checks and balances.

In a remarkable recent paper for Notre Europe, former Belgian EU-Ambassador De Schoutheete proposes the distinction between the "institutional mode" and the "intergovernmental mode"; the former including all types of decision making within the institutional framework, the latter for those decisions taken outside it. In my view this makes sense. Coming from a country with a strong belief in European institutions, I feel that, as President of the European Council I am working in that rich tradition! Indeed, after 35 years in legal limbo, the European Council has become a formal institution. That is, together with Parliament's new powers, the other big change of the Lisbon Treaty. By all means, the European Council needed to adapt. It was challenged, even more than the other institutions, by enlargement: it was no longer the fireside chat envisaged by Giscard d'Estaing, but a massively larger and therefore more formal event. One change was to make it smaller: Foreign Ministers no longer regularly participate in its meetings, nearly halving its size, and meaning that it is now actually possible to look each other directly in the eye rather than needing a pair of binoculars! This change helps to build trust and find consensus. Another change, was to give the European Council a full-time President (the so-called "Permanent President" -- though I would have a somewhat different definition of "Permanent" than 2 1/2 years!) -- a person not simultaneously representing a member state, but charged with the better preparation and follow-up of its meetings. On paper, I have no greater powers than any previous incumbent. But the three small changes - of being full-time, longer-term and actually chosen by my fellow members - cumulatively make a big difference. Continuity improves the sense of direction.

Going now from the Lisbon Treaty on paper to the first year and a half of its political life, people perceived a shift of powers to the European Council. One reason is simply that, in the past year, the main preoccupation of the European Union has been macro economic governance.

A first remark. Macroeconomic policy is inevitably a matter of coordinating national policies, given that 98% of public spending in the European Union is national or sub-national, while only 2% is carried out through the European budget. It is therefore natural that the European Council plays a significant role.

Secondly, we were in a crisis period, facing unforeseen circumstances, and therefore had to think beyond what the Treaty provided.

If there was one 'fil rouge' in my first period in office, it is the stability of the euro.

The euro is the most visible and the most palpable sign of the European common destiny.

What happens with pensions or debt in one country, may affect the economy in another country. In good times and in bad times.

As I said in Berlin last year: "Until one year ago, all this was just knowledge – theoretical. Last spring, it became an experience – unforgettable. " So we had to draw the lessons from that crisis.

And, Ladies & Gentlemen, that is exactly what we did. Let me mention the most important elements.

We immediately established a safety net for those countries in need, linked to a strong conditionality.

This was not provided for in the Treaties. We had to build a shelter in stormy weather.

We then built within less than a year a new model of economic governance in order to avoid the problems of the past. The European Council of late March 2011 agreed on all the main strands of our work since the start of the crisis. This was a double breakthrough.

First, it was a breakthrough as regards the policy measures themselves. Let me mention the four most important ones.

1 a stronger Stability and Growth Pact, with more sanctions, on more grounds, and more easily decided upon, to enhance responsible behaviour;

2 a new framework for macro-economic surveillance which will detect bubbles, imbalances, divergences in competitiveness and other risks;

3 the decision to modify the treaty under the Simplified Procedure to establish a permanent stability Mechanism

4 and a Euro Plus Pact to improve competitiveness and enhance convergence between Member States, especially but not only between those sharing the same currency. -- Indeed, some 23 countries - six from outside the eurozone - have decided to join in.

Second, it was a breakthrough in terms of attitudes. All member States now understand how interdependent we all are and how our destiny is shared. It was the great lesson of 2010. This will have an impact on how we implement the EU2020 strategy, improving our medium-term economic performance and our economic structures. Member States are now -- more than in the past! -- also willing to stick to European objectives in the field of their own national competences. This is what lies behind the Euro Plus Pact.

Now, much of this is, as I said, about coordinating national policies. Does that make it any less European? It is, after all, about a common effort for the common good. It is about all working in the same direction. It is also taking place within the framework of the common institutions. All along -- true to the institutionalist tradition I mentioned! -- I have worked to bring initiatives of Member States into this framework.

A good example is the permanent mechanism to safeguard the financial stability of the Eurozone. Its basic structure is unavoidably intergovernmental. The EU budget is too small to guarantee the vast sums necessary, so it is Member States who are having to provide those guarantees. It is therefore understandable that they are the main decision takers in the mechanism. But the fears of some that this would become some sort of nucleus for an intergovernmental management of the Eurozone have proved unfounded. Its staff will be tasked with the treasury function of raising and dispersing loans and will not have a policy-making role. It is to the Commission that we have turned to provide analysis, to make proposals and to negotiate memorandums of understanding with any member state needing assistance. The Commission will also propose legislation to coordinate this work with the other aspects of economic governance.

A similar institutional debate took place on the reform of the stability pact. We looked at the possibility of a so-called "reverse majority", whereby a Commission judgement about a member state in breach of its deficit and debt obligations, would be adopted automatically, unless there was a qualified majority in Council against. Here, we found that this was feasible under the Treaty for the decision on the sanctions the Commission proposes, but not for the original finding.

The treaty is very clear that the original decision to find that a member state is failing to respect the Pact lies with the Council. This cannot be changed without a treaty amendment requiring the full ordinary revision procedure, with a Convention and national ratification in every member state, possibly involving a referendum... Rather than embark on that long and uncertain road, we needed a decision now. That is why the Task Force on economic governance, which I chaired, and which included representatives of Member States, the Commission, and the Central Bank -- took the view that this reform had to be implemented under the current treaty procedures, with the reverse majority of applicable only in the case of the follow-up sanctions. However, we subsequently agreed that the Council, in its initial decision, would undertake to follow the Commission's recommendation or to justify itself if it didn't: - a "comply or justify" rule. And I have no doubt that the European Parliament will vigorously monitor these procedures and make its voice heard.

Now all these legal subtleties, strengthening the institutional and political pressure to improve Member States' fiscal and economic behaviour, do not take place in a vacuum. Financial markets today, unlike during the euro's first decade, are very sensitive to such matters; even an early stage debate in Parliament or a warning by the Commission could trigger a market reaction. More than in the past, political pressure, institutional pressure and financial pressure will steer all Member States in the right direction. Your Parliament has an important role to play here as well.

Beyond this, there have of course been, and still are, ongoing measures using the ordinary legislative procedure -- called co-decision in your day - to establish common financial supervisory authorities, to improve our banking legislation across Europe, to improve the functioning of the single European market, to protect consumers. In this, it is the Parliament which is at centre stage.

So we will continue to have a range of procedures, as we have always done, but with the Lisbon changes making them more likely to be effective - and certain to be subject to enhanced parliamentary scrutiny.

The American academic Donald Puchala once compared academics describing different aspects of the European Union to blind man describing an elephant. They reach completely different conclusions about the nature of the animal according to whether they are holding the trunk, the ears, the tail, a leg or touching the body. This remains true today. If you look at just one aspect of the EU in isolation, you can very easily jump to a partial conclusion."

An overview of the debate (SPIEGEL online, November 2011)

The Merkel Method

European Commission President José Manuel Barroso was wrong to tell the European Parliament that his commission was the economic government of the union. Europe is running increasingly without Barroso. The most important decisions on rescuing the euro were hammered out by national leaders. The Berlin-Paris axis presented the Brussels machine with a fait accompli.

The national heads of state and government reign supreme in Europe. Key European decisions, like the Greek bailout, are negotiated by individual potentates in back rooms. In this European democracy, those with the money call the shots.

The drawback of the intergovernmental method is that decisions among the participating countries can only be reached unanimously. The Merkel method is unsustainable in the long term. Barroso: "Any idiot can block everything."

The Merkel method also lacks transparency. Jürgen Habermas warns against the decline of democratic culture in Europe. He sees the Merkel method as "a disenfranchisement of European citizens" that puts a "grey veil" over the national parliaments.

The bailout fund for insolvent euro countries, the European Financial Stability Facility (EFSF), and its permanent successor, the European Stability Mechanism (ESM), were built using the Merkel method. But they may lead to new institutions at the European level, even to changes in the Lisbon Treaty.

Italian constitutional judge Sabino Cassese says the financial crisis has given the entire European Union a big push: "The new agencies to control and supervise the financial markets have expanded the efficiency of the community."