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The first page of this issue (on page 3) records Bill Cash’s experience of the destructive way in which the Lisbon Treaty was ratified in the United Kingdom on 16 July 2008. On Thursday 17 July, Cash received a letter from the Treasury solicitors on his renewal of application for judicial review, with regards to the UK ratification of the Treaty in relation to the Irish ‘No’ vote, saying “I write to inform you that the instrument of ratification for the Lisbon Treaty was deposited in Rome yesterday … please confirm whether you wish to proceed…” Bill’s rebuttal is printed here alongside the Treasury solicitor letter.

Then we turn to a forthright and precise Czech treatment of the Treaty of Lisbon on page 4. Following an invitation from the Czech Constitutional Court, the President of the Czech Republic, Václav Klaus, delivered an opinion that the Lisbon Treaty will bring about a fundamental change to the legal character of the European Union and the Czech Republic, not only as its Member State, but also as a sovereign country. We print that opinion in the journal as a thorough and impartial analysis of the Treaty; something which appeared to be lacking in 26 other European governments.

Sara Moore then explores the current European Central Bank policy through the historical lens of how Germany used deflation in the Great Depression for political ends. Moore argues that Spain has lost patience with the ECB since it has had to endure high interest rates for the last year. It is therefore legitimate for Spain’s premier, José Luis Zapatero, today to ask: is Germany using deflation today again for the same reason? Perhaps when Zapatero realises just how far Germany bore the responsibility for the Great Depression, he will be even more vociferous, claims Moore.

With additional comment and analysis from John Laughland, Margarida Vasconcelos, Don Anderson, Glen Ruffle and Joe Cookson, I am sure you will agree that the failure of the peers and Commons, the disregard for the Irish ‘No’ vote, and the trashing of all democratic standards during the ratification of yet another EU Treaty has left Britain compromised and its parliamentary powers relinquished to unelected officials in Brussels and Strasbourg.

James McConalogue
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Editor
UK Government has agreed with French to bully Irish on Treaty

On Thursday 17 July, the Chairman of the European Foundation, Bill Cash, heard back from the Treasury solicitor on his renewal of application for judicial review, with regards to the UK ratification of the Treaty in relation to the Irish ‘No’ vote. The Treasury solicitor merely wrote to say “I write to inform you that the instrument of ratification for the Lisbon Treaty was deposited in Rome yesterday … please confirm whether you wish to proceed…” [Full letter printed below]

Bill Cash responded in a letter: “… in the circumstances I have no option but to abandon the action, which I do under the greatest protest. This is an unwarrantable use of the Prerogative, as I would have explained to the Court on 31st July and as I have already indicated, I regard it as a disreputable act on the part of the Government given the decision not to pursue or ratify the original Constitutional Treaty following the French and Dutch ‘No’ votes in 2005.” [Full letter printed below]

Bill Cash raised the matter in the House of Commons during business questions on ratification of the Treaty as a written statement at 10.45am that morning. Apart from the legal aspects of the case he was pursuing against the Foreign Secretary which has now been preempted by this Prerogative act which is inconsistent with the Government’s action on the original Constitutional Treaty following the French and Dutch votes, Bill Cash strongly accused the Government of consorting with the French and other Member States in bullying the Irish into a second referendum which is plainly disreputable and offensive to all right-minded people.

From Treasury Solicitor to Cash:
17 July 2008
Dear Mr Cash
R (on the application of Cash) v. Secretary of State for Foreign and Commonwealth Affairs [CO/5743/2008]

I act for the Defendant to the above proceedings. I write to inform you that the instrument of ratification for the Lisbon Treaty was deposited in Rome yesterday.

In the light of this development, please confirm whether you wish to proceed with the renewal from Mr. Justice Collins’ order of 20 June of your application for permission to apply for judicial review.

Yours sincerely,

Michael Knight
For the Treasury Solicitor

From Cash to Treasury Solicitor:
17 July 2008
Dear Mr Knight
R (on the application of Cash) v. Secretary of State for Foreign and Commonwealth Affairs [CO/5743/2008]

With regards to your letter and the decision of Her Majesty’s Government to ratify the Lisbon Treaty, in the circumstances I have no option but to abandon the action, which I do under the greatest protest. This is an unwarrantable use of the Prerogative, as I would have explained to the Court on 31st July and as I have already indicated, I regard it as a disreputable act on the part of the Government given the decision not to pursue or ratify the original Constitutional Treaty following the French and Dutch ‘No’ votes in 2005. There are other sound legal matters relating to ratification which the Government has bypassed with its written statement this morning.

I also believe that the Minister for Europe clearly implied to the European Scrutiny Committee on Wednesday 25th June that the Government would not ratify until the Wheeler case was disposed of and that the same, by implication, would apply to my own case for judicial review which was specifically concerned with ratification itself.

However, this preemptive act and abuse of the Prerogative on a matter of such importance to the future Government of the United Kingdom is worthy of the worst abuses of the Prerogative in the seventeenth century.

I am copying this letter to the Minister for Europe and the Foreign Secretary.

Yours faithfully,

Bill Cash
Lisbon Treaty will lead to fundamental change of Czech Republic as a sovereign country

Following an invitation from the Czech Constitutional Court, the President of the Czech Republic, Václav Klaus, delivered an opinion that the Lisbon Treaty will bring about a fundamental change to the legal character of the European Union and the Czech Republic, not only as its Member State, but also as a sovereign country. Therefore, the Constitutional Court is facing an immense responsibility not only with respect to the present, but also the future of our country, the 90th anniversary of whose establishment will be commemorated this year.

At the request of the Constitutional Court, made through Judge-Rapporteur Vojen Güttler, LL.D., and delivered to me on 9 May 2008, file No. Pl US 19/08, regarding the petition from the Senate of the Parliament of the Czech Republic requesting an assessment of compliance of the Lisbon Treaty, amending the Treaty on the European Union and the Treaty Establishing the European Community, concluded in Lisbon on 13 December 2007 (hereafter referred to as the “Lisbon Treaty”), with the constitutional system, filed according to Article 87 (2) of the Constitution of the Czech Republic, I am presenting, within the time limit required by Article 69 (1) of Act No 182/1993 Coll. on the Constitutional Court, the following statement:

I welcome the Senate’s petition and identify myself with it.

It is beyond any doubt that the Lisbon Treaty will significantly change the character of the European Union as such and, consequently, the legal status of the Czech Republic within its framework. It is therefore necessary to pay special attention to an assessment of compliance of its provisions, both individually and in their entirety, with the Constitution of the Czech Republic, the Charter of Fundamental Rights and Freedoms, and the constitutional system of the Czech Republic.

The decision of the Constitutional Court on this matter will be, and will probably remain for a long time, one of the most important and most responsible decisions in the history of the Czech constitutional judiciary.

A. On Proceedings in General

In view of the fact that these are the first proceedings ever concerning compliance of an international treaty with the constitutional system and thus, in a way, these proceedings serve as a precedent for all following proceedings of this type, I consider it appropriate to emphasize the following tenets.

1. Character of Proceedings

The Constitutional Court is competent to assess not only the provisions of the Lisbon Treaty referred to in the Senate’s petition, but also its compliance with the entire constitutional system, in all respects. In my opinion, this is precisely the purpose of proceedings concerning international treaties according to Articles 10a and 49 with the constitutional system. From the viewpoint of the proceedings, the explanation of the reasons for the petition and the statements of the participants in the proceedings only have such a legal effect that it is necessary to respond to their statements, proposals, and doubts in the explanatory part of the finding. I infer from the above that these types of proceedings have the character of incontestable proceedings.

If this interpretation were to not apply, then it would be necessary to admit that, even after a positive finding of the Constitutional Court, another possible petitioner according to Article 71a (1) (b), (c), or (d) of the Act (i.e., a group of deputies, senators, or the President of the republic) would be entitled to submit another proposal, drawing the court’s attention to other provisions of the relevant international treaty or the constitutional system, which the previous petitioner did not mention. I would consider such an interpretation not only absurd, but also extremely impractical.

2. Character of Treaties According to Article 10a of the Constitution

Article 10 of the Constitution states that promulgated international treaties, whose ratification has been approved by Parliament and by which the Czech Republic is bound according to international law, form part of the Czech legal system and take precedence over [domestic] laws. Neither this nor any other provision of the Constitution distinguishes between treaties referred to in Article 10a, whose ratification must be approved by both houses of Parliament by means of a constitutional majority (Article 39 (4) of the Constitution), and treaties referred to in Article 49, whose ratification must be approved by both houses by means of a simple majority of votes (Article 39 (2) of the Constitution). It transpires from the above that, although the conditions of
their ratification differ, the subsequent legal status of treaties according to Article 10a, as well as according to Article 49 of the Constitution, must be the same in the Czech legal system.

However, I consider it impossible for ordinary international agreements, as referred to in Article 49 of the Constitution, to have the power of a constitutional law or even take precedence over it. As a part of the legal system, they take precedence over the law, but they themselves are subject to the constitutional system. Then, the same must logically apply also to treaties referred to in Article 10a, such as the Lisbon Treaty and the Czech [EU] Accession Agreement. This interpretation is also confirmed by the wording of Article 112 of the Constitution.

International agreements cannot be unilaterally terminated and a withdrawal may not always be immediately possible. A subsequent review of their compliance with the Constitution would therefore be problematic (Footnote 1) (“According to the generally accepted principles . . . . the state may not contest even its own Constitution against another country in order to avoid the obligations imposed on it by international law or applicable international agreements. (From the opinion of the Permanent Court of International Justice concerning the treatment of Polish citizens in Gdansk, 1932)), which is why it is necessary to establish their compliance with the legal system beforehand. However, such proceedings would not make sense in the case of an international treaty that itself would have the power of a constitutional law. A treaty that would form part of the legal system cannot, given the substance of the matter, be in contradiction with the legal system. The moment it becomes part of it, it will implicate change it to its own image in accordance with the basic legal principle of lex posterior derogat legi priori [preceding words in italics in Latin as published]. If the Constitutional Court did not identify itself with this interpretation and adopted the standpoint that international treaties, as referred to in Article 10a of the Constitution, and other international treaties (Footnote 2, Finding of the Constitutional Court No 403/2002 Coll.) form part of the constitutional system, then it would be appropriate for a preliminary review of compliance with the Constitution to become the rule for all international treaties that should form part of the constitutional system. This would prevent implicit, unintentional, and unwanted changes to the constitutional system.

B. On Compliance of the Lisbon Treaty With the Constitutional System

In particular, I consider it necessary to draw the Constitutional Court’s attention to several fundamental issues.

1. Sovereignty

According to Article 1 of the Constitution, the Czech Republic is a sovereign country that adheres to its obligations arising from international law. It is possible to infer that this means sovereignty within the meaning of international law. Here, the Czech Republic has pronounced itself a full-fledged member of the international community and a full-fledged entity subject to international law.

International law is a consensual type of law. In contrast to national legal systems, its source is not an order in the most general sense of the word (a law, regulation, instruction, and so forth), but instead legal norms created by consensus or arising spontaneously (international treaties and international custom, respectively). Then, sovereignty should be understood as a quality where the entity is not, and cannot be, restricted by any norm created without its consent, expressed explicitly in the case of international treaties or implicitly in the case of international custom. An entity that is obliged to follow the instructions of another entity regardless or even contrary to its will is not sovereign, according to international law.

The Lisbon Treaty replaces consensual decision-making...
with decision-making based on voting in a number of areas. (Footnote 3) (Article 9c of the Treaty on the European Union as amended by Article 11 (17) of the Lisbon Treaty (i.e., Article 16 of the new consolidated wording of the Treaty on the European Union, renumbered on the basis of Article 5 of the Lisbon Treaty) and Article 205 of the Treaty on the Functioning of the European Union as amended by Article 2 (191) of the Lisbon Treaty (i.e., Article 238 of the new consolidated wording of the Treaty on the Functioning of the European Union (hitherto referred to as the Treaty on European Communities), renumbered on the basis of Article 5 of the Lisbon Treaty). Therefore, it may happen that the Czech Republic will be bound by a norm against the adoption of which it has openly spoken out. This even concerns the conclusion of certain international agreements by the European Union, that is, norms binding on the Czech Republic with respect to countries that are not members of the EU.

2. Direct Effect of EU Legislation
International law considers itself an exclusive system superior to the legal systems of individual countries, which is why, from its viewpoint, national legal systems are regarded merely as legal facts, rather than legal norms. (Footnote 4) (“From the viewpoint of international law and the Court of Justice, which is a body of this law, national laws, as well as court decisions and administrative measures, are merely facts, manifestations of the will of the states.” (From the opinion of the Permanent Court of International Justice regarding Upper Silesia in Poland, 1926)). Therefore, it does not explicitly define the manner in which states should carry out their international legal obligations.

However, the Lisbon Treaty explicitly confirms that selected acts of the EU should have a direct effect in the legal systems of Member States (Footnote 5, Article 249 of the Treaty on the Functioning of the European Union, as amended by Article 2 (235) of the Lisbon Treaty (i.e., Article 288 of the new consolidated wording of the Treaty on the Functioning of the European Union (hitherto referred to as the Treaty on European Communities), renumbered on the basis of Article 5 of the Lisbon Treaty); see also page six of the presentation report to the Parliament of the Czech Republic (Assembly Print No 407, Senate Print No 181 in the current election periods). On the other hand, the Constitution of the Czech Republic states that international treaties that have been properly promulgated and approved by Parliament are directly binding. It is therefore possible to infer a contrario [preceding words in italics in Latin as published] that no foreign legislation other than the aforementioned international treaties may have a direct effect within the framework of the Czech legal system.

3. Unclear Character of the EU Charter of Rights
The provisions of the Lisbon Treaty concerning the protection of human rights and freedoms are also problematic. According to the Lisbon Treaty, the European Union is required to accede to the European Convention on the Protection of Human Rights and Fundamental Freedoms (agreed upon within the Council of Europe in 1950, which means that the EU has nothing in common with it for the time being) and, at the same time, it is required to recognize the rights, freedoms, and principles contained in the European Union’s Charter of Fundamental Rights. Moreover, the latter charter is supposed to have the same legal authority as the treaties establishing the EU. (Footnote 6) (Article 6 of the Treaty on the European Union as amended by Article 1 (8) of the Lisbon Treaty (i.e., Article 6 of the new consolidated wording of the Treaty on the European Union, renumbered on the basis of Article 5 of the Lisbon Treaty)).

It is essential to find a binding answer to the question of what is the relationship between the Czech Charter of Fundamental Rights and Freedoms, which forms part of the constitutional system (Article 112 of the Constitution), and the EU Charter of Fundamental Rights. Does the EU Charter of Fundamental Rights also have the legal status of an international treaty as referred to in Article 10a of the Constitution and, on these grounds, does it take precedence over the Czech law? If the EU Charter of Fundamental Rights and Freedoms is an EU treaty according to Article 10 of the Constitution, do all of its provisions comply with the Czech Charter? I consider it a matter of course that they do not have the same authority as the Czech Charter or even taken precedence over it - this transpires from point A2 of this statement.

4. Transfer of Powers to the EU
According to Article 10a of the Constitution, certain powers of the bodies of the Czech Republic may be transferred to an international organization or institution.

“International law considers itself an exclusive system superior to the legal systems of individual countries, which is why, from its viewpoint, national legal systems are regarded merely as legal facts, rather than legal norms. . . . .
What I consider essential is the word “international,” from which it is clear that the powers of the bodies of the Czech Republic may only be transferred to an entity existing among states, rather than along with them or even above them.

4.1 The direct effect of the European Union legislation indicates that the EU legal system feels itself superior to the legal systems of Member States and has emancipated itself with respect to international law as an independent system existing along with international law. However, it would correspond to international law if European law did not systematically prescribe to its members the ways in which they should fulfill the obligations that it has imposed on them (out of their joint will). By trying to pervade the legal systems of Member States, European law views them as legal norms. On the other hand, it perceives international law as a set of legal facts.

4.2 The EU Charter of Rights is a useless document in itself. Member states have their own, usually much better prepared charters of rights. At the international level, human rights and freedoms are guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe and its Additional Protocols. It has been tested by history and, in particular, has a functional mechanism of court control available (in contrast to the EU Charter of Rights). This means that the EU Charter of Rights has a meaning only if the EU itself feels as a state sui generis [preceding words in italics in Latin as published] or an emerging state of a federal type, which is subsequently bound by international law to observe and protect human rights.

That the EU will no longer be an international organization after the adoption of the Lisbon Treaty is also indicated by other facts that have not yet been mentioned:

4.3 Citizenship of the European Union was already introduced by the Treaty of Maastricht from 1991, but, at that time, it was not citizenship within the meaning of international law. The only thing that this term had in common with citizenship in the legal sense of the word was its name, and it only carried the “rights” that citizens of Member States would have had even without it.

However, the Lisbon Treaty goes further and associates with EU citizenship additional rights for EU citizens, which only make sense in the context of the EU. For example, the Lisbon Treaty assigns the right of legislative initiative to a certain number of EU citizens, who, as a whole, however, must “come from a substantial number of Member States.” (Footnote 7) (Article 8b of the Treaty on the European Union as amended by Article 1 (12) of the Lisbon Treaty (i.e., Article 11 of the new consolidated wording of the Treaty on the European Union, renumbered on the basis of Article 5 of the Lisbon Treaty)). This means that the Lisbon Treaty already assumes a European civic society existing along with civic societies of the individual Member States. Some kind of a European state nation is thus being created here.

4.4 The new division of competencies, or their “division” between the EU and Member States, is typical of the distribution of competencies within a federal state. In particular, the division of powers belonging solely to the EU into residual powers belonging to Member States and the opportunity for the EU to intervene in these powers as well based on the principles of proportionality and subsidiarity (Footnote 8) (Articles 3a and 3b of the Treaty on the European Union as amended by Article 1 (5) and (6) of the Lisbon Treaty (i.e., Articles 4 and 5 of the new consolidated wording of the Treaty on the European Union, renumbered on the basis of Article 5 of the Lisbon Treaty) is not very different from the division of powers between the federation and the individual lands in the Federal Republic of Germany according to the Basic Law (which serves as the German Constitution). The only difference is that the Basic Law also defines the areas in which the Federation must not intervene and which must be regulated solely by the legislation of the individual lands. However, a definition of powers in which the EU would not be allowed to intervene in its Member States is missing in the Lisbon Treaty. (Footnote 9) (Articles 70-72 of the Basic Law of the Federal Republic of Germany. (It is also not uninteresting that Article 24 of the Basic Law explicitly allows the Federal Republic of Germany to “transfer its sovereign rights to land authorities,” while Article 10a of the Czech Constitution only allows the transfer of powers of the bodies of the Czech Republic; this is a fundamental difference.)

4.5 Until now, all decisions of the European Union were adopted by the EU Council or the European Council or were derived from them (the EU Commission prepares secondary legislation, the EU Parliament exercises its legislative functions together with the Council, and the European Court of Justice only interprets the so-called European law, but it does not create it de jure, no matter that its decisions often have a major impact). Members of the EU Council and the European Council are Member States, which means that the result of their activities is merely a sum of the wills of Member States. However, a completely new post of a chairperson of the European Council is now supposed to be established. At the same time, it is not very clear from the Lisbon Treaty, but it can be inferred that this chairperson will also have the right to vote on the European Council. (Footnote 10) (Article 9b of the Treaty on the European Union as amended by Article 1 (16) of the Lisbon Treaty (i.e., Article 15 of the new consolidated wording of the Treaty on the European Union, renumbered on the basis of Article 5 of the Lisbon Treaty) - according to its paragraph 2, the chairperson is a member of the European Council, whereas the high representative of the EU for foreign affairs and security policy only participates in its sessions, which means a contrario [preceding words in italics in Latin as published] that this representative is not a member; consequently, no
provision prohibits the chairperson, as a member of the European Council, from voting on it.) This will then mean that the will of the European Union will no longer be merely a sum of the wills of Member States, but instead a sum of the wills of Member States and the individual who will hold the post of chairperson of the European Council at that moment. This person will, in fact, have the right of veto if the European Council decides on the basis of a consensus.

In view of the aforementioned facts, it is de jure absolutely insignificant that the Lisbon Treaty eventually does not codify European symbols - a flag, an anthem, and a motto. Symbols are not among the essential hallmarks of a state according to international law. They are also not exclusive symbols of states - associations and nongovernmental organizations of various kinds usually have their symbols as well. Moreover, European symbols have been in place for a long time and will certainly continue to exist on the basis of international custom, that is, the so-called secondary law of the EU. Therefore, it cannot be stated that the omission of symbols fundamentally distinguishes the Lisbon Treaty from the rejected draft European Constitution. The only difference between them is in their form: while the EU Constitution replaced the existing agreements, the Lisbon Treaty has a character of their amendment, thus making the so-called primary law of the EU even less transparent than it is now.

All this provokes major doubts about whether the European Union will remain an international organization or an institution within the meaning of Article 10a of the Constitution of the Czech Republic after the possible entry of the Lisbon Treaty into force or whether it will instead become an entity existing along with its members and aspire to even stand above them in the future. This gives rise to the question of whether Article 10a allows it at all to transfer any powers of the bodies of the Czech Republic to an entity that is transforming in this way.

C. On the Methods of Ratification of the Lisbon Treaty

Although this cannot be subject to the proceedings concerning compliance of the content of the Lisbon Treaty with the Czech constitutional system, I consider it useful for the Constitutional Court to find a way to comment on the manner in which it is allowed to agree to the ratification of the Lisbon Treaty. According to Article 10 of the Constitution, ratification of an international agreement that transfers certain powers to an international organization or institution requires approval by Parliament; a constitutional law may stipulate that approval expressed in a referendum is required in a specific case.

According to Article 1 of Constitutional Act No 515/2002 Coll. on the Referendum on the Czech Republic’s Accession to the European Union, amending Constitutional Act No 1/1993 Coll. - the Constitution of the Czech Republic, as amended by subsequent constitutional laws, it was possible to decide on the accession of the Czech Republic to the EU only by means of a referendum. The referendum question was directly tied with the so-called Accession Treaty, because its wording was as follows: “Do you agree that the Czech Republic becomes a Member State of the European Union based on the treaty on accession of the Czech Republic to the European Union?” The Accession Treaty was obviously meant in the general sense of the word, as its complete official name is not referred to in the law and, in addition, a small “t” is used in the word “treaty.” This apparently refers to any treaty determining the conditions of Czech membership in the European Union.

It transpires from the above that the Lisbon Treaty substantially changes the conditions of the Czech Republic’s membership in the European Union stipulated in the Accession Treaty and changes the basic agreements regulating the functioning of the European Union . . . This means that the Lisbon Treaty actually changes the Czech Accession Treaty as well. It is therefore legitimate to ask whether or not approval of ratification of the Lisbon Treaty should be subject to a referendum. . . .
Accession Treaty and changes the basic agreements regulating the functioning of the European Union, i.e., the treaties to which the Accession Treaty refers and that are thus de jure a part of it. This means that the Lisbon Treaty actually changes the Czech Accession Treaty as well. It is therefore legitimate to ask whether or not approval of ratification of the Lisbon Treaty should be subject to a referendum.

Summary
As a legal participant in the proceedings before the Constitutional Court regarding the Petition of the Senate of the Parliament of the Czech Republic for an assessment of [compliance of] the Lisbon Treaty with the constitutional system, I consider a fundamental and comprehensive assessment of its content and implications by the Constitutional Court an absolutely essential prerequisite for its ratification.

The explanation of the Senate’s petition and the content of my above statement give rise to absolutely evident indications that the Lisbon Treaty constitutes a fundamental change to the Czech constitutional system and the international position of the Czech Republic. I do not consider it possible that such fundamental changes to the international position and internal functioning of the Czech Republic, which the adoption of the Lisbon Treaty will undoubtedly bring about, are made unaware, without being clearly defined and understood and without a political and social consensus on them. The Constitutional Court, as the highest legal authority of our country, is required to provide to the political representation and general public a clear and comprehensive assessment of the Lisbon Treaty in all its respects in such a way that it is possible to adopt a responsible decision on its ratification clearly and with full awareness of its implications.

The Lisbon Treaty brings about a fundamental change to the character of the European Union and the legal status of the Czech Republic not only as its Member State, but also as a sovereign country as such, something that it was until now and still is. Therefore, the Constitutional Court is facing an immense responsibility not only with respect to the present, but also the future of our country, the 90th anniversary of whose establishment we commemorate this year.

The Lisbon Treaty brings about a fundamental change to the character of the European Union and the legal status of the Czech Republic not only as its member state, but also as a sovereign country as such, something that it was until now and still is...
What Spain’s José Luis Zapatero does not know

Sara Moore explores current European Central Bank policy through the historical lens of how Germany used deflation in the Great Depression for political ends. Moore argues that Spain has lost patience with the ECB since it has had to endure high interest rates for the last year. It is therefore legitimate for Spain’s premier, Jose Luis Zapatero, today to ask: Is Germany using deflation today again for the same reason? Perhaps when Zapatero realises just how far Germany bore the responsibility for the Great Depression, he will be even more vociferous.

Spain’s premier Jose Luis Zapatero is an ardent European but he has lost patience with the ECB. Spain has had to endure high interest rates for the last year – with pain for her homebuyers because strong Germany said that she needed them to stop her workers making extravagant demands. Now Axel Weber of the Bundesbank seems to have successfully pushed for another rise in ECB interest rates, despite German consumer spending and industrial production easing, to curb the demands of its workers.

While British commentators, beset with their own inflation, might sympathise with Axel Weber’s efforts to damp down wage demands, they worry about something that Jose Luis does not know, that Germany has used ‘deflation’ before for political ends. In fact, Germany’s record in the Great Depression was appalling.

It is agreed that Germany had a more powerful economy by 1928 than in 1913 and in 1928/29 she had the additional financial advantage of not having to pay for howitzers and artillery and the 758,000 men Germany had in battle-readiness before the First World War. She waged a propaganda war over paying war reparations in the 1920s but the French financial controls over her economy from 1924 till 1929 ensured that the actual sums demanded were paid without a hitch. Indeed Germany was deemed so virtuous a payer in 1929, that it was decided that the French controls were superfluous.

Americans lent vast sums to Germany in the 1920s because they believed she was able to repay them. Less known are the large unidentified sums that Germans put on the American stock market between 1928 and 1929 because of worries about the arrival of a socialist government at home. The American stock market rose to dizzy heights as negotiators decided that they could trust Germany to pay her reparations and they gave her a generous new deal which meant she would be paying less in debt from the First World War than Britain.

Expectations were Olympian in 1929 and the stock market was fizzing. The agreement was signed in June but not finally agreed till the end of August. Still Wall Street went crazy but subterranean economic currents should have raised alarms. All the major nations were on the Gold Standard in 1929 and strong Germany was buying gold. Even in June her large purchases were disturbing; by the end of July an alarmed France decided to buy gold too. France and Germany’s gold purchases were so large that eventually Britain felt that she would have to raise her bank rate. Then German citizens began withdrawing their money from Wall Street. A petition was floated by Germany’s largest newspaper owner and leader of Germany’s second largest political party, Alfred Hugenberg, to have the whole German cabinet and even the President tried for treason, on the grounds that Germany had not started the First World War and was not therefore liable to pay any war reparations. The projected success of the petition caused a disastrous drop in the American stock market.

“While British commentators, beset with their own inflation, might sympathise with Axel Weber’s efforts to damp down wage demands, they worry about something that Jose Luis does not know, that Germany has used ‘deflation’ before for political ends. In fact Germany’s record in the Great Depression was appalling. .”
market as insiders realised that not only German war reparations but also related allied war debts and even American loans to Germany might be at risk, indeed all the international community’s trust in Germany since the war could have been misplaced. The 1929 Wall Street crash was huge. Millions of life savings were swept away but insiders remained mute, hoping against hope that their fears about Germany were wrong. The evils of capitalism were blamed for the national disaster and Germany continued to pay war reparations, although now instead of industry it was mainly the man in the street asked to pay.

In 1930, an ex-army officer, Heinrich Brüning, became chancellor of Germany. He told his friends in the unions that his chief aim was to liberate Germany from paying war reparations and foreign debt – without telling them that he also hoped eventually to re-arm and return Germany to a patrician dictatorship! He argued that if he pursued a policy of deflation and diverted all Germany’s efforts into exports it would weaken the ability of America and the Allies to force Germany to pay her IOUs if she chose not to. The German unions therefore agreed to Brüning reducing wages raising taxes and imposing a poll tax on the German people, while diverting all the benefits into exports so as to bring pressure on the Western powers. German unemployment increased dramatically. A coalition government between left and right was formed before Brüning heaped on more taxes. The declaration of a customs union between German and Austria prompted France to withdraw her Austrian loans in protest, a banking crash ensued and Germany pleaded poverty. The abject misery of the German people helped soften the blow when Germany was given a reparations moratorium, even though she was the greatest exporter in the world, with a mountain of cash in the bank.

We must give modern Germany credit for bringing wages under under control and improving industrial efficiency after the unification of Germany. Indeed, this process continued into the 21st Century. After the arrival of the euro (accounting currency 1999, actual currency 2002) German workers suffered years of stagnant or declining wages, enabling the country to claw back 40 per cent in labour competitiveness against Italy 30 per cent against Spain and 20 per cent against France by 2007. Unfortunately, the sometimes disparagingly called ‘PIGS’ (Portugal, Italy, Greece and Spain) had reacted to the ECB’s initial low interest rate policy by stimulating their economies, paying their workers more and – especially in Spain - pumping up their property sectors in the tourist areas. However, they should have paid more attention to the economic policies of the European Union's strongest state, Germany. In November 2005, while the ECB gradually raised European interest rates, a German coalition government between left and right was formed to tackle the German budget deficit by raising taxes and cutting public spending. In 2007, the German government decided, in an admittedly pale comparison with 1930, to cut corporation tax and give other advantages to industry, and to raise VAT in order to pay for it. Naturally, the German unions asked for more money to compensate them for the hike in VAT but after wage increases of 4.1 per cent were agreed with Germany’s most powerful union, IG Metall, the head of the German Bundesbank, Axel Weber, declared that wage inflation was getting out of control, that there was a growth in the money supply, and that the ECB needed to raise interest rates again to curb it. In May, France’s bank chief, Christian Noyer, contradicted Weber’s comments on inflation; yet euroland interest rates were still raised to 4 per cent causing hardship for many Southern European countries and an escalation of the American subprime crisis.

Now Germany is pushing for still higher interest rates to control wage inflation, although she was able to control it effortlessly for years and was herself responsible for the inflation that persuaded IG Metall to ask for more money. There is genuine inflation in euroland because Indians, Chinese, Brazilians and other nations want to eat more and buy new motorcars. So the price of oil and food is going up everywhere. But will causing mortgage defaults and unemployment in Europe help solve the problem or just make people in Europe poorer? Germany used deflation in the Great Depression for political ends. It is legitimate for Jose Luis Zapetrotoday to ask: Is Germany using deflation today again for the same reason? When he knows just how far Germany bore the responsibility for the Great Depression he will be even more vociferous.

In May, France’s bank chief, Christian Noyer, contradicted Weber’s comments on inflation; yet euroland interest rates were still raised to 4 per cent causing hardship for many Southern European countries and an escalation of the American subprime crisis. . .

Sara Moore is the author of two books, Peace without Victory for the Allies 1918-1932 (Berg, 1994) and How Hitler came to Power (2006).
Pole’s support for Irish poll wanes in the face of Sarkozy Presidency

Joe Cookson looks at the Irish rejection of the Lisbon Treaty, and asks how this will alter the French Presidency’s outlook for the EU, what has become of Sarkozy’s relationship with Chancellor Merkel, why he has blamed Peter Mandelson and why Polish support for the Irish poll waned in the face of Sarkozy’s presidency.

In the wake of the Irish rejection of the Lisbon Treaty the next six months under the French Presidency now look very different for the European Union than they might have done. President Nicolas Sarkozy has already had to shelve plans for increased action on climate change and energy shortages plus reform of how the union tackles questions of defence and immigration to concentrate on institutional reform, and where Europe goes from the events of 12 June.

As the Centre for European Reform has observed, ‘the last time France held the EU’s Presidency, in 2000, the then President, Jacques Chirac, was widely criticised for subordinating European interests to French ones’. Initially, Sarkozy needs to strike a more consensual tone than his predecessors if he wishes to successfully guide through changes which politicians and bureaucrats across the 27 member states argue are necessary before the Presidency of the more sceptical Czech Republic in early 2009.

This is not something which Sarkozy has proven particularly skilled at doing so far. The strength of his relationship with German Chancellor Angela Merkel has been the subject of much speculation, and by blaming Peter Mandelson for the Irish ‘No’ and, many believe, harbouring an ambition to block the reappointment of Commission President José Manuel Barroso next year he has won few friends in the European executive. Sarkozy’s views on how the EU should operate, becoming more ‘protective’ in terms of economic policy also grind against the prevailing wisdom in more liberal countries, including the UK.

More serious than those established conflicts for Europhiles though, are the division in strategy regarding how to proceed with Lisbon, and the ideas contained within the document, in the build-up to the suspension of the European Parliament in March for the elections.

Initially, Poland provided a major headache when President Lech Kaczynski indicated that he would decline to sign the pact until Ireland has decided the best way to proceed, describing signing the document as ‘pointless’ in an interview with Polish daily newspaper Dziennik. Michal Kaminski, a Presidential aide, also told Poland’s Radio ZET that ‘the Lisbon Treaty today doesn’t exist in a legal sense because one of the countries rejected its ratification’, shortly after the Irish vote.

After criticism from Donald Tusk, Poland’s Prime Minister, who has said Poland was in danger of consigning itself to the fringes of Europe, and pressure from the French President who described the events as ‘a moral question’ about a head of state keeping his word, Kaczynski softened his position, Le Figaro reporting that Sarkozy had received a promise that Poland ‘would not be an obstacle to ratifying the treaty’.

Many Poles worry about the power Lisbon endows upon Germany, but inside the European machinery there is suspicion that Kaczynski sought to buy some foreign policy concessions with these comments, in particular talks about possible membership for the Ukraine. Friction certainly remains after the European Commission reminded the President that he was ‘obliged’ to sign after taking part in the

“Sarkozy’s views on how the European Union should operate, becoming more ‘protective’ in terms of economic policy also grind against the prevailing wisdom in more liberal countries, including the UK..."
ceremonial activities last year. Despite such assurances, governments of EU member states remain divided, perhaps not to such a degree as they were after the referenda on the Constitution in France and the Netherlands about whether the reforms are necessary, though perhaps they should be thinking more carefully about this as well, but chiefly about how to proceed.

The UK and Cyprus have both ratified since the Irish ‘No’ vote, but the process in other countries has been paralysed by court battles and constitutional wrangling. German President Horst Koehler refused to sign the document until two legal challenges in the Constitutional Court are adjudicated upon. German daily Spiegel expects that no decision will be reached until early 2009, with particular debate over whether Article 48 significantly weakens the status of the national Parliament as it may no longer have to give permission when the EU changes its rules.

Another obstacle for Lisbon has intensified in the Czech Parliament. With a Eurosceptic majority in the upper house, legislators in Prague sent the treaty to their Constitutional Court back in April to determine whether it contradicts the Constitution. Despite significant pressure from French foreign minister Bernard Kouchner who has stated that ‘they’ll be persuaded in the end’. With the Czechs interested in widening rather than deepening integration, and holding the influential position of the EU Presidency next year which would be withdrawn from them by Lisbon, delays may be imminent, and thus that statement could be prescient.

While a handful of member states ponder how to proceed from these positions, at the other end of the spectrum the countries more supportive of Lisbon are mulling over how best to proceed. Austrian Chancellor Alfred Gusenbauer insisted that ‘any future changes to the treaty must be decided in Austria by a referendum’ in a letter to Kronen Zeitung, which could be viewed as an outbreak of democracy, but in reality is most probably a gambit to ensure no changes are implemented.

The EU looks likely to press ahead with Lisbon even in the face of such widespread hostility, ignoring the Irish vote and the wishes of Europeans. Should ratification not be completed in the face of a successful legal challenge or a failure to find a fix for the Irish situation, then it also seems that Croatian accession in two or three years time could provide an opportunity to bring in many changes pivotal to the idea behind Lisbon. One could almost think that Lisbon hadn’t been an exercise in recycling at all…

Joe Cookson is reading History at Grey College, University of Durham and resides in North Yorkshire

**EUROPE NEWS**

You can only flog the dead European horse for so long

There was a worrying period two months ago when I had eurofanatical journalists ringing up the European Foundation to ask why Britain would not be better off joining the eurozone, then celebrating its tenth anniversary. I mean, I do not even know what solid information this view was based on? Could be poor speculative journalistic guesswork, but there is no solid long-term economic reasoning behind it.

Martin Wolf at the Financial Times must have also heard the same rumours and thus, produced some excellent reasoned articles to counter the imagined benefits of the eurozone. I then wrote a larger piece for the CentreRight online resource on how the eurozone system was falling to pieces during the credit crunch.

At the time, Martin Wolf at the FT put forward an extremely cogent economic case for Britain being better off outside the euro: “…there is no evidence that being outside the eurozone has imposed a performance penalty upon the UK economy. Between the first quarter of 1999 and the first quarter of 2008, its economy expanded by 28 per cent, against 21 per cent in the eurozone as a whole and 16 per cent in Germany. As I noted this week (‘Emu’s second 10 years may be tougher’, May 28), there is no evidence that Emu has improved the economic dynamism of its members. If anything, membership seems to have reduced the pressures for reform. …The proposition then is fundamentally an economic one: remaining outside the euro preserves the safety valve of currency flexibility, while losing nothing in aggregate economic performance. Being outside has not even hurt London’s position as a financial centre.”

In the same month (May), I wrote elsewhere not only that we must stay out of the euro, but that the eurozone itself was dying a slow death: “In the eurozone of 15, Belgian inflation hit 4.39 per cent year on year in March, its highest since 1985; German inflation hit 3.3 per cent, matching a 12-year high reached in November; the Irish annual rate of inflation increased to 5 per cent in March; Spain moved to 4.6 per cent and Slovenia reached 6.6 per cent. Outside the eurozone, but within the European System of Central Banks (ESCB) of 27, there were phenomenally high rates in Latvia (16.6 per cent), Bulgaria (13.2 per cent) and Lithuania (11.4 per cent). Several of the Member States – including France, Italy and Spain – are simply preparing to internally buckle because their economic predicament is such that they are no longer able to assert real fiscal control over their economies. France’s Sarkozy is almost confirming this on daily basis, as France continues to struggle with the European binds on the control over her own economy.” I believe you can only flog the dead European horse for so long.  

Jim McConalogue
Ratified: how peers undermined the country

Glen Ruffle argues that many of the Lords, some in receipt of EU pensions, chose to accept that the Lisbon Treaty meant a deepening of the European superstate and vote accordingly, undermining their own country, betraying their own people, and weakening their own positions in the weakened version of the parliamentary democracy of the UK. He asks: what is the point of a House of Lords if they are complicit with the giving of their own power to Europe, who fail to use their expertise to read and judge the Treaty, and who follow warped party lines over matters of national interest?

The recent Irish ‘No’ vote was, despite the best attempts of the EU political elites to tell us otherwise (notably the French), not an anomaly. Had they been given a choice, and had they been given correct information, vast swathes of Europe would also have rejected the federalist document.

The British people would have been leading the way, had they been given the referendum they were promised. But instead, the government claimed that the Treaty was substantially different and so did not deserve the referendum the Constitution merited.

And so began the fraudulent journey of ratification for the European Union (Amendment) Bill through Parliament, with David Miliband declaring with pride that “our parliament has been able to give this 13 or even more days of careful scrutiny”, by which he meant most MPs were whipped into line, voted to save Brown from defeat on a subject they knew nothing about, and that most amendments laid down were never once debated due to time constraints.

The Treaty however was expected to be mauled in the Lords. There was initially even hope of a defeat for the government. However, party politics proved to triumph over national interests. Many Lords, like many Labour MPs, chose to place their loyalty to their party rather than to their country. As for the Liberal Democrats, the incomprehensibility of having one position in the Commons, and another in the Lords, just shows the weakness and ineffectiveness of Nick Clegg’s leadership.

Given the decision of the High Court in the Stuart Wheeler case, the government may feel that it has a strong case to avoid holding a referendum. And indeed, the Constitution was another Treaty, if you define a Treaty as a compromised legal agreement between different parties. It lacked the grand overtures and principles of a real Constitution, and it’s rambling length just served to enhance the fudged nature of what the EU could produce vis-à-vis the two-hundred year old US Constitution.

Yet the Constitutional Treaty was called a Constitution, and the Lisbon Treaty was in effect and substance, almost identical to the Constitutional Treaty. Lord Blackwell pointed this out on the first day of Lord’s debates, arguing that only two articles in the Constitutional Treaty have not been transferred either as a whole or in part into the consolidated Lisbon Treaty. The Lisbon Treaty, consisting of 55 Articles in the Treaty on European Union, and 358 Articles in the Treaty on the Functioning of the European Union, therefore totals 413 Articles. If only 2 have not been transferred, therefore the Lisbon Treaty is 0.484 per cent different from the Constitution. Surely, any right-minded person would not argue that these two are fundamentally different documents.

Lord Blackwell pointed out that the two articles omitted referred to, in one, the anthem and the flag, and in the other, the primacy of European law.

Suffice to say, the referendum amendment was defeated. A mixture of naivety, deceit, party loyalty and confusion about how Europe works combined to ensure the government was able to block any amendments. Ironically, had the Liberal Democrats shown party loyalty, and stuck to the abstaining line advocated by their leader in the Commons, then the government would have been in more trouble. Instead, they chose to vote for the Treaty, against their party’s official line. One wonders how the EU can inspire such loyalty whilst Nick Clegg clearly cannot.

Away from the referendum question, many questions were raised about the Treaty. In exchanges with Baroness Symons of Vernham Dean, Lord Blackwell challenged the wording of the Lords Treaty of Lisbon Impact Assessment report that claimed the UK Security Council seat at the United Nations was safe, and that Lisbon changed nothing. Lord Blackwell pointed out that the ability to control the agenda, of what is omitted and included, is very powerful. And the Lords report omitted the wider context of how having to submit to common European positions in the Security Council will undermine the case for having our own seat at the Security Council. In a world where the UK is being held back by Europe, while India, Brazil and the ASEAN states are seeing phenomenal growth, the case for the UK to have a permanent seat looks very weak indeed, given the government’s choice to duck the responsibility of having an independent foreign policy.

Lord Roper argued that Lisbon does not undermine
NATO, as the Common Security and Defence Policy (Article 42, consolidated text) maintains that NATO is the foundation for collective defence for those states which are members. Yet again, this is a limited vision. In deepening European defence in every other area, and in enhancing cooperative activities and established a European Defence Agency, the EU is undermining NATO and preparing itself for the day when NATO will be made redundant. On every issue of common foreign and security policy, Lord Blackwell summed up the feeling of most people as, “It is not a question, as some have said, of whether we want to co-operate with other countries, for of course we want to do that…” but it’s a question of democracy, legitimacy and national sovereignty.

On issues of Freedom, Security and Justice, the movement towards qualified majority voting is likely to see an increase in EU legislation and activity in these areas. And should the UK government, at the express democratic will of the people, legislate in contradiction to a measure imposed by QMV from Europe, the UK could find itself taken to court for breaching EU law.

Yet many Lord’s showed that they were still stuck in a mindset based on ideology rather than fact. Despite the fact of 30 years involvement with Europe, and little to progress the Union along a British view of sovereign nations trading freely, Lord Jay of Ewelme continued to suggest that the more we engage with Europe, the more we would achieve what we wanted. From a former diplomat, this is surprising. Lord Jay should know that the EU is based on compromise, and that what the UK might gain in one area, would be lost in another. Fundamentally, different visions of Europe are at work, and past experience shows that engagement with Europe, whilst opening up the internal market more, has only served to deepen the loss of democracy. And the single market gains are themselves undermined as the states which conceded them, then proceed to resist changes and covertly undermine free competition.

The role of the Bishops in the debates was minimal, though the eminent theologian, the Rt Revd Tom Wright, Bishop of Durham, put it to Baroness Ashton of Upholland that people were concerned because the Lisbon Treaty eroded sovereignty and democracy. Her reply was predictable – that Lisbon enhanced the role of national Parliaments, a reply which ignores the federal division of powers laid out in Title 1 of the TFEU, and the fact that national Parliaments ‘yellow cards’ can only be exercised by a group of Parliaments working together, and that the Commission can still override these opinions anyway. The UK Parliament is in no way enhanced or strengthened to preserve its interest; all Lisbon does is enforce another layer of bureaucracy, designed to minimalise the promotion of national interests and agendas.

The clear move that the Reform Treaty is towards a quasi-democratic European state was spotted by Lord Blackwell. “It is difficult to imagine a set of proposals that are a clearer description of a constitutional shift from a Europe of nation states to a European Union which claims its own direct and independent democratic mandate from the European citizens” he argued. How sad that many of the other Lords (some in receipt of EU pensions) chose to accept this and vote accordingly, undermining their own country, betraying their own people, and weakening their own positions in the weakened version of the parliamentary democracy of the UK. What is the point of a House of Lords if they are complicit with the giving of their own power to Europe, who fail to use their expertise to read and judge the Treaty, and who follow party lines over national interest?

Respect the Irish ‘No’ vote
Syed Kamall (pictured with Chris Heaton-Harris, Dan Hannan and Roger Helmer) has been calling on the Commission and fellow MEPs to respect the decision of the Irish people to vote ‘No’ to the Lisbon Treaty. Ireland is the only country that has been allowed to hold a referendum, while we in Britain were denied one.

Syed said, “The message from the European political elite and bureaucracy has been loud and clear: that they will not accept “no” for an answer. We have to keep up the pressure on the Prime Minister, the Commission and local MEPs to respect the Irish people’s decision and abandon this unpopular project.”

"They are bloody fools. They have been stuffing their faces at Europe’s expense for years, and now they dump us in the s**t..."

– French President, Nicolas Sarkozy on the Irish ‘No’ vote
Democracy? Well, once upon a time . . .

Don Anderson considers the ratification of the Lisbon Treaty in the UK a proper surrender of the Parliament to an unaccountable superstate, which turns us all into formal EU citizens.

In debating the Lisbon treaty, their Lordships, one after another, reiterated their dislike of referenda, expressed their dismay that one had been promised, and showed reluctance to feel bound by a pledge that had been made in the other House. It comes as no surprise that they voted as they did because the Lords is loaded with members in the pay of the EU (as ex-Commissioners, MEPs etc), those who served or still serve on EU committees/bodies, or those who were directly involved in the transference of our self-governance from Westminster to Brussels before they became ennobled. Referenda were repeatedly dismissed as being incompatible with our system of representative democracy.

Sadly, that system has been utterly discredited by the passage of the Lisbon Treaty through the Commons, and lies in ruins. The House was charged with passing a document already signed by the PM, which could in no way be amended. The debates were a whipped farce, curtailed, controlled, ill-attended – the outcome a foregone conclusion. The process descended into contempt, a defiance of the constitution, by-handing over sovereignty.

This sordid procedure demonstrated that our government is neither democratic nor representative. This may be tolerable for everyday legislation, which may be repealed by an incoming government if necessary, but is intolerable for matters of such fundamental importance to our lives as this Treaty. The LibDems delicately declined to vote at all on the referendum and allowed Stalin to stampede his stooges through the open goal. Cameron is equally hopeless – already he has started to cozy up to Sarky. We are now governed by the even less democratic regime in Brussels, who have now secured a further tranche of competences, which will escalate towards 90 per cent of the laws imposed on us, over which we have no say.

Stuart Wheeler’s case that the country had a legitimate expectation of a referendum, by reason of the PM’s promises both inside and out of the House’s privilege of free speech, did not succeed because the Treaty of Lisbon did not exist at the time they were made and, therefore, couldn’t technically be the object of those promises, however similar in intention and content. If hairs are available to split – that must be the function of the court.

Whereas the bulk of this Treaty restated the failed constitution, it is unsurprising that in combing through 296 pages affecting 3000 pages of Treaty, the government was able to show some differences. For example, if half the member nations object to proposed legislation, they can lodge objections to the Commission. In the unlikely circumstance that they can coordinate their submissions within a time scale of eight weeks – amended from six weeks – the Commission will take note of the concern, but not necessarily withdraw the legislation. The judge found this difference, and three other differences paraded by the defence, were not immaterial, and they showed the documents were not the same. “Whether the differences are sufficiently material as to provide an equivalent effect to the constitution, must be a political rather than a legal judgement, and there are no judicial standards by which the court can answer the question”. The judge stated that it must be for Parliament to hold the government to account for its promises and “the court should not trespass impermissibly on the province of Parliament”. This illustrates that a manifesto promise is entirely meaningless, since only Parliament can require the government of the day to act in accordance with its commitment, and if the MPs supporting that executive are put under a three line whip, then the promise can be broken willy-nilly – with some years to go until the following election (and possible retribution).

The other EU leaders, the Treaty’s author, constitutional experts, think tanks and the Scrutiny Committee all state that Lisbon is substantially identical to the failed Constitution, in content if not in form and, since the ring of stars still flies over Berlaymont, the omission of the trappings of state is of no consequence. Yet Gordon Brown was able to use weasel words to justify forcing it through Parliament and, by doing so, to shatter the concept of democratic representative government. If the law cannot hold him to account, if the second chamber is willing to acquiesce, if no party can be trusted to do as it says in its manifesto, where does that leave us?

The Treaty turns us into EU citizens, destined to be living in arbitrary unnatural regions (lumped in with eastern parts of the continent) answerable to a super-state which is totally unaccountable, bureaucratic, over-regulatory, proscriptive, costly, with no regard for our interests, and not of our choice. Since no legal or political means are left to us, and our politicians are working to their own agenda and ignoring the people, the only retaliation left is civil disobedience. We should regard any restrictive law emanating from an EU Directive as illegitimate and fair game to be broken. Fines will not be paid, no community service will be accepted as punishment, and we know they haven’t got room to lock anybody up, without increasing the overflow of dangerous criminals at the other end of the chain.

I refuse to be an EU citizen. Civis Britannicus sum.

Don Anderson is a retired company director and counts himself among the four million ‘missing’ Tory voters.
“I am convinced that we need this Treaty. Therefore we are sticking with our goal for it to come into force. The ratification process must continue...”
– Pierre Jouyet, French Europe Minister, 16 June

“...We shall effectively look for ways to ensure it comes into force. Irrespective of the results of the referendum in Ireland, I think that we can deliver an optimistic message - Europe will find a way of implementing this treaty...”
– Donald Tusk, Polish Prime Minister, 13 June

“You’re better off making a deal with me, because afterwards you'll get the Czechs [EU Presidency], and that won’t be easy...”
– French President Nicolas Sarkozy, 22 July after the Irish ‘No’ vote

“Although the Government is now keen to postpone a resolution until after the European Parliament elections next June, Mr Sarkozy proposed during private talks that a second poll should be held on the same day. Under the Sarkozy plan, which was made to Irish surprise, the strategy would be announced at the EU summit next December in Brussels...”
– Irish Times, 22 July, following the Irish ‘No’ vote
I. What are we going to do about Eire?

The plan to revive Lisbon

European governments are reportedly moving towards a plan to make Ireland vote a second time on the Nice Treaty after approving a resolution which would amend a key provision of that Treaty, the one reforming the Commission. According to the present text, the number of Commissars would no longer correspond to the number of EU Member States and, therefore, not every country would necessarily have “its” commissar. (Commissars are supposed to act independently of their respective nation-states, as is the Commission as a whole, but countries still fight keenly over which portfolio goes to which nationality.)

Their move follows early apparent setbacks for the Lisbon cause. Both the Czech and Polish Presidents, Václav Klaus and Lech Kaczyński, said that there was no point proceeding with ratification after Ireland had voted ‘No’. The Polish President said outright that he would not ratify the Treaty. This appeared to sabotage from the outset the plan to isolate Ireland.

However, since European leaders are determined to avoid negotiating a new Treaty, which would require a whole new round of ratifications, they have found a way to make a gesture to the Irish within the legal framework of Lisbon. Although the Treaty provides that the number of Commissars be reduced to a number equivalent to two thirds of the number of Member States, it contains the provision “unless the European Council, voting unanimously, decides to modify this number.” The heads of state and government could therefore decide to keep one Commissar per country.

The plan is now for the European Council to promise to make this important change and to reiterate previous undertakings given to Ireland: that the EU will not legislate on abortion, an undertaking given already in 1991 at the time of the Maastricht Treaty; a promise that Ireland’s neutrality will not be undermined, which was already given in 2001 at the time of the Nice Treaty; and a promise that decisions on tax will continue to be governed by unanimity. With this package in hand, EU leaders could go back to the Irish and ask them to vote again by the time of the EU elections in June 2009.

Of course this would only make the Commission even more absurd than it already is. Portfolios have had to be invented since the 2004 enlargement so that every Member State has its own Commissar. Commentators say that the Commission has already become more of a secretariat to the Council of Ministers rather than an autonomous body seeking the common European good. [Arnaud Lepartmentier, Le Monde, 15 July 2008]

Ex-Irish PM says US wants Irish to back Lisbon

The Irish ambassador to Washington, John Bruton, who is a former Prime Minister (Taoiseach) of the Republic of Ireland, has warned that Ireland’s rejection of the Lisbon Treaty will negatively affect American investments in the country because people will fear that the Irish are becoming anti-EU. “Americans had come to assume that Ireland was completely committed to the European Union and that its Government was at the heart of Europe and decision-making and that had created the climate in which Americans were more inclined to invest in Ireland because it was seen as being at the heart of the European Union,” he said. “Now for the second time to reject an EU Treaty which the Irish Government had agreed, Americans seem to see somehow turning away from the European Union and they don’t understand why that would be the case … Clearly, companies that are already invested in Ireland and are doing well there are not going to be influenced by this sort of thing because they have their own independent sources of information, but I would expect that companies that are looking at a number of countries for the first time might be influenced by it,” he said. Bruton concluded: “The entire mainstream of political, strategic and economic thinking – both in the Republican Party and in the Democratic Party – is strongly favourable to a strong European Union. It’s only on the extreme fringes of one of the parties – and very much on the fringe – that one would find any other opinion. Americans I meet who would be very conservative, or very liberal, all are agreed that the European Union is a good thing and that it’s important for the stability of the United States and the stability of the world. So it would be a great mistake for people to think that any difficulty for the European Union is liable to be
welcomed in the United States.” [Italics added.] [Irish Times, 17 July 2008]

EU in the dog house

Lisbon is not the only of the EU’s woes: the Union’s approval rating is plummeting rapidly across the whole of Europe. Indeed, if all EU states were to vote tomorrow on EU membership, the Union could collapse. According to Eurobarometer, the regular opinion polls conducted by the Commission, fewer and fewer citizens think that EU membership is a good thing. According to the latest findings of Eurobarometer, only a thin majority of 52 per cent of Europeans still think that EU membership is a good thing. This is down from 57 per cent in the Autumn of 2007. Only 48 per cent think the EU has a good image. (Oddly enough, one of the countries with the highest pro-EU opinion poll finding is Ireland. 73 per cent of those polled said they were in favour of EU membership.)

The countries where only a minority think that EU membership is a good thing include France (48 per cent), Greece (47 per cent), Finland (44 per cent), Italy (39 per cent), Austria (36 per cent), Britain (30 per cent), Hungary (32 per cent) and – last of all – Latvia with 29 per cent. Only 30 per cent of Croats think EU membership is a good thing although the Croatian government has talked about little but accession for years. [http://ec.europa.eu/public_opinion/index_en.htm, only in German at the time of writing]

A poll on the web site of Die Welt offered readers four choices about the EU: “it is wonderful”; “it has advantages and disadvantages”; “it is pretty bad”; “I wish Germany would leave”. The highest score was for “I wish Germany would leave” – 51 per cent. Nineteen per cent said the EU was pretty bad and only 27 per cent said it had advantages and disadvantages. (Three per cent said it was wonderful.)

In Austria, the former leader of the (Christian Democrat) Austrian People’s Party (ÖVP), Erhard Busek, has suggested that Austria hold a referendum on whether the country should stay in the EU. Busek blamed Austrian politicians for always blaming the EU when things go wrong, saying that this had now had an effect on public opinion. Naturally Busek wants a referendum to produce a positive pro-EU result and for there to be an end to “populism” (i.e. anti-EU rhetoric).

“We would have to say, ‘you will have to show your passport at the border again and obviously the euro will disappear.’” (Busek is being dishonest here. In reality, neither passport-free travel nor the euro is connected to EU membership. One can have the euro without being in the EU – Kosovo and Montenegro have it – and one can belong to Schengen without being in the EU – Norway and Iceland are members of Schengen but not of the EU.) [Der Standard, Vienna, 15 July 2008]

The Foreign Minister of Austria, Ursula Plassnik, immediately rebuffed his suggestion. “There is no point having such a referendum,” said Plassnik the next day, claiming that “two thirds of Austrians” want to remain in the EU. She rejected the view expressed by the representative of the EU Commission in Austria that “the roof is on fire”, a reference to the rising unpopularity of the EU in Austria, and said that the situation was not nearly as bad as he suggested. [Der Standard, 16 July 2008]

EU Parliament President: Germany would vote against Lisbon

The President of the European Parliament, the veteran federalist Hans-Georg Pöttering, has said that it is quite possible that the Germans would vote against Lisbon if they were given the chance. He still, however, repeated the well-worn German line that Ireland, a single country, should not be allowed to hold up “the majority” – even though that majority has not been allowed to vote. [Frankfurter Allgemeine Zeitung, 23 June 2008]

German MEP wants Poland thrown out of EU

An FDP-Liberal politician in Germany, Silvana Koch-Merin, has said that Poland should be thrown out of the EU if it does ratify the Treaty of Lisbon. Her outburst came in response to the announcement by the Polish President, Lech Kaczyński, that he would not sign the Lisbon Treaty following the rejection of it by Ireland. He said that discussion about Lisbon was “for the time being meaningless” given the Irish rejection; he also said that it was nonsense to claim that the EU could not function without the Lisbon Treaty. He also warned against violating the rule about unanimity. (At the EU summit in Paris on 13–14 July, he seemed to backtrack on this and said that Poland would not stand in the way of ratification, presumably if Ireland votes again.) Koch-Merin said, “It is the era of populism: the Polish President is again causing trouble over Europe. I believe that the EU should not hold back but should state clearly that a country is either a member of the EU on the basis of the Lisbon Treaty or it is not.” She said that if Poland chose another path then different forms of cooperation with it would be found. [Die Welt, 2 July 2008]

Greek President attacks EU

In an interview with Der Standard in Vienna, the Greek President, Karolos Papoulias, has said that the EU has lost face with the peoples of Europe following the Irish rejection of Lisbon. On the occasion of a state visit to Austria, Mr
Papoulias said, “It is of especial importance that the result in all three countries in which a referendum was held, the result was negative. This is a fact which should be a matter of concern to all Europeans. It should be that citizens are dissatisfied, evidently not so much because of individual questions but because of the general direction which Europe is taking. This is particularly clear with social-political themes and in the protection of jobs.” He went on, “I believe in a Europe which has a balancing role to play in the international system and in a Europe which is advanced in its integration. However, this cannot take place if Europe has lost its legitimacy with its peoples.” [Der Standard, 2 July 2008]

II. Other European news

EU Parliament attacks Italy

The European Parliament passed a resolution on 10 July condemning the Italian government for its decision to register the inhabitants of scores of slum gypsy encampments in Rome, Milan and Naples. These camps, many of which have existed since the early 1990s as a result of the wars in Yugoslavia, have swollen grossly in size since the accession of Romania to the EU and Schengen. They are now composed of tens of thousands of gypsies from Eastern Europe. The Italian state has poured huge sums into these camps, obviously providing health care and education, but few of the children attend classes and the conditions are very insalubrious. With the arrival of a new right-wing government in Italy, the national and municipal authorities have decided to do something about it. The first step is to begin registering the inhabitants of these camps, since most of them are in Italy illegally.

Even though most EU countries require that all citizens register their place of residence with the local police, the EU Parliament has thrown up its hands in horror at the idea that the same rules should apply to the inhabitants of these slums. It has instead accused the Italian government of “an act of direct discrimination” because the operation targets gypsies. Rome has vigorously denied this accusation. The Minister of the Interior, Roberto Maroni, has said that he will not be diverted from his course by criticism abroad. The Minister for Europe, Andrea Ronchi, has said that the resolution “is one of the worst aspects of EU policy”.

The register will be used to enforce school education for the children and then to close the camps themselves. The register itself will be kept in the archive of the Red Cross, which is assisting the Italian government in the operation. [Salvatore Aloise, Le Monde, 15 July 2008]

Sarkozy’s ‘diplomatic triumph’

Commentators say that Berlin has – much to its own surprise – been impressed by Nicolas Sarkozy’s diplomatic achievement in bringing off the foundation of his Mediterranean Union, created in Paris on 13 July in the presence of the heads of state of all Mediterranean and EU heads of government with the only exceptions of Colonel Gaddafi of Libya and the King of Morocco. People in the EU remember how the first version of this union, the so-called Barcelona Process, was founded in 1995 at a ceremony at which the Southern Mediterranean states were noted only by their near total absence.

There were handshakes and hugs all round between such enemies as the leaders of Israel, Palestine, Syria and Lebanon. Above all, the spectacle of so many leaders present in Paris was a clear diplomatic triumph for the French President – even if those present included the leaders of the Baltic states and Scandinavian countries who were there because they belong to the EU but whose connection to the Mediterranean is tenuous to say the least. Indeed, the agreement brokered in Paris between Beirut and Damascus that Syria will recognise Lebanon has been hailed as a major breakthrough, something of which the Germans are envious. Berlin believes that Syria is keen to move away from its alliance with Iran and the German Foreign Minister, Frank-Walter Steinmeier, has in particular been trying to persuade Syria to work more closely with the West.

Although Germany insisted that the new Union be created within the framework of the existing Barcelona process, in fact that process has been a failure. Since 1995, the EU has poured no less than 9 billion euros into the Mediterranean, in the form of transfers to Southern states, in addition to which hundreds of millions have been transferred bilaterally by Member States. Over this period, the gap in prosperity between the North and the South has only grown. The original plan to create a free trade zone by 2010 is no longer realistic. Relations between the various Mediterranean states remain often frosty, both because of the Israel-Palestine conflict and also because of difficulties between the Maghreb states themselves. Germany is now very interested in the idea of investing in solar energy production in the Southern Mediterranean, from which the North would import electricity but provide the technology. [Nikolas Busse, Frankfurter Allgemeine Zeitung, 13 July 2008]

Sarkozy supports Turkish accession

Before the Mediterranean Union summit opened, President Sarkozy assured the Turkish Prime Minister, Recep Tayyip Erdogan, that the French presidency will be “loyal” towards Turkey’s candidacy. “If new accession chapters have to be opened, then the French presidency will open them,” said Sarkozy according to reports from the Elysée Palace. Sarkozy also gave Erdogan assurances that there was no connection between the Mediterranean Union and the question of Turkey’s accession to the EU – Ankara has always feared that the Med Union is simply a pretext for offering Turkey an alternative to full EU membership. Erdogan was one of the last leaders to agree to attend the Med Union summit; he agreed only a few days beforehand, as a result of a phone conversation with the French President. Sarkozy has always
said he is opposed to Turkish accession to the EU and has proposed instead a “privileged partnership”. But there have been several occasions recently where France has in fact helped the accession process along, and this is just the latest indication of that trend. It seems obvious that Ankara agreed to attend the summit, and to support the Med Union in general, only after receiving assurance from Paris about its own plans for EU accession.

Sarkozy’s friend, Silvio Berlusconi, however, fully supports Turkey’s accession and told Erdogan in no uncertain terms at the summit. Berlusconi told journalists, “Erdogan is worried that the accession procedure for Turkey is going very slowly, above all after the Irish ‘No’ to Lisbon in the referendum.” Turkey was formally accepted as a candidate country in 2005 and there are 35 so-called “chapters” to be agreed before it can become a member. Discussion has started on eight of them. [Der Standard, 13 July 2008]

Belgium really is on the verge of collapse
There have been many false alarms before but the possible break-up of Belgium is being discussed in the country’s newspapers more openly than ever before. This follows the collapse of the government of Yves Leterme after a struggle of over a year to come to an agreement between Flemings and Walloons. The elections in 2007 gave victory to Flemings who want more autonomy from the Belgian federal state and to Walloons who wanted the keep the present arrangements; the usual Belgian ability to find a fudge between the two positions has failed this time and the stalemate has lasted a year.

In the interim, however, the King appointed a caretaker government under the Prime Minister who had lost the 2007 elections, Guy Verhofstadt. Even though the Belgian constitution forbids that a caretaker government sign any major international agreements, it is now obvious why this caretaker government was appointed: it was necessary for Belgium to have a government in order for the Lisbon Treaty to be signed, which Verhofstadt did in December 2007.

By March, Yves Leterme had managed to negotiate a preliminary agreement between five parties and he took over as Prime Minister. But the outstanding points of disagreement were not resolved and they proved to be the cause of the government’s break-up. In particular, the constituency of Brussels-Halle-Vilvoorde proved to be the nut which Belgian politicians could not crack. This suburb of Brussels within Flanders is populated largely by French speakers and by Francophone foreigners who have moved out of the city. Many of its communes have no Flemish councillors at all and the voters started to vote for Walloon parties. The Flemings wanted the constituency to be broken up but the Walloons are determined to keep it intact. Failure to reach agreement of it was essentially what destroyed the government, although there have also been similar conflicts over other largely French-speaking suburbs of Brussels like Linkebeek.

The year-long struggle to form a government, which has now ended in failure, took its toll on Leterme’s health. He was admitted to hospital in March with internal bleeding – a sign, perhaps, that he was not up to the job. The injuries inflicted on Belgium itself may be fatal, however. The country has managed to exist for years only because ever more arcane fudges were reached to balance the conflicting claims of Flemings and Walloons. Now the two sides have run out of ways of fudging the issue and Leterme is not even the most radical of the Flemings. A Christian Democrat, he is outflanked on the Right by the largest party in the whole of Belgium, the Vlaams Belang, which simply wants Flanders to become an independent state.

The likelihood is therefore now quite considerable that the country will indeed collapse, although it is fair to say that the future of the city of Brussels itself will be extremely problematic. The Brussels region is one of the three main federated units of the Belgian state but it is also the historic capital of Flanders and is indeed situated inside Flemish territory. But it is a largely Francophone city, not least because of mass immigration from North Africa and of course also because of the presence of a vast retinue of foreigners (diplomats, EU officials, journalists) who speak French rather than Dutch. If the country really does collapse, then the fate of the capital city of Europe will prove to be a very hard nut to crack indeed.

Medvedev reaffirms foreign policy
The new Russian President has made it clear that his foreign policy will be essentially the same as that of his predecessor and current Prime Minister, Vladimir Putin. Both at the G8 summit in Japan and also in a keynote speech to the diplomatic corps in Moscow on 15 July, Medvedev repeated Russia’s well-known opposition to the installation of an American anti-missile shield in Eastern Europe and to the recognition of Kosovo as an independent state. Medvedev told George Bush at the G8 summit that the installation of interceptors in Lithuania would be “unacceptable”: American officials have travelled discreetly to Vilnius to explore the possibility of stationing the interceptors there since the Poles have apparently asked for a huge amount of money and the
Americans want to see if they can get the same thing elsewhere more cheaply. The Russian President’s chief diplomatic adviser, Sergei Prikhodo, has expressed Moscow’s disappointment that various Russian initiatives have been rebuffed. Russia had, for example, suggested that the anti-missile shield be open to inspection by Russian officials, to calm their fears that it is in fact directed against Russia and not Iran. This suggestion has not been taken up. Moscow’s view that the anti-missile shield is in fact directed towards Russia will only have been confirmed by recent reports that the USA is in fact inching towards reopening diplomatic relations with Iran. [For Medvedev’s speech on 15 July, see www.kremlin.ru/eng]

**Eurozone inflation rises to 4 per cent**
The main purpose of introducing the euro, allegedly, was to keep inflation low. It was on this basis that the Constitutional Court in Germany approved the Maastricht Treaty in 1993. Now the inflation rate is double what it should be – 4 per cent in June. This is a new record after the rate reached 3.7 per cent in May and is the highest rate since the introduction of the new currency. The 4 per cent rate is higher than economists expected: they had predicted 3.9 per cent, according to Dow Jones Newswires. [Le Monde, 20 June 2008]

**Steinmeier tries to resolve Abkhaz conflict**
The German Foreign Minister, Frank-Walter Steinmeier, has travelled to Georgia and Russia to try to mediate in the conflict between that country and the separatist region of Abkhazia. Germany has proposed a package of measures designed to resolve the conflict, including the return of some 250,000 Georgian refugees from Abkhazia, while the Georgian President, Mikhail Saakashvili, has said that not one inch of Georgian territory will be ceded. The Abkhaz leader, Sergei Bagapsh, has promised to make his province into an “independent and democratic country”. Abkhazia immediately rejected Steinmeier’s proposals to allow the refugees to return and both Sukhumi and Tbilisi exchanged the usual mutual accusations about de-stabilising the region.

The Russian Foreign Minister, Sergei Lavrov, said that he thought that the logic of Steinmeier’s plan was good but “unrealistic”. Steinmeier is only the latest in a series of Western politicians to travel to Georgia to try to solve the Abkhaz question. A plan put forward by a group of “friends of the General Secretary of the United Nations”, which include Britons, Frenchmen, Americans, Germans and Russians, was rejected by the Abkhaz in July without its content ever having been made public. The US Secretary of State, Condoleezza Rice, has launched an “American initiative” while of course reassuring the Georgian President of her country’s good intentions towards Tbilisi: Georgia counts as a strategic interest for the US and the Americans want the country to join NATO. The EU sent a group of five foreign ministers in May and the French Foreign Minister, Bernard Kouchner, might go in September.

This flurry of diplomatic activity has one simple explanation: Kosovo. Naturally the Abkhaz have been very encouraged by the Kosovo precedent of declaring unilateral independence, which is precisely what the various Western envoys are determined to avoid. [Alexandre Billette, Le Monde, 20 July 2008]

**Paris wants EU wants to control immigration**
France has proposed that the EU have powers over legal immigration “taking into account the priorities, needs and reception capacities of each Member State”; that it fight illegal immigration by repatriating illegal immigrants to their country of origin; that it “strengthen the effectiveness of border controls”; that it build “a Europe of asylum” and that it “create a global partnership with countries of origin”. Thus France is hoping to convince her European partners to adopt a pan-European strategy to control migratory flows. The plan was presented at the Council of Ministers meeting in Cannes on 7 July. Broadly speaking, the document is pro-immigration, saying that it is a great “opportunity” for the EU and that it stimulates economic growth. France had to water down some of its proposals, for instance to create an EU-wide asylum agency with powers of decision (vetoed by the Germans) and to impose a “contract of integration” on all new arrivals (vetoed by Spain). However, the EU Member States are invited to reflect on introducing a “single asylum procedure” by 2012 and to adopt “uniform law on refugees”. [Laetitia Van Eeckhout, Le Monde, 7 July 2008]

The EU is already planning to allow the legalising of illegal immigrants. The Commission is elaborating a new directive which will permit the naturalisation of illegal immigrants for economic or humanitarian reasons. France’s desire to see a rule against mass naturalisations has been removed from the text: Paris has always claimed that such naturalisations only encourage further waves of illegal immigration. [FAZ, 7 July 2008]

**EU budget 115 billion euros a year**
EU budget ministers have set the budget for 2009 at 115 billion euros, just under the predicted amount of 116.7 billion euros. [Handelsblatt, 17 July 2008]

**Moscow mayor says Ukraine “undemocratic”**
The outspoken Mayor of Moscow, Yuri Luzhkov, has said that the detention of a Russian journalist in the country shows that it is an undemocratic state. The TV journalist was filing a report about the plans of the Ukrainian authorities to break off the Ukrainian Orthodox Church from the Moscow
Bulgaria under fire

Bulgaria could face further sanctions, such as having its membership of Schengen delayed, following continuing complaints and reports about corruption in the country. A group of states including Britain, France and especially the Netherlands are pushing for these sanctions. There is no plan to activate a clause which would refuse recognition elsewhere in the EU for decisions taken by Bulgarian courts – the accusation is that the judicial system is especially corrupt – but Bulgaria’s hopes of joining the Schengen database this year are now in doubt. Bulgaria would not join Schengen itself until 2011 at the earliest. The European Anti-Fraud Office has also highlighted Bulgaria’s continuing problems with corruption – a case of the pot calling the kettle black since of course the EU itself is so corrupt that its accounts are not approved for over a decade. The way in which EU money is spent in Bulgaria is also criticised in EU reports – basically the money is being stolen on a massive scale. The publication of these reports has unleashed a political storm in Bulgaria, with calls for the impeachment of the President himself. [NRC Handelsblad, Amsterdam, 17 July 2008]

Sarkozy supports second term for Barroso

The President of the European Commission, José Manuel Barroso, has let it be known that he would like to run for a second term. He has received the support of the French President, Nicolas Sarkozy. “If the question is whether I have a candidate,” said Sarkozy at a meeting of the European Parliament in Strasbourg, at which he was presenting the programme of the French presidency, “the answer is yes. If the question is whether he is sitting at this table, the answer is also yes.” The President of the European Parliament responded with the same repartee. “I also have a candidate,” said Hans-Gert Pöttering, “and he is in this room.” Barroso’s term ends in October 2009. Discussions about who will be the next Commission President are only part of a wider discussion about who will get the big jobs in the future EU, assuming that is that the Lisbon Treaty is ratified, creating the post of permanent President of the Council and EU Foreign representative. [Der Standard, Vienna, 10 July 2008]

Serbia asks for extradition of Milosevic family from Russia

Serbia has asked Russia to extradite Mira Markovic, the widow of the former President of Yugoslavia, Slobodan Milosevic, and his son Marko. The pro-Western Serbian Foreign Minister, Vuk Jeremic, said, “They should face the charges against them in Serbian courts. It is our law.” Russia accorded the family refugee status in 2006 and has repeatedly rejected earlier requests from Belgrade for them to be handed over. Mira Markovic fled Belgrade in 2003, her son Marko in 2000 after Milosevic’s overthrow. They are accused of being implicated in the murder of the publisher Slavko Curuvija and in cigarette smuggling. Commentators in Belgrade doubt, however, whether the Serbian government is really determined to see the Milosevics back in Belgrade, for this would mean reopening a discussion about the Milosevic era. They consider that Jeremic’s declarations are intended purely for Western consumption. [Neue Zürcher Zeitung, 19 July 2008]
Commission prepares one-size-fits-all EU immigration rules

News @ European Commission. The European Commission, the French Presidency and the European Council are united on Freedom, Security and Justice policies. Under new measures proposed by the Commission, the British Government will have even less power to decide on asylum and immigration matters. On 17 June, the European Commission adopted two communications which will plan to take forward the EU common immigration and asylum policy. The Commission is expecting to obtain the endorsement of the European Council in October to both communications which will contribute to the 2009 debate on the definition of a new 5-year Programme in the Justice, Freedom and Security area.

The communication “A Common immigration policy for Europe: principles, actions and tools” is planning to contribute to the development of a common immigration policy over the next few years. A common immigration policy is one of the EU’s existing priorities. The Commission has proposed common principles on which the common immigration policy should be based. However, the Commission has not limited itself to indicating principles – it has already proposed concrete action for their implementation.

According to the Commission, “immigration for economic purposes should respond to a common needs-based assessment of EU labour markets addressing all skill levels and sectors in order to enhance the knowledge-based economy of Europe, to advance economic growth and to meet labour market requirements.” In order to achieve this, Member States would be required to develop “national immigration profiles” in order to provide data on immigrant numbers as well as immigrant participation in the national labour market. The Commission also urges the Member States to increase the “effectiveness of labour-matching policies and tools”, meaning more investment in the education and training for third-country workers in order to match their skills with the needs of national labour markets. Member States would be required to invest more in measures endeavouring to bring unemployed third country nationals who are legally residing in the EU Member States into employment. The Commission also stressed that host Member States must strengthen their efforts to integrate legal immigrants and has called on the Member States to effectively apply EU law which provides third country nationals with the same treatment as EU nationals in coordinating social security schemes across the EU. The Commission has pointed out that a common immigration policy must be based on solidarity among the Member States.

According to the Commission “… no Member State can effectively control or deal with all aspects of immigration on their own and therefore decisions likely to have an impact on other Member States need to be coordinated.” Member States would no longer be entitled to determine their national immigration policies. Last February, the European Commission adopted a package on the management of the EU’s external borders aiming to set up an integrated EU policy on border management and to ensure a uniform and high level of control and surveillance (see The European Journal, April 2007 issue). In this present communication, the Commission has reiterated its wishes to extend FRONTEX powers. The Commission has suggested that the Member States should increase the use of biometrics with the aim of fighting illegal immigration. The Commission has pointed out that “Effective return measures are an indispensable component of the EU’s policy on illegal immigration.” Therefore, the Commission has asked the Member States to provide the return policy with a “genuine European dimension.” The European Commission has called for a common approach on
shortcomings were identified in the legislative instruments mechanisms. The Commission has pointed out that several on the determination of the Member State responsible for examining an asylum application as well as solidarity among the Member States, provide for rules on the determination of the Member State responsible for examining an asylum application as well as solidarity mechanisms. The Commission has pointed out that several shortcomings were identified in the legislative instruments of the CEAS’s first phase – therefore according to the Commission the existing common standards are not enough and consequently it will propose amendments to the current legislation as well as new instruments to complete the second phase of the CEAS. According to the Commission the Reception Conditions Directive allows a considerable amount of discretion for Member States in several key areas. Therefore the Commission wants to amend this instrument to achieve further harmonization. The Commission has stressed that there are different asylum procedural arrangements among the Member States will lead to a more uniform burden sharing of asylum applications among the EU Member States. The Commission will propose for cases of exceptional asylum pressure, the internal re-allocation, on a voluntary basis, of beneficiaries of international protection from one Member State to another. It should be mentioned that a provision

Commission creates asylum pact with blessing from the French

News @ European Commission. The European Commission has adopted a communication entitled “Policy Plan on asylum, an integrated approach to protection across the EU.” It should be recalled that the 1999 Tampere European Council decided that a common asylum policy should be implemented and a common European asylum system be set up using a two-phases approach. The aim of the first phase of a Common European Asylum System (CEAS) which ran from 1999 to 2005 was to harmonise Member States’ legal frameworks on the basis of common minimum standards. The elements of the first phase are already in place: the Reception Conditions Directive (minimum standards for the reception of asylum seekers), a Directive on minimum standards in asylum procedures for granting and withdrawing refugee status, a Directive on qualification and content of refugee status and on subsidiary forms of protection and a Regulation on criteria and mechanisms for determining the State responsible for examining asylum requests. The crucial objective of the Common European Asylum System is the establishment of a common asylum procedure and a uniform status for persons in need of international protection valid throughout the EU.

In the present communication, the Commission is proposing a policy plan which defines a road map towards the creation of the CEAS. The Commission has stressed that a Common European Asylum System must provide for a single common procedure, establish uniform statuses for asylum and for subsidiary protection, increase cooperation among the Member States, provide for rules on the determination of the Member State responsible for examining an asylum application as well as solidarity mechanisms. The Commission has pointed out that several shortcomings were identified in the legislative instruments of the CEAS’s first phase – therefore according to the Commission the existing common standards are not enough and consequently it will propose amendments to the current legislation as well as new instruments to complete the second phase of the CEAS. According to the Commission the Reception Conditions Directive allows a considerable amount of discretion for Member States in several key areas. Therefore the Commission wants to amend this instrument to achieve further harmonization. The Commission has stressed that there are different asylum procedural arrangements among the Member States and that the Hague Programme as well as the TFEU call for the establishment of a common asylum procedure. The Lisbon Treaty removes the reference to minimum standards hence there will be common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status.

The Commission is therefore planning to propose in 2009 amendments to the Asylum Procedures Directive which will include the establishment of a single, common asylum procedure and in this way Member States would no longer be entitled to have their own procedural arrangements. The Commission has also pointed out that the Qualification Directive has provided for minimum harmonization on the criteria for granting international protection yet it has stressed there are still differences among the Member States on the recognition of protection needs of applicants from the same countries of origin.

The Commission wants to promote solidarity in this field: it has pointed out that “Solidarity and fair sharing of responsibility” is a TFEU principle which governs the implementation of the CEAS. The Lisbon Treaty introduced a new requirement for “solidarity between Member States.” Hence, those Member States exposed to an influx of asylum seekers and illegal immigrants will be able to be assisted by the Union. The Commission has stressed that one of the CEAS’s aims is to assist Member States that due to their geographic position have to face pressures on their national asylum systems. According to the Commission, the EU has the responsibility, based on the principle of the solidarity, to find a common response to tackle the challenges faced by those Member States. The Dublin Regulation provides the criteria to establish which Member State is responsible for examining an asylum claim. Presently, asylum seekers must apply for asylum in the first EU Member State where they arrive.

The Commission wants to create a Community mechanism which would provide for temporary suspension of the Dublin rules. The Commission believes that the suspension of the Dublin system in emergency situations will lead to a more uniform burden sharing of asylum applications among the EU Member States. The Commission will propose for cases of exceptional asylum pressure, the internal re-allocation, on a voluntary basis, of beneficiaries of international protection from one Member State to another. It should be mentioned that a provision
introduced by the Lisbon Treaty states “In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned.”

As there is no veto power and measures are adopted through the co-decision procedure, the UK has a reduced influence over the development of a common asylum policy.

Jacques Barrot, Commissioner Responsible of Justice, Freedom and Security, is not concerned with the Lisbon Treaty entering into force. According to Europolitics, he said “Lisbon did include an article on asylum, but we can act even in the framework of the present treaties.” However, the Commission has made clear, in its communication that it will propose measures to achieve the objectives set out in the TFEU. In fact, the Commission is already counting on the new legal basis provided by the TFEU.

It is no coincidence that the European Council conclusions adopted on 20 June in the area of Freedom, Security and Justice match the French priorities in this area, so French presidency success is almost guaranteed. The European Council has welcomed the abovementioned Commission communications and has underlined the need to continue with progress on the future Common European Asylum System with a view to its realisation by 2010. The European Council has endorsed the European Commission border management package and has invited the Commission to put forward proposals by the beginning of 2010 for an entry/exit and registered traveller system and legislative proposals on an electronic system for travel authorisation and on the creation of a European Border Surveillance System.

The European Council has also stated that it “[...] looks forward to the forthcoming proposal of a pact on immigration and asylum by the incoming French Presidency.” It is well known that France is drafting a European Pact on asylum and immigration. It should be pointed out that the European Commission proposals also match with the French priorities and its idea for the ‘European pact on migration and asylum.” France, at the informal meeting of justice and home affairs ministers on 7 July has revealed its ambitious six-month programme in the area of freedom, security and justice, including its European Pact on Immigration and Asylum. The main aim of the pact is to ensure better co-operation amid Member States on asylum and immigration policy meaning more harmonization on immigration and asylum matters. France has drafted the pact around five main pillars. Under the Pact, Member States should make five commitments. France has suggested that EU should organise legal immigration taking into account the capacity of each Member State to accept migrants according to their labour market needs and in the spirit of solidarity. The Blue card proposal will be the main focus under this heading. Member States would be also committed to set up effective integration policies. The second pillar concerns the control of illegal immigration mainly by returning illegal immigrants to their country of origin. The return of illegal immigrants is already covered by the recently adopted Return Directive. Nevertheless, the pact calls for the EU to conclude readmission agreements with third countries and to put in place common mechanisms for the return of illegally staying third country nationals such as joint flights. Member States would be urged not to use “general regularization for humanitarian or economic reasons, within national legislation.” The third pillar is focused on making the control of the EU external borders more effective in the spirit of solidarity. This includes measures such as strengthening Frontex powers and issuing biometric visas from 2012.

The pact reiterates the need to establish a common European asylum system. It also calls for the creation of a single EU asylum procedure. The pact’s fifth pillar intends to promote the development of the countries of immigration. Member States would be required to implement the decisions resulting from the pact. France has faced opposition from some Member States mainly from Spain which has not agreed to certain aspects; hence, French Immigration Minister Brice Hortefeux has watered down his original proposal. The original plan of a compulsory “integration contract” for immigrants was abandoned. Moreover, Sarkozy was hoping to end the mass “regularizations” of illegal migrants yet, due to Spanish opposition, the strong wording calling for the ban of mass regularizations was softened. According to Brice Hortefeux, “The interior ministers gave their unanimous accord on the principles, the objectives, the presentation and the structure of the pact.” Sarkozy is expecting the immigration and asylum pact to be endorsed and officially adopted at the EU summit in October.

Spain broke energy merger EU law, says ECJ
The European Court of Justice insists that Spain broke European Union law on the free movement of capital after Spain claimed that its domestic energy sector watchdog give pre-approval to a takeover in the sector. The Court ruled: “By making the acquisition of shareholdings in undertakings in the energy sector and of certain of their assets subject to the prior approval of the national energy commission, Spain has infringed community law,” the European Court of Justice said. [Reuters, 17 July 2008]
Global airlines dispute EU emissions scheme

News @ European Parliament. On 26 June, following several negotiations, the Slovenian Presidency and the European Parliament reached an agreement on a Commission proposal from 2006 for a directive aimed at bringing greenhouse emissions from air transport into the EU Emissions Trading Scheme. This directive will have terrible consequences for the aviation industry especially at a time where airlines are already struggling to survive with high fuel prices. Moreover, the aviation industry is likely to pass their costs on to the consumer – therefore the price of ticket flights will probably need to rise.

The Commission has proposed to cover emissions from flights within the EU from 2011 and all flights to and from EU airports from 2012. Whereas the European Parliament and the Council agreed that the ETS should include at the same time intra-Community and intercontinental flights, the Council wanted to include airlines in the ETS in 2012 and the European Parliament has proposed the deadline of 2011. The Council wanted to allow airlines to keep emission levels at the 2004-2006 average levels after 2012 and until 2020 whereas the European Parliament has proposed a 10 per cent cut by 2011. The Council has also insisted that 90 per cent of emission permits would be distributed to airlines for free. Therefore, according to the Member States only 10 per cent of emission permits should be auctioned. However, according to the European Parliament 25 per cent of the emission permits should be auctioned. The European Parliament took the view that revenues from auctions should not be allocated by Member States to their general budget. The European Parliament has proposed that revenues from emission allowance should be used to fund research and to develop sustainable modes of transport. But according to EU Member States, environment ministers’ earmarks should not be binding as Member States should be free to decide how to use such money. As the Council has rejected the European Parliament amendments, the draft proposal has returned to European Parliament for a second reading.

On 26 June, following several negotiations, the Slovenian Presidency and the European Parliament reached an agreement on the inclusion of aviation in the European Emission Trading Scheme. The agreement was formally adopted by the European Parliament on 8 July. The European Parliament voted at second reading adopting a directive which includes aviation in the EU Emissions Trading System from 2012. Under the compromise reached all flights departing or landing in the EU, including intercontinental flights will be integrated in the ETS from 2012. The directive will apply to all airlines flying in and out of the EU, including airlines from third countries. The reduction of emissions from aviation is to be calculated on the basis of airlines’ average annual emissions between 2004-2006. In 2012 airline emissions will be cut by 3 percent therefore there will be a cap on emissions from aviation of 97 per cent of average emissions for 2004-2006 which will be decreased to 95 per cent from 2013 hence airline emissions will be cut by 5 percent from 2013. Airlines can exceed their CO2 allowances but they will have to buy extra permits from other companies. The cap will be reviewed in light of the general review of the ETS.

Moreover, 85 per cent of the emissions permits will be allocated for free however 15 per cent of the airlines emission permits will be auctioned. Under the agreement reach is for the Member States to decide how to use the revenues generated from the auctioning of emissions allowances however such revenues should be used “to tackle climate change in the EU and third countries … to adapt to the impacts of climate change in the EU and third countries, especially developing countries, to fund research and development for mitigation and adaptation, including in particular in the fields of aeronautics and air transport, to reduce emissions through low-emissions transport, and to cover the cost of administering the scheme.” Moreover, such revenues should be also used “to fund contributions to the Global Energy Efficiency and Renewable Energy Fund, and measures to avoid deforestation.” Airlines whose annual emissions are less than 10,000 tonnes of CO2, humanitarian flights under a UN mandate, emergency flights, police, military flights and research flights are exempted.

The aviation industry is not pleased with such an agreement as they believe that their future business was not taken into account by the EU institutions. It is estimated that the directive could add between €3.5 billion and €7 billion to the costs of the aviation industry. According to Sylviane Lust, Director-General of the International Air Carrier Association, “Fifteen per cent auctioning in 2012 is unaffordable and unacceptable for our airlines given today’s high fuel prices and weakening demand.” The European Low Fares Airline Association (ELFAA) Secretary General, John Hanlon, has said “There is a huge risk that the legislation will impose unnecessary costs that do nothing to achieve its environmental objectives.” According to ELFAA it would be harder for airlines to invest in clean technologies as they will not have the financial means. Moreover, the US as well as Australia, Canada, China, Japan, South Korea (including their airlines) have already shown their opposition to the EU’s ETS and stressed that such move would violate EU Member State international obligations under the Convention on International Civil
Aviation. The US is already considering taking legal action against the EU in the WTO. The draft directive still has to be formally approved by the Council which is very likely to accept it.

Parliament restricts European political groups

News @ European Parliament. The so called house of democracy has delivered another blow to democracy. From 2009 it will be much more difficult to create a political group at the European Parliament. From then on, it will be necessary to have 25 members representing a minimum of seven countries. Several members would be denied the democratic right to integrate a group of their choice being forced to sit as non-attached members or to take part in a group which might not fully share the same convictions and views.

Richard Corbett MEP recently proposed a draft report on amendment of Rule 29 of the European Parliament's Rules of Procedure concerning the formation of political groups. The Labour MEP proposed to increase the number of MEPs necessary to form a political group which is presently set at twenty (representing 2.5 per cent of the total number of MEPs) to thirty (representing 4 per cent of the total number of MEPs in a Parliament of 750 MEPs). The European Parliament's Constitutional Affairs Committee voted on the report on 27 May and by a majority of just one, Corbett's proposal was rejected. All groups had voted against the idea of increasing the threshold with the exception of the EPP-ED and the PES.

Notwithstanding this rejection, Jo Leinen, the President of the Committee decided that the committee members should vote on the remaining amendments. An amendment was approved allowing a political group to continue to exist if it follows below the required threshold until the next constitutive sitting. The amended report was adopted but without the Corbett proposal to increase the threshold. In a show of protest against the vote on the threshold of political groups, ALDE, UEN, Greens, GUE and INDEM coordinators wrote a letter to the President of the European Parliament. They believed that the vote on the amendments was an "abuse of procedure" as it took place whilst the MEPs had already rejected the bulk of the report. Consequently, they have asked Pöttering for the report to be sent back to the committee. However, the text was brought to the plenary in the July session. Amendments to the European Parliament Rules of Procedure must be adopted by a majority of the component Members of Parliament.

A compromise was reached between most of the political groups which sets the threshold at 25 MEPs from seven countries. On 9 July the European Parliament voted to increase the threshold to create a political group. Presently, to form a political group, 20 members representing at least one fifth of the Member States (6 countries) is needed. The European Parliament has agreed to change its rules of procedure to increase the threshold to 25 MEPs (3.3 per cent of total membership), representing at least one quarter of the Member States (7 Member States). Such a move was adopted with 481 votes in favour, 203 against and 26 abstentions. Obviously, the EPP and the PES, the Parliament's largest political groups, fully supported the increase of the threshold. The Greens, GUE and UEN groups have decided to vote in favour of the compromise as it was not as detrimental as Corbett's proposal. The ALDE group voted against the compromise as well as the Ind-Dem which has 22 members.

An amendment was also approved in which if a group falls below the required threshold, the President of the European Parliament may allow the group to continue to exist until the end of the term if it still represents a fifth of Member States and it has been established for more than a year. The new rules will come into force when the European Parliament starts its next term after the June 2009 European elections. It seems that such amendments to the European Parliament's rules of procedure were almost designed to target eurosceptic groups. The survival of the Independence/Democracy Group is at threat at the next European elections as it presently has 22 members. Moreover, the European of the Nations (UEN) group has 44 members but they represent 6 Member States therefore it might fail to meet the member state threshold in the next election. The Movement for European Reform which is presently supported by the Czech Civic Democratic Party (ODS), the British Conservative Party and the Bulgarian Union of Democratic Forces (UDF) must definitely find more support as presently a political group is composed of MEPs elected from at least six Member States and from 2009, it would be required, under the threshold, to have a quarter – which means seven Member States.

Stuart Wheeler's case for a referendum: rejected

On his website, Stuart Wheeler reports on his case for a referendum in the final days:

"16 July: The government performed the final act of ratification at noon on 16 July, knowing full well that my application for leave to appeal had been lodged, and having themselves earlier suggested that, on an oral hearing of my application, the Court of Appeal should deal with the question whether ratification should be delayed until my case was over.

18 July: The hearing in the High Court refused me permission to appeal to the Court of Appeal. That is the end of the case." [For more, see: www.stuartwheeler.co.uk]