

An opportunity for democracy

Submission by Federal Union to the House of Lords European Union Committee inquiry into the impact of the Reform Treaty on the institutions of the EU

1.1 Federal Union was founded in 1938 to campaign for federalism for the UK, Europe and the world. It has argued since then that democracy and the rule of law should apply between states as well as within them.

1.2 Federalism divides political power between levels of government to achieve the best combination of democracy and effectiveness. It is not the bureaucratic centralisation of popular myth.

1.3. This submission addresses three of the nine questions, numbers 3, 5 and 7, with a conclusion at the end.

3. The impact of the Reform Treaty on the role and functioning of the Council of Ministers, including the effects of the use of team Presidencies, their relationship with the President of the European Council, and the new system of qualified majority voting

3.1 In addition to the points mentioned in the question above, one should also consider the additional requirement (in paragraph 17 of the Lisbon treaty, Article 9C(8) of the future consolidated treaty) for the Council of Ministers to “meet in public when it deliberates and votes on a draft legislative act.” This is a provision that could, if applied properly, make a great deal of difference to the way in which the European Union functions.

3.2 Given full access to the relevant information, it will enable national parliaments to hold to account their national representatives in Council meetings much more effectively than they have been able to do in the past. However, a lot still rests on the exact definition of meeting in public. Present practice focuses on the final vote on a legislative proposal, but every stage of the legislative procedure should be open to scrutiny: specifically, all amendments to legislative proposals should be documented, with the identity of the proposer of each amendment and the way in which the votes are cast.

3.3 As an example of this problem, the Commission proposal for reform of the EU sugar regime in 2005 was amended in Council discussions to increase the overall cost of the regime to the taxpayer by 300 million euros per year but, because this change took place by way of amendment to the original proposal, before the final vote was cast, there is no trace of who supported it and who did not. By way of comparison, 300 million euros is more than the EU spends on its environmental programmes annually. Decisions about public money should not be taken in this way. (Source: Openness and secrecy in the EU institutions: lessons from the EU sugar regime, Federal Trust Policy Brief 28, June 2006)

3.4 Adopting this degree of openness would oblige national governments represented in the Council to explain and justify their actions more completely. This would lead both to better government and also to better public understanding.

3.5 To suggestions that this degree of openness would bring the work of the Council to a halt, it should be noted that this proposal relates only to legislation and not the other aspects

of the Council's work, and further that this degree of openness on legislation is already practised by the European Parliament (and indeed the two houses of parliament in Westminster).

3.6 It is possible, as a result of this change, that national governments might be less willing to support proposals in Brussels that they could not justify directly in front of their own voters. This might be no bad thing.

5. The impact of the Reform Treaty on the role, functioning and membership of the European Commission, including the effects of the changes to Commission selection and the accountability of the Commission to the European Parliament

5.1 One of the most frequent complaints voiced about the European Union relates to the unelected nature of the European Commission. Paragraph 18 of the Reform Treaty (creating a new Article 9D(7) in new treaty) states that future nominations for president of the Commission will be made "Taking into account the elections to the European Parliament and after having held the appropriate consultations" and such a nominated candidate "shall be elected by the European Parliament by a majority of its component members."

5.2 This would give the president of the Commission the same kind of legitimacy as that enjoyed by the prime minister of a member state – holding office on the strength of an election victory – if properly implemented. To be properly implemented, though, the political parties that fight the European elections must, alongside their manifestos, nominate their candidates for president.

5.3 The alternative is that the identity of the next president of the Commission will emerge, as before, as a result of opaque and distant negotiations behind closed doors. We do not think this is the way that positions of political importance should be acquired.

5.4 Anyone elected to the European Parliament in June 2009 will face, shortly after being elected, the task of voting for or against a candidate proposed by the European Council. It is surely not too much to ask that candidates should declare before the parliamentary election how they will vote if elected. Many voters might consider this rather salient information.

5.5 This duty is incumbent particularly on all those who have complained that the European Commission is too distant or remote from the voters. Party politicians of all parties should therefore be asked to declare their personal support for the idea that their own party should nominate a candidate for president in 2009.

7. The impact of the Reform Treaty on the role of national parliaments

7.1 National parliaments are one of the big gainers from the Reform Treaty, or rather, they are if they want to be. This manifests itself in two ways.

7.2 First, there is the opportunity provided by increased openness in the Council (discussed in the answer to question 3). Secondly, there is the new right accorded to national parliaments to scrutinise legislative proposals from the European Commission (Protocol on the role of national parliaments in the European Union). This gives them for the first time a direct stake in the EU legislative process.

7.3 Whether or not they will be able to use this right effectively depends on how they are organised to deal with such legislative proposals or, more correctly, how they organise themselves. It is incumbent on all those national politicians who believe that they have not been involved enough in the European legislative process up until now to rethink the procedures they follow in order to fulfil their new duties more effectively.

8. Conclusion

8.1 In each of the three areas highlighted in this submission, the provisions of the Reform Treaty will increase the democratic nature of the EU's institutions. Some people have remarked that, unlike the Single European Act which created the single market or the Maastricht Treaty which created the euro, the present Reform Treaty lacks a single big idea. This might be true, if democracy itself is not considered a big idea. In that case, Federal Union would respectfully disagree.

8.2 However, the improvements to the democratic quality of the EU's institutions are there in embryo, rather than fully formed. It will require a continuing commitment to maintain and build the EU as a democratic system: the government has not discharged its duty with a mere signature on the treaty.

8.3 Of particular importance in this context are the following:

- the willingness of national governments to live up to their commitments by ensuring a proper approach to openness in the legislative process;
- the willingness of party politicians to make a reality of their rhetoric about the European Commission and support the nomination of candidates for Commission president for the next elections in June 2009;
- the willingness of national parliaments to engage in the EU legislative process and to examine their own procedures in the light of developments within the EU.

8.4 The adoption of the Reform Treaty creates an unprecedented opportunity to develop the democratic structures of the European Union, while increasing the role of elected politicians at national level and also increasing the political choices and influence of the voters themselves. That is why Federal Union supports it.

8.5 But the treaty remains an opportunity for democracy, rather than the certainty of it. That is why Federal Union will continue to campaign.

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