

**Justice and Home Affairs in the Aftermath of
September 11: Opportunities and Challenges**

Emek M. Uçarer

THE ROAD TO SHAPING COOPERATION in Justice and Home Affairs (JHA) matters, a policy domain that includes immigration and asylum issues as well as collaboration in judicial and police matters, has been a bumpy one. Even though JHA is arguably the most rapidly evolving policy field in the EU, progress in this new arena has been hampered by the sensitivity of the issues tackled in the dossier, lack of coherence and consensus, member states' reluctance to transfer policy-making authority to European institutions, and the awkward institutional structures and cumbersome intergovernmental decision-making processes created by Maastricht Treaty. The Amsterdam Treaty attempted to tackle the causes of the lackluster policy output by proclaiming the dawn of a European "Area of Freedom, Security, and Justice (AFSJ)." The JHA dossier was partially communitarized, bringing immigration, asylum, and judicial cooperation in civil matters into the First Pillar and establishing a timetable for the "normalization" of the decision-making practices. At the same time, however, Amsterdam left behind police and judicial cooperation in criminal matters in a revamped Third Pillar that was to operate intergovernmentally for the foreseeable future. Now divided between two pillars, JHA cooperation continued to press forward slowly, and received another push at the special JHA Tampere European Council in 1999.

While the blueprint adopted at Tampere certainly contributed to the proliferation of JHA initiatives since 1999, the attacks of September 11 have also invigorated efforts in the EU to jointly develop policies, in particular to enhance security internally and at the Union's external borders in order to combat terrorism. The attacks resulted in an unprecedented demonstration of political will to speed up work to address cross-border criminal matters collectively. As the European connections of some of the attackers were uncovered, members of the EU were confronted with their own vulnerabilities. In short order, and with the entrepreneurial efforts of JHA Commissioner António Vitorino, judicial and police cooperation in criminal matters—areas that were previously eclipsed by the Union's emphasis on developing policies to guard its external borders—rose to the top of the collective agenda. The events underscored the obvious: even though member states had traditionally not been particularly comfortable with aligning

their national legal systems or working very closely with each other's law enforcement units, such reticence and the resultant incomplete integration could produce significant internal security gaps in a frontier-free Europe. Immediately following the attacks, the EU and its member states quickly condemned terrorism and expressed their solidarity with the U.S. They then embarked on developing EU-wide and transatlantic mechanisms to combat terrorism as well as other serious trans-border crime. Politicians were keen to demonstrate that they were neither soft on terrorism nor slow in developing responses. So the EU swiftly adopted anti-terrorism measures that involved cooperation in criminal matters, most of which would surely have taken years to discuss and adopt were it not for the unusual sense of urgency.

The unexpected political terrain of post-9/11 JHA cooperation signaled a decisive opportunity for energizing the member states' individual and collective willingness to deepen integration in JHA matters. The initial progress made—significant by JHA standards—suggests that the member states were interested in capitalizing on this window of opportunity. Immediately after the attacks, member states were summoned to an extraordinary European Council on September 21. An October 19 meeting of the JHA Council followed with actual policy proposals. With the notable exception of upgrading airport security measures—which was a direct response to the attacks—most of the items on the agenda for these meetings were instruments that had long been under discussion. Member states now appeared committed to fast-tracking several initiatives that had barely been inching along earlier. Most notably, ministers agreed to promptly develop a common EU definition of terrorism, a common list of organizations suspected of terrorism, a common list of serious trans-border crimes, and a European search and arrest warrant to expedite the apprehension of suspects involved in such crimes. In order to boost cross-border police cooperation, the European Police Office (Europol) was given additional responsibilities through a new anti-terrorism unit responsible for cooperating closely with the intelligence agencies of member states and the U.S. (Council of the European Union, 2001a). The ministers also committed the Union to developing a common decision on the freezing of assets with links to suspected terrorists, and—linking the fight against terrorism squarely to better border controls—intensifying efforts to combat falsified and forged travel documents and visas. *(continued on p.3)*

EUSA Review

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From the Chair

Martin A. Schain

THE ACTIVITIES AND ORGANIZATION OF the European Union Studies Association are now changing to reflect the evolving scholarly approaches to the study of Europe. Scholars, who until recently have focused their attention on comparative European politics, policy and society, have increasingly related their work to the process and implications of European union. This evolution is striking in scholarship on immigration (and incorporation), identity and security/defense, as well as political economy and the welfare state. In other words, the study of European union is being integrated into the study of Europe, and EUSA reflects this trend through its expanding membership, the development of member-led interest sections, and the organization of our growing biennial conference.

As an example of our growth, the EUSA Executive Committee has just approved the launching of what will be our sixth member-based interest section, "EU Public Opinion and Participation." Organized by Mark Franklin, Trinity College and 2001-2002 Guggenheim Fellow, Harvard University, this section will focus on the roles played by public opinion and electoral participation, and the effects of EU policies on such opinion and participation. Franklin, who has directed the European Elections Studies project since 1987, writes, "With interest in a supposed 'democratic deficit' in European Union governance continuing unabated after ten years, the role of Europe's citizens in the governing process of the European Union appears to be an enduring topic that will continue to attract scholarship and political concern ..." Like EUSA's other Interest Sections, the Public Opinion and Participation section will meet at EUSA's Conference in Nashville and will organize other activities. Franklin also hopes that this Section will offer an additional base for members of the former European Union Politics Group of the American Political Science Association (which he founded and led). Please go to our Web site for more information on the section's aims and activities and how to join it.

We are also pleased to announce both the Program Committee and the Call for Proposals (details in this issue on p.11) for our Eighth Biennial International Conference to be held March 27-29, 2003, in Nashville, Tennessee. Our 2003 Program Committee Chair is John Keeler, Professor of Political Science and French and Italian Studies at the University of Washington Seattle. John is a long-time EUSA member who was an organizer of our conference in Seattle in 1997. He is director of UW's Center for West European Studies, a U.S. National Resource Center, and UW's European Union Center. Keeler will lead a stellar and diverse Program Committee, the members of which are listed in full with the Call and on our Web site. Please note that since our conference will take place two months earlier than in past years, the proposal deadline and notification process will be earlier as well. We encourage proposals from all disciplines, from graduate students and non-traditional scholars, from all our EUSA Interest Sections, from National Resource Centers and EU Centers, and from government, law, business, and other practitioners. (*continued on p.22*)

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Among these initiatives, the European arrest warrant occupies a prominent position. It is designed to replace the protracted extradition procedures between EU member states with an automatic transfer of suspected persons from one EU country to another. The efforts to secure timely extradition of suspects have long been hamstrung by mistrust between the national authorities as demonstrated, for example, by the refusal of Belgian courts to extradite suspected Basque separatists to Spain. Initially, it was expected that the list of 32 Euro-crimes (among them terrorism, trafficking in human beings, corruption, racism, forgery, rape, hijacking, kidnapping, cyber-crime, money laundering, and fraud) to which the arrest warrant would apply was poised for unopposed adoption, with an implementation date of January 2003. However, as if to demonstrate the limits of post-9/11 consensus in JHA, its adoption encountered last minute problems when Italy—once a staunch supporter of the EU—obstructed the initiative at the JHA ministerial meeting on December 6-7. The ensuing five-day impasse was attributed to the Italian justice minister and the conservative and increasingly EU-skeptic Berlusconi government he represented and drew indignation from several member states as well as from Commissioner Vitorino, who protested that progress was being “held hostage to Council unanimity” (European Report, 2001). In the end, the Berlusconi government—amidst criticism that the Italian resistance to the arrest warrant was primarily motivated by concerns that Berlusconi himself could be charged with several of the Euro-crimes to which the warrant would apply—eventually backed down and the initiative was adopted on December 11 with an implementation date of 2004. The episode was understandably traumatic for those counting on an extended honeymoon period of consensus in post-9/11 JHA. Nonetheless, the adoption of the arrest warrant is an important step towards giving meaning to mutual recognition between the judiciaries of member states. EU members will now hand over suspects (including their own nationals) to foreign courts, even when the offence is not a crime under their own laws. As this is a significant departure from past practice, several member states including Portugal, Greece, Austria and Italy will need constitutional amendments.

The Council also adopted a Common Position to combat terrorism, which includes an EU definition of terrorism—including acts carried out against a country and an international organization—and proposed prison sentences for those who plan and carry out terrorist acts. The broadly cast definition of terrorist acts¹ drew immediate criticism from human rights activists who were concerned that the broad definition might impinge on freedom of speech and assembly. In order to facilitate legal cooperation in criminal cases, the JHA Council also finalized the decision to operationalize Eurojust (the judicial equivalent of Europol), to be seated in the Hague, and comprised of senior lawyers, magistrates, prosecutors, judges and other legal experts seconded from EU members to provide timely legal advice for cross-border investigations. Finally, shortly before Belgium handed the Presidency over to Spain, a CFSP common position published a list of terrorist persons,

groups, and organizations. The list—circulated to EU governments and adopted without debate—included mostly organizations of immediate concern to member states (Council of the European Union, 2001b).²

The EU was able to capitalize on the political opportunities afforded by the post-9/11 consensus and make significant policy progress on a sensitive dossier. Nonetheless, some significant challenges remain. The EU must now keep the window of opportunity open by maintaining the policy-making momentum, ensuring the implementation and enforcement of the policies adopted, developing new cooperative mechanisms, and doing all of this with due regard to respect for civil liberties. Maintaining momentum is likely to be difficult once the immediate pressures to produce policy subside. Rifts between members have already started to surface, which might slow down the pace of cooperation. Such rifts can spell stagnation in a decision-making environment that is still governed by unanimity. Unlike the dossiers communitarized by Amsterdam which might move towards Qualified Majority Voting (QMV) and (possibly) co-decision in 2004, JHA cooperation in criminal matters currently has no such prospects. There might now be a unique opportunity to negotiate the normalization of the residual Third Pillar and the extension of QMV to criminal matters. This, and the decision to move towards QMV in the communitarized parts of JHA will be a significant challenge for the EU. Some member states—those who argued for the complete communitarization of the Third Pillar in the first place—would like to see police cooperation moved into the Community system. Others argue that keeping police and judicial cooperation in criminal matters intergovernmental affords a level of flexibility to governments that have concerns about the pace and extent of the Europeanization of sensitive issues. Another linked challenge is improving the position of the Commission, the Parliament, and the Court in JHA. Otherwise, the marginalization of the European Parliament and the exclusion of the European Court of Justice from the decision-making process are likely to sustain criticism of the functioning of JHA cooperation in general and keep the debate on accountability and the democratic deficit alive.

In addition to the institutional difficulties that are likely to persist at least until 2004, future progress in developing policies to ensure internal security is likely to be conditioned by each member state's level of comfort with developing additional policies. Countries such as France, Spain, and the UK are very sensitive to issues of terrorism because of their first-hand experience and are at the forefront of urging EU-wide efforts. Others (such as the Scandinavian countries) find it hard to maintain popular support for far-reaching governmental and EU-wide policies that might be seen as circumscribing civil liberties. A multi-speed process is a tempting possible solution to the willingness differential between member states. This, of course, is nothing new. Amsterdam Treaty formalized opt-ins for the UK, Ireland, and Denmark in JHA matters, leaving the door open for speedier integration by some members while providing an opportunity for skeptics to set their own pace.

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Similar noises are now being made for the emergent policy proposals. For example, at the February 15 Council meeting at Santiago de Compostela, Spain, the UK, France, Belgium, Portugal and Luxembourg announced their intention to implement the European arrest warrant in early 2003, a year ahead of the previously negotiated date. But, even this flexible approach to forge forward with the “willing and ready” is not a sure thing: barely two weeks after pledging its resolve, the UK announced on February 28 that it was postponing the introduction of the legislative initiative that would have made the early implementation of the European arrest warrant possible. JHA cooperation to date has already produced a several-speed Europe replete with complex operational problems.

Moreover, developing policies is one thing, implementing and enforcing them is another. The success of the ambitious internal security blueprint hinges on the effective approximation of the judicial systems of the member states, and the creation of effective joint agencies for police and prosecutors. This requires overcoming entrenched reluctances at the national level, which is likely to occur at a significantly slower pace. The institutions that are charged with spearheading cross-border cooperation in criminal matters (Europol and Eurojust)—while groundbreaking prototypes—each have their own implementation and enforcement problems. Currently, Europol does not have enforcement powers if member states refuse to cooperate with its requests. Unlike national law enforcement units, it cannot arrest or detain people. And Eurojust is far from a European prosecutor’s office and appears to run the risk of being reduced to another information exchange outfit. Europol and Eurojust need to evolve into institutions endowed with real powers and capacities. Furthermore, to address fears of runaway European bureaucracies, clear lines of review and accountability need to be established for both institutions.

Regardless of the level of cooperation, JHA issues are likely to remain closely linked to security (Geddes, 2001). After the initial burst of activity in the criminal field, collective attention is likely to shift (back) to border control issues, with an emphasis on thwarting illegal migration seen as a potential breach of internal security. Since Maastricht, JHA ministers have spent considerable time hammering out common standards of entry into the Union. Now, several member states are arguing that—especially in the face of growing numbers of unauthorized entries—the EU needs to be even more careful about monitoring immigrants and asylum seekers and perhaps even develop a common European border guard to ensure the uniform implementation of joint policies (Commission of the European Communities, 2001). Previously proposed by Germany and Italy and floated by Prodi soon after the attacks, the proposal envisions cooperation possibilities ranging from exchange of equipment and best practice to the creation of full-fledged joint

border patrol units. Even if a common border guard does not materialize, however, the EU is likely to continue on its path of tightening border controls and scrutinizing access into its territory. These efforts also create pressures for nonmembers to monitor and adapt to the EU’s emerging regulatory environment and content in JHA. This is especially true for those countries lining up for membership who are expected to adopt the JHA *acquis* and contribute to the guarding of the EU’s (future) borders (Lavenex and Uçarer, forthcoming 2002).

Another significant challenge is developing policies that protect the security of those residing in its territory while ensuring that human rights and civil liberties—including those of suspects—are respected. This is a delicate line to walk. So far, the EU’s anti-terrorism efforts have largely been supported by the European populations. However, if the new measures are not complemented with procedural and substantive safeguards, the EU may see public support wane quickly. Civil liberties proponents raise legitimate concerns about inadequate parliamentary and judicial oversight of EU’s policy-making bodies. Institutional reform that would ensure transparency and accountability might help allay fears about a European Big Brother.

Last but not least is the challenge to maintain the promise of transatlantic cooperation in criminal investigations of major offenses. This process may run into practical difficulties previously masked by the urgency of the attacks. The Spanish presidency hopes to negotiate with the U.S. an agreement on judicial cooperation in criminal matters. However, extradition to the U.S. is likely to become a thorny issue. Member states, through the Council, can be expected to insist that an agreement reached with the U.S. must comply with the Union’s stance on the death penalty. At a minimum, the EU is likely to insist that death penalties that result from extradition not be carried out. The momentum towards developing joint efforts can also be hampered by differing views on how individuals extradited on suspicion of terrorist activities should be tried. As negotiations on the U.S.-EU extradition treaty proceed, the EU is likely to resist extraditing individuals who might be tried by military tribunals.

Navigating the sensitive waters of JHA cooperation has never been easy. But the EU has nonetheless made significant progress in an area that is at the heart of state sovereignty. Now, invigorated by the unfortunate events of September 11, the EU is presented with a unique opportunity to rethink its institutional mechanisms that have slowed down progress and hampered efforts to create the AFSJ. Whether the EU will rise to the challenges that come hand in hand with this occasion and maintain the momentum forged by September 11 remains to be seen.

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Notes

1. Terrorist acts were defined as intentional acts which may "seriously damage a country or an international organization ... with the aim of (i) seriously intimidating a population, or (ii) unduly compelling a Government or an international organization to perform or abstain from performing any act, or (iii) seriously destabilizing or destroying the fundamental political, constitutional, economic, or social structures of a country or an international organization" (Council of the European Union, 2001b).
2. Included in the list are the Basque separatist group ETA, three Greek organizations, Palestinian Islamic Jihad, the violent wing of Hamas, several Irish groupings, and individuals with links to these groups. Perhaps as interesting is who is not included in the list. Notably absent on the list are groups such as the Irish Republican Army (which has recently de-commissioned some of its weapons), Lebanon's Hezbollah, and the PKK (Kurdish Worker's Party).

The "European Convention": Anatomy of the New Approach to Constitution-Making in the EU

Eric Philippart

THE EUROPEAN UNION IS PREPARING the fifth reform of its founding Treaties in less than twenty years. To prepare for that reform, a new method has been designed. In December 2000, the Heads of State or Government of the Union decided that the Intergovernmental Conference (IGC) scheduled for 2004 would be preceded by a two-step reflection phase aimed at deepening and widening the debate on the future of the European Union. One year later, the European Council of Laeken agreed that the second step—the "structured reflection" phase—would be conducted by an *ad hoc* structure made of a Convention flanked by a Forum. The Convention was officially launched on 28 February 2002.

The Laeken formula is truly unprecedented in the history of IGCs. It differs significantly from the "special representatives" approach, whereby high-ranking officials or junior ministers appointed by their respective governments, together with a member of the European Commission and a couple of MEPs, debate in the privacy of quasi-diplomatic settings. It differs even more from the "wise men" approach, whereby a limited number of technical experts and/or leading thinkers and/or statesmen acting in a personal capacity are invited to analyze problems and propose solutions. The approach used to draft the EU Charter of Fundamental Rights is on many points similar to the current strategy, but the Convention chaired by Roman Herzog was not mandated to prepare an IGC.

The limitations of well-established preparatory approaches are well documented, but what can we expect from the Convention? Is it likely to deliver clear recommendations, shape the IGC agenda and output, or even lead to the adoption of a Constitution for EU citizens? Success or failure will largely be determined by opportunities and constraints ensuing from the type of mandate, institutions and processes chosen. Those three dimensions are therefore reviewed in turn, emphasis being put on novel features.

The Laeken declaration invites the Convention "to consider the key issues arising for the Union's future development and try to identify the various possible responses," which is a fairly standard mandate in the run-up to any IGC. The Convention however was not given *carte blanche* insofar as it must do so "in the light" of no less than 56 substantive questions clustered under four main themes: division and definition of competence in the European Union; simplification of the Union's instruments; more democracy, transparency and efficiency in the European Union; and simplification and reorganization of the Treaties. The Declaration innovated more in terms of the number of institutional issues under review than in terms of the topics listed. Most of them have indeed been envisaged, with limited success, during

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the two previous IGCs. Looking at the selection of issues and the formulation of some questions, it also appears that there are clear biases aimed at shaping the Convention's proposals. It is, for instance, particularly clear for the set of questions concerning the role of the national parliaments. Postulating the existence of a problem, the Declaration only lists anti-supranational options, phrased in a rather maximalist way. This of course puts the proponents of other approaches in the uncomfortable position of having to pick the lesser of these "evils" or appear as uncompromising ultras.

One big and novel opening is of course the reference to the long-run possibility of adopting a "Constitution for European citizens." Since the 1950s, Europe has been built through a neo-functional approach based on gradual integration at sectoral level. For the first time ever, the word "Constitution" is mentioned in a document of the European Council. For the first time, all Member States were ready to recognize the legitimacy of such a question. So, all in all, the European Council has marked out in a detailed way the Convention's agenda. The mandate is encompassing, but formulated in an open way ("in the light" of what is only a set of questions). Beside giving the Convention the option to ignore or add questions, it also invites it to think big (Constitution-building) and "out of the box" (no taboos).

From an *institutional angle*, never before has the preparatory framework been so large or included so many components. The Convention has 105 members, as many alternates, plus 13 observers. It is flanked by a high-level Secretariat and a "Forum" of organizations representing civil society. Among participants to the Convention, no less than ten categories of different status—some speaking on behalf of their institution, others in a personal capacity—can be distinguished. The Convention is composed of European Council's appointees (the Chair, Valéry Giscard d'Estaing, and the two Vice-Chairs, Giuliano Amato and Jean-Luc Dehaene); representatives of the Heads of State or Government of the Member States as well as of the accession candidate countries; representatives of the European Commission; members of the European Parliament; as well as members of the national parliaments of the Member States and of the candidate countries. It is the first time that national parliamentarians are fully associated with the IGC preparation and that candidate Member States are directly involved. As for the observers, their group is made of representatives of the Economic and Social Committee, of the Committee of the Regions, and of the European Ombudsman, which is also unprecedented. Several key players made deliberate attempts to minimize those differences. For instance, in his introductory speech to the Convention, Giscard d'Estaing only referred to four components—governments, the European Parliament, national Parliaments and the Commission. This could be interpreted as a first expression of the melting-pot approach, aiming at fostering a "Convention spirit" by declaring the Member States / candidates cleavage irrelevant. It could also be seen as a way to simplify the management of the Convention by marginalizing the candidates.

The core of the system, i.e., the bureau of the Assembly or "Praesidium," is assuredly quite large, but less heterogeneous

than the Convention insofar as the candidate countries have no guaranteed representation at that level. The only option would have been for them to participate in the designation of the two national parliament representatives and have one of them chosen. It did not happen, much to the furore of the Polish in particular. In a conciliatory gesture, the Praesidium proposed that one member of the national parliaments of the candidate countries should be authorized to join it with observer status.

The Praesidium is dominated by EU institutions—a major novelty. Even if the executive grip over this organ remains strong, no national government is directly represented at that level. The Praesidium is overwhelmingly "European": 10 members out of 12 have indeed been designated by EU institutions or have a seat because they are the representatives of the Council Presidency. Two elements reinforce that European nature. Firstly, the countries holding the Council Presidency during the Convention have decided to be represented either by a former European Commissioner (Denmark) or by a member of the European Parliament (Spain and Greece). Secondly, the Convention secretariat, instead of being entirely provided by the General Secretariat of the Council, also includes staff detached from the Commission and the European Parliament. On the whole, the core of the system is therefore largely made of Brussels-based insiders. On the eve of the Convention's inaugural session, informal structures dedicated to information sharing and consensus-building had already been set up at their initiative. Prior to plenary sessions, the members of the two largest groups in the European Parliament organize meetings with the members of the national parliaments, the Commissioner and the Vice-chair who share their political orientation (i.e., the socialist PES with Antonio Vittorino and Amato; the center-right EPP-ED with Michel Barnier and Dehaene).

As for the *processes* defined by the Laeken Declaration, depending on how one values the virtues of centralization, they are potentially very loose or inclusive. Restricted to drawing conclusions from the public debate for the opening of the Convention's proceedings and liaising with the European Council, the exclusive prerogatives of the Chairman are rather limited. The triumvirate (the Vice-Chairs do not see themselves as subordinates of Giscard d'Estaing) at the helm of the Convention as such has none. It is indeed for the Praesidium to lend impetus to the deliberation process while the Convention is supposed to draw up the final document and bring the exercise to a close. The distribution of powers was only partially modified by the Rules of Procedure adopted by the Convention—more or rather some power was given to the Chair to organize the deliberation. Such drafting and decision-making arrangements are adequate if the exercise is mainly about identifying, clarifying and ranking options. If clear recommendations are expected, then such processes are very loose considering that no mechanism is provided to focus the mind of the participants and instill consensus.

By indicating that the final document "may comprise either different options, indicating the degree of support which they received, or recommendations if consensus is achieved," the Laeken declaration has put the emphasis on the "listing" approach. Ending up with a list of options cannot be considered as a failure.

When expectation is set at such level (in line with traditional standards of international diplomacy), not much pressure can be put on “recalcitrant” delegates. Quite early in the debate, a majority of the Praesidium declared that the Convention’s objective should be to draft “a Constitutional Treaty for Europe.”

The processes are also *a priori* very open, transparent and relatively compact. A selection of representatives from the civil society (via the Forum) and the European Council (via regular reports enabling the Heads of State or Government to give their views collectively) are going to be closely involved in the deliberation process. In theory, all documents are in the public domain, without restriction. In practice, the Praesidium will decide on this on a case-by-case basis. As for the duration and intensity of the process, the Convention should not last more than one year. Its plenary sessions should on average not exceed 2 half-days per month, with some gearing up from June onwards (approximately the frequency of the Council meetings). A bit less than 20 days does not seem much to draft a proposed Constitution (considering for instance the legislation the Council manages to produce in the same timeframe). The Praesidium on average will meet twice a month. Finally, if the ambition to finish the IGC under the Italian presidency—i.e., before the end of 2003—is to be met, there is no possibility for stretching the Convention’s timetable.

So, what could we expect from such a mix? The new approach certainly has the potential to deliver a coherent, compelling and even ambitious proposal, but much will depend on how actors will manage to take advantages of opportunities and overcome constraints written in the Laeken formula. Will they have the capacity to *take advantage* of a relatively open mandate and the long-term Constitutional ambition; the cumulated legitimacy of the Convention; the political weight and skills of the triumvirate; the dynamics of an “unionized” core; the close links with the European Council; and the short interval between the end of the Convention and the beginning of the IGC? Will they manage to *overcome* the heterogeneity of the Assembly, the looseness and openness of the processes with the ensuing risk of disruptive tactics, modest expectations, a tight timeframe, and a distracting electoral calendar in many Member States?

To maximize the chance of success, the Assembly should embrace the Praesidium’s ambition to produce a Constitutional Treaty for Europe, instead of a catalogue of options. The Praesidium should in particular exploit the mystique of the “founding fathers” for that purpose. Besides, the various components of the Convention should organize internally in order to aggregate interests at their level. The fact that more than 300 amendments to the proposal on the Rules of Procedures were tabled by members of the Convention and even by some of the observers (!) shows that distrust and defiance are not absent from the ranks of the participants. It points to the necessity of setting drafting rules and specifying who will draw the Convention to a close. Finally, a formal vote should in any case be avoided, *inter alia* because of the delicate balance between the various contingents.

For more information on the European Convention, including its composition, timetables of the meetings, documents and speeches, see: <http://european-convention.eu.int/>

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EUSA List Serve

EUSA members posted the following replies to Paul Mullen’s 4 March 2002 list serve query seeking philosophical critiques (feminist, critical, post-modern, etc.) of the EU or issues of EU governance:

(1) You may wish to look at: Thomas Christiansen et al. (eds.), *The Social Construction of Europe*, Sage, 2001. Ben Rosamond, *Theories of European Integration*, Palgrave, 2000. Morten Kelstrup and Michael C. Williams (eds.), *International Relations Theory and European Integration*, Routledge, 2001. They all contain pieces written from constructivist, poststructuralist, feminist or critical perspectives, and will provide references for further reading. You may also wish to consult the readings in my “Teaching the EU” essay in the *ECSA Review* 12: 3, 1999, 6-9. -- from Dr. Thomas Diez, Poli. Sci. and Int’l Studies, University of Birmingham

(2) You might want to try the chapter “Identity and Difference: The European Union and Postmodernism” in *New Legal Dynamics of European Union*, edited by J. Shaw & G. More, Oxford University Press, 1995. -- from Dr. Robert Ladrech, Director, Keele European Research Centre, Keele University

(3) You may want to take a look at Jurgen Habermas’s “Citizenship and National Identity,” Appendix II to his *Between Facts and Norms*, MIT Press, 1996, and his “Does Europe Need a Constitution? Response to Dieter Grimm,” in his *The Inclusion of the Other*, MIT Press, 1998 -- from Prof. Kieran Donaghy, Co-Director, University of Illinois Urbana-Champaign EU Center

(4) Have you ever read Jurgen Habermas? These are two good examples: Jurgen Habermas, “Citizenship and National Identity: Some Reflections on the Future of Europe,” *Praxis International*, 12: 1, 1-19; Jurgen Habermas, “The European Nation-State: On the Past and Future of Sovereignty and Citizenship.” *Public Culture*, 10: 2, 397-416. -- from Alessandra Beasley, Graduate Student, University of Pittsburgh

(5) I also just saw in the library today a book by Peter van Han on European integration and the post-modern state/post-modernism (written in the last year or two) ... -- from Dr. Margit Williams, Government and International Affairs, University of South Florida

Teaching the EU

Editor's note: This column is written by members of EUSA's "Teaching the EU" Interest Section. For details about the Section and how to join it, please visit www.eustudies.org/teachingsection.html

Combining Synchronous (EU Simulation) with Asynchronous Teaching (EU On-line) Laurie A. Buonanno

THIS IS A REPORT OF MY experience teaching an on-line European Union (EU) course that was combined with a transatlantic, inter-institutional simulation (EuroSim). I hope that my observations, while impressionistic, will be useful to others considering using EU simulations in their courses.

EuroSim is an annual EU simulation sponsored by the Transatlantic Consortium for European Union Studies and Simulations (TACEUSS).¹ It provides a framework for the partial simulation of a major issue. Recent issues in the simulation have included treaty reform, asylum policy, food safety, and enlargement. EuroSim 2003 will simulate the Constitutional Convention that opened in March 2002 to prepare the ground for the next major treaty reform. Over two hundred students from universities in North America and Europe participate in the simulation. All students are assigned roles to play such as heads of government or Members of the European Parliament. Students prepare for the simulation at their own universities, with the help of faculty advisors and guidance provided through the EuroSim and Blackboard (Bb) Web sites.² The face-to-face simulations themselves are held over four days, each year's venue alternating between the U.S. and Europe. The 2002 simulation was held in Prague and the 2003 simulation will be held at the State University of New York (SUNY), Fredonia.

I first taught the EU on-line via the SUNY Learning Network (SLN), an asynchronous course delivery system, in spring semester 2001. *Network* because communication occurs over a computer network; *asynchronous*, "not at the same time." In an asynchronous network, conversations are posted, one item at a time, so that each person sees what all the previous participants have written. This differs from a "synchronous" environment, like video conferencing or on-line chat rooms, where all participants must be available at the same time.³ My main goal here is not to document how one teaches the EU on-line, but to explain my (mixed) attraction to what for most college teachers is, at a minimum an unproven, and for some, a threat to traditional forms of pedagogy.⁴

I had grown weary of negotiating with a dozen students to find time outside of class to conduct our preparatory meetings for the EU simulation. When I first investigated the on-line option, my college did not own a site license for Blackboard; hence, a compromise—the hybrid course—was not available to me in summer 2000 when I made the commitment to teach the EU on-line.

In fact, I have a love/hate relationship with EuroSim: love, because simulation alumni tell us that it is one of the best experiences they have had in college and we faculty observe how it awakens and nurtures an internationalist and more Europeanist temper among American students,⁵ even if these outcomes have proven nearly unquantifiable (this, an enduring source of frustration); hate, because of the claim on my time, which has to be counted in months rather than hours or weeks. EuroSim exit surveys show that the level of preparedness and intrinsic satisfaction were lower for students in which EuroSim was a required element of a credit-bearing course.⁶ Fair enough: they felt pressure; students who participated in the simulation as a student activity rather than a requirement, did not. Such surveys influenced me to search further for alternatives to the traditional classroom-based course.

Perhaps most important from the perspective of accomplishing my goals for a three-credit hour, upper division course, was the way in which planning for EuroSim would infiltrate the course itself: students' persistent request that I teach to the EuroSim topic and the preparatory documents (drawn up by students at the institutions playing the Commission or Council) on which the simulation focuses (to me, it was akin to teaching to the test), and the chatter about logistics, especially in the years when EuroSim takes place at a European venue. And what about those students who are not participating in EuroSim? Should they be denied the opportunity to learn about the EU?⁷ Conversely, should students who wish to participate in EuroSim, but could not or did not enroll in the course, be denied that opportunity? What about students who wish to participate in EuroSim a second or third time? The student constituencies had grown beyond my capacity to serve them, both in and outside the classroom.

Another concern arose when I became director of what was later to become TACEUSS. Students at non-affiliated colleges and universities contacted me, wishing to participate in EuroSim; the hitch was that they could not convince a member of faculty to assume the responsibility of advising a student delegation. While I was prepared to assign alter-egos from my institution's delegation, these students would not have access to the level of preparation available to students with an on-site faculty advisor. This could undermine the integrity of the simulation.

Also, since EuroSim is conducted annually, I must teach the EU with a greater regularity than other upper-division courses. If an on-line course were developed, faculty could use the basic template to share in its teaching by rotating the course among our institutions.⁸ Finally, I hoped that the combination of a face-to-face component (EU Simulation) with on-line teaching could create a powerful pedagogy that would combine the best of both worlds; I attempted to find a compromise for, what at the time, I thought were valid criticisms of on-line teaching.

Teachers sometimes mistakenly assume that college support staff or even a professional Web design firm should design on-line courses, but on-line course design is inseparable from its teaching; consequently, the SLN requires extensive faculty training in course design.⁹ Design expectations are identical for SUNY faculty at community or liberal arts colleges and the four

research centers; the difference is in the actual teaching of on-line courses, where faculty at research universities often delegate the management of on-line class discussion to teaching assistants.

For simulation preparations, I strongly recommend the system that was piloted for EuroSim 2002 and will be the basis for student and faculty preparation for EuroSim 2003. We used the Bb platform to house student discussions, post simulation documents and readings, registration forms, and pedagogical aids for faculty—in short, all the pre-simulation activities which have for some time been conducted by a chaotic patchwork of list-serves, on-line chat groups, and Web pages. I advise, however, getting permission far in advance of the simulation for access to a college/university server on which to house the simulation site, as some site licenses limit usage to faculty and students affiliated with the particular institution. The corporate Bb site is impossibly oversubscribed, although for a fee sites can be housed on an alternative Bb server. The simulation organizers will need to enlist a team of faculty not only to develop the site, but to train others to navigate in the Bb platform. On this latter function, we prefer to enlist the assistance of an IT professional (or paid graduate student) who will coordinate faculty and student training.¹⁰

The existence of an integrated instructional technology such as Bb obviates the need to offer an on-line course to students at non-member TACEUSS institutions. If these students arrange to join a TACEUSS-member delegation, they can prepare adequately with the pre-simulation activities (discussions, readings, proposals, logistics) conducted via Bb. In order to rotate the EU course among our SUNY campuses, I work closely with colleagues at two sister campuses to institutionalize the sharing of the course template. They are familiar with the course, having had password access since its inception.

All SLN courses contain an electronic bulletin board for general postings and on-line office hours (with private folders for student/faculty interaction). Each topical module is opened gradually, about every two weeks. The EuroSim topic modules are designated “special topics.” I open these modules the first day of the course and they remain active throughout the semester. All students must post discussions and read the assignments in conjunction with the special topic(s) module(s), whether or not they attend the simulation. Since the TACEUSS Council chooses topics that are on the EU agenda, daily reading of the *Financial Times* convinces students that the topics are relevant to them all. Students who do not participate in EuroSim must write a research paper related to the special topic(s) of that semester’s EU course. EuroSim participants keep detailed journals, their content increasingly specialized as the semester progresses.

There are now a number of on-line journals on the design, implementation, and assessment of on-line courses; here I’ll simply cite two studies I found particularly useful in the design and implementation of the EU on-line course. Frederickson *et al.* (2000) and Swan *et al.* (2000) found that high levels of satisfaction with on-line courses were associated with: high perceived levels of interaction with the instructor; high levels of interaction with classmates; higher levels of activity and frequent and engaging participation; and student motivation. Hence,

The EU course is taught in “modules”: time-discrete bundles of lectures, writing assignments, and class discussion areas. The module sequence is:

Course Documents (syllabi, evaluative measures, etc.)

European Supranationalism

Evolution of the EU

EU Institutions and Actors

The Policy Process

Pillar One

Pillars Two and Three

Future of the EU

EuroSim Topic Modules (food safety, enlargement and ESDP, Constitutional Convention, etc.)

Examinations

EuroSim

Research Paper

student-led discussions (current events and group discussion of substantive questions I pose in each module’s “small group instructions”) and “talk with the professor” count a substantial 28 percent of the student’s grade, the norm for on-line courses that seek to comply with on-line best practices. I post grades and administer course evaluations via the Web sites.¹¹

For my first two goals—time management and achieving some separation of the simulation from the course—flexibility has been the most powerful factor in my decision to continue offering the EU via the SLN. I have discovered, quite inductively, that I like to teach one of my courses when and where I wish, quite apart from the original need to achieve a balance between the EU course and simulation preparations. I did find that the on-line environment insulated those students not participating in the simulation from those in the classroom who must be constantly brought to the subject at hand. While some of the students who took the course over the summer expressed disappointment that there was no companion simulation, two of them joined the campus EuroSim Club that fall and went to Prague. If, however, neither flexibility nor separating the simulation from the course are primary goals, the hybrid course may be the better option.

There are unanticipated outcomes to report as well. On the negative side, I had not anticipated the mix of student fear, uncertainty, and panic; the latter is common among students who do not log on to Bb the required minimum of three times per week and, as a result, the evidence is there (in unread posts and lectures) of just how far one has fallen behind. No such written record confronts truant students in traditional courses. My patience is tried to its limit those first few weeks of the course; there is no short-cut to the time-consuming algorithm of guiding students through the SLN template and socializing them to on-line learning.¹²

But there have been positive results as well. Students who do stay the course are won over completely and, as a consequence, have gone on to take other courses via the SLN. Second, the

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possibilities for transatlantic dialogue via an on-line course are infinite.¹³ Third, my initial thoughts that a simulation would provide that “face-to-face” I thought lacking in the on-line environment turned out, in the end, to be a reflection of my own ignorance of the ability of an on-line course to stand on its own.

In conclusion, while not all subjects are suitable for on-line teaching, a course on EU government and politics lends itself well to this emerging pedagogy, with or without a simulation component. Combining on-line and simulation pedagogies creates a continuous space for exploring a topical challenge facing the EU; this, in itself, is a powerful tool in preparing students for participation in simulations. While I cannot report that the combination of synchronous (simulation) and asynchronous (on-line) course delivery has proven to be either labor- or time-saving in preparing students to participate in an inter-institutional, transatlantic EU simulation, the marriage of the two pedagogical techniques has brought logistical flexibility, enough to have made an appreciable difference in my quest to better manage my teaching time. That quest, as all teachers at liberal arts colleges know, takes on Mephistophelean proportions as we struggle to balance the trinity of teaching, research, and service.

Laurie A. Buonanno is associate professor of political science at the State University of New York, College at Fredonia, and co-director of the Transatlantic Consortium for European Union Studies and Simulations.

Notes

1. TACEUSS, a consortium of European and North American colleges and universities, conducts the annual EuroSim and poster exposition and promotes faculty and student interests and activities in EU studies. The Executive Board of TACEUSS is transatlantic: I am a co-director (since July 1999) for North America; Neill Nugent (Manchester Metropolitan University), is co-director for Europe; Henry Steck (SUNY Cortland), is co-associate director for North America; and G. Michael Ambrosi (Trier University), is co-associate director for Europe. I can be contacted at e-mail Laurie.Buonanno@fredonia.edu.
2. See www.eurosim.org and www.blackboard.com.
3. <http://SLN.suny.edu>
4. See Steck, Henry and Laurie Buonanno, 2001, “Combining Asynchronous Teaching with a Synchronous Experience in the TACEUSS Learning Community” www.fredonia.edu/departments/polisci/eurosim/teaching.html

5. Ibid.

6. Steck, Henry, Lanze, Laurie Buonanno, and Munroe Eagles, 1996. “Pedagogical Strategies and Assessment Results in Cross-National Simulations: Conclusions from a Two-Continent Model European Simulation” www.fredonia.edu/departments/polisci/eurosim/teaching.html.

Offering credit for participation in EuroSim could have psychological costs. This became painfully clear to me when a student locked himself in his room after, as a “commissioner,” he was unsuccessful in convincing his team to keep his proposal intact. Faculty advisors have all seen students “break down and sob ... and become emotional in a way rarely seen in the classroom ... To describe EuroSim as active learning is grossly misleading: it can be raw and intense and utterly disconcerting” (Steck and Buonanno, 2001). The sense that their “performance” might somehow be graded may push some students over the edge.

7. The immediate solution seemed to be in offering an alternative assignment to students who did not wish to participate in EuroSim; as far as I could ascertain, this accomplished nothing less than the creation of a two-tiered system among students.

8. TACEUSS originated in a SUNY institution and counts several SUNY schools among its membership. There is no reason to think that private colleges/universities could not, if they wished, develop a similar cooperative arrangement.

9. Three day-long training sessions prior to teaching the EU on-line; day-long returning faculty sessions each semester.

10. Janet Mather (Manchester Metropolitan University) and Rebecca Jones (SUNY Brockport) coordinate this project for TACEUSS. Connie Pilato (Jamestown), TACEUSS IT Officer, is coordinating Bb training and registration.

11. I use “Survey Solutions for the Web” at www.perseus.com. Administration of course evaluations, via the Web, ensures student anonymity and confidentiality. Students were so pleased with the Web-based grading program, *School Maestro* at www.rredware.com, that I now use it for all my courses.

12. I am the only faculty member in the social sciences and humanities at my institution to have offered an on-line course. The enrollment of students from other SUNY campuses has helped immeasurably in socializing our campus students to on-line learning and I rely on them in quelling the panic in the early weeks.

13. Bringing in guest speakers has become a common practice in on-line courses; one can readily grasp the advantages for any course with international content.

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