IS THE EUROPEAN CONSTITUTIONAL SETTLEMENT REALLY SUCCESSFUL AND STABLE?

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I agree with many of the points made by professor Moravcsik in his stimulating paper on the lessons to be drawn from the collapse of the European constitutional project. Thus, I share his doubts about the usefulness of the exercise leading to the draft Constitutional Treaty—an exercise in public relations; but also, as Moravcsik notes without elaborating the point, an attempt to reverse the sagging popularity of the Union. I also agree that participation and deliberation do not necessarily generate political legitimacy. They may even generate more dissension; much depends on the type of policy decisions under discussion. As I pointed out some time ago (Majone 1996) deliberation is relevant and important when the problem is to find efficient (Pareto-optimal) solutions, while participation and debate are not only ineffective, but even counterproductive when the issues are redistributive: witness the endless discussions about the Common Agriculture Policy. Again, we both consider the EU's "democratic deficit" largely a pseudo-problem, based on mistaken analogies and category mistakes (see Majone 2005, and the concluding section of this paper). I do, however, disagree with his optimistic view of the EU's future—a view which, in my opinion, is not sufficiently supported either by hard economic data or by an adequate analysis of the challenges facing the Union today. It may be true that European institutions face no mortal threat (after all, the Holy Roman Empire lasted one thousand years, until A.D.1806!), but I am not sure that these institutions are stable in the face of any conceivable medium-term pressures for change. Paradoxically, some of the most serious challenges are the (unanticipated?) consequence of decisions taken during the fifteen years since the fall of the Berlin wall—a period which Moravcsik considers the most successful in EU history. I am referring, in particular, to monetary union and to eastern enlargement; as discussed below, certain indirect consequences of these two endogenous shocks could have far-reaching consequences for the future of the Union. Then there are exogenous shocks, such as globalization and the enormous expansion of the services sector. Today this sector of the economy accounts for 70 per cent of Union GDP and more that 50 per cent of employment. This means that not even one third of the EU economy is effectively integrated, and if the fate of the port services and general services directives is any indication, full market integration looks increasingly problematic in the enlarged Union. The poor economic performance of the EU during the last thirty years suggests that serious, unresolved problems persist at both national and European level. According to the semi-official Sapir

Report, the combination of challenges posed by the endogenous and exogenous shocks of the last thirty years risks creating a kind of institutional overstretch for the EU institutions. This, in turn, could weaken the ability of the institutions to perform effectively and, for this very reason, weaken their legitimacy (Sapir 2004: 114).

From the Economic Miracle to Euro-Sclerosis

The foundational period of the European Communities largely overlaps with the three "glorious decades" 1945-1975, when Europe experienced an unprecedented season of growth, macroeconomic stability, and high levels of social protection. GDP *per capita* in West Europe, which in 1950 was only 40 per cent of US level rose to 70 per cent by 1975. Labour productivity was at or above US levels, and most countries reached a situation of full, or nearly full, employment. Several factors made the long post-war expansion possible. Standardized, mass market products that could be made with long production runs brought significant economies of scale. Assembly-line production proved well able to absorb not only large quantities of unskilled labour coming off the land in those years, but also some substantial intra-European migration from the Mediterranean. Technology-based industry, such as the chemical and pharmaceutical industries, could exploit the advances made in fundamental science since the end of the 19th century. One more factor that is often cited as contributing to the buoyancy of the post-war expansion is the trend toward economic co-operation and integration (Sapir 2004; Landis 1969). Indeed, the integration of national markets allowed the more efficient producers to take advantage of the economies of scale so important for mass-produced goods. What emerged was an industrial structure dominated by large firms. In sum, the inter-related set of policies and institutions in the economic and social spheres developed after the war at national and supranational level, were well adapted to the context in which the European economy was operating.

Then the "economic miracle" came to an end. After the phase of very rapid catch up with the US, convergence in the levels of *per capita* income stopped at the beginning of the 1980s and has remained unchanged since, at around 70 per cent of US level. While the American economy was generating employment as well as maintaining working hours, Europe's employment performance was weak and working hours fell consistently (Sapir, 2004: 24). What is even more worrisome, the rate of growth of productivity in Europe has been declining since the mid-1990s. Annual growth in national output for every hour worked in the EU-15 averaged 1.4 per cent between 1995 and 2005, compared to 2.4 per cent in the US. The fact that the productivity gap with the US has persisted for the entire decade 1995-2005, that is to say, over a full business cycle, suggests that the erosion of European productivity levels is by now a structural problem—according to experts, the result of insufficient technological innovation, and of labour markets not competitive enough to force companies to drive productivity higher. Thus, far from being able to catch up, and then surpass, the American economy—the goal set by the heads of state or government of the EU at the Lisbon Summit of March 2000--the Union will find it increasingly difficult to maintain its present, unsatisfactory, performance.

The desire to improve poor European economic performance has driven EU policy over the last thirty years: from the Single Market Programme, which was meant to provide an answer to perceived "Euro-sclerosis" in the mid-1980s, to Economic and Monetary Union in the 1990s, and the "Lisbon process" at the beginning of this decade. At the summit held in the Portuguese capital in March 2000, the heads of state or government of the EU announced two extremely ambitious objectives: by 2010 the EU should become the most competitive, knowledge-based economy in the world; in the same period it should grow at an annual average rate of 3 per cent, so as to create 20 million new jobs. However, the latest Commission data show that far from closing the gap, and then overtaking, the US economy, the EU as a whole, continues to lag behind both in terms of growth rates and of productivity. These persistent failures show that the policies and institutions designed half a century ago, are no longer able to meet the challenges posed by the contemporary economy—an economy characterized by economic globalization, strong international competition, and different patterns of both production and consumption. In particular, higher educational standards and changing consumer preferences led to greater demand for less standardized products. A striking indication of this shift in consumption patterns is the growth of the services sector: between 1980 and 2000, the share of services in the EU economy increased by 13 percentage points to 70 per cent. The services sector--which in modern economies accounts not only for about 70 per cent of GDP but also for 50 per cent, or more, of employment--provides two telling examples of the difficulties facing the enlarged Union.

Is Full Economic Integration Still Possible?

Given the size of the services sector in the modern economy, a common market for goods, such as was more or less achieved with the Single Market Programme, represents only the beginning stage of economic integration. Yet, in the enlarged Union the integration of the services sector looks extremely problematic. In November 2005, after two years of studies, discussions, and consultations, the European Commission decided to withdraw its draft directive for the liberalization of port services. Originally acclaimed as the most important liberalization measure in the area of transportation, the directive proposed to eliminate cargo-handling monopolies by allowing shipping companies to use their own staff to unload cargo, to set limits to permissible state aid in this sector, and generally to stimulate competition among the ports of the EU. The directive had been approved by the Council in 2002, but rejected by the European Parliament in 2003. Faced by the opposition of the EP and of the trade unions, the new Barroso Commission progressively softened many of the proposed measures, to the point of making the revised text practically useless in the opinion of many observers. Finally, in one of its worst debacles in recent years, the Commission decided to withdraw even the weakened version of the port services directive, implicitly admitting that it considered itself politically too weak to face the combined opposition of the EP and of the port workers, one of Europe's most protected labour forces.

"Is Europe still capable of moving forward?" asked the editorial of the French newspaper *Le Monde* of 16 February 2006. The topic was the draft proposal of a general services directive then being considered by the European Parliament. The editorialist of the left-liberal newspaper posed very clearly the dilemma facing the EU today. On the one hand, the European integration of the market for services, now still largely regulated at the national level, is simply indispensable: with agriculture and industry no longer able to create new jobs, only the services sector could significantly contribute to a reduction of the high level of unemployment in the Euro-zone. On the other hand, in a highly inhomogeneous Union, this integration poses serious social problems, especially with respect to wages: under which conditions, and especially, under which social standards, workers from member state A could offer their services in member state B? The original draft of the general services directive had been worked out in 2004 by Commissioner Frits Bolkestein, responsible for the Internal Market in the Prodi Commission. The idea was to use the "country of origin" principle in order to circumvent the insuperable obstacle represented by the harmonization of a bewildering variety of national regulations. The principle would have guaranteed that, with the exception of environmental and safety standards, companies could apply their domestic labour law when providing services abroad. It will be recalled that the Single Market Programme strategy for services was based precisely on the country of origin (or home-country control) principle, which is simply an application of mutual recognition. This principle—which had already been introduced in the 1980s in the areas of banking and financial services—was seen as a viable alternative to the centralized harmonization of national laws and regulations. In the case of labour services, for instance, the traditional approach would entail the harmonization of laws on minimum wages, collective contracting, hiring and firing, duration of the working week, flexible labour contracts, qualifications, and a host of entitlements that differ widely among member states. Mutual recognition replaces centralised by decentralised decision-making, in the spirit of subsidiarity, and thus provides opportunities for experimentation and social learning. In sum, the original Bolkestein directive was in line, not only with the liberalizing, non-interventionist philosophy of the treaties, but also with the mutual-recognition doctrine of the European Court of Justice, as stated in the *Cassis de Dijon* judgment and further extended by the Commission to the free movement of people and services. In spite of these impeccable precedents, the draft of the general services directive immediately sparked widespread concerns among western European trade unions about lower wages, “social dumping”, and an influx of workers from the new member states of eastern Europe—the same concerns which played a significant role in the rejection of the Constitutional Treaty by the French and Dutch voters. Faced by intense political opposition, the Commission delegated to the EP the task a preparing a softer version of the directive. A compromise between the two major political groupings, the European Peoples Party and the European Socialist Party, made it possible for the EP to produce a revised version, from which, however, the country-of-origin principle, and with it the whole philosophy of mutual recognition, had disappeared. The watering down of the directive meant that for a long time there would be no integrated services market in the EU. At the same time, the watered-down version triggered a backlash from East European countries—which as low-cost countries stand to benefit most from price competition among services providers—and also raised fears that the text approved by the EP, with its many exceptions and derogations, could pave the way for future court challenges.

The fate of the port services and general services directives, combined with the resurgence of protectionism and economic nationalism—or “economic patriotism”, as French Prime Minister de Villepin prefers to call the attempt to create “national champions” and to insulate them from competition--shows that achievement of the goal of full economic, let alone political, integration, can no longer be taken for granted. It is important to note that the draft services directive, including the country-of-origin principle, probably would have been approved in the old EU-15, where wages and social conditions do not differ significantly. However, with the inclusion of Rumania and Bulgaria in 2007, the Union will be so inhomogeneous that income inequality, as measured by the Gini coefficient, will be even larger in the EU than in the arch capitalist United States. Such diversity in socio-economic conditions necessarily entails a corresponding diversity in preferences for public goods and social standards. As a consequence, EU-level harmonization, even of the minimum type, will become increasingly difficult. At the same time, extreme diversity in socioeconomic conditions will also make it politically infeasible to rely on mutual recognition. It is indeed ironic that after the introduction of the common currency and the near doubling of EU membership in the space of a few years, the future of market integration looks so uncertain. Many of the same people who opposed the “neo-liberal” drift of the services directives have also maintained that the

EU should be much more than a free trade area: it should have a strong social and political dimension. Unfortunately, it can no longer be excluded that, unable either to harmonize or to liberalize the services sector, the enlarged Union may instead regress to the first stage of economic integration

Monetary union was supposed to make irreversible the process of European integration. On 1 January 2002 the euro was introduced as the tangible symbol of ever closer union, among enthusiastic predictions of faster economic growth, greater productivity, significant reductions in transaction costs, and price stability. Today it is generally acknowledged that the initial forecasts were too optimistic. Even a "good European" like Mario Monti, for eight years Single Market and then Competition Commissioner in Brussels, in an interview published by the Italian newspaper *Sole-24 Ore* of 24 November 2005, admitted that monetary union has so far failed to produce the positive results that had been promised. The euro, according to professor Monti--a respected monetary economist--is a currency in search of a single European market, which does not yet exist because of the protectionism still practiced by the national governments, and the reluctance of the same governments to undertake the necessary structural reforms. He might have added the timidity of the Barroso Commission and the populism of the European Parliament

Legitimacy, Effectiveness, and Institutional Stability

The process of European integration so far has been driven essentially by economics. Hence, poor economic performance over decades is bound to undermine the normative foundations of the entire enterprise. Not by chance, the reasons given by French and Dutch voters for their rejection of the Constitutional Treaty were mostly of a socioeconomic nature: unemployment, a stagnating standard of living, price increases allegedly caused by the introduction of the euro, and fear of immigration from the new Member States. If not a mutation of the existing system, monetary union represents what economists call an endogenous shock, whose impact on public opinion we are only beginning to appreciate. Before monetary union it was difficult for ordinary citizens, and sometimes even for the experts, to sort out the respective responsibilities of the Brussels authorities and of the national governments when trying to identify the reasons of policy failures. The centralization of monetary policy, and the constraints on the fiscal autonomy of the national governments imposed by the Stability Pact, have changed the situation dramatically. Unlike most policy decisions taken in Brussels, the decisions of the European Central Bank are widely advertised, and their outcomes have a direct impact on the economic welfare of all the citizens of the Euro-zone, and indeed of the entire EU. For the first time, the outcomes of a European policy directly and visibly affect the general public rather than special interests or small groups of experts. Hence, much more than in the past, poor economic performance threatens the credibility of EU institutions, and erodes the narrow legitimacy basis on which the entire edifice of European integration rests so precariously.

Legitimacy involves the capacity of a political system to engender and maintain the belief that the existing institutions are the most appropriate ones for a given society. It follows that if a new system is unable to produce the results expected by major groups for a period long enough to develop legitimacy, a serious crisis may develop. While prolonged effectiveness—which today means primarily a satisfactory level of economic growth—may give legitimacy to a new political system, a breakdown of effectiveness for a long period will endanger even a legitimate system's stability (Lipset 1963: 64-70). It is this connection between effectiveness, legitimacy, and systemic stability which makes the poor economic performance of the EU over the last thirty years, so worrisome.

No Royal Road To Legitimacy

It is by now generally admitted that the direct election of the EP has hardly helped to expand the legitimacy basis of the EC/EU. What is perhaps not sufficiently appreciated is the strong *negative* correlation between the constant decrease in voters' turn-out in European elections and the expanding powers of the EP. In 1979--when the only significant powers of the EP were the right to reject the budget, to amend it within certain limits, and to approve (or not) the annual accounts—the turn-out was 63 per cent. At the 1989 elections the turn-out was 58.5 per cent. By then a new legislative "cooperation" procedure had been introduced into various policy fields, with an enhanced consultative role for the Parliament. The EP was also given a veto over the accession of new member states and over the conclusions of agreements with associate states. The Maastricht Treaty extended the powers of the Parliament quite substantially. It gave the EP the right to vote on the Commission before it took office; empowered it to appoint a European Ombudsman and to establish committees of inquiry; and made formal provision for the Parliament to invite the Commission to present a legislative proposal, thus giving it a sort of indirect legislative initiative. Most importantly, Maastricht introduced a new legislative procedure, now known as co-decision, under which the EP and the Council are equal co-legislators in the 15 Treaty areas to which the procedure then applied. At the time, supporters of stronger EP powers argued that with more majority voting, as envisaged by the Treaty, the position of national parliaments was weakened, but that a greater role for the EP would nevertheless improve the democratic legitimacy of EU legislation. At the 1994 European elections, however, the turn-out dropped to 56.8. New powers for the EP were again added by the Amsterdam and Nice Treaties. In particular, Amsterdam extended the power of co-decision from 15 to 38 Treaty areas, but voters turn-out went below the 50 per cent mark: to 49.4 at the European elections of 1999, and 45.7 per cent at the elections of 2004.

Turn-out in national elections exceeds that in European elections by as much as 30 percentage points. Participation is also much higher at European referenda, where people feel that their vote is practically relevant: in the French and Dutch referenda of 2005 on the Constitutional Treaty the turn out was 70 per cent and 63 per cent, respectively. In the European elections of 2004, the turn-out had been 42.8 in France and 39.3 in the Netherlands. In the build-up to the first direct elections many scholars as well as political leaders argued that elections to the EP would provide new legitimacy not only for this institution but for the entire integration process. Evidence from all the six European Parliament elections held so far shows that these expectations were ill-founded. The reason is probably to be found in the relation between legitimacy and effectiveness briefly discussed above. For the mass of European voters, if not for the political and intellectual elites committed to the integration process, the potential source of legitimacy represented by European elections is apparently insufficient to compensate the de-legitimating and de-stabilizing effects of decades of poor economic performance. A plausible inference is that it may be easier to increase the legitimacy of the EU by limiting the range of activities of the Union and strengthening the mechanisms of accountability by results than by encouraging popular participation through the EP (Majone 2005).

Students of the EU—political scientists no less than lawyers—seem very reluctant to admit that European integration was always, and continues to be, an elitist project. Even in the most pro-integration countries, such as Germany and The Netherlands, popular support never went beyond a permissive consensus—the tacit acceptance of the decisions taken by the national leaders in Brussels. Of course, most key ideas of modern history, from popular sovereignty to the idea of nation and the principle of nationality, were originally advanced by intellectual and political elites; they were "invented", to use the language of historian Edmund Morgan (1988). But these ideas proved their vitality by their capacity to mobilize the people and push them to political action. This is not the case of European integration. In the course of half a century a certain europeanization of intellectual, economic, and political elites has taken place, but this process has hardly touched the large majority of citizens. All attempts to induce a transfer of loyalties from the national to the supranational level—by such measures as the direct election of the European Parliament, various social-policy measures, the common agricultural policy, or the policies of regional aid and social cohesion—failed completely in this respect, when they did not increase the level of conflict among the member states, as in the case of the CAP. In sum, no "europeanization of the masses" has taken place even remotely comparable to that "nationalization of the masses" so perceptively analyzed by George Mosse in the case of Germany, but which occurred in all countries of West Europe at the end of the Napoleonic wars (Mosse 1975).

The most striking aspect of the French and Dutch referenda which in May-June 2005 rejected the Constitutional Treaty, is precisely the huge gap between elite and popular opinion. All the major political parties—on the left and on the right, in government and in opposition--the vast majority of members of the national parliaments, economic leaders (in the Netherlands, also trade union leaders), major newspapers and other media, the European Parliament and Commission—all supported ratification. In the Netherlands--a country always considered to be in the vanguard of the integration process--two thirds of members of parliament voted for the new constitution, almost exactly the same proportion of voters rejected it. I submit that no realistic assessment of the EU—its policies, institutions and future development-- is possible without keeping constantly in mind the elitist nature of the project.

Democracy in the EU: A Merit Good ?

Europe's "democratic deficit" has been defined as "the gap between the powers transferred to the Community level and the control of the elected Parliament over them" (Williams 1991:162). Many academic and political observers seem to accept, at least implicitly, Shirley Williams' characterization of what is widely perceived as being the EU's key normative problem; yet I believe that this way of posing the problem is both superficial and misleading. It is misleading because it suggests that the steady expansion of the EP's powers is the correct solution, while we now know that this is not the case. Posing the democratic-deficit (pseudo)problem in terms of the powers of the EP is also superficial because it misses the root of the problem: the fact that the functionalist (or Monnet) approach to European integration taken in the 1950s entails a fundamental trade-off between integration and democracy (Majone 2005). The logic of the approach is such that any time a choice between integration and democracy has to be made, the decision is, and must be, always in favour of integration. This logic is evident in the case of the classic Community Method. The most important feature of the method—the Commission's monopoly of legislative and policy initiative—represents a flagrant violation of both the constitutional principle of separation of powers and the very idea of parliamentary democracy. In parliamentary systems, legislators present relatively few bills; most legislative proposals are instead presented by bureaucrats to the cabinet, which then introduces them as draft legislation to the parliament. Once legislators receive such proposals, however, they are free to accept or reject them. This is not the case under the Community Method, where as a rule the Council may modify Commission proposals only under the stringent requirement of unanimity--while the Commission can amend its own proposals at any time while they are under discussion in the Committee of Permanent Representatives of the member states, or in the Council of Ministers. If the Council unanimously wishes to adopt a measure that differs from the Commission's proposal, the latter can deprive the main Community legislator of its power of decision by withdrawing its own proposal. Not only the Council, but also the European Parliament cannot legislate in the absence of a prior proposal from the Commission. It is up to this institution to decide whether the Community should act and, if so, in what legal form, and what content and implementing procedures should be followed. Finally, neither the Council nor the EP or a member state can compel the Commission to submit a proposal, except in those few cases where the Treaty imposes an obligation to legislate.

The Commission's exclusive power of agenda setting is perhaps the most striking, but certainly not the only example, of the inherent tendency of the Monnet approach to sacrifice democracy on the altar of integration. The institutional arrangements for monetary union offer another significant instance of the same tendency. In deciding to give constitutional (treaty) status to the independence of the European Central Bank (ECB), the framers of the Treaty on European Union chose to sacrifice the democratic legitimacy of the new body for the sake of monetary (and political) integration. Before monetary union, in all the member states the independence of the central bank had a statutory, not a constitutional, basis. This meant that the national parliament could change the rules if it thought that the bank was using its independence in a manner with which the legislators disagreed. This was true of the *Bundesbank* and is still true of the US Federal Reserve and of the Bank of England. In contrast, to change the rules under which the ECB, and the national banks as members of the European System of Central Banks, operate, would require a treaty revision accepted by all the member states—an extremely complex procedure. The net result is of course that the national parliaments have lost any control over monetary policy, while the European Parliament has no authority in this area.

It should be noted that unlike its American and British counterpart, the ECB enjoys not only *instrument* independence, but also *goal* independence. When a central bank enjoys only instrument independence, it is the government which fixes the target, say, the acceptable level of inflation, leaving the central bank then free to decide how best to achieve the target. Because of the grant of both instrument and goal independence to the ECB, some students of European integration now complain about the "democratic deficit" of the European Central Bank, arguing that in order to reduce this deficit the Bank should move to a governance model excluding goal independence. Also these analyses and proposed solutions miss the root of the problem. The present governance model was prescribed in great detail by the Treaty on European Union, and hence endorsed by all the member states. Indeed, there seems to be no historical precedent of an independent central bank operating without the political counterweight provided by a full-fledged government. The ECB's extremely high level of independence was meant to compensate the serious shortcomings of macroeconomic governance at European level. Because of the decision to pursue monetary integration in a political vacuum, formal and informal mechanisms used to temper the independence of a national central bank, are not available at the EU level. For example, some economists have argued that the socially optimal delegation of monetary policy is not to a completely independent central bank. Rather, in order to maximize social welfare, governments should have the option of overriding the central bank's decisions under some particular circumstances. Thus, the "optimal" central bank should follow a non-linear decision rule: in the case of small output shocks it determines the acceptable inflation level independently, while in case of large output disturbances, it follows the government's preferences. At European level, however, there is no economic government, no generally accepted political counterweight to the central bank, hence it is not clear how appropriate procedures for overriding ECB decisions could be designed and enforced.

Incidentally, to justify the extreme independence of the ECB is not to overlook the risks entailed by the *political* decision to move to monetary union. Given this political decision, and the inadequate governance structure of the EU, however, something like the ECB was arguably the best arrangement that could be devised—a second-best which takes into account the governance deficit as well as the artificial quality of the EMU: the EU is far from being an optimal currency area, in the sense of being able to make easy domestic adjustments to external shocks. Precisely because of the difficulty of reaching agreement on matters of economic governance, the Maastricht Treaty, although extremely detailed on procedural matters, left a number of fundamental policy questions unanswered. As the vicissitudes of the Stability and Growth Pact suggest, it may have been a mistake to assign price stability as the primary objective of the central bank, granting to the ECB the freedom to define the precise target, but this was the decision of the member states, not of the ECB's. Also in this case, we must conclude that those commentators who criticize the ECB because it does not pursue a more balanced monetary policy, are shooting at the wrong target: they should direct their criticism not to the Bank, but to a politically motivated and economically unjustified, or at least premature, monetary union. The same critics often point to the US Federal Reserve as the better model, since the American central bank is not concerned only with fighting inflation but also with sustaining economic growth. They forget that the Fed--established only in 1913, that is, more than a century after the creation of the American federation—operates within the framework of a fully fledged system of government, where Congress, the President, and the Treasury can provide all the needed political counterweight to the decisions of the monetary authority. The critics of the extreme independence and narrow policy mandate of the ECB, like the critics of the "democratic deficit" of the EU, do not seem to understand that under the present institutional arrangements and in the absence of popular support for the federalist project, full-fledged democracy, as we know it at the national level, is simply impossible at the European level.

This fact does not seem to bother European voters too much: in both the French and the Dutch referenda, only tiny percentages of respondents gave "not democratic enough" as one of the reasons for their rejection of the Constitutional Treaty. It appears that the democratic deficit of the Union, however defined, concerns more some political and academic elites than European voters. If that is the case, then the quest for democracy at the European level should be seen, not as popular demand, but as an expression of elite preferences, something like (say) environmental quality. One of the rationales for a European environmental policy is based on the idea that environmental quality is a 'merit good' which should be available to all the citizens of the Union. Merit goods are goods, like elementary education or seat-belts in cars, that the government compels individuals to consume. The justification usually offered for such paternalism is that government is entitled to intervene because it knows what is in the best interest of the citizens better than they themselves do. In the EU context, paternalism would imply, not only that some member states undervalue the benefits of, say, environmental protection, or overvalue the corresponding costs, but also that the calculus of benefits and costs is more accurate at the European level. As I have shown elsewhere (Majone 2005) both implications are extremely doubtful.

In conclusion, I would like to stress two points that have informed the above discussion. First, the absence or incomplete development of democratic institution in the EU is the price which people are apparently willing to pay in order to preserve the core of national sovereignty essentially intact. This deficit of democracy could be easily eliminated if the majority of European voters desired to be governed by a full-fledged European federal state. In such a case, they could use the electoral process to pressure their national leaders to transfer sufficient powers and resources to the European level. To deny this is to imply that the democratic process in the member states is seriously flawed--which is not only patently false, but also contrary to the basic assumption of the EU that all its member states are democratic. The obvious fact is that after half a century of pro-integration efforts there is no majority, or even a sizable minority, supporting a federal solution. It is, or should be, equally obvious that in the absence of such popular support, the founding fathers faced a fundamental trade-off between democracy and integration--which they consistently resolved in favour of integration. My second point is that the EU has a legitimacy problem, which is not the same as saying that it has a problem of *democratic* legitimacy—a narrower, more specialized concept. As we saw above, legitimacy involves the capacity of a political system to engender and maintain the belief that the existing political institutions are the most appropriate ones for a given society. In the case of a new system such as the EU, which cannot count on traditional sources of legitimacy, this presupposes the ability to sustain popular expectations, on the grounds of effectiveness, for a period long enough to develop legitimacy upon a new basis. This is the reason why the poor economic performance of the EU economy over decades is so worrisome also from a normative viewpoint.

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