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The Transformation and Sustainability of the European Political Order – EuroTrans
Progress Report 2008 – 2009
(01.10.2008 – 30.09.2009)
Descriptions, activities and output

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Introduction

This project, "The Transformation and Sustainability of the European Political Order (EuroTrans)" is part of the research programme "Europe in Transition" under The Research Council of Norway. This programme is designed to promote high-quality Europe-related research in Norway over a period of ten years (2007-2017).

The EuroTrans project at ARENA Centre for European Studies started on the 1st of October 2007, but was publicly launched in February 2008. It has an annual budget of approx. 5 mill NOK. Although EuroTrans only makes up 1/3 of the total ARENA budget it functions as an integrating device for the entire research activity at the centre. EuroTrans was from the outset designed to be a comprehensive project that supports and draws on existing research financed by other sources. This is possible due to the integrated project structure at ARENA. In this manner, all research projects at ARENA are compatible with and related to the four main research areas formulated for the EuroTrans project.

After the following general research profile, the report contains five main chapters, one for each research area (Research area 3 is divided into two sub-projects). Under each area up to date information will be found on *participants*, *research framework, sub-projects*, *activities*, *findings* and *publications.*

This document is an attachment to the electronic progress report submitted through the Research Council's website.

Overall research framework

Europe is in transition. The European Union has emerged as a multi-level political and administrative order with a strong legal foundation. Until now European integration has been able to rely on modes of accommodating unity and diversity which has permitted concomitant 'widening' and 'deepening'.

Today, the Union is faced with fundamental questions pertaining to the direction, dynamics and very sustainability of the emergent European order. The overarching research agenda of the EuroTrans project relates to the dynamics embedded in the making of the European order and in the prospects for its reordering/unmaking.

This process involves internal consolidation and external delimitation as well as changes in the relationship between political-administrative leaders and ordinary citizens, between masses and elites, and between markets and politics. It is also about finding new ways for the EU level to co-operate and co-exist with national, regional and local bodies, in addition to playing a role in the larger international and global context. This large-scale search process has great potential for innovation: new modes of governance and new ways of building democratic legitimacy.

These developments underline the European Union's status as a political experiment: a possible vanguard in a larger post-Westphalian restructuring of the political order.

Our research agenda relates to the dynamics embedded in the making of the European order and in the prospects for its reordering/unmaking:

- What are the basic characteristics and the key components of the new emerging order?
- What are the implications for member states´ governing arrangements and for the citizens of Europe?

To this end, we draw on and seek to advance institutional and organisational theory as well as democratic theory. Theoretical advancement hinges on these theories being detached from and considered in light of their implicit or explicit nation-state foundations.

The research task is to analyse the different institutional designs and mechanisms of change: the 'identitarian' components that come into effect in the current re-ordering of Europe and the democratic implications that these developments will have. The present complex constellation of law and democracy suggests that particular attention is paid to the adequacy of existing theory and conceptual apparatuses. We will analyse the administrative and institutional nexus of political authority as well as existing patterns of cooperation and conflict, identities and loyalties. This requires conducting parallel research in four different key areas of a democratic polity, areas that are closely inter-related:

1. **The administrative-regulative dimension of political order**: How is the emerging constellation of political order sustained in terms of executive organisation and decision-making across levels of governance and borders?

2. **The constitutional-democratic dimension of political order**: Can the new political order be sustained in democratic terms, and can it achieve constitutional unity?

3. **The cognitive-cultural dimension of political order:** How is the emerging constellation of political order sustained in terms of historically significant and revitalised cultural knowledge? How are the 'Europe of knowledge'(a) and the European public sphere' (b) institutionalised?

4. **The external dimension of political order:** How does the emerging constellation of political order place itself as a political, humanitarian and economic power, and how does it relate to the world order?

The research is conducted in partnership with researchers from other disciplines and units, both nationally and internationally.

Work Package 1: The administrative-regulative dimension of political order

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WP 1 project description

State of the art/Description of the field
A robust democracy requires executive institutions that support the initiation and preparation of policy and that implement and translate political decisions into concrete results. In the EU, as in international organisations, it has been seen

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[1] Not financed by EuroTrans, but actively linked to the WP
[2] Not financed by EuroTrans, but actively linked to the WP
[3] Not financed by EuroTrans, but actively linked to the WP

as the task of the member state administrations to ensure that policies that are adopted at the international level are properly implemented at the national level.

One of the key assumptions of WP I is, however, that the division of labour between EU institutions and national governments has in this respect become increasingly blurred and has entailed the reallocation of capacities.

Main objectives/goals

How is the emerging constellation of political order sustained in terms of executive organisation and decision-making across levels of governance and borders? What are its particular institutional designs, what are the modes of decision-making and what is its impact in terms of problem-solving?

We will apply both quantitative and qualitative methods, for example by undertaking a quantitative study of the dynamics of implementation based on data from the various member states (including EEA countries), the Commission, the EFTA surveillance authority, the European Court of Justice and the EFTA Court.

As regards the study of administrative behaviour and networks, *inter alia* data based on a survey among EU-level agency personnel will be analysed, as well as a unique survey-data set collected among a huge number of Norwegian ministry and agency officials. This will be complemented with case studies within various policy fields: environment, food and maritime safety policy. This work is coordinated with WP 3a on the developments in the field of Research and Higher Education.

Sub Projects WP 1

Sub project 1: Emergence of an autonomous executive at the European level

One of the key properties of the European transformation is the emergence of an autonomous executive (the European Commission) that represents a novelty in inter-state cooperation, qualitatively different from the secretariats normally serving the governance of international organisations. We ask whether the Commission is able to act coherently and independently and to internally reconcile divergent interests in an EU-27 compared to an EU-15. Additionally, we will examine the attempts to make the Commission more accountable to the European Parliament. The growth of EU-level agencies deals with how to strike a balance between autonomy and accountability: How do these agencies in practice relate to the Commission, the Council, the European Parliament, national governments and interest groups? In addition, we conduct a comparative study of the Commission and secretariats of international organizations.

Sub project 2: Implementation and compliance with EU norms

Another key element in the transformation and sustainability of the European administrative order relates to the actual implementation and compliance with EU norms (Knill 2001; Sverdrup 2006). Compared with other forms of regional co-operation, European integration is characterised by the substantial number of formal rules. However, in most fields European norms and rules are not put into force by the EU itself. Instead, this task primarily remains with the member states. According to the treaties, the member states of the EU (and the EEA) are formally obliged to comply with EU rules in the same manner and with the same vigour as they comply with national rules. Specific bodies – such as the European Commission and the EFTA surveillance authority, and the European Court of Justice and the EFTA court – have the competence to ensure effective monitoring and sanctioning of non-compliance. Our research project will empirically examine how and to what extent EU legislation is implemented and put into force. What are the key mechanisms for explaining the dynamics of implementation across member states, across policy fields and across time? How and to what extent can we observe changes in the allocation of powers and resources regarding implementation between various levels of governance in Europe? To what extent can we expect convergence among national administrations as regards implementation structures in an EU-27?

Sub project 3: Towards a multi-level union administration?

Thirdly, we expect to observe more elements of a 'Union administration' that spans levels of governance, partly circumventing national ministries. Such tendencies have already been pointed to in the multi-level governance literature concerning Commission-regions relationships (Kohler-Koch 1996; Marks et al. 1996). However, more importantly the peculiar status of the European Commission might trigger centrifugal forces at the very heart of national governments as well, forces that cannot be expected to occur within classic international organisations in which all threads tend to be collected at the ministers' council. The Commission is in need of expertise for drafting policy proposals and it depends on reliable partners for ensuring that EU policies are properly implemented. Both might be found among national (regulatory) agencies that over the last couple of decades have increasingly been organised at arm's length from their respective ministerial departments. National agencies may thus develop into what has been termed 'double-hatted agencies', serving both national ministries as parts of a national administration *and* the Commission as parts of a 'Union administration'. To what extent does such an arrangement cause tension within national governments? How is accountability safeguarded when so-called 'indirect administration' based on a clear division of labour between levels of governance is being replaced by an 'integrated administration' in which this division is considerably blurred? How is the scope for the local variation of implementation practices affected under such circumstances?

Activities WP 1

Workshops, seminars, meetings, guest stays, etc.
- Workshop 2009:" The transformation of the executive branch of government in Europe", in Oslo 4-6 June 2009, at ARENA, University of Oslo (link)
- Regular meetings and seminars with all the participants in the WP
- Various dissemination to society and stakeholders:
    - Ministry of Foreign Affairs and Ministry of Government Administration and Reform and The European Commission,
- Guest researchers:
    - Hussein Kassim: 2010
    - David Coen: 2010

Publications

Planned publications
- We will report the results in working papers, academic journal articles, books, PhD dissertations and master theses

Completed publications

- Curtin, Deirdre; Egeberg, Morten (2008) Tradition and innovation: Europe's accumulated executive order. *West European Politics*; Volume 31.(4) s. 639-661

- Curtin, Deirdre and Egeberg, Morten (eds) (2009): Towards a New Executive Order in Europe? Abingdon and New York: Routledge

- Egeberg, Morten (2008) European government(s): Executive politics in transition? *West European Politics;* Volume 31.(1-2) s. 235-257

- Egeberg, Morten (2009) 'Towards an organization theory of international integration', in Paul G. Roness and Harald Sætren (eds), *Change and Continuity in Public Sector Organizations: Essays in Honour of Per Lægreid*, Bergen: Fagbokforlaget

- Gornitzka, Åse and Sverdrup, Ulf (2008) Who consults? The configuration of expert groups in the European Union. *West European Politics*; Volume 31.(4) s. 725-750

- Martens, Maria (2008) Runaway Bureaucracy? Exploring the Role of Nordic Regulatory Agencies in the European Union, *Scandinavian Political Studies* 31(1): 27-43

- Martens, Maria (2008) Administrative integration through the back door? The role and influence of the European Commission in transgovernmental

networks within the environmental policy field. *Journal of European Integration*; Volume 30(5) s. 635-653

- Olsen, Johan P (2008) The ups and downs of bureaucratic organization. *Annual review of political science* (Palo Alto, Calif. Print); Volume 11. s. 13-37

- Olsen, Johan P (2008) Understanding institutions and logics of appropriateness: Introductory essay. I: Explorations in Organizations. Stanford University Press ISBN 978-0804758970. s. 189-199

- Olsen, Johan P (2009) Democratic Government, Institutional Autonomy and the Dynamics of Change, *West European Politics*, s. 439-465, 32(3)

- Olsen, Johan P (2009) Change and Continuity: An Institutional Approach to Institutions of Democratic Government, *European Political Science Review*, s. 3-32. 1(1)

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- Sverdrup, Ulf (2008) EØS som modell: ulike former for tilknytning. *Nytt Norsk Tidsskrift,* Volume 4. s. 348-357

- Sverdrup, Ulf (2008) Norsk utenrikspolitikk i en ny tid: Noen randbemerkninger. *Internasjonal Politikk* ; Volume 65(4) s. 91-102

- Sverdrup, Ulf; Trondal, Jarle (2008) The Organizational Dimension of Politics - Essays in Honour of Morten Egeberg. Fagbokforlaget (ISBN 978-82-450-0709-1) 361 s.

- Trondal, Jarle; Sverdrup, Ulf (2008) The organizational dimensions of Politics. I: The Organizational Dimension of Politics - Essays in Honour of Morten Egeberg. Fagbokforlaget 2008 ISBN 978-82-450-0709-1. s. 9-14

- Trondal, Jarle (2009) Administrative Fusion: Less than a European 'Mega-administration' *Journal of European Integration;* Volume 31(4) s. 237-260

- Trondal, Jarle (2008) Balancing Roles of Representation in the European Commission. *Acta Politica*;Volume 43(4) s. 429-452

- Trondal, Jarle (2008) The anatomy of autonomy: Reassessing the autonomy of the European Commission. *European Journal of Political Research*; Volume 47(4) s. 467-488

- Trondal, Jarle; Jeppesen, Lene (2008) Images of Agency Governance in the European Union. *West European Politics*; Volume 31(3) s. 417-441

- Trondal, Jarle; Van den Berg, C; Suvarierol, S (2008) The Compound Machinery of Government: The Case of Seconded Officials in the European Commission. *Governance. An International Journal of Policy, Administration and Institutions*; Volume 21(2) s. 253-274

- Veggeland, Frode; Ugland, Trygve (2008) Intergovernmentalism Transcended: Deep Transformation and Integration in European Food Safety. I: The Organizational Dimension of Politics - Essays in Honour of Morten Egeberg. Fagbokforlaget 2008 ISBN 978-82-450-0709-1.

Achieved knowledge WP 1

New findings
The following remarks are limited to results published and achieved during the programme period

EUROPE'S CHANGING EXECUTIVE ORDER: Europe has in fact had a kind of executive order for centuries but that we only now see that the contours of this order are qualitatively different from the intergovernmental order inherited from the past. We ascribe this phenomenon in particular to the consolidation of the European Commission as a new and distinctive executive centre at the European level. It seems as if this institutional innovation triggers significant centrifugal forces within national governments due to the Commission's strategy of establishing direct partnerships with semi-independent national agencies that might be crucial for the implementation as well as the formulation of EU policies (Egeberg 2008). The new order does not seem to replace former orders such as bilateral diplomacy and international governmental organisations; instead it tends to be layered around already existing orders so that the result is an increasingly compound and accumulated executive order. Such an order raises sensitive questions about which actors should be held to account: holding governments to account may no longer be enough and may need to be complemented with mechanisms and forums that focus both on the accountability of supranational executive bodies as well as national agencies with dual loyalties (Curtin and Egeberg 2008, Curtin and Egeberg 2009).

In two interrelated case studies within the Environmental policy field (Martens 2008a, 2008b) we observe the emergence of informal networks between the Commission and national agencies. These networks concern both formulation and implementation of EU policies. We also observe that the organizational differentiation between ministries and agencies matters. The agencies are increasingly linked to the Commission through different informal networks, while the ministries are linked more closely (and formally) to the Council structure. Thus, national agencies seem to simultaneously constitute parts of national governments, while also being involved in informal networks that partly bypass the domestic administrative hierarchy. It is further observed that the Commission is playing a proactive role within these networks, being able to use the networks as a back road to the informal harmonization of national regulatory practices. It is argued that it is able to do this mainly because it is perceived as a

credible institution with expertise and overview, assets that have become even more important in EU27. It is further argued that the influence of the Commission is conditioned by certain factors at the national level like 'noviceness' and 'administrative capacity'. It is concluded that we need to take into account institutional features both at the national and European levels in order to understand the multifaceted role of the Commission within this specific institutional setting.

COMMISSION EXPERT GROUP STUDY: The EU is frequently understood as a special kind of governance system characterized by its strong degree of interpenetration of different levels of government and a plethora of interactions between EU institutions, administrations from national and sub-national levels, as well as organized non-state interests. Nowhere is this kind of multi-level governance as evident as in the committee system of the EU. In this project we examine and explain a crucial property of this system, the committees and experts groups organized by the European Commission. Based on new data we answer some basic questions related to this aspect of the EU multi-level system. What is the extent of the expert consultative system? What is the distribution of expert groups? Are these groups best understood as loose networks or do they constitute a stable, well-established consultative system?

We observe a proliferation over time and across sectors of this mode of governance (Gornitzka and Sverdrup 2008). The use of expert group has developed into a routinized practice of the European Commission and a great share of the Expert groups has become permanent and lasting properties of the governance system. Our data also shows that expert groups are remarkably unevenly distributed among different policy domains and areas. The high degree of sectoral differentiation is accentuated by the fact that we observe weak horizontal coordinating structures between the Directorates-General (DGs) in their use of expert groups. We argue that the heterogeneity in modes governance across policy fields is partly a result of deliberate design attempts and differences in policy tasks, but also to a large extent the result of different institutional and organizational factors, such as legal and administrative capabilities, as well as the gradual development of different routines and norms among the DGs for connecting to their environment.

THE SECONDED NATIONAL EXPERT STUDY: The European Commission occupies a pivotal role as the key executive institution of the European Union (EU). Yet, the factual autonomy of the Commission remains largely unexplored, contributing to contradictory assessments of it. The first article (Trondal 2008b) reassesses the behavioural autonomy of the Commission, as well as organisational conditions thereof. The article utilises one under-researched laboratory of the Commission: temporary officials (SNEs). Whereas past studies claim that SNEs have a predominantly intergovernmental behavioural pattern, this study demonstrates that the SNEs blend departmental, epistemic and supranational behavioural dynamics, thereby safeguarding their behavioural autonomy. SNEs thus tend to balance several representational roles whilst working for the Commission, albeit not an intergovernmental role (Trondal 2008a). Understanding Commission *autonomy* requires that the organisational *anatomy* of the Commission organisation be carefully considered. The

organisational anatomy is measured by considering four independent variables: the organisational composition of the Commission services; organisational incompatibilities across levels of governance; recruitment procedures of Commission officials through a so-called 'submarine' approach; and socialisation dynamics inside the Commission. The autonomy of the Commission is organisationally contingent and not only subject to what has been called 'actors' conspicuous desire for autonomy' (Trondal 2008b).

This project also explores the enduring impact of organizations on temporary officials in the Commission (Trondal, van den Berg and Suvarierol 2008). This analysis benefits from an original and rich body of surveys and interview data derived from <u>current</u> and <u>former</u> SNEs. This study clearly demonstrates that the socializing power of the Commission is conditional and only partly sustained when SNEs exit the Commission. Any long-lasting effect of socialization within EU's executive machinery of government is largely absent. The compound decision-making dynamics of SNEs are primarily explained by their organizational embedment, that is (i) the organizational affiliations of SNEs, (ii) the formal organization of the Commission apparatus, and (iii) only partly by processes of re-socialization of SNEs within the Commission.

The final spin-off from this project is an analysis of how the Commission (and the Council) transforms the domestic branch of executive government (Trondal 2009). It is argued that the *differentiated* organisational constellation of the European Union contributes to a *differentiated* fusion of domestic core executive institutions. The European Commission *mainly* activates the lower echelons of domestic government hierarchies and contributes to a *relative* weakening of domestic politico-administrative leadership. On the contrary, the Council of Ministers accompanies primarily a strengthening of domestic government hierarchies – notably the Foreign Office. Based on a rich body of survey data this article reveals that multi-level interaction of administrative systems between the European Commission and the central administrations of Sweden and Norway occur largely outside the control of the domestic politico-administrative leadership, Prime Ministers Office and Foreign Office. This tendency, however, is counterbalanced by the Council of Ministers which accompanies inter-sectoral co-ordination and vertical mandating within the Swedish central administration.

Work Package 2: The constitutional-democratic dimension of political order

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[4] Not financed by EuroTrans, but actively linked to the WP
[5] Not financed by EuroTrans, but actively linked to the WP

WP 2 project description

State of the art/Description of the field

The widening and deepening of the EU integration process have brought the question of democracy at the European level to the fore. The EU is frequently held to suffer from a democratic deficit. What kind of polity is the EU? Can it become democratic? If so, what form might this take? The underlying issue is whether democracy can be disassociated from its putative nation-state foundation. If democracy needs the nation-state, then the future of democracy in Europe is confined to a version of the United States of Europe based in a European nation, or to democracy confined to the existing nation states that make up the EU. In the latter case, this entails rolling EU integration back to some form of an intergovernmental organisation. Is there a third alternative for European democracy – a democratic polity without a state?

Main objectives/goals

This WP seeks to: (a) establish in theoretical terms whether democracy beyond the nation state is possible, and what the normative criteria for that should be; (b) anchor this debate in empirical studies of several of the core requirements for democracy with particular onus on the representative-parliamentary complex at the EU and member state levels; and (c) examine the EU's protracted constitution-making process and the Europeanisation of national legal orders to ascertain what conception of democracy these speak to.

The work in this WP will be co-ordinated with the research of the EU-funded, five-year RECON (Reconstituting Democracy in Europe 2007-2011) project, with 20 partner universities and 70 researchers attached. The work to be undertaken in this WP will supplement RECON research (undertake work that RECON is not funded to do) and build on and further synthesise RECON's results (as EuroTrans will run for ten years).

Sub Projects WP 2

Sub project 1: Democracy at the European level?

The theoretical challenge pertaining to the prospects for democracy beyond the nation-state is to establish the minimum requirements for democracy. Democracy requires both a polity and a forum. It requires authoritative institutions with an organised capacity to make binding decisions and allocate resources. It also requires common communicative spaces located in civil society where the citizens can explore political alternatives, jointly form opinions, and put the power-holders to account. What does this entail in more concrete terms for the nature, scope and range of participation and modes of representation? It is claimed that the requisite resources pertaining to a demos and a common we-feeling are weak or non-existent at the European level. What form, scope and magnitude of public goods can citizens legitimately expect from such a system? Can democracy really be properly entrenched in a system with such great

cultural and institutional complexity and heterogeneity as that possessed by the European constellation of several layers and levels of government?

The role and status of public deliberation need to be clarified in order to flesh out its democratic merits. Democratic legitimacy cannot stem from direct participation in law-making, as the people is never present to make the choices. The question is therefore whether public deliberation can warrant the presumption of legitimately acceptable results. Democracy thrives on conflict, but can deliberation shape identities and opinions and harmonise action plans in a fair manner in highly diverse systems – in ethnic, cultural, linguistic and social terms? This is of particular interest with regard to the EU where the so-called non-majoritarian resources for democracy are in short supply. Can deliberation compensate for the fact that important democratic enabling conditions, such as a nation, a pre-political people, and a collective European identity based on a common language and culture, are lacking? In studying such issues, participants in WP2 also link up with the research of WP 3b and WP 4.

Sub project 2: Mechanisms of European democracy
The theoretical work is supplemented with institutional analyses of concrete measures taken to rectify the EU's democratic deficit. What democratic effects, if any, do conventional measures such as representative bodies, parties and parliamentary arrangements have? WP II also examines the democratic effects of governance mechanisms such as the Open Method of Coordination (OMC) and other forms of soft law co-ordination. We analyse systems of representation at the EU and member state levels: horizontally through focus on the relative power and influence of representative as opposed to executive and judicial institutions (the EU level and the member state level respectively), and vertically through the development over time of the division of competences, powers and tasks of representative bodies at different levels. Can the EP be seen as part of a larger *parliamentary organisational field* made up of European national parliaments, the EP and the party systems which operate as transmitters of organisational practices and structures among their participating organisations? How far or to what extent can the multi-level parliamentary field correct flaws in the study of how representation is institutionalised in the European Union arena? Far, though, from being hostile to plural forms of representation, the aim of the research will be to reconstitute it on a firmer basis by a) clarifying the normative case for such an approach to representation and b) identifying conditions under which different modes of representation are more or less likely to combine to deliver the desired standards in question.

Another mechanism of European democracy is emerging in that national parliaments are now becoming directly involved in the governance of the EU. This involvement is formalized under the Treaty of Lisbon, which creates an Early Warning Mechanism that for the first time gives national parliaments the legal power to collectively intervene in the EU's legislative process. One research question is whether national parliaments could act together as a *virtual third chamber* for the EU, in effect performing the functions of a legislative chamber even though they do not actually meet in the same place.

The history of European integration is to a large extent also a story of juridification. Juridification stands in a complex relationship to law's democratic legitimacy. Do the constitutional specificities of European Community law alter the terms of the relationship between democratisation, juridification and legalisation prevailing in national democratic states? What are the overall democratic implications of this? What is the role and status of closely affiliated non-member states here? What are the democratic implications for Norway of the EEA agreement, especially in view of its progressive construction in terms congruent with the constitutional model of the European Union (through the so-called doctrine of "homogeneous interpretation"? In studying this question, participants also link up with research in WP 4.

Sub project 3: Constitution at the European level?

Can there be a constitution without a state and a people? WP II analyses the democratic effects of the dual processes of EU constitutionalisation and Europeanisation of national constitutions. Are these processes likely to foster supranational democracy? To determine these issues we need to establish the character of the link between democracy, constitution and state, the character and effects of the constitutionalisation of the EU over time, the main features of the process of integration of national constitutional traditions into the constitutional law of the EU, the effects of the Europeanisation of national constitutional arrangements (i.e. the adaptation of national constitutional norms to a supranational constitutional law), and the overall effects of these developments in democratic, constitutional and polity terms.

The existing literature has thus far not provided a proper account of: (1) the genesis of European constitutional law; (2) the foundations of the primacy of European Community law over conflicting national constitutional norms; and (3) the stabilisation mechanisms of European integration. Such shortcomings result in a noticeable lack of focus when defining the kind of political community the European Union is ("the polity" question), and consequently, when determining the normative standards against which the democratic legitimacy of the European Union are to be established.

There is thus a need for considering what would constitute a viable constitutional law of the European Union. One critical element of this sub-project is to put forward and test an alternative theory of European constitutional law, the *theory of constitutional synthesis*, which defines the process of legal integration as the slow but steady process of synthesis of national constitutional orders into the newly established supranational order; such a process is marked by the peculiar trait that the process does not end, but instead reinforces the specific national constitutional identity of each Member State.

Another research question concerns the demise of the Constitutional Treaty and its replacement with the Lisbon Treaty, and what this signifies for the EU's long-term constitutional future. While the two documents are nearly identical in substance, there are a number of important formal and symbolic differences between them, to the effect that the latter treaty has been effectively "de-constitutionalized". The question is whether this represents the abandonment,

for the foreseeable future, of a project of explicitly writing a constitution for the EU.

On such a basis we will be in a better situation to determine whether or the extent to which EU constitutionalisation can provide supranational democracy in Europe.

Subproject 4: Evaluating the European Political Order

Work towards a clearer normative specification of the need for a democratic and constitutional political order at the European level begs the question of how to assess the democratic and constitutional order at the European level. Political scientists have developed extensive indicators for the assessment of the democratic performance of state-based polities. Yet those indicators are not specifically adapted to the case of the European Union. Moreover, they often give priority to indices that are measurable, rather than to those which are clearly derived from principal justifications (consequential and intrinsic) for democracy. This project will seek to fill this theoretical and methodological gap and then to apply the resulting indicators in a three-step process.

The first step will use the indicators in order to derive original conclusions about the democratic performance of the Union from existing data sets, including Eurobarometer, election surveys, media content analysis, European Parliament roll-calls, and data on the scrutiny and legislative behaviour of the EP.

The second step will involve coding selected national and European parliamentary debates in order to generate a new data set on how far standards of public justification are met in the parliamentary deliberation of European Union questions.

The third step will develop evaluative process traces of EU decisions on a) the ratification of Lisbon Treaty b) climate change legislation c) the 2006-2012 budget (financial perspective) d) the development of the European Security and Defence Policy (ESDP) and e) proposals to harmonise forms of criminal liability at the European level. Although process tracing has hitherto been used as an analytical rather than an evaluative tool, its focus on the logging of key events over the 'life-cycles' of decisions makes it an obvious method for appraising procedural standards relevant to a democracy assessment, including: opportunities for participation, deliberation, contestation, control by representatives and so on.

Activities WP 2

Workshops, seminars, meetings, guest stays, etc.
- Arena Annual Conference, Media and the Public Sphere in Europe, Oslo, December 2008
- International Conference on Europeanization, welfare and Democracy (EWED), University of Copenhagen, April 2009: Europeanization of national politics and democracy, (Erik Oddvar Eriksen)

- Recon Workshop, Oslo, March 2009: Representation and the EU, Oslo, March 2009 (Chris Lord)
- ECPR General Conference, Potsdam, September 2009: Chair Panel on Representation and the European Union (Chris Lord)
- ECPR General Conference, Potsdam, September 2009: Co-chair and paper, Panel on Citizenship Attribution in Comparative European Perspective (Espen D. H. Olsen)
- Workshop, The Sinews of Peace, Democratising the Political Economy of the European Union, León, September 2009 (Agustin Jose Menendez)
- Workshop, Hope, Reluctance, Fear, The Democratic Consequences of the Case Law of the European Court of Justice, Law School, University of Bergen, January 2009 (Agustín José Menéndez and John Erik Fossum)

Publications WP 2

Planned publications

- The results of this research will be reported through journal articles, reports and books.

Completed publications

- Eriksen, Erik O. (2008) 'Norges demokratiske underskudd', *Nytt norsk tidsskrift*, no. 4, pp. 368-379

- Eriksen, Erik O., Christian Joerges and Florian Rödl (eds.) (2008) *Law, Democracy, and Solidarity in a Postnational Union.* London: Routledge.

- Eriksen, Erik O. and John Erik Fossum (2008) 'A done deal' in Erik O. Eriksen, Christian Joerges and Florian Rödl *(eds), Law, Democracy, and Solidarity in a Post-national Union.* London: Routledge

- Eriksen, Erik O. (2008) 'Democracy Lost: The EEA Agreement and Norway's Democratic Deficit', ARENA Working Paper 21/2008

- Eriksen, Erik O. (2009) 'The EU: A Cosmopolitan Vanguard?' *Global Jurist*, Vol. 9, no. 1, pp.1-23

- Eriksen, Erik Oddvar (2009), 'EØS, Norge og demokratiet', *Kritisk Juss,* no. 3, pp. 230-243

- Fossum, John Erik and Ben Crum (2009) 'The Multilevel Parliamentary Field –A Framework for Theorising Representative Democracy in the EU', *European Political Science Review,* vol. 1, no. 2, pp. 249–271

- Fossum, John Erik (2009) 'Citizenship, democracy and public sphere', in Chris Rumford (ed.) *The SAGE Handbook of European Studies*, London: SAGE

- Fossum, John Erik and Cathrine Holst (2009) 'Norske intellektuelles syn på EU', *Internasjonal Politikk*, vol. 67, no. 3, pp.441-52

- Fossum, John Erik, 'Norway's European Conundrum', ARENA Working Paper 04/2009

- Lord, Christopher (2008) 'Polity Empowering or Polity Constraining? A Comparison of British and French attempts to legitimise the Constitutional Treaty', Journal of European Public Policy, vol. 15, no. 7, pp. 1001-1018

-   Lord, Christopher (2008) 'Is there a role for parliamentary participation in European security co-ordination?' in D. Peters, W. Wagner and N. Deitelhoff (eds). The Parliamentary Control of European Security Policy, ARENA Report No 7/08, pp. 29-50

- Menéndez, Agustín José (2009) 'The European Democratic Challenge: The Forging of a Supranational Volonté Générale', *European Law Journal*, Vol. 15, no. 3, pp. 277-308.

- Menéndez, Agustín José and Fernando Losada (2008) 'Toma de Decisiones en la Unión Europea. Las Normas Jurídicas y la Política de la Formación del Derecho Europeo', in Francisco Rubio Llorente y Paloma Biglino (eds.), El Informe del Consejo de Estado sobre la inserción del derecho europeo en el ordenamiento español, Madrid: Centro de Estudios Políticos y Constitucionales, 2008, pp. 339-471

- Menéndez, Agustín José, Fernando Losada and Hans-Jörg Trenz (eds.) (2008) *¿Y por fin ya somos europeos?*, Madrid: Dykinson

- Menéndez, Agustín José, Fernando Losada and Hans-Jörg Trenz (2008) 'El turno de la Ciudadanía Europea', in Agustín José Menéndez, Fernando Losada and Hans-Jörg Trenz (eds.) *¿Y por fin ya somos europeos?*, Madrid: Dykinson

- Menéndez, Agustín José and John Erik Fossum (2008) 'Los ciudadanos europeos: ¿autores de su constitución o sujetos pasivos de un proceso de constitucionalización?', in Agustín José Menéndez, Fernando Losada and Hans-Jörg Trenz (eds.) *¿Y por fin ya somos europeos?*, Madrid: Dykinson

- Menéndez, Agustín José and Hans Jörg Trenz (2009) 'Quo non vadis, Europa?, in Agustín José Menéndez, Fernando Losada and Hans-Jörg Trenz (eds.) *¿Y por fin ya somos europeos?*, Madrid: Dykinson

- Menéndez, Agustín José and Fernando Losada (2008) 'Toma de Decisiones en la Unión Europea. Las normas jurídicas y la Política en la Formación del Derecho Europeo' in Francisco Rubio Llorente (ed.), *El Consejo de Estado y la integración europea,* Madrid: Consejo de Estado y Centro de Estudios Políticos y Constitucionales

- Menéndez, Agustín José (2009) 'More Humane, Less Social', in Miguel Poiares and Loïc Azoulay (eds.), *The Past and Future of Eu Law: The Classics of EU Law Revisited on the 50th Anniversary of the Rome Treaty*, Oxford: Hart Publishers

- Menéndez, Agustín José (ed.) *The Post-Sovereign Constellation: Law and Democracy in Neil D. MacCormick's Legal and Political Theory*, Arena Report 4/2008

- Olsen, Espen D. H. (2008) 'The Origins of European Citizenship in the First Two Decades of European Integration', *Journal of European Public Policy*, vol. 15, no. 1, pp. 40-57

Achieved knowledge WP 2

New findings

The following remarks are limited to results published achieved during the reporting period

Law, Democracy and Solidarity: In a co-edited book EU's *unfinished agenda* was analysed. We find that this agenda not only stems from the popular rejections of the Constitutional Treaty in France and the Netherlands in (spring/summer) 2005, but also from other sources. This agenda consists of the problem of *rule of law in a context of governance* beyond the nation state, *the social deficit* of the Union, the problem of identity and *collective memories* as well as the conditions for *post-national democracy*. They found that time seem ripe for the project to constitute and to constitutionalise the European Union as a European polity (Eriksen, Joerges and Rödl 2009).

Democratic Polity Models: Theoretical and conceptual analysis was conducted on how to analyse and handle Europe's present democratic conundrum. Europe will suffer democratic losses if it does away with the multilevel constellation that makes up the EU. But the present structure is also deficient; unless it is reformed, the EU will not be able to resolve its democratic problems. The upshot is that we have to consider how best to democratize *the multilevel constellation* that makes up the EU*.* Such a solution entails *reconstituting* democracy (rather than simply abolishing the EU or uploading nation-state democracy to the EU-level). This research briefly outlines three models for how to *reconstitute democracy in Europe*; each of which reflects the entity's compound character (Eriksen and Fossum 2008).

The Nature of the EU: The question is first of all how to institutionalize human rights correctly under conditions of globalisation. Through establishing autonomous powerful institutions the states of the conflict-ridden European continent have domesticated international relations among themselves. However, *juridification and executive dominance* prevails and the lingering question is whether the ensuing order can be legitimate. This is examined with regard to the recent attempts to bring basic rights and democracy to bear on the

European Union. Neither the Charter nor the Constitutional Convention indicated that the EU would develop into a democratic state. The EU is not a nation, nor is it a state. Rather it can be seen as a regional cosmopolitan entity based on a state-less government. The multilevel constellation that makes up the EU can amount to governmental structure in which supranational authorities monitor the conduct of lower levels on the basis of a set of normative principles (Eriksen 2008).

Norway and the EEA: With regard to the effects on Norway the EEA (European Economic Area) has been analyzed. The purpose of the EEA Agreement is to integrate the remaining EFTA countries, with the exception of Switzerland, into the EU's internal market. Norway had to incorporate the material legal rules that were in force at the time when the EEA Agreement was ratified, and is also in reality committed to incorporating all future EU law that is of relevance to the agreement. The purpose is to maximize the freedom of movement of persons, capital, goods and services in all of the European Economic Area, as well as strengthen and spread the cooperation to neighboring policy areas. To a large extent, this has made Norway a *de facto* EU member. The EU is based on *a status contract* intended to change the status of the states, something which spills over to the EEA Agreement. The latter is not an ordinary trade agreement between equal parties, but rather a *crofter contract*. For '*real' political reasons*, Norway must relate to the EU as best it can. Successive Norwegian governments have systematically aspired to be part of as much as possible of EU's activities. The democratic deficit for Norway will however increase as the cooperation within the EU expands and the institutions are reformed (Eriksen 2009). Moreover, WP 2 and WP 4 (John Erik Fossum and Helene Sjursen) jointly edited a special issue of *Nytt Norsk Tidsskrift* (4/2008) on Norway and the EU.

Multilevel Parliamentary Field: The multilevel configuration that makes up the EU contains two channels of democratic representation; one directly through the European Parliament, the other indirectly through the national parliaments and governments. These two channels are likely to continue to persist side by side; hence both the European and the national parliaments can claim to represent 'the people' in EU decision-making. This structure of representation is in many respects without precedent; it does not fit more established concepts of democratic representation derived from the nation-state or from international relations, such as a federal two-channel system or a parliamentary network. Hence, we (Crum and Fossum 2009) have devised the concept of the 'Multilevel Parliamentary Field' as a means for analysing the structure of democratic representation in the EU. This concept helps take proper heed of the development of the EP; it is also a valuable heuristic device for properly capturing the many ways in which representative bodies in the EU are interlinked, also across levels. Up until now, no proper conceptual apparatus has been devised that can properly capture the distinctive traits of this EU multilevel representative system, and help us to assess its democratic quality. The concept of the Multilevel Parliamentary Field fills both these tasks. It serves as a heuristic device to integrate the empirical analysis of the different forms of democratic representation in the EU's multilevel system, and it provides us with new angles for analysing the democratic challenges that this system faces (Crum and Fossum 2009).

Democratic Audit: Substantial progress has been made with the new Democratic Audit of the European Union. Criteria for the new Audit, together with a normative justification for the selection of those standards, were published as a working paper in 2008. An interim Audit is on course for electronic publication in the first half of 2010. Data is being compiled for the interim Audit via three data indices a) the quality of participation (based on Eurobarometer European election surveys; b) the quality of representation (based on European Parliament roll-call votes and other information about the activities of Members of the European Parliament such as reports and questions; and c) the quality of deliberation (based on codings of debates from the European Parliament and selected national parliaments) (Lord).

Legitimation of the EU: Work has also continued on a major project to investigate alternativeunderstandings of the legitimation of the European Union and how they relate to the 'Republican' idea that to be justified any form of political power has to be both 'restrained yet capable'. The alternative conceptions covered are indirect legitimation via the Member States and direct legitimation via the democratization and/or constitutionalisation of the European Union. A preliminary study is being published in a volume edited by Prof. Rainer Forst. The final version is due to be submitted as a major journal article (Lord).

Constitution-Making Debates: A content analysis of claims is now complete - and available in an Exceldata-base- of claims made by the British and French Governments in their documents on the European Constitutional Treaty (Lord).

European Citizenship: New knowledge has been furnished on the origins of European citizenship in the first two decades of European integration. Importantly, by tracing conceptions of citizenship in the early period of European integration until 1971, this research has highlighted how the Maastricht Treaty was not year zero in the EU citizenship discourse. The research found that citizenship elements in early European integration created a blueprint upon which later conceptions of citizenship developed, including Union citizenship. It must, however, not be overstated as anything resembling a status akin to national citizenship. European citizenship should rather be understood as a status emerging from concrete judicial, legislative and political practices (Olsen 2008).

Ratification of Constitutional Treaty: This research analysed and assessed national debates on the ratification of the Constitutional Treaty. On the basis of a quantitative analysis of claims concerning the Treaty made in the quality media of Member States, it measures the degree of Europeanisation of the debates. It both contextualized the constitutional debates and assessed the normative implications of the actual way in which the debates developed (Lord 2008).

Democratic legitimacy in the EU and deliberative democratic theory: This research explored in a systematic manner the different components of the democratic legitimacy of the Union from the standpoint of deliberative democratic theory.

Contrary to standard accounts, this study advanced the argument that the democratic deficit must be disaggregated, given that the Union has not only several shortcomings, but also some democratic surpluses. On the one hand, the Union was created to tackle the democratic deficit of nation states, and has been partially successful in mending the mismatch between the scope of application of their legal systems and the geographical reach of the consequences of legal decisions. Moreover, the European legal order is based on a synthetic constitutional law, which reflects the common constitutional traditions of the Member States, which lend democratic legitimacy to the whole European legal order. On the other hand, the lack of a democratically written and ratified constitution is a central part of the democratic challenge of the Union. But equally important is the structural bias in favour of certain material legal results, which stems from the interplay of the division of competences and the plurality of law-making procedures (Menéndéz 2009).

Free Movement of Persons and EU law: This research contests the standard interpretation of the cases *Martínez Sala* and *Baumbast*. It shows why they are not epochal judgments, but logical extensions of the pre-Maastricht case of the Court. Furthermore, it reveals why and how the judgments have radicalised the processes of Europeanisation of what used to be exclusive national competences, and the judicialisation of decision-making processes where representative institutions used to have the exclusive word. *Martínez Sala* and *Baumbast* have become the leading cases on free movement of persons in Community law. It has become standard to see both rulings as heralding a 'civic' turn of European integration, by expanding the personal scope of the freedom of personal movement from workers to citizens, and thus redefining the value basis of the law of the European Union. Yet, this study highlights how European law may have become more humane only at the expense of its being less social, to the extent it imports a non-solidaristic logic into provinces of the legal system before sheltered from economic pressure, and may end up forcing a social retrenchment. The market citizen has not been overcome, but has only been dressed in political clothes (Menéndéz 2009).

Work Package 3 (a): The 'Europe of knowledge' between culture and economy

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WP 3 (a) project description

State of the art/Description of the field
The nascent European governance layer for research and higher education reflects aspirations of balancing the unity of Europe as a knowledge area with the diversity of nationally-embedded knowledge systems and key socialising institutions for citizens of Europe. In this WP, and in collaboration with WP1 and 3b, we critically examine the emerging European space of knowledge-production and distribution (the 'Europe of knowledge') to identify the main factors driving, hindering, and moulding these developments.

The research will be systematically linked to an existing research collaboration that aims to analyse the extent to which European integration efforts have penetrated into the key institution in the Europe of Knowledge – the university – and have affected its core activities and its institutional identity. This is based on a larger, multi-disciplinary research agenda formulated by ARENA together with research groups in Norway and across Europe (Maassen and Olsen, 2007).

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[6] Not financed by EuroTrans, but actively linked to the WP

Main objectives/goals

The main objective of this project is to analyse empirically and theoretically the formation, evolution and institutionalisation of the governance capacity for a 'Europe of knowledge' in policy domains with limited formal EU competence and where there is an entrenched mutual dependence between knowledge systems within the political order of the territorial state. A primary line of investigation is to examine how these developments are linked to the dynamics of general societal transformation marked by collision and interaction between the institutional spheres of democratic politics, the market, and science.

The research will be conducted under two main headings: sub-project one focuses on European-level development towards, and institutionalisation of a governance capacity for, a 'Europe of knowledge' and sub-project two examines how European higher education and research are affected by the entry and institutionalisation of governance capacity at the European-level. The conceptual work of this WP aims explicitly to elaborate and refine concepts of governance and institutionalisation within the context of a 'Europe of knowledge'.

We apply both quantitative and qualitative methods of analysis. To situate the developments under examination within their historical context, case study methodology is used to analyse how the governance capacity for a 'Europe of knowledge' is institutionalised. We also undertake quantitative study of existing administrative data obtained from the European Commission and survey data developed jointly with WP1. Collaboration with research centres internationally and in Norway will provide further access to databases and survey data, as well as other sources, for studying the emerging 'Europe of knowledge'.

Sub Projects WP 3 (a)

Sub-project 1: Policy-making and capacity building processes towards the Europe of knowledge

This sub-project analyses the decision- and policy-making processes towards the 'Europe of knowledge' by identifying the underpinning tensions and diverse political actors hindering and driving these developments. We expect these processes to be sites where ideas and interests concerning the 'Europe of knowledge' meet, and are justified, contested, dismissed or endorsed as part of potential institutionalisation of a governance capacity at the European level.

In the first instance, we focus on the processes that have resulted in and are currently unfolding concerning the realisation of the 'fifth freedom' introduced in 2007 (i.e. a single market for free movement of knowledge and researchers), and in the production of common European 'knowledge standards' for higher education. The methods used include comparative historical analysis, process-tracing and in-depth interviews with actors identified as instrumental.

Second, we concentrate on the institutional makeup of the European dimension in higher education and research, and the dynamics of European institution-building in these policy areas. Here, we identify factors that have contributed to crafting new European institutions tasked to produce, execute and interpret EU

rules and standards for higher education and research, and those that affect the viability and relative autonomy of these institutions.

Third, assuming that the sustainability of a 'Europe of knowledge' depends on the institutionalisation of the European executive (i.e. the Commission) in these policy sectors, we examine in particular the networks that the Commission forges with national ministries, accreditation and funding agencies, transnational actors, universities, and researchers across Europe.

Sub-project 2: Governance across multiple levels in the Europe of knowledge

This sub-project examines how the entry and institutionalisation of governance capacity at the European-level affect national research and higher education by focusing on the university and the governance system within which the key societal institution is embedded at the national-level. We take as a starting point that attempts to establish a 'Europe of knowledge' perforate national systemic borders primarily through other means than legal integration. Unlike the market-building mechanisms of the four freedoms, implementation of a 'Europe of knowledge' has less access to established formal rules and legal integration. Instead, it relies more on non-binding and non-hierarchical modes of governance, such as ideational modes of governance, standardisation, competition for EU funding and European incentives programme. Hence the transformation and sustainability of a 'Europe of knowledge' depends on how such modes of governance operate in practice. We also assume that European governance concerning the Europe of knowledge operates in interaction with practices and means of coordination at the national and sub-national level.

This sub-project employs both qualitative and quantitative data and has a small country orientation consisting of four main case studies: Norway, Finland, the Netherlands and Ireland. We supplement the analyses of these cases with findings from parallel research projects conducted by both national and international researchers associated with this WP.

Activities WP 3 (a)

Workshops, seminars, meetings, guest stays, etc.
- Four workshops in Oslo and Paris in 2009 on the institutionalisation of the 'Europe of knowledge', ARENA and CSO/Sciences Po cooperation under the auspices of the Aurora programme (grant awarded for 2009-2010).
- Presentation at international workshop "The internationalization of Higher Education and Higher Education Reforms", East China Normal University, Shanghai, 4-6 November 2008.
- Seminar contribution "Institutionalising Governance for a Europe of Knowledge: the application of the Open Method of Coordination in research and education policy". University of Lund, Forskningspolitiska institutet/ CIRCLE, 18 November 2008.
- Presentation at international workshop "Towards a European Higher Education Area: Bologna Process and Beyond, European Union Centre of

Excellence and Centre for the study of Higher and Postsecondary Education, University of Michigan, 6-7 March 2009.
- Presentation for seminar "Challenges for European Science", Uppsala University 17-18 March 2009.
- Hosting of seminar on European Research Policy, ARENA 28 May 2009.
- Co-hosting the 23rd Annual Conference of the Consortium of Higher Education Researchers, University of Oslo (June 2010).
- Various dissemination to society and stakeholders, e.g.
  o Presentation for symposium "Quo vadis universitas? Challenges, Perspectives, Possibilities and Risks", Athens, 29-29 March 2008.
  o Presentation for EFTA-ministries of Education and Research and various stakeholders, EFTA Secretariat, Brussels, 28 May 2008.
  o Invited commentator for seminar organised by Swedish Government Commission on University Autonomy and Riksbankens Jubileumsfond, 2 June 2008.
  o Presentation for the Swiss Minister of Education, Swiss Embassy in Oslo 5 June 20087
- Regular research seminars and meetings with participants from WP 1 and WP3a on a regular basis.

Publications WP 3 (a)

Planned publications
- We will report the results in working papers, academic journal articles, books and master theses.

Completed publications

- Olsen, Johan P. (2008) 'What University and Academics for what Society?' in Ulf Sverdrup and Jarle Trondal (eds), *The Organizational Dimension of Politics - Essays in Honour of Morten Egeberg*, Oslo: Fagbokforlaget, 123-144

- Gornitzka, Åse (2009a) 'Networking Administration in Areas of National Sensitivity – The Commission and European Higher Education', in Alberto Amaral, Peter Maassen, Christine Musselin and Guy Neave (eds), *European Integration and the Governance of Higher Education and Research*, Dordrecht: Springer

- Gornitzka, Åse (2009b) 'Research Policy and the European Union: Multilayered Policy Change?' In Patrick Clancy and David Dill (eds.), *The Research Mission of the University. Policy Reforms and Institutional Response* Rotterdam: Sense publishers

- Gornitzka, Åse (2009c) 'Styringsreformer i høyere utdanning i Europa - politiske ambisjoner mellom omgivelsespress og sektortradisjoner', *Norsk Statsvitenskapelig Tidsskrift* 25(2): 129-158

- Gornitzka, Åse and Bjørn Stensaker (2009) 'The Ingredients of Trust in European Higher Education'. In Barbara Kehm, Jeroen Huisman and Bjørn Stensaker (eds.) *The European Higher Education Area: Perspectives on a Moving Target.* Rotterdam: Sense publishers. 125-139

Achieved knowledge WP 3 (a)

CONCEPTUAL FRAMEWORK: In Olsen 2008 the conceptual and analytical platform for this work package is elaborated. The article provides a framework for making sense of the current dynamics of the University, the core institution in the Europe of knowledge. The key issue is: What kind of university and what kind of academics for what kind of society? This conceptual frame identifies core dimensions of institutionalisation and how processes of institutionalisation, deinstitutionalisation and re-institutionalisation take place as the result of an incursion of principles, logics of appropriateness and resources from one sphere to another, thus upsetting the relationship between institutional spheres. The analysis shows how University dynamics is driven by tensions between three of the key institutions of modern society - science, representative democracy and the market economy - and between different policy-sectors and levels of governance. Attention is in particular given to the increasing importance of Europe as the framework for university reforms, and how the University may adapt to changing demands and expectations without losing its institutional identity and integrity. In European level developments the balance between economic and cultural aspects of the University is characterised by the primacy of economics, and in this way they call into question the legitimacy of the traditional University. Hence, the University has become a less distinct scientific institution searching for a legitimate place within the social order.

STUDY OF POLICY MAKING FOR THE EUROPE OF KNOWLEDGE: The inherent transnationality of research, and the citizens' indifference towards maintaining national prerogative over research policy, did not mean that the formation of a European research policy has been a smooth transfer of legal competence. So far we have identified three crucial developments. First, the creation of a separate Directorate-General (DG) for research. This basic organisational structuring ensured that research policy is distinct from industrial policy and marked a formative event in the process towards a Europe of knowledge. Second, the establishment of the European Framework Programme (FP) for R&D. The FP became, and remains, the mainframe for European research cooperation and is the site for crafting new instruments and ideas concerning knowledge-production and dissemination. Third, the 2000 Lisbon summit and the adoption of the European competitiveness agenda. The Lisbon meeting propelled research policy to the top of the EU agenda and endorsed it as the platform for heralding a European Research Area (ERA). A key strategy used by the European political actors has been 'gaps identification'; focusing on how the US and Japan outpace and outperform Europe. So far we can conclude that the current conglomerate that makes up EU research policy cooperation bear witness to a process of incremental adjustments and layering shaped by inter-sectoral tension and

interaction between governance levels, rather than a process of major policy breakdowns and paradigmatic policy shifts.

EUROPEAN POLICY NETWORK STUDY: Whilst European higher education policy cooperation has a weak legal basis and, moreover, as a domestically-sensitive sector is considered to be fairly resilient to 'Europe', a complex governance system involving the supranational-level has emerged. We systematically mapped the administrative infrastructure of European integration in higher education, and identified its capacity to connect with other governance levels. We found that two core conditions were essential for creating such network configurations. First, the institutionalisation of education as a European policy area (by establishing the administrative capacity of the European Commission) and, second, the introduction of incentive programmes. These gave education a common staff and budget at the European level, the latter has proved crucial in extending the Commission's reach via networks into national administrations, agencies, transnational associations, and universities across Europe. Whilst the 'nationally sensitive climate' has thus far prevented agencification at the European level in higher education, it has not hampered the growth of an elaborate committee structure within DG Education and Culture. The evidence from the mapping of administrative capacity and networks of administrations in this policy area indicate that changes in the administrative structures of ministries, agencies and higher education institutions across Europe have been made to accommodate the European dimension. However, questions remain whether these changes are at the margins and of little consequence to the larger national and administrative infrastructure. Without a regulative role, most of these European networks are centred on handling information, and as such they do not represent any overt challenge to the nation-state's legal or funding prerogative of higher education in Europe. Also, such changes have to be seen in combination with the changes in the governance arrangements that have been and are taking place at the national and sub-national levels (Gornitzka 2009c).

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Work Package 3 (b): Media, culture and the public sphere

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WP 3 (b) project description

State of the art/Description of the field
The question of political re-ordering and its legitimatory impact is intrinsically linked to the notion of public sphere, which is the medium for discourse and justification putting political decision-makers to account – as well as for political initiative, mobilizing political support and linking the citizens back to the power structure of the polity. In this WP we analyze how the re-ordering of the European political space correlates with a 'structural transformation of the public spheres' in Europe. Empirical sub-projects are designed in a way to challenge the assumption of the boundedness of political communication to the nation-state framework. Media and communication studies have provided ample evidence for the ongoing processes of *un-bounding* national publics through global flows of communication and new diversified patterns of media reception. The notion of a European public sphere is introduced in a way to conceive the possibilities for the *re-bounding* of public communication that is primarily aimed at contending the legitimacy of a new type of political order. It will be argued that critical standards of democracy are still indispensable for measuring the

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[7] Not financed by EuroTrans, but actively linked to the WP

performance of the public sphere, which constitutes the shared normative horizon of inter-communicating citizens.

Main objectives/goals

The main objective of this project is to assess critical capacities of European citizens in debating the legitimacy of a European political order. In cooperation with WP2, one research task will consist of testing the normative standards that are held valid and applied in critically debating affairs that are of common concern to the Europeans. Research needs to clarify if and under what conditions public debates can promote understanding among the Europeans about the requirements of legitimacy of political institutions and shared processes of decision-making.

For that purpose, different sub studies will deal with the instrumental repertoire of collective action, the mediating infrastructures as well as the cultural repertoire of the opinions, attitudes and belongings of citizens in relation to European integration. Accordingly, the transformation of European public spheres is examined a) in terms of justifying the legitimacy of new institutional and governmental designs, b) in terms of mobilising citizens' support or opposition and c) in terms of meta-discourses of belonging and self-understanding.

a) *Institutionalisation of political communication*. Public communication relies on regular inputs by political institutions and relevant societal actors (such as political parties, intellectuals or civil society). The justifications and self-representations provided by European actors and institutions have to be considered as the "row material" from which shared communicative spaces can be built. Little attention has been paid, however, to systematically linking the kind of institutional efforts that are made for justifying new governance arrangements within the EU and beyond to the many diversified public resonances and responses. The project examines the official justificatory discourses of European actors, institutions and governments and the possible role of a European *civil society* as an amplifier of new justificatory discourses (associational actors, NGOs and social movements). The efforts for the institutionalisation of a shared communicative space can be further compared to the efforts for the institutionalisation of a shared space of knowledge envisaged in WP3a.

b) *Media and legitimacy.* Justifications and general perceptions about the EU as a legitimate order need to be amplified by the mass media. The project will study the communicative infrastructure of political Europe in terms of media organizations (including newspapers, television and the new media) and the role of journalists. It will further investigate the degree of public attention and responsiveness in terms of strong and general publics and their general impact on the legitimacy of the EU. Particular attention will be paid to the mediation of constitutional issues and the role of the media in promoting transnational/European democracy (in cooperation with work package 2).

c) *Culture and collective identities*. The public sphere is also the place for the sharing of values, and the mobilization of collective identities. Over the last

decade, we find evidence that Europe has entered into a process of re-negotiating its secular self-understanding and its core values in demarcation to the outside word and in dealing with "deep diversity" at the inside. The project will analyse to what extent such identitarian contestations have rebalanced unity and diversity in the European space and changed the presuppositions of democratic legitimacy. Empirically, this refers, among others, to the emergence of anti-modern movements, the spread of populism and new nationalism in negative response to European integration.

Sub Projects WP 3 (b)

Sub project 1: The digital public sphere and the transformation of the political spaces in Europe

In this sub-project it is argued that the prospects of de-nationalizing the public sphere and opening a space of European or global communication need to be discussed in relation to new media formats that become relevant in transmitting political news and involving the citizens in political debates. The question to be raised is how the Internet can be used for political communication and the promotion of a normative self-understanding of the citizens.

The research focus will be on the potential and the performance of the internet as a political public sphere. Particular attention will be paid to how new information technologies empower particular groups and actors. The political space that is demarcated by the Internet is analysed in terms of knowledge production, distribution and access. This includes surveys on contents, networking and user community building in relation to European news-making and distribution. Special attention will be paid to how new information technologies open up but also re-fragment new political spaces that empower particular audiences. For the first time, the digital media make a space of global news production and distribution technically possible. This potential of a global public sphere supported by digital media is however at odds with the persisting fragmentation of our political spaces. This discrepancy between the emergence of a global media culture and environment and its democratic empowerment and representation in fragmented spaces merits further research attention.

Sub project 2: The role of online communication in EU-governance: Building democratic legitimacy through citizens' engagement

This sub-project aims to advance the empirical aspects of EuroTrans Work Package III in the fields of online media and democratic legitimacy (sub-project 1). This is done by systematically analyzing and assessing the potential of the online public sphere for **a)** promoting public dialogue and citizens' participation; and **b)** constructing collective representations and identities. At the core of this sub-project are the online efforts of the EU multi-national polity to construct its political identity as an advocate of democracy and human rights.

More specifically, the project draws on and seeks to further develop strands of organizational theories related to the case of the EU polity by combining these

with the approach of new communication technologies as key change factor of international politics. This addresses, in particular, the technical design, implementation and scope of online political communication, e-governance and e-dialogue as tools for building democratic legitimacy of the EU.

Under this overarching theme, the project will investigate the European Commission's attempts at obtaining democratic legitimacy through the participation of its European Commission Representations in online political debates across different national contexts. In particular, it will focus on the comparative study of European Commission Representations in three member states (Greece, Sweden, the UK) and their engagement in the online public sphere. Beyond the initial two-year period, it is envisaged that the project will extend to the study of Commission Delegations in three EU neighbouring countries (Croatia, Egypt and Norway) for another two years, subject to a successful external funding bid (Phase 2).

Sub project 3: Euroscepticism: Forms and processes of opposition to European integration

'Euroscepticism' is approached in this sub-project as an element of political discourse based on propositions and arguments that repudiate the worth of European integration. As such, it can take a prominent place in political contention on the legitimacy of the European political order, but it is not necessarily mobilised by political parties or movements at the fringes of the political spectrum. The purpose of this sub-project is precisely to draw the attention to the media as one of the central carriers and amplifiers of Euroscepticism. As we want to argue, Euroscepticism should be understood, first of all, as a discursive formation within the public sphere. As such, it is part of the dynamics of contending and justifying European integration that can neither be exploited nor controlled by single actors' strategies and choices. To analyze the salience of Euroscepticism and its dynamic expansion we therefore need to turn to the mediating infrastructures through which the European Union is challenged and contested in front of a wider public.

The first aim of this sub-project is to propose an analytical framework of how to study "contentious polity making" through the justification practices unfolded in public and media debates. This will result in a coding scheme for analyzing critical capacities and practices of contesting "polity worth". In a second step, we will conduct surveys on 'contentious polity making' through the justification practices unfolded in public and media debates. This includes a large comparative survey of EU-parliamentarian campaigns in the 2009 elections.

Activities WP 3 (b)

Workshops, seminars, meetings, guest stays, etc.

- ARENA Annual Conference on "Media and Democracy in Europe", December 2008
- Organisation of a one week methodological workshop on "Coding media debates of EU Parliamentary elections", September 2009
- Workshop on "Online Democracy" as part of the Democracy Trans-disciplinary Programme of University of Oslo, January 2010
- Workshop on "Euroscepticism in the Media" in Krakov, April 2010, in cooperation with the RECON project

Publications WP 3 (b)

Planned publications

- Comparative report on "Euroscepticism in EU-Parliamentary campaigns"
- Working Paper and article on "Participatory Journalism and the EU"
- Working Paper on Euroscepticism and collective identity formation

Completed publications

- Trenz, Hans-Jörg (2009) European Civil Society. Between participation, representation and discourse. In Policy and Society 28(1), 35–46

- Trenz, Hans-Jörg (2009) New Concepts of Civil Society in Europe. In Policy and Society 28(1), 1-9 (together with Ulrike Liebert)

- Trenz, Hans-Jörg (2009) Impartial mediator or critical watchdog? The role of Political Journalism in EU-constitution-making. To appear in Comparative European Politics (together with Maximilian Conrad and Guri Rosén)

- Trenz, Hans-Jörg (2009) Digital Media and the Return of the Representative Public Sphere. In Javnost. The Public, 16(1), 33-46

- Trenz, Hans-Jörg (2008a) Whose project is it? Media debates on the ratification of the EU Constitutional Treaty. In Journal of European Public Policy 16(3), 412-430 (together with Erik Jentges and Regina Vetters)

- Trenz, Hans-Jörg (2008b) Methodologischer Nationalismus oder Mediennationalismus. Über die begrenzte Notwendigkeit einer Neuorientierung der Medienwissenschaften. In: Medien und Zeit 23(3): 4-17

- Trenz, Hans-Jörg (2008c) Understanding media impact on European integration: enhancing or restricting the scope of legitimacy of the EU. Journal of European integration 30(2), 291-309

- Trenz, Hans-Jörg (2008c) In search of a European public sphere: Between normative overstretch and empirical disenchantment. In Inka Salovaara Moring (ed.): Manufacturing Europe: Spaces of Democracy, diversity and Communication. Nordicom: Göteborg, 35-52

- Trenz, Hans-Jörg (2008e) Media: The unknown player in European integration. In Ib Bondebjerg and Peter Madsen (eds.) Media, Democracy and European Culture. Bristol: Intellect, 49-64

- Trenz, Hans-Jörg (2008f) Measuring Europeanisation of Public Communication. The Question of Standards. In European Political Science 7(3), 273-284

Achieved knowledge WP 3 (b)

Overall, these three sub-projects build on our understanding of how the legitimacy of a transnational political order in Europe is made; how European integration is justified and how it is challenged.

In sub-projects one and two explorative research and state of the art overviews have helped to qualify the contours of the online public sphere and its potential impact on building democratic legitimacy in a European political order. Trenz (2009) demonstrates that the digital media have introduced a new divide between institutions of news production and channels of distribution, but they have less affected the space in which political news unfold and find public resonance. Old actors like newspaper journalists maintain a monopoly of news production but have lost the control over news marketing, distribution and interpretation, which is increasingly taken over by new digital media. This development has rather constrained the existing national spheres of political communication in terms of declining informative quality and debate but it has not substantially opened new spaces of political communication.

Michailidou has already shown that in the Commission's new public communication strategy, democratic legitimacy and participatory communication are interlinked with the deployment of the Internet. For the European Commission, the internet is 'a tool of involvement' with the potential to be a means of democratisation. This medium is also seen as a key component in reaching target audiences, such as women and young people, and in implementing the Commission's 'going local' strategy. Despite this and the crucial role that the internet has in the normative model of the European public sphere(s), its impact remains under-researched.

The sub-project of Euroscepticism has brought about important insights into the mechanisms of contesting the EU-polity. One main reason for the salience of

Euroscepticism over the last years was found in the huge mobilisation potential on issues that affect European integration and that this potential, for many years suppressed, only starts to be exploited. Euroscepticism appears in our project frequently as a correlate of EU-justificatory discourse. It emerges out of the legitimatory spiral of justification and critique that marks the development of European integration. As such, the spread of Eurosceptic discourse also reflects the incapacity of EU actors and institutions to achieve constitutional settlement of the EU through the steering of debates with the public.

In a large and composite polity such as the EU, it is concluded in Trenz (2008a-e) that public communication cannot simply be managed through "good governance" by providing "rational arguments" and setting the conditions for fair discourse. People are found to engage in constitutional politics primarily through the mass media. As exposed by the EU-ratification failure, the need to become engaged in mass communication is an inherent constraint to constitutional settlement, since compromise formulas cannot be upheld, achieved agreements are broken up again and de-contextualised arguments, extreme positions and fringe groups enter the fore and gain prominence. To systematically account for these media logics of EU constitutional settlements in terms of discourse and counter-discourse, justification and critique as one of the constraining conditions for building public legitimacy of the EU is one of the future purposes of this project.

Work Package 4: The external dimension and the political order

Coordinator
Helene Sjursen

Participants
- Helene Sjursen (on full parental leave 25.04- 05.09.08. 75% leave 08.09. 08-12.06.09)
- Kolja Raube (temporary post 16.08.08 – 15.08.09)
- Marianne Riddervold[8] (PhD fellow. 80 % employment)
- Guri Rosén[9] (Phd fellow. Parental leave 01.07.09 – 18.05.10)
- Anne Elizabeth Stie[10] (Until 31.01.09)

Associates in Norway
- Per Norheim Martinsen, Forsvarets Forskningsinstitutt

Associates internationally
- Federica Bicchi, London School of Economics
- Karen Smith, London School of Economics
- Christopher Hill, University of Cambridge
- Cathleen Kantner, Freie Universität Berlin
- Thomas Risse, Freie Universität Berlin
- Sophie Van Hoonacker, University of Maastricht
- Wolfgang Wagner, Free University Amsterdam

WP 4 project description

State of the art/Description of the field
The emergence of a common European foreign, security and defence policy is a phenomenon with few if any historical precedents. In theoretical terms it challenges deep-seated ideas and conceptions of this policy field as the exclusive domain of the state and its executive branch. In practical terms it affects patterns of policy formation, cooperation and conflict inside and outside Europe. It forces actors to rethink established working methods, strategies and alliances. The expectation has been that there will be little onus on collective tasks and obligations beyond the interests and preferences of the states in this policy-field. Yet, an increasing number of separate studies suggest that some form of integration is taking place. However, a number of questions related to the significance and empirical validity of such

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[8] Not financed by EuroTrans, but actively linked to the WP
[9] Not financed by EuroTrans, but actively linked to the WP
[10] Not financed by EuroTrans, but actively linked to the WP

findings remain. It is particularly unclear what the implications of such observations really are for the EU's ability to develop an autonomous governance capacity – and hence what it may really tell us about the EU as a polity as well as about its democratic status.

Main objections/goals

In this project we examine the core characteristics of the ongoing processes of reconfiguration and consolidation in the field of foreign and security policy and assess what developments in the EU's external dimension tell us about the overall direction in which the European political order is moving. We also address the implications for Norwegian foreign, security and defence policy. Here, we link up with researchers in WP 2.

An analytical scheme will be developed for identifying and studying the foreign and security policy of a polity such as the EU, which is neither an international organisation nor a state. What would such a polity and its institutional system look like, and can it be democratic?

We will analyse 1) the decision-making structures in the complex institutional network that regulates the field of foreign and security policy. We ask a) to what extent has the EU's foreign and security policy moved beyond intergovernmental problem-solving and towards an autonomous governing capacity? And b) in so far as a move beyond intergovernmental problem-solving has taken place, has it further restricted possibilities for access to information and democratic control? (In cooperation with WP 2.) Further, we will examine the policy 'output'. We ask: 2) to what extent and in what ways does the EU's foreign policy differ from foreign and security policy as we traditionally understand it?

The longer term

However, one thing is to map manifestations of an integrative move in the field of foreign and security policy and discuss their implications for the conception of the EU as a polity, another is to account for such putative developments. The longer term objective of the work package is to develop a possible theoretical account of such a move.

Research in this work package will be coordinated with that in the RECON project. While the analytical schemes will be overlapping in the first period, Eurotrans will allow for additional empirical investigations. Further, it adds the search for an explanatory account, which will be in focus in particular in the later stages of the project.

Sub Projects WP 4

Sub project 1: Institutions and policy-making processes: reinforcing executive dominance?

Foreign and security policy is the hard case for those expecting that the EU has moved beyond intergovernmentalism. This also means, however, that should the EU

shape a robust foreign and security policy this will be an important indicator of the EU's development into a polity in its own right. We examine the institutions, procedures and decision-making processes that mark out foreign and security policy as a distinct field of policy-making. What kind of competences and power are being uploaded to the EU level? And what are the democratic implications of any putative integrative moves in this policy field?

In view of the longer term aim of developing a theoretical account of developments in this field, we will investigate to what extent institutions are merely aggregative or if they also integrate preferences and thus establish a basis for collective action. Furthermore, what kinds of procedures are there that allow coordination to take place in the absence of formal, powerful instruments of compliance? These questions constitute crucial steps to develop a theory accounting for any putative integrative moves in the foreign and security field. Further they will allow for insights into the implications for Norwegian foreign and security policy.

Sub project 2: Policy output

The emergence of a European foreign policy actor is likely to influence established patterns of cooperation and conflict at the global level. How does the EU insert itself in the broader international order? Taking the classical conception of the EU as a civilian power in the international system as our starting point, we examine the implications of the development of military capabilities. With military means at its disposal, the EU would have the autonomy and capacity to be a very different actor. It would be able to make credible threats and to push for its own interests without much justification. However, this perspective of a 'military EU' is not the only possible one. We investigate whether the EU, although no longer a civilian power, will still be a 'humanitarian power': Will the EU wield the threat of force consistent with the international balance of power system of the Westphalian order, or will it opt for promoting a cosmopolitan world order where international affairs are subjected to higher-ordered principles of law? One of the first case studies to be conducted concerns itself with the role of the EU in the International Labour Organisation's Maritime Convention.

Activities WP 4

Workshops, seminars, meetings, guest stays, etc.
- ECPR Pan-European Conference on EU Politics, Riga, September 2008, Paper, Panel on The EU as a Global Actor II (Marianne Riddervold)
- RECON workshop; "Beyond intergovernmentalism and the quest for unity: democracy or efficiency?", 13 – 14 November 2008 (organised by Helene Sjursen)
- EUSA Biennial International Conference, Los Angeles, April 2009, Paper, Panel on The European Union in the International Labour Organization (Marianne Riddervold)

- ECPR General Conference, Potsdam, September 2009, Paper, Panel on The EU as international actor (Marianne Riddervold)

Publications WP 4

Planned publications
- The results of this research will be reported through journal articles, reports and books.

Completed publications

- Riddervold, Marianne (2008): " Interests or Principles? EU Foreign Policy in the ILO". *RECON Online Working Paper* 2008/09, Oslo: ARENA. Forthcoming in *Journal of European Public Policy*

- Rosén, Guri (2008): "Parliamentary control of European Security Policy: Why, Who and How?", *CFSP Forum*, Vol. 6, No. 2, s. 9 - 12

- Sjursen, Helene (2008): "Fra bremsekloss til medløper: Norge i EUs utenriks- og sikkerhetspolitikk". *Nytt Norsk Tidsskrift* (4)

- Sjursen, Helene (2009): "Ja takk. Begge deler", *Internasjonal Politikk*, Vol. 67, No. 3, s 531 - 33

- Stie, Anne-Elizabeth (2008): "Decision-Making Void of Democratic Qualities? An Evaluation of the EU's Foreign and Security Policy". *RECON Online Working Paper* 2008/20, Oslo: ARENA

Achieved knowledge WP 4

New findings
- In spite of its status as non-member, and even though the "EU-question" is highly sensitive in Norway, there is now a broad consensus in the Norwegian Parliament in support of close association with the CFSP/ESDP. In a pilot study of Norway's decision to contribute to the EU's so-called battle groups, we found that, contrary what is normally assumed, it is not possible to account for this decision simply with reference to Realpolitik(al) considerations. Rather it is the perceived link between the tasks of the battle groups and the objectives of the United Nations to uphold global peace and respect for human rights that renders this contribution legitimate in the eyes of a majority of Norwegian parliamentarians. Findings are part of a joint

effort of WP 2 and WP 4, resulting in a special issue of Nytt Norsk Tidsskrift (4/2008).

- In a case study of the EU's role in the negotiations of the International Labour Organisation's (ILO) Maritime Labour Convention, we have found that the EU was the main promoter of high standards for the protection of labour rights. While traditional theories of international politics would expect this to be due to a concern for the global competitiveness of the European fleet, our analysis suggests that a principled commitment to global law was more important in mobilizing the EU to take such a stance.

- A preliminary assessment of the procedural qualities of the second pillar decision-making system of the EU suggests that unelected officials, which are difficult to hold accountable, have considerable influence. There is a lack of openness and transparency in formal procedures. Further, Parliamentary influence is limited, both at national and European levels.