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## Introduction: Amsterdam and Beyond

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As we enter the third millennium, European integration is at a turning point, a fact that affects the research agenda on the subject. Whereas in the past, students of European integration focused on the development and institutional accommodation of major projects, the new challenge lies in grappling with the implications of an ongoing step-by-step process of constitution-making. The major (economic) projects, such as the common market and Economic and Monetary Union (EMU), having been launched in previous decades and now under way, other often less spectacular, albeit far-reaching (political) promises, such as the constitutionally entrenched offer of membership to other democratic European states, or the creation of closer links with the citizens, remain to be fully addressed.

This book demonstrates that although the 1996–7 intergovernmental conference (IGC), which culminated in the signing of the Treaty of Amsterdam on 2 October 1997, was clearly not an example of radical institutional change akin to previous IGCs, it nonetheless sustained the notion of a turning point. The change we see in the research agenda evolving from Amsterdam stems from the paradox of a high degree of continuity of step-by-step constitutional politics, despite a new pluralism, and a return of intergovernmental politics. Our observation is grounded in the context in which the IGC was convened, and in the issues negotiated there. In so doing, we stress that the importance of major economic projects for the process of European integration cannot be overestimated. Yet, rather than launching a new project, Amsterdam raises questions about the problems posed by the continuity brought to the fore by the transferral of these economic projects into day-to-day politics and policy-making in a non-state.<sup>1</sup>

First, the Amsterdam IGC was not convened with the intention of launching a major economic project, but was planned as a follow-up conference, with

We are particularly grateful to Ulf Sverdrup, Andrew Moravcsik, Helen Wallace, and an anonymous reviewer for comments on earlier versions of this chapter. The final responsibility for this version lies with the authors.

<sup>1</sup> It is therefore correct to observe that: 'Amsterdam represents the beginning of a new phase of flexible, pragmatic constitution-building in order to accommodate the diversity of a continent-wide polity' (Moravcsik and Nicolaidis 1998: 36).

a mandate to amend provisions in the Maastricht Treaty. As such, it was the first IGC to be routinely included in the European Union's often unpredictable and invisible process of institutional change. In contrast to the previous five conferences,<sup>2</sup> Amsterdam was the first IGC not to be convened on an *ad hoc* basis, but was planned in advance as part of the Maastricht Treaty. According to Article N(2) TEU, it was to

examine those provisions of this Treaty for which revision is provided . . . considering to what extent the policies and forms of co-operation introduced by this Treaty may need to be revised with the aim of ensuring the effectiveness of the mechanisms and the institutions of the Community.

Whereas the previous three IGCs had the common purpose of preparing for enlargement, in contrast to the Amsterdam mandate, these conferences had been convened to sustain major economic projects. In particular, the Single European Act (SEA) was adopted in 1985 and the 1990–1 Maastricht IGC was convened with the purpose of establishing the Single Market and EMU respectively. They had been carefully and extensively prepared by special working groups. The Dooge Report, the Commission's White Paper on the Single Market, and the Delors Report were key documents in this process. The working groups were set up specifically to discuss institutional adaptation in order to accommodate the requirements of the new projects.

Despite the pre-planned date, and the cautious mandate for Amsterdam, a number of quite outspoken reactions by officials, participants, and Euro-enthusiastic academics suggest that the outcome of the negotiations was rather modest. Nonetheless, changes have been initiated, albeit entailing no bold projects, but rather many less spectacular, yet more complex negotiations over procedures, principles, and institutions. The Solomon-like judgement offered by Falkner and Nentwich in Chapter 2 is that, according to the expectations of the Euro-enthusiasts, the IGC was 'both a success and a failure'. Among the successful outcomes were the extended co-decision procedure, which conferred new powers on the European Parliament (EP); the addition of a chapter on employment; the reinsertion of the Social Policy Agreement into the treaty; and last but by no means least, the communitarization of parts of the third pillar (internal and external frontiers, policies on visas, asylum and immigration, and judicial cooperation in civil matters) and, perhaps more importantly, the incorporation into the treaty of the Schengen *acquis*, with further implications for immigration and asylum policies. The latter was actually deemed a 'massive transfer of powers to the Community' according to some observers

<sup>2</sup> The previous conferences were: the 1950–1 conference, which resulted in the establishment of the European Coal and Steel Community (ECSC); the 1955–7 conference, which led to the establishment of the European Economic Community (EEC) and the European Atomic Energy Community (Euratom); the 1985 IGC, which led to the Single European Act (SEA); and the two 1990–1 Maastricht IGCs on EMU and Political Union. (See: European Commission, Representation of the United Kingdom, Background Report–BR/09/95: September 1995.)

(Petite 1998: 3/1; see also den Boer 1997a). As regards future institutional politics, it is important to note the lack of agreement about institutional changes to accommodate new member states (see Sedelmeier, Chapter 12), and the subsequent decision to convene yet another IGC before enlarging to more than twenty member states. With fifteen current member states and six candidates (Poland, the Czech Republic, Estonia, Hungary, Slovenia, and Cyprus) currently in accession negotiations, this IGC will be a condition for enlargement.

Some of the main areas to be tackled by the 1996–7 IGC were identified at the Corfu European Summit in June 1995. They included: the scope of the co-decision procedure; security and defence; a hierarchy of Community acts; and energy, tourism, and civil protection. The Council also established a 'Reflection Group' headed by the Spanish Secretary of State, Carlos Westendorp, in charge of an intergovernmental group of senior diplomats who were to prepare the IGC.<sup>3</sup> In addition to the treaty's mandate, the group was asked to address institutional questions linked to the prospect of future enlargement, including qualified majority voting in the Council and the number of Commissioners. Under the heading 'Adapting the European Union for the Benefit of its Peoples and Preparing it for the Future', the Conference of Representatives of the Governments of the Member States established five themes for the 1996 treaty revision process:

- (1) an area of freedom, security and justice;
- (2) the Union and the citizen;
- (3) an effective and coherent foreign policy;
- (4) the Union's institutions; and
- (5) enhanced cooperation or 'flexibility'.<sup>4</sup>

At first sight, the emerging political style after Amsterdam appears to be a politics of 'muddling through' as an addition to the *ad hoc* politics of 'last-minute power-brokering' during the Maastricht negotiations (Curtin 1993: 19). Indeed, a path-dependent view suggests that the shift bears the imprint of past contextual changes. After all, German unification had led the then German Chancellor, Helmut Kohl, and the late French President, François Mitterrand, to call for a second IGC in 1990.<sup>5</sup> As a result, what is now commonly known as the Maastricht IGC was the outcome of two parallel IGCs, one on EMU, the other on Political Union. While the first was carefully prepared by a Commission report, the second conference could not draw on any 'specially prepared

<sup>3</sup> The group included representatives of the Ministers of Foreign Affairs of the 15 member states, as well as representatives of the EP and of the Commission.

<sup>4</sup> See: CONF 2500/96, Brussels, 5 December 1996.

<sup>5</sup> In 1990, a now famous letter, signed by Chancellor Kohl and President Mitterrand, and addressed to the Irish Presidency of the Council, suggested that an IGC on political union be convened. The goals it suggested for the IGC were: 'to strengthen the democratic legitimation of the union, to render its institutions more efficient, to ensure unity and coherence of the union's economic, monetary and political action, and to define and implement a common foreign and security policy'. See *Agence Europe*, No. 5238, 20 April 1990: 6.

blueprint for reform' (Curtin 1993: 17). The short notice at which the political conference at Maastricht was convened left almost no time for the drafting of special reports. As a result, a number of long-standing policy proposals, such as the 1986 Commission proposal for voting rights for 'foreigners' in local elections,<sup>6</sup> were dusted off and placed on the agenda without much bargaining over details at the time (Ross 1995a). The post-Cold War context thus contributed to establishing a new *ad hoc* approach to treaty reform. Consequently, the Amsterdam IGC was not convened to bring about dramatic changes, but to accommodate the loose ends left by the Maastricht Treaty, and to prepare the institutions for enlargement. Amsterdam, then, to no small degree, was a result of the last-minute power-brokering at Maastricht.

In sum, with no major new economic projects launched, with the single market and EMU well under way and, in contrast, with Political Union remaining a rather vague notion, Amsterdam casts light on day-to-day politics which, it can be argued, pose a new challenge for the project of governance in a non-state. This project often borders on the constitutional, and subsequently brings to the fore the question of what the principles which govern this polity are. This question has, so far, often remained hidden in the background. Meanwhile, the spotlight has been on market-making which, in the 1980s in particular, spurred a strong interest in institutional design, and kept such constitutional issues as questions of principled organization, membership, norms, and values in the background. This book demonstrates that Amsterdam has brought these questions back onto the agenda. While the general shift in the type of IGC has not gone unnoticed (see, for example, Moravcsik and Nicolaidis 1998: 17), it remains to be explained and explored further. Does Amsterdam mark the shift towards a new style of constitution-making? And if so, why did it occur and, perhaps more importantly, how can this shift be explained?

The contributions to this volume do two things: they offer a view on the emergence of the Amsterdam agenda; and they elaborate on the implications of this agenda for the future of European integration. In so doing, they offer normative, conceptual, and comparative answers to these questions, with a view to developing a new research agenda on constitutional politics in a future non-state. We argue that the shift towards constitutional issues is rooted not only in the political agenda of the European Union (EU), but also in shifting models of political and economic organization in the member states (see Pollack's Chapter 14). For the first time, the political agenda entails accession negotiations with Central and Eastern European countries (CEECs). Furthermore, the abolition of internal border controls, one of the remaining unresolved tasks of the common market project, is to be completed through the communitarization of the Schengen Convention and parts of the third

<sup>6</sup> See: *Bulletin of the EC*, Suppl. 7, 1986, 'Voting rights in local elections for Community nationals'. The term 'foreigners' refers to nationals of a Community member state who live in a member state other than their home country.

pillar.<sup>7</sup> Both developments contribute to the process of polity formation, both deepening and widening the Euro-polity. Paradoxically, however, this push towards integration is accompanied by a number of institutional changes and political decisions which challenge the picture of ongoing integration, and indicate a shift towards a new pluralism in the Euro-polity. This critical stance towards supranationalism is expressed most clearly on the one hand, by the institutionalization of the Luxembourg Compromise as regards the application of flexibility and, on the other, by the allowance in the enhanced cooperation procedure of greater opting-out regarding the communitarization of Schengen. Both add to the 'damage' done to the *acquis communautaire* at the Maastricht IGC (Curtin 1993: 18). The Amsterdam negotiations and outcome hence suggest that European integration has not remained untouched by debates and changes of government in the member states.

At the heart of the book lies the challenge of coming to terms with an ongoing story of institution-building and constitution-making in a polity which is still what Jacques Delors once called an 'unidentified political object' (a UPO). The questions discussed by the contributors are:

- What exactly has Amsterdam changed in comparison with Maastricht?
- How do these changes affect the institutional balance within the Euro-polity?
- What are the implications for the lingering quest for more democracy?
- Are the institutions, once designed for a much smaller and more homogeneous group of member states, equipped to deal with these projects and promises?
- How did the Amsterdam IGC contribute to tackling these challenges?

The contributors to this volume approach these questions from different perspectives. Part I addresses the issue of changing institutions (see the chapters by Falkner and Nentwich, Lequesne, Ciavarini Azzi, and Kohler-Koch); Part II elaborates on prospects for democracy (see the chapters by Hix, Neyer, and Neunreither); Part III discusses the constitutional entrenchment of the concept of flexibility, and the challenge of enlargement (see the chapters by Stubb, Wallace, Leslie, and Sedelmeier); and Part IV (the chapters by Sverdrup, Pollack, Shaw, and Wiener) offers theoretical perspectives on constitutional change.

This design was chosen to offer not only a timely treatment of the Amsterdam IGC and its implications for the future, but also to provide a framework for elaborating on theoretical perspectives on European integration. The perspectives presented in this book include policy studies, interdisciplinary approaches which see the EU as a *sui generis* but not incomparable case, as well

<sup>7</sup> The Amsterdam Treaty includes a new Protocol with a view to incorporating the Schengen Agreement on the Abolition of Border Controls into the EU's legal order. Once identified, the Schengen *acquis* will be transferred into the first (Community) and third (Justice and Home Affairs) pillars, with movement matters belonging to the first pillar and police matters to the third.

as comparative politics. By including different arguments, this volume seeks to encourage further discussions with a view to refining the research agenda in European integration studies. It also offers detailed descriptions of the processes of negotiation, bargaining, and communication which led to the final agreement at Amsterdam, that is, to the 'Consolidated Treaties'. All contributions share the assumption that the resulting institutional changes will determine the path beyond Amsterdam to a great extent.

In Part I, four chapters highlight the impact on institutional change from the narrow perspective of the detailed discussion of treaty changes throughout the IGC (Falkner and Nentwich), to the role of the Commission and the impact of interest groups (Lequesne and Ciavarini Azzi), and to addressing institutional change as embedded in the concept of regional integration (Kohler-Koch). In Chapter 2, Gerda Falkner and Michael Nentwich begin this assessment with the provocative question as to whether or not the Amsterdam Treaty offers a blueprint for institutional balance. They take on the Herculean task of trawling through the entire treaty in order to discuss changes with a view to the institutional balance established by the new treaty. Christian Lequesne and Guiseppe Ciavarini Azzi (Chapters 3 and 4, respectively) then proceed to discuss the role of the European Commission (Lequesne), and to assess critically the novel form of legislative procedure established by the process of the implementation of directives (Ciavarini Azzi). They highlight the complexity of the Commission as a governing institution and a major player in EU governance, and provide an insight into the often tedious and time-consuming procedure of legislating at the European level. This fresh view on the Commission's role is particularly important at this point, as governance beyond Amsterdam is likely, in Ciavarini Azzi's words, to be more concerned with 'implementing existing policies than creating new ones'. The discussion of possible access points for interest groups in this process is another factor of crucial importance for the period of constitutional politics and policy-making which lies ahead. In Chapter 5, Beate Kohler-Koch explores this perspective even further, arguing that regional integration is, indeed, 'a social process'. She subsequently endorses a bottom-up perspective, which allows the observer to focus on the impact of social forces on institutional change. This perspective is sustained by her elaboration of a new methodological approach for future research on regional integration, which is centred on the observation that institutional change is not an issue reducible to intergovernmental bargaining, noting that 'even the best institutional design can only offer opportunities to those actors who bring about regional integration'.

In line with the specific and complex procedural and institutional challenges which are part of an increasingly constitutional debate in European integration, Part II offers a detailed discussion of the prospects for democracy in the EU. The contributions focus on such central elements of liberal democratic theory as accountability, legitimacy, party politics, and institutional design. The

chapters stress the importance of traditional forms of representation, including the elements of party politics and, subsequently, the impact of a left-right axis (Hix), normative concepts of legitimate governance (Neyer), and political representation (Neunreither), and proceed to explore their implications for post-Amsterdam democratic governance in the EU. Arguing that both the Maastricht and Amsterdam Treaties have increased democratic accountability, Simon Hix sets out in Chapter 6 to pursue the question of whether or not the 'quasi-parliamentary model of EU executive selection really allowed Europe's voters to chose the EU executive?'. To do so, he turns to party politics as a crucial element in the electoral process.

In contrast to Hix's suggestion that the Euro-polity is an entity best studied with the tools of traditional comparative politics, in Chapter 7 Jürgen Neyer, in discussing prospects of democracy, stresses the importance of the EU's *sui generis* character. He elaborates on the possibilities for democratic governance by focusing on novel forms of deliberation in the area of comitology as a new space for supranational deliberation. This research is based on the argument that 'convincing normative justifications (of supranational governance) must not be developed in the absence of general reflections about the procedural and substantive requirements of a democracy but need to take account of the very nature of the European polity'. This approach leads him to focus on processes of deliberation specific to the institutional framework provided by, and developed within, the Euro-polity. In Chapter 8, Karlheinz Neunreither sheds light on the European Parliament's representative options after Amsterdam, particularly given the integration of the new principle of flexibility into the treaty. Neunreither's three scenarios concern the options of representing either the whole or parts of the EU, or alternatively (and on a more sombre note), an increase in the democratic deficit which might be faced by both the EU and the now closely interlinked member states in the absence of an evolution of models of democratic representation.

Part III takes up the discussion of flexibility, future perspectives on integration, and the challenge of enlargement. In Chapter 9, Alexander C.-G. Stubb provides a fascinating insight into the three stages of integrating flexibility as a 'basic principle' into the treaty. This close-up study of the practitioners' day-to-day bargaining and negotiation, which follows the conceptual discussion of three basic forms of flexibility (enabling clauses, case-by-case flexibility, and pre-defined flexibility), allows for an understanding of how and why rather revolutionary treaty changes occur when they do. Building on flexibility as a concept which 'emerged as one of the keywords in the practitioners' discourse during the IGC', Helen Wallace in Chapter 10 elaborates on the implications of flexibility for European integration. Taking a historical perspective, she argues that, like the principle of subsidiarity, flexibility functions as 'both a rationale and an operating tool for rearranging the division of labour between

the European and national policy arenas'. This perspective on flexibility highlights the important and timely question of asymmetry with a view towards further enlargement.

In Chapter 11, along with a thorough conceptual debate about the possible abuses of asymmetry, Peter Leslie takes up the normative questions of membership in a political community interrelated with the establishment of basic principles. Placing the discussion on flexibility within the larger context of political transformation with relevance beyond the EU, he argues that the EU is a form of asymmetrical political organization, that is, 'a political structure in which some of the member states participate more fully than others'. The dilemmas posed by this sort of political organization, Leslie argues, are here to stay and therefore need to be carefully explored. In Chapter 12 on Eastern enlargement after Amsterdam, Ulrich Sedelmeier demonstrates that, beyond normative questions of membership and the respective institutional arrangements at stake, the EU's collective identity towards the CEECs plays a decisive role in the process of enlargement. He argues that although the IGC failed to meet the high expectations of institutional change for 'fair' representation within an enlarged EU, this 'need not mean that enlargement will not happen'. The analysis offered by Sedelmeier is grounded, first, in the historical experience of the integration process in previous decades, and second, in the constructivist argument that a 'pure rationalist understanding of the EU as a club . . . fails to capture important factors which underlie EU policy towards the Central and Eastern European countries'.

In Part IV, the last four chapters seek to place European integration in general, and the Amsterdam IGC in particular, within the broader framework of a theoretical agenda on European constitution-making which remains to be developed. In Chapter 13, Ulf Sverdrup argues that, in contrast to a liberal inter-governmentalist perspective on European integration (Moravcsik 1993, 1995), a historical institutionalist account of the dynamics of institutional reform can 'reveal important aspects of political reform which have previously been neglected'. Shifting towards domestic changes in the EU member states, Mark Pollack in Chapter 14 sets out to develop an equally historical, yet quite different theoretical perspective on European treaty-making. Within the framework of new institutionalist analysis, Pollack stresses the impact of domestic politics on treaty-making. To that end, he discusses, on the one hand, models of organizing the European political space according to a left-right axis (see Hix, Chapter 6) and, on the other, domestic debates over economic models such as neo-liberalism versus regulated capitalism (Hooghe and Marks 1997). This approach leads Pollack to the provocative suggestion that Amsterdam can most appropriately be dubbed a 'Blairite Treaty', reflecting, in fact, the 'third way' model of politics, which has been promoted by New Labour as a model which is neither neo-liberal nor regulated capitalism, but firmly occupies the middle ground between the two.



In Chapter 15, Jo Shaw brings the question of constitutional settlement in the EU to the fore of the post-Amsterdam research agenda. She focuses on the 'construction of the citizen as a constitutional figure' in the EU, and addresses the challenge posed by the introduction of a factual 'post-national citizenship' for the normative concept of citizenship as 'full membership' in a community. Shaw notes that the actors participating in the practice of constructing this new citizenship are not only individual citizens, but also institutional actors such as the Commission and the European Court of Justice (ECJ). In her account of constitution-making, she emphasizes the ongoing tension between the 'hard legal core and its soft political contours' in the Euro-polity. To address this tension, she endorses a constructive interdisciplinary perspective, including the methodological tools of legal studies and political science. In Chapter 16, Antje Wiener builds on this perspective from a political scientist's position, acknowledging the crucial impact of legal changes on EU constitution-making. Her analysis is centred on the changing *acquis communautaire*, demonstrated by the case of citizenship policy. She argues that the *acquis communautaire* is, in fact, socially embedded in debates which are fed by ideas, shared values, and norms. As such, it reflects institutional change as policy outcome, and at the same time facilitates an institutional context for future policy-making. Understood as the 'embedded *acquis communautaire*', the concept offers an interdisciplinary access point for the study of the 'institutionalization of governance beyond the state and despite states'.

The challenge of methodological scrutiny is of particular importance, as the supranational model of governance is currently undergoing a process of deep-rooted transformation. Internally, the EU has launched two ambitious projects: the single market and monetary union. Externally, it is more and more challenged as an economic and political global player, and has embarked on the difficult task of integrating the candidate countries from Central and Eastern Europe. Will it be able to do so? Will its institutions, designed for a much smaller and more homogeneous number of members, be strong enough? And can the still rather weak democratic basis of the EU be strengthened? These are core questions of this book.

The Amsterdam IGC is the third major treaty revision to occur in about a decade, quite an acceleration compared to the fact that during the preceding thirty years (between 1957 and 1986), no comparable revision took place. Looking ahead, it seems safe to predict that this process will continue. Indeed, the next IGC is expected to be convened around the year 2000 or soon after, in any event before enlargement becomes effective. That IGC will have to address the questions left unresolved in Amsterdam, including the rebalancing of the votes in the Council and the composition of the Commission. Consequently, after many years of institutional (and constitutional) stability, the EU is now entering a phase of relatively dynamic successive constitutional adaptations. An analysis of this process should not be restricted to the limited view of major

treaty revisions, but requires a closer look at the institutional dynamics of multi-level governance, which is embedded in the daily practices of the actors involved. The 1996–7 IGC demonstrated that the heads of the EU member states and governments were in no mood for radical changes, neither ‘forward’ towards a state-like European centre of decision-making, nor indeed in any other distinguishable direction. On the contrary, the overall approach was rather incremental; it resembled a repair shop more than a design centre. Accordingly, this book does not concentrate on the Amsterdam Treaty revisions alone, but takes the treaty as a point of departure in order to look ahead.

The theme of this volume originated in discussions and seminars held in Brussels during the Amsterdam IGC, where the majority of the contributors met with senior EU practitioners. The seminars were organized by the Research Committee on European Unification of the International Political Science Association (IPSA), and generously funded by the European Commission. To address this bold academic enterprise, the editors chose a methodologically cooperative approach in the preparatory period of the volume, which differs from the majority of edited volumes in the field. Two criteria were central to the choice of theme, and for the final selection of contributions. First, by creating the opportunity to discuss their papers with well-informed practitioners, the researchers’ assumptions were submitted to a scrutiny not otherwise readily available to researchers. This conference format sustained the editors’ interest in extending the research agenda from the necessary and invaluable analysis of the specific treaty changes, to focusing on the problems, mechanisms, and hidden interests which brought about these changes. Second, during the workshop which followed the conferences, the contributions were discussed by the group of contributors on the basis of a specific format which required the participants to be able to present and comment on at least four other chapters.<sup>8</sup> As a result, the hypotheses, methodological approaches, structure, style, and facts of each chapter were subjected to a special scrutiny, aiming to combine the richness of diversity with the necessary coherence.

As the reader will observe, this is not a book where each contributor was given a standard list of questions to answer, as is often the case. On the contrary, each one retains his or her own tools of analysis, some taking an overall, more distant view, while others zoom very closely onto specific questions.

In general, the volume expresses an interest in the role of institutional questions, arguing that one of the major lessons of the EU’s history during the past forty years has been that these questions tend to evolve slowly and often without much noise, yet once put into practice, their constitutional implications can be enormous. However, extraordinary occurrences can also prove the opposite to be the case. The events that led to the collective resignation of the Commission in the Spring of 1999 add to the topicality of our approach: they

<sup>8</sup> We are grateful to Beate Kohler-Koch for suggesting this format.

demonstrate that institutional evolution is not linked to treaty reforms alone, but that important factors which are discussed in several of our chapters also play an important role. The contributions in this volume suggest that two aspects were crucial to the outcome of Amsterdam. First, despite the IGC's official agenda and mandate, it is important to realize that the IGC meetings overlapped with preparations for EMU on the one hand, and major elections in a number of member states on the other. Both contributed to an invisible agenda in the negotiators' minds, which had a considerable impact on the proceedings. Second, the broadly defined issues discussed at Amsterdam were not only a product of the interests involved at the time, but were also shaped by a degree of institutionalization unprecedented in the history of European integration. This book seeks to link questions of institutional dynamics and prospects for democracy within the context of the changing parameters of European integration, and changing paradigms in world politics.