

THE REFORM TREATY AND CITIZENS' TRUST IN EU SUPRANATIONAL INSTITUTIONS

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With the entry into force of the Reform Treaty, commonly known as the Treaty of Lisbon, EU institutions are obliged – indeed committed – to fully implement one of its core objectives: to offer European citizens an area of freedom, security and justice. This is an ambitious and gigantic task, albeit a noble one. Yet it is a necessity given the citizens' high expectations with respect to well coordinated and effective action, i.e., with a view to combating organized crime and illegal immigration, among others, with supranational institutions assuming a leading role. The framework for EU action to this end is provided for in the Stockholm Programme, adopted just about the same time with the Treaty in December 2009. It tackles such questions as citizenship, justice, security, asylum and immigration for the next five years. In the process, a fragile balance must be maintained: using all the means necessary to ensure the citizens' security, on one hand, and on the other, protecting their fundamental rights. It is worth noting that the Reform Treaty incorporates the Charter of Fundamental Rights into European Law and broadens, *inter alia*, the scope of the European Court of Justice, especially as regards police and judicial cooperation in criminal matters.

This essay posits that European citizens seem likely to trust supranational legal institutions more than the respective national ones because they perceive the former as better positioned to address increasingly transnational (or global) problems in a coordinated and effective manner. Moreover, they tend to view these institutions as more competent in resolving or preventing violent conflict, thereby sustaining the conditions for peace and strengthening the practical foundations of law and order. It is argued by inference that non-EU citizens, particularly those living in neighbourhood countries, share similar views – in fact, they often trust those institutions even more than EU citizens themselves. For example, public opinion in the Central and Eastern European countries as well as Malta and Cyprus before accession showed that people were clearly and positively predisposed toward the EU. This could be explained because (a) of the prospect of eventual EU accession itself, and (b) of subsequent high expectations as to perceived potential benefits, particularly in so far as EU legislation is concerned (i.e., protection of human rights and universal application of the rule of law, environmental regulations that are more consistently applied at EU level, and broader security concerns). To operationalize these questions and test the working hypotheses, Eurobarometer surveys through the Trends questions database have been utilized.

If we assume that trust in supranational institutions is also a reflection of how citizens perceive democracy at EU level (e.g., transparent and democratic institutions, just and fair jurisprudence, protection of basic freedoms and

rights), the latest Eurobarometer (no 72, autumn 2009) indicates that satisfaction with the way democracy works in the European Union (54%, up from 52% since autumn 2007) is just above the level recorded for national democracies (53%, down from 58%). If we account for the ongoing financial crisis, this can be regarded as a rather positive trend. In all member states, the majority is satisfied with the functioning of democracy at EU level – certainly with considerable and anticipated variation – ranging from 40% in the UK to 75% in Luxembourg. Compared to autumn 2007, levels of satisfaction have improved by at least four percentage points in 13 Member States, with the largest positive trends noted in Luxembourg (+20), Bulgaria, Cyprus and Slovakia (each +13). Perceptions are now less positive in Slovenia (-9), Poland, Spain (each -7), Belgium (-5) and Latvia (-4).

Trust in two European institutions (the European Commission and the European Parliament) has remained stable even during the economic downturn. Following a decrease between autumn 2008 and spring 2009, the latest results point to a slight renewal of trust in the European Parliament (50%; +2) and the European Commission (46%; +2) bringing it back to the autumn 2008 level (51% and 47%, respectively). Slovaks are the most likely to trust the European Parliament (71%), though the country had the lowest turnout at the 2009 European elections (19.6%). The UK has the lowest trust levels (25%) – well below Latvia (41%). Trust has increased significantly in the Czech Republic (+11) and there was an upward trend in Portugal (+6) and Luxembourg (+5). On the contrary, there was a decrease in Malta (-6). With respect to the European Commission, trust among member states ranges from 21% in the UK to 64% in Slovakia. The most positive trend is recorded in the Czech Republic (+13), Bulgaria and Greece (each +7).

Overall, the latest results show no change at EU level since spring 2009: membership of the European Union is seen as a good thing by 53% and only 15% of Europeans are negatively predisposed toward membership. General perceptions remain stable: 57% of Europeans think that their country has on balance profited from membership (+1) whilst 31% feel their country has not benefited. The most positive trend is recorded in Sweden (+8). Slightly negative trends were observed in Luxembourg (-5) and Cyprus (-4).

In terms of the future, two in three Europeans (66%) say they are optimistic about the European Union (+2) whilst just over a quarter (27%; -2) say they are not. An outright majority of respondents have a positive outlook. It ranges from 50% in the UK to 79% in Denmark and the Netherlands. Only in four countries optimism about the future has declined: Malta and Cyprus (each -7), Ireland (-5) and Lithuania (-4). Overall, the trend since spring 2009 is positive, with the greatest improvements in public opinion noted in Greece (+16), Luxembourg (+12) and Portugal (+10).

Previous Eurobarometer surveys, including with a highly qualitative study conducted as part of the Commission's "plan D", consistently pointed to positive perceptions and strong expectations on the part of EU citizens toward the European Union. In most countries, respondents mentioned the protective

character of the EU as a factor of peace, stability and security, as well as its potential to becoming more influential on the world stage. They also referred to the high "legal standards" of the European Union and to cooperation aimed at making judicial systems more compatible. Moreover, citizens have been positively inclined towards further transnational cooperation to fight crime, trafficking and terrorism. In this respect, the utility of stronger and common European action is fully recognized. With regard to justice *per se*, though people generally think that it should remain primarily a national responsibility, they are nonetheless open to the idea that fundamental principles and practices could be asserted at the supranational level where increased cooperation between member states is highly desired.

In this respect, two EU agencies, Europol (European Police Office) and Eurojust (European body for the enhancement of judicial co-operation) help co-ordinate police and judicial co-operation in criminal matters. Since states have the monopoly on the use of force, they can either abuse or fail to apply it effectively, even internally, because crime has increasingly become transnational in nature. For example, criminal gangs from non-EU member states function within the Union and systematically carry out illegal activities which the 'host' state cannot control on its own. As a result, non-state actors (drug cartels, mafia organisations, paramilitary groups) increasingly use violence within and across borders and seriously challenge the state's monopoly. In this regard, when legal structures (at the federal or transnational level, like the EU) take action in coordination with security forces (either at the national or supranational level), they are often more effective in law enforcement than the nation state. The state alone is no longer capable of controlling, even with its monopoly on the use of force, non-state actors who are (illegally) using violence to impose their will on peoples and governments, usually across borders.

A recent example in Spain, with the arrest of 20 people in raids against a major Russian mafia gang, clearly illustrates that the actions of national judges on a transnational basis can be quite successful, more so than when a single government attempts to put order either at home or across its territory. The suspects have been accused of arms trafficking, money-laundering and contract killings. Moreover, the transnational legal input legitimates the use of force to combat cross-border criminal activity and prevent future acts of violence. This necessitates a well organised legal network on a regional basis whereby, by sharing sovereignty, states allow supra-national legal structures to coordinate an array of transnational activities using combined resources and know-how. Thus the EU becomes more effective than individual member states in curtailing criminal and violent activities and, more generally, managing conflict nationally and, increasingly, transnationally. Europol and Eurojust coordination and action is one of the success stories of the EU with regard to its external activities which, though still largely under state control, they are nonetheless assuming a supranational dimension precisely because of the magnitude and intensity of cross-border organised crime, within and across the immediate borders of the EU – and beyond.

Though the European project at large concerns a host of normative values like the peaceful cooperation of peoples and states, citizens' perceptions seem to derive mainly from utilitarian needs. These are connected to basic security and wellbeing considerations (e.g., combating crime and illegal immigration, ensuring employment, social security and health benefits, protecting the environment, as well as basic rights like non-discrimination). Finally, these utilitarian needs are linked with such freedoms as settlement, property and movement which ultimately boil down to the maintenance of law and order. This is where the added value of the EU model derives from, hence the obligation of EU supranational institutions to effectively address the citizens' needs and expectations, and fully respect their rights as spelled out in the Charter. The same obligations are naturally incumbent upon the Member States when they implement the Union's legislation. The Court of Justice is there to ensure that the Charter is applied correctly.