Book Section:

Ludlow, N. Piers ORCID: 0000-0002-4883-4536 (2019) Of treaties, conventions and habits: how informal integration interacts with formal integration. In: van Heumen, Lennaert and Roos, Mechthild, (eds.) The Informal Construction of Europe. Routledge/UACES Contemporary European Studies. Routledge, Abingdon, UK, pp. 40-54. ISBN 9780815351450

Of Treaties, Conventions and Habits:
How informal integration interacts with formal integration

Almost exactly sixty years ago, on March 25 1957, the signing ceremony of the Treaty of Rome took place, amid the pouring rain, on the Capidoglio in Rome. According to one senior Italian negotiator, however, there was an aspect of the ceremony that was not quite as it seemed. In his memoirs, Roberto Ducci, recalls that the plan had been for all six foreign ministers to append their signature on a large leather-bound text of the Treaty in the French version only. A week or so before the ceremony, however, the German government contacted the Italian government to request that a German version of the Treaty also be signed. Unsurprisingly this request from Bonn then triggered a demand from the Dutch governments that a copy in their language be included too. And if all languages of the early Community were to be represented, an Italian version would also be needed. The organizers were thus faced with the daunting task of conjuring up in next to no time three additional ceremonial volumes, including the text of the Treaty in all four official languages of the early EEC. As so often, though, the Italian gift for improvisation won through. On the day itself, four large volumes were indeed ready, and all four were signed. What the signatories did not know, however, was that in the Italian, German and Dutch versions of the Treaty, all the pages other than the final one that they had scribbled on, were blank. Konrad Adenauer, Christian Pineau, Paul-Henri Spaak, Joseph Luns, Antonio Segni, and Joseph Bech – the foreign ministers of the six founding members - were all, in effect, signing three blank cheques, as well as one French version of the Treaty itself![1]

This story seems an appropriate metaphor for both this volume and for the theme of this chapter, since it captures the way that the formal rules, regulations and treaties of the EEC (and indeed the integration process from the very outset),

[1] Roberto Ducci, *I capintesta* (Milano: Rusconi, 1982), 255.

have always co-existed with unwritten habits, patterns, and norms – the blank pages if you want of the three 'other' volumes signed on March 25, 1957, alongside the official printed (French) text. What I want to do in the pages that follow is to throw out a few ideas about how the written and the unwritten, the informal and the formal, have co-existed, how the development of one has also stimulated the development of the other – and what this double aspect of the Community/Union system means for the task of historians as we seek to understand the entity which we seek to analyse.

My starting point, though, should be to acknowledge that the European integration process, from its starting point in Luxembourg nearly seven decades ago when the European Coal and Steel Community (ECSC) came into being, right the way up to the EU of today, has been a legal process. Many of its key moments have been marked with Treaties – or treaty change. Much of its day-to-day activity centres on the production of law, whether in the form of directives, regulations or decisions, and many of those who work within it – or interact with it from the outside – are legally trained and think in legal terms. Those of us who seek to understand it do not have to be lawyers ourselves. Indeed I think it is important that most of us are not lawyers because that enables us to ask the heretical questions that lawyers might not even think to ask. But we do need have some understanding of law if we are to comprehend what is going on and to be able to dig out the politics and the informal, shadow rules, from underneath the formal legal procedures. It is for this reason that one of the most important historiographical developments in integration history over the last decade or so has been the emergence of some serious historical attempts to get to grips with the development of European law and the emergence of the European Court of Justice (ECJ) as a key actor within the integration story.[2]

Law matters too much to the Community/Union's history, if I can put this way, to be left to the lawyers, and instead historians need to be aware of it, to have

[2] The best starting point is Bill Davies and Morten Rasmussen, "Towards a New History of European Law," Contemporary European History, August 2012, https://doi.org/10.1017/S0960777312000215 although many of the contributors to this special issue have published much more since.

some understanding of it, and to be able to explore its ambiguities and hidden meanings. Nobody after all would take seriously a historian of, let us say, Germany who spoke or read no German, or of Italy who had no knowledge of Italian. In much the same way those of us who study and interpret the development of an entity whose common language is law, even more than it was French and is now English, need to have some grasp of law's meanings, nuances, rigidities and limitations.

Put in terms of this volume this means that those of us who work on 'informal' integration, need to have some awareness of the formal, if only to understand the significance of what we are looking at. We can, after all, only perceive a departure from the strict rules of behaviour, if we understand what those rules are. And we probably need to have some appreciation of the imperfections and limitations of the 'proper' procedure, if we are to understand why irregular, informal and unofficial, channels of communication or ways of taking decisions have sprung up. A good mechanic needs to know how a car ought to work, before s/he is capable of understanding why it is that that something odd is happening with the car brought into the service station. So too a good historian needs to understand how the Community/Union is meant to work, before being able to explain why and how it actually diverges from the strict letter of the law.

Equally important though is to keep reminding those, sometimes lawyers, sometimes political scientists, occasionally other historians, who believe that all that needs to be done in order to fully understand the integration process is to study the formal side of integration, to trace the evolution of the legal framework from treaty milestone to treaty milestone, that the reality of integration has always been very different and much messier than the succession of neatly bound treaties seemingly implies. This messiness is in many ways what makes the process particularly fascinating. And the reasons why the messiness has developed tell us much about the realities of the integration process, as opposed to the theoretical ideas about how Europe *ought* to be built. But the untidy juxtaposition of seemingly straight-forward treaty rules, and much less clear-cut informal procedures, habits and methods of work certainly makes it more complex and difficult to understand.

The fundamental reason for this co-existence of the formal and the informal reflects the fact that building Europe has always been a highly *political process*.

Both of these last two words really matter here. So the fact that it is *political* means that any legal outcome in Brussels, Strasbourg or Luxembourg is not the product of some abstract and theoretical piece of legal reasoning, some ideal-type intellectual design, but instead the much less perfect outcome of a complex negotiation, involving compromise, concession and deliberate ambiguity. The very agreement will in other words require law to be bent, played with, and sometimes left intentionally unclear. Whereas the fact that integration is a *process* means that the exact political constellation of power and of need that gave rise to any given legal decision will change over time, normally much more quickly than it is possible for the law itself to change. As a result, adaptation to the new power constellation or the altered circumstances will more often take the form not of formal amendment or repeal, but instead of the law being applied or implemented in a manner which departs markedly from the intentions of those who drafted it. In some extreme cases the law may be ignored altogether. More frequently, it will remain in force, but will be used and applied very differently from the original conception, because the exact political circumstances of its birth have been replaced by different political realities and different political needs.

Let me provide some concrete examples, so as to avoid drifting off into too abstract a set of claims. Appropriately enough the first comes from the very start of the integration process, namely the immediate aftermath of the Schuman Plan declaration in the spring/summer of 1950 – and is a clear example of how politics trumped legal principle from the start. When inviting fellow European governments to join them in creating a new European structure to control heavy industry, the French government made acceptance of the legal principle of supranationality a precondition of participation in the negotiations. As Jean Monnet, the head of the French Planning Commission and the man responsible for devising the scheme, explained to the British a few days after Schuman's historic announcement:
'The proposed common Authority would have the following attributes:

(a) It would consist of independent men (not representatives of the industries concerned) nominated by the Governments of the countries adhering to the Treaty.

(b) The decisions of the Authority would have the force of law in the countries adhering to the Treaty

(c) The Government of each country would be responsible for ensuring the execution of the decisions of the Authority.

(d) Voting in the Authority would be by majority, the Chairman, if necessary, having the casting vote.'[3]

This proved one of the key factors in the British decision that it could not take part in the process.[4] The legal powers of the proposed High Authority for regulating the coal and steel industries hence constituted a partial trigger of that earlier instance of Britain deliberately separating itself from its continental neighbours – the original Brexit as it were.[5] Yet in fact in the course of the negotiations that followed amongst the six governments that had felt able to take part, the French proved willing to allow significant checks and balances on the powers of the planned High Authority, notably with the establishment of a Council of Ministers, a European Court of Justice and a European Parliamentary Assembly.[6] These proved to be a set of concessions with profound implications for the whole legal architecture of the EC/EU institutions in the era since 1950.

Why this double standard? Why did the French insist on a legal precondition for participation in the Schuman Plan process when talking to London, and then

---

[3] Notes of a meeting held at the Hyde Park Hotel, on 16 May 1950, with M. Monnet', document 25, *Documents on British Policy Overseas*, *Series II, Volume 1. The Schuman Plan, the Council of Europe and Western European Integration 1950-1952*, (London: Her Majesty's Stationary Office, 1986), p. 60

[4] *DBPO*, series II, vol.1, documents 78 & 80, pp. 140-145

[5] Alan S Milward, *The Rise and Fall of a National Strategy, 1945-1963*, The UK and the European Community, v. 1 (London: Whitehall History Pub. in association with Frank Cass, 2002); Christopher Lord, *Absent at the Creation: Britain and the Formation of the European Community, 1950-2* (Aldershot: Dartmouth, 1996); Edmund Dell, *The Schuman Plan and the British Abdication of Leadership in Europe* (Oxford University Press, 1995).

[6] Dirk Spierenburg and Raymond Poidevin, *Histoire de La Haute Autorité de La Communauté Européenne Du Charbon et de l'acier: Une Expérience Supranationale* (Brussels: Bruylant, 1993); Raymond Poidevin, *Robert Schuman: Homme d'état, 1886-1963* (Paris: Imprimerie nationale, 1986).

allow their own rule to be broken by those who did join their number? Fundamentally this had much to do with the political reality that whereas the British, had they chosen to participate, might well have been strong enough seriously to have weakened the instrument that France sought to create, thereby robbing it of its core ability to control German heavy industry, the other countries were much less of a threat to French intentions.[7] Concessions could hence be made to the Dutch or the Belgians that could not be made to London. Furthermore, having taken the substantial risk of breaking with Britain, France was keen to ensure that it was joined by as many others as possible in its bold experience of working closely with Germany. Robert Schuman, the French foreign minister, may have said that he was willing to go ahead just with Bonn, if necessary, and was probably sincere in saying so, but this did not stop the French from strongly hoping that others would join them and being willing to pay a political price in order for this to happen.[8] If this meant diluting somewhat the idea of supranationality contained in Jean Monnet's original design for the proposed coal and steel pool, then so be it. Political pragmatism trumped legal principle.

The divergence from original French intentions continued – to turn to the process part of the issue – in the early years of the European Coal and Steel Community's operations. Thus the Council of Ministers turned out to be much more extensively consulted by the High Authority in practice than the Treaty had provided for in theory.[9] The new supranational body, it would appear, felt the need to have member state sanction before taking many decisions, despite being officially empowered to take them without Council approval. Furthermore, the need for regular member state involvement in decision-making led to the appearance of a forerunner of the EC/EU's Committee of Permanent Representatives (Coreper) in

---

[7] The key precedent in this regard is the Council of Europe, which had been a French idea, largely emasculated by the British. John W. Young, *Britain, France, and the Unity of Europe, 1945-1951* (Leicester University Press, 1984), 113-115.

[8] French willingness to proceed with Germany alone, if necessary, was made explicit in the Schuman declaration itself. See https://www.cvce.eu/en/obj/declaration_de_robert_schuman_paris_9_mai_1950-fr-9cc6ac38-32f5-4c0a-a337-9a8ae4d5740f.html

[9] Spierenburg and Poidevin, *Histoire de La Haute Autorité de La Communauté Européenne Du Charbon et de l'acier*.

the form of COCOR (Comité de coordination).[10] This allowed member state representatives to meet together, and with the High Authority, at much more frequent intervals than was possible for the full Council of Ministers. The establishment of COCOR was thus an extremely early example of a new body being established by the Community institutions to provide for a day-to-day need that had not been anticipated by the treaty framers. From the very start of the integration process the manner in which the institutions actually worked thus departed significantly from the way that the treaties stipulated, and key entities like COCOR had been allowed to emerge and assume an important function, despite having no legal foundation in the treaty text.

Within the early EEC something remarkably similar then happened again. Once more the issue of member state control lay at the heart of informal departure from the rules of the Treaty. Thus the first twelve years or so of the Community's operation saw a much greater than anticipated growth in the power and activity of both the Council of Ministers and, still more dramatically, in that of COREPER, a body barely mentioned in the Treaty of Rome.[11] The former quickly moved beyond the intermittent meetings of Foreign Ministers within the General Affairs Council foreseen by the Treaty itself. Instead the Council of Ministers met much more frequently, often in different formations to reflect the breadth and diversity of Community level policy. By the mid-1960s ministers of agriculture were gathering in Brussels for Agricultural Councils as frequently, if not more often, than Foreign Ministers, and there were also periodic get-togethers of Finance Ministers, ministers of transport, trade ministers etc. Ministerial scrutiny of not just of Community legislation, but also of all of the ever-broadening range of EEC activity had grown much more intense and effective than most had anticipated – much to the annoyance of both the European Commission which had hoped for a freer hand and for the European Parliament that decried what it saw as excessive

---

[10] J. Salmon, "Les Représentations et Missions Permanents Auprès de La CEE et de l'EURATOM," in *Les Missions Permanentes Auprès Des Organisations Internationales*, ed. M. Virally, P. Gerbet, and J. Salmon (Brussels: Bruylant, 1971), 609–10.

[11] For details see N. Piers Ludlow, *The European Community and the Crises of the 1960s: Negotiating the Gaullist Challenge* (London: Routledge, 2006), 118–24.

intergovernmentalism.[12] COREPER meanwhile had become even more central to the operation of the early EEC than COCOR had become for the ECSC.[13] Tellingly, its members were now Brussels-based, thereby becoming permanent representatives in a way that their COCOR predecessors had not been, despite travelling to Luxembourg frequently. Furthermore such was the volume of business that they were obliged to oversee that they had begun to meet in two different formations, COREPER I and COREPER II, each specialising in different types of Community legislation and business. The permanent representatives had also acquired multiple new functions, as conduits of information between member states and the EEC institutions, as crucial European advisors to domestic policy makers, as frequent stand-ins for those ministers unable to attend the full meetings of the Council of Ministers, and as the Community's standing mechanism for crisis management.[14] And all of this without COREPER having any official role according to the Treaties of Rome (which had simply noted that the member states might appoint permanent representatives if they so chose). Official treaty sanction would only belatedly arrive with the Fusion Treaty of 1966.

Underpinning these shifts was the realisation by the member state governments that what was happening in Brussels was too dynamic for them to keep track of merely by the periodic meetings of the General Affairs Council originally foreseen, but much too important to be allowed to slip out of their grasp.[15] The response was proliferation of Council meetings, and the vast expansion of the permanent representatives' role. Political need and the rapid development of the integration process were thus proving themselves more powerful than the

---

[12] The parliamentary critique was laid out in the Deringer report of 1962: *European Parliament Reports 1962-3*, Document 74.

[13] N. Piers Ludlow, "Mieux Que Six Ambassadeurs. L'emergence Du COREPER Durant Les Premières Années de La CEE," in *Les Administrations Nationales et La Construction Européenne. Une Approche Historique (1919-1975)*, ed. Laurence Badel, Stanislas Jeannesson, and N. Piers Ludlow (Brussels: Peter Lang, 2005), 337–55.

[14] *Ibid.*

[15] N. Piers Ludlow, "A Controlled Experiment: The European Commission and the Rise of Coreper," in *The History of the European Union. Origins of a Trans- and Supranational Polity 1950-72*, ed. Wolfram Kaiser, Brigitte Leucht, and Morten Rasmussen (Abingdon: Routledge, 2009), 189–205.

desire to respect the strict letter of the Treaty text. Between 1966 and 1986 this divergence between Treaty provisions and institutional practice grew still further, accentuated during this period by the fact that no agreement could be secured amongst the member states for substantial Treaty change (a situation not unlike the present, albeit probably for somewhat different reasons). Although there were two new institutional agreements during the years in question, the Luxembourg Treaty of 1970 introducing Community 'own resources' and the Budgetary Treaty of 1975, both of these were limited in their range and neither altered the central balance of power between the European Commission and the Council of Ministers nor acknowledged the shift in favour of the latter which had occurred since 1958.

The apparent stability of the Treaty system, with no major reform between the fusion treaty of 1966 and the Single European Act (SEA) two decades later, conceals however an extraordinary range of actual change. One instance of this would be the start of foreign policy coordination amongst the Six and then the Nine in the early 1970s.[16] The structures of European Political Cooperation (EPC), as the Community's fledgling foreign policy armed was known, were nowhere mentioned in the official treaties and operated in somewhat different – and more intergovernmental - fashion than the traditional fields of EEC activity like trade or agriculture. But EPC was clearly part of the integration process broadly defined, involved only Community member states (or those just about to join) and overlapped with the EEC in terms of the personnel involved, the policy instruments available, and the institutions taking part. Indeed for some states like Britain gaining access to the EPC process was one of the major attractions of joining the EEC, whereas for Ireland the compatibility between the country's deeply held policy of neutrality and the foreign policy dimension of the integration process became a major topic of debate.[17] Informality thus in no sense denoted lesser importance or

---

[16] Daniel Möckli, *European Foreign Policy during the Cold War: Heath, Brandt, Pompidou and the Dream of Political Unity* (London: I. B. Tauris, 2008), 13–94.
[17] For the British case, *ibid.* 47-49; for Ireland, see Michael J Geary, "Irish Foreign Policy and European Political Cooperation from Membership to Maastricht : Navigating Neutrality," in *European Enlargement across Rounds and beyond Borders*, ed. Haakon A. Ikonomou, Aurélie Andry, and Rebekka Byberg (Abingdon: Routledge, 2017).

centrality. Likewise, the Community's effective debut in the field of monetary integration with the 1979 launch of the European Monetary System (EMS), in other words its first tentative step in what is now one of the core policy areas of today's European Union, was also taken *without* any official alteration of the treaty texts.[18] Monetary matters, it is true, had been briefly mentioned in the Treaty of Rome as an area where the Community structures might play a role. But there was nothing in the EEC's founding treaty about the mechanisms established to control the fluctuation of European currencies against each other, or about the obligations for coordinated intervention on the money markets assumed by the central banks of the participating countries. All of this was left to a combination of intergovernmental agreements and informal convention. And yet these were the structures and patterns of behaviour that proved strong enough to oblige President François Mitterrand and the French government of 1982/3 to alter their whole domestic economic policy in order to avoid falling out of the EMS.[19] Once more the lack of a solid treaty base in no way reflected either weakness or insignificance.

Perhaps most striking of all is the way in which what I would argue was the single most important institutional change in the whole of the EC/EU's history, namely the creation of the European Council in 1974/5 also occurred without the formal treaty system being changed in any way.[20] Virtually from the outset, the regular gatherings of European leaders became central to all of the important decisions taken by the EC/EU. No history could be written indeed of the integration process in the 1970s, 1980s and 1990s without frequent allusions to what had – and had not – been agreed amongst the Heads of State and Government. European Council decisions thus lay behind the establishment of the EMS, the budgetary settlement of 1984, the launch of the Single Market programme in 1985, and the decisions to press ahead with Economic and Monetary Union (EMU) of the late

---

[18] Emmanuel Mourlon-Druol, *A Europe Made of Money: The Emergence of the European Monetary System* (Ithaca, N.Y.: Cornell University Press, 2012).
[19] Jean Lacouture, *Francois Mitterrand* (Éd. du Seuil, 1998), 88 ff.
[20] Emmanuel Mourlon-Druol, "Filling the EEC Leadership Vacuum? The Creation of the European Council in 1974," *Cold War History* 10, no. 3 (August 2010): 315–39, https://doi.org/10.1080/14682741003765430.

1980s and early 1990s.[21] The disruptive effects of the row over Britain's contribution to the Community budget were so great partly because of the way in which Margaret Thatcher's campaign to 'get her money back' all but monopolised discussions at successive European Council meetings thereby all but paralysing top-level decision making within the Community.[22] Much of the effectiveness of a Commission President like Jacques Delors from 1985 onwards furthermore sprang from the way in which he became a highly effective operator at European Council level. It was here that he was able to win backing for his Single Market plans, here that he won member state support to flank the 1992 programme with institutional reform through the SEA, here that the crucial budgetary agreement of 1988 was reached.[23] But officially at least the institution where all of this took place had no place within the Community's structure and no official treaty base. A clearer instance of informality rivalling, even displacing, formal treaty rules would be very hard to find.

Even for a system based on the idea of a *traité cadre* – a framework treaty – this was flexibility and informality of an extraordinary extent. It was only in 1986 that this anomaly was at least partly rectified by the mention of monetary integration, foreign policy coordination, and the existence of the European Council in the SEA – and even this last was partial and grudging with fuller acknowledgement of its importance only arriving with the Lisbon Treaty of 2008. Alongside the genuinely important innovations introduced by the SEA, most notably the reintroduction of extensive majority voting and the increased powers of the European Parliament, there was much in the Treaty which did no more than

---

[21] Peter Ludlow, *The Laeken Council* (Brussels: EuroComment, 2002), 5–15.
[22] The saga of the British budget is an episode that still awaits its historian. But for a flavour of how disruptive the row could become, see Roy Jenkins, *European Diary, 1977-1981* (London: Collins, 1989), 528–32.
[23] N. Piers Ludlow, "Jacques Delors (1985-1995): Navigating the European Stream at Full Flood," in *An Impossible Job?: The Presidents of the European Commission, 1958-2014*, ed. Jan van der Harst and Gerrit Voerman (London: John Harper Publ, 2015), 173–96.

retrospectively acknowledge a huge amount of institutional change that had happened informally in the course of the preceding twenty years.[24]

This institutional divergence between treaty text and day-to-day practice was replicated in the field of policy. Crucial new policy areas, like European Political Cooperation or monetary integration, which were initiated and created institutional structures, without a formal treaty base have already been alluded to. But informality was even greater in other policy areas where discussions took place entirely outside the European Community structures. The two stand-out examples of this are the Trevi Process, which involved from the late 1970s onwards the first steps towards the coordination of practice and policy on police and counter-terrorism matters and the Schengen Agreement of June 1985 which committed its signatories (which comprised only a subset of the EC member states) to the total elimination of border controls within the EC.[25] Both taken together constitute vital forerunners of what would become the whole Justice and Home Affairs pillar of the Maastricht Treaty. As such they represent the crucial first steps of the EC/EU into a policy field that would later become central to its whole operation. But neither formally existed as part of the EC prior to 1992.

It does therefore become possible to argue that informal change was as important, if not more important, than formal treaty alteration in terms of the Communities' evolution – so that of both the ECSC and the EEC - during the first three decades of the integration process. Many of the crucial adaptations and experiments during the formative period of the EC/EU system were thus made through informal alteration and sub-treaty level agreement rather than by means of a formal amendment of the system's constitutive – even constitutional – texts. Indeed given that we seem once more to have entered a period where institutional and policy evolution and adaptation within the current EU tends to take place

---

[24] N. Piers Ludlow, "European Integration in the 1980s: On the Way to Maastricht?" *Journal of European Integration History* 19, no. 1 (2013): 14–15.
[25] For the former, see Martin Elvins, *Anti-Drugs Policies of the European Union: Transnational Decision-Making and the Politics of Expertise* (Houndmills, Basingstoke, Hampshire; New York: Palgrave Macmillan, 2003), 84, http://site.ebrary.com/id/10103764. For the latter, Vendelin Hreblay, *Les accords de Schengen: origine, fonctionnement, avenir* (Brussels: Bruylant, 1998).

without formal treaty change, rather than with, I think a strong case could be made that it is the period from 1986 to 2008, punctuated as it was by numerous efforts to update the treaty system and to catch up with informal developments, that constitutes the historical exception, rather than periods of minimal change like the 1960s, 1970s and early 1980s, or the present day.[26] This in turn may reflect the reality that major and formalised institutional change is something that most governments undertake hesitantly and reluctantly. In a system like the EC/EU, in which formal change can only be carried out by the cumbersome and politically fraught process of holding an intergovernmental conference, finding agreement between all of the many member states, and then securing ratification, which may well involve running the gauntlet of several national referendums, the inevitable outcome is that formal change becomes the exception rather than the norm. But because the EU, like any other system needs to change, because the world changes and because the needs and desires of the participating member states evolve, the way out of the impasse between the need to change and the near impossibility of formal change is, more often than not, the resort to informality and what might be termed grey area institutional or policy change. Informal integration may thus be hard-wired into the system by the very nature of the EC/EU policy making system. And while all of the examples mentioned above have been drawn from what could be described as the macro-institutional and policy making level, so big new institutional developments and major new policy departures, I suspect that the same pattern would be replicated (for essentially similar reasons) for micro-level changes too. And this is of course what several of the other chapters in this volume bring out very clearly.

But what of course many of the other chapters in this book emphasise still more is that informal integration does not just happen within the Treaty and institutional structures, but beyond them and outside of them too. And it is here that I think the biggest historiographical revolution needs to take place. What do I

[26] There is an extensive political science and legal literature on all of the major treaties signed between the 1986 Single European Act and the 2008 Lisbon Treaty. But most of the period is too recent for much historical research to have been done.

mean by this? Well I think it is still arguably the case that integration history is too dominated by a statist and institutionalist perspective. Over the last decades we have thankfully moved beyond the old straitjacket of the national approach.[27] While single country studies still have their place and can be very useful, there are plenty of examples of studies that stretch beyond single countries, and that bring in non-state actors like the Community institutions instead of or as well as the member states. But much of the existing historiography remains arguably too concerned with the big players and the highly visible connections, and not yet alive enough to the many less prominent but crucial links, that may well explain as much of Europe's development as the actions and motives of the obvious actors.

For historians of my generation and perhaps still more for those of the generation above, this may in part reflect what might be termed the Lipgens syndrome. We have thus become so conscious of the need to avoid the errors that Walter Lipgens, the first serious historian of European integration, was accused of by Alan Milward in particular, namely of cataloguing pro-European ideas without showing how any of these ideas had any effect on policy, that we have become obsessed with working on instances where it is possible to identify and document clear causal connections to policy outcomes.[28] Overwhelmingly this means working with well established structures like states or Community institutions, not least because states and the European institutions tend to keep extensive and well organised archives. These make it possible to identify with some certainty the links between discussions and debate, whether within the Belgian government, or inside the EEC Council of Ministers, and eventual policy outcomes.

But for a younger generation of historians – influenced as many of them have been the 'transnational turn' and by the rise of cultural history with its fascination with mentalities and ideas - the idea with working with more fluid groups and suggestive but ultimately unprovable connections rather than easily documented causal links seems to hold fewer terrors. In integration history terms

---

[27] Wolfram Kaiser and Antonio Varsori, eds., *European Union History: Themes and Debates* (Basingstoke: Palgrave Macmillan, 2010).
[28] The Milward critique was contained in Alan S. Milward, *The European Rescue of the Nation-State* (Routledge, 2000), xx-yy.

this matters enormously since it means that we can begin to discern non-governmental, transnational transformations that accompanied the sort of system-centred change that I have spent my career tracing. Heinrich von Brentano stops therefore being merely the German foreign minister at a particular point in time, but he also becomes a Christian Democrat who may or may not have had important cultural, friendship and other links with similarly minded politicians in France, the Benelux countries, Italy etc.[29] Likewise the process of tracing the evolution of European law that I talked about earlier ceases being a process that solely involves well-established institutional actors like the ECJ itself, the European Commission or the various interested member states – important though each of these were – but is also broadened out to recognise the importance and agency of a player like the *Fédération Internationale de Droit Européenne* (FIDE), the transnational network of legal specialists in European law.[30]

This is an undoubted plus – provided it is done without losing sight of the formal structures of power too. Just as in international history generally, the emergence of the transnational is a good thing so as long as it complements rather than replaced the older more state-centric analysis, so too the emergence of a broader cast of European actors, many outside of government, and connected to each through webs of shared interest, belief or activity, is a vital step forward in explaining how European integration was able to find fertile support in each of the countries that have become involved in the process. I do hope, though, that this broadening of the cast list of those pushing for integration – vital a task though it is – is not allowed altogether to crowd out another area where I think more historical work needs to be done, namely on the impact of European integration on our societies and countries more broadly.

This is not necessarily just about tracing the rise of resistance to Europe – although the emergence of Euroscepticism is undoubtedly part of the story, it is

---

[29] Wolfram Kaiser, *Christian Democracy and the Origins of European Union* (Cambridge University Press, 2007), xx-yy.

[30] Morten Rasmussen, "Establishing a Constitutional Practice: The Role of the European Law Associations," in *Societal Actors in European Integration*, ed. Wolfram Kaiser and Jan-Henrik Meyer (London: Palgrave Macmillan UK, 2013), 173–97.

perhaps the area of impact that has best been studied so far, although much further work still needs to be done.[31] But it also includes the way in which the desire for change, as expressed through the formal institutional system upon which I have worked, *and* through the more informal networks and groupings upon which many of the other contributors to this volume are concentrating, has actually changed life on the ground for those not directly involved in the process. How have farmers 'received' the CAP for instance, is a crucial question, still ridiculously under-explored given the obvious centrality of the agricultural story to the integration process? What difference have Community/Union environmental policies made, or how effective have the redistributive efforts made since the 1980s to redirect some money towards the poorer regions of the Community? There have been a few social scientific efforts to establish answers to these question, but next to no historical research. And yet without answers to these questions, the bigger 'so what' question that affects our field, namely how important is integration history to the wider field of post-1945 European history, is almost impossible to answer. Are we studying a process that matters? Or will historians in the future look back and decide that what we have devoted so much time to exploring was in fact just a minor political distraction to the much bigger global and secular changes transforming our world?

I still believe that what we are looking at is something that has had a profound effect on Europe, and an effect that despite undoubted problems has been on balance more positive than negative. But in saying this I am expressing my own opinion and am shaped probably too much by the intentions of those who have driven the process. They wanted to alter Europe, were convinced that they were doing so, and I, shaped as I am by repeated exposure to the system-shapers' debates and discussions, am perhaps inevitably too easily persuaded that some of the change that the statesmen and institutional actors aspired to has occurred. I would hence love to see much more work done on whether this assessment survives more or less unscathed when looked at in a less top-down and more bottom-up fashion. Does integration still look important and transformative when seen from

---

[31] See e.g. the series beginning with Birte Wassenberg, Frederic Clavert, and Philippe Hamman, *Contre l'Europe?. Vol. 1, Les concepts* (Stuttgart: Franz Steiner Verlag, 2010).

the perspective of a Danish farmer or a Spanish driver using one of the many roads build with structural fund money? I hope that it does of course. But the important point is finding out, irrespective of what the answer proves to be.

So where do all these rambling thoughts leave us? Well to sum up let me return to my story about the Treaty of Rome's signature. My first point would be that I think it is central to the whole integration story that the one volume with the full legal text written into it, is flanked by other volumes that are less rigidly codified, perhaps not written down at all. Informal integration in the sense of institutional and policy development that goes above and beyond the formal rules has thus always been a core part of the integration story, and is likely, for strong reasons to do with the basic nature of the EC/EU, to remain so for so long as the institutional process continues.

Second, I strongly welcome the fact that your generation of historians is willing to move beyond the actions and beliefs of the motley crew of state dignitaries who gathered on the Capidoglio six decades or so ago and investigate the more informal networks of influence and discussion that shaped the formal and informal development of the Community structures. Walter Hallstein matters, for instance, not just because he was one of those to append his name, alongside that of Adenauer, as a representative of the Federal Republic of Germany, but also as someone who was already deeply involved in a transnational debate about the manner in which law could be used to transform international relations within postwar Europe, and as such interacted as much with other legal academics and senior jurists, as he did with other government representatives.[32]

But what is still missing from our story are the views not so much of the small crowd of spectators who no doubt gathered, despite the appalling weather, to watch the various VIPs coming and going through central Rome, but of the effects that the integration process would have – over subsequent decades – of the millions of Italians and other Europeans who had little interest in what happened 60 years ago, but who have lived, worked, travelled, and enjoyed themselves across the many countries that make up today's EU. For it is only when their story too has

---

[32] Bill Davies, *Resisting the European Court of Justice: West Germany's Confrontation with European Law, 1949-1979*, 2014, 57–58.

been looked at that I can confidently look in the eye those colleagues of mine who still ask themselves (and sometimes me) whether what I work on matters at all, and say yes it is something that has changed Italy, Europe, and who knows, maybe the world more broadly.