

I have now had a chance to study the call for evidence with the care it deserves. I congratulate you again on it, particularly the clarity and conciseness with which you set the issues out.

(A) As ever, I find the lists of questions in Sections 8 and 10 serve to stimulate a host of others, mainly macro rather than micro. This explains what follows in bullet point form:

- (1) You point out that EU competence in the E, VT and Y field comes under the category of "supporting", which clearly makes sense. Are the various categories of competence defined with precision anywhere in the Treaties?
- (2) What scope is there for moving areas of competence from one category to another, or for "mission creep" (cf the distinction you draw in 5.7 between "legal basis" and "application")?
- (3) You mention (box on page7) an instance of specific prohibition of harmonisation under the provisions of Article 165 (TFEU). Where there is no such provision, what is the scope for action by the Commission which might *de facto* cross the border between "supporting" and "shared" competence?
- (4) You mention (4.2) the Charter of Fundamental Rights. Under what circumstances, I wonder, could the Charter be invoked by EU citizens to demand assistance of some sort? And what would the ECJ say if such a case was referred to them?
- (5) What influence does the ET 2020 Strategic Framework exert in this field? Could pressure to achieve its objectives be used as grounds for moving competences from "supporting" to "shared" in the case of under-performers?
- (6) As you suggest in Section 6, the broad object of EU activity in this field is to enhance the skills, including language skills, qualifications and mobility of young people. It is fundamental to the increase in competitiveness universally recognised as vital to the success, the survival even, of the EU. Once again, an activist President of the European Commission might therefore represent to the Council that the performance of some countries in this regard was sufficiently below par as to warrant moving from supporting to shared competence in their case. What reaction would our interest in a reformed and more competitive EU suggest?

Three more specific points:

- (7) The only financial sum I noticed is in 7.6: Erasmus+ is worth an estimated £793 million to us over its duration. Out of what total? What are the costs and benefits to the UK of the E VT and Y field as whole?
- (8) You mention sport (7.3), noting that it is in the DCMS bailiwick. But, not least by virtue of the Olympic and Paralympic Legacy examined by the House of Lords Select Committee of that ilk (HL Paper 78), the matter has wider implications for the country. The Commonwealth Games in Glasgow opening on July 23 are also relevant.

(9) Ref devolution, how would Scottish independence affect your concerns?

(B) Where do we go from here?

The fourth semester is well advanced. It is becoming more and more difficult not to think in terms of the exercise as a whole.

As you know, there was an Emerging Themes gathering on Friday. I was unable to attend the sessions on Economic and Monetary Policy, and Subsidiarity and Proportionality (aka “fish and chips”) but I was glad to be at the session on Enlargement.

It is crystal clear that calls for evidence, and particularly the background they contain, when taken together, constitute on their own a first-class *administrative* history of the EU, of a sort which has not previously existed and will in all probability never be repeated. This enriches and helps to illuminate, without politicising it, the examination of the evidence received in answer to the calls. The calls and the evidence are complementary, a very powerful combination..

One can take this analysis a stage further, again without politicising it, by examining each of the thirty-two areas with reference to a number of indices, eg :

- (i) the Index of *Permeability*: the scope for moving the area from one level of competence to another, up or down;
- (ii) the Index of *Connectivity*: the degree of interdependence of any one area with other areas;
- (iii) the Index of *Differential Impact* of the various competences on member states individually, either domestically; as regards their relations with the Union’s institutions; with other member states in EU matters; or as regards their international involvement generally;
- (iv) the Index of *Voter Sensitivity*: the extent to which conferral of competence in any particular area impinges on the consciousness and the daily life of ordinary people;
- (v) the Index of *Solidarity*: how far the conferral of competences not only aims at bringing people together and enhancing their lives, as distinct from regulating them from the centre, but actually succeeds in doing so. (What I have in mind here is relating the analysis to the generally benevolent conclusions from meetings of the European Council, and the extent of their implementation);
- (vi) the *Fish and Chips* Index: how far the criteria of Subsidiarity and Proportionality should apply, and how far they are in fact being currently applied.

The list is of course far from exhaustive. I would not go to the stake for any particular item on it.

I am forwarding to you separately my e-mails of April 4 to Tim Hemmings, and of June 16 to Kirsten Tiley, about Fish and Chips and Consular matters respectively.

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