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## From Monnet to Delors: Educational Co-operation in the European Union

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# From Monnet to Delors:

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## Educational Co-operation in

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## the European Union

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BRAD K. BLITZ

This article presents an historical analysis of the European Union's educational policy from the inception of the European Community to the establishment of a directorate for education in the European Commission in 1993. It tells the story of a policy that was not anticipated in the original EEC programme but which developed as a result of the Single Market plan and the gradual acknowledgement that educational issues were related to common economic concerns.<sup>1</sup> The story turns on the ideas and efforts of key individuals working within the Commission and in national ministries. These functionaries took the lead in formulating a limited European educational policy based on co-operation, the sharing of information and, much later, the creation of specific action programmes that sought to increase the mobility of students, teachers and skilled professionals across the Community. During the political uncertainty that characterised the Community in the early 1970s, the functionaries identified education – which was understood to include any formal instruction that prepared the student for a qualification in a particular profession, skill or trade – as a potential policy area that could provide the floundering Community with direction at supposedly low cost to member states. From vague discussions about the value of a skilled and mobile workforce that were enshrined in intergovernmental resolutions, the idea of a European educational policy was eventually seized upon by officials within the Commission and institutionalised in trans-European programmes and Commission-sponsored organisations. Assisted by the European Court of Justice, the Commission was able to initiate educational programmes that received the blessing of the member states and later secured a place for education in a new directorate. Although education never became a supranational policy, it raised the Commission's standing and supported claims that the Community was actively creating a 'people's Europe'.

This article begins by clarifying the part education played in the original debates on the future of what would become the European Union. It uses documentary evidence to challenge the assumption that education and culture were part of Jean Monnet's

<sup>1</sup> For a recent discussion of education, economic integration and the Single Market plan see Brad K. Blitz, 'Professional Mobility and the Mutual Recognition of Qualifications in the European Union: Two Institutional Approaches', *Comparative Education Review*, 43, 3 (August 1999), 311–31.

original design for Europe. This analysis is followed by a discussion of the way in which educational issues were written into official statements and intergovernmental resolutions. Legal rulings that defined the Community's powers over education are then considered in relation to the Commission's political agenda, which sought to introduce education under the banner of vocational training and through specific directives that eased the free movement of qualified persons across member states. Particular attention is paid to the Court's decision on Erasmus, the popular student mobility programme that enhanced the European Union's profile and demonstrated how the pressing concern of freedom of movement might be addressed. The section on Erasmus is followed by a study of the institutional political struggles that preceded the signing of the Maastricht Treaty of 1992, which incorporated education policy into the Community by means of a special article. This discussion is informed by interviews with key officials who lobbied to insert education into the Community's framework.

### Educational co-operation in the European Community

Several commentators have claimed that Monnet pondered the role of education in the European project, and allege that he recorded his interest by remarking 'si l'Europe était à refaire, je commencerais par la culture'.<sup>2</sup> However, education is not explicitly alluded to in the Treaty of Rome, and there is little evidence to suggest that it was considered important to the original design of the Community. Monnet's autobiography contains only one reference to education, in the context of a document, known as the 'Poignant Report' which was issued by the Action Committee at the time of the student riots in 1968.<sup>3</sup> This report, which compared the levels of education in Europe with those in the Soviet Union and the United States, referred to a single remark made by Monnet, in which he asserted that mass education was a means of safeguarding freedom and democracy. According to Paul Collowald,<sup>4</sup> Monnet's remark resulted from a meeting on *éléments culturels* held in Paris almost ten years earlier, in autumn 1959, and the only possible reference to education and culture is recorded in Monnet's recitation of the Universal Declaration of Human Rights on *droit à la culture*.<sup>5</sup>

Elsewhere research suggests that the references to education in the Community's archives are equally rare. Merry and Serge Bromberger in *Jean Monnet and the United*

<sup>2</sup> Quoted in Annemarie Sprokkereef, 'Developments in European Community Education Policy', in J. Lodge, ed., *The European Community and the Challenge of the Future*, 2nd edn (New York: St. Martin's Press, 1993), 340–7.

<sup>3</sup> For Monnet, the only relevance of education centred on access. His concern was that the student protests were caused by an 'over-rigid society still marked by injustice'. Jean Monnet, *Memoirs*, (London: Collins, 1976), 490.

<sup>4</sup> Former Director General of information at the European Parliament and correspondent for *Le Monde* at the time of the ECSC and Rome Treaties.

<sup>5</sup> Monnet actually said: 'le progrès de l'instruction des masses est une condition de la sauvegarde de la liberté et de la démocratie'. See Paul Collowald, 'L'enjeu de la formation européenne et si c'était à refaire' [The stakes of European education and if I were to do it again]. *Revue des Débats Européens*, (1993).

*States of Europe*<sup>6</sup> document one reference in 1959, when education entered as an idealistic digression from a protracted debate over the European Atomic Energy Community (Euratom) Treaty. According to the Brombergers this digression was initiated by Louis Armand, the French engineer who later became Euratom's first director. In order to breathe life into the Euratom discussions that had stalled over the prospect of creating a European isotope separation plant, Armand encouraged his colleagues to think creatively and 'begin European unification with something that's new'.<sup>7</sup> Armand's appeal for novelty appears to have been influenced not only by his own ideological commitment to internationalism but also by a fundamental optimism that a scientific, technological and industrial community could be created, in his words, 'effortlessly'. In addition, the process of creating Europe would take on a functional dimension and, in Armand's view, a system of European education could be fashioned 'free from national bias'.<sup>8</sup> Although the shocked Gaullists at the negotiating table rejected Armand's proposal, it did nevertheless have one significant result in terms of education: the creation of the European University Institute in Florence, which was written into the treaty by the then mayor of Florence, Giorgio La Pira.

In reality, however, the establishment of a single specifically European educational institution did little to advance the ambition of including education within the Community's mandate, and the Euratom discussions constituted the last occasion on which education was discussed in detail at such a high level until the Maastricht Treaty. In the intervening years, intergovernmental conferences, as recorded in *Documents on the History of European Integration*,<sup>9</sup> focused almost exclusively on economic programmes, federalist objectives and the need to preserve peace. Together with Monnet's *Memoirs*, this publication, which chronicles the debates between interest groups, political parties and national leaders over the designs of postwar Europe, provides such detailed descriptions of the competing visions for Europe that it is difficult to substantiate claims that education was always part of the original programme. Rather, the omission of education from the founding European documents appears to be based less on oversight and more on rational calculation. Until the link was made between education and the Community's vocational training programme, educational policy was of interest only to a small minority of idealists.<sup>10</sup>

However, in the early days of the Community, when there was a discernible struggle between the followers of Monnet and Robert Schuman, the French Foreign Minister, and the cadre of technocrats that came to power in the Community's second decade, there was, nonetheless, a realistic possibility of expanding into new policy areas. This was later demonstrated by the Community's foray into environmental and social issues in the 1970s. In the case of education, in spite of its initial

<sup>6</sup> New York: Coward-McCann, 1969.

<sup>7</sup> *Ibid.*, 174.

<sup>8</sup> *Ibid.*

<sup>9</sup> Walter Lippens and Wilfried Loth, (eds, *Documents on the History of European Integration*, vols. 1-4) (New York: Walter de Gruyter, 1988).

<sup>10</sup> See Guy Neave, *The EEC and Education* (Stoke-on-Trent: Trentham Books, 1984).

omission, idealistic ambitions and practical considerations helped to raise its profile, and education was eventually brought into the Community as an adjunct to training, which receives specific mention under Article 128 of the EEC Treaty. From that point onwards, educational issues progressed from cross-national and co-operative initiatives to generating a normative discussion about the possibility of fostering internationalist ideals among Europe's youth. Some commentators have seized on this fact as evidence of functional integration and the creation of a more supranational Community, but, in practice, the way in which education was introduced was less dramatic and is not in itself sufficiently indicative of supranational development. In effect, idealism was secondary to the development of an educational dimension in the EC, and educational policy evolved out of the need to satisfy certain basic freedoms recorded in the Treaty of Rome, the most important of which are freedom of establishment and freedom of movement. Although education crept in as a spillover, it was not able to break free from the economic area to enter the political realm, a necessary condition for supranational integration. The introduction of education was, in fact, a much more modest achievement.

It was many years before education was institutionalised inside Community structures. Initially, both the legal rights of European citizens and the link between education and training failed to attract attention; in fact, education was considered a taboo subject.<sup>11</sup> However, in 1969 the theme of education was raised, albeit timidly, and without reference to policy development. The 1969 Hague summit, which did so much to restore the credibility of the European Community after the resignation of Charles de Gaulle the French President, has often been cited as the first time that cultural issues were discussed at the negotiating table. Yet the intergovernmental conference only offered a fleeting reference to educational policy concerns, in the context of the Community's broad cultural objectives. The only explicit reference to education was the Council's formal endorsement of the European University Institute in Florence. Literally, the final communiqué recalled under Point 4 the simple need to safeguard in Europe 'an exceptional source of development, progress and culture'.<sup>12</sup> Recognising that the Hague Communiqué could be broadly interpreted, idealists within the Council of Ministers for Education seized upon this humanistic message as a means of introducing education into official resolutions. The final communiqué of the Hague summit was used as a precedent for subsequent elaboration and is now cited in the preamble of every educational policy statement.

After the Hague summit a de facto educational policy evolved from a series of non-binding resolutions in which the Council of Ministers for Education first identified the goal of defining a European model of culture that correlated with European integration.<sup>13</sup> The reason why education even received a mention within the Community was because the model was anchored to economic interests that

<sup>11</sup> Neave, EEC 6.

<sup>12</sup> Council of the European Communities, *Educational Policy Statements* (Luxembourg: Office for Official Publications, 1987).

<sup>13</sup> *Educational Policy Statements*, 11.

were universally important. The 1971 resolution on education was non-controversial in that it aimed to provide the population as a whole with the opportunities for general education, vocational training, and life-long learning.<sup>14</sup> For many years after this first resolution, education was discussed as a right, in humanistic terms, and had little bearing on the development of a well-defined policy. Practical suggestions, such as that by the French Minister of Education, Olivier Guichard, for a centre for the development of educational co-operation were never taken up; instead the Council continued to issue general warnings against regarding education as a 'component of economic life' without defining education as a matter of interest for the Community.

In 1973, however, the education advocates were gaining ground within the Council and, as a result of the Community's enlargement, the mood changed once again, with a new resolve to explore how education could be inserted into the Community's mandate under the banner of vocational training. To this end, the former Belgian Minister of Education, Henri Janne, devised a strategy paper entitled *For a Community Policy on Education* in which he argued that the Community had been conducting a de facto policy in education since the 1971 resolution was adopted, and made the case for extending its role.<sup>15</sup> Janne argued that the inclusion of an educational dimension in the Community was now irreversible and that the provisions on vocational training found in the Treaty of Rome could be interpreted to include education.

While it is difficult to ascertain the effect of the Janne Report on policy, it coincided with an increase in Commission-sponsored studies of education and a remarkable degree of activity within the EC institutions on this theme. During this period, the Commission took the bold step of formally recognising education and incorporating it into the Directorate for Research and Science under the then Commissioner Ralf Dahrendorf. For its part, the Commission attempted to consolidate the progress it had made in raising the profile of education and took the lead by drafting further proposals on educational co-operation that were to appear before the Council in the following year.

The first outline for a Community programme in education was brought before the Council in 1974, based on the Commission's draft proposal on education, research and science. The eventual resolution instituted the two main pillars of EC educational policy discourse, 'co-operation' and 'diversity', which highlighted the Commission's interest in the field of education while appeasing state interests. Through this resolution, the Council agreed to establish a system of progressive co-operation, compile documents and statistics on other systems, and promote the free movement of teachers, but it also maintained that it was essential to 'make allowances for the traditions of each country and the diversity of their respective educational systems and policies'.<sup>16</sup> In practice, the attempt to preserve education as a value

<sup>14</sup> *Bulletin of the European Communities* (1974), 5.

<sup>15</sup> *Bulletin of the European Communities*, Supplement, 10 (1973). Later republished in *Western European Education*, 6, 1 (1974), 50–66.

<sup>16</sup> *Educational Policy Statements*, 15.

and the need to ensure co-operation with a view to supporting the economic and social programme of the Community provided a weak basis for policy development, and ultimately the 1974 resolution did little more than recognise the desire for co-operation. Its failings were partially overcome by the creation of an action programme in 1976 that provided the institutional mechanisms for co-operation and established Eurydice, an educational classification and retrieval system developed by the Council of Europe. However, while the intergovernmental agencies appear to have protected national interests and circumscribed the Commission's powers over education, by focusing the Community's attention on the principal issue of mobility, the education advocates were eventually able to pave the way for a formal recognition that the Community had a legitimate interest in educational matters and could claim some jurisdiction in this area. To this end, they were assisted by the European Court of Justice, whose rulings provided the basis for a limited educational policy.

### Community law and the development of educational policy

In 1974, as the Commission was pressing the Council to adopt a programme of co-operation in education, the European Court of Justice provided the Commission with a stronger basis for action and helped to define its competences. In the case of *Donato Casagrande v. Landeshauptstadt München (Casagrande)*<sup>17</sup>, the Court recognised that the Community must be able to expand its competences in order to reach its desired goals, even if substantive policy areas had not been transferred by EC Treaties.<sup>18</sup> Education, the Court ruled, was thus a formal area of Community concern, insofar as it related to the creation of a common market. Since the *Casagrande* ruling, the Court has issued a number of decisions that relate to education but only insofar as they apply to negative integration – that is the removal of obstacles to integration. In over a dozen rulings on the provision of educational grants, the payment of fees and the determination of nationality and residency requirements, the Court has repeatedly been called upon to interpret the 1968 Regulation on Vocational Training and Article 7 of the EEC Treaty that prohibits discrimination on the grounds of nationality. The rulings handed down have been remarkably consistent, as evidenced in the most frequently cited cases of *Gravier* (1985), *Blaziot* (1989) and *Barra* (1988), all of which concern migrant Community nationals who sought access to education systems in foreign member states. As a result of these rulings, and related ones that followed, the Commission found potential powers available to itself as the Court's decisions further served to demarcate the division of competencies within the EC institutions. This was most clearly demonstrated in the 1987 Court decision on Erasmus, which acknowledged that the Commission had some power over education and served as the basis for new Community action programmes.<sup>19</sup>

<sup>17</sup> *Donato Casagrande v. Landeshauptstadt München (Case 9/74)*, *Common Market Law Reports*, Vol. 2 (1974), 423.

<sup>18</sup> Bruno De Witte. *Introduction in Community Law of Education* (Baden Baden: Nomos Verlagsgesellschaft, 1989), 10.

<sup>19</sup> 'The European Community Action Scheme for the Mobility of University Students (Erasmus)', *Official Journal of the European Communities*, 166, (25 June 1987).

The extension of Community powers into educational areas was due to the Court's interpretation of two key articles: Article 128, which provides the basis for the Community's vocational training policy, and Article 235, which has the function of clarifying the aims and scope of proposed actions. Article 235 has proved to be particularly controversial in that it protects state interests under the provision of unanimity in the Council and at the same time opens up the possibility of extending the Community's competence in areas not covered by the Treaties, so long as they pertain to the goals of the common market.<sup>20</sup> In the body of EC case law, Article 235 has been at the centre of numerous legal conflicts and has allowed the Commission and the Court to increase the Community's supranational powers.<sup>21</sup>

In the case of Erasmus, the introduction of Article 235, alongside the Council Decision that laid down the general principles for implementing a common vocational training policy,<sup>22</sup> precipitated a battle among the EU institutions and within the member states. The case began when the Commission, which hoped to extend the Community's competences over education and vocational training, requested that the Court annul the inclusion of Article 235 as part of the legal basis of the decision. The Commission's argument was founded on the claim that Erasmus simply supplemented and clarified the 'general principles for implementing a common vocational training policy'. To support its claim for expanding the notion of vocational training, the Commission cited the fourth and sixth principles of the vocational training directive and developed three lines of argument.<sup>23</sup> First, it equated university education with vocational training. Second, it maintained that, given the broad definition of the term 'university', it was impractical and arbitrary to distinguish between vocational and general university education. Third, it downplayed the influence that the Erasmus programme could have, arguing that the Erasmus programme did not appear, 'by its nature and content, capable of encouraging student mobility in the context of wholly general training'. In effect, the Commission wanted to broaden the concept of vocational training so that it was sufficiently inclusive but at the same time, it sought on these terms to lessen the challenge that the introduction of Erasmus offered. With these aims in mind, the Commission redesigned Erasmus as a voluntary Community programme that 'encouraged' rather than 'imposed' obligations and need not necessarily interfere with member states' concerns.<sup>24</sup>

The Council rejected the Commission's arguments and countered that the proposed Erasmus decision was a Trojan horse that harboured integrationist ambitions. In response to the Commission, the Council identified aspects of education that fell outside EC law and the scope of the Community's vocational training

<sup>20</sup> For this reason A. G. Toth describes Article 235 as a 'gap-filling provision'. See A. G. Toth, 'The Principle of Subsidiarity in the Maastricht Treaty', *Common Market Law Review*, 29 (1992), 1079–1105.

<sup>21</sup> At other times, however, the EU institutions have either sought to quash it or introduce it in order to preserve unanimity in the Council. For example, the Court annulled the 'students' directive' (90/366/EEC) which was based on Article 235.

<sup>22</sup> 63/266/EEC.

<sup>23</sup> The sixth principle encourages direct exchanges in the field of vocational training.

<sup>24</sup> *Common Market Law Review*, 29 (1992).

policy based on Article 128. Moreover, the Council rejected the Commission's attempt to repackage Erasmus as a promotion initiative, claiming that its goals could be achieved either by a voluntary arrangement or through a Community action programme regulated by the Commission. The Council's concern over the Commission's creeping supranationalist tendencies was rationalised on the grounds that it would be difficult to make the case that Erasmus had no binding influence on the member states if the decision was based at the Community level.<sup>25</sup>

Individual member states, such as the United Kingdom, went further than the Council and asserted that the draft decision on Erasmus included European objectives such as the organisation of education and research policy, the notion of a 'people's Europe', and other proposed developments which, in its opinion, revealed the Commission's real intention of developing supranational policies in the area of education.<sup>26</sup> For this reason, the United Kingdom lined up alongside the Council and argued that Article 235 was necessary to limit the scope of the proposed piece of legislation.

The matter was eventually settled when the Council and dissenting member states defeated the Commission and saw Article 235 inserted in the final decision.<sup>27</sup> The Court's ruling on Erasmus thus preserved national control by protecting states' interests under Article 235 but also held out the prospect of extending the scope of educational policy where it advanced the goals of the common market. Furthermore, the Erasmus decision also helped to clarify under what conditions general education related to the common market programme. In his Opinion, Judge Mischo recognised that the notion of vocational training included aspects of general education since, ultimately, they too determined access to the labour market.<sup>28</sup> From the Commission's perspective, it could now point to an obvious functionalist gain: it had stretched the concept of vocational training and was able to secure a place for general education in the Community under this banner.

On the basis of the Erasmus decision and the previous rulings in *Gravier* and *Blaziot*, the Commission explored ways in which the relationship of education to vocational training could be exploited and, to this end, held special conferences on education, certification, and mobility in Malaga and Siena in 1989 and 1990 respectively. Action programmes promoting student and teacher mobility and projects

<sup>25</sup> *Ibid.*, 1433.

<sup>26</sup> In the words of Advocate General Mischo, the Commission had engaged in deception. Mischo claimed that the Commission had tried to 'dress up' the objective of encouraging mobility as vocational training 'in order to fit the contested decision into the scope of the application of Article 128' (which permits majority voting). *Common Market Law Review*, (1991), 1447.

<sup>27</sup> *Ibid.*, 482.

<sup>28</sup> General education was defined as 'any form of education which prepares for a qualification for a particular profession, trade or employment or which provides the necessary skills for such a profession, trade or employment, whatever the age and the level of training of the pupils or students, even if the training programme included an element of general education. In general, university studies fulfil those criteria. The only exceptions are certain courses of study which, because of their particular nature, are intended for persons wishing to improve their general knowledge rather than prepare themselves for an occupation.' *Ibid.*, 1426.

furthering educational linkages between universities and industries suddenly became increasingly visible and were publicised in the activities of the two most well-known schemes, Comett, which was designed to advance research and development between universities, and Erasmus. Prior to the implementation of these programmes, the level of transnational student exchange had been less than 1 per cent of the student population, and it soon became evident that these schemes had had an impressive effect on student mobility within the Community.<sup>29</sup> However, the internationalist goal of creating a 'people's Europe', based on closer interaction at the popular level that was codified in the Erasmus decision, was now subservient to economic concerns.<sup>30</sup> Instead, these action programmes were introduced to strengthen the European Community's position in the global economy, an aim that was recorded in the subsequent decisions that created the action schemes of the 1980s.<sup>31</sup> Commission-sponsored publications reiterated the Community's new human capital bias: education was a means to achieve competitiveness in the world economy. It was only in the 1990s, under the leadership of Commission President Jacques Delors, that the idea for a more developed Community educational policy was rekindled.

### **Freedom of movement and the single market plan**

While the Community did not benefit from an extension of its powers over education as some had hoped, the gradual insertion of education into the Community framework did raise its profile and legitimise its claims that it was establishing a 'people's Europe' in which the citizens of the European Community could exercise their rights to freedom of movement and association. Before education was formally recorded in the Maastricht Treaty, areas where co-operation in education was serving to advance the social element of the European Community could still be identified. The most significant illustration of such social intergration was to be found in the area of freedom of movement, one of the fundamental freedoms, that some associate with the 'human dimension' of Europe's quest for productivity.<sup>32</sup>

The Community's attempt to recognise professional qualifications has centred on three articles in the Rome Treaty: Article 57, on professional recognition, Article 49, which calls for the abolition, systematically and progressively, of all potential obstacles to the liberalisation of the movement of workers, and Article 235, which,

<sup>29</sup> By 1999, 40,000 students and 8,000 staff members had participated in Erasmus, and after the end of the first funding cycle in 1996, the Commission would claim that 170,000 students had participated in Erasmus.

<sup>30</sup> Article 2 (iv) proposes strengthening the 'interaction between citizens in different Member States with a view to consolidating the concept of a people's Europe'.

<sup>31</sup> Indeed, the final Erasmus decision discussed economic development before it outlined a cultural dimension. Moreover, the relationship of educational action schemes to the economic expansion of the Community was further outlined in the Industrial Research and Development Advisory Committee (IRDAC) publication.

<sup>32</sup> See Scott Davidson, 'Free Movement of Goods, Workers, Services, and Capital' in Juliet Lodge (ed.) *The European Community and the Challenge of the Future* (London: Pinter, 1987), 111–28.

as noted above, gives the Council the powers to extend the provisions of the Treaty in the course of completing the Common Market. Of all of these, only Article 57(1) explicitly includes the mutual recognition of diplomas as a measure aimed to promote free movement. On the basis of Article 57, and by referring to the provisions of Article 235, the Commission and Council have been able to introduce a number of directives with a view to completing the internal market. Between 1964 and 1994 approximately sixty directives were enacted for the purposes of recognising professional qualifications.<sup>33</sup> In addition to the application of case law, the introduction of these directives may facilitate recognition in one of three ways, by recognising professional experience, automatically recognising professional qualifications, and recognising qualifications without the co-ordination of education and training.<sup>34</sup>

Since the celebrated *Cassis de Dijon*<sup>35</sup> ruling instilled the principle of mutual recognition of different standards in food products, the trend in deregulation has similarly applied to social concerns, including the free movement of persons within the Community.<sup>36</sup> In this context, the history of the recognition of diplomas is also noteworthy. The process by which the Commission and Council sought to address this potential barrier to mobility mirrored other developments within the Community, not least the shift from harmonisation to mutual recognition. Transitional directives, introduced for skilled trades, that aimed at sectoral harmonisation and the later professional directives, addressing particular occupational groups, were eventually displaced by a general directive that moved away from the type of harmonisation for which the Commission has been frequently criticised. Rather than focus on the award of equivalence or the content of studies leading up to a diploma, the 1988 general directive 89/48/EEC covered any diploma awarded by a competent authority, provided the student had completed at least three years training at the post-secondary level.<sup>37</sup>

While some argue that in practice this directive has been of limited success in increasing mobility,<sup>38</sup> it has simultaneously publicised the Community's actions in this sphere and strengthened the rights of Europe's citizens by codifying their rights in a directive which they can call upon when they feel that they are unjustly denied access to the common market.<sup>39</sup> Finally, this directive has consolidated the co-operative

<sup>33</sup> Julia Lassett, 'The Mutual Recognition of Diplomas Certificates and Other Evidence of Formal Qualifications in the European Community', *Legal Issues of European Integration*, 1 (1990), 1–66.

<sup>34</sup> For a detailed discussion of the application of these directives see Blitz, 'Professional Mobility'.

<sup>35</sup> The *Cassis de Dijon* case refers to the attempt by a German company to import a consignment of a dessert wine, Cassis de Dijon, from France for resale in Germany. The German importer applied for authorisation to import the product but the monopoly administration declined the request on the grounds that the product's lower alcohol content did not have the characteristics required in order to be marketed as wine in Germany.

<sup>36</sup> See Blitz, 'Professional Mobility'.

<sup>37</sup> This was followed by a second one (91/51/EEC) in June 1992.

<sup>38</sup> Blitz, 'Professional Mobility'.

<sup>39</sup> *Ibid.*, for a discussion of the way in which Directive 89/48/EEC has been implemented and used as the basis for claims of labour market discrimination.

basis of the Community's educational policy. For this reason, the Commission later set out the application of the general directive in the context of subsidiarity and the principle of co-ownership, which was further elaborated at Maastricht.<sup>40</sup>

### **Maastricht and the politicisation of education**

In the mid-1980s, as the European Commission was publicising the virtues of education as a means of enhancing economic competitiveness, its president, Jacques Delors, was concentrating on developing a stronger institutional base for educational co-operation within the Community. According to Hywel Ceri Jones, former director of the Task Force on Education and Training, Delors had always wanted to include education as a policy area within the Commission. In Jones's account, a few months before Delors began his second term he made known his aim of establishing a task force that would become a new Commission directorate:

It was President Delors's personal commitment. He didn't say 'task force'. He wanted to create the machinery to give an independent status to an area that he regarded as strategically significant. And he wanted that to be developed... as 'un pôle de référence pour les états membres'. He saw it as kind of a crossroad for ideas and innovation and was never in favour of those legislative kinds of intentions and all that. It was really so as to get this place to be a real catalyst. And he told me in my first discussion with him... that it was his firm intention that it was to be developed into a full directorate general. That was his personal intention and he repeated it on many occasions subsequently.<sup>41</sup>

From Jones's account, the move to create a new directorate had been built up progressively. Education had been housed under the Directorate for Science and Research, but in 1978 it was transferred to social affairs, where Jones proposed that education and training be linked. In addition to this gradual process of integrating education into the Commission's institutional structure, Delors was concerned to use the European Social Fund more creatively to support projects that encouraged greater co-operation in educational issues. According to Jones, Delors wanted him to be given the opportunity to use the task force as a means of generating new innovations, and education was seen as a flexible medium through which the Commission could expand its own influence.

The institutionalisation of education in the Commission, was, however, only part of the programme. From the publications issued by the Commission and its sponsored programmes, one can sense that there was also a normative agenda driving this new plan for education and its role in the Community. From 1991, it was clear that the Community had recognised education as an agent of political change, and something that could be exploited to enhance the Community's external relations.

<sup>40</sup> Directive 89/48/EEC accords well with the concept of subsidiarity. Member states remain responsible for determining whether or not a professional activity should be regulated i.e. made subject by law, regulation or administrative provision to the possession of a professional qualification and if so, what the level of structure and content of the education should be.' See Commission of the European Communities, *Article 11 Reports (Directive 89/48/EEC) for the Period 1993-94* (Document XV/58589/95-EN) Brussels: Commission for the European Communities.

<sup>41</sup> Interview with Hywel Ceri Jones, 5 March 1996.

In the Commission's *Memorandum on Higher Education in the European Community* two areas where education might exert a political influence were specified. These were cementing relations with eastern Europe in the delivery of development assistance, development co-operation and the promotion of political and cultural relationships, and the safeguarding of European heritage and the transmission of this cultural legacy across the Community.<sup>42</sup> Elsewhere the Commission and core of academic experts on education in the EC went on record to advocate that not only was education central to the Single Market, but that, in the form of transnational co-operation, it could be used as a force to 'go beyond the Treaty of Rome' and encourage a kind of positive integration, understood as a further move towards a European federalist order. This was not to be done through vertical-style harmonisation, as suggested by the directives issued in the 1970s, but rather through a model more suited to the horizontal, communications-based approach, identified with David Mitrany and Karl Deutsch, that stressed the development of trans-European linkages.<sup>43</sup> The politicisation of education thus represented a sharp break with the past, and, indeed, the designs promoted by Delors and his colleagues in the pre-Maastricht period challenged the hands-off policies of the 1970s, when education was discussed as a right, with little application. This point is illustrated in the writings of the leading commentators on education in the European Community who argue that this policy area was central to the construction of a united Europe.<sup>44</sup> They maintain that transnational co-operation in education was essential not only to produce a competitive workforce but also in the creation of a socio-psychological community.<sup>45</sup>

In the months preceding the intergovernmental conference at Maastricht, Delors and Jones prepared the ground by engaging the national administrations and building a stronger constituency for their project. Jones claimed that although education was 'one of the symbols in the heartland of the question of sovereignty', the time had arrived for a formal discussion on education, provided that sufficient attention was paid to sensitive national interests.<sup>46</sup> He admitted that the preliminary

<sup>42</sup> Commission of the European Communities, *Memorandum on Higher Education in the Community (COM (91) 349 final)* (Luxembourg: Office for Official Publications of the European Communities).

<sup>43</sup> Karl Deutsch, *Nationalism and Social Communication: An Inquiry into the Foundations of Nationality*, (Cambridge, MA: MIT Press, 1966); and David Mitrany, *A Working Peace System* (Chicago: Quadrangle Books, 1966).

<sup>44</sup> See Neave, *EEC*; Ladislav Cerych, 'Higher Education and Europe After 1992', *European Journal of Education*, 24, 4, 1989; Hywel Ceri Jones, 'Promoting Higher Education's Contribution to the Developing European Community', *Prospects*, 21 3 (1991); and Raymond Ryba, 'Towards a European Dimension in Education: Intention and Reality in European Community Policy and Practice', *Comparative Education Review*, 36, 1 (1991), 10–24.

<sup>45</sup> The belief that transnational educational policies might actively foster positive integration was further publicised by the former Commissioner for Human Resources, Education and Training, Antonio Ruberti. Discussing the relationship between institutions of higher education and local, sub-national, identities, Ruberti stated that universities may influence the transmission of a common sense of Europeanness and prophesied that they are indeed the sites where European union will effectively be created. See Hilary Clarke, 'Grand opportunities: a man with a Commission – as the student fair opens Antonio Ruberti spells out the objectives of his new post in education', *The European*, 11–13 Feb. 1993.

<sup>46</sup> Jones, 'Promoting Higher Education's Contribution'.

talks on education had generated a nervous discussion between Delors and the personal assistants of the heads of state but in setting their sights low, Delors and his staff were able to introduce education into the Treaty. They did so by declaring education to be a matter of 'co-ownership' to be governed by the principle of subsidiarity.

At the time, as the concept of subsidiarity was subject to debate, some argued that the Commission was, in effect, laying claim to an area of national jurisdiction. However, as Jones explained, co-ownership did not offer an invitation for the Commission to trespass on the territory of the member states but rather were seen as a means of 'adding value'. He argued that Delors never wanted educational policy to be a Commission-run exercise and that they 'saw the Commission as a catalyst and from the outset... designed the whole thing so that the member states and their authorities were heavily engaged'.<sup>47</sup> In private, Jones acknowledged that there could be no binding legislation and that, in spite of the notion of co-ownership, the Community was not an equal shareholder. Moreover, by the 1990s, the division of powers between the Community and member states over education was clearly marked out. With the adoption of the Maastricht Treaty, education and vocational training were formally separated. Article 126, which introduced education into the Maastricht Treaty, was balanced by the insertion of a new article, 127, on vocational training and Article 3b on subsidiarity. Although education was brought into the Community, it occupied a small place, and could only supplement policy actions driven by member states.

### **Subsidiarity and the division of powers over education**

The introduction of the subsidiarity clause helped to dispel any suggestion that the Commission intended to introduce a common educational policy, but it also empowered the supranational institution to consolidate educational programmes and thus raise the profile of education within the Community. As noted above, prior to Maastricht, the aim of using education as a vehicle for developing the 'acquis communautaire' was interpreted through Article 128, which concerns vocational training. After Maastricht, however, legal scholars argued that all forms of education which formerly were not regarded as vocational training could be covered by Article 126. According to Koen Lenaerts, the real achievement at Maastricht was that the Community could enlarge its 'field of operations to sectors of education which were previously affected at most by non-binding "resolutions" or "conclusions" of the "Council and the Ministers of Education, meeting in the Council"'.<sup>48</sup> In the post-Maastricht period, however, the critical question, in the absence of Court rulings, was: would the key political actors respect the principle of subsidiarity, especially since most of them disagreed about the meaning of the term itself?

<sup>47</sup> *Ibid.*

<sup>48</sup> Koen Lenaerts, 'Education in the European Community after Maastricht', *Common Market Law Review*, 31 (1994), 7-41.

Subsidiarity has been defined in countless ways. It has been described as a means of respecting national identities, as a constitutional principle,<sup>49</sup> as a sociopolitical concept,<sup>50</sup> as a principle resulting from a moral requirement,<sup>51</sup> and as a decentralist paradigm compatible with the ideal of federalism.<sup>52</sup> In the case of education, however, the division of powers was specified in the Maastricht Treaty, and there was little need to invoke the subsidiarity clause. Under Article 126 of the Maastricht Treaty, the Community's aims in education are limited to:

developing the European dimension in education, particularly through the teaching and dissemination of the languages of the member states;  
encouraging the mobility of students and teachers, inter alia by encouraging the academic recognition of diplomas and periods of study;  
promoting co-operation between educational establishments;  
developing exchanges of information and experience on issues common to educational systems of the member states;  
encouraging the development of youth exchanges and of exchanges of socio-educational instructors; and  
encouraging the development of distance learning.<sup>53</sup>

The division of powers outlined above left education predominantly in the hands of national actors. According to Lenaerts and the core of educational law experts, after Maastricht, the European Union could only provide incentives to advance the agenda for education, but the application of 'subsidiarity' effectively relegated the Union to a secondary role.<sup>54</sup>

### Conclusion

For students of European integration, the history of educational co-operation in the European Union raises some important points. Contrary to functionalist explanations, education did not become part of the Community's agenda and produce a change in

<sup>49</sup> European Parliament, *Interim Report to the European Parliament on the Principle of Subsidiarity* (A3.163/90 Part B), (Strasbourg: European Parliament, 1990); and Vaughn Miller, *Research Note Defining Subsidiarity* (London House of Commons Select Committee on European Legislation (Doc. 92/90)) (London: House of Commons, 1992).

<sup>50</sup> See Nicolas Emilou, 'Subsidiarity: An Effective Barrier Against the Enterprises of Ambition', *European Law Review*, 17, 5 (1992), 383–407; and K. Van Kersbergen and B. Verbeek, 'The Politics of Subsidiarity in the European Union', *Journal of Common Market Studies*, 3, 2 (1994), 215–36.

<sup>51</sup> According to Jacques Delors, 'subsidiarity comes from a moral requirement which makes respect for the dignity and responsibility of the people which make up society the final goal of society'. Jacques Delors, 'Subsidiarity – Guiding Principles for the Future EC Policy Responsibility', paper presented at a colloquium at Maastricht, 1991.

<sup>52</sup> George Bermann, 'Taking Subsidiarity Seriously: Federalism in the European Community and the United States', *Columbia Law Review*, 94, 2 (1994), 332–456; and G. F. Sawyer, *Modern Federalism* (London: C. A. Watts, 1969).

<sup>53</sup> Bernard Rudden and Derrick Wyatt, eds, *Basic Community Laws* (Oxford: Oxford University Press 1996), 88.

<sup>54</sup> Toth argues that subsidiarity 'creates a presumption that all powers other than exclusive competences (which are nowhere defined) remain vested in the Member States while the Community can exercise these powers only in certain limited situations . . . This effectively relegates the Community to a "subsidiary" (i.e. subordinate) role, as is inherent in the term itself'. Toth, 'Principles of Subsidiarity'.

the division of political power. While the very discussion of education is suggestive of policy-creep (or, as proponents of integration term it, 'spill-over'), the introduction of education was limited to areas of direct relevance to the Single Market Plan. In this context, it is tempting to recall the words of Ernst Haas, founder of neo-functionalism, that functionalism, when harnessed to the objectives of economic integration, comes up against a wall.<sup>55</sup> In this account, education first appeared in European discussions through co-operative methods, as evidenced by the declaratory resolutions introduced in the 1970s that were agreed at minimal cost to the member states. Yet what is most interesting about these resolutions is the way in which education was first introduced. Just as with the Euratom treaty negotiations, one vague statement made at the Hague conference was used as a pretext for expanding the Community's claim over education. In this instance, education served to provide the Community with a new focus during a period of recession and disillusionment. Once introduced, functionaries within the Commission used the early resolutions as a base upon which the Community's interest in education could be further grounded and lead to further proposals. As noted above, this was done through the 1976 action programme, which provided the model for subsequent initiatives in the 1980s. Hence, co-operation generated further co-operation and new ideas about the role of education in the Community. This was later seized upon by the Commission under Delors in a deliberate and rational attempt to harness education to training and competitiveness. The idea of education as a universal right increasingly became expressed in terms of satisfying the demands of the Single Market and, indeed, the underlying economic rationale was crucial to the Court's ruling on Erasmus.

In the late 1980s two notions of education gained currency simultaneously. Not only was education discussed in terms of enhancing competitiveness but also in the language of state-building. As the interview with Hywel Ceri Jones records, the attempt to introduce education into the Maastricht Treaty, alongside the various state-building programmes could only be defended in instrumental terms. Educational policy was presented under the banner of co-ownership and adding value to the Community. Functionalists might point to the creation of a specific directorate as evidence of 'spill-over' (and indeed the blurring of policy areas is a traditional indicator of functional integration), but the introduction of education into the Maastricht Treaty did not advance the drive towards supranational integration. Rather, one might argue the converse: that the lack of supranationalism in the educational sector raises some important questions about the limits of state power and the possibility of genuine joint-ownership.

Ten years after Maastricht, the theme of providing an added value dimension to EU activities has characterised its efforts in the field of education. In many respects, what has been achieved in the past thirty years is a recognition of the value of co-operative efforts rather than an evolved policy. Institutionally, education is now secure

<sup>55</sup> In Haas's view, 'once the limits of specific tasks are reached, and the objectives attained, we are up against the hard core of politics'. Ernest Haas, 'Technocracy, Pluralism and the New Europe', in J. Nye, ed., *International Regionalism: Readings* (Boston: Little, Brown, 1968), 149-76.

within the Commission and, indeed, the growing number of programmes under its guidance is evidence of an active interest in this area. However, education remains a minor concern for the European Union. It takes up less than 2 per cent of the EU's annual budget and, even after the introduction of Maastricht, education remains the formal prerogative of the member states. The most significant finding of this study is that, while the Commission was not able to extend its formal powers over education as it has done in other sectors, it has used educational policy to enhance its profile and, through action programmes such as Erasmus, increase its popular appeal.