

Guest Editorial

The EU after the Agreement on a Constitutional Treaty

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The European unification process is once again facing one of its difficult moments. Criticism, directed against the EU by uninformed citizens, victims of media hype and narrow-minded national politicians, is fueled by a difficult economic environment, by the anonymous challenges of globalization, by demographic developments imposing painful adjustments of social systems and generally by the growing complexities of national and European politics. No wonder that insecure voters and their political leaders, giving in to populist temptations, turn parochial and concentrate on domestic problems. This is not a time for political leadership, for statesmanship, certainly not at European level, even though many of the challenges before us do require for solution a common European approach.

Today's political class has a tendency to abdicate its responsibilities, to follow the trend of the electorate. Governments increasingly turn towards direct consultations of their citizens, allowing the unpredictable mood of the voters to determine the future instead of exercising leadership and letting parliaments take their responsibilities. This kind of opportunism now even prevails on such an extremely complex issue as the Constitutional Treaty of the EU, a compromise text of several hundred pages.

Playing tactical games of domestic politics and giving priority to the desire to get (re-)elected is today considered as acceptable even when it means playing *va banque* and gambling on the future of the EU. Tony Blair showed the way, Jacques Chirac followed and now also Chancellor Schroeder and his Social Democrats have succumbed to the temptation and come out in favour of a change of Germany's constitution, which so far provides for a rather strict application of the principle of representative democracy. The German 'Basic Law' requires a two-thirds majority in both houses of parliament for changing it and that is unlikely to be obtained, but tactically the move by Schroeder's party is a clever one since it could split the opposition. At the same time the real problem remains unresolved: If one allows for a referendum on the Constitutional Treaty, why then not also have one on the EU accession of a

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muslim country like Turkey or on far-reaching internal reforms of the social system? The issue is not only one of democracy and trust in the wisdom of voters on complex questions but also one of effectiveness and responsibility, of international reliability, of how to avoid stagnation for the EU.

While the Member States of the EU try to play these highly inward-oriented games, the world around it is not waiting. The integration of the ten new Member States has hardly begun and already the next wave of candidates is knocking at the doors of the Union. Bulgaria, Rumania, Croatia, Turkey and the countries of the Western Balkans constitute additional challenges to the inner as well as external cohesion of the Union.

The Constitutional Treaty, though still facing a very difficult ratification process, could be helpful in facilitating the integration of the ten new Member States. But beyond that there exists no convincing reason to assume that it could also promote sufficiently coherent action by a future Union of around 30 Member States. The central issue of the functioning of the European institutions has once more found no satisfactory answer. Thus additional accessions will oblige Member States to further enhance the functioning and decision-making capacities of EU institutions as well as reforming common policies like those concerning agriculture, regional development and the budget.

The Constitutional Treaty continues to provide far too much intergovernmentalism, far too many 'sensitive' issues to be decided upon by unanimity and accordingly does not allow the Union to adequately face the challenges of our times and to be taken seriously, in particular by the USA, its foremost partner. Where the nation state today no longer can deliver the solution, the EU must be provided with the tools to give the required answer. However, in order to avoid an erosion of their own importance, there are nowadays more and more national politicians preferring out of principle inadequate national solutions to more effective European ones. To criticize such an unrealistic approach, directed against the interests of our citizens, has nothing to do with an alledged promotion of a European 'super state' but more so with the recognition that today efficiency in common decision-making at European level is a prerequisite for a successful promotion also of national interests.

In spite of its shortcomings, the draft Constitutional Treaty on the whole nevertheless signifies further progress on the bumpy road towards a higher degree of European unity.

The biggest achievement is the replacement of the present complicated and unfair system of ponderation of votes in Council by a 'double majority' system, putting each Member State on an equal footing and adding to that the population factor. A qualified majority behind a decision requiring 55 per cent of the Member States and 65 per cent of the population of the Union will still make blockades too easy, the more so since about 30 so-called 'sensitive'

policy issues continue to be governed by the rule of unanimity. Nevertheless the new system represents considerable progress.

From the point of view of democratic accountability, the extension and formalization of co-decision on legislative matters between the Council and the European Parliament moves the Union in the direction of a two-chamber system. The strengthened role of the Parliament on the EU budget, as well as in electing the Commission President, is likewise to be welcomed.

Increased competences for the Commission and more decisions to be taken by a qualified majority in the field of justice and home affairs are positive in order to come to more concrete common actions, above all against international terrorism and criminality as well as concerning the protection of the Union's external borders;

The respect for the notion of subsidiarity will be enhanced by the creation of an early warning system in favour of national parliaments and their right to appeal to the European Court of Justice against any European legislation threatening to violate this principle. Also a Charter of Basic Rights will become part of the Treaty in order to increase its direct bearing for European citizens.

The strengthened role of the Commission President, the creation of a 'double-headed' European Foreign Minister as well as of a full-time, no-longer-rotating President of the European Council will hopefully contribute to more efficiency and to an increased international EU profile through these personalities. That could also make it easier for citizens to identify with EU policies, provided the three office-holders in question succeed in cooperating positively instead of competing with each other. This, however, cannot be taken for granted because of the hybrid character of the European Foreign Minister, responsible to the Commission but also to the European Council, as well as of the purely intergovernmental character of the European Council itself.

In an enlarging Union, it cannot be expected that all 25–30 Member States will find it possible to always come to identical positions and advance together. Accordingly, 'strengthened' as well as 'structural' cooperation, allowing for a limited group of like-minded Member States to advance further on a specific issue while giving others more time to make up their minds, needs more and more to be pursued in order to avoid stagnation. The criteria of the Constitutional Treaty to be met by such initiatives may still be too rigid, but at least more possibilities for action will be available. In particular on security and defense matters this could become meaningful. Taken together with the new European Foreign Minister, the creation of a European Diplomatic Service and a Defence Agency for industrial cooperation on military procurement, better possibilities are thus offered for the EU to act also internationally in a more coherent way.

In such a context the Franco-German tandem could continue to play a useful role as long as it manages to take into account the interests of the Union as a whole, does not impede negatively on the Internal Market or other common policies and allows any other Member State to join in such initiatives. The yardstick for participation is not the size of a Member State but the quality of its European policy approach. The idea of a 'directorate' made up of three or more 'big' Member States is too devisive and must be rejected.

In the light of the difficult political and economic environment, in which national as well as European policies are presently being pursued, the Constitutional Treaty consists of enough positive elements to require its ratification. Eurosceptical opponents to it should find this acceptable in view of the far-reaching compromises in favour of the continuing predominant role of the nation state. Ratification is also necessary to avoid a serious crisis. The Union has to be strong enough to fulfil its stabilizing role for the European continent and its neighbouring regions. It has to cope with international terrorism and destabilizing developments at its southern frontiers. It must improve its relations with the USA and overcome the growing transatlantic divide.

At the same time the Union is faced with a risky internal conflict on the future financing of its policies for the period 2007–2013. The distribution of rather limited financial resources is bound to create grave tensions between Member States and could well undermine the solidarity among them. Net contributors have already positioned themselves against net recipients, 'new' against 'old' members and on top of everything there exists the unresolved issue of the British rebate. The later a referendum is held, the better also the opportunities flowing from the threat of its negative outcome for blackmailing the negotiating EU partners into concessions on the next financial envelope.

Ultimately any 'No' vote in a referendum on the Constitutional Treaty will seriously aggravate an already discernible crisis situation for the Union and this to the detriment of all Member States. Therefore, it is the responsibility of the political class in each Member State to explain why a 'Yes' vote to the Treaty is in the interest of all concerned. The fact that governments managed to compromise on it remains a hopeful sign. The new Commission President Barroso deserves full support by all Member States in his difficult task of defending and promoting, on behalf of all of us, European interests within our Union as well as towards third countries and regions. Half-hearted attitudes will only increase the chances of a general failure.