

## **EUROPEAN TREATIES, INSTITUTIONS AND CIVIL SOCIETY AFTER THE JUNE COUNCIL 2005**

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(July 2005)

**The European Council has chosen not to reach a conclusion on the content of the Constitution, preferring a timetable that delays a final decision. The four proposals made here – a Lite Constitution, a pan-European referendum, a new Convention related to our Social model, a EU-Med Alliance for Human Security and Free Trade – would be 4 major steps to demonstrate to the European Citizens that their ‘rights’ are in progress, that accelerators of progress for a ‘Flourishing Europe’ are put in place without waiting, that a ‘European public space’ for Europeans to exercise their European citizenship and to put participatory democracy in practice is designed, that a new metaphor is becoming the corner stone of EU relationship with its neighbours : the Europe of the Olympic Rings, that ‘human security’ is in progress.**

**The timetable foreseen for the entry into force of the Constitution would be kept to; the institutional elements for a more democratic and efficient management of the Union would be in place; and in the Charter of Fundamental Rights, Citizens would see that the Union would have a new foundation stone. The provisions of the existing treaties which have no Constitutional nature now contained in Part III, would become framework laws, distinct from the European Constitution and subject to amendment by majority vote. They would not be changed before the conclusion of the work of Convention III and would not be included in the first European referendum.**

### **1. What has been gained through the process of the Convention should be preserved and enter into force at the date originally foreseen**

The ‘no’ votes on the constitutional treaty were not homogeneous: some voters seek to conserve their social model, others to protect their sovereignty; others again want more liberalism, even to discard the charter of fundamental rights.

All civil society organisations will be affected if the treaties are not modernised and decision-making mechanisms not reformed. In particular, the charter of fundamental rights, simplification of the double majority voting system, extension of majority voting, the introduction of the so-called *passerelle* (lateral communication) clauses, extension of the competence of the Court of Justice and of the related guarantees in terms of the rights and freedoms of citizens, extension of the powers of the Parliament as co-legislator, association of national parliaments to widen democratic control in the Union, establishment of a Minister of Foreign Affairs, establishment of structures for security and defence co-operation, widening of the separate powers of decision by Euro Zone members, conferment of legal personality on the Union and a new form of Council presidency – all these should be preserved.

Those who wish to consign the draft Constitutional Treaty to an early grave now threaten three major steps forward for the Peoples of Europe. For the first time, the draft submitted for ratification stated that the European Union is a union not only of ‘States’ but also of ‘Peoples’. For the first

time, the draft constitutional treaty changed the foundation stone of the Union. At present it is still 'the market'. It was to become the 'Charter of Fundamental Rights', which would be accorded legal status. For the first time, the principle of participative democracy was recognised. One member of the 'European elite' entitled a contribution following the French and Dutch referenda "People's Pause". Some fears that the Charter of Fundamental Rights is about to be discarded and as for participative democracy, it would be about to be replaced by a policy of "communication" or a very special Plan D, D as Dictatorship.

## **2. Promote European citizenship and democracy: A truly European referendum.**

Citizenship of the European Union must be emphasised. The peoples of Europe must be consulted as European citizens, for 'European identity is distinct from national identity.' (1) If European Citizenship is added to, without replacing, national citizenship, it should give access to a *new right identical for all*: the right to take part in a referendum of the European Union. This right, identical for all, should be recognised when the Constitution of the Union is ratified and whenever it is later to be amended. The right should confirm the existence of a 'public European space'. The European referendum should be unique, jointly decided on and arranged by the Council of Ministers and the European Parliament, and replace the string of national referenda and/or ratifications by national parliaments. The right of European citizens to express themselves directly will thus be denied to nobody in the Union (which could be the case in 16 of the 25 Member States).

All citizens, all Peoples, of Europe will take part simultaneously in the same debate on the Constitution of the Union, amended as indicated above, and will vote on the same day as a 9 May, Europe Day. This European referendum would require a *double qualified majority*: a qualified majority of those States in which the people vote 'yes', and a qualified majority of all European citizens from all countries taken together. If the Constitution gets this doubly qualified approval, in those States where citizens have voted 'no' the latter will be able to take part in a vote in their own country to decide either to confirm their previous vote – in which case the Constitution will come into force between those countries that voted 'yes', as an instance of enhanced cooperation – or to rally to the majority.

## **3. Separate the Constitution of the European Union from the policies in the existing treaties**

Experts recognise that it was a mistake to integrate into a Constitution the articles of the existing treaties that make up Part III – and at the last minute and without proper discussion by the Convention of their content. The Inter-Governmental Conference which the European Council should call in June should:

- 3.1 Define as being within the Constitution proper (and no longer the constitutional treaty) just Part I (but with a wider mandate for the European Central Bank), Part II, titles I et II of part III and Part IV (revised), which are the only parts containing articles of a constitutional nature. The provisions enshrined in the titles III, IV and V of part III of the existing draft Constitutional Treaty would become a 'European framework law' to be adopted by co-decision (these provisions would so neither be part of the Constitution nor subject to a pan-European referendum).
- 3.2 Modify the ratification procedure by instituting the single European referendum, jointly decided upon and called by the Council of Ministers and the European Parliament and taking place throughout the Union on the same day;

### 3.3 Call the first Pan-European referendum

#### **4. The EU-Mediterranean Alliance for Human Security and Free Trade.**

The idea of Europe getting ever larger, without frontiers, must be discarded. The Europe of concentric circles must be replaced by a concept of Olympic rings within which Europe is a circle linked to others on the basis of common values. Europe has no calling to 'impose' its values, its model or its norms in the way one seeks to do by the means of a policy of neighbourhood.

Since the fall of the Berlin Wall our politicians have lost all sense of dimension. Europe has been seen as without limits: Russia, Israel, the Maghreb, Africa, all have been seen as having the destiny of joining the European Club – but on our conditions, those defined in 80,000 pages of Community legislation. The good thing about this is of course the vision of an Empire growing by peaceful means on the basis of requests to join it. The problem is that European identity was being sacrificed, losing the support of a large part of the Club members.

We should retain the objective of contributing to peace and development in a wider region of the world comprising a third of the world's population, but this must be achieved without making Europe the 'navel of the world' and Brussels the capital of a new kind of empire.

The preparation of the Euro-Mediterranean Summit provides an opportunity to redefine the European vision and at the same time to find a way ahead on the Turkish as well as Islamic issues. It is thirty years since the Turks first sought to join the Brussels institutions. It is more urgent than ever, especially after the terrorist kamikaze attacks by Muslim Fundamentalists in Europe to set out another vision which is better adapted to globalisation and the dialogue between civilisations – the vision of Institutions, of which the European Union of 25 members, together with Turkey and other countries of the Mediterranean Basin, would be a founding member, based not in Brussels but in Istanbul and Strasbourg: the Euro-Mediterranean Alliance for Human Security and the Free Trade Area 2010. This Alliance would have its own institutions: a Council of States, a Senate, a High Commission (in Istanbul), a Court of Justice (in Strasbourg), and its own Charter (*the drafting of the Charter could be decided at the occasion of the Euro-Med Partnership Summit in Barcelona*). Such a vision would show that we can bring about cooperation between civilisations and between religions, and also organise ourselves to avoid war over resources – which, in fact, has already begun.

Without postponing the launching of the negotiation for EU enlargement towards Turkey, such an option should be explored in parallel.

Conflicting visions oppose public opinion about the future of the Union, its political project and its borders. Two changes are required: We must stop thinking about the Union in terms of "concentric circles", we must stop using the phrase "everything but the institutions" and replace it with "everything but with specific new institutions". Fundamental human rights and human security as well as the establishment of a peace and prosperity area require new institutions for the Mediterranean.

The Permanent Forum proposes that *the States bordering the Mediterranean Basin and the European Council* together with civil society and business should reflect on the essential components of this Alliance, such as:

- A "Charter for a Euro-Mediterranean Civilisation" (including a section on Fundamental Rights);

- An "Annual Council meeting of Heads of State and Governments";
- A "Senate" for human security and fundamental rights (for example, two elected members per riparian State);
- A "Court of Justice" to enable any citizen within the Alliance to claim protection of one's Rights as a Human Being (to be defined as a result of dialogue with the Strasbourg and Luxembourg Courts of Justice);
- A "Tripartite Council of enhanced partnerships"(Government, Business, Civil Society) with the mission of establishing partnerships for free and fair trade, eradicating poverty (in accordance with the draft Constitutional Treaty) and fulfilling the Millennium Objectives;
- A Sustainable, Fair, Free Trade Area;
- Action plans resulting from the Barcelona process;
- "Headquarters" or a "capital city" in the Mediterranean Basin.

The Euro-Mediterranean area will thus become a pilot region of the world in terms of implementation of fundamental rights and the concept of human security as defined by the United Nations Ad Hoc Commission: *"Human security means protecting vital freedoms – those fundamental freedoms that should characterize every human life. It means protecting people from critical and pervasive threats and situations. It means developing policies in the social, economic, military, cultural and environmental management fields which altogether constitute the building blocks of survival, dignity and minimum livelihood"* (United Nations Commission on Human Security. Report – an overview).

**5. Call a Third Convention to debate the theme “A Flourishing Society, Europe of Solidarity. Progress Accelerators for the benefit of Europeans and Sustainable Development”**

This Convention (of public bodies, corporations and civil society organisations) will debate the synergies that can be created between public and private programmes and actions in order to enhance European social cohesion, to address demographic and educational issues, and to respond to the challenges of human security and sustainable development. The convention will draw up a concerted programme of action. If such Convention would take place after the pan-European referendum, part of the Convention will be reserved for those countries and peoples having voted ‘yes’ for the Constitution; this is because in its work of a ‘legislative’ character it will rely upon The Charter of Fundamental Rights and the principle of participative democracy contained in the Constitution.

A preliminary draft of a European Council decision of December 2005 is proposed in Annex here to. With this scenario

- No time is lost; the date of 2006 is respected
- The European Union is strengthened by the introduction of the European referendum
- The main benefits of the constitutional treaty are preserved
- One can move to a new phase with Convention III and allow Europe to advance

## Annex to Working Paper

Preliminary draft of European Council Resolution of December 2005

Chapter: The Third European Convention: ‘Progress Accelerators for a Flourishing Society’

We are calling the Third European Convention and fixing the way it should be prepared in order that all the active forces in Europe may be prepared and contribute towards it.

After the first Convention that led to the adoption of the Charter of Fundamental Rights and after the second Convention that drew up the new parts of the Constitutional Treaty, we intend to call a third Convention.

We request the European Commission and, in dialogue with European civil society, the Economic and Social Committee to address their proposals on the 3 following points to the Council Presidency by:

### 1. The Aim of Convention III

We take note that it is no longer sufficient to overcome present-day challenges by founding oneself on a reading of 19<sup>th</sup> Century geopolitical and economic situations, both of which were based on an obsession with competition (2). Rapid change now affects ‘the rules of the game, the productive forces, social relationships, the way we are represented, our values and also our collective horizons’, and ‘processes, networks and systems are inextricably linked’. We wish the European Union to subscribe to a dynamic of cooperation and co-evolution (3) toward a Flourishing Society. (4)

The theme of the Third Convention shall be a ‘Flourishing Society’. Europeans, with their cultural differences and varied social models, should transform their social relationships and discover a culture adapted to their collective intelligence. In this way we seek to break the vicious cycle of fear which, in Europe, has provoked backward steps to barbarity such as the world wars and the Balkans war and which today takes on new forms in ‘the fear of others’. If Europe today has a special function, after the spiritual and ethical disasters of its internal barbarity of the 20<sup>th</sup> Century, and the raise of terrorism in Europe in these first years of the 21<sup>st</sup> Century, it is to contribute to a new quality of democracy, new forms of cooperation and the release of economic, cultural, social and civic energies which will prove to be not backward steps but accelerators of progress (5).

We invite the younger ‘Erasmus Generation’ to become involved particularly in the design of the next steps, based on what it has received as its heritage: identity, citizenship, culture. (1)

We wish Convention III to explore the content of an Action Plan – called SYNERGY – shared by the European Union, Corporations and Civil Society. Such a plan of action should rely on the partnerships which should be the ‘progress accelerators’ for a Europe that may be ever more innovative and generative of energy, developing a model of sustainable co-development to meet the challenges of ‘human security in the broad sense: in other words, partnerships that would aim to create conditions favourable for the well-being and development for all’, and to guide the worldwide processes of our epoch and channel them towards human development, equitable economic models, democracy and justice (6).

We wish Convention III to explore “synergies” between the public sector, corporations and civil society, to give greater force to the “partnerships” existing between these different classes of actors in the construction of Europe, and also to those between the European Union and its neighbours and other parts of the world. Such partnerships may be a major source of innovation, of new linkages, new products, and new services. In short, what should emerge from the Convention on progress accelerators is an enhancement of a Social Europe for Sustainable Development, a Europe of Culture, and a ‘competitive’ Europe.

These partnerships should contribute new responses to four types of question:

- What shall we do with our planet?
- What shall we do with our species?
- What shall we do with our life? (5)
- Which partnerships with other civilisations?

Convention III should also point up qualitative indicators of progress and a method of monitoring performance during the period 2007 to 2013. In its conclusions Convention III may identify any desirable modifications to the purport of what was Part III of the constitutional treaty, and propose reforms regarding public accounts and purchasing policies.

To be effective, Convention III should organise its work around a limited number of lateral themes. We shall determine the latter in, on the proposal of the Council Presidency, following the conclusions of the General Assembly of the United Nations on the Millennium Objectives, of the Euro-Mediterranean Summit, of the Social and Economic Committee’s analysis of progress made concerning the social and environmental responsibility of corporations, of the Commission’s report on implementation of the European strategy for sustainable development that we initiated in Gothenburg, of the G8, and of an internet consultation of the ‘Erasmus Generation’ concerning a cultural project for Europe.

## 2. Participation in Convention III

This third convention should not be identical to the first two. It could take a double form:

- That of an ‘open method of coordination’, involving this time not only the Institutions of the Union and all Member States but also corporations, trade unions and civil society. The Convention should also open its doors to actors belonging to partnerships with Europe both within and outside the Union.
- That of a ‘Convention’ similar in composition to Convention II, but - as far as legislative amendments to the texts of the Treaty of Nice, at present found in Part II of the draft Constitutional Treaty, are concerned - limited to those countries which will have answered ‘yes’ to the Constitution of 9 May 2006

In the face of the fears that have appeared – fear of the future and fear of others (3), we seek to encourage an active population, connecting the local and the global. We should like the process of Convention III to afford the large social movements that have marked recent history in Europe, as the Erasmus Generation, the possibility of turning the vitality of their vision into projects for action and cooperation. We should like the ‘champions and leaders’ of local initiatives that have already proved successful to come and share their experiences and suggest how to create a scale effect to accelerate progress toward sustainable human development; just as we should like the proponents

of an ethical economy of solidarity to come and discuss with Convention III how to turn ethical purchasing and investment, which still remain ‘niche markets’, into a new economy for Europe.

Those who take part will of course hold divergent views on many issues, yet the potential for finding common ground and for innovation is considerable: ‘rendering public benefits available worldwide, regulating markets, deepening responsibility, protecting the environment and urgently alleviating social injustices’ (6) are levers for making Europe more effective.

We should like appropriate mechanisms to be proposed to us to allow younger people to play a major role and culturally creative people to point up new paths. Europe should be a laboratory for the emergence of worldwide civility, and with this in view Convention III should connect European issues with a leap in the quality of democracy. (5)

### 3. The method

The proposals should preferably define a method by which the ‘overlapping communities concerned’ (towns, regions, peoples, social movements, project communities) may participate in the preparation of Convention III through a network of forums ranging from the local to the worldwide.

Convention III should produce linkages and contribute to the ‘enrichment’ of the ‘dialogue conducted in humanity’ between all those who take part through the various forums. It should lead to the proposal of new collective actions, firmly rooted in a ‘desire for humanity’, the management and regulation by citizens together in order to construct, through solidarity, the future of European society and of human societies. (4)

- (1) *Les Fossoyeurs de l’Europe* by Fabrice Amadeo.
- (2) *Reconsidérer la richesse* by Patrick Viveret.
- (3) de Rosnay and Jacques Robin.
- (4) *A well-being manifesto for a flourishing society* by The New Economics Foundation.
- (5) *Pourquoi ça ne va pas plus mal* by Patrick Viveret.
- (6) *Un nouveau contrat mondial* by David Held, London School of Economics.